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Part I

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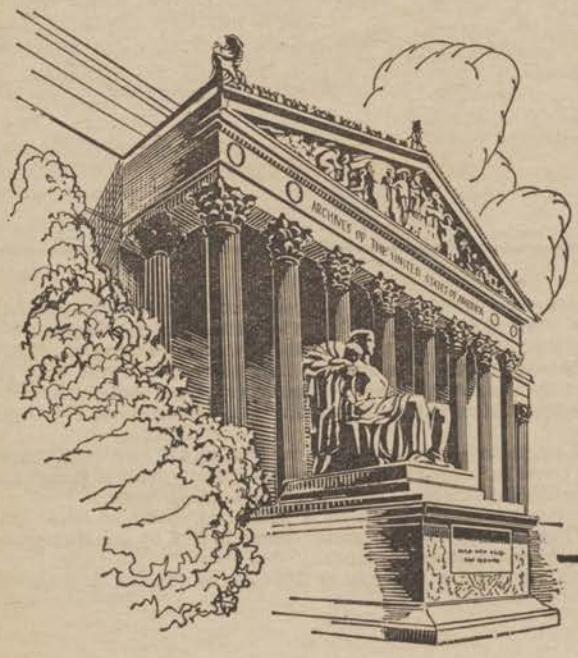

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Title 3—THE PRESIDENT

Proclamation 3969

MODIFYING PROCLAMATION NO. 3279, RELATING TO IMPORTS OF PETROLEUM AND PETROLEUM PRODUCTS

By the President of the United States of America

A Proclamation

Pursuant to section 2 of the Act of July 1, 1954, as amended (72 Stat. 678), and section 232 of the Trade Expansion Act of 1962 (76 Stat. 877), findings and determinations have been made that adjustments in the imports of crude oil, unfinished oils and finished products were necessary so that such imports would not threaten to impair the national security, and such adjustments have been made by Proclamation 3279 [1] of March 10, 1959, as amended from time to time.

The Cabinet Task Force on Oil Import Control, established in March 1969 to conduct a comprehensive review of the mandatory oil import restrictions under Proclamation No. 3279, as amended, submitted, on February 2, 1970, a report concluding that the existing overland exemption in combination with a system of restriction based on international agreements does not effectively serve our national security interests and leads to inequities within the United States, and recommending that volumetric restrictions on the importation of Canadian oil be established as a means of interim control during the period of transition to an alternative United States-Canada energy policy.

The Director of the Office of Emergency Preparedness, with the concurrence of the Oil Policy Committee, has recommended that the importation into Districts I–IV of Canadian crude and unfinished oils heretofore subject to voluntary controls, while exempt from mandatory controls, be limited to 395,000 average barrels per day in the period March 1, 1970, through December 31, 1970, in order to institute a more effective system of import control for the accomplishment of the national security purposes of Proclamation 3279, as amended.

I agree with the recommendation of the Director and deem it necessary in the interest of the national security objectives of Proclamation 3279 to establish an orderly limitation on the importation into Districts I–IV of Canadian crude and unfinished oils.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, acting under and by virtue of the authority vested in me by the Constitution and statutes, including section 232 of the Trade Expansion Act of 1962, do hereby proclaim that:

(1) Effective immediately, a new section 1A, reading as follows, is added to Proclamation 3279, as amended:

---

[1] 24 F.R. 1781; 3 CFR, 1959–1963 Comp., p. 11.

"Sec. 1A. (a) Notwithstanding the provisions of clause (4) of paragraph (a) of section 1 of this Proclamation, during the period March 1, 1970, through December 31, 1970, crude and unfinished oils imported from Canada into Districts I–IV shall not exceed 395,000 average barrels daily and during the period March 30, 1970, through December 31, 1970, no crude oil or unfinished oils imported from Canada may be entered for consumption or withdrawn from warehouse for consumption in Districts I–IV except by or for the account of a person to whom a license has been issued by the Secretary of the Interior pursuant to an allocation made to such person in accordance with regulations issued by the Secretary with the concurrence of the Director of the Office of Emergency Preparedness.

"(b) The Secretary, pursuant to such regulations, shall make allocations effective for the period March 1, 1970, through June 30, 1970, provided however, that such allocations shall be subject to adjustment based on revised allocations for the period from March 1, 1970, through December 31, 1970, which shall be issued no later than June 30, 1970. The regulations shall further provide that all such oils imported during the period March 1, 1970, through December 31, 1970, by a person to whom such an allocation is made shall be chargeable against his allocation. Licenses issued under the allocations shall permit the entry for consumption or withdrawal from warehouse for consumption only of crude oil produced in Canada and unfinished oils processed from crude oil or natural gas produced in Canada which have been transported into the United States by pipeline, rail, or other overland means of transportation.

"(c) The Secretary, by regulation, shall establish the maximum proportion of such allocations which may be used for the importation of unfinished oils."

(2) Section 4(a) of Proclamation 3279, as amended, is amended by striking "Defense" and substituting therefor "Justice".

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of March, in the year of our Lord nineteen hundred and seventy, and of the Independence of the United States of America the one hundred and ninety-fourth.

Richard Nixon

[F.R. Doc. 70-3052; Filed, Mar. 10, 1970; 12:35 p.m.]

Rules and Regulations

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 3]

PART 722—COTTON

Subpart—1968–70 Upland Cotton Program Regulations

MISCELLANEOUS AMENDMENTS

The regulations governing the upland cotton program for the 1968 and 1969 crops of cotton (33 F.R. 6701, 34 F.R. 1225, and 34 F.R. 5481) are hereby amended as follows:

1. The title of this subpart is amended to read as set forth above.

2. Section 722.801(a) is amended by changing the first sentence thereof to read as follows:

§ 722.801 Applicability.

(a) The regulations in this subpart provide terms and conditions for the upland cotton program for the 1968 through 1970 crops of upland cotton under which price support payments and small farm payments are made to producers on farms on which the operators elect to participate in the program. * * *

* * * * *

3. Section 722.802 is amended by changing paragraph (h) and the first sentence of paragraph (j) to read as follows:

§ 722.802 Definitions.

* * * * *

(h) "Projected yield" shall be the projected yield for the farm as defined in § 722.64(b)(24) and established in accordance with instructions issued by the Administrator, ASCS, or his designee: *Provided*, That the producer whose production records are used to prove yields on the farm shall be required to furnish production data for all other farms in the county or in nearby counties in which he had an interest in any of the years for which the yields are proven (unless there is conclusive evidence that the records presented are in fact for the specific farm).

* * * * *

(j) "Small farm" means a farm on which the farm acreage allotment is 10 acres or less, or the projected farm yield times the farm acreage allotment is 3,600 pounds or less, and on which the farm acreage allotment has not been reduced under section 344(m) of the Agricultural Adjustment Act of 1938, as amended, relating to release and reapportionment: *Provided*, That a farm otherwise qualifying as a small farm shall not be considered a small farm if such farm came within the foregoing definition as a result of the transfer of allotment which first became effective for the 1970 crop year. * * *

* * * * *

§ 722.804 [Amended]

4. Section 722.804(c)(2) is amended by "changing "1969" in the last sentence thereof to "1969 and 1970".

5. Section 722.819 is revised by redesignating paragraph (c) as paragraph (d) and adding the following new paragraph (c):

§ 722.819 Scheme or device and fraudulent representation.

* * * * *

(c) A producer who is determined by the State committee, or the county committee with the approval of the State committee, to have knowingly (1) made a false report of the upland cotton, feed grain, or wheat acreage on a farm participating in the programs for such commodities, (2) falsely certified that he did not exceed the upland cotton allotments, wheat allotments, or feed grain bases for other farms in which he has an interest, (3) falsely certified compliance with other provisions of the upland cotton, feed grain, or wheat program, or (4) obstructed the county committee's efforts to determine compliance with the upland cotton, feed grain, or wheat program by failing to disclose his interest in other farms, shall not be entitled to receive program benefits under the upland cotton program, the feed grain program, and the wheat program and shall refund any payments and return any wheat marketing certificates received by him, or, in the case of certificates, pay the value thereof, to the Commodity Credit Corporation.

* * * * *

6. A new § 722.826 is added to read as follows:

§ 722.826 Changes effective for 1970.

Notwithstanding any other provisions of this subpart, the following changes, in addition to any other specific amendments to the regulations, shall be applicable for 1970:

(a) *No diversion requirement.* Producers shall not be required to divert acreage from the production of cotton, no diversion payments are authorized to be made, and the provisions of this subpart relating to diverted acreage shall be inapplicable to the 1970 crop of upland cotton.

(b) *Price support payment rate.* The price support payment rate per acre shall be determined by multiplying the projected yield by 16.80 cents.

(c) *Small farm payment.* Producers on small farms who do not exceed their farm acreage allotments shall be eligible, subject to the provisions of this section and § 722.804, for a small farm payment determined by multiplying an acreage equal to 35 per centum of the farm acreage allotment by the small farm payment rate.

(1) *Small farm payment rate.* The small farm payment rate per acre shall be determined by multiplying the projected yield by 11.95 cents.

(2) *Division of small farm payment.* The small farm payment shall be divided among producers on the farm in accordance with the regulations in Part 794 of this chapter, as amended.

(3) *Production requirement.* Producers shall not be required to produce cotton in order to be eligible for the small farm payment.

(4) *New farms.* Producers on a farm having a new farm cotton allotment shall not be eligible for a small farm payment.

(d) *Advance payment.* Advance payments shall not be made available to participants in the 1970 program.

(Sec. 103(d), 79 Stat. 1194, as amended, 7 U.S.C. 1444(d))

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

Signed at Washington, D.C., on March 4, 1970.

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

[F.R. Doc. 70-2895; Filed, Mar. 10, 1970; 8:45 a.m.]

[Amdt. 6]

PART 728—WHEAT

Subpart—Regulations Pertaining to Farm Acreage Allotments, Yields, Wheat Certificate Program for Crop Years 1968–70, and Wheat Diversion Program for Crop Years 1969–70

MISCELLANEOUS AMENDMENTS

The regulations pertaining to farm acreage allotments, yields, wheat certificate program for crop years 1968–70, and wheat diversion program for crop years 1969–70, 33 F.R. 6508, as amended, are further amended as follows:

§ 728.310 [Amended]

1. Section 728.310 is amended as follows:

a. The introductory text of § 728.310 is amended by striking out "county office manager" in the second sentence thereof and substituting "county executive director".

b. Paragraph (j) is amended by changing the introductory text thereof

to read as follows: "'Wheat acreage' means any acreage planted to wheat and any acreage of volunteer wheat with a yield of 3 bushels per acre or more, excluding any acreage of:".

c. Paragraph (j) is further amended by adding the following new subparagraph (8):

(8) Wheat not planted and cared for in a workmanlike manner with the expectation of producing a normal crop.

d. Section 728.310 is further amended by deleting from the concluding paragraph after paragraph (j)(8) the second sentence which reads as follows: "'Wheat acreage' also includes an acreage of volunteer wheat, within the farm permitted acreage, which was intended for harvest but which, prior to reaching maturity, was destroyed by natural causes".

2. Section 728.315 is amended as follows: Paragraph (b)(1) and the first sentence of paragraph (b)(2) are amended to read as follows:

§ 728.315 Determination of preliminary allotments for old farms.

* * * * *

(b) * * *

(1) For a regular rotation farm, the wheat history for the preceding year when such history is equal to the allotment for the preceding year, and when the wheat history is less than the allotment for the preceding year, the average of the allotment for the preceding year and the highest planted and considered planted acreage of wheat in any one of the 3 years immediately preceding the year for which the allotment is being determined.

(2) For an established odd and even crop-rotation farm, the wheat history for the preceding year when such history is equal to the allotment for the preceding year, and when the wheat history is less than the allotment for the preceding year, the average of the allotment for the preceding year and the highest planted and considered planted acreage of wheat in the first or third year preceding the year for which the allotment is being determined, adjusted upward or downward by application of an adjustment factor determined under § 728.15a(b)(2) of the regulations for the 1964 and subsequent crops of wheat. * * *

* * * * *

§ 728.327 [Amended]

3. Section 728.327(a) is amended by striking out "county office manager" and substituting "county executive director".

§ 728.406 [Amended]

4. Section 728.406(a) is amended by changing the reference from "§ 728.516" to "§ 728.515".

§ 728.513 [Amended]

5. Section 728.513 is amended by striking out "county office manager" wherever it appears in paragraphs (e) and (f) and substituting "county executive director".

6. Section 728.522 is amended by redesignating paragraph (c) as paragraph (d) and adding the following new paragraph (c):

§ 728.522 Scheme or device and fraudulent representation.

* * * * *

(c) A producer who is determined by the State committee, or the county committee with the approval of the State committee, to have knowingly (1) made a false report of the wheat, feed grain, or upland cotton acreage on a farm participating in the programs for such commodities, (2) falsely certified that the did not exceed the feed grain bases, wheat allotments, or upland cotton allotments for other farms in which he has an interest, (3) falsely certified compliance with other provisions of the wheat, feed grain, or upland cotton program, or (4) obstructed the county committee's efforts to determine compliance with the wheat, feed grain, or upland cotton program by failing to disclose his interest in other farms, shall not be entitled to receive program benefits under the wheat program, the feed grain program, and the upland cotton program, and shall refund any payments and return any wheat marketing certificates received by him, or, in the case of certificates, pay the value thereof, to the Commodity Credit Corporation.

* * * * *

(Secs. 334, 339(g), 375(b), 379j; 52 Stat. 53, as amended, 76 Stat. 624, 76 Stat. 630, as amended; 7 U.S.C. 1334, 1339(g), 1375(b), 1379j)

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

Signed at Washington, D.C., on March 4, 1970.

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

[F.R. Doc. 70-2896; Filed, Mar. 10, 1970; 8:45 a.m.]

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

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN A DESIGNATED AREA OF CALIFORNIA

Finding and Approval Relative to Exportation to Belgium of Restricted and Other Marketable Dates Certified as Meeting Grade and Size Requirements for Free Dates for Further Processing

The finding and approval hereinafter set forth are pursuant to § 987.155(a)(2), Subpart—Administrative Rules and Regulations, established under the marketing agreement, as amended, and Order No. 987 as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in a designated area of California. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act".

Presently, the program does not permit the exportation of restricted and other marketable dates for further processing (dry dates) to Belgium. However, § 987.155(a)(2) provides, in part, that restricted and other marketable dates of a particular variety certified as meeting the applicable grade and size requirements for free dates for further processing may be exported to a particular country upon the Committee making a prescribed finding and the Secretary approving the finding. The Committee must find (with the approval of the Secretary) that exportation of such dates to the particular country is consistent with the processing or consuming habits of the country and is essential to increase total exports of dates to such country.

The grade and size requirements applicable to free dates for further processing are the same, except for moisture content, as those applicable to free dates (of higher moisture content) which are packed for handling and sale in domestic and export markets. Dates for further processing have a moisture content below 16 percent and are known as dry dates. In processing, water is added by hydration to produce the desirable texture for eating.

Belgium has date processing and packaging facilities, and normally receives Deglet Noor dates for processing from Algeria and Tunisia, but none from California. Unfavorable weather severely reduced the 1969 production of dates in these North African countries, with a resulting shortage of exports. Because of the shortage, the trade in Belgium is seeking supplies of Deglet Noor dates from California so they can continue supplying the consumers with the dates to which they are accustomed.

The current supply of Deglet Noor dates grown in California is adequate to meet domestic and export requirements, including those of Belgium, and carryover needs. Making Deglet Noor dates available to Belgium in a form requiring further processing will permit the Belgians to use their normal processing, packaging, and marketing facilities, supply consumers with the dates to which they are accustomed, and encourage the exportation of California dates.

Accordingly, pursuant to § 987.155(a)(2) and based on the unanimous finding of the Date Administrative Committee and other information, it is hereby found that exportation to Belgium of restricted and other marketable dates of the Deglet Noor variety certified as meeting the applicable grade and size requirements for free dates for further processing is consistent with the processing and consuming habits of Belgium; and such exportation of Deglet Noor dates will tend to effectuate the declared policy of the act. Accordingly, such exportation of Deglet Noor dates to Belgium, in accordance with the applicable provisions of this part, is approved.

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give public notice and engage in public rule making procedure, and that good cause exists for not postponing the effective time of this action until 30 days after publication in the

FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action unanimously recommended by the Date Administrative Committee, must become effective March 11, 1970, to permit handlers to take advantage of a demand for dates in Belgium and make arrangements for exports to Belgium; (2) this action relieves restrictions on handlers by permitting the exportations to Belgium of Deglet Noor dates with a lower moisture content than otherwise permitted; (3) handlers are aware of Belgium's interest in California dates for further processing and are preparing to export immediately; and (4) California handlers may lose the opportunity for export sales to Belgium if this action is not taken promptly.

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

Dated March 6, 1970, to become effective March 11, 1970.

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

[F.R. Doc. 70-2939; Filed, Mar. 10, 1970; 8:49 a.m.]

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

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

Disqualification of Retail Food Stores and Wholesale Food Concerns

The heading of Chapter XVI is amended to read as set forth above pursuant to the establishment of the Food and Nutrition Service as announced on August 13, 1969 (34 F.R. 13119).

In § 1602.6, paragraphs (a) and (b) are amended to make clear the requirement that disqualified firms must submit new applications in order to be reinstated in the Food Stamp Program following disqualification, and to clarify that Food and Nutrition Service Regional Offices shall issue charge letters to firms believed to be violating the program and that the firms' replies to such letters shall be directed to the Officers-In-Charge of the local Food and Nutrition Service Field Offices. As amended, § 1602.6 reads as follows:

§ 1602.6 Disqualification of retail foodstores and wholesale food concerns.

(a) Any authorized retail foodstore or authorized wholesale food concern may be disqualified from further participation in the Program by FNS for a reasonable, definitely stated period of time, not to exceed 3 years, as FNS may determine, if such retail foodstore or wholesale food concern fails to comply with the Food Stamp Act of 1964 or the provisions of this part. Any retail foodstore or wholesale food concern which has been so disqualified and which desires to be reinstated upon the end of the period of disqualification or at any time thereafter, shall file a new application so that FNS may determine whether reinstatement is appropriate under the provisions of this part. Such an application may be filed starting 10 days before the end of the period of disqualification.

(b) Any retail foodstore or wholesale food concern considered for disqualification under paragraph (a) of this section shall have full opportunity to submit to FNS information, explanation, or evidence concerning any instances of noncompliance before a final determination is made by FNS as to the administrative action to be taken. Prior to such determination, the retail foodstore or wholesale food concern shall be sent a letter of charges by the appropriate Regional Office, Food and Nutrition Service. The letter shall specify the violations or actions which FNS believes constitute a basis for disqualification. Such letter shall inform the food retailer or food wholesaler that he may respond either orally or in writing to the charges contained therein within 10 days of the mailing date thereof, which response shall set forth a statement of evidence, information, or explanation pertaining to the specified violations or acts. Such response, if any, shall be made to the Officer-In-Charge, Food and Nutrition Service Field Office, who has responsibility for the county in which the retail foodstore or wholesale food concern is located. If no response is made to the letter of charges, FNS will deem the charges to have been admitted.

* * * * *

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

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

RICHARD E. LYNG,
Assistant Secretary.

MARCH 5, 1970.

[F.R. Doc. 70-2894; Filed, Mar. 10, 1970; 8:45 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

Paragraph (e) of § 235.1 is amended to read as follows:

§ 235.1 Scope of examination.

* * * * *

(e) *U.S. citizens, Canadian nationals, and other residents of Canada having a common nationality with Canadians, entering the United States by small craft.* Upon being inspected by an immigration officer and found eligible for admission as a citizen of the United States, or in the case of a Canadian national or other resident of Canada having a common nationality with Canadians being found eligible for admission as a temporary visitor for pleasure, a person who desires to enter the United States from Canada in a small pleasure craft of less than 5 net tons without merchandise may be issued, without application or fee, Form I–68, Canadian Border Boat Landing Card, and may thereafter enter the United States along the immediate shore area of the United States on the body of water designated on the Form I–68 from time to time for the duration of that navigation season without further inspection. In the case of a Canadian national or other resident of Canada having a common nationality with Canadians, the Form I–68 shall be valid only for the purpose of visits of less than 24 hours and only if the alien will not proceed beyond the immediate shore area of the United States bordering on a lake or river lying between the United States and Canada. If the bearer of Form I–68 seeks to enter the United States by means other than small pleasure craft of less than 5 net tons without merchandise, or if he seeks to enter the United States for other purposes, or if he is an alien who intends to proceed inland from the immediate shore area of the United States or remain in the United States for 24 hours or more, he must apply for admission at a U.S. port of entry.

* * * * *

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

1. The listing of transportation lines in paragraph (b) *Signatory lines* of § 238.3 *Aliens in immediate and continuous transit* is amended by adding the following transportation lines in alphabetical sequence: "Donaldson International Airways," "Korea Shipping Corporation, Ltd., Seoul, Korea," and "Laker Airways Limited."

§ 238.4 [Amended]

2. The listing of transportation lines under "At Winnipeg" of § 238.4 *Preinspection outside the United States* is amended by adding the following transportation line in alphabetical sequence: "Pacific Western Airlines Ltd."

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

§ 248.2 [Amended]

1. The third sentence of § 248.2 *Application* is amended to read as follows: "If the application is granted, the alien's nonimmigrant status under his new classification shall be subject to the terms and conditions applicable generally to such classification and to such other additional terms and conditions, including exaction of bond, which the

district director deems appropriate to the case."

2. The penultimate sentence of § 248.2 is deleted.

PART 316a—RESIDENCE, PHYSICAL PRESENCE AND ABSENCE

§ 316a.2 [Amended]

The listing of American institutions of research in § 316a.2 *American institutions of research* is amended by adding the following institution in alphabetical sequence: "Carleton College (Department of Sociology and Anthropology), Northfield, Minnesota."

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall be effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 553 of title 5 of the United States Code (80 Stat. 383), as to notice of proposed rule making and delayed effective date, is unnecessary in this instance because the amendment to § 235.1(e) confers benefits upon persons affected thereby; the amendments to § 248.2 relate to agency procedure; the amendments to §§ 238.3(b) and 238.4 add transportation lines to the listing; and the amendment to § 316a.2 adds an American institution of research to the listing.

Dated: March 6, 1970.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 70-2920; Filed, Mar. 10, 1970; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 70-EA-9; Amdt. 39-954]

PART 39—AIRWORTHINESS DIRECTIVES

Hartzell Propellers

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Hartzell T10176 and T10176H type blades used on Hartzell type HC-B3TN propellers.

There has been a report of separation of a blade due to shank failure on the subject propellers. An investigation revealed evidence of slight scratches or tool marks in the radius of the inside surface of the pilot tube hole. It is reasoned that the radius at the bottom of the pilot tube had some stress concentrations present in the form of scratches or tool marks which initiated the blade failure.

Since this is a deficiency which may exist or develop in blades of similar type design, an airworthiness directive is being issued to require inspection and replacement where necessary of the subject blades.

Since a condition exists which requires expeditious adoption of the amendment, notice and public procedure hereon would be contrary to the public interest and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.85 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

HARTZELL PROPELLERS. Applies to Hartzell T10176( ) and T10176H( ) type blades installed on Hartzell HC-B3TN-5C series propellers used on AiResearch TPE331-( ) type engines.

Compliance required as indicated, unless already accomplished.

a. Propellers with 700 or more total hours in service, inspect in accordance with paragraphs (c) and (d) within the next 50 hours after the effective date of this AD, and reinspect in accordance with paragraph (c) every 1,500 hours in service from the last inspection.

b. Propellers with less than 700 total hours in service inspect in accordance with paragraphs (c) and (d) prior to the accumulation of 750 hours in service and reinspect in accordance with paragraph (c) every 1,500 hours in service from the last inspection.

c. Remove the blades from the propeller and the smaller needle bearing from the bottom of the blade pilot tube hole. In accordance with Hartzell Bulletin No. 95, dated January 7, 1970, or FAA-approved equivalent procedure, clean and inspect the inner surface of the pilot tube hole for cracks by dye penetrant method and visually inspect for scratches, gouges or tool marks in the area of minimum wall thickness. Replace before further flight any cracked blade or blade having scratches, gouges, or tool marks in the critical radius with a blade which has been inspected in accordance with this AD and found satisfactory.

d. Inspect the blade for minimum wall thickness in the shank area in accordance with Hartzell Bulletin No. 95 dated 7 January 1970. Replace before further flight any blade having a wall thickness less than that noted in Bulletin No. 95 with a blade inspected in accordance with this AD and found satisfactory.

e. Upon submission of substantiating data through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA Eastern Region may adjust repetitive inspection intervals specified in this AD.

[Hartzell Bulletin No. 95 dated 7 January 1970 and Manual 118A cover this subject.]

This amendment is effective March 11, 1970.

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

Issued in Jamaica, N.Y., on February 25, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 70-2890; Filed, Mar. 10, 1970; 8:45 a.m.]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 70-61]

PART 53—ANTIDUMPING

Publication of Name of Person Raising Question of Dumping

In order to provide greater flexibility in determining the form of antidumping proceeding notices, § 53.30(d), Customs Regulations, is amended by deleting the word "shall" and substituting therefor the word "may." As revised, § 53.30(d) shall read as follows:

§ 53.30 Antidumping Proceeding Notice.

* * * * *

(d) A summary of the information received. If a person outside the Customs Service raised or presented the question of dumping, his name may be included in the notice unless a determination under § 53.23 requires that his name not be disclosed.

(Secs. 201, 407, 42 Stat. 11, as amended, 18; 19 U.S.C. 160, 173)

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

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

Approved: March 5, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-2933; Filed, Mar. 10, 1970; 8:48 a.m.]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 74—COAL MINE DUST PERSONAL SAMPLER UNITS

Section 202(a) of the Federal Coal Mine Health and Safety Act of 1969 provides for the taking of samples of the respirable dust in coal mine atmospheres by a device approved by the Secretary of the Interior and the Secretary of Health, Education, and Welfare. Accordingly, Part 74, reading as set forth below, is added to Subchapter O of Chapter I, Title 30, Code of Federal Regulations. This part sets forth the requirements which must be met by approved coal mine dust personal sampler units. It is important that sampler units meeting these requirements be produced as quickly as possible. Therefore, it would not be in the public interest either to give notice of proposed rulemaking on, or to delay the effective date of, Part 74. Accordingly, Part 74 shall become effective

upon its publication in the FEDERAL REGISTER.

WALTER J. HICKEL,
Secretary of the Interior.

ROBERT H. FINCH,
Secretary of Health, Education, and Welfare.

MARCH 6, 1970.

Sec.
74.1 Purpose.
74.2 Sample unit.
74.3 Specifications of sampler unit.
74.4 Tests of coal mine dust personal sampler units.
74.5 Conduct of tests; demonstrations.
74.6 Applications.
74.7 Certificate of approval.
74.8 Approval labels.
74.9 Material required for record.
74.10 Changes after certification.
74.11 Withdrawal of certification.

AUTHORITY: The provisions of this Part 74 issued under sec. 508, Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 803).

§ 74.1 Purpose.

The regulations in this part set forth the requirements for approval of coal mine dust personal sampler units designed to determine the concentrations of respirable dust in coal mine atmospheres; procedures for applying for such approval; test procedures; and labeling.

§ 74.2 Sampler unit.

A coal mine dust personal sampler unit shall consist of (a) a pump unit, (b) a sampling head assembly, and (c) if rechargeable batteries are used in the pump unit, a battery charger.

§ 74.3 Specifications of sampler unit.

(a) *Pump unit*—(1) *Dimensions.* The overall dimensions of the pump unit, hose connections and valve or switch covers shall not exceed 8 inches in height, 6 inches in width and 4 inches in thickness.

(2) *Weight.* The pump unit shall not weigh more than 4 pounds.

(3) *Construction.* The case and all components of the pump unit shall be of sufficiently durable construction to endure the wear of use in a coal mine and shall be tight fitting, so as to minimize the amount of dust entering the pump case.

(4) *Exhaust.* The pump shall exhaust into the pump case, maintaining a slight positive pressure which will reduce the entry of dust into the pump case.

(5) *Switch.* The pump unit shall be equipped with an on-off switch or equivalent device on the outside of the pump case. This switch shall be protected against accidental operation during use and protected to keep dust from entering the mechanisms.

(6) *Flow rate adjustment.* Except as provided in the last sentence of this subparagraph, the pump unit shall be equipped with a suitable means of flow rate adjustment accessible from outside the case. To prevent accidental adjustment, the flow rate adjuster shall be recessed in the pump case and shall require the use of an adjusting tool. If the pump is capable of maintaining the flow rate consistency required in this part without adjustment, an external flow rate adjuster is not required.

(7) *Battery.* The power supply for the pump shall be a suitable battery located in the pump case or in a separate case which attaches to the pump case by a permissible electrical connection.

(8) *Pulsation.* The irregularity in flow rate due to pulsation shall have a fundamental frequency of not less than 20 Hz.

(9) *Belt clips.* The pump unit shall be provided with a belt clip which will hold the pump securely on a coal miner's belt.

(10) *Recharging connection.* A suitable connection shall be provided so that the battery may be recharged without removing the battery from the pump case or from the battery case if a separate battery case is used.

(11) *Flow rate indicator.* A visual indicator of flow rate (e.g., a flowmeter) shall be provided either as an integral part of the pump unit or of the sampling head assembly. The flowrate indicator shall be calibrated within ±5 percent at 2, 1.8, and 1.6 liters per minute to indicate the rate of air passing through the accompanying sampling head assembly.

(12) *Flow rate range.* The pump shall be capable of operating in or over a range of from 1.5 to 2.5 liters per minute and shall be adjustable over this range.

(13) *Flow rate consistency.* The flow shall remain within ±0.1 liters per minute over an 8-hour period when the pump is operated at 2 liters per minute with a standard sampling head assembly. Not more than two readjustments of the flow rate to 2 liters per minute shall be required to maintain this accuracy.

(14) *Duration of operation.* The pump shall be capable of operating for not less than 8 hours at a flow rate of 2 liters per minute against a resistance of 4 inches of water measured at the inlet of the pump.

(b) *Sampling head assembly.* The sampling head assembly shall consist of a cyclone and a filter assembly as follows:

(1) *Cyclone.* The cyclone shall consist of a cyclone body with removable grit cap and a vortex finder and shall be constructed of nylon or a material equivalent in performance. The dimensions of the components, with the exception of the grit cap, shall be identical to those of a Dorr-Oliver 10 mm. cyclone body, part No. 28541/4A or 01B11476–01 and vortex finder, part No. 28541/4B.

(2) *Filter assembly.* The filter assembly shall meet the following requirements:

(i) *Filter.* The filter shall be a membrane filter type with a nominal pore size not over 5 microns. It shall be nonhydroscopic and shall not dissolve or decompose when emersed in ethyl or isopropyl alcohol. The strength and surface characteristics of the filter shall be such that dust deposited on its surface may be removed by ultrasonic methods without tearing the filter. The filter resistance shall not be more than 2 inches of water at an airflow rate of 2 liters per minute.

(ii) *Capsule.* The capsule enclosing the filter shall not permit sample air to leak around the filter. The capsule shall be made of nonhydroscopic material. Its weight, including the enclosed filter, shall not exceed 5 grams and it shall be preweighed by the manufacturer with a precision of ±0.1 milligrams. Impact to the capsule shall not dislodge any dust from the capsule, which might then be lost to the weight measurement.

(iii) *Cassette.* The cassette shall enclose the capsule so as to prevent contamination. The cassette must be easily removable without causing a loss or gain of capsule weight. Appropriate covers shall be provided to prevent contaminants from entering, or dust from leaving, the capsule when it is not in use.

(3) *Arrangement of components.* The connections between the cyclone vortex finder and the capsule and between the capsule and the ¼-inch (inside diameter) hose mentioned in subparagraph (5) of this paragraph shall be mechanically firm and shall not leak at a rate of more than 0.1 liters per hour under a vacuum of 4 inches of water.

(4) *Clamping of components.* The clamping and positioning of the cyclone body, vortex finder, and cassette shall be rigid, remain in alignment, be firmly in contact and airtight. The cyclone-cassette assembly shall be attached firmly to a backing plate or other means of holding the sampling head in position. The cyclone shall be held in position so that the inlet opening of the cyclone is pointing perpendicular to, and away from, the backing plate.

(5) *Hose.* A 3-foot long, ¼-inch (inside diameter) hose shall be provided to form an airtight connection between the inlet of the sampler pump and the outlet of the filter assembly. A device, capable of sliding along the hose and attaching to the miner's outer garment shall be provided.

(c) *Battery charger*—(1) *Power supply.* The battery charger shall be operated from a 117 volt, 60 Hz power line.

(2) *Connection.* The battery charger shall be provided with a cord and polarized connector so that it may be connected to the charge socket on the pump or battery case.

(3) *Protection.* The battery charger shall be fused, shall have a grounded power plug, and shall not be susceptible to damage by being operated without a battery on charge.

(4) *Charge rates.* The battery charger shall be capable of operating at either a 16-hour or a 64-hour charge rate. The battery charger shall be capable of fully charging the battery in the pump unit in the stated times and shall not overcharge a discharged battery in 16 hours when operating at the 16-hour charge rate or in 88 hours when operating at the 64-hour charge rate.

§ 74.4 Tests of coal mine dust personal sampler units.

(a) The Bureau of Occupational Safety and Health, Department of Health, Education, and Welfare, shall conduct tests to determine whether a coal mine dust personal sampler unit which is submitted for approval under

these regulations meets the requirements set forth in § 74.3.

(b) The Bureau of Mines, Department of the Interior, will conduct tests, pursuant to § 18.68 of this chapter, to determine whether the pump unit of a coal mine dust personal sampler unit submitted for approval under these regulations is intrinsically safe.

§ 74.5 Conduct of tests; demonstrations.

Prior to the issuance of a certificate of approval, only personnel of the Bureau of Mines and Bureau of Occupational Safety and Health, representatives of the applicant, and such other persons as may be mutually agreed upon may observe the tests conducted. The Bureau of Mines and the Bureau of Occupational Safety and Health shall hold as confidential, and shall not disclose, principles of patentable features prior to certification, nor shall the bureaus disclose any details of the applicant's drawings or specifications or other related material. After the issuance of a certificate of approval, the Bureau of Mines or the Bureau of Occupational Safety and Health may conduct such public demonstrations and tests of the approved coal mine dust personal sampler unit as the bureau deems appropriate. The conduct of all investigations, tests, and demonstrations shall be under the sole direction of the Bureau of Occupational Safety and Health and the Bureau of Mines and any other persons shall be present only as observers.

§ 74.6 Applications.

(a) Testing of a coal mine dust personal sampler unit will be undertaken by the Bureau of Occupational Safety and Health, and testing of the pump unit of such a sampler unit will be undertaken by the Bureau of Mines, only pursuant to a written application in duplicate, each copy accompanied by complete scale drawings, specifications and description of materials. An application to the Bureau of Mines must be accompanied by a check, bank draft, or money order in the amount of $105, payable to the U.S. Bureau of Mines, to cover the fee specified in § 18.7 of this chapter. The applications, together with the drawings and specifications and any other related documents shall be sent to Bureau of Occupational Safety and Health, Department of Health, Education and Welfare, 1014 Broadway, Cincinnati, Ohio 45202, and to the Bureau of Mines, Department of the Interior, 4800 Forbes Avenue, Pittsburgh, Pa. 15213.

(b) Ten complete coal mine dust personal sampler units must be sent to the Bureau of Occupational Safety and Health in connection with an application. One pump unit must be sent to the Bureau of Mines in connection with an application.

(c) Drawings and specifications shall be adequate in number and fully detailed to identify the design of the coal mine dust personal sampler unit or pump unit thereof and to disclose the dimensions and materials of all component parts.

(d) An application shall describe the way in which each lot of components will be sampled and tested to maintain their quality prior to assembly of each sampler unit. In order to ensure that the quality of the coal dust personal sampler unit will be maintained in production through adequate quality control procedures, the Bureau of Occupational Safety and Health and the Bureau of Mines reserve the right to have their qualified personnel inspect each applicant's control-test equipment procedures, and records and to interview the employees who conduct the control tests. Two copies of the results of any tests made by the applicant on the coal mine dust personal sampler unit or the pump unit thereof shall accompany an application.

§ 74.7 Certificate of approval.

(a) Upon completion of the testing of a coal mine dust personal sampler unit or the pump unit thereof, the Bureau of Occupational Safety and Health or the Bureau of Mines, as appropriate, shall issue to the applicant either a certificate of approval or a written notice of disapproval, as the case may require. The Bureau of Occupational Safety and Health shall not issue a certificate of approval for a coal mine dust personal sampler unit unless the Bureau of Mines has issued a certificate of approval for the pump unit thereof. No informal notification of approval will be issued. If a certificate of approval is issued, no test data or detailed results of tests will accompany such approval. If a notice of disapproval is issued, it will be accompanied by details of the defects, resulting in disapproval, with a view to possible correction.

(b) A certificate of approval will be accompanied by a list of the drawings and specifications, covering the details of design and construction of the coal mine dust personal sampler unit or the pump unit thereof upon which the certificate of approval is based. The applicant shall keep exact duplicates of the drawings and specifications submitted to the Bureau of Occupational Safety and Health and to the Bureau of Mines relating to the sampler unit or pump unit thereof which has received a certificate of approval. The approved drawings and specifications shall be adhered to exactly in the production of the certified sampler unit, including the pump unit thereof, for commercial purposes. In addition, the applicant shall observe such procedures for, and keep such records of, the control of component parts as either bureau may in writing require as a condition of certification.

§ 74.8 Approval labels.

(a) Certificates of approval will be accompanied by photographs of designs for the approval labels to be affixed to each coal mine dust personal sampler unit.

(b) The labels showing approval by the Bureau of Occupational Safety and Health and by the Bureau of Mines shall contain such information as the appropriate bureau may require and shall be reproduced legibly on the outside of a sampler unit as directed by the appropriate bureau.

(c) The applicant shall submit full-scale designs or reproductions of approval labels and a sketch or description of the position of the labels on each unit.

(d) Use of the approval labels obligates the applicant to whom the certificates of approval were issued to maintain the quality of the complete coal mine dust personal sampler unit and to guarantee that the complete sampler unit is manufactured or assembled according to the drawings and specifications upon which the certificates of approval were based. Use of the approval labels is authorized only on sampler units which conform strictly with the drawings and specifications upon which the certificates of approval were based.

§ 74.9 Material required for record.

(a) As part of the permanent record of the investigation, the Bureau of Occupational Safety and Health will retain a complete coal mine dust personal sampler unit, and the Bureau of Mines will retain a pump unit, that has been tested and certified. Material not required for record purposes will be returned to the applicant at his request and at his expense on written shipping instructions to the appropriate bureau.

(b) As soon as a coal mine dust personal sampler unit is commercially available, the applicant shall deliver a complete unit free of charge to the Bureau of Occupational Safety and Health, Department of Health, Education, and Welfare, 1014 Broadway, Cincinnati, Ohio 45202.

§ 74.10 Changes after certification.

(a) If the applicant desires to change any feature of a certified coal mine dust personal sampler unit, he shall first obtain the approval of the Bureau of Occupational Safety and Health pursuant to the following procedures:

(1) Application shall be made as for an original certificate of approval, requesting that the existing certification be extended to encompass the proposed change. The application shall be accompanied by drawings, specifications and related material, as in the case of an original application.

(2) The application and accompanying material will be examined by the Bureau of Occupational Safety and Health to determine whether testing of the modified sampler unit or components will be required. Testing will be necessary if there is a possibility that the modification may affect the performance of the sampler unit adversely. The Bureau of Occupational Safety and Health will inform the applicant whether such testing is required.

(3) If the proposed modification meets the pertinent requirements of these regulations, a formal extension of certification will be issued, accompanied by a list of new and revised drawings and specifications to be added to those already on file as the basis for the extension of certification.

(b) If a change is proposed in a pump unit of a certified coal dust personal sampler unit, the approval of the Bureau of Mines with respect to intrinsic safety shall be obtained in accordance

with the procedures set forth in paragraph (a) of this section.

§ 74.11 Withdrawal of certification.

The Bureau of Occupational Safety and Health or the Bureau of Mines may rescind, for cause, any certificate of approval which the respective bureau has issued under the regulations in this part.

[F.R. Doc. 70-2968; Filed, Mar. 10, 1970; 8:49 a.m.]

Title 32—NATIONAL DEFENSE

Chapter XIV—Renegotiation Board

SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

MISCELLANEOUS AMENDMENTS TO CHAPTER

Subchapter B of Chapter XIV of Title 32 is amended as follows:

PART 1474—AGREEMENT PROCEDURE

§ 1474.6 [Amended]

Section 1474.6 *Modification of terms of payment provided in agreement* is amended in the following respects:

1. By deleting the period at the end of paragraph (a) and adding the following: ", but the contractor need not mail to such collecting agency a copy of the information and data set forth in § 1499.2-9(d) of this chapter."

2. By deleting paragraph (c)(2) in its entirety and inserting in lieu thereof the following:

(c) *Conditions.* * * *

(2) The contractor establishes by satisfactory evidence that it is unable to make such payment within the time provided therefor in the agreement, or that payment within the time provided in the agreement would impose upon the contractor an undue hardship which was not reasonably foreseeable when the agreement was made. In this connection the contractor shall file with its request for an extension of time for payment the information and data set forth in § 1499.2-9(d) of this chapter, and upon request shall furnish such other or additional information and data as the Board or the Regional Board may specify in the particular case.

PART 1475—UNILATERAL ORDER PROCEDURE

§ 1475.6 [Amended]

Section 1475.6 *Modification of order to extend time for payment* is amended in the following respects:

1. By deleting the period at the end of paragraph (b) and adding the following: ", but the contractor need not mail to such collecting agency a copy of the information and data set forth in § 1499.2-9(d) of this chapter."

2. By deleting paragraph (d)(2) in its entirety and inserting in lieu thereof the following:

(d) *Conditions.* * * *

(2) The contractor establishes by satisfactory evidence that it is unable to make such payment on or before the due date, or that payment on or before such date would impose upon the contractor an undue hardship. In this connection the contractor shall file with its request for an extension of time for payment the information and data set forth in § 1499.2-9(d) of this chapter, and upon request shall furnish such other or additional information and data as the Board or the Regional Board may specify in the particular case.

PART 1499—RENEGOTIATION RULINGS AND BULLETINS

Section 1499.2-9, *Renegotiation Bulletin No. 9: Deferred payment of excessive profits pursuant to agreement* is amended by deleting paragraph (c) in its entirety, changing the designation of paragraph (d) to (c), and adding new paragraphs (d) and (e) to read as follows:

§ 1499.2-9 Renegotiation Bulletin No. 9: Deferred payment of excessive profits pursuant to agreement.

* * * * *

(d) A contractor believing itself in need of installment or other deferred terms of payment should request such relief and must be prepared to establish to the Board or the cognizant Regional Board that payment in accordance with the provisions customarily included in agreements would impose undue hardship upon the contractor. In order that the existence and extent of the claimed need may be properly evaluated and the risks to the Government carefully weighed, the contractor in its request shall state the terms desired and show that such terms are no more than are reasonably necessary to avoid undue hardship. The contractor shall also file with its request the following information and data:

(1) Latest available audited balance sheet and income statement.

(2) Current unaudited balance sheet and income statement.

(3) Cash flow statement, by years, through end of proposed period of payment.

(4) Sources and amounts of credit currently utilized and available.

(5) Description of long-term debt obligations, including retirement or conversion provisions and any additions contemplated during proposed period of payment.

(6) List of amounts, if any, due from officers, stockholders, or partners or related entities, with information on the collectibility thereof; and amounts, if any, owing to officers, stockholders or partners or related entities, with description of provisions for retirement thereof during proposed period of payment.

(7) In addition to the foregoing, in the case of a partnership or joint venture, a current balance sheet for each of the principal partners or joint ventures.

(e) Upon request, the contractor shall also furnish such other or additional information and data as the Board or the Regional Board may specify in the particular case.

(Sec. 109, 63 Stat. 22; 50 U.S.C.A., App. sec. 1219)

Dated: March 5, 1970.

LAWRENCE E. HARTWIG,
Chairman.

[F.R. Doc. 70-2886; Filed, Mar. 10, 1970; 8:45 a.m.]

Title 45—PUBLIC WELFARE

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Need and Amount of Assistance

Section 233.20 is amended to add a new paragraph (d) as follows:

§ 233.20 Need and amount of assistance.

* * * * *

(d) Other requirements; effect on public assistance payments of the increase in OASDI benefits enacted by Public Law 91-172. (1) In determining need for and the amount of OAA, AFDC, AB, APTD, or AABD, the separate OASDI benefit payment made to an individual for January and February 1970, resulting from the increase in OASDI benefits enacted by Public Law 91-172, shall be disregarded.

(2) In the case of any individual who is a recipient of OAA, AB, APTD, or AABD for the month of April, May, or June 1970 and in such month also receives monthly OASDI benefits, the total of his aid or assistance for such month, plus OASDI benefits received in such month, shall exceed, by $4 (or, if less, the amount of the increase in his OASDI benefits under Public Law 91-172) per month, the sum of the OASDI benefits he would have received in such month without regard to the increase enacted by Public Law 91-172 plus the supplementary aid or assistance payment he would have received for such month under the applicable State plan as in effect for March 1970.

(Sec. 1102, 49 Stat. 647, U.S.C. 1302)

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

Dated: February 17, 1970.

MARY E. SWITZER,
Administrator, Social and Rehabilitation Service.

Approved: March 6, 1970.

JOHN G. VENEMAN,
Acting Secretary.

[F.R. Doc. 70-2967; Filed, Mar. 10, 1970; 8:49 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 33—SPORT FISHING

Montezuma National Wildlife Refuge, N.Y.

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

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

NEW YORK

MONTEZUMA NATIONAL WILDLIFE REFUGE

Sport fishing in state waters in compliance with state regulations is permitted from refuge lands from January 1 to December 31, 1970. The three areas open to access to fishing are designated by signs and delineated on maps available at refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

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

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

MARCH 3, 1970.

[F.R. Doc. 70-2903; Filed, Mar. 10, 1970; 8:46 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7032]

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

Temporary Regulations Relating to Certain Elections

In order to prescribe temporary regulations, which shall remain in force and effect until superseded by permanent regulations, relating to the manner of making certain elections provided by the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 487), the following regulations are hereby adopted:

§ 13.0 Procedure applicable to certain elections.

(a) *Elections covered by temporary rules.* The sections of the Internal Revenue Code of 1954, or of the Tax Reform Act of 1969, to which paragraph (b) of this section applies and under which an election or notification may be made pursuant to the procedures prescribed in such paragraph are as follows:

Section	Description of election	Availability of election
(1) First category:		
167(e)(3) of Code	Change of depreciation method on sec. 1250 property.	First taxable year beginning after July 24, 1969.
185(c) of Code	Amortization of qualified railroad grading and tunnel bores.	Any taxable year beginning after Dec. 31, 1969.
231(d)(2) of Act	Moving expenses	Expenses paid or incurred before July 1, 1970, if employee was notified of move by employer on or before Dec. 19, 1969.
433(d)(2) of Act	Bonds, etc., held by financial institutions	All taxable years beginning after July 11, 1969, and before July 11, 1974.
503(c)(2) of Act	Carved-out mineral production payments	All mineral production payments carved out of mineral properties after beginning of last taxable year ending before Aug. 7, 1969.
516(d)(3) of Act	Contingent payments by transferee of franchise, trademark, or trade name.	Payments made in taxable years ending after Dec. 31, 1969, and beginning before Jan. 1, 1980, on transfers made before Jan. 1, 1970.
642(c)(1) of Code	Charitable contributions of estates or trusts paid in following year.	Amounts paid in any taxable year beginning after Dec. 31, 1969.
1039(a) of Code	Gain from sale of low-income housing project.	Approved dispositions after Oct. 9, 1969.
1251(b)(4) of Code	No additions to excess deductions account of taxpayers electing to compute taxable income from farming in certain manner.	Any taxable year beginning after Dec. 31, 1969.
(2) Second category:		
169(b) of Code	Amortization of pollution control facilities.	Any taxable year ending after Dec. 31, 1968, in which facility is completed or acquired (or succeeding taxable year).
184(b) of Code	Amortization of qualified railroad rolling stock.	Any taxable year beginning after Dec. 31, 1969, in which rolling stock was placed in service (or succeeding taxable year).
187(b) of Code	Amortization of certified coal mine safety equipment.	Any taxable year ending after Dec. 31, 1969, in which safety equipment was placed in service (or succeeding taxable year).
(3) Third category:		
504(d)(2) of Act	Notification not to have sec. 615(e) election treated as a sec. 617(a) election.	Exploration expenditures paid or incurred after Dec. 31, 1969.

(b) *Manner of making election or serving notice*—(1) *In general.* (i) Except as provided in subparagraph (2) of this paragraph, a taxpayer may make an election under any section referred to in paragraph (a) (1) or (2) of this section for the first taxable year for which the election is required to be made or for the taxable year selected by the taxpayer when the choice of a taxable year is optional. The election must be made not later than (*a*) the time, including extensions thereof, prescribed by law for filing the income tax return for such taxable year or (*b*) 90 days after the date on which the regulations in this part are filed with the Office of the Federal Register, whichever is later.

(ii) The election shall be made by a statement attached to the return (or an amended return) for the taxable year, indicating the section under which the election is being made and setting forth information to identify the election, the period for which it applies, and the facility, property, or amounts to which it applies.

(2) *Additional time for certain elections.* An election under section 503(c)(2) of the Act or section 642(c)(1) of the Code must be made in accordance with subparagraph (1) of this paragraph but not later than (i) the time, including extensions thereof, prescribed by law for filing the income tax return for the taxable year following the taxable year for which the election is made or (ii) 90 days after the date on which the regulations in this part are filed with the Office of the Federal Register, whichever is later.

(3) *Notification as to section 615(e) election.* (i) The notification referred to in paragraph (a)(3) of this section in respect of an election under section 615(e) which was made before the date on which the regulations in this part are filed with the Office of the Federal Register shall be made in a statement attached to the taxpayer's income tax return for the first taxable year in which expenditures are paid or incurred after December 31, 1969, which would be deductible by the taxpayer under section 617 if he so elects. The statement shall indicate the first taxable year for which such election was effective and the district director, or the director of the regional service center, with whom the election was filed.

(ii) The notification referred to in paragraph (a)(3) of this section, in respect of an election under section 615(e) which is made on or after the date on which the regulations in this part are filed with the Office of the Federal Register, shall be made in the statement of election required by paragraph (a)(2) of § 15.1-1 of this chapter (Temporary Income Tax Regulations Relating to Exploration Expenditures in the Case of Mining).

(iii) The serving of notice pursuant to this subparagraph shall not preclude the subsequent making of an election under section 617(a). A failure to serve notice pursuant to this subparagraph shall be treated as an election under section 617(a) and paragraph (a)(1) of § 15.1-1 of this chapter with respect to exploration expenditures paid or incurred after December 31, 1969, whether or not the taxpayer subsequently revokes his election under section 615(e) with respect to exploration expenditures paid or incurred before January 1, 1970.

(iv) For rules relating to the revocation of an election under section 615(e), including such an election which is treated pursuant to this subparagraph as an election under section 617(a), see paragraph (a) of § 15.1-2 of this chapter (T.D. 6907, C.B. 1967-1, 531, 535).

(c) *Effect of election*—(1) *Revocations*—(i) *Consent to revoke required.* Except as provided in subdivision (ii) of this subparagraph, an election made in accordance with paragraph (b)(1) of

this section shall be binding unless consent to revoke the election is obtained from the Commissioner. An application for consent to revoke the election will not be accepted before the promulgation of the permanent regulations relating to the section of the Code or Act under which the election is made. Such regulations will provide a reasonable period of time within which taxpayers will be permitted to apply for consent to revoke the election.

(ii) *Revocation without consent.* An election made in accordance with paragraph (b)(1) of this section may be revoked without the consent of the Commissioner not later than 90 days after the permanent regulations relating to the section of the Code or Act under which the election is made are filed with the Office of the Federal Register, provided such regulations grant taxpayers blanket permission to revoke that election within such time without the consent of the Commissioner. Such blanket permission to revoke an election will be provided by the permament regulations in the event of a determination by the Secretary or his delegate that such regulations contain provisions that may not reasonably have been anticipated by taxpayers at the time of making such election.

(iii) *Election treated as tentative.* Until the expiration of the reasonable period referred to in subdivision (i) of this subparagraph or the 90-day period referred to in subdivision (ii), of this subparagraph, an election under section 433(d)(2) of the Act will be considered a tentative election, subject to revocation under the provisions of such subdivisions.

(iv) *Place for filing revocations.* A revocation under subdivision (i) or (ii) of this subparagraph shall be made by filing a statement to that effect with the district director, or the director of the regional service center, with whom the election was filed.

(2) *Termination without consent.* An election which is made in accordance with paragraph (b)(1) of this section under a section referred to in paragraph (a)(2) of this section and is not revoked pursuant to subparagraph (1) of this paragraph may, without the consent of the Commissioner, be terminated at any time after making the election by filing a statement to that effect with the district director, or the director of the regional service center, with whom the election was filed. This statement giving notice of termination must be filed before the beginning of the month specified in the statement for which the termination is to be effective. If pursuant to this subparagraph the taxpayer terminates an election made under any such section, he may not thereafter make a new election under that section with respect to the facility, property, or equipment to which the termination relates.

(d) *Furnishing of supplementary information required.* If the permanent regulations which are issued under the section of the Code or Act referred to in paragraph (a) (1) or (2) of this section to which the election relates require the furnishing of information in addition to that which was furnished with the statement of election filed pursuant to paragraph (b)(1) of this section, the taxpayer must furnish such additional information in a statement addressed to the district director, or the director of the regional service center, with whom the election was filed. This statement must clearly identify the election and the taxable year for which it was made.

(e) *Other elections.* Elections under the following sections of the Code may not be made pursuant to paragraph (b)(1) of this section but are to be made under regulations, whether temporary or permanent, which will be issued under amendments made by the Act. If necessary, such regulations will provide a reasonable period of time within which taxpayers will be permitted to make elections under the sections in this part for taxable years ending before the date on which such regulations are filed with the Office of the Federal Register:

Section	*Description*
167(k)(1)	Expenditures to rehabilitate low-income rental housing.
167(l)(4)	Post-1969 property of certain utilities representing growth in capacity.
170(b)(1)(D)(iii)	Special limitation with respect to contributions of certain capital gain property.
453(c)	Revocation of election to report income on installment basis.
507(b)(1)(B)(ii)	Notice of termination of private foundation status.
1564(a)(2)	Allowance of certain amounts to component member of controlled group of corporations.
4942(h)(2)	Deficient distributions of private foundations for piror taxable years.
4943(c)(4)(E)	Determination of holdings of a private foundation in a business enterprise where substantial contributors hold more than 15 percent of voting stock.

Because the purpose of this Treasury decision is to provide immediate guidance as to the manner of making certain elections made available by reason of the enactment of the Tax Reform Act of 1969, it is hereby found impracticable to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C., sec. 553(b), or subject to the effective date limitation of 5 U.S.C., sec. 553(d).

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805); certain provisions of Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 487))

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

Approved: March 9, 1970.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-3038; Filed, Mar. 10, 1970; 9:46 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 List of designated areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Louisiana	St. Bernard (Parish).	Verret to Hopedale-Delacroix.	I 22 087 0000 01.	Louisiana Department of Public Works, Baton Rouge, La. 70804.	Office of the Parish Engineer, St. Bernard Parish Courthouse, Chalmette, La. 70043.	Mar. 13, 1970.
		Violet to Verret.	I 22 087 0000 02.	Commissioner of Insurance, State of Louisiana, Box 44214 Capitol Station, Baton Rouge, La. 70804.		
North Dakota.	Ward	Minot and vicinity.	I 38 101 2170 01. I 38 101 2170 02. I 38 101 2170 03. I 38 101 2170 04. I 38 101 2170 05. I 38 101 2170 06. I 38 101 2170 07.	State Water Commission, Bismarck, N. Dak. 58501. State Insurance Commission, State Capitol, Bismarck, N. Dak. 58501.	Office of the City Auditor, Civic Center, Minot, N. Dak. 58701. Office of the County Building Inspector, Ward County Courthouse, Minot, N .Dak. 58701.	Mar. 17, 1970.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968, 42 U.S.C. 4001–4127), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968); Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: March 11, 1970.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[F.R. Doc. 70–2927; Filed, Mar. 10, 1970; 8:48 a.m.]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of flood hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Louisiana	St. Bernard (Parish).	Verret to Hopedale-Delacroix.	H 22 087 0000 01.	Louisiana Department of Public Works, Baton Rouge, La. 70804.	Office of the Parish Engineer, St. Bernard Parish Courthouse, Chalmette, La. 70043.	Mar. 12, 1970.
		Violet to Verret.	H 22 087 0000 02.	Commissioner of Insurance, State of Louisiana, Box 44214 Capitol Station, Baton Rouge, La. 70804.		
North Dakota.	Ward	Minot and vicinity.	H 38 101 2170 01. H 38 101 2170 02. H 38 101 2170 03. H 38 101 2170 04. H 38 101 2170 05. H 38 101 2170 06. H 38 101 2170 07.	State Water Commission, Bismarck, N. Dak. 58501. State Insurance Commission, State Capitol, Bismarck, N. Dak. 58501.	Office of the City Auditor, Civic Center, Minot, N. Dak. 58701. Office of the County Building Inspector, Ward County Courthouse, Minot, N. Dak. 58701.	Mar. 16, 1970.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968, 42 U.S.C. 4001–4127), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968); Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: March 11, 1970.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[F.R. Doc. 70–2928; Filed, Mar. 10, 1970; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 70–232]

PART 89—PUBLIC SAFETY RADIO SERVICES

Use of Mobile Radio Units as Mobile Repeaters by Fire Radio Service

Order. In the matter of amendment of § 89.357 of the rules governing the Fire Radio Service to permit the use of mobile radio units as mobile repeaters, RM 1443, RM 1444.

1. Recently, the Commission amended its rules governing the Police Radio Service to permit police mobile radio units to act as mobile repeaters. The purpose of the rules we adopted was to make possible for police agencies to extend the communications range of portable, low-power transceivers so as to enable police officers on foot carrying transceivers to communicate with their headquarters through police car radio units. See report and order in Docket 14028, FCC 68–600, 33 F.R. 8598, 13 FCC 2d 166 (1966). The International Association of Fire Chiefs and the International Municipal Signal Association have filed separate petitions asking the Commission to adopt the same rules in the Fire Radio Service. They state that firemen also use low power, portable radio transceivers, especially at the scene of a fire, and often have similar need as do police officers to communicate with their headquarters and with fire vehicles in transit. They believe that the rules we have adopted for the police, including the power limitations we have imposed there, would be satisfactory.

2. For substantially the same reasons we advanced when we adopted the above mentioned police mobile repeater rules in Docket 14028, we believe that the instant petitions should be granted. Also, we find that it is unnecessary to comply with the prior notice and procedure requirements of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, before adopting the proposed rules. The petitions are unopposed. The considerations involved in adopting these rules are the same as those which we took into account in the proceedings in Docket 14028 and it is highly unlikely that public comments, if invited, would raise any issues not previously considered or would be otherwise significant in our disposition of this matter.

3. *Accordingly, it is ordered,* Pursuant to section 4(i) and 303 of the Communications Act of 1934, as amended, that § 89.357 of the Commission's rules is amended, as shown below, effective March 12, 1970.

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

Adopted: March 4, 1970.

Released: March 6, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

Part 89 of the Commission's rules is amended as follows:

Section 89.357 is amended by the addition of paragraph (e) as follows:

§ 89.357 Station limitations.

* * * * *

(e) Mobile stations utilizing mobile service frequencies above 25 MHz may be used for the purpose of providing extended talk back range for low-power hand-carried transmitters.

(1) Hand-carried transmitters to be automatically relayed by mobile stations may be assigned a separate frequency for this use limited to a maximum power output of 2.5 watts.

(2) Each mobile station when used for the purpose of automatically retransmitting messages originated by or destined for hand-carried units shall be so designed and installed that it will be activated only by means of a continuous tone device, the absence of which will deactivate the mobile transmitter. The continuous tone device is not required when the mobile station is equipped with a switch that must be activated to change the mobile unit to the automatic mode and an automatic time delay device to deactivate the transmitter after any uninterrupted period of transmission in excess of 3 minutes.

(3) Mobile stations may also be used to provide extended base station talk out range to pocket or miniature receivers, however, any additional frequencies required for this purpose may not be used with power output in excess of 2.5 watts.

[F.R. Doc. 70–2921; Filed, Mar. 10, 1970; 8:47 a.m.]

[1] Commissioner Johnson concurring in the result.

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 70-EA-14]

AIRWORTHINESS DIRECTIVE

Fairchild Hiller Aircraft

The Federal Aviation Administration is considering amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Fairchild Hiller F-27 and FH-227 type airplanes.

There have been reports of outboard flaps overtraveling the actuating screw shafts with resultant failure of the flap. This condition results from electrical and structural failures of present stops. The proposed airworthiness directive would require installation of mechanical stops to forestall overtravel in instances of structural and electrical malfunctions.

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

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

In consideration of the foregoing, it is proposed to amend § 39.13 of the Federal Aviation Regulations as follows:

Amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

FAIRCHILD HILLER. Applies to F-27 and FH-227 type airplanes certificated in all categories.

To assure that the outboard flaps are contained in the event of overtravel, by the addition of positive stops to the screwjacks, accomplish the following within the next 250 hours in service after the effective date of this AD, unless already accomplished.

(a) Comply with the applicable Fairchild Hiller Service Bulletin, No. F-27-27-72 dated January 16, 1970, or No. FH-227-27-30 dated January 16, 1970, or later revision or equivalent method both approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(b) Upon request with substantiating data submitted through an FAA Maintenance Inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on February 25, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 70-2891; Filed, Mar. 10, 1970; 8:45 a.m.]

Federal Railroad Administration

[49 CFR Part 236]

[Docket No. FRA-Signal-1]

RULES, STANDARDS, AND INSTRUCTIONS FOR SIGNAL SYSTEMS

Notice of Extension of Time for Filing Written Submissions

The notice in this matter issued January 29, 1970, asked for written submissions to be made on or before March 1, 1970. The purpose of this notice is to inform all interested persons that the time for filing written submissions has been extended to April 1, 1970.

Issued in Washington, D.C., on March 6, 1970.

ROBERT R. BOYD,
Director, Office of Hearings and Proceedings.

[F.R. Doc. 70-2932; Filed, Mar. 10, 1970; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 18809; FCC 70-231]

GROUND-TO-AIR COMMUNICATION ON CERTAIN FREQUENCIES

Notice of Proposed Rule Making

In the matter of amendment of Part 2 of the Commission's rules to permit the authorization of ground-to-air communication on the frequencies 122.65, 122.70, and 122.75 MHz; Docket No. 18809.

1. The Commission has been requested by the Federal Aviation Administration (FAA) to amend Part 2 of its rules in a manner which will permit the assignment of the frequencies 122.65, 122.70, and 122.75 MHz at FAA Flight Service Stations for safety-of-flight communications with general aviation aircraft. As pointed out by FAA, these frequencies are now available for airborne use and thousands of aircraft have the capability to use them, but they are not now authorized for ground-to-air communications.

2. FAA renders similar service on other frequencies in the band 121.975-122.625 MHz pursuant to one of the provisions in footnote US31 to the Table of Frequency Allocations, § 2.106, and recommends that that provision be expanded by setting the band limits at 121.975-122.775 MHz.

3. If the frequencies 122.65 and 122.75 MHz are made available for use as requested. FAA will find that one or both will not be usable at certain airports because of potential interference from third order intermodulation products of other stations. For example, the frequency 123.6 MHz is assigned at several hundred flight service stations. If, at one of the same airports, the flight test frequency 123.125 MHz is assigned, the combination of the two may produce interference on 122.65 MHz, i.e., $2(123.125)-123.6=122.65$ MHz. Similarly, if the flight test frequency 123.175 MHz and 123.6 MHz were assigned at the same airport, FAA would not be able to use 122.75 MHz since $2(123.175)-123.6=122.75$ MHz.

4. However, since compliance with FAA's request could lead to improved service for general aviation aircraft at a number of airports, it is proposed to amend footnote US31 to read as shown below. The only change from the existing footnote US31 is to raise the upper band limit in the last provision from 122.625 to 122.775, shown by underscoring.

5. The proposed amendment to the rules, as set forth above, is issued pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

6. Pursuant to the applicable procedures set forth in § 1.145 of the Commission's rules, interested persons may file comments on or before April 8, 1970, and reply comments on or before April 20, 1970. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it in addition to the specific comments invited by this notice.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs or comments filed shall be furnished the Commission.

Adopted: March 4, 1970.

Released: March 6, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[1] Commissioner Johnson concurring in the result.

Section 2.106, footnote US31, is amended to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

US31 Except as provided below, the band 121.975–123.075 MHz is for use by private aircraft stations.

The frequencies 122.80, 122.85, 122.95, 123.00, and 123.05 MHz may be assigned to aeronautical advisory stations.

The frequency 122.90 MHz may be assigned to aeronautical multicom stations.

Air carrier aircraft stations may use 122.00 MHz for communications with aeronautical stations of the Federal Aviation Administration and 122.8 MHz for communication with other aircraft and with aeronautical advisory stations.

Frequencies in the band 121.975–122.775 MHz may be used by aeronautical stations of the Federal Aviation Administration for communication with private aircraft stations only, except that 122.0 MHz may also be used for communication with air carrier aircraft stations concerning weather information.

* * * * *

[F.R. Doc. 70–2926; Filed, Mar. 10, 1970; 8:48 a.m.]

[47 CFR Part 25]

[Docket No. 15735]

OWNERSHIP AND OPERATION OF INITIAL U.S. EARTH STATIONS

Order Granting Extension of Time

In the matter of amendment of Part 25 of the Commission's rules and regulations with respect to ownership and operation of initial earth stations in the United States for use in connection with the proposed global commercial communication-satellite system; Docket No. 15735.

1. On February 26, 1970, Western Union International, Inc., filed a motion for further extension of time to April 6, 1970, in which to file comments in the captioned rule-making proceeding.

2. Good cause has been shown for affording Western Union International, Inc. and other interested parties additional time within which to file such initial comments.

3. Accordingly, pursuant to § 0.303(c) of the Commission's rules on delegations of authority, Western Union International, Inc.'s, motion is granted and the time for filing initial comments is further extended from March 4, 1970, to April 6, 1970, and the time for filing reply comments is hereby further extended from March 31, 1970, to May 4, 1970.

Adopted: February 27, 1970.

Released: March 2, 1970.

FEDERAL COMMUNICATIONS COMMISSION,
A. C. ROSEMAN,
Chief, International and Satellite Communications Division, for Chief, Common Carrier Bureau.

[F.R. Doc. 70–2924; Filed, Mar. 10, 1970; 8:47 a.m.]

[47 CFR Part 73]

[Docket No. 18808; FCC 70–226]

TELEVISION BROADCAST STATIONS

Table of Assignments; Terre Haute, Ind.

In the matter of amendment of § 73.606, *Table of Assignments*, television broadcast stations (Terre Haute, Ind.); Docket No. 18808, RM–1532.

1. On November 21, 1969, Alpha Broadcasting Corp. (Alpha) filed a brief petition with this Commission requesting the shift of the educational reservation from Channel *26 to Channel 66, both at Terre Haute, Ind. No other revisions in our Table of Assignments were proposed. No comments were filed in respect to the petition.

2. Terre Haute, with a population of 72,500, has four television channels assigned to it: 2 (WTWO, licensed), 10 (WTHI–TV, licensed), *26 (which has no application pending for its use), and 66 (which has two applications pending for its use: the first by petitioner, File No. BPCT–4117, Docket 18322, and the second by Terre Haute Broadcasting Corp., File No. BPCT–4086, Docket No. 18321).

3. Alpha is interested in bringing Terre Haute a third commercial television service. While it intends to do so on a UHF channel, it is concerned with its competitive position relative to the two existing Terre Haute VHF commercial channels. Therefore, petitioner submits the following assertions in support of its proposal:

* * * there is a decided advantage for a commercial station to use a lower UHF channel from a competitive standpoint at this point in the development of the medium. It is realized that the Commission's rules do not recognize any difference in propagation between the high and low UHF TV channels. However, it is generally considered that the present state of the art tuners perform better at the lower frequencies and further that in the due course of time improvements will be made which will minimize or eliminate whatever difference exists.

There is, of course, lower transmission line losses at the lower frequencies which permits somewhat greater Effective Radiated Power to be developed with the same transmitter power output. As far as propagation effects, there would be expected to be less difference between the high and low channels in the Terre Haute area than would be the case in more hilly terrain where there would be greater obstruction losses. Aside from all of the above factors, it is believed there is a definite psychological advantage, particularly for a commercial station, to be derived from the use of a lower UHF channel.

4. In addition to the above, petitioner submits not only that its proposal, if adopted, would bring Terre Haute a more competitive commercial service, but also that its proposal in no way prejudices its competitor's application for a commercial license in the city (Terre Haute Broadcasting Corp.), in that that corporation's site for its proposed transmitter is equally satisfactory for operation on Channel 26. In conclusion petitioner offers that the educational interests in the area support the proposed shift of channel reservation. Four letters accompanied the petition: The first from the superintendent of schools of the Vigo County School Corp., the second, third, and fourth from the presidents of the Indiana State University, Rose Polytechnic Institute, and St. Mary-of-the-Woods College, each of which supported petitioner's contention and denied their intention to establish an educational service in Terre Haute in the near future.

5. At this time we make no comment in respect to the quoted assertions of Alpha set out in paragraph 3 above, nor do we express any present view as to the merit of the proposal. We do note, however, that the educational interests petitioner has consulted appear to acquiesce in the proposal, and that no oppositions have been filed, as of this date, by educational interests of the State of Indiana or other parties.

6. In view of the foregoing, we are setting out petitioner's proposal for consideration, i.e., the shift of the educational reservation from Channel 26 to Channel 66, both at Terre Haute, Ind. The proposed action would change the television assignments at Terre Haute, Ind., from Channels 2+, 10, *26, and 66 to Channels 2+, 10, 26, and *66. In order that the Commission may be fully informed in reaching its decision in this matter, we specifically solicit comments from educational authorities of the State of Indiana, the National Association of Educational Broadcasters, the Corporation for Public Broadcasting, and other groups particularly concerned with educational television.

7. Authority for the action proposed herein, is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

8. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before April 13, 1970, and reply comments on or before April 23, 1970. All submissions by parties to this proceeding, or persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

9. In accordance with the provisons of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all written comments, reply comments, pleadings, briefs, or other documents, shall be furnished the Commission.

Adopted: February 26, 1970.

Released: March 6, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70–2925; Filed, Mar. 10, 1970; 8:48 a.m.]

[1] Dissenting statement of Commissioner H. Rex Lee in which Commissioner Johnson joins is filed as part of original document.

DEPARTMENT OF THE INTERIOR

Oil Import Administration

[32A CFR Ch. X]

[Oil Import Reg. 1 (Rev. 5)]

CANADIAN OVERLAND IMPORTS, DISTRICTS I–IV

Allocations

On March 10, 1970, Proclamation 3279 was amended to impose a quantitative limitation on the importation of crude oils and unfinished oils from Canada into Districts I–IV during the period March 1, 1970, through December 31, 1970. As amended, the proclamation provides that not to exceed 395,000 average barrels daily of such oils may be imported from Canada into Districts I–IV during that period. The proclamation provides also (1) that during the period March 30, 1970, through December 31, 1970, no such oils may be imported except under licenses issued pursuant to allocations made by the Secretary of the Interior in accordance with regulations concurred in by the Director of the Office of Emergency Preparedness, (2) that such licenses shall permit the importation only of Canadian oils overland, and (3) that regulations be issued providing for allocations for the period March 1, 1970, through June 30, 1970. To implement the latter requirement, it is proposed to recommend to the Secretary of the Interior and to the Director of the Office of Emergency Preparedness that Oil Import Regulation 1 (Revision 5) be amended by revising section 23 to read as set forth below. Persons interested may submit written comments on the proposed amendment to Administrator, Oil Import Administration, Department of the Interior, Washington, D.C. 20240, on or before March 20, 1970. The regulations must be issued and the allocations and licenses issued thereunder by March 30, 1970. This necessitates the short period for comment. Each person who submits comments is asked to provide 10 copies.

J. J. SIMMONS, III,
Administrator,
Oil Import Administration.

MARCH 10, 1970.

Sec. 23 Canadian overland imports—Districts I–IV.

(a) As used in this section the term "Canadian overland imports" means crude oil and unfinished oils (1) which are entered for consumption or withdrawn from warehouse for consumption in Districts I–IV, (2) which, if crude oil, was produced in Canada, and, if unfinished oils, were processed from crude oil or natural gas produced in Canada, and (3) which were or are transported into the United States by pipeline, rail, or other means of overland transportation.

(b) The Administrator shall make allocations of 395,000 average barrels daily of Canadian overland imports for the period March 1, 1970, through June 30, 1970, but such allocations shall be reduced as provided in paragraph (h) of this section.

(c) To be eligible for an allocation of imports under this section, a person must have in Districts I–IV a facility or facilities for processing Canadian overland imports or pipeline facilities using crude oil as fuel.

(d) (1) Except as provided in subparagraph (2) of this paragraph, each eligible applicant shall receive an allocation in an equal share of the remainder of the imports that is available for allocation after allocations are made pursuant to subparagraph (2) of this paragraph. However, such allocation shall be reduced, as provided in paragraph (h) of this section, by the amount of Canadian overland imports which such person imported during the period March 1, 1970, through March 29, 1970, or which were imported during that period and which were purchased by such person.

(2) If an eligible applicant processed Canadian overland imports in his facility or facilities during the period October 1, 1968, through September 30, 1969, and if an allocation computed under subparagraph (1) of this paragraph would be less than the average barrels daily of Canadian overland imports that the applicant processed in his facility or facilities during the period October 1, 1968, through September 30, 1969, multiplied by 1.05, the applicant shall receive an allocation under this section equal to the average barrels daily of Canadian overland imports that the applicant processed in his facility or facilities, multiplied by 1.05, multiplied by 122. However, such allocation shall be reduced, as provided in paragraph (h) of this section, by the amount of Canadian overland imports which such person imported during the period March 1, 1970, through March 29, 1970, or which were imported during that period and which were purchased by such person.

(3) No person shall receive an allocation under subparagraph (1) and subparagraph (2) of this paragraph.

(4) Under an allocation made pursuant to this section, a person may import the full amount of the allocation as unfinished oils.

(e) No person shall receive an allocation under this section in excess of 95 percent of the operating capacity as of January 1, 1969, of the facility or facilities covered by the application expressed in average barrels daily multiplied by 122. Such operating capacity shall be subject to verification by the Administrator.

(f) Each allocation made under this section shall be subject to adjustment based on revised allocations for the period March 1, 1970, through December 31, 1970.

(g) Licenses issued under allocations made pursuant to this section shall permit only Canadian overland imports to be entered for consumption or withdrawn from warehouse for consumption in Districts I–IV.

(h) (1) A person to whom an allocation is made under this section shall report and certify in writing to the Administrator, Oil Import Administration, Department of the Interior, Washington, D.C. 20240, by April 15, 1970, the total quantity of Canadian overland imports which that person imported during the period March 1, 1970, through March 29, 1970, or which were imported during that period and which were purchased by such person. The amount so reported and certified shall be subject to verification by the Administrator. If a person to whom such an allocation is made fails to file by April 15, 1970, the written report and certification required by this subparagraph (1), the Administrator shall suspend all licenses issued under that allocation until the written report and certification is received.

(2) The quantity of Canadian overland imports reported and certified by a person as provided in subparagraph (1) of this paragraph shall be charged against, and entered upon, the licenses issued to that person under his allocation and shall serve to reduce his allocation in that amount.

(i) An allocation made pursuant to this section shall not be sold, assigned, or otherwise transferred. Each person who imports Canadian overland imports under an allocation made pursuant to this section shall process or consume such imports only in his own facility or facilities. Such imports shall not be exchanged.

(j) An application for an allocation under this section shall be made by letter or telegram to the Administrator, Oil Import Administration, Department of the Interior, Washington, D.C. 20240. Applications must be received by the Administrator no later than 12 m., eastern standard time, on March 20, 1970. An application must contain the following information, which shall be certified by an officer of the applicant:

(1) The nature of the applicant's facility or facilities,

(2) The location or locations of the facility or facilities,

(3) The average barrels daily of Canadian overland imports processed or consumed in the applicant's facility or facilities during the period October 1, 1968, through September 30, 1969,

(4) The operating capacity, as of January 1, 1969, expressed in average barrels per calendar day of the facility or facilities in which Canadian imports will be processed.

An officer of an applicant shall also certify in his application that, if an allocation of Canadian overland imports is made to the applicant under this section, the applicant will process or consume all such imports in his facility or facilities before July 31, 1970.

(k) If a person who receives an allocation of Canadian overland imports under this section fails to import the total quantity of such imports specified in the

allocation or if he fails to process all such imports in his facility or facilities before July 31, 1970, then any allocation for Districts I–IV to which such person may be entitled under section 9, 10, or 25 of this regulation for the allocation period beginning January 1, 1971, shall be reduced by the Administrator by the amount of Canadian overland imports which such person has failed to import or which such person has failed to process in his facility or facilities before July 31, 1970, except that the Administrator need not make such a reduction to the extent that such person demonstrates to the satisfaction of the Administrator that such failures were without such person's fault and were beyond his control.

[F.R. Doc. 70–3051; Filed, Mar. 10, 1970; 11:54 a.m.]

Notices

FEDERAL POWER COMMISSION

[Docket No. RI70-1225, etc.]

ADOBE OIL CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

FEBRUARY 27, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules [1a] for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before April 15, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

[1a] Producers operating under small producer certificates are permitted to file above-ceiling rate increases in the Permian Basin Area without submitting rate schedules as a result of Order No. 394 issued Jan. 6, 1970. Where the words "supplement" or "rate schedules" appear in this order, they refer to the notices of change in rate filed by the small producers herein.

APPENDIX A

Docket No.	Respondent	Docket No. [1b]	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos
RI70-1225	Adobe Oil Co.	CS67-2 [2]	Transwestern Pipeline Co. (Barstow (Fusselman) Field, Ward County, Tex.) (RR. District No. 8) (Permian Basin Area).	$41,157	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] 19.0831	
RI70-1226	Estate of Oscar Bourge	CS68-5 [2]	do	645	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1227	John W. Wood, Jr.	CS69-59 [2]	do	258	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1228	James U. Gentry	CS69-60 [2]	do	258	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1229	Walter B. Holton	CS69-61 [2]	do	625	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1230	James W. Lacy	CS69-62 [2]	do	391	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1231	Arthur I. Ginsburg	CS69-64 [2]	do	2,581	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1232	John M. Harris	CS69-65 [2]	do	2,581	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1233	Donald C. Campbell	CS69-66 [2]	do	232	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1234	Walter K. Boyd, Jr.	CS69-67 [2]	do	258	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1235	Walter M. Ross	CS69-86 [2]	do	1,291	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1236	Harry E. Rollings	CS69-87 [2]	do	1,291	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1237	Colonel C. M. Paul	CS69-88 [2]	do	2,084	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1238	Fred Huber, Trustee	CS69-89 [2]	do	645	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1239	David B. Chalmers	CS69-90 [2]	do	645	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1240	A. A. Guffey	CS69-91 [2]	do	1,291	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1241	Larry Stanley	CS69-92 [2]	do	90	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1242	Charles O. Semple	CS69-93 [2]	do	258	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1243	Jessica Grammer	CS69-94 [2]	do	64	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1244	A. P. Gates	CS69-95 [2]	do	2,581	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1245	Earl W. Smyth	CS69-96 [2]	do	516	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1246	James F. O'Briant	CS69-97 [2]	do	645	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1247	Risher M. Thornton III	CS69-100 [2]	do	64	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1248	Dr. J. Stewart Loftis	CS69-101 [2]	do	645	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1249	M. P. Appleby, Jr.	CS70-1 [2]	do	1,291	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1250	Jack J. Stoneham	CS70-2 [2]	do	174	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1251	J. S. Anderson, Jr.	CS70-3 [2]	do	87	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1252	French Peterson	CS70-4 [2]	do	319	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1253	Melba Jean Davis, Independent Executrix and Trustee.	CS70-6 [2]	do	2,581	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1254	Rebecca Davis	CS70-7 [2]	do	2,581	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1255	W. H. Echols	CS70-8 [2]	do	232	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1256	Craft Thompson	CS70-12 [2]	do	174	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1257	Florence H. Barnes	CS70-11 [2]	do	645	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1258	Ege & Crouse	CS70-17 [2]	do	645	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1259	A. Owen	CS70-18 [2]	do	174	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1260	Robert L. Owen	CS70-23 [2]	do	174	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1261	Hissom Drilling Co.	CS69-98 [2]	do	1,131	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
RI70-1262	Texas American Oil Corp.	CS67-36 [2]	do	517	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0833	
RI70-1263	Albert Gackle (Operator) et al.	CS66-10 [9]	do	3,070	2-2-70	[3] 3-15-70	8-15-70	14.4457	[4] [5] [7] 17.1255	
RI70-1264	El Paso Natural Gas Co. (Operator) et al.	CS66-10 [9]	do	300	2-2-70	[3] 3-15-70	8-15-70	14.4156	[4] [5] [7] 17.1255	
RI70-1265	Jalmat Field, Lea County, N. Mex., Permian Basin.	CS66-10 [9]	do	7,175 2,462 4,776	2-2-70	[3] 3-15-70	8-15-70	14.4457 14.4156 14.3012	[4] [5] 17.1255	
RI70-1266	Fluor Corp.	CS66-128 [10]	do	562	1-30-70	[11] 3-2-70	8-2-70	14.4457	[4] [5] [7] 17.1272	
RI70-1267	El Paso Natural Gas Co.	CS66-128 [12]	do	38	1-30-70	[11] 3-2-70	8-2-70	14.4457	[4] [5] [7] 17.1272	
RI70-1268	Langmat Pool, Lea County, N. Mex., Permian Basin.	CS66-128 [13]	do	668	1-30-70	[11] 3-2-70	8-2-70	14.4627	[4] [5] [7] 17.1272	
		CS66-128 [14]	do	131	1-30-70	[11] 3-2-70	8-2-70	14.4457	[4] [5] [7] 17.1272	
		CS66-128 [15]	do	15	1-30-70	[11] 3-2-70	8-2-70	14.4457	[4] [5] [7] 17.1212	

See footnotes at end of table.

APPENDIX A—Continued

Docket No.	Respondent	Docket No. [1b]	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
R170-1269	Fluor Corp	CS66-128 [15]	El Paso Natural Gas Co. (Clara Couch Field, Crockett County, Tex.) (RR. District No. 7-C) (Permian Basin Area).	$751	1-30-70	[11] 3-2-70	8-2-70	14.5	[4] [5] [17] 17.2144	
	do	CS66-128 [14]	El Paso Natural Gas Co. (Pecos Valley Field, Pecos County, Tex.) (RR. District No. 8) (Permian Basin Area).	930	1-30-70	[11] 3-2-70	8-2-70	14.5	[4] [5] 17.5656	
	do	CS66-128 [19]	Natural Gas Pipeline Co. of America (Crittendon Field, Winkler County, Tex.) (RR. District No. 8) (Permian Basin Area).	4,686	1-30-70	[11] 3-2-70	8-2-70	16.5	[4] [5] 17.5656	
	do	CS66-128 [20]	El Paso Natural Gas Co. (Eumont Field, Lea County, N. Mex.) (Permian Basin Area).	1,462	1-30-70	[11] 3-2-70	8-2-70	14.4156	[4] [5] [7] 17.1255	
	do	CS66-128 [21]	El Paso Natural Gas Co. (Payton Devonian Pool, Ward and Pecos Counties, Tex.) (RR. District No. 8) (Permain Basin Area).	137	1-30-70	[11] 3-2-70	8-2-70	14.5	[4] [5] 17.7144	
	do	CS66-128 [22]	El Paso Natural Gas Co. (Langmat Pool, Lea County, N. Mex.) (Permian Basin Area).	37	1-30-70	[11] 3-2-70	8-2-70	14.4457	[4] [5] [7] 17.1272	
R170-1270	Frederick Palmer Weber	CS69-84 [23]	Transwestern Pipeline Co. (Barstow (Fussleman) Field, Ward County, Tex.) (RR. District No. 8) (Permian Basin Area).	3,220	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
R1170-1271	D. J. Lawson	CS69-85 [23]	do	645	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
R170-1272	G. J. Pevehouse	CS69-72 [23]	do	2,515	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
R170-1273	Adobe Ltd. No. 1	CS69-73 [23]	do	1,028	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
R170-1274	Adobe Ltd. No. 2	CS69-74 [23]	do	3,705	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
R170-1275	M. D. Rogers	CS69-70 [23]	do	258	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
R170-1276	C. A. Semple	CS69-71 [23]	do	1,291	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
R170-1277	S. D. Steed	CS69-68 [23]	do	1,291	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
R170-1278	C. M. Kestler	CS69-69 [23]	do	463	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
R170-1279	Thomas A. Read	CS69-83 [23]	do	232	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
R170-1280	Samuel H. Moore	CS69-82 [23]	do	645	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
R170-1281	Frank Kell Cahoon	CS69-81 [23]	do	232	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
R170-1282	Robert F. Dwyer	CS69-80 [23]	do	2,581	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
R170-1283	T. D. Jenkins	CS69-78 [23]	do	516	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
R170-1284	Dallas Cantwell	CS69-76 [23]	do	1,291	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	
R170-1285	Adobe Investment Corp	CS69-75 [23]	do	14,571	2-2-70	[3] 3-5-70	8-5-70	16.5	[4] [5] 19.0831	

[1b] Respondent issued a Small Producer Certificate in Docket Number indicated.
[2] No rate schedule on file—pertains to contract dated May 2, 1969.
[3] The stated effective date is the effective date requested by Respondent.
[4] Periodic rate increase.
[5] Pressure base is 14.65 p.s.i.a.
[6] No rate schedule on file—pertains to contract dated Dec. 24, 1952, as amended.
[7] 0.4467 cent Mcf has been deducted by buyer for compression.
[8] No rate schedule on file—pertains to contract dated Dec. 1, 1949, as amended.
[9] No rate schedule on file—pertains to contract dated Apr. 1, 1949, as amended.
[10] No rate schedule on file—pertains to contract dated Jan. 28, 1952.
[11] The stated effective date is the first day after expiration of the statutory notice.
[12] No rate schedule on file—pertains to contract dated Nov. 3, 1952.
[13] No rate schedule on file—pertains to contract dated July 30, 1951.
[14] No rate schedule on file—pertains to contract dated Dec. 24, 1952.
[15] No rate schedule on file—pertains to contract dated Apr. 2, 1953.
[16] No rate schedule on file—pertains to contract dated Feb. 16, 1952.
[17] 0.50 cent per Mcf has been deducted by buyer for compression.
[18] No rate schedule on file—pertains to contract dated Oct. 18, 1954.
[19] No rate schedule on file—pertains to contract dated Sept. 1, 1967.
[20] No rate schedule on file—pertains to contract dated Nov. 3, 1954.
[21] No rate schedule on file—pertains to contract dated Dec. 10, 1953.
[22] No rate schedule on file—pertains to contract dated Aug. 24, 1952.
[23] No rate schedule on file—pertains to contract dated May 2, 1969.

Texas American Oil Corp. (Texas American) requests waiver of notice to permit an effective date of February 2, 1970, for its proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Texas American's rate filing and such request is denied.

The proposed periodic rate increases herein are filed by holders of small producer certificates for Permian Basin Sales. The proposed increases exceed the rate ceilings set forth in § 157.40(b) of the Commission's regulations for sales made under Small Producer Certificates and should be suspended for 5 months from the date shown in the "Effective Date" column of Appendix A hereof.

[F.R. Doc. 70-2835; Filed, Mar. 10, 1970; 8:45 a.m.]

[Docket No. RI70-1300, etc.]

ATLANTIC RICHFIELD CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

FEBRUARY 27, 1970.

The respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

[1] Does not consolidate for hearing or dispose of the several matters herein.

[2] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided therein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before April 15, 1970.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI70-1300	Atlantic Richfield Co. (Operator) et al., Post Office Box 2819, Dallas, Tex. 75221.	315	26	West Lake Natural Gasoline Co., Sinclair Oil & Gas Co.[3] (Nena Lucia Field, Nolan County, Tex.) (RR. District No. 7-B).[4]	$3,300	8-29-69	[5] 1-1-70	[6] 1-2-70	9.0	[7] 9.5	RI65-227.
RI70-1301	Atlantic Richfield Co.	316	15	do	700	8-29-70	[5] 1-1-70	[6] 1-2-70	9.0	[7] [8] 9.5	RI65-237.
	do	317	14	do	120	8-29-70	[5] 1-1-70	[6] 1-2-70	9.0	[7] [8] 9.5	RI65-237.

[3] Now Atlantic Richfield as a result of merger of Sinclair and Atlantic.
[4] West Lake resells the gas to El Paso Natural Gas Co. under its Rate Schedule No. 1. West Lake's rate of 19 cents is in effect subject to refund in Docket No. RI70-54 effective as of Jan. 1, 1970.
[5] The proposed rate is suspended until Jan. 1, 1970, the date of termination of the suspension period is for the buyer's suspended rate.
[6] The suspension period is limited to 1 day.
[7] Revenue-sharing rate increase. Seller receives 50 percent of buyer's resale price but not less than 50 percent of 13 cents per Mcf.
[8] Pressure base is 14.65 p.s.i.a.
[9] Atlantic by various letters consented to a postponement of Commission action with respect to the subject rate increase filings until Feb. 28, 1970.

Atlantic Richfield Co. (Operator) et al., and Atlantic Richfield Co.'s (both referred to herein as Atlantic) proposed rate increases are revenue-sharing increases to 9.5 cents at 14.65 p.s.i.a. for sales of gas to West Lake Natural Gasoline Co. (West Lake) for resale of the gas by West Lake to El Paso Natural Gas Co. West Lake's proposed increase to 19 cents exceeded the 11.5 cents increased rate ceiling and a 5 months suspension period from August 1, 1969, was ordered in Docket No. RI70-54. West Lake placed its suspended rate in effect on January 1, 1970. Although Atlantic's proposed rate increases are below the applicable area ceiling rate, they are a percentage portion of a suspended rate and consistent with prior Commission action we conclude that they should be suspended for 1 day from January 1, 1970, the termination date of West Lake's suspension period in Docket No. RI70-54.

[F.R. Doc. 70-2836; Filed, Mar. 10, 1970; 8:45 a.m.]

[Docket No. G-15510, etc.]

ATLANTIC RICHFIELD CO. ET AL.

Order Amending Orders

FEBRUARY 27, 1970.

Order amending orders issuing certificates of public convenience and necessity, accepting notices of succession and supplements to FPC gas rate schedules for filing, redesignating FPC gas rate schedules, making successor co-respondent, redesignating proceedings and accepting agreements and undertakings for filing.

Atlantic Richfield Co., G-15510; Atlantic Richfield Co. (Operator) et al., G-15511; Atlantic Richfield Co., G-20585; El Paso Products Co. and Atlantic Richfield Co. (Operator) et al., RI65-227; El Paso Products Co. and Atlantic Richfield Co., RI65-237.

Atlantic Richfield Co. in Docket Nos. G-15510 and G-20585 and Atlantic Richfield Co. (Operator) et al., in Docket No. G-15511 has filed petitions to amend the orders granting certificates of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said dockets to El Paso Products Co. by authorizing Atlantic Richfield to continue in lieu of El Paso Products Co. the sale for resale of natural gas in interstate commerce to West Lake Natural Gasoline Co. from the Nena Lucia Field, Nolan County, Tex., all as more fully set forth in the petitions to amend.

Atlantic Richfield proposes to continue the subject sales pursuant to contracts on file with the Commission as El Paso Products Co. FPC Gas Rate Schedule Nos. 2, 3, and 10. West Lake resells the gas purchased from El Paso Products Co. to El Paso Natural Gas Co. pursuant to West Lake's FPC Gas Rate Schedule No. 1. Atlantic Richfield has a half interest in West Lake's purchase and sale of the subject gas as a result of Atlantic Richfield's merger of Sinclair Oil & Gas Co. which had a half interest in the transaction. El Paso Products Co. and West Lake are both subsidiaries of El Paso Natural Gas Co.

The volumes of gas which are sold under the subject contracts are minor in comparison to the total gas purchases of El Paso Natural Gas Co. and are declining.[1] Under these circumstances such volumes will have no foreseeable rate impact; and, therefore, Atlantic Richfield will be authorized to continue the sales to West Lake at the contract rates. There is no apparent public interest benefit to be achieved by reserving to the Commission further action with respect to the rates of Atlantic Richfield, West Lake, or El Paso Natural Gas Co. Cf. Cities Service Gas Company v. F.P.C. (CA10 No. 151-68, Oct. 16, 1969). It should be noted, however, that our determination here, not to reserve further action, is predicated principally upon our conclusion that the rate impact of the proposed succession by Atlantic Richfield to the El Paso Natural Gas Co., interaffiliate sales will have no material effect upon El Paso Natural Gas Co.'s customers. Accordingly, we regard the action taken here as being limited to the facts presented in this case and it should not be regarded as precedential or binding upon the Commission in similar proceedings in the future.

The presently effective rate under El Paso Products Co. FPC Gas Rate Schedule No. 2 is in effect subject to refund in Docket No. RI65-227 and the presently effective rate under El Paso Products Co. FPC Gas Rate Schedules Nos. 3 and 10 are in effect subject to refund in Docket No. RI65-237. Atlantic Richfield has submitted agreements and undertakings in these proceedings to assure the refunds of any amounts collected by it in excess of the amounts determined to be just and reasonable in said proceedings. Therefore, Atlantic Richfield will be made co-respondent in said proceedings; the proceedings will be redesignated accordingly; and the agreements and undertakings will be accepted for filing.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention, or protest to the granting of the petitions to amend has been filed.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in Dockets Nos. G-15510, G-15511, and G-20585 should be amended and that the related rate schedule filings should be accepted and rate schedules redesignated as hereinafter ordered.

[1] In 1967 sales from the subject properties were 648,857 Mcf, 0.045 percent of El Paso Natural Gas Co.'s total purchases of 1,447,130,095 Mcf.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Atlantic Richfield should be made co-respondent in the proceedings pending in Dockets Nos. RI65–227 and RI65–237, that said proceedings should be redesignated accordingly, and that the agreements and undertakings submitted by Atlantic Richfield should be accepted for filing.

The Commission orders:

(A) The orders issuing certificates of public convenience and necessity in Dockets Nos. G–15510, G–15511, and G–20585 are amended by substituting Atlantic Richfield in lieu of El Paso Products Co. as certificate holder, and in all other respects said orders shall remain in full force and effect.

(B) The notices of succession and rate schedule supplements submitted by Atlantic Richfield are accepted for filing and the rate schedules are redesignated as set forth in the tabulation herein.

(C) Atlantic Richfield is made co-respondent in the proceedings pending in Dockets Nos. RI65–227 and RI65–237, the proceedings are redesignated accordingly, and the agreements and undertakings submitted by Atlantic Richfield in said proceedings are accepted for filing.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and rate of document	No.	Supp.
G–15510 E 3–18–68	Atlantic Richfield Co. (successor to El Paso Products Co.[1])	West Lake Natural Gasoline Co. & Sinclair Oil & Gas Co.[2] Nena Lucia (Strawn Reef) Field, Nolan County, Tex.	El Paso Products Co. FPC GRS No. 3.	316	-------
			Supplement Nos. 1–12	316	1–12
			Notice of succession 3–15–68.		
			Supplemental agreement 7–31–67.[3]	316	13
			Assignment 10–20–67.[4] 10–20–69.[4]	316	14
			Effective date: 11–1–67		
G–15511 E 3–18–68	Atlantic Richfield Co. (Operator) et al. (successor to El Paso Products Co. (Operator) et al.[1])	do[3]	El Paso Products Co. (Operator) et al., FPC GRS No. 2.	315	-------
			Supplemental Nos. 1–23	315	1–23
			Notice of succession 3–15–68.		
			Supplemental agreement 7–31–67.[3]	315	24
			Assignment 10–20–67.[4]	315	25
			Effective date: 11–1–67		
G–20585 E 3–18–68	Atlantic Richfield Co. (successor to El Paso Products Co.[1])	do[3]	El Paso Products Co., FPC GRS No. 10.	317	-------
			Supplement No. 1–11.	317	1–11
			Notice of succession 3–15–68.		
			Assignment 10–20–67.[4]	317	12
			Supplemental agreement 2–1–68.[5]	317	13
			Effective date: 11–1–67		

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[1] El Paso Products Co. and West Lake Natural Gasoline Co. are both subsidiaries of El Paso Natural Gas Co.
[2] Now Atlantic Richfield Co. as a result of merger of Sinclair by Atlantic.
[3] Between West Lake, Sinclair, and El Paso Products Co. Amends periodic escalation provisions of the basic contract (agreement was not filed by assignor).
[4] From El Paso Products Co. to Atlantic Richfield Co.
[5] Between West Lake, Sinclair, and Atlantic Richfield Co. Amends periodic escalation provisions of basic contract.

[F.R. Doc. 70–2837; Filed, Mar. 10, 1970; 8:45 a.m.]

[Docket No. RI70–1286, etc.]

DUER WAGNER & CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

FEBRUARY 27, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before April 15, 1970.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in docket Nos.
RI70–1286	Duer Wagner & Co. (Operator) et al., 909 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.	2	[2] 6	United Gas Pipe Line Co. (Greta Field, Refugio County, Tex.) (RR. District No. 2).	$48,000	1–30–70	[3] 3–2–70	8–2–70	15.0	[4] [5] 19.0	
RI70–1287	Texaco, Inc. (Operator) et al., Post Office Box 430, Bellaire, Tex. 77401.	93	11	Natural Gas Pipeline Co. of America (La Gloria Field, Jim Wells County, Tex.) (RR. District No. 4).	116	1–30–70	[6] 3–2–70	8–2–70	[6] 15.56978	[5] [7] [8] 16.7295	RI68–159.
RI70–1288	Sun Oil Co., DX Division, 907 South Detroit Ave., Tulsa, Okla. 74120.	268	[9] 8	Panhandle Eastern Pipe Line Co. (Tangier Field, Roger Mills County, Okla.) (Oklahoma "Other" Area).	1,994	1–30–70	[3] 3–2–60	8–2–70	[10] [11] 15.0	[5] [10] [11] 18.0	

[2] Includes letter dated Aug. 18, 1969, providing for a 19 cent redetermined rate for the period Jan. 1, 1969 to Feb. 1, 1971.
[3] The stated effective date is the effective date requested by Respondent.
[4] Redetermined rate increase.
[5] Pressure base is 14.65 p.s.i.a.
[6] The stated effective date is the first day after expiration of the statutory notice.
[7] Periodic rate increase.
[8] Includes 0.25-cent dehydration charge.
[9] Applicable only to acreage added by Supplements Nos. 4 and 6.
[10] Filing from initial certificated rate to first periodic increase.
[11] Subject to upward and downward B.t.u. adjustment.

Texaco, Inc. (Texaco) requests that its proposed rate increase be permitted to become effective as of January 30, 1970. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit an earlier effective date for Texaco's rate filing and such request is denied.

All of the producers' proposed increased rates and charges exceed the applicable price levels for increased rates as set forth in the Commission's statement of general policy No. 61–1, as amended (18 CFR 2.56).

[F.R. Doc. 70–2838; Filed, Mar. 10, 1970; 8:45 a.m.]

[Docket No. RI70–1289, etc.]

HOUSTON NATURAL GAS PRODUCTION CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

FEBRUARY 27, 1970.

The respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by respondents, as set forth herein, shall become effective subject to refund on the date and the manner herein prescribed if within 20 days from the date of the issuance of this order respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before April 15, 1970.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[2] If an acceptable general undertaking, as provided in Order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70–1289	Houston Natural Gas Production Co. (Operator), et al., Post Office Box 1188, Houston, Tex. 77001.	2	26	Texas Gas Pipe Line Corp. (Big Hill Area, Jefferson and Chambers County, Tex.) (RR. District No. 3).	$2,185	1–30–70	[3] 1–30–70	[4] 1–31–70	15.0	[5][6] 15.05551	
	do	14	9	Valley Gas Transmission, Inc. (Sejita Field, Duval County, Tex.) (RR. District No. 4).	355	1–30–70	[3] 1–30–70	[4] 1–31–70	15.0	[5][6] 15.05625	
	do	21	3	Valley Gas Transmission, Inc. (La Huerta Field, Duval County, Tex.) (RR. District No. 4).	24	1–30–70	[3] 1–30–70	[4] 1–31–70	15.0	[5][6] 15.05625	
RI70–1290	Houston Natural Gas Production Co.	23	3	South Texas Natural Gas Gathering Co. (Yeary Field, Kleberg County, Tex.) (RR. District No. 4).	360	1–30–70	[3] 1–30–70	[4] 1–31–70	15.0	[5][6] 15.05625	
RI70–1291	Amerada Hess Corp., Post Office Box 2040, Tulsa, Okla. 74102.	156	1	Southern Natural Gas Co. (Blocks 273, 305, and 306, Main Pass Area) (Offshore Louisiana).	5,472	2–4–70	[7] 3–7–70	[4] 3–8–70	[10][11][12] 18.5	[9][10] 20.0	
	do	154	1	Sea Robin Pipeline Co. (Blocks 194, 195, 204, and 205, East Cameron Area) (Offshore Louisiana).	136,800	2–4–70	[7] 3–7–70	[4] 3–8–70	[10][11][13] 18.5	[9][10] 20.0	
RI70–1292	First National Bank in Dallas, Trustee (Operator) et al., Post Office Box 6031, Dallas, Tex. 75222.	2	3	South Texas Natural Gas Gathering Co. (Northeast Thompsonville Field, Jim Hogg County, Tex.) (RR. District No. 4).	849	2–2–70	[8] 2–2–70	[4] 2–3–70	15.0	[5][6] 15.05625	
RI70–1293	Jake L. Hamon (Operator) et al., Post Office Box 663, Dallas, Tex. 75221.	3	11	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Jake Hamon Field, McMullen County, Tex.) (RR. District No. 1).	149	1–30–70	[3] 1–30–70	[4] 1–31–70	[14] 14.6	[5][6] 14.65342	
	do	48	1	United Gas Pipe Line Co. (Northwest Corpus Channel Field, Nueces County, Tex.) (RR. District No. 4).	14	1–30–70	[8] 1–30–70	[4] 1–31–70	16.0	[5][6] 16.06	
	do	43	5	Transwestern Pipeline Co. (West Feldman Field, Hemphill County, Tex.) (RR. District No. 10).	25	1–30–70	[3] 1–30–70	[4] 1–31–70	[15] 17.0	[5][6][15] 17.07437	

See footnotes at end of table.

APPENDIX A—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate ineffect subject to refund in dockets Nos.
RI70-1294..	Mapco Production Co. (Operator) et al., c/o Wm. W. Ross, Esq., 1225 19th St. NW., Washington, D.C. 20036.	2	9	Mississippi River Transmission Corp. (Woodlawn Field, Harrison County, Tex.) (RR. District No. 6)	$17	2- 6-70	[3] 2- 6-70	[4] 2- 7-70	[16] 15.0	[5] [6] [15] 15.056	
	do	4	12	do	168	2- 6-70	[3] 2- 6-70	[4] 2- 7-70	[15] 15.0	[5] [6] [15] 15.056	
	do	5	17	do	48	2- 6-70	[3] 2- 6-70	[4] 2- 7-70	[15] 15.0	[5] [6] [15] 15.056	
RI70-1295..	Don O. Chapell, Post Office Box 663, Dallas, Tex. 75221.	1	1	Natural Gas Pipeline Co. of America (Buffalo Wallow Field, Hemphill County, Tex.) (RR. District No. 10).	135	1-30-70	[3] 1-30-70	[4] 1-31-70	[15] 17.0	[5] [6] [15] [19] 17.06056	
RI70-1296..	Jake L. Hamon	56	[17] 2	do	135	1-30-70	[3] 1-30-70	[4] 1-31-70	[15] 17.0	[5] [6] [15] [19] 17.06056	
	do	56	[20] 3	do	185	1-30-70	[3] 1-30-70	[4] 1-31-70	[15] [19] 17.0	[5] [6] [15] [19] 17.5737	
RI70-1297..	Gulf Oil Corp., Post Office Box 1589, Tulsa, Okla. 74102.	107	10	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Carthage Field, Panola County, Tex.) (RR. District No. 6).	44	2- 2-70	[3] 2- 2-70	[4] 2- 3-70	[15] 15.0	[5] [6] [15] 15.0563	
	do	327	12	Mississippi River Transmission Corp. (Waskom Field, Harrison County, Tex.) (RR. District No. 6).	73	2- 2-70	[3] 2- 2-70	[4] 2- 3-70	[15] 15.0	[5] [6] [15] 15.0563	
RI70-1298..	Edison J. Parsons et al.	[21] 1	[22] 2	Consolidated Gas Supply Corp. (Ripley District, Jackson County, W. Va.).	888	2- 5-70	[23] 3- 8-70	[4] 3- 9-70	27.0	[24] [25] 28.0	
RI70-1299..	Hays and Co., agent for W. C. Wilson et al., d.b.a. Domar Gas Co.	[21] 129	[26] 1	Equitable Gas Co. (Cedar Creek Field, Baxton County, W. Va.).	240	2- 6-70	[27] 3- 9-70	[4] 3-10-70	25.0962	[24] [25] 27.1038	

[3] The stated effective date is the date of filing pursuant to the Commission's Order No. 390.
[4] The suspension period is limited to 1 day.
[5] Tax reimbursement increase.
[6] Pressure base is 14.65 p.s.i.a.
[7] The stated effective date is the first day after expiration of the statutory notice period, or the date of initial delivery, whichever is later.
[8] Rate increase filed pursuant Paragraph (A) of Opinion No. 546-A.
[9] Pressure base is 15.025 p.s.i.a.
[10] Subject to quality adjustments.
[11] Area base rate for gas well gas sold under contracts dated after Oct. 1, 1968, as established in Opinion No. 546.
[12] Initial rate for the sale of gas well gas as conditioned by temporary certificate issued July 14, 1969, in Docket No. CI69-1010.
[13] Initial rate for the sale of gas well gas as conditioned by temporary certificate issued Aug. 1, 1969, in Docket No. CI69-786.
[14] Increase to 15.6-cents suspended in Docket No. RI65-457 but never placed into effect subject to refund.
[15] Subject to a downward B.t.u. adjustment.
[16] Tax reimbursement based on net rate after B.t.u. adjustment.
[17] Mack Unit production.
[18] Subject to upwaod tnd downward B. t. u. adjustment.
[19] Tax reimbursement based on net rate after B.t.u. adjustment.
[20] Fillingim Unit production.
[21] Contract dated after Sept. 28, 1960, date of issuance of statement of general policy No. 61-1.
[22] Includes letter from buyer allowing seller to receive 3 cents in lieu of 2 cents for gathering gas.
[23] The stated effective date is the effective date requested by Respondent.
[24] Renegotiated rate increase.
[25] Pressure base id 15.325 p.s.i.a.
[26] Includes letter from buyer providing for increase for gas delivered from new wells on currently dedicated acreage or from old wells drilled deeper or worked over.
[27] The stated effective date is the first day after expiration of the statutory notice, or date of initial delivery, whichever is later.

Amerada Hess Corp. (Amerada) requests that its proposed rate increases be permitted to become effective as of January 29, 1970. Hays and Co., agent for W. C. Wilson, et al., doing business as Domar Gas Co. (Hays) requests an effective date of January 1, 1970, for its proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for Amerada and Hays' rate filings and such requests are denied.

Several of the proposed rate increases herein reflect the 0.5 percent increase in the production tax from 7 percent to 7.5 percent enacted by the State of Texas on September 9, 1969, to be effective as of October 1, 1969. The producers' proposed rates exceed the applicable area ceiling rate for the area involved as set forth in the Commission's statement of general policy No. 61-1, as amended, and should be suspended for 1 day from the date of filing, pursuant to the Commission's Order No. 390 issued October 10, 1969.

The proposed rate increases filed by Amerada from 18.5 cents to 20 cents per Mcf involve sales of third vintage gas well gas in Offshore Louisiana and were filed pursuant to Ordering Paragraph (A) of Opinion No. 546-A which lifted the indefinite moratorium imposed in Opinion No. 546 as to sales of offshore gas well gas under contracts entitled to a third vintage price of 18.5 cents as adjusted for quality and permitted such producers to file for contractually authorized increases up to the 20-cent base rate established in Opinion No. 546 for onshore gas well gas. Amerada was issued temporary certificates authorizing the collection of the third vintage price established in Opinion No. 546 (18.5 cents for offshore gas well gas subject to quality adjustments).

Consistent with previous Commission action on similar rate filings, we conclude that Amerada's proposed rate increases should be suspended for 1 day from the date of expiration of the statutory notice, or for 1 day from the date of initial delivery, whichever is later. Thereafter, the proposed increased rates may be placed in effect subject to refund under the provisions of section 4(e) of the Natural Gas Act pending the outcome of the area rate proceeding instituted in Docket No. AR69-1.

The contracts related to the proposed renegotiated rate increases filed by Edison J. Parsons (Parsons) and Hays were executed subsequent to September 28, 1960, the date of issuance of the Commission's statement of general policy No. 61-1, as amended, and the proposed rates exceed the area increased rate ceilings but do not exceed the initial service ceilings for the areas involved. We believe, in this situation, Parsons and Hays' proposed rate filings should be suspended for 1 day from March 8, 1970 (Parsons), the proposed effective date, and March 9, 1970 (Hays), the expiration date of the statutory notice. Since Hays' proposed increase is only for gas delivered from new wells on existing dedicated acreage or from worked over wells, the 1 day suspension period should begin on the expiration of the statutory notice period or on the date of initial delivery of gas from new wells or worked over wells, whichever is later.

[F.R. Doc. 70-2839; Filed, Mar. 10, 1970; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

IZEMBEK NATIONAL WILDLIFE RANGE

Notice of Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with provisions of the Wilderness Act of September 3, 1964 (Public Law 88-577; 78 Stat. 890-896; 16 U.S.C. 1131-1136), that a public hearing will be held beginning at 9 a.m. on May 16, 1970, in Room 509, Cordova Building, 555 Cordova Street, Anchorage, Third Judicial District, Alaska, and continued at 9 a.m. on May 19, 1970, at the old theater building, Cold Bay, Third Judicial District, Alaska, on a proposal leading to a recommendation to be made to the President of the United States by the Secretary of the Interior, regarding the desirability of including the proposed Izembek Wilderness within the National Wilderness Preservation System. The proposal consists of approximately 300,000 acres within the exterior boundaries of the Izembek National Wildlife Range, and approximately 1,451 acres within the Aleutian Islands National Wildlife Refuge, both located in the Third Judicial District, State of Alaska.

A brochure containing a map and information about the Izembek Wilderness Proposal may be obtained from the Refuge Manager, Aleutian Islands National Wildlife Refuge, Cold Bay, Alaska 99571, or the Associate Supervisor, Bureau of Sport Fisheries and Wildlife, 6917 Seward Highway, Anchorage, Alaska 99502, or the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 3737, Portland, Oreg. 97208.

Individuals or organizations may express their oral or written views by appearing at the hearing, or they may submit written comment for inclusion in the official record of the hearing to the Regional Director at the above address by July 5, 1970.

JOHN S. GOTTSCHALK,
Director, Bureau of Sport Fisheries and Wildlife.

MARCH 5, 1970.

[F.R. Doc. 70-2888; Filed, Mar. 10, 1970; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

DIRECTOR, ASCS COMMODITY OFFICE ET AL., KANSAS CITY, MO.

Delegation of Authority Issued Pursuant to CCC Blanket Insurance Policy

Persons occupying the following positions in the ASCS Commodity Office, Kansas City, Mo., are designated to act for me for the purpose of receiving, in accordance with the requirements of paragraph 1 of CCC Blanket Insurance Policy No. 30460 executed by Commodity Credit Corporation with Appalachian Insurance Co., Providence, R.I., effective December 1, 1969, any information on which a warehouseman's liability may be based for a failure of the warehouseman to perform any of his obligations under the Bean Storage Agreement (Form CCC-28), Uniform Grain Storage Agreement (Form CCC-25) and Uniform Rice Storage Agreement (Form CCC-26) and all modifications of such agreements or to perform any other of his obligations as a warehouseman in connection with commodities stored or handled under such agreements:

Director.
Deputy Director, Programs.
Deputy Director, Management.
Chief, Bulk Grain Division.
Assistant Chief, Bulk Grain Division.
Chief, Bulk Grain Storage Contract Division.
Assistant Chief, Bulk Grain Storage Contract Division.
Chief, Rice and Dry Beans Division.
Chief, Claims and Collection Division.
Assistant Chief, Claims and Collection Division.

Terminated. Delegation of Authority Cb-804 published in the FEDERAL REGISTER of February 10, 1970 (35 F.R. 2797), is hereby terminated.

Effective date. This delegation of authority shall be effective on publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on March 6, 1970.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 70-2929; Filed, Mar. 10, 1970; 8:48 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 70-22]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from January 29, 1970 to February 6, 1970 (List No. 3-70). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (46 CFR 1.4(a)(2) and (g)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

LADDERS EMBARKATION-DEBARKATION (FLEXIBLE), FOR MERCHANT VESSELS

Approval No. 160.017/36/4, Model 11 PL-S, type II embarkation-debarkation ladder, chain suspension, steel ears, dwg. dated June 15, 1965 and revised November 18, 1968, approval limited to ladders 65 feet or less in length. Superseding Nos. 1 and 2 passed over as requested by manufacturer and to agree with lot 1, manufactured by H. K. Metalcraft Manufacturing Corp., 35 Industrial Road, Post Office Box 275, Lodi, N.J. 07644, effective January 30, 1970. (It supersedes Approval No. 160.017/36/3 dated Nov. 19, 1968, to show change in length.)

MECHANICAL DISENGAGING APPARATUS, LIFEBOAT FOR MERCHANT VESSELS

Approval No. 160.033/60/1, Rottmer type releasing gear, approved for a maximum working load of 15,000 pounds per hook, identified by Disengaging Apparatus dwg. No. 9090-111 Rev. A dated October 16, 1969, manufactured by Whittaker Corp., 5159 Baltimore Drive, La Mesa, Calif. 92042, effective January 30, 1970. (It supersedes Approval No. 160.033/60/0 dated June 20, 1968, to show change in construction.)

BUOYANT VESTS, KAPOK OR FIBROUS GLASS, ADULT AND CHILD

NOTE: Approved for use on motorboats of Classes A, 1, or 2 not carrying passengers for hire.

Approval No. 160.047/726/0, type I, Model AK-1, adult kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Elvin Salow Co., 273-285 Congress Street, Boston, Mass. 02210, for Wallace Manufacturing Co., 273-285 Congress Street, Boston, Mass. 02210, effective February 6, 1970. (It is an extension of Approval No. 160.047/726/0 dated Apr. 30, 1965.)

Approval No. 160.047/727/0, type I, Model CKM-1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Elvin Salow Co., 273-285 Congress Street, Boston, Mass. 02210, for Wallace Manufacturing Co., 273-285 Congress Street, Boston, Mass. 02210, effective February 6, 1970. (It is an extension of Approval No. 160.047/727/0 dated Apr. 30, 1965.)

Approval No. 160.047/728/0, type I, Model CKS-1, child kapok buoyant vest, U.S.C.G. Specification Subpart 160.047, manufactured by Elvin Salow Co., 273-285 Congress Street, Boston, Mass. 02210, for Wallace Manufacturing Co., 273-285 Congress Street, Boston, Mass. 02210, effective February 6, 1970. (It is an extension of Approval No. 160.047/728/0 dated Apr. 30, 1965.)

SIGNALS, DISTRESS, FLOATING ORANGE SMOKE (15 MINUTES), FOR MERCHANT VESSELS

Approval No. 160.057/3/0, floating orange smoke 15-minute distress signal, manufactured by Kilgore Corp., general arrangement dwg. No. C A 49, sheet 1 dated June 27, 1968, sheet 2, Revision A dated September 29, 1969, dwg. No. B-50 dated October 12, 1968, and U.S.C.G. letter dated January 30, 1970, manufactured by Kilgore Corp. Toone, Tenn. 38381, effective February 2, 1970.

SAFETY VALVES (POWER BOILERS)

Approval No. 162.001/220/0, type 1910Fc, consolidated safety valve, steel body, 300 p.s.i., 450° F., dwg. No. 1905F-1908F, Rev. July 1, 1957, approved for 1½", manufactured by Dresser, Industrial Valve and Intrument Division, Post Office Box 1430, Alexandria, La. 71301, formerly Manning, Maxwell & Moore, Inc., effective January 29, 1970. (It is an extension of approval No. 162.001/220/0 dated Feb. 23, 1965, and change of name of manufacturer.)

Dated: March 5, 1970.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 70-2931; Filed, Mar. 10, 1970; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-263]

NORTHERN STATES POWER CO.

Notice of Hearing on Application for Provisional Operating License

In the matter of Northern States Power Co. (Monticello Nuclear Generating Plant, Unit 1); Docket No. 50-263.

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", and Part 2, "Rules of Practice", notice is hereby given that a hearing will be held on April 28, 1970, at 10 a.m., local time, in the Wright County Courthouse, Buffalo, Minn., to consider the application of the Northern States Power Co. (applicant) for the issuance, pursuant to section 104b. of the Act, of a provisional operating license which would authorize the operation of a boiling water reactor, known as the Monticello Nuclear Generating Plant, Unit 1, at steady state power levels up to 1,670 megawatts (thermal) at the applicant's Monticello Nuclear Generating Plant located in Wright County, Minn., approximately 3 miles northwest of Monticello, Minn. The term of the provisional operating license would be for a period of not more than 18 months, unless extended for good cause shown. The Atomic Energy Commission (Commission) has determined that this public hearing should be held in view of the substantial public interest expressed.

The hearing will be conducted by an Atomic Safety and Licensing Board designated by the Commission consisting of Dr. John C. Geyer, Baltimore, Md.; Dr. Eugene Greuling, Durham, N.C.; and Valentine B. Deale, Esq., Washington, D.C., Chairman. Dr. Rolf Eliassen, Stanford, Calif., has been designated as a technically qualified alternate, and James P. Gleason, Esq., Washington, D.C., has been designated as an alternate qualified in the conduct of administrative proceedings.

Construction of Unit 1 of the Monticello Nuclear Generating Plant was authorized by Provisional Construction Permit CPPR-31 issued by the Commission on June 19, 1967, following a public hearing.

A prehearing conference will be held on April 7, 1970, at 10 a.m., local time, at the same location as the public hearing to consider pertinent matters in accordance with the Commission's rules of practice, 10 CFR Part 2, including section II of Appendix A.

The issues to be considered at the hearing will be the following:

1. Whether the applicant has submitted to the Commission all technical information required by Provisional Construction Permit No. CPPR-31, the Act, and the rules and regulations of the Commission to complete the application for the provisional operating license;

2. Whether construction of Unit 1 has proceeded, and there is reasonable assurance that it will be completed, in conformity with Provisional Construction Permit No. CPPR-31, the application, as amended, the provisions of the Act and the rules and regulations of the Commission;

3. Whether there is reasonable assurance (i) that the activities authorized by the provisional operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with rules and regulations of the Commission;

4. Whether the applicant is technically and financially qualified to engage in the activities authorized by the provisional operating license in accordance with the rules and regulations of the Commission;

5. Whether the applicant has furnished to the Commission proof of financial protection in accordance with 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements", of the Commission's regulations;

6. Whether there is reasonable assurance that Unit 1 will be ready for initial loading with nuclear fuel within 90 days from the date of issuance of the provisional operating license; and

7. Whether issuance of the provisional operating license under the terms and conditions proposed will be inimical to the common defense and security or to the health and safety of the public.

As they become available, the application, the proposed provisional operating license, the applicant's summary of the application, the report of the Commission's Advisory Committee on Reactor Safeguards (ACRS) and the Safety Evaluation by the Commission's regulatory staff will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., where they will be available for inspection by members of the public. Copies of this notice of hearing, the proposed provisional operating license, the ACRS report, the applicant's summary of the application and the regulatory staff's Safety Evaluation will also be available at the Office of the Clerk, Wright County Courthouse, Buffalo, Minn., for inspection by members of the public on Mondays to Fridays between the hours of 9 a.m. and 5 p.m. Copies of the proposed provisional operating license, the ACRS report and the regulatory staff's Safety Evaluation may be obtained by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, by April 2, 1970.

Any person whose interest may be affected by the proceeding who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding must file a petition for leave to intervene.

Petitions for leave to intervene, pursuant to the provisions of 10 CFR 2.714 of the Commission's rules of practice, must be received in the Office of the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., not later than April 2, 1970. The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner in reasonably specific detail. A petition which sets forth contentions relating only to matters outside the Commission's jurisdiction will be denied. A petition for leave to intervene which is not timely filed will be denied unless the petitioner shows good cause for failure to file it on time.

A person permitted to intervene becomes a party to the proceeding, and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, must be filed by the applicant on or before April 2, 1970.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's rules of practice, an original and 20 conformed copies of each such paper with the Commission.

With respect to this proceeding, the Commission has delegated to the Atomic

Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission has established the Appeal Board pursuant to 10 CFR 2.785 of the Commission's rules of practice and has made the delegation pursuant to paragraph (a) (1) of this section. The Appeal Board is composed of the Chairman and Vice Chairman of the Atomic Safety and Licensing Board Panel and a third member who is technically qualified and designated by the Commission. The Commission has designated Dr. Lawrence R. Quarles, Charlottesville, Va., as this third member.

Dated at Washington, D.C., this 9th day of March 1970.

UNITED STATES ATOMIC ENERGY COMMISSION,
W. B. McCOOL,
Secretary.

[F.R. Doc. 70-3037; Filed, Mar. 10, 1970; 9:44 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 21644; Order 70-3-22]

EASTERN AIR LINES, INC., ET AL.

Order Approving Agreement

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of March 1970.

Agreement between Eastern Air Lines, Inc., Trans World Airlines, Inc., and Societe Preparatoire pour Air Transport Insurance, S. A. filed pursuant to section 412 of the Federal Aviation Act of 1958, as amended, regarding the formation of airline-owned insurance companies, Docket 21644, Agreement CAB 21240.

By Order 69-11-110, November 24, 1969, the Board deferred action on an agreement filed pursuant to section 412 of the Federal Aviation Act of 1958, as amended, (the Act) between Eastern Air Lines, Inc., Trans World Airlines, Inc., and Societe Preparatoire pour Air Transport Insurance, S. A. (Preparatory Co.). In deferring action on the agreement the Board afforded interested persons a period of 30 days within which to file comments in support of or in opposition to the agreement.

As indicated in the Board's order of deferral, Preparatory Company is a service corporation organized for the purpose off forming in Switzerland two airline-owned insurance companies to be known as Air Transport Insurance, S. A. (Primary Co.) and Air Transport Guaranty, S. A. (Guaranty Co.) which reportedly would serve materially to meet the urgent demand for expanded aviation insurance capacity and would further serve to provide economic benefit to the participants. The parties believe that expanded insurance capacity will be essential for the successful introduction of the high-capacity jets and of supersonic transports, and that it is thus in the interest of the world's airlines to provide such additional capacity.

Airlines qualified to participate in the two companies are as follows: (a) An airline certificated to conduct a scheduled air transport service under applicable governmental authority; (b) an airline certificated to conduct a nonscheduled air transport service under applicable governmental authority, which is owned or operated by, or similarly affiliated with, an airline in category (a) above; and (c) a supplemental air carrier duly certificated by the Board.

Comments responsive to the Board's order have been filed collectively by the Air Transport Association, the International Air Transport Association, and the Preparatory Co. (hereinafter referred to as "the Carriers"); the National Air Carrier Association (NACA); and Caledonian Airways (Prestwick), Ltd. (Caledonian). Additional comments, each accompanied by a motion to file a late or unauthorized document, were filed by the Department of Transportation (DOT), Insurance Company of North America (INA), and the Carriers.[1] Comments have also been filed by the Office of Foreign Direct Investment, Department of Commerce. (OFDI)

The Carriers submit that there has been considerable recent doubt whether the resources of the existing aviation insurance market were adequate to meet on reasonable terms the demand for higher hull and liability insurance coverage required by the world's airlines; that such demand results from the increased exposures caused by higher individual settlements, the increased passenger load of high capacity jets, and the greatly increased hull values of such aircraft and supersonic aircraft; and that this very basic concern motivated the various study programs which led to the present insurance proposal. The Carriers also state that organization of the airline-owned insurance companies accepting 40 percent of the risks of participating airlines will not have any adverse impact on the existing aviation insurance market.

The Carriers represent that in the initial stages of planning the present insurance program, it was contemplated that the Primary and Guaranty companies would accept 100 percent of the coverage that the participating carriers would normally place, but that the airlines did not feel capable and willing themselves to assume the task of setting rates for each other nor were they prepared to undertake a project of the magnitude required to enable a structure of highly experienced personnel for rating and claims settlement work. Thus the decision was reached to let the existing aviation insurance market continue to perform its present rating and claims settlement functions. A necessary concomitant to this, according to the Carriers, was that the existing aviation insurance market continue to write substantially more than half of all covers placed by the airlines participating in the companies. The 40 percent level represented a figure which reasonably accommodated both of these goals as well as a reasonable estimate of the amount of capital the participating airlines would be willing to provide to the new companies. A figure in excess of 40 percent, according to the Carriers, presumably would limit the incentive of the existing aviation insurance market in continuing to perform rating and claims settlement work. Conversely, a level below 40 percent would reduce the benefits anticipated from the project by decreasing the amount of capacity added and by reducing the potential savings in insurance costs.

In addition, the Carriers state that no firm data are presently available with respect to participation to be anticipated in either the Primary and Guaranty companies from the qualified airlines. Such participation, they state, will be controlled by a number of factors, including approval by the Board and other requisite government authorities; the amount of cash required for share subscriptions; the cost, and effect on financial statements, of guarantees required from all participants; and a business judgment with respect to the availability of adequate coverage at reasonable rates absent participation in the new companies. Nevertheless, the Carriers stress that a strong expression of intent to participate has been articulated by the world's airlines.

The Carriers further represent that unconditional approval of the agreement is entirely consonant with the public interest; that the imposition by the Board of any substantive conditions that would have the effect of changing or modifying the basic organizational or business structure of the proposed insurance companies would necessitate a complete reevaluation thereof by numerous experts in order to redesign and restructure the proposed insurance project; and that, since a critical need for insurance capacity is expected to arise in the immediate future, any such delay may prevent the implementation of the project at the time of need and as a consequence result in its failure.

We shall next discuss the comments of Caledonian, NACA, DOT, INA, and OFDI, and, in context with each, the Carriers' reply comments.

Caledonian.[2] This carrier's comments are directed primarily to the proposition that it should be eligible under the terms of the agreement to participate in the proposed insurance companies since it competes with all of the carriers eligible to participate in the agreement, and its inability to secure the same insurance treatment as its competitors would hamper its equipment acquisitions plans and its ability to compete in the charter market. In addition, Caledonian believes that the Board should require that there be representation by non-IATA carriers on the Policy Committee and Board of Administrators of the Primary and Guaranty companies on the ground that charter operators would not have an effective

[1] The Board has decided to accept the late filed comments of DOT and INA and the reply comments of the Carriers, and, therefore, will grant the respective motions.

[2] Caledonian is a British carrier which operates exclusively charter services on a worldwide basis. It holds a foreign air carrier permit issued by the Board for charter transportation of passengers, baggage and cargo between points in the United States and points in Europe.

voice in the management of the insurance companies.

The Carriers have responded that in view of Caledonian's business of engaging in charter transportation between points in the United States and Europe pursuant to a permit issued by the Board and the nature and size of its operations and fleet composition, it would appear that Caledonian and other airlines having comparable qualifications would come within the class of airlines which are qualified to participate in the proposed insurance companies. As to representation by non-IATA carriers on the Policy Committee and the Board of Administrators, the Carriers submit that there is no reason presently to believe that operations of the proposed insurance companies might be prejudicial to any airline shareholder or group thereof and that if such complaint should arise in the future, the Board has continuing jurisdiction over the agreement to determine the facts and can take appropriate action at that time.

NACA. NACA believes that if formation of the two insurance companies achieves the stated objectives, and if participation is available to certificated air carriers, large or small, on a truly nondiscriminatory basis, the agreement would surely be in the public interest. Nevertheless, NACA expresses concern over several potential problems: (1) That the requirements of capital contributions and guarantees by participating airlines, although directly proportional to premiums, might be unduly burdensome to some smaller carriers; (2) that such problem might be compounded by the requirement that participating carriers commit to being shareholders for at least a period of 3 years and no airline may leave the company during this time; and (3) that supplemental carriers will not have any effective voice in the management of the insurance companies. The supplemental carriers therefore suggest that the Board place a time limit of 1 year upon approval of the agreement, and provide that additional comments or suggestions with respect to the agreement may be filed at the end of that 1-year period, thus enabling any one carrier, or any other interested party, to bring to the Board's attention any problems which might arise during the formative period of the insurance companies.

Concerning NACA's first concern, the Carriers state that adequate capitalization of these insurance companies is a fundamental requirement, which must be provided by the participants under the agreement; that the means of such capitalization have been worked out on a fair and equitable basis;[3] and that no changes therein should be considered without the strongest showing of necessity therefor. As to the potential burden of a 3-year commitment, the Carriers state that this provision is applicable to all participating carriers and is required to provide the necessary stability for continued operations of the insurance companies; and that absent such a provision, the viability of the companies could be seriously jeopardized by withdrawal of several participants within a close period of time, particularly during their early years of operations. With regard to voice in management of the two companies, the Carriers' comments are the same as those expressed above. The Carriers state that the final suggestions of NACA are unnecessary on the grounds that any short term limitation upon Board approval of a new venture of this character and magnitude would create an appearance of temporary existence; and that this could be fatal to the very existence of the proposed insurance companies, in view of the substantial initial investments required for them to begin operations.

DOT. DOT expresses the view that the agreement might lead to an arrangement that would increase the liability and hull insurance capacity available to airlines, and might do so in a way as to return to airline participants some portion of the insurance premiums they paid out should the rates set by the insurance industry prove to be unduly high. Further, assuming adequate reporting requirements, DOT believes that the establishment of the Primary and Guaranty companies might provide a means for the Board, the airlines and the public to obtain greater information about many facets of aviation insurance than has heretofore been available.

Nevertheless, DOT points out several possible problems expressed as follows: (1) The arrangement is unlikely to be workable without the full cooperation of a substantial segment of the aviation insurance industry; (2) the proposed follow-the-market arrangement in regard to premiums appears to assume that the administrative costs of the Primary and Guaranty companies will be no greater than those of the independent insurance companies, and should this prove to be an erroneous assumption, premiums paid to the two companies by the participants might be insufficient to cover claims; (3) heavy losses incurred by either of the companies might result in a serious drain on the resources of the participants, particularly if only a limited number of airlines become participants; (4) it is not clear that the resources of the Guaranty Co. will be sufficient to cover all reasonably foreseeable eventualities; (5) it is not clear what capital payments to the companies by airline participants would represent, from the public's point of view, the most efficient use of airline capital; and (6) the tripartite relationship between the Primary and Guaranty companies, the airlines, and the aviation insurance industry contemplated by the agreement appears to be ambiguous, and under some circumstances could prove to be not entirely in the public interest.

DOT states that while it does not have information that would permit a factual evaluation of all of the above considerations, it has no objections to approval of the agreement. However, it believes that the Board should retain jurisdiction over the agreement, limit any approval to a fixed period of time, and condition approval to the annual submission of certain specific information and documents.[4]

With respect to the workability of the arrangement insofar as cooperation of the aviation insurance industry is concerned, the Carriers respond that while the feasibility of the arrangement is dependent on this cooperation, this is only in the sense that the functioning of the plan depends on the industry's willingness to continue rating and claims settlement work for the 60 percent of total covers the industry members would write for airlines participating in the proposed insurance companies; and that it is thought unlikely this measure of cooperation will not be forthcoming.

Regarding the second potential problem raised by DOT, the Carriers state that the assumption has been made that administrative and other costs of the two companies will be no greater than that of independent insurance companies; and that this assumption appears conservative, in light of the fact that the passive nature of the two companies' operation requires a relatively small staff only, coupled with the fact that the companies will not be burdened with any significant measure of sales expenses. As to the impact on the carriers of heavy losses incurred by either of the companies, the Carriers accept this as a potential problem, but point out that heavy losses sustained by any grouping of airlines, to the extent not covered by insurance, could have extremely serious consequences for the financial condition of such airlines; and that identical losses, but covered by insurance, would simply mean that the airlines suffering the losses would be required to repay them, over a very brief period of years, by way of increased premiums.

Concerning capitalization of Guaranty Co. the Carriers point out that the recommended capitalization of this company is based on exhaustive actuarial studies and computer simulations carried out by aviation insurance and actuarial experts; that as structured, the company would be able to absorb its portion of a single loss of unprecedented scope (40 percent of a maximum excess coverage of $125 million per accident) and still have sufficient resources to meet another loss of the same magnitude. Regarding capital payments to the companies the Carriers point out that the total capital at their formation would be $26 million; that stand-by guarantees required of participants properly may be viewed as promises to pay additional premiums; and that a call on the participants to pay authorized capital not initially paid in would only take place in the event of a series of absolute catastrophes. The Carriers therefore submit that only the $26 million initial capital contribution should be viewed as a utilization of airline capital; that this

[3] With respect to the Primary Co., capital assessment of the individual airlines will be based on the risk exposure that each airline brings to the company, and will be measured by primary premiums as set by the market. For the Guaranty Co., assessment will also be based on risk exposure which will be measured on the basis of normal excess loss exposure and catastrophic loss exposure. In each instance the capital assessment for an airline is dependent on the initial participation level.

[4] In this respect DOD has submitted alternative listings of the types of documents and information which the Board should require.

amount represents a quite modest percentage of 1 year's insurance premiums paid by the participants; [5] and that it does not appear unreasonable to anticipate that the initial investment required should be returned quickly in the form of good experience returns. Regarding the possible problem areas pointed out by DOT, the Carriers state that the establishment and operation of the two companies clearly will involve an interaction between such companies, the participating airlines and the aviation insurance industry. They state, however, that it is not proposed as a tripartite collaborative arrangement, but rather, as indicated above, as one which essentially requires only reasonable cooperation by the aviation insurance industry.

Turning now to the reporting requirements suggested by DOT, the carriers anticipate that the annual reports published by the Primary and Guaranty companies consisting, under Swiss law, of the Board of Administrators' report to the shareholders, the report of the Statutory Auditors to the shareholders (including their comment and approval of the companies' financial statements), and the financial statements themselves, will supply substantially all of the information suggested for submission by DOT. The carriers therefore suggest that the reports so prepared in the ordinary course of the companies' business should provide the Board with whatever information it might desire concerning these operations.

INA. INA submits that the agreement would not increase total available capacity for aviation insurance since it would not expose to risks of aircraft accidents any capital not already exposed, and would spread risks among participating carriers but by doing so might jeopardize their credit standing; and that INA is in the process of developing a plan that would make available substantial new capital resources for the aviation insurance market, namely, the resources of the life insurance industry which does not now participate in aircraft risks. INA further states that it concurs in the statement of DOT that the arrangement is unlikely to be workable without the full cooperation of a substantial segment of the aviation insurance industry, and INA would desire to cooperate fully but doubts whether it or any other domestic insurer would be able to do so under various state restrictions; and that the workability of the agreement cannot be determined on the record of the Board and with further notice the record would be amplified so that the Board could make a reasonable decision.[6]

With respect to risk exposure, the Carriers submit that the agreement does serve to spread risks among participating carriers; that it is the collective willingness of the participating carriers to share each others' risks in a self-insurance plan which creates the capacity-adding effect; and that the impact on the airlines' credit standing of this risk sharing represents but a small percentage of the liabilities the airlines must incur to finance the purchases of equipment now on order. Regarding INA's future plans for insurance capital resources, the Carriers state that the present agreement is not intended as an exhaustive solution to the problem of providing airlines with adequate insurance protection at reasonable rates. On the contrary, they state even upon the formation of the two companies, additional capital placed at risk for aviation insurance purposes from new sources would be welcome to meet what will be, over the next few years, steadily increasing hull values and liability settlements. As to cooperation of the existing aviation insurance industry and the ability of domestic insurers to participate, the Carriers reiterate that cooperation of the existing insurance industry to the extent necessary is forthcoming, and state that the Preparatory Co.'s preliminary investigation of key U.S. jurisdiction has indicated that the plan proposed is consonant with applicable state law.[7]

OFDI. OFDI points out that all U.S. carriers participating in the Primary and Guaranty companies will become constituents of an associated group under Subpart I of the Foreign Direct Investment Regulations (15 CFR Part 1000); and that each participant will become subject to the jurisdiction of OFDI and to the requirements of the regulations regarding foreign direct investment and reporting. While OFDI expresses no position on whether the agreement should be approved, it requests that the Board put all potential subscribers on notice that even modest financial participation in the insurance program will make each subject to its jurisdiction and that timely reporting and other compliance with the regulation is mandatory. No comments on this proposal have been received.

Conclusion and comments. Upon consideration of all of the foregoing, the Board has decided to approve the agreement pursuant to section 412 of the Act. In reaching this conclusion we recognize that there is no certainty that the existing aviation insurance community lacks the resources to meet on reasonable terms the increased exposures caused by higher individual settlements, the increased passenger load of high capacity jet and supersonic aircraft, and the greatly increased hull values of such aircraft. Nevertheless, the Carriers' program appears to be a reasonable methods of creating greater certitude that the advancing aircraft technology is met by an expanding pool of risk coverage. Although the venture is novel and the Carriers' commitment substantial, it does not now appear that the Carriers' capital contributions relative to their present insurance premiums will be excessive Nor has there been any showing as to adverse impact on the existing aviation insurance community. In this respect we believe that with the anticipated increase in insurance requirements over the next few years there should be sufficient demands upon the existing market so as to protect it against adverse economic consequences which might otherwise arise from the carrier proposal. Although INA has indicated an interest in and possible participation in the aviation insurance market, its comments do not appear to controvert these observations. Indeed, its entrance into the field would be welcome.

Although no firm data have been submitted concerning anticipated percentage participation in the Primary and Guaranty companies, it appears from the Carrier comments that there is strong interest in the proposal and that necessary participation will be achieved subsequent to approval of the proposal by the Board and other requisite authorities.

We shall now discuss the matter of proposed conditions on the Board's approval of the agreement.

We shall not impose any condition modifying the definition of the term Qualified Airline in a manner which would specifically permit Caledonian, a British foreign air carrier, to participate in the insurance program. The Carriers maintain that Caledonian and other airlines having comparable qualifications would in fact be eligible to participate in the proposed insurance companies. In any event the certified air carriers of the United States are provided for in the agreement, and we are not persuaded that the public interest would require this Board to direct a broadening of the agreement to include classes of foreign air carriers not specifically covered therein.

We are not persuaded at this time that the Board should, as suggested by Caledonian and NACA, impose any condition on our approval of the arrangement which would have the effect of reconstituting the Policy Committee or the Board of Administrators of the Primary and Guaranty companies; nor are we persuaded that the Board should grant limited approval of the agreement as suggested by the same respondents, as well as by DOT. We believe that the latter proposal would tend to inhibit the important objective of providing the two companies with the financial stability essential to their successful operation. Nevertheless, with regard to both proposals, it is important to note that under section 412 of the Act, the Board has the statutory authority at anytime to reexamine its approval of an agreement and disapprove such agreement if it finds it to be adverse to the public interest.

Turning now to the suggestion of DOT that Board approval of the agreement be made subject to various reporting conditions, we have decided, for the time

[5] For the calendar year 1968 insurance expense of the domestic trunk carriers for public liability and property damage, alone, exceeded $39.8 million.

[6] The Board does not believe further notice in this proceeding is necessary, as the Board's order of deferral was, according to customary practice, published in the FEDERAL REGISTER; a copy of such order was served on, among others, the two major underwriting associations, one of which (Association of Aviation Underwriters) INA is a member; and the matter has received wide press coverage.

[7] For example, questions of premium flow and placement have been submitted for the consideration of the State of New York Insurance Department, and in cooperation with that Department workable methods of placement with the Primary and Guaranty companies by participating airlines have been worked out.

being, to accept the Carriers' proposal that they file the reports of the Primary and Guaranty companies prepared in the ordinary course of the companies' business which, the Carriers state, are required by Swiss law. The Carriers state that these reports will contain substantially the same information as that suggested by DOT. To the extent that these reports do not provide the Board with sufficient information, the Board will request such additional information concerning the companies' activities as may be necessary. In addition, the Board will require that it be served notice within 30 days thereof of the execution by any qualified airline of a counterpart copy of Agreement CAB 21240.

Concerning OFDI's comments, we believe that our discussion herein serves as adequate notice to each participating U.S. carrier of that agency's requirements. Our approval herein, of course, is not intended to deal with any authority or approvals required from any other government agency.

Finally, we shall retain jurisdiction in this proceeding for the purpose of imposing such further conditions on the Board's approval herein as may be deemed necessary.

The Board therefore does not find that Agreement CAB 21240 is adverse to the public interest or in violation of the Act; its approval of Agreement CAB 21240 shall be made subject to the conditions hereinafter stated.

Accordingly, it is ordered, That:

1. The agreement between Eastern Airlines, Inc., Trans World Airlines, Inc. and Societe Preparatoire pour Air Transport Insurance, S.A., identified as Agreement CAB 21240, be and it hereby is approved;

2. The approval herein shall be subject to the following conditions:

(a) that on or before March 31 of each year during which the agreement is in effect, the air carriers shall submit for the previous calendar year, in triplicate, copies of the annually published reports of the Primary and Guaranty companies consisting, under Swiss law, of the Board of Administrators' report to the shareholders, the report of the Statutory Auditors to the shareholders (including their comment and approval of the companies' financial statement), and the financial statements themselves, and such additional related information as the Board may from time-to-time request; and

(b) that the present parties to the agreement file with the Board within 30 days after execution thereof notice of the execution by any qualified airline of a counterpart copy of Agreement CAB 21240;

3. The motions of DOI and INA to file late filed documents, and the motion of the Carriers to file an otherwise unauthorized document, be and they hereby are granted;

4. Except to the extent granted herein the requests of Caledonian, NACA, DOT, INA and the Carriers be and they hereby are denied;

5. This action shall not be deemed a determination for rate-making purposes of the reasonableness of the financial provisions of the agreement; and

6. The Board shall retain jurisdiction in this proceeding for the purpose of taking such action as it may deem necessary in the public interest.

This order shall be served upon all certificated air carriers, the Air Transport Association, the International Air Transport Association, Societe Preparatoire pour Air Transport Insurance, S. A., National Air Carrier Association, Caledonian Airways (Prestwick), Ltd., Associated Aviation Underwriters, United States Aviation Underwriters, Inc., the Insurance Company of North America, the Department of Justice, and the Department of Transportation, and the Department of Commerce, Office of Foreign Direct Investment; and shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-2904; Filed, Mar. 10, 1970; 8:46 a.m.]

[Docket No. 20741]

KOREA AIR TERMINAL SERVICE CO., LTD.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on April 7, 1970, at 10 a.m., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner William F. Cusick.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Prehearing Conference Report and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., March 6, 1970.

[SEAL] WILLIAM F. CUSICK,
Hearing Examiner.

[F.R. Doc. 70-2906; Filed, Mar. 10, 1970; 8:46 a.m.]

[Docket No. 21430]

LESTER E. COX MEDICAL CENTER AND ESTATE OF FLOYD W. JONES

Notice of Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding will be held on March 18, 1970, at 10 a.m., e.s.t., in Room 630, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Ross I. Newmann.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report served on January 30, 1970, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., March 5, 1970.

[SEAL] ROSS I. NEWMANN,
Hearing Examiner.

[F.R. Doc. 70-2905; Filed, Mar. 10, 1970; 8:46 a.m.]

[Docket No. 19539, etc.]

PHOENIX-SEATTLE/PORTLAND NONSTOP CASE

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be heard on March 25, 1970, at 10 a.m., e.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the Board.

Dated at Washington, D.C., March 4, 1970.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 70-2907; Filed, Mar. 10, 1970; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 70-209]

POLICY STATEMENT ON COMPARATIVE HEARINGS INVOLVING REGULAR RENEWAL APPLICANTS

Order Extending Time for Petitions for Reconsideration

1. The Commission has before it for consideration:

(1) A Petition for Reconsideration of the Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, _____ FCC 2d _____, 35 F.R. 822), filed jointly by Hampton Roads Television Corp. and Community Broadcasting of Boston, Inc.

(2) A Petition for Reconsideration of the Policy Statement, filed jointly by Black Efforts for Soul in Television (BEST), The Citizens Communications Center, William D. Wright, and Albert H. Kramer.

(3) A Petition for Repeal of the Policy Statement, filed by BEST et al.

(4) A Petition for Reconsideration of the Commission's memorandum opinion and order (FCC 70-63) dismissing a petition for rule making (RM-1551), filed by BEST et al.

All of these pleadings were filed on February 16, 1970, all relate essentially to the same matters, and the three BEST pleadings rely on a memorandum attached to its Petition for Reconsideration of the Policy Statement.

2. While the policy statement does not involve amendment of the Commission's rules and item (4) above is concerned

with rule making, we nevertheless conclude that in these circumstances the joint consideration of these matters will best conduce to the proper dispatch of business and to the ends of justice. They are therefore being consolidated for consideration.

3. In view of the bulk of the aforementioned pleadings and the significance of the issues involved, interested persons will be afforded 20 days to file pleadings responsive to the petition for reconsideration relating to RM–1551 rather than the 10 days normally allowed. The period will expire on March 12, 1970, 20 days after Public Notice of the Petition for Reconsideration was released (see the Note following § 1.106 of the rules). A like period will be afforded for persons who wish to respond to the aforementioned pleadings relating to the Policy Statement. Fifteen (15) additional days will be afforded for filing replies to such responses: The period for filing replies expiring on March 27, 1970.

4. On February 25, 1970, WTAR Radio–TV Corp. filed a motion requesting that the time for filing oppositions to the Hampton Roads-Community Broadcasting Petition for Reconsideration (Item (1), above) be extended to April 3, 1970. In our judgment, the extension to March 12, 1970, will afford adequate time for a full response by WTAR, and its motion will therefore be denied.

5. In view of the foregoing: *It is ordered*, That proceedings on reconsideration of the Policy Statement on Comparative Hearings Involving Regular Renewal Applicants and on reconsideration of the Commission's order dismissing the BEST et al., petition for rule making (Rm–1551) are consolidated; that responses to the petitions for reconsideration or repeal (Items (1)–(4), above), shall be filed by March 12, 1970; that replies to such responses shall be filed by March 27, 1970; and that the Motion for Extension of Time filed by WTAR Radio–TV Corp. is denied.

Adopted: February 26, 1970.

Released: March 2, 1970.

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

[F.R. Doc. 70–2917; Filed, Mar. 10, 1970; 8:47 a.m.]

[Docket No. 16867; FCC 70–233]

TAXICAB RADIO SERVICE IN STANDARD METROPOLITAN AREAS

Order Terminating Proceeding

In the matter of inquiry into the requirement of the Taxicab Radio Service for all of the frequencies available within Standard Metropolitan Areas of 50,000 or more population in the 152 and 157 Mc/s bands.

1. The Commission has had under consideration a notice of inquiry released September 9, 1966, in the above-entitled matter and comments filed in response thereto. In the light of the comments, our own frequency loading studies, and in further consideration of the problems relating to expanded interservice sharing of frequencies in the private land mobile radio service, it appears desirable to defer action on this matter.

2. We have conducted a study to determine the extent to which these frequencies are used, the results of which indicate that only token frequency relief can be afforded other services. In the 87 urbanized areas of 200,000 or more population only 20 are areas where two or more of these frequencies are unused and in only seven are there no licensees. None of the areas where the frequencies are available are areas of frequency congestion although they may be areas where the 150 MHz frequencies of several services are all in use. In the larger urban areas where our frequency problems are most acute, taxicab use is also heavy.

3. In view of the very limited results which might be obtained from frequency adjustments in these circumstances we do not think that the institution of proceedings for rule changes is warranted. This is particularly true since the Commission has under consideration a revision of its overall frequency allocation and assignment policies in the light of the Stanford Research Institute and other reports.

4. In view of the above: *It is ordered*, That the proceeding in the above entitled matter is terminated.

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

[F.R. Doc. 70–2923; Filed, Mar. 10, 1970; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSES

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders, pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Domestic Regulation, Federal Maritime Commission, Washington, D.C. 20573.

Harold Lloyd Coleman, 304 West Street, Mobile, Ala. 36604. Harold L. Coleman—Owner.

Lubec Trading Corp., 85 Exchange Street, Portland, Maine 04111.
Officers:
Erwin H. Zeimer—President.
Henry Steinfeld—Treasurer.
Pearle M. Cobb—Clerk.

Key Air Freight, Inc., 9107 Aviation Boulevard, Inglewood, Calif. 90301.
Officers:
Robert A. Perrenoud—President/Director.
Arthur B. Davidson, Jr.—Secretary/Treasurer/Director.

Ikeda International Corp., 74 West 47th Street, Second Floor, New York, N.Y. 10036.
Officers:
Masayoshi Ikeda—President/Treasurer/Director.
Keiko Ikeda—Vice President/Director.
Turo Nakamura—Secretary/Director.

Rogelio Gonzalez, d.b.a. Gonzalez International Services, Post Office Box 828, Houston, Tex. Rogelio Gonzalez—Owner.

Betty R. Irby, d.b.a. Brie International, 4393 17th Avenue, Lane Aviation Building, Room 311, Columbus, Ohio 43219. Betty R. Irby—Owner.

James A. Barnhart, Customs Broker, 5140 West 106th Street, Inglewood, Calif. 90304. James A. Barnhart—Owner.

Allports Freight Forwarding, Inc., 1040 Biscayne Boulevard, Miami, Fla. 33132.
Officers:
L. Broderick Fichtmann—President.
Martha Bush—Treasurer.
Edward R. Downing—Secretary.

Universal Air Freight International, 1200 Lawrence Street, Los Angeles, Calif.
Officers:
J. P. Jueterbock—Vice President.
Anthony T. Ciaccio—President.
Roy L. Tyra—Vice President.

New Vista Corp., 5967 West Madison Street, Austin and Madison Building, Room 11, Chicago, Ill. 60644.
Officers:
Marshall Brownfield—Director/President.
Larry W. Roberts—Director/Vice President/Treasurer.
Chester H. Elder—Secretary.

Romero Chapa, d.b.a. Chapa Shipping (Service) Co., 5932 South Front, New Orleans, La. 70115. Romeo Chapa—Owner.

Dated: March 5, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–2936; Filed, Mar. 10, 1970; 8:49 a.m.]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSES

Notice of Applicants Licensed

Notice is hereby given that the following applicants have been licensed by the Federal Maritime Commission as Independent Ocean Freight Forwarders, pursuant to section 44(a) of the Shipping Act, 1916 (46 U.S.C. 841(b)).

Adolfo Ferrer Luchessi, Marina Street, Muelle No. 6, Box 2092, Old San Juan Station, San Juan, P.R. 00903. License No. 1250. Effective July 3, 1969.

Robert De Morro, d.b.a. Travelers Overseas Freight Forwarders, 170 Farren Avenue, New Haven, Conn. 06513. License No. 1251. Effective July 3, 1969.

John Schalhoub, d.b.a. Schalmar International, 972 Albany Avenue, Brooklyn, N.Y. 11203. License No. 1254. Effective July 10, 1969.

Martin E. Day, Post Office Box 3243, Bankers Trust Building, Room 512, Norfolk, Va. 23514. License No. 1255. Effective July 18, 1969.

Mark O'Hara, d.b.a. Ultramar International Shipping, 4103 West 101st Street, Inglewood, Calif. 90304. License No. 1256. Effective July 31, 1969.

Joseph F. Armendariz, 125 West Fourth Street, Los Angeles, Calif. License No. 1257. Effective Aug. 4, 1969.

Violet A. Wilson, d.b.a. Transmares, 211 Board of Trade Annex, New Orleans, La. License No. 1258. Effective Dec. 23, 1969.

Rachel Theresa Chun, 21 Columbus Avenue, Room 202, San Francisco, Calif. 94111. License No. 1259. Effective Sept. 3, 1969.

Frank J. Monne, d.b.a. Gateway Export Co., 1029 Vermont Avenue NW., Washington, D.C. 20005. License No. 1260. Effective Sept. 16, 1969.

Jose M. Pietri ,Post Office Box 2928, Old San Juan, P.R. License No. 1261. Effective Sept. 23, 1969.

Robert E. Kelly, Chamber of Commerce Building, Rooms 318 and 208–210, Commerce and Water Streets, Baltimore, Md. 21202. License No. 1262. Effective Oct. 1, 1969.

Express International Forwarding, 800 North Alameda Street, Suite 203, Los Angeles, Calif. 90012. License No. 1263. Effective Nov. 28, 1969.

Mainstream Forwarding Co., Post Office Box 497, Greenville, Miss. 38701. License No. 1264. Effective Dec. 2, 1969.

Shigeru Yoshioka, d.b.a. S. Yoshioka & Co., 250–M World Trade Center, San Francisco, Calif. 94111. License No. 1265. Effective Dec. 9, 1969.

Samuel E. Berkenblit, partner, Timothy O. Hannon, partner, Hugh A. Polanco, partner, d.b.a. Air/Maritime Co., Post Office Box 66346, O'Hare AMF, Chicago, Ill. 60666. License No. 1266. Effective Jan. 8, 1970.

Orlando Sala, Post Office Box 2381, San Juan, P.R. 00903. License No. 1267. Effective Jan. 13, 1970.

Schick Moving & Storage Co., Post Office Box 10240, Santa Ana, Calif. 92704. License No. 1268. Effective Jan. 23, 1970.

Wolf D. Barth, 437 Chestnut Street, Room 516, Lafayette Building, Philadelphia, Pa. 19106. License No. 1269. Effective Feb. 10, 1970.

Terminal Operators, Inc., 64 Commercial Wharf, Boston, Mass. License No. 1270. Effective Feb. 20, 1970.

Agapito Torres Maldonado, Post Office Box 1763, Ponce, P.R. 00731, License No. 1159. Effective Feb. 3, 1970.

Dated: March 5, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–2934; Filed, Mar. 10, 1970; 8:48 a.m.]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSES

Notice of Name Changes

Notice is hereby given of changes in the following Independent Ocean Freight Forwarder Licenses:

Bemo Shipping Co. to Bemo Shipping Co., Inc., 11 Broadway, New York, N.Y. Effective Feb. 24, 1969. License No. 93.

Darrell J. Sekin & Co., d.b.a Darrell J. Sekin to Darrell J. Sekin & Co., Post Office Box 5464, Dallas, Tex. Effective Feb. 24, 1969. License No. 786.

Peter H. Evans, d.b.a. Evans International to Hanrahan-Evans, Inc., 32 Broadway, New York, N.Y. Effective Feb. 24, 1969. License No. 1016.

Adil Araboglu, d.b.a. Crescent Transport Co. to Crescent Transport Co., Inc., 1200 18th Street NW., Washington, D.C. Effective Apr. 8, 1969. License No. 1135.

Traffic Dynamics, Inc., to Traffic Dispatch International, Inc., 4751 Campbell's Run Road, Pittsburgh, Pa. Effective Apr. 7, 1969. License No. 1098.

John R. Guiteras, d.b.a. Lorraine Cargo Service to Lorraine Cargo Service, Inc., 179 Giralda Avenue, Coral Gables, Fla. Effective May 19, 1969. License No. 1211.

Jean L. Couret and Cornelius W. Nett, Jr., d.b.a. Gulf Forwarding Co., to Jean L. Couret, d.b.a. Gulf Forwarding Co., 823 Whitney Building, New Orleans, La. Effective May 20, 1969. License No. 89.

Franklin Geo. Reitz, d.b.a. Foreign Forwarding of Milwaukee to Foreign Forwarding, Inc., Post Office Box 2991, Hampton Station, Milwaukee, Wis. Effective May 21, 1969. License No. 1096.

Marcel G. Pichonnat, d.b.a. International Transportation Co. to International Transportation Corp., 17 Battery Place, New York, N.Y. Effective May 28, 1969. License No. 18.

Eugenio Clur to Inter-Nations Forwarding Co., 268 West Street, New York, N.Y. Effective May 26, 1969. License No. 621.

Ralph E. Elia, d.b.a. Italian Shipping Co., China Far East European Shipping Co. to Ralph F. Elia, d.b.a. Italian Shipping and Space Age Customs Expediters Co., 88 West Broadway, New York, N.Y. Effective June 24, 1969. License No. 13.

Wilmington Shipping Co. to Southern Overseas Corp., Post Office Box 1809, North Carolina Maritime Building, Wilmington, N.C. Effective August 1, 1969. License No. 469.

Robbins Forwarding Co. to Robbins Fleisig Forwarding, Inc., 30 Church Street, New York, N.Y. Effective July 11, 1969. License No. 880.

Salvatore H. Beninati, d.b.a. Salben Shipping Co., to Salben Shipping Co., Inc., 25 Broadway, Cunard Building, New York, N.Y. Effective July 16, 1969. License No. 174.

Harold G. Brauner, d.b.a. Brauner & Co. and Pan American Shipping Agency to Harold G. Brauner, d.b.a. Brauner Co., 32 Broadway, New York, N.Y. Effective July 22, 1969. License No. 575.

Wheeler & Miller to Emmett F. McCarren, d.b.a. Wheeler & Miller, 330 Jackson Street, Post Office Box 2436, San Francisco, Calif. Effective July 25, 1969. License No. 330.

Sada Trading Co., to Sada Trading Co., Inc., 261 Broadway, New York, N.Y. 10007. Effective July 30, 1969. License No. 210.

Pacific Forwarders, Inc., to Behring-Pacific Shipping Co., Inc., 351 California Street, Suite 501–505, San Francisco, Calif. Effective July 24, 1969. License No. 297.

Trans-Air System, Inc., to Trans Air Freight System, Inc., 153–49 Rockaway Boulevard, Jamaica, N.Y. Effective August 5, 1969. License No. 907.

William H. Masson, Inc., Frederick Forwarding Co. to William H. Masson, Inc., 105 South Frederick Street, Baltimore, Md. Effective August 20, 1969. License No. 506.

Alltransport, Inc., Kuehne & Nagel, Inc., to Alltransport, Inc., 17 Battery Place, New York, N.Y. Effective Sept. 3, 1969. License No. 300.

William P. Stanley, d.b.a. Alaska Traffic Consultants to Alaska Traffic Consultants, Inc., 2201 Sixth Avenue South, Seattle, Wash. Effective Oct. 13, 1969. License No. 33.

F. E. McLendon, d.b.a. McLendon Forwarding Co. to McLendon Forwarding Co., Inc., 1217 Prairie Avenue, Houston, Tex. Effective Oct. 17, 1969. License No. 1083.

Regis Francis Kramer, d.b.a. Regis F. Kramer & Co. to Regis F. Kramer Associates, 5428 West 104th Street, Los Angeles, Calif. Effective Nov. 12, 1969. License No. 1238.

J. M. Altieri to J. M. Altieri, Inc., 201–B Tetuan Street, San Juan, P.R. Effective Dec. 19, 1969. License No. 40.

Edwin Englert, d.b.a. General Shipping & Trading Co. to General Shipping & Trading Co., Inc., 27 Whitehall and 16 Bridge Streets, New York, N.Y. Effective Dec. 8, 1969. License No. 517.

James A. Green, Jr., d.b.a. James A. Green, Jr., Co., to James A. Green, Jr., & Co., Puritan Building, 401 East 13th Street, Kansas City, Mo. Effective Jan. 9, 1970. License No. 784.

Cuban American Forwarders to Cuban American Forwarders (Hortensia N. Ramos d.b.a.), 90 West Broadway, New York, N.Y. Effective Feb. 10, 1970. License No. 625.

Oscar C. De Tuya, d.b.a. Jorge R. De Tuya International to Tuya International Corp., 6600 Northwest 36th Street, Miami, Fla. Effective Feb. 9, 1970. License No. 1191.

Dated: March 5, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–2935; Filed, Mar. 10, 1970; 8:48 a.m.]

FEDERAL RESERVE SYSTEM

BANKERS TRUST COMPANY OF ROCHESTER

Order Approving Acquisition of Bank's Assets

In the matter of the application of Bankers Trust Company of Rochester, Rochester, N.Y., for approval of acquisition of assets of four offices of Central Trust Company Rochester, N.Y., Rochester, N.Y.

There has come before the Board of Governors, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), an application by Bankers Trust Company of Rochester, Rochester, N.Y., a State member bank of the Federal Reserve System, for the Board's prior approval of its acquisition of assets and assumption of deposit liabilities of four offices of Central Trust Company Rochester, N.Y., Rochester, N.Y., and, as an incident thereto, Bankers Trust Company of Rochester has applied, under section 9 of the Federal Reserve Act (12 U.S.C. 321), for the Board's prior approval of the establishment as branches of that bank of the four offices to be acquired. Notice of the proposed acquisition of assets and assumption of deposit liabilities, in form approved by the Board, has been published pursuant to said Act.

Upon consideration of all relevant material in the light of the factors set forth in said Act, including reports furnished by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General on the competitive factors involved in the proposed transaction:

It is hereby ordered, For the reasons set forth in the Board's Statement[1] accompanying its order concerning the application of Bankers Trust New York Corp. to acquire voting shares of Bankers Trust Company of Rochester, that said applications be and hereby are approved: *Provided,* That said acquisition of assets and assumption of deposit liabilities and establishment of branches shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order unless such period is extended for good cause by the Board or by

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of New York.

the Federal Reserve Bank of New York pursuant to delegated authority.

Dated at Washington, D.C., this 3d day of March 1970.

By order of the Board of Governors.[2]

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-2901; Filed, Mar. 10, 1970; 8:45 a.m.]

BANKERS TRUST NEW YORK CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Bankers Trust New York Corporation, New York, N.Y., for approval of acquisition of all of the voting shares of Bankers Trust Company of Rochester, Rochester, N.Y., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Bankers Trust New York Corporation, New York, N.Y., a registered bank holding company, for the Board's prior approval of the acquisition of all of the voting shares of Bankers Trust Company of Rochester, Rochester, N.Y., a proposed new bank.

As required by section 3(b) of the Act, the Board notified the Superintendent of Banks of the State of New York of the application and requested his views and recommendation. The New York State Banking Board advised the Board of its action, consistent with a recommendation made to it by the Superintendent, approving an application filed pursuant to the New York Banking Law with respect to the same transaction.

Notice of receipt of the application was published in the FEDERAL REGISTER on December 9, 1969 (34 F.R. 19479), providing an opportunity for interested persons to submit comments and views with respect to the proposed transaction. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's Statement[3] of this date, that said application be and hereby is approved: *Provided,* That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, and provided further that (c) Bankers Trust Company of Rochester shall be open for business not later than 6 months after the date of this order. The periods described in (b) and (c) hereof may be extended for good cause by the Board or by the Federal Reserve Bank of New York pursuant to delegated authority.

Dated at Washingtoin, D.C., this 3d day of March 1970.

By order of the Board of Governors.[2]

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR. Doc. 70-2900; Filed, Mar. 10, 1970; 8:45 a.m.]

CHARTER NEW YORK CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Charter New York Corp., New York, N.Y., for approval of acquisition of all of the voting shares of Central Trust Company Rochester, N.Y., Rochester, N.Y.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Charter New York Corp., New York, N.Y. ("Applicant"), for the Board's prior approval of the acquisition of all of the voting shares of Central Trust Company Rochester, N.Y., Rochester, N.Y. ("Bank").

On October 28, 1968, the Board denied an earlier application by Applicant to acquire shares of Bank, for competitive reasons fully discussed in a Statement which accompanied the Board's order on that matter (1968 Federal Reserve Bulletin 925). Subsequently, Applicant filed the present application, by which it proposes, as a condition to approval of the transaction, that Bank will divest to a subsidiary to be established by Bankers Trust New York Corporation, New York, N.Y., which also is a registered bank holding company, four identified offices, together with the banking business relating to those offices.

As required by section 3(b) of tht Act, the Board notified the New York Superintendent of Banks of receipt of the subject application and requested his views and recommendation. The Superintendent indicated that he favored approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on October 17, 1969 (34 F.R. 16641), which provided an opportunity for interested persons to submit comments and views with respect to the proposed acquisition. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is approved: *Provided,* That the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority, and provided further that sale of the aforementioned assets takes place simultaneously with Applicant's acquisition of the voting shares of Bank.

Dated at Washington, D.C., this 3d day of March 1970.

By order of the Board of Governors.[2]

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-2899; Filed, Mar. 10, 1970; 8:45 a.m.]

U. N. BANCSHARES, INC.

Notice of Application for Approval of Acquisition of Shares of Banks

Notice is hereby given that application has been made to the Board of Governors of the Federal Reserve System, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842 (a)(1)), by U. N. Bancshares, Inc., Springfield, Mo., for prior approval by the Board of action whereby applicant would become a bank holding company throug hthe acquisition of up to 100 percent of the voting shares of The Union National Bank of Springfield, and Springfield National Bank, both in Springfield, Mo.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of New York.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, and Sherrill.

Voting against this action: Governors Robertson and Brimmer.

[3] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of New York.

meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of St. Louis.

Dated at Washington, D.C., this 4th day of March 1970.

By order of the Board of Governors.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-2898; Filed, Mar. 10, 1970; 8:45 a.m.]

OFFICE OF EMERGENCY PREPAREDNESS

MAINE

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, and Executive Order 11051 of September 27, 1962 (18 F.R. 407, 22 F.R. 8799, 27 F.R. 9683); and by virtue of the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855–1855g); notice is hereby given that on February 27, 1970, the President declared a major disaster as follows:

I have determined that the damages in those areas of the State of Maine, adversely affected by severe storms, ice jams and flooding beginning on or about December 26, 1969, are of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 81-875. I therefore declare that such a major disaster exists in the State of Maine. Areas eligible for Federal assistance will be determined by the Director of the Office of Emergency Preparedness.

Notice is hereby given that pursuant to the authority vested in me by the President under Executive Order 11495, November 18, 1969 (34 F.R. 18447, Nov. 20, 1969) to administer the Disaster Relief Act of 1969 (Public Law 91-79, 83 Stat. 125), I hereby appoint Mr. Albert D. O'Connor, Regional Director, OEP Region 1, to act as the Federal Coordinating Officer to perform the duties specified by section 9 of that act for this disaster.

I do hereby determine the following areas in the State of Maine to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 27, 1970:

The Counties of:

Androscoggin.	Oxford.
Aroostook.	Penobscot.
Cumberland.	Piscataquis.
Franklin.	Sagadahoc.
Hancock.	Somerset.
Kennebec.	Waldo.
Knox.	Washington.
Lincoln.	York.

Dated: March 4, 1970.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 70-2889; Filed, Mar. 10, 1970; 8:45 a.m.]

MISSISSIPPI

Notice of Major Disaster; Amendment

Notice of major disaster for the State of Mississippi, dated August 21, 1969, and published August 28, 1969 (34 F.R. 13770), and amended August 27, 1969, and published September 5, 1969 (34 F.R. 14116), is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 18, 1969:

Hinds. Madison.

Dated: March 5, 1970.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

[F.R. Doc. 70-2930; Filed, Mar. 10, 1970; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[812-2679]

AMERICAN VARIABLE ANNUITY LIFE ASSURANCE CO. AND AMERICAN VARIABLE ANNUITY FUND

Notice of Application for Exemption

MARCH 4, 1970.

Notice is hereby given that American Variable Annuity Life Assurance Co. ("Company") and American Variable Annuity Fund ("Fund"), 440 Lincoln Street, Worcester, Mass. 01605, (hereinafter collectively "Applicants"), have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting Applicants from the provisions of section 22(d) of the Act to the extent described below. The Company is a stock insurance company organized under the Insurance Code of Arkansas. It is a wholly owned subsidiary of the State Mutual Life Assurance Company of America, a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts. The Fund is an open-end diversified management investment company registered under the Act. The Company established the Fund on March 21, 1967, as a means of providing an investment medium for certain variable annuity contracts offered by Applicants. All interested persons are referred to the application on file with the Commission for a complete statement of the representations contained therein which are summarized below.

On October 31, 1969, a posteffective amendment to the registration statement (2-27036) for individual variable annuity contracts being offered by applicants became effective. The amended prospectus sets forth the rates of charges for sales and administrative expenses and the circumstances under which each applies. The amended prospectus provides that under applicant's individual single payment and flexible variable annuity contracts such charges are reduced in accordance with a specified scale as purchase payments increase. Applicants reserve the right to change such rates from time to time subject to the limitations of the Act and rules and regulations thereunder.

Applicants' contracts provide for accumulation on either a fully variable basis or on a combined variable and fixed-dollar basis. The same rate of deduction applies whether payments are allocated to the Fund to provide variable benefits or a portion thereof is allocated to provide fixed-dollar benefits. Thus the scale of charges is made on the basis of aggregate amounts attributable to both the variable and fixed-dollar portions of the contract.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter for such a company shall sell any redeemable security to the public except at a current public offering price described in the prospectus.

Applicants assert that reduction in the rate of charges based upon aggregate purchase payments avoids the discrimination which would otherwise exist between persons allocating differing proportions of their purchase payments between the variable and fixed-dollar portions of a contract.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any persons or transactions from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 25, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such

request shall be served personally or by mail (airmail if the persons being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service by affidavit (or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in the matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 70–2902; Filed, Mar. 10, 1970; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

CENTRAL AND FIELD ORGANIZATION

Description

MARCH 6, 1970.

The current description of the central and field organization of the Interstate Commerce Commission published on page 8690 of the June 16, 1967, issue of the FEDERAL REGISTER, as amended on page 10955 of the July 26, 1967 issue of the FEDERAL REGISTER, is further amended as follows:

F. *Office of Proceedings.* Performs duties in connection with the Commission's proceedings involving the several types of carriers subject to the various provisions of the Act. Operations are conducted by and through the several sections and employee boards. The Director's Office is responsible for, among other things, overall effective management of the Office, including direction of the operating sections and employee boards; maintenance of the case processing and other statistical records; case status information; special studies and projects; performing necessary administrative support functions for the Office; and examining applications for operating rights and preparation of certificates, permits and licenses specifying permanent grants of authorities approved by the Commission and related orders reissuing, vacating or amending such authorities after action by the Commission.

(1) *Section of Hearings.* Schedules hearings in all proceedings of the Office requiring an oral hearing and handles procedural questions arising in connection therewith until the report and recommended order are served. Conducts hearings, prepares initial reports on proceedings handled in the Office and releases for service all initial reports and recommended orders. Reviews procedures and makes recommendations for changes designed to promote efficiency and to expedite the processing of proceedings.

(2) *Section of Finance.* Performs duties in connection with the Commission's proceedings involving rail carriers, motor carriers, water carriers, and freight forwarders, under the various sections of the Act, relative to: Authority to construct, acquire, or abandon lines of a railroad or the operation thereof; proposed discontinuance or changes in the operation by railroads of trains, or ferries; approval for motor carriers, water carriers, and railroads to enter into contracts and agreements for the pooling or division of traffic and earnings; authority to consolidate, merge, transfer ownership, or acquire control of carriers, and when directly related to such authority the granting of certificates or permits to motor carriers in connection therewith; authority for a railroad to acquire trackage rights over, or joint ownership or use of railroad lines and terminals; ordering the use by one railroad of terminal facilities of another; authority to issue securities or to assume obligation and liability with respect to securities of others; authority to sell securities without competitive bidding, authority to alter or modify outstanding securities and obligations; transfer of brokers' licenses and of certificates and permits of motor carriers, water carriers, and permits of freight forwarders; authority to hold position of officer or director of more than one railroad; the guaranty of loans to railroads in financing additions or betterments or other capital expenditures, or for the financing of expenditures for maintenance of property; and formal investigations concerning possible violations of the Act relating to the foregoing subjects; and, under provisions of the Uniform Bankruptcy Act, the approval of plans of reorganization, the submission thereof to creditors and stockholders for acceptance or rejection, the recommendation of formulas for the segregation of earnings, the ratification of trustees, the fixing of maximum limits of allowances to trustees and other parties in interest, and the authorization of persons, including protective committees, to solicit and act under proxies, authorizations, or deposit agreements in connection with railroad reorganization or receivership proceedings.

After analysis of the record and consideration of briefs, exceptions, other pleadings, and oral argument, if any, report writers assigned to this section (a) under the direction and supervision of the Commissioner to whom the case is assigned, prepare draft final reports and orders and (b) in cases which have not been assigned to individual Commissioners independently prepare draft reports and orders for circulation to boards of employees for consideration and adoption. Report writers assigned to this section also independently prepare and review memoranda recommending the action the Commission, a Division, or an individual Commissioner should take on petitions for rehearing, reargument, or reconsideration, and petitions for other relief. Report writers are located in branches for the purpose of direction, guidance, and training.

(3) *Section of Operating Rights.* Performs duties in connection with the Commission's proceedings involving motor common and contract carriers, brokers of motor carrier transportation, water carriers, and freight forwarders, under the various sections of the Act, relative to operating authority matters, provisions, and exemptions, including investigations looking to the prescription of rules and regulations governing operations of such carriers; formal complaints and investigations concerning failure of carriers to comply with the Act or any requirement established thereunder, with respect to operating practices under the jurisdiction of Division 1; the suspension, change, or revocation of certificates, permits, and licenses; Joint Board appointments; extensions of dates for filing pleadings; processing of applications for certificates of registration under section 206(a) (6) and (7) of the Interstate Commerce Act; and the handling of request for authority under the Deviation Rules.

After analysis of the record and consideration of briefs, exceptions, other pleadings, and oral argument, if any, report writers assigned to this section (a) under the direction and supervision of the Commissioner to whom the case is assigned, prepare draft final reports and orders and (b) in cases which have not been assigned to individual Commissioners independently prepare draft reports and orders for circulation to boards of employees for consideration and adoption. Report writers assigned to this section also independently prepare and review memoranda recommending the action the Commission, a Division, or an individual Commissioner should take on petition for rehearing, reargument, or reconsideration, and petitions for other relief. Report writers are located in branches for the purpose of direction, guidance, and training.

(4) *Section of Rates.* Performs duties in connection with the Commission's proceedings involving rail carriers, motor carriers, water carriers, and freight forwarders, under the various sections of the Act, relative to rates, fares, charges, and practices and relief from antitrust laws relative to collective ratemaking agreements; and conducts proceedings arising under a number of miscellaneous provisions of the Act and other acts such as the Railway Mail Service Pay Act, Railroad Retirement Act, etc., which require Commission findings and determinations.

After analysis of the record and consideration of briefs, exceptions, other pleadings, and oral argument, if any, report writers assigned to this section (a) under the direction and supervision of the Commissioner to whom the case is assigned, prepare draft final reports and

orders and (b) in cases which have not been assigned to individual Commissioners independently prepare draft reports and orders for circulation to boards of employees for consideration and adoption. Report writers assigned to this section also independently prepare and review memoranda recommending the action the Commission, a Division, or an individual Commissioner should take on petitions for rehearing, reargument, or reconsideration, and petitions for other relief. Report writers are located in branches for the purpose of direction, guidance, and training.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-2919; Filed, Mar. 10, 1970; 8:47 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 6, 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. 41915—*Chlorine to Baton Rouge, La.* Filed by O. W. South, Jr., agent (No. A6161), for interested rail carriers. Rates on chlorine, in tank carloads, as described in the application, from McIntosh, Ala., to Baton Rouge, La.

Grounds for relief—Rate relationship.

Tariff—Supplement 206 to Southern Freight Association, agent, tariff ICC S-600.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-2916; Filed, Mar. 10, 1970; 8:47 a.m.]

[Ex Parte No. 265; Special Permission No. 70-3700]

INCREASED FREIGHT RATES, 1970

Order. At a general session of the Interstate Commerce Commission held at its office in Washington, D.C., this 6th day of March 1970.

Upon consideration of a petition dated March 3, 1970, filed by Edward A. Kaier and other attorneys for and on behalf of railroads of the United States, and on behalf of certain water and motor carriers having joint rates with said railroads for authority (1) to depart from the Commission's tariff publishing rules to the extent necessary to enable such carriers to publish a general increase in freight rates and charges applicable within, from, to, and via eastern territory as defined in Appendix II to the petition, and within, from, to, and via western territory as defined in said Appendix II, by means of a master tariff and other short-form methods, (2) for authority to publish and establish such increases in such rates on 1 day's notice to the Commission and to the public, effective March 11, 1970, and (3) for modification of all outstanding orders of the Commission to the extent necessary to permit only the publication of the aforesaid increases in rates and charges;

For good cause shown: *It is ordered:*

1. All railroads, and water and motor carriers having joint rates with said railroads, and their tariff publishing agents be, and they are hereby, authorized to depart from the Commission's tariff publishing rules when posting and filing tariffs to become effective on not less than 75 days' notice to the Commission and to the public, but not earlier than June 2, 1970, providing for increased rates and charges set forth above in the following manner:

(a) By publication and filing of a master tariff of increased rates and charges, which shall contain a provision reading substantially as follows:

In the event any increases resulting from the application of this tariff exceed the increases subsequently approved or prescribed by the Interstate Commerce Commission, the carriers will refund the difference between the increases resulting from the application of this tariff and any increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with 4-percent interest.

In the event an increase resulting from the application of this tariff is disapproved by the Commission and no increase is authorized, the carriers will refund the full amount of the increase collected with 4-percent interest.

(b) By publication and filing of connecting-link supplements to one or more tariffs connecting such a tariff or tariffs with the master tariff of increased rates and charges.

(c) By publication and filing of tariffs or supplements of specific increased rates and charges, subject to the same provisions concerning refunds as contained in paragraph 1(a), and

(d) By publication of provisions in tariffs or supplements subjecting the rates and charges therein to the provisions of the master tariff.

2. (1) Master tariffs, supplements thereto, and supplements to tariffs which are issued in short-form method shall bear notation reading substantially as follows:

The form of this publication is permitted by authority of Interstate Commerce Commission Permission No. 70-3700 of March 6th, 1970.

(2) Other tariffs or supplements containing specific increased rates or charges shall bear notation reading:

This publication is issued under authority of Interstate Commerce Commission Permission No. 70-3700 of March 6th, 1970.

3. Connecting-link supplements authorized herein shall be exempt from the Commission's tariff publishing rules relating to the number of supplements and volume of supplemental matter permitted. This and all other relief from the Commission's tariff publishing rules authorized herein shall expire with March 6th, 1971.

4. Outstanding orders of the Commission are modified only to the extent necessary to permit the filing of tariffs containing the proposed increased rates and charges, and all tariffs filed shall be subject to protest, suspension, or rejection.

And it is further ordered, That notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-2938; Filed, Mar. 10, 1970; 8:49 a.m.]

[Notice 2]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MARCH 6, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)), and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-67308 (Deviation No. 4), COLONIAL TRAILWAYS, 520 North Court Street, Montgomery, Ala. 36104, filed February 26, 1970. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage, and light express* in the same vehicle with passengers, over a deviation route as follows: From Mobile, Ala., over Interstate Highway 10 to junction U.S. Highway 90 near the Alabama-Mississippi State line, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Mobile, Ala., over U.S. Highway 90 to junction Interstate Highway 10 near the Alabama-Mississippi State line, and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-2913; Filed, Mar. 10, 1970; 8:46 a.m.]

[Notice 22]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MARCH 6, 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 110420 (Sub-No. 609) filed February 23, 1970. Applicant: QUALITY CARRIERS, INC., 100 South Calumet Street, Burlington, Wis. 53105. Applicant's representative: A. Bryant Torhorst (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Organic ammonia compounds, and fatty acids*, in bulk, from McCook, Ill., to points in Alabama, Georgia, Maryland, Massachusetts, New Jersey, New York, North Carolina, Tennessee, and Virginia. NOTE: Applicant states that it can tack to serve Janesville and Milwaukee, Wis., however, such tacking is not now intended. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved.

HEARING: March 20, 1970, before Examiner Donald R. Sutherland, in Room 2302-C, U.S. Courthouse and Federal Office Building, 219 South Dearborn Street, Chicago, Ill.

No. MC 119226 (Sub-No. 75), filed February 9, 1970. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, Ind. 46227. Applicant's representative: Robert W. Loser, 1001 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and vegetable oils, and blends, and products thereof*, in bulk, in tank vehicles, between points in Will County, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought.

HEARING: March 18, 1970, in Room 2303-C, U.S. Courthouse and Federal Office Building, 219 South Dearborn Street, Chicago, Ill., before Examiner Donald R. Sutherland.

No. MC 128616 (Republication), filed September 28, 1966, published in the FEDERAL REGISTER issue of October 20, 1966, and republished this issue. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representatives: Melvin E. Bailet or Warren W. Wallin (same address as applicant). By application filed September 28, 1966, as amended, applicant seeks a permit authorizing operation, in interstate or foreign commerce, as a contract carrier by motor vehicle, under contracts with unspecified banks and banking institutions of commercial papers, documents, written instruments, and business records (except currency and negotiable securities) as are used in the conduct of banks and banking institutions, between points in a number of Midwestern States. By this application applicant seeks (a) conversion of those portions of its outstanding certificates covering cash letters to corresponding contract carrier authority; (b) retention of the balance of its certificated rights; and (c) approval of the resulting dual operations. The application was initially the subject of an oral hearing and an examiner's report and order recommending denial of the application for lack of any supporting evidence. By order of March 27, 1968, the proceeding was reopened for further oral hearing for the limited purpose of cross-examination of certain shipper witnesses who had submitted verified statements, as well as applicant's and protestant's company witnesses. An order of the Commission, Division 1, acting as an Appellate Division, dated February 10, 1970, and served February 17, 1970, finds that operation by applicant as a *contract carrier* by motor vehicle, in interstate or foreign commerce pursuant to continuing contracts with person as defined in section 203(a)(1) of the Interstate Commerce Act who are engaged in business as banks or banking institutions, of such *commercial papers, documents, and written instruments* (except currency and negotiable securities), as are used in the business of banks and banking institutions:

(1) Between Chicago, Ill., on the one hand, and, on the other, those points in Indiana on and north of U.S. Highway 40, those points in Wisconsin in the counties of Waukesha, Racine, Milwaukee, Manitowoc, Brown, Winnebago, Fond du Lac, Washington, Outagamie, Ozaukee, Kewaunee, Calumet, Rock, Dane, Sheboygan, Walworth, Jefferson, Dodge, Columbia, and Kenosha, and those points in Michigan in the counties of Berrien, Cass, St. Joseph, Branch, Hillsdale, Monroe, Lenawee, Van Buren, Kalamazoo, Calhoun, Jackson, Washtenaw, Wayne, Allegan, Barry, Eaton, Ingham, Livingston, Oakland, Macomb, Ottawa, Kent, Ionia, Clinton, Shiawassee, Genesee, Lapeer, St. Clair, Muskegon, Montcalm, Gratiot, Saginaw, Tuscola, Sanilac, Oceana, Newaygo, Mecosta, Isabella, Midland, Bay, and Huron; (2) between Detroit, Mich., and Toledo, Ohio; (3) between Kansas City and St. Joseph, Mo., on the one hand, and, on the other, points in Kansas and those in Nebraska in the counties of Otoe, Cass, Sarpy, Douglas, Lancaster, Johnson, and Nemaha; (4) between Omaha, Nebr., on the one hand, and, on the other, points in Woodbury and Monona Counties, Iowa; (5) between Detroit, on the one hand, and, on the other, points in St. Joseph and Elkhart Counties, Ind.; (6) between Toledo, Ohio, on the one hand, and, on the other, points in Monroe and Lenawee Counties, Mich.; (7) between points in Utah, on the one hand, and, on the other, points in Idaho; (8) between Cleveland, Ohio, and Detroit; (9) between Joplin, Mo., on the one hand, and, on the other, Baxter Springs and Galena, Kans.; (10) between Indianapolis, Ind., and Danville, Ill.;

(11)(a) Between St. Louis, Mo., on the one hand, and, on the other, points in Illinois; and (b) between Memphis, Tenn., on the one hand, and, on the other, St. Louis, Caruthersville, and Sikeston, Mo., with the authority set forth in (a) and (b) above to serve St. Louis and Caruthersville restricted against the provision of service at points in the commercial zones thereof which are located outside of Missouri; (12)(a) between Omaha and Lincoln, Nebr., and Denver, Colo., on the one hand, and, on the other, points in Wyoming; and (b) between Omaha and Lincoln, Nebr., on the one hand, and, on the other, Denver, Colo.; and (13) between St. Joseph, Mo., on the one hand, and, on the other, points in Richardson, Pawnee, Gage, Jefferson, Thayer, Saline, Seward, Saunders, Butler, Dodge, Washington, Rock, Furnas, Hitchcock, Clay, Franklin, Fillmore, Hall, Nuckolls, Adams, Redwillow, Webster, and Harlan Counties, Nebr., and Fremont, Page, Montgomery, Mills, Pottawattamie, Taylor, Union, and Ringgold Counties, Iowa, will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able to perform such service and to conform to the requirements of the Interstate Commerce Act, and the Commission's rules and regulations thereunder; that a permit authorizing such operations should be granted concurrently with (a) the revocation of certificates Nos. MC 114553 and subnumbers thereunder, or portions thereof, to the extent that they authorize the transportation of cash letters (those commercial papers, documents, and written instruments which are being transported for banks and banking institutions); and (b) the receipt of applicant's written requests for modification of its existing certificates Nos. MC 114533 (Sub-Nos. 74, 114, and 139) so as to restrict said certificates against the transportation of cash letters; that under section 210 of the act, upon revocation of the authority as set forth above, the holding of a permit by applicant authorizing the operations

herein described, and the holding by applicant of the certificates heretofore issued to it, as herein required to be modified, will be consistent with the public interest and the national transportation policy, subject to the right of the Commission, which is hereby expressly reserved, to impose such terms conditions, or limitations in the future as it may find necessary to insure that applicant's operations shall conform to the provisions of section 210 of the Interstate Commerce Act. 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 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.

NOTICE OF FILING OF PETITIONS

No. MC 2890 (Sub-No. 25) (Notice of Filing of Petition for Modification of Certificate), filed February 20, 1970. Petitioner: AMERICAN BUSLINES, INC., Post Office Box 730, Wichita, Kans. 67201. Petitioner's representatives: D. Paul Stafford, 315 Continental Avenue, Dallas, Tex. 75207, and Andrew P. Goldstein, 1730 Rhode Island Avenue NW., Washington, D.C. 20036. Petitioner holds authority in No. MC 2890 (Sub-No. 25) to transport passengers and their baggage, and of express and newspapers in the same vehicle with passengers, between Philadelphia, Pa., and New York, N.Y., over specified regular routes, serving no intermediate points, and subject to certain restrictions, including the following: "That service over all such routes, both the New Jersey Turnpike and access routes, shall be limited to the transportation of passengers, baggage, express and newspapers on through buses operated by applicant between Harrisburg, Pa., or points west thereof, on the one hand, and, on the other, New York, N.Y." By the instant petition, petitioner requests that the restriction in its Sub-No. 25 certificate be modified so as to allow it to serve all intermediate points between Philadelphia, on the one hand, and, on the other, the intersection of New Jersey Highway 73 and the interchange approach roads to the New Jersey Turnpike at the Camden interchange. Petitioner states that it is not requesting a removal of that portion of the Sub-No. 25 certificate which would restrict the use of that certificate to buses operating from or to Harrisburg or points west thereof. It is seeking only to use its through buses to provide service at these intermediate points in New Jersey, and the retention of the Harrisburg restriction will continue to insure that it will not operate extra buses on a particular schedule solely for the purpose of transporting passengers in purely local service between Philadelphia and New York City. 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 22593 (Notice of Filing of Petition for Modification of Certificate), filed January 27, 1970. Petitioner: RICO TRANSPORTATION CO., INC., South River, N.J. Petitioner's representative: Alexander Markowitz, Post Office Box 793, Vineland, N.J. 08360. Petitioner holds certificate No. MC–22593, authorizing the transportation of general commodities (except those of unusual value, dangerous explosives, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in Sussex, Middlesex, Mercer, and Monmouth Counties, N.J., and that part of Burlington County, N.J., on and north of New Jersey Highway 40, on the one hand, and, on the other, New York, N.Y., and points in Nassau and Westchester Counties, N.Y. By the instant petition, petitioner requests individual consideration, pursuant to the procedure described in the Sixth Supplemental Report in *Commercial Zones and Terminal Areas*, 45 M.C.C. 21, at page 58, of its terminal area at New York, N.Y., to permit terminal area service from and to all points in New Jersey within 5 miles of New York, N.Y., including those points within 5-mile radius not within the "exempt" zone as defined in *New York, N.Y., Commercial Zone*, 111 M.C.C. 123. In effect, the relief sought would constitute a modification of petitioner's certificate, and the petition therefore will be treated as a petition for the modification of petitioner's certificate No. MC–22593.

No oral hearing is contemplated in this proceeding, and any interested person desiring to participate may file an original and seven copies of written representations, views, or argument in support of or against the petition on or before April 17, 1970. A copy of each such statement must be served on petitioner's representative.

No. MC 52932 (Sub-Nos. 11 and 16) (Notice of Filing of Petition for Reconsideration and for Modification of Certificates), filed February 16, 1970. Petitioner: NORTH PENN TRANSFER, INC., Box 230, Lansdale, Pa. 19446. Petitioner's representative: John W. Frame, Box 626–2207, Old Gettysburg Road, Camp Hill, Pa. 17011. Petitioner holds authority in No. MC 52932 Sub 11 to transport, over irregular routes, Machinery, between points in Montgomery County, Pa., on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode, Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, Ohio, and the District of Columbia. It holds authority in No. MC 52932 Sub 16 to transport, over irregular routes, machinery, between points in Bucks, Delaware, and Philadelphia Counties, Pa., on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode, Island, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, Ohio, and the District of Columbia. By the instant petition, petitioner seeks the modification of its Sub 11 and Sub 16 certificates as follows: "Machinery and commodities, the transportation of which because of their size or weight require special handling or special equipment; and self-propelled articles, each weighing 15,000 pounds or more (when transported on trailers)." 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 101219 (Sub-No. 7) (Notice of Filing of Petition for Modification and Amendment of Certificate), filed December 22, 1969. Petitioner: MERIT DRESS DELIVERY, INC., 524 West 36th Street, New York, N.Y. 10018. Petitioner's representative: Herman B. J. Weckstein, 60 Park Place, Newark, N.J. 07102. Petitioner states it is authorized in No. MC 101219 Sub 7 to transport over regular and irregular routes, as here pertinent: Women's and children's garments and materials therefor, from points in Rhode Island, except Providence, Bristol, Crompton, Pawtucket, and Warren, and those in Newport County and from points in Bristol, Norfolk, Middlesex, and Essex Counties, Mass., except Fall River, Taunton, Boston, Cambridge, New Bedford, North Attleboro, and Waltham, over irregular routes to junction Connecticut Highway 84, thence over Connecticut Highway 84 to junction U.S. Highway 1, and thence over U.S. Highway 1 to New York, N.Y.; and materials for women's and children's garments, from New York over the above-specified routes to junction irregular routes, thence over irregular routes to the above-specified origin points. Service is not authorized to or from intermediate points on the above specified routes. As may be observed, materials may be transported in either direction; but the garments, limited to women's and children's, may be transported only in a southbound direction. By the instant petition, the territory, as described, will remain unchanged, and no extension thereto is sought. However, to avoid any possible infractions, and more accurately describe the operations, petitioner prays that the certificate be amended as follows: *"Garments and materials and supplies for the manufacture thereof,* between points in Rhode Island (except Providence, Bristol, Crompton, Pawtucket, and Warren, and those in Newport County), and points and places in Bristol, Norfolk, Middlesex, Suffolk, and Essex Counties, Mass. (except Fall River, Taunton, Boston, Cambridge, New Bedford, North Attleboro, and Waltham), on the one hand, and, on the other, New York, N.Y., over irregular routes."

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 120634 (Sub-No. 18) (Notice of Filing of Petition for Waiver of Rule 1101.101(e), and Reopening, for Reconsideration on the Present Record, and for Issuance of a Corrected Certificate), filed January 19, 1970. Petitioner: JOE HODGES TRANSPORTATION CORPORATION, Oklahoma City, Okla. Petitioner's representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, Tex. 75202. The above-named carrier holds certificate No. MC 120634 (Sub-No. 18), dated December 19, 1969, which authorizes the transportation of general commodities, over regular routes, between, as here pertinent, Oklahoma City, Okla., and Boise City, Okla., serving no intermediate points, and serving the off-route points in Keyes, Okla., and named plantsites. By the instant petition, petitioner seeks to modify the said certificate to authorize service between all intermediate points in connection with the above-described authority; that the proposed service was inadvertently omitted from the application as originally filed, but that the evidence of record warrants a grant of the additional authority sought. An order, Operating Rights Board, dated February 18, 1970, orders that Certificate No. MC 120634 (Sub-No. 18), dated December 19, 1969, be amended by deleting the word "no" from where it appears on the second line of sheet 2 of said certificate, and substituting in lieu thereof, the word "all". 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 grant of authority as modified, a notice of the authority actually granted will be published in the FEDERAL REGISTER, and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 129455 (Notice of Filing of Petition To Modify Permit), filed February 9, 1970. Petitioner: CARRETTA TRUCKING, INC., Jersey City, N.J. Petitioner's representative: Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102. Petitioner is authorized in No. MC 129455 to conduct operations as a motor contract carrier, over irregular routes, transporting: Swimming pools, garden sheds, and radiator enclosures, from the plantsite of Quaker City Industries at Carlstadt, N.J., to points in Arkansas, California, Illinois, Indiana, Kentucky, Michigan, Minnesota, Missouri, New York, Ohio, Oklahoma, Virginia (except Arlington and Fairfax Counties), and those in that part of Pennsylvania west of the Susquehanna River, with no transportation for compensation on return except as otherwise authorized. Redwood lumber, from Fortuna, Calif., to the plantsite of Quaker City Industries at Carlstadt, N.J., with no transportation for compensation on return except as otherwise authorized. Materials and supplies, used in the manufacture of swimming pools and garden sheds, from St. Louis, Mo., and Bakerstown, Pa., to the plantsite of Quaker City Industries at Carlstadt, N.J., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Quaker City Industries of Carlstadt, N.J. By the instant petition, petitioner seeks to amend its permit by adding Paterson, N.J., as an origin point in that portion of such permit authorizing the transportation of swimming pools, garden sheds, and radiator enclosures, and by adding Paterson, N.J., as a destination point in those portions of said permit authorizing the transportation of redwood lumber and materials and supplies used in the manufacture of swimming pools and garden sheds. No other modification is requested. 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 129699 (Notice of Filing of Petition To Modify Permit by Adding Additional Contracting Shipper), filed February 16, 1970. Petitioner: T. J. TRUCKING CO., INC., 1518 Tanglewood Lane, Lakewood, N.J. 08701. Petitioner's representative: Herman B. J. Weckstein, 60 Park Place, Newark, N.J. 07102. Petitioner holds authority in No. MC 129699 as a contract carrier, by motor vehicle, to transport, over irregular routes, Kitchen cabinets, counter tops, bathroom furniture, and materials and supplies (except in bulk) used in the manufacture of kitchen cabinets, counter tops, and bathroom furniture, between Lakewood, N.J., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Ohio, Rhode Island, Pennsylvania, Virginia, Vermont, West Virginia, Illinois, Indiana, Kentucky, North Carolina, and the District of Columbia, restricted to a transportation service to be performed, under a continuing contract, or contracts, with Excel Wood Products Co., Inc., and its affiliate, Marvel Laminating Co., Inc., of Lakewood, N.J. By the instant petition, petitioner requests that its permit be modified by adding as an additional contracting shipper, American Cabinet Corp., doing business as Acme Milling & Lumber Co., of Toms River, N.J. 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.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO EXTENT APPLICABLE

No. MC 8948 (Sub-No. 90) (Amendment), filed November 3, 1969, published FEDERAL REGISTER issue of December 24, 1969, amended February 18, 1970, and republished as amended this issue. Applicant: WESTERN GILLETTE, INC., 2550 East 28th Street, Los Angeles, Calif. 90058. Applicant's representative: Theodore W. Russell, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General freight and papers*, between points in Lake, McHenry, Boone, Winnebago, Dekalb, Kane, Du Page, Cook, Kendall and Will Counties, Ill.; those in Ogle County, Ill., on and east of Illinois Highway 2; those in Lee County, Ill., on and east of U.S. Highway 52; and those in La Salle and Grundy Counties, Ill., on an north of U.S. Highway 6. NOTE: Applicant states that it proposes to join the authority here sought with its existing authority, at Chicago, Ill., and points within its commercial zone; and to provide through service between all points applicant is presently authorized to serve and all points applicant seeks to serve in the within application. This is a matter directly related to MC-F-10649, published in the FEDERAL REGISTER issue of November 13, 1969. The purpose of this application is to convert the certificate of registration in MC 98808 (Sub-No. 1) into a certificate of public convenience and necessity. Common control may be involved. The purpose of this republication is to add Du Page County to the territorial description. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Los Angeles, Calif.

No. MC 30530 (Sub-No. 10) filed February 9, 1970. Applicant: NORTH EASTERN MOTOR FREIGHT, INC., 5231 Monroe Street, Denver, Colo. 80216. Applicant's representative: Alvin J. Meiklejohn, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, and except livestock, dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, (1) between Denver and Sterling, Colo., from Denver over U.S. Highway 6 and Interstate Highway 80S to Sterling, and return over the same route, serving the intermediate points of Fort Morgan, Brush, Hillrose, Merino and Atwood, Colo.; (2) between Sterling and Julesburg, Colo., over U.S. Highway 138 to Julesburg, and return over the same route, serving all intermediate points; and (3) between Sterling, Colo., and Lorenzo, Nebr., from

Sterling over U.S. Highway 138 to junction Colorado Highway 113, approximately 3 miles west of Iliff, Colo., thence over Colorado Highway 113 to the Colorado-Nebraska State line, thence over Nebraska Highway 19 to Lorenzo, Nebr., and return over the same route, serving all intermediate points, and serving points in the oil and gas fields known as the Adena and Little Beaver Fields located in Washington and Adams Counties, Colo., and the Yenter Field located in Morgan and Logan Counties, Colo., as off-route points in connection with the carrier's presently authorized regular route operations. NOTE: Common control may be involved. This application is a matter directly related to Docket No. MC–F–10746, published FEDERAL REGISTER issue of February 18, 1970. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 77016 (Sub-No. 10), filed February 9, 1970. Applicant: BUDIG TRUCKING CO., a corporation, 1100 Gest Street, Cincinnati, Ohio 45203. Applicant's representative: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular 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), (1) between Maysville, Ky., and Maysville, Ky., and in a circuitous manner as follows: From Maysville over Kentucky Highway 10 to Brooksville, Ky., thence over Kentucky Highway 19 to Augusta, Ky., thence over Kentucky Highway 435 to Minerva, Ky., thence over unnumbered county road to Dover, Ky., thence over Kentucky Highway 8 to Maysville, serving all intermediate points, and (2) between Maysville, Ky., and the Boone County Airport, Boone County, Ky., from Maysville over Kentucky Highway 10 to its junction with U.S. Highway 27, thence over U.S. Highway 27 to its junction with U.S. Highway 42, thence over U.S. Highway 42 to Erlanger, Ky., thence over Kentucky Highway 236 to the Boone County Airport and return over the same route, serving all intermediate points; but restricted however to the transportation of freight having a prior or subsequent movement by air. NOTE: The application is a matter directly related to MC–F 10750, published in the FEDERAL REGISTER issue of February 18, 1970, wherein applicant seeks to convert the certificate of registration of Howard Flora under MC 99351 (Sub-No. 2) into a certificate of public convenience and necessity. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–10771. Authority sought for purchase by REFRIGERATED FOODS, INC., Post Office Box 1018, Denver, Colo. 80201, of a portion of the operating rights of BILYEU REFRIGERATED TRANSPORT CORPORATION, Post Office Box 688, Marshall, Mo. 65340, and for acquisition by MELBURNE SMOOKLER and RALPH LEMBERG, both of 3200 Blake Street, Denver, Colo. 80205, of control of such rights through the purchase. Applicants' attorneys: Stockton and Lewis, The 1650 Grant Street Building, Denver, Colo. 80203. Operating rights sought to be transferred: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles, and hides, as a *common carrier*, over irregular routes, from the plantsites and warehouses of Sterling Colorado Beef Packers, at or near Sterling, Colo., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, and Tennessee, from the plantsites and warehouses of American Beef Packers, Inc., at or near Fort Morgan, Colo., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, and Tennessee, with restrictions. Vendee is authorized to operate as a *contract carrier* in Colorado, Nebraska, California, Arizona, Nevada, Texas, Idaho, Montana, New Mexico, Oregon, Utah, Washington, and Wyoming. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10772. Authority sought for purchase by HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road SE., Marietta, Ga. 30060, of a portion of the operating rights of E. L. POWELL & SONS TRUCKING CO., INC., Post Office Box 356, Tulsa, Okla. 74101, and for acquisition by JIMMIE H. AYER, also of Marietta, Ga., of control of such rights through the purchase. Applicants' attorney: Robert E. Born, Post Office Box 6426, Station A, Marietta, Ga. 30060. Operating rights sought to be transferred: *Commodities*, the transportation of which, by reason of size or weight, requires the use of special equipment, and *parts thereof* when moving in connection therewith, *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and byproducts, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, all restricted against the transportation of any such commodities to be used in, or in connection with, main or trunk pipelines, as a *common carrier*, over irregular routes, between Kansas City, Kans., and points in Missouri and Kansas within 100 miles thereof, on the one hand, and, on the other, points in Utah and Arizona, with restriction. Vendee is authorized to operate as a *common carrier* in Alabama, Arkansas, Connecticut, Georgia, Delaware, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, New Jersey, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10773. Authority sought for purchase by MICHIGAN & NEBRASKA TRANSIT CO., 693 Plymouth Avenue NE., Grand Rapids, Mich. 49505, of a portion of the operating rights of BILYEU REFRIGERATED TRANSPORT CORPORATION, Post Office Box 688, Marshall, Mo. 65340, and for acquisition by LOUIS W. HANDS, MARY ELLEN VEGA, DANIEL O. HANDS, MARY J. HANDS, and KATHLEEN A. SOMMERS, all also of Grand Rapids, Mich., of control of such rights through the purchase. Applicants' attorney: Jack H. Blanshan, 29 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be transferred: *Foodstuffs* (except in bulk), and *advertising matter, display racks, and premiums* when moving at the same time and in the same vehicle with foodstuffs, as a *common carrier*, over irregular routes, from the facilities of American Home Foods Division of American Home Products Corp. at La Porte, Ind., to points in Arkansas, Kansas, Missouri, and Oklahoma, with restriction. Vendee is authorized to operate as a *common carrier* in Michigan, Nebraska, Illinois, Missouri, Indiana, Iowa, Minnesota, Ohio, and South Dakota. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10774. Authority sought for purchase by K. L. BREEDEN & SONS, INC., 401 Alamo Street, Terrell, Tex. 75160, of a portion of the operating rights of J. H. MARKS TRUCKING CO., INC., Post Office Box 2192, Odessa, Tex. 79760, and for acquisition by K. L. BREEDEN, SR., 401 Alamo Street, Terrell, Tex., K. L. BREEDEN, JR., 1801 Colquitt Road, Terrell, Tex., and PETER M. BREEDEN, Box 207, Ore City, Tex., of control of such rights through the purchase. Applicants' attorney: James W. Hightower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Operating rights sought to be transferred: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts; and *machinery, equipment, materials, and supplies* used in, or in connection with the

construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, except the stringing and picking up of pipe in connection with main pipelines, as a *common carrier* over irregular routes, between points in that part of Texas on, west and south of a line beginning at the Texas-Oklahoma State line, and extending along U.S. Highway 81 to San Antonio, Tex., thence along U.S. Highway 90 to Houston, Tex., and thence along U.S. Highway 75 to Galveston, Tex., on the one hand, and, on the other, points in Colorado, Utah, Wyoming, and Montana; *machinery, materials, supplies and equipment* incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between points in Louisiana and Texas; and *earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment; (b) the completion of holes or wells drilled; (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites; and (d) the injection or removal of commodities into or from holes or wells, between points in that part of Texas on, west and south of a line beginning at the Texas-Oklahoma State line, and extending along U.S. Highway 81 to San Antonio, thence along U.S. Highway 90 to Houston, Tex., and thence along U.S. Highway 75 to Galveston, Tex., on the one hand, and, on the other, points in Colorado, Utah, Wyoming, and Montana, between points in Louisiana and Texas. Vendee is authorized to operate as a *common carrier* in Texas, Arkansas, Louisiana, Oklahoma, Kansas, Georgia, Florida, Alabama, Tennessee, and Mississippi. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10776. Authority sought for purchase by SILVER EAGLE COMPANY, 5885 Northwest St. Helens Road, Portland, Oreg. 97210, of a portion of the operating rights of LARMER TRANSFER COMPANY, Post Office Box 7527, Salem, Oreg. 97308, and for acquisition by JULIUS GAUSSOIN, ROY GAUSSOIN, both also of Portland, Oreg., and ROSS GAUSSOIN, Route 2, Box 788, Tacoma, Wash. 98423, of control of such rights through the purchase. Applicants' attorney: William B. Adams, 624 Pacific Building, Portland, Oreg. 97204. Operating rights sought to be transferred: *General commodities*, except those of unusual value, high explosives, commodities in bulk, and those injurious or contaminating to other lading, as a *common carrier*, over regular routes, between Salem, Oreg., and Portland, Oreg., serving Woodburn, Oreg., on northbound trip only; and *general commodities*, except those of unusual value, high explosives, commodities in bulk, and those injurious or contaminating to other lading, over irregular routes, between Salem, Oreg., on the one hand, and, on the other, points in Polk and Marion Counties, Oreg. Vendee is authorized to operate as a *common carrier* in Oregon, Washington, and Idaho. Application has not been filed for temporary authority under section 210a(b).

MOTOR CARRIER OF PASSENGERS

No. MC-F-10775. Authority sought for control and merger by EMPIRE LINES, INC., 1125 Sprague Avenue West, Spokane, Wash., of the operating rights and property of OKANOGAN VALLEY BUS LINES, INC., 1125 Sprague Avenue West, Spokane, Wash., and for acquisition by WERNER ROSENQUIST, and GLADYS ROSENQUIST, both of 605 15th Avenue West, Spokane, Wash., of control of such rights and property through the transaction. Applicants' attorneys: Brown & Thayer; Attention: Lawrence W. Thayer, 902 Paulsen Building, Spokane, Wash. 99201. Operating rights sought to be controlled and merged: Passengers and their baggage, and express, mail and newspapers in the same vehicle with passengers, as a *common carrier*, over regular routes, between Republic, Wash., and Spokane, Wash., between the boundary of the United States and Canada at a point on U.S. Highway 97 north of Oroville, Wash., and Tonasket, Wash., between Chelan, Wash., and Wilbur, Wash., serving all intermediate points, with restrictions; between Grand Coulee, Wash., and junction unnumbered county road and Washington Highway 10 at Sims, Wash., between Almira, Wash,, and junction Washington Highways 2 and 4C, serving all intermediate points; and passengers and their baggage and express and newspapers in the same vehicle with passengers, between the port of entry on the United States-Canada boundary line north of Oroville, Wash., and Wenatchee, Wash., between the port of entry on the United States-Canada boundary line north of Northport, Wash., and Spokane, Wash., serving certain intermediate points, between Valley Junction, Wash., and East Loon Lake, Wash., serving the intermediate point of Springdale. EMPIRE LINES, INC., is authorized to operate as a *common carrier* in Washington, and Idaho. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-2911; Filed, Mar. 10, 1970; 8:46 a.m.]

[Notice 24]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MARCH 6, 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

The applications immediately following are assigned for hearing at the time and place designated in the notice of filing as here published in each proceeding. All of the proceedings are subject to the special rules of procedure for hearing outlined below:

Special rules of procedure for hearing. (1) All of the testimony to be adduced by applicant's company witnesses shall be in the form of written statements which shall be submitted at the hearing at the time and place indicated.

(2) All of the written statements by applicant's company witnesses shall be offered in evidence at the hearing in the same manner as any other type of evidence. The witnesses submitting the written statements shall be made available at the hearing for cross-examination, if such becomes necessary.

(3) The written statements by applicant's company witnesses, if received in evidence, will be accepted as exhibits. To the extent the written statements refer to attached documents such as copies of operating authority, etc., they should be referred to in written statement as numbered appendices thereto.

(4) The admissibility of the evidence contained in the written statements and the appendices thereto, will be at the time of offer, subject to the same rules as if the evidence were produced in the usual manner.

(5) Supplemental testimony by a witness to correct errors or to supply inadvertent omissions in his written statement is permissible.

No. MC 126305 (Sub-No. 24), filed February 4, 1970. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., Clayton, Ala. 36016. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, iron or steel, fitting, valves, hydrants, and gaskets*, from Birmingham, Ala., to points in Pennsylvania, New York, New Jersey, Maryland, Delaware, Massachusetts, Connecticut, Rhode Island, New Hampshire, Maine, and Vermont. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

HEARING: April 13, 1970, in the Thomas Jefferson Hotel, Second Avenue

and 17th Street North, Birmingham, Ala., before Examiner William A. Royall.

No. MC 126305 (Sub-No. 25), filed February 4, 1970. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., Clayton, Ala. 36016. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, iron or steel; fittings; valves; hydrants, and gaskets* from Birmingham, Ala., to points in North Carolina and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

HEARING: April 13, 1970, in the Thomas Jefferson Hotel, Second Avenue and 17th Street North, Birmingham, Ala., before Examiner William A. Royall.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-2912; Filed, Mar. 10, 1970; 8:46 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

MARCH 6, 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 number amending Common Carrier Motor Carrier Certificate 2709, filed February 20, 1970. Applicant: BLUEBONNET EXPRESS, INC., 5009 Rusk Avenue, Houston, Tex. 77023. Applicant's representative: Joe G. Fender, 802 Houston First Savings Building, Houston, Tex. 77002. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of (1) *general commodities*, over Texas State Highway 36 between Sealy and Brenham, via Bellville, serving all intermediate points along said route; and (2) to eliminate the restriction in applicant's present general commodities certificate which prohibits transportation from Austin to Bastrop, Tex., over its presently authorized routes. All service here proposed in (1) and (2) will be coordinated with service presently rendered under existing certificates, interchanging at appropriate points with other carriers, subject to the following restrictions: No service shall be rendered in the transportation of any package or article weighing more than fifty (50) pounds. No service shall be provided in the service of packages or articles weighing in the aggregate more than one hundred (100) pounds from one consignor at one location to one consignee at one location on any one day. Both intrastate and interstate authority sought.

Hearing: Approximately 30 days after publication of notice in the FEDERAL REGISTER at the Railroad Commission of Texas, Hearing Rooms, Austin, Tex. Requests for procedural information, including the time for filing protests concerning this application should be addressed to the Railroad Commission of Texas, Transportation Division, Capitol Station, Post Office Drawer EE, Austin, Tex. 78711, and should not be directed to the Interstate Commerce Commission.

State Docket No. M-5402 filed February 5, 1970. Applicant: ROBERT KEENAN, Keenan's Port of Dardanelle, Post Office Box 178, Dardanelle, Ark. 72834. Applicant's representative: Thomas Harper, Post Office Box 43, Fort Smith, Ark. 72901. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, including those requiring special equipment for handling (except household goods as defined by the Interstate Commerce Commission and except petroleum, petroleum products, acids, and chemicals in bulk) limited to transportation only of such of same commodities moving immediately prior to or immediately subsequently after by water carrier, between the sites of Keenan's Port of Dardanelle and/or Keenan's River Warehouse, Inc., both at Dardanelle, Ark., and all points and places in the State of Arkansas on and west of U.S. Highway No. 65 between the Missouri-Arkansas State line and Little Rock, Ark., excluding Little Rock and its commercial zone, and on and west of U.S. Highway No. 167 between Little Rock, Ark., and the Louisiana-Arkansas State line, excluding Little Rock and its commercial zone. NOTE: Applicant desires to transport the above commodities between the points mentioned at Dardanelle, Ark., and all points and places in the State of Arkansas within that portion of the State above described when such transportation is solely in intrastate commerce, and also to participate in the transportation of interstate shipments originating at or destined to the above points within the State of Arkansas and which movement would be a part of an inbound or outbound continuous interstate shipment.

HEARING: Tuesday, May 19, 1970 at 10 a.m., Arkansas Commerce Commission, Justice Building, Little Rock, Ark. Requests for procedural information, including the time for filing protests concerning this application should be addressed to the Arkansas Commerce Commission, Justice Building, Little Rock, Ark. 72201, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-2910; Filed, Mar. 10, 1970; 8:46 a.m.]

[Notice 38]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 5, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 3252 (Sub-No. 63 TA), filed February 27, 1970. Applicant: MERRILL TRANSPORT CO., 1037 Forest Avenue, Portland, Maine 04103. Applicant's representative: Francis E. Barrett, Jr., 536 Granite Street, Braintree, Mass. 02184. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste chemicals*, in bulk, in tank vehicles, from Williston, Vt., to Meriden, Conn., and Carlstadt, N.J., for 180 days. Supporting shipper: S. T. Griswold and Co., Inc., Williston, Vt. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Post Office Box 167, PSS, Portland, Maine 04112.

No. MC 13095 (Sub-No. 7 TA), filed February 27, 1970. Applicant: WUNNICKE TRANSFER LINES, INC., 101 South Buchanan Street, Boscobel, Wis. 53805. Applicant's representative: R. H. Porter, 121 South Pinckney Street, Madison, Wis. 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Butter*, from Richland Center, Wis., to Dubuque, Iowa, for 180 days. Supporting shipper: Breakstone Sugar Creek Foods, Division of Kraftco Corp., 450 East Illinois Street, Chicago, Ill. 60611.

Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 444 West Main Street, Room 11, Madison, Wis. 53703.

No. MC 56388 (Sub-No. 33 TA), filed February 27, 1970. Applicant: HAHN TRANSPORTATION INC., New Market, Md. 21774. Applicant's representative: Francis J. Ortman, Suite 770, Mills Building, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone and limestone products*, from Frederick, Md., to points in North Carolina on and east of U.S. Highway 29, for 180 days. Supporting shipper: M. J. Grove Lime Co., Frederick, Md. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Room 2218, Washington, D.C. 20423.

No. MC 80430 (Sub-No. 134 TA), filed February 27, 1970. Applicant: GATEWAY TRANSPORTATION CO., INC., 2130 South Avenue, La Crosse, Wis. 54601. Applicant's representative: James Wharton, Post Office Box 231, Orlando, Fla. 32802. Authority sought to operate as a *common carrier*, by motor vehicle, over regular 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 commodities requiring special equipment), serving points in Florida located on and east of a line beginning at the Gulf of Mexico at Yankeetown, Fla., thence along Florida Highway 40 to intersection with U.S. Highway 41, thence north along U.S. Highway 41 to Williston, Fla., thence over Florida Highway 121 to Gainesville, Fla., thence over Florida Highway 24 to point of intersection with U.S. Highway 301, thence along U.S. Highway 301 to the Florida-Georgia State line, as off-route and intermediate points in connection with applicant's presently authorized routes in Florida, which regular-route authority extends to points in Minnesota, Wisconsin, Iowa, Illinois, Missouri, Michigan, Indiana, Ohio, Pennsylvania, New York, New Jersey, Rhode Island, Connecticut, Massachusetts, Kentucky, Tennessee, and Georgia, for 180 days. Supporting shippers: There are some 42 statements of support attached to the application that may be examined here at the Offices of the Interstate Commerce Commission, in Washington, D.C., or at the field office named below. Send protests to: District Supervisor Barney L. Hardin, Interstate Commerce Commission, Bureau of Operations, 444 West Main Street, Room 11, Madison, Wis. 53703.

No. MC 96098 (Sub-No. 40 TA), filed February 27, 1970. Applicant: MILTON TRANSPORTATION, INC., Rural Delivery 2, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and related products, machinery, scrap paper, cores, alum, and other raw materials and paper ingredients, paper mill supplies, and other property*, between the facilities of the New York & Pennsylvania Co., Inc., at Johnsonburg, Pa., on the one hand, and, on the other, points in New Jersey, New York, District of Columbia, Virginia, West Virginia, Maryland, Ohio, within 80 miles of Greenville, Pa., and Delaware, under contract with New York & Pennsylvania Co., Inc., Johnsonburg, Pa., for 180 days. Supporting shipper: New York & Pennsylvania Co., Inc., Johnsonburg, Pa. 15845. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, Post Office Box 869, Harrisburg, Pa. 17108.

No. MC 107295 (Sub-No. 306 TA), filed February 27, 1970. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood flooring*, from Warren, Ark., to points in Pennsylvania, New York, and Virginia, for 180 days. Supporting shipper: Wilson Oak Flooring Co., Inc., Post Office Box 509, Warren, Ark. 71671. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 107295 (Sub-No. 307 TA), filed February 27, 1970. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hardwood flooring, and accessories used in the installation and completion thereof*, from Magnolia, Ark., to points in Maryland, New Jersey, New York, Massachusetts, Pennsylvania, Virginia, West Virginia, and Washington, D.C., for 180 days. Supporting shipper: Peace Flooring Co., Inc., Post Office Box 87, Magnolia, Ark. 71753. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 107295 (Sub-No. 308 TA), filed February 27, 1970. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Farmer City, Ill. 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden cabinets*, from Jeffersonville, Ind., to points in Colorado, Iowa, Kansas, Oklahoma, Minnesota, Nebraska, South Dakota, Texas, and Wisconsin, for 180 days. Supporting shipper: Pluswood Industries, Post Office Box 1340, Oshkosh, Wis. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, Ill. 62704.

No. MC 112750 (Sub-No. 272 TA), filed February 26, 1970. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments and business records* (except currency and negotiable securities) as are used in the business of banks and banking institutions, between Cincinnati and Dayton, Ohio, on the one hand, and, on the other, Columbus, Ohio, on traffic having an immediately prior or subsequent movement by air, for 150 days. Supporting shippers: Winters National Bank & Trust Co., 40 North Main Street, Dayton, Ohio 45401; Cincinnati Branch, Federal Reserve Bank of Cleveland, Post Office Box 99, Cincinnati, Ohio 45201.

No. MC 114789 (Sub-No. 26 TA), filed February 27, 1970. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, Minn. 55359. Applicant's representative: M. James Levitus (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products and animal and poultry feed*, from Reedsburg and Eau Claire, Wis., to points in Texas and Shreveport, La., for 180 days. NOTE: Applicant states it will tack with authority is in MC 114789, Sub. 12. Supporting shipper: Land O' Lakes Creameries, Inc., 2215 Kennedy Street NE., Minneapolis, Minn. 55413. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 123505 (Sub-No. 3 TA), filed February 26, 1970. Applicant: KRAUS TRANSPORT LIMITED, 406 Gilbert Avenue, Toronto 10, Ontario, Canada. Applicant's representative: William J. Hirsch, 43 Niagara Street, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rough and dressed lumber*, between ports of entry on the United States-Canada boundary line located in New York, on the one hand, and, on the other, points in Maine, North Carolina, and Tennessee, for 180 days. Supporting shippers: Powerlock Floors Inc., 2028 Chancellor Street, Philadelphia, Pa. 19103; Siegner Lumber Ltd., 55 Queen Street South Kitchener, Ontario, Canada; R. Read Co., Ltd., 159 Bay Street, Toronto 1, Ontario, Canada; Cut-Rite Lumber Co., Ltd., 1801 Eglinton Avenue West, Toronto, Ontario, Canada; The Atlantic Lumber Co., 234 Congress Street, Boston, Mass. 02176; Abbott Mading & Tardif, Inc., 13 South Cayuga Road, Williamsville, N.Y. 14221. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, N.Y. 14203.

No. MC 127303 (Sub-No. 8 TA), filed February 26, 1970. Applicant: HENRY ZELLMER, doing business as ZELLMER TRUCK LINES, Box 441, Granville, Ill. 61326. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as *common carrier*, by motor vehicle, over irregular routes, transporting:

Malt beverages and related advertising material; (1) from Omaha, Nebr., to Aurora, Berwyn, Champaign, Chicago, East Dubuque, Galesburg, Joliet, Peoria, Peru, Rock Island, Rockford, and Waukegan, Ill., and Goodland, Hebron, Lafayette, and Michigan City, Ind.; and (2) from Minneapolis, Minn., to Champaign, East Dubuque, Galesburg, Rock Island, and Waukegan, Ill., and Goodland, Hebron, Lafayette, and Michigan City, Ind., for 180 days. Supporting shipper: Grain Belt Breweries, Inc., Omaha, Nebr. Send protests to: Raymond E. Mauk, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 128642 (Sub-No. 5 TA), filed February 26, 1970. Applicant: SKYLINE TRANSPORT, INC., 6120 Eastbourne Avenue, Baltimore, Md. 21224. Applicant's representative: J. Meredith Russell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup, corn syrup blends, and blends of corn syrup and sucrose*, from Baltimore, Md., to points in Delaware, New Jersey, and Pennsylvania, for 180 days. Supporting shippers: American Maize-Products Co., 250 Park Ave., New York, N.Y. 10017; Anheuser-Busch, Inc., St. Louis, Mo. 63118; Clinton Corn Processing Co., Division of Standard Brands, Inc., Clinton, Iowa 52732; Kent Handling Co., Inc., Post Office Box 6307, Baltimore, Md. 21230. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1125 Federal Building, Baltimore, Md. 21201.

No. MC 129631 (Sub-No. 11 TA), filed February 26, 1970. Applicant: PACK TRANSPORT, INC., Post Office Box 17233, Salt Lake City, Utah 84117. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products, and forest products*, from West Yellowstone, Polson, Kalispell, and Columbia Falls, Mont., to those points in Idaho south of Idaho County, Idaho, from points in Idaho to those in Summit County, Utah, for 180 days. Supporting shippers: There are approximately (5) statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 133534 (Sub-No. 2 TA), filed February 27, 1970. Applicant: ROBERT V. MARKT, 1409 Rifle Terrace, St. Joseph, Mo. 64506. Applicant's representative: Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed*, from St. Joseph, Mo., to points in Saline and Woodson Counties, Kans., for 180 days. Supporting shipper: Benton Du-It Feeds, St. Joseph, Mo. 64504. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 133655 (Sub-No. 17 TA), filed February 27, 1970. Applicant: TRANSNATIONAL TRUCK, INC., Post Office Box 4168, Amarillo, Tex. 79105. Applicant's representative: Harley E. Laughlin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, from Friona, Tex., to points in Massachusetts, New Jersey, New York, and Pennsylvania, for 120 days. Supporting shipper: Missouri Beef Packers, Inc., Post Office Box 129, Rock Port, Mo. (Norman L. Cummins, Director of Physical Distribution & Transportation). Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 918 Tyler Street, Amarillo, Tex. 79101.

No. MC 133725 (Sub-No. 3 TA), filed February 25, 1970. Applicant: SAME DAY TRUCKING CO., INC., 400 Newark Avenue, Piscataway, N.J. 08854. Applicant's representative: Paul J. Keeler, Post Office Box 253, South Plainfield, N.J. 07080. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tailpipes, exhaust pipes, shock absorbers, brake parts, muffler, and automotive parts and materials* used in installation of such commodities, from North Brunswick, N.J., to Philadelphia, Pa., New York, N.Y.; points in Nassau and Suffolk Counties, N.Y., points in Massachusetts, Rhode Island, Connecticut, Delaware, and those in Maryland on and east of U.S. Highway 15 (except Baltimore, Md.), under contract with Midas International Corp., for 120 days. Supporting shipper: Midas, Inc., 1575 Jersey Avenue, North Brunswick, N.J. 08902. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70-2914; Filed, Mar. 10, 1970; 8:47 a.m.]

[Notice 39]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 6, 1970.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 107403 (Sub-No. 789 TA), filed March 2, 1970. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Organic peroxides and percarbonates*, from Barberton, Ohio, to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: PPG Industries, Inc., 1 Gateway Center, Pittsburgh, Pa. 15222. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 109637 (Sub-No. 367 TA), filed March 2, 1970. Applicant: SOUTHERN TANK LINES, INC., Post Office Box 1047, Louisville, Ky. 40201. Applicant's representative: Virginia E. Price (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from the plantsite of M & T Chemicals, Inc., at or near Carrollton, Ky., to St. Louis, Mo., East St. Louis, Ill., commercial zone, for 180 days. Supporting shipper: Paul F. Gillen, Assistant to Director of Transportation, M & T Chemicals, Inc., 100 Park Avenue, New York, N.Y. 10017. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 110420 (Sub-No. 610 TA), filed March 2, 1970. Applicant: QUALITY CARRIERS, INC., 100 South Calumet Street, Burlington, Wis. 53105. Applicant's representative: A. Bryant Torhorst (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn starch*, dry, in bulk, from Keokuk, Iowa, to Champaign, Ill., for 180 days. Supporting shipper: The Hubinger Co., Keokuk, Iowa 52632 (Harley Miller). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 112617 (Sub-No. 268 TA), filed March 2, 1970. Applicant: LIQUID TRANSPORTERS, INC., Post Office Box 21395, Louisville, Ky. 40221. Applicant's representative: James S. Holloway (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from the plantsite of M & T Chemicals, at or near Carrollton, Ky., to St. Louis, Mo., and points in the St. Louis commercial zone, for 180 days. Supporting shipper: Paul F. Gillen, Assistant to Director of Transportation, M & T Chemicals, Inc., 100 Park Avenue, New York, N.Y. 10017. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 117212 (Sub-No. 7 TA), filed February 27, 1970. Applicant: LEAMINGTON TRANSPORT (WESTERN) LIMITED, Post Office Box 188, Leamington, Ontario, Canada. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile parts and accessories*, between ports of entry on the international boundary line, between the United States and Canada located in Michigan, on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada located in Minnesota and North Dakota, restricted to traffic which subject carrier transports from a point in Canada to another point in Canada, having a prior or subsequent movement from or to a point in the United States by another carrier, for 150 days. NOTE: Applicant intends to interline with other carriers. Supporting shipper: Diesel Division, General Motors of Canada Ltd., Box 5160, London 12, Ontario, Canada. Send protests to: Gerald J. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 David Broaderick Tower, Detroit, Mich. 48226.

No. MC 124708 (Sub-No. 5 TA) (Correction), filed February 16, 1970, published in the FEDERAL REGISTER issue of February 27, 1970, and republished in part, as corrected, this issue. Applicant: MEAT PACKERS EXPRESS, INC., 222 South 72 Street, Suite 320, Omaha, Nebr. 68114. Applicant's representative: Donald A. Morken, 1000 First National Bank Building, Minneapolis, Minn. 55402. NOTE: The purpose of this partial republication is to include Kansas City, St. Louis, and Joplin, Mo., as destination points in (1). The rest of the publication remains as previously published.

No. MC 134347 TA (Correction), filed February 18, 1970, published in the FEDERAL REGISTER issue of February 27, 1970, and republished in part, as corrected, this issue. Applicant: SAMUEL M. COKER, doing business as COKER TRUCK LINE, 305 Blue Hills Drive, Nashville, Tenn. 37214. NOTE: The purpose of this partial republication is to show applicant seeks to operate as a contract carrier in lieu of common carrier.

The rest of the application remains as previously published.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-2915; Filed, Mar. 10, 1970; 8:47 a.m.]

[No. MC-C-6768]

STATUS OF CERTAIN CHURCH TRANSPORTATION

Petition for Declaratory Order

MARCH 6, 1970.

Petitioner: Southern California Conference of Seventh-Day Adventists, 1535 East Chevy Chase Drive, Glendale, Calif. 91209; petitioner's representative: A. Everett Graybill, 828 East Garfield Avenue, Glendale, Calif. 91205. By petition filed February 16, 1970, petitioner requests that the Commission enter a declaratory order determining affirmatively that the below-described transportation activities constitute those of a private carrier of property by motor vehicle as defined in section 203(a)(17) of the Interstate Commerce Act, and within the exception embodied in section 203(c) of the Act, or, alternatively that such activities are within the partial exemption of section 203(b)(9) of the Act.

Petitioner, an unincorporated local conference organization of the Seventh-day Adventist Church (the Church), has jurisdiction over the activities of the Church within a portion of the State of California. The total Church structure is worldwide and is composed of divisions, conferences, or missions. In furtherance of the church mission the church administers affiliated hospitals, clinics, elementary schools, colleges, and the like, as well as manufactures, distributes, and sells high protein food substances. These divisions and affiliates are said to utilize the corporate form where efficient administration of the church's work requires that form of organization.

Petitioner's transportation needs within its own conference have been disproportionately greater than the transportation needs of its sister conferences and institutions within their respective jurisdictions. As a consequence, petitioner operates its own motor vehicles in serving its transportation needs and, assertedly in the interest of church economy, also performs a transportation service for its church affiliates. It operates five tractor and trailer units used generally to transport either church-owned property or property owned by ministers, medical personnel, teachers, and the like, in order to facilitate the transfer of such personnel in further of the church's mission. During the last quarter of calendar year 1969, transportation services provided by petitioner for other "segments" of the church affiliates throughout the nation; a movement of organ pipes from a Seventh-day Adventist Church in Los Angeles, Calif., to an organ company in Buffalo, N.Y., for rebuilding; shipments of health food for the Loma Linda Food Co., of Loma Linda, Calif., to the warehouses of the church in Denver, Colo., and in New York; a shipment of religious literature and carpeting from New York to petitioner's office in Glendale, Calif.; shipments of bibles from Cleveland, Ohio, to Spokane, Wash., and Portland, Oreg.; a shipment of pens from Modesto, Calif., to Santa Paula, Calif.; and a shipment of 25,000 pounds of clothing from Portland, Oreg., to Watsonville, Calif. Petitioner asserts that these trips are typical of the services rendered to the church by petitioner.

During 1969, other conferences and institutions paid to petitioner a total of $203,000 computed on the basis of 70 percent of the rate of for-hire carriage. This sum assertedly was $63,000 short of covering actual costs. During the same period petitioner performed for itself transportation services valued at $41,000. Petitioner asserts that no charge is made to the individual worker whose property is moved by petitioner; and that each move is required by the employer and made at the employer's expense. Petitioner takes the position that inasmuch as the church organization is nonprofit and its transportation service is only extended to other adventist conferences and affiliates, the requested relief should be granted.

Any interested person desiring to participate in this proceeding, shall file an original and seven copies of his written representations, views, and arguments in support of, or against, the petition within 30 days from the date of publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-2918; Filed, Mar. 10, 1970; 8:47 a.m.]

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Assistant Director for Government Programs, Office of Minority Business Enterprise.

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

[F.R. Doc. 70-3005; Filed, Mar. 10, 1970; 8:50 a.m.]

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PART II

DEPARTMENT OF COMMERCE

Office of Foreign Direct Investments

FOREIGN DIRECT INVESTMENT REGULATIONS

Notice of
Proposed Rule Making

DEPARTMENT OF COMMERCE

Office of Foreign Direct Investments

[15 CFR Part 1000]

FOREIGN DIRECT INVESTMENT REGULATIONS

Notice of Proposed Rule Making

EDITORIAL NOTE: The Foreign Direct Investment Regulations (the "regulations") appear in Title 15, Chapter X, Part 1000 of the Code of Federal Regulations ("CFR"). Thus, all sections of the regulations contained in CFR are preceded by the designation "1000" (e.g., § 1000.201). The "1000" prefix has, for convenience, been eliminated from the section references contained in this notice. The term "part" when used in the regulations means Part 1000 of CFR. References to sections of the 1969 General Bulletin published by the Office of Foreign Direct Investments (the "Office") correspond to section numbers of the regulations, but are preceded by the designation "B" (e.g., § B201), and major topical subdivisions are indicated by a numerical suffix (e.g., § B201–1). The abbreviations "DI" and "AFN" are used in this notice to refer to "direct investor" and "affiliated foreign national," respectively.

Notice is hereby given that the Office of Foreign Direct Investments (the "Office") proposes to amend the Foreign Direct Investment Regulations (the "regulations"). Pursuant to these amendments a new $4 million supplemental allowable will be made available for use in Schedule A countries and the "reinvestment ratio" alternative method of computing Schedule C historical allowables will be eliminated. Other amendments, conforming or technical in nature, are also proposed.

Briefly, and in numerical order, the proposed amendments are as follows:

(a) Section 203 (c) and (d)(1) are amended to incorporate the exemptions contained in § 203(e), which is revoked. Section 203(d)(1) is also amended to exempt DIs electing new § 507 from the prohibitions of that subparagraph.

(b) Sections 301 and 302 are amended to eliminate obsolete material.

(c) New § 306(e)(3) is added to provide that a § 306(e)(1) deduction from positive direct investment calculated worldwide under § 503, and a § 306(e)(1) or a § 203(d) (2) or (3) deduction from combined positive direct investment in Schedules B and C under § 507, shall be apportioned to each scheduled area on the basis of the proportionate amount of positive direct investment made in each area. This rule is intended only to provide schedular attribution of deductions of proceeds of long-term foreign borrowing, made on an aggregate basis, upon subsequent repayment or reallocation in a year during which the DI elects an allowable requiring schedular computation of direct investment.

(d) Section 312(c)(1) is amended by renumbering the provisions of subparagraph (1) as § 312(c)(1)(i) and by adding new § 312(c)(1)(ii). New subdivision (ii) provides that any transfer of an AFN between DIs as a result of merger, consolidation or other reorganization of such DIs shall be treated in the same manner as acquisitions described in § 312(c)(1)(i); i.e., there are no transfers of capital, but revised reports must be filed.

(e) Section 502 is amended to provide for election of the new alternative minimum and $4 million Schedule A supplemental allowable contained in § 507.

(f) A technical amendment has been made in § 503(c) to add reference to § 1302 and paragraph (e) of § 504.

(g) Section 504(a)(3) is amended to eliminate the "reinvestment ratio" alternative method of computing the historical allowable in Schedule C. For 1970 and succeeding years a DI's historical allowable in Schedule C will be computed solely on the basis of 35 percent of average annual direct investment during the base period years 1965–66.

(h) Section 506 is amended to clarify the computation and application of the incremental earnings allowable and to conform to changes made in the regulations since the section was originally promulgated.

(i) Section 507 is added to provide a new allowable that may be elected starting in 1970. The § 507 allowable consists of a $1 million modified worldwide allowable (alternative minimum allowable) and a supplemental allowable of $4 million for use in Schedule A.

(j) Section 601 is amended to increase to 3 years the required retention period for records relating to transactions of a DI that are subject to the regulations or otherwise involve any of its AFNs.

(k) Sections 905 and 906 are amended to provide limitations on the use of the new § 507 allowable by members of an associated group and consenting owners of a principal DI.

(l) Section 1003 (c) and (d) are amended to clarify the order of reduction of allowables and to provide rules for the reduction of the $4 million Schedule A supplemental allowable contained in § 507.

The proposed amendments are described in greater detail as follows:

1. *Section 502 election of allowables for 1970.* Amended § 502 provides that beginning in 1970 a DI may elect the new § 507 allowable as an alternative to § 503 or § 504. See § 502(a)(4). However, as provided by § 502 (c) and (d), a DI may not elect § 503 in 1 year and § 507 in the next year, or vice versa, without obtaining prior written permission from the Office.

As with the § 503 allowable, if two DIs combine, by merger or otherwise, during the year, the surviving DI is entitled to only one § 507 allowable for such year.

DIs that elect § 507 may also use the § 506 incremental earnings allowable, but not the foreign air transport earnings allowable of § 1302. See 1969 General Bulletin § B502.

2. *Section 507 alternative minimum and Schedule A supplemental allowable.* New § 507 provides, in effect, that a DI may make positive direct investment during 1970 of $1 million on a modified worldwide basis and an additional $4 million in Schedule A. The § 507 allowable is designed to encourage additional direct investment in Schedule A while preserving, insofar as possible, the worldwide approach of the § 503 minimum allowable.

(a) *Summary.* The § 507 allowable comprises a $4 million allowable for Schedule A and a $1 million allowable for Schedules B and C combined (hereinafter sometimes referred to as "Schedules B/C"). See § 507(a) (1) and (2). To the extent not used in Schedules B/C, the $1 million allowable under § 507(a)(1) may be used to Schedule A in addition to the $4 million authorized exclusively for Schedule A under § 507 (a)(2). See § 507(b) and Examples 2 and 4 below. Direct investment in Schedules B and C is to be computed in the same manner as worldwide direct investment under § 503. See Example 1 below. The treatment of losses under § 507 is similar to the treatment of losses under § 503; i.e., losses may not offset transfers of capital but they may offset earnings in the same or other scheduled areas. See § 507 (c) and (d) and Examples 7–10 below. However, to prevent upstream use of the $4 million Schedule A supplemental allowable, the offsetting of negative transfers of capital from Schedule A under § 312(b) against positive transfers of capital to Schedules B/C under § 312(a) is not permitted. See Examples 5 and 6 below.

New § 507 is also similar to § 503 in the following respects:

(i) Unused allowables under § 507 may not be carried forward to succeeding years, and carryforwards from prior years under §§ 504 and 1302 are lost when § 507 is elected (see § 507(f));

(ii) A DI that elects to be governed by § 507 is not subject to the prohibitions of § 203(d)(1); and

(iii) The use of § 507 by members of an associated group and consenting owners of a principal DI is governed by the limitations of amended §§ 905 and 906.

(b) *Basic application of the § 507 allowable: § 570 (a) and (b).* Under § 507, direct investment in Schedule A is calculated separately from direct investment in Schedules B and C. For purposes of § 507(a)(1), direct investment in Schedules B and C is aggregated. As discussed in paragraph (c) below, annual losses in Schedule A are disregarded in calculating direct investment in Schedule A, and aggregate annual losses in Schedules B/C are disregarded in calculating direct investment in Schedules B/C. The following examples illustrate the effect of § 507 (a) and (b):

Example 1. DI has a wholly owned subsidiary (C) in Schedule C, which has a wholly owned subsidiary (A) in Schedule A, and DI has a wholly owned subsidiary (B) in Schedule B. During 1970 the following occurs: DI makes a transfer of capital of $4 million to A. A earns $200,000 and pays dividends of $200,000 to C. B makes a transfer of capital of $500,000 to DI. DI makes a transfer of capital of $1,300,000 to C. DI correctly reports positive direct investment in Schedule A of $4 million and in Schedules B and C of $1

million, all of which is authorized by § 507, computed as follows ($000 omitted):

	Scheduled area			
	A	B	C	B/C aggregate
Net transfer of capital	4,000	(500)	1,300	800
Reinvested earnings	0	0	200	200
Positive direct investment	4,000	(500)	1,500	1,000

Example 2. During 1970 DI acquires an AFN in Schedule A from an unaffiliated foreign national for $5 million and makes no direct investment in Schedule B or C. The $5 million positive direct investment is authorized by § 507 (a)(2) and (b).

Example 3. During 1970 DI's AFN (C) in Schedule C makes a transfer of capital of $500,000 to DI, and DI's Schedule B AFN (B) makes a transfer of capital of $1,500,000 to DI. DI has negative direct investment in Schedules B/C of $2 million. Therefore, under § 507 (a)(2) and (b), DI may make $7 million of positive direct investment in Schedule A during 1970.

Example 4. The following table illustrates the "downstream" use of the basic $1 million allowable pursuant to § 507(b) ($000 omitted):

If direct investment made in Schedules B/C is:	Then direct investment authorized by § 507 (a)(2) and (b) in Schedule A will be:
500	4,500.
0	5,000.
(2,000)	7,000.

Example 5. During 1970 DI makes a transfer of capital of $5 million to its Schedule A incorporated AFN (A). A, in turn, lends $5 million to DI's Schedule C incorporated AFN (C). By operation of § 505(a)(3), DI has made positive direct investment in Schedule A of zero and in Schedule C of $5 million. Only $1 million of the Schedule C investment is authorized by § 507, and DI is out of compliance to the extent of $4 million in Schedule C.

Example 6. DI has a 60%-owned subsidiary (C) in Schedule C. C has a branch (A) in Schedule A. DI transfers $4 million to A. A has no earnings, and its net assets increase by $4 million. Assuming no other transactions, DI has made positive direct investment of $2.4 million in Schedule A and $1.6 million in Schedule C, computed as follows ($000 omitted):

	Scheduled area	
	A	B
Transfers of capital:		
§ 505(a) (1) and (2)		4,000
§ 505(a) (6)		(2,400)
Net transfers of capital:		
§ 313(b)	2,400	
§ 313(a)		1,600
Positive direct investment	2,400	1,600

DI is out of compliance under § 507 to the extent of $600,000 in Schedule C.

(c) *Treatment of losses: § 507 (c), (d), and (e).* Section 507 (c) and (d) provide that, as defined in § 507(e), "annual losses" in Schedule A shall be disregarded in calculating direct investment in Schedule A and "aggregate annual losses" in Schedules B/C shall be disregarded in calculating direct investment in Schedules B/C. However, annual losses in Schedule A will reduce direct investment in Schedules B/C, to the extent of any annual earnings in Schedules B/C, and aggregate annual losses in Schedules B/C will reduce direct investment in Schedule A, to the extent of any annual earnings in Schedule A.

Section 507 (c) and (d) produce the same result as the rule in § 503(b) requiring that aggregate annual losses be disregarded. In other words, losses of incorporated and unincorporated AFNs may not offset transfers of capital but they may offset earnings either in the same or in other scheduled areas. See 1969 General Bulletin § B503–3(ii).

Annual losses in Schedule A for purposes of § 507(d) occur when the earnings results of all AFNs in Schedule A, both incorporated and unincorporated, are negative. See §§ 507(e) and 504(b)(4). Such negative amount constitutes annual losses. Aggregate annual losses in Schedules B and C are computed in the same way, except that the earnings results for the two scheduled areas are aggregated.

To "disregard" an annual loss figure means that the DI should first calculate direct investment pursuant to § 306 (which takes losses into account) and then add back the amount of the annual loss. See 1969 General Bulletin § B503–3(ii).

The following examples illustrate the method of computing and the effect of disregarding annual losses and the use of annual losses as an offset against earnings in other areas:

Example 7. DI has a branch (A) in Schedule A, a subsidiary (B) in Schedule B and a subsidiary (C) in Schedule C. During 1970 A has losses of $1 million, and its assets decrease by $600,000. For purposes of § 507 (d), DI has Schedule A annual losses of $1 million. B has earnings of $300,000, and C has losses of $500,000. No dividends are paid. For purposes of § 507(c), DI has aggregate annual losses in Schedules B/C of $200,000. DI also makes transfers of capital of $500,000 each to B and C. For purposes of § 507, DI has made positive direct investment in Schedule A of $400,000 and positive direct investment in Schedules B/C of $1 million, computed as shown in the following table ($000 omitted):

	Scheduled area	
	A	B/C
Net transfer of capital	(600)	1,000
Reinvested earnings		(200)
Direct investment under § 306	(600)	800
Add back annual losses	1,000	200
Direct investment under § 507	400	1,000

Example 8. DI has a branch (A) in Schedule A and a branch (C) in Schedule C. During 1970 A has losses of $500,000. C has earnings of $300,000, all of which are remitted to DI. A's net assets decrease by $500,000, and C's net assets have a net change of zero. For purposes of § 507, DI has made direct investment of zero in Schedule A and negative direct investment of $300,000 in Schedule C, computed as follows ($000 omitted):

	Scheduled area	
	A	B/C
Net transfer of capital: § 313(b)	(500)	0
Add back annual losses: § 507(d)	500	
Deduction for annual losses: § 507(d)		(300)
Direct investment under § 507	0	(300)

Note that the deduction from direct investment in Schedules B/C for losses in Schedule A may not exceed annual earnings in Schedules B/C. Therefore, if, in this example, C had had earnings of zero, there would have been no reduction of direct investment.

Example 9. During 1970 DI's AFNs in Schedules B and C have aggregate annual losses of $2 million, as defined in § 507(e), and pay no dividends. Under § 507(c), DI can offset earnings of incorporated and unincorporated AFNs in Schedule A to the extent of $2 million in calculating direct investment.

Assume DI reports as follows ($000 omitted):

Schedules B/C:	
(a) Net transfer of capital under § 313(c)	1,000
(b) Reinvested earnings under § 306(b)	(2,000)
(c) Direct investment under §306(a)	(1,000)
(d) Add back aggregate annual losses	2,000
(e) Positive direct investment under § 507	1,000
Schedule A:	
(a) Net transfer of capital under § 313(a)	4,000
(b) Reinvested earnings under § 306(b)	500
(c) Net transfer of capital under § 313(b)	1,500
(d) Direct investment under § 306 (a)	6,000
(e) Net earnings of unincorporated AFNs	1,500
(f) Total earnings of incorporated AFNs	500
(g) Annual earnings under § 504 (b)(4)	2,000
(h) Deduction for aggregate annual losses carried downstream from Schedules B/C under § 507 (c)	(2,000)
(i) Positive direct investment under § 507	4,000

DI would be in compliance under § 507. Note that the § 507(c) deduction for losses on line (h) cannot exceed annual earnings shown on line (g).

Example 10. In 1970 DI's sole AFN in Schedule A, a corporation, has losses of $1 million and pays no dividends. DI makes a transfer of capital to the AFN of $1 million.

Assume DI reports as follows ($000 omitted):

Schedule A:	
(a) Reinvested earnings	(1,000)
(b) Net transfer of capital under § 313(a)	1,000
(c) Direct investment under § 306 (a)	0
(d) Add back annual losses	1,000
(e) Positive direct investment under § 507	1,000

Schedules B/C:

(a) Reinvested earnings under § 306(b)	500
(b) Net transfer of capital under § 313(a)	500
(c) Net transfer of capital under § 313(b)	1,000
(d) Direct investment under § 306 (a)	2,000
(e) Net earnings of unincorporated AFNs	200
(f) Total earnings of incorporated AFNs	500
(g) Annual earnings under § 504 (b)(4)	700
(h) Deduction for annual losses caried upstream from Schedule A under § 507(d)	(700)
(i) Positive direct investment under § 507	1,300

DI would be out of compliance in Schedules B/C in the amount of $300,000. The $1 million of annual losses in Schedule A can only be used to reduce direct investment in Schedules B/C to the extent of $700,000 (i.e., annual earnings in Schedules B/C, as defined in § 504(b)(4), consisting of total earnings of all incorporated AFNs ($500,000) and net earnings of all unincorporated AFNs ($200,000)). See second proviso to § 507(d)(1).

(d) *Related provisions.* DIs electing § 507 in 1970 should see new § 306(e)(3), discussed in section 7 of this notice, if they contemplate repayment or reallocation of borrowings deducted from § 503 worldwide positive direct investment under § 306(e) in 1969.

The use of § 507 by members of an associated group and consenting owners of a principal DI is limited. See new §§ 905(b)(2)(ii) and (iii) and 906(b)(3)(iii) and (iv), discussed in section 3 of this notice.

Reduction under § 1003 of the $4 million Schedule A supplemental allowable provided for in § 507(a)(2) is governed by new § 1003(c)(5) and (d). See discussion and examples in section 6(b) of this notice.

3. *Conforming amendments in connection with § 507.* Certain technical amendments and conforming amendments have been made in §§ 203(d)(1), 905, 906, and 1003.

(a) *Exemption from § 203(d)(1).* The exemption for DIs electing § 503 from the prohibitions of § 203(d)(1) has been extended to cover DIs electing § 507.

(b) *Reductions to § 507 under § 1003.* Reduction of the new § 507 allowable under § 1003 is discussed in section 6(b) of this notice.

(c) *Amendments to §§ 905 and 906.* Sections 905 and 906 have been amended to clarify the rule limiting the use of § 503 by members of an associated group and consenting owners of a principal DI (see §§ 905(b)(2)(i) and 906(b)(3)(ii)), and also to add analogous rules limiting the use of § 507 (see §§ 905(b)(2)(ii) and (iii) and 906(b)(3)(iii) and (iv)). The limitation contained in §§ 905(b)(2)(i) and 906(b)(3)(ii) on positive direct investment made pursuant to § 503 is amended to make clear that the $1 million aggregate limit applies only to direct investment made by members of the group or consenting owners who elect § 503, and to make the $1 million limit applicable to the aggregate of direct investment rather than to the sum of positive direct investments made by such members or consenting owners.

Example 11. X, Y, and Z are members of an associated group having one group AFN. X, Y, and Z have no other AFNs. All elect § 503 for 1970 and report as follows ($000 omitted):

	Direct investment in the group AFN
X	(200)
Y	500
Z	700
Aggregate	1,000

X, Y, and Z are in compliance for 1970 under §§ 503 and 905(b)(2)(i).

Similarly, all members of an associated group that elect § 507 are treated as a single DI with respect to direct investment made by such members in group AFNs. See new § 905(b)(2)(ii). An analogous rule is provided by new § 906(b)(3)(iii) for consenting owners of a principal DI.

Example 12. W, X, Y, and Z are members of an associated group. They all elect § 507 for 1970 and report the following direct investment in their group AFNS ($000 omitted):

	Scheduled area A	Scheduled area B/C
W	2,000	0
X	(1,000)	250
Y	2,000	250
Z	1,250	250
Aggregate	4,250	750

The foregoing direct investment is authorized by § 507, as limited by § 905(b)(2)(ii).

If § 503 is elected by some members of an associated group and § 507 is elected by others, direct investment by such members will be limited by § 905(b)(2)(iii) in addition to § 905(b)(2)(i), which applies to those electing § 503, and § 905(b)(2)(ii), which applies to those electing § 507. Section 905(b)(2)(iii) limits direct investment by the members electing § 503 and § 507 to $1 million to the extent made under either § 503 or the $1 million allowable of § 507(a)(1) and (b). An analogus provision applies to consenting owners of a principal DI. See § 906(b)(3)(iv).

Example 13. W, X, Y, and Z are members of an associated group. W and X elect § 503 for 1970 and report the following direct investment in group AFNs ($000 omitted):

	Worldwide direct investment	
W	300	
X	400	
Aggregate	700	[§ 503]

Y and Z elect § 507 and report the following direct investment in group AFNs ($000 omitted):

	Scheduled area A	Scheduled area B/C
Y	2,000	200
Z	2,000	200
Aggregate	[1] 4,000	[2] 400

[1] Section 507(a)(2).
[2] Section 507(a)(1).

W, X, Y, and Z are out of compliance under § 905(b)(2)(iii) to the extent of $100,000 because the aggregate direct investment made under § 503 and § 507(a)(1) [$700,000+$400,000] exceeds $1 million. Note that X and Y were in compliance under § 905(b)(2)(i) and Y and Z were in compliance under § 905(b)(2)(ii).

Assume that Y and Z had reported as follows ($000 omitted):

	Scheduled area A	Scheduled area B/C
Y	2,100	50
Z	2,000	150
Aggregate	[1] 4,100	[2] 200

[1] Consisting of 4000 [§ 507(a)(2)] and 100 [§ 507(b)].
[2] [§ 507(a)(1)].

W, X, Y, and Z would have been in compliance in this case because the aggregate of direct investment made under § 503 [$700,000], under § 507(a)(1) [$200,000] and under § 507(b) [$100,000] does not exceed $1 million.

Note that W, X, Y, and Z in this example, and in Example 12 above, must also measure compliance individually with respect to direct investment made in all of their AFNs, both group and those separately held.

4. *Schedule C historical allowable.* Section 504(a)(3) has been amended to eliminate the "reinvestment ratio" alternative method of computing the historical allowable for Schedule C. For purposes of making positive direct investment in Schedule C during 1970 and succeeding years a DI's historical allowable will be 35 percent of average annual direct investment during 1965–66 in Schedule C. Many DIs presently having no historical allowable in Schedule C, because of the limitation imposed by the reinvestment ratio, will acquire an historical allowable for direct investment in that scheduled area by virtue of this amendment. Since § 504(a)(3) presently in effect requires use of the lesser of the reinvestment ratio or the base-period direct investment experience in calculating the Schedule C historical allowable, no DI will have its historical allowable in Schedule C reduced because of this amendment. Moreover, it will not be necessary for DIs to file revised base period reports to reflect this change. which is applicable only to compliance years commencing with 1970.

5. *Section 506 incremental earnings allowable.* Section 506 has been amended to clarify the computation and use of the incremental earnings allowable. There has been no substantive change in the section, and the explanation and examples contained in § B506 of the 1969 General Bulletin will remain valid.

Section 506(a)(4) has been amended to make clear that the §§ 503 and 504 allowables referred to therein are before any reduction of such allowables pursuant to specific authorization conditions or compliance action or application of § 1003. Note that the § 507 allowable is not included with the §§ 503 and 504 allowables (as a deduction from 40 percent of incremental earnings) in calculating the incremental earnings allowable.

Section 506 (b), (c), and (d) have been amended to clarify ambiguities arising from changes in the regulations (for example, election of allowables under § 502) since § 506 was originally promulgated.

Section 506(b) applies to DIs that elect § 503. Positive direct investment is authorized in excess of $1 million to the extent of the incremental earnings allowable. Positive direct investment made pursuant to § 506 is computed according to the same rules as § 503. In other words, although aggregate annual earnings under § 506(a)(1) cannot occur in the same year as aggregate annual losses under § 503(b), the § 506(d) carryforward could be available in a year of aggregate annual losses, which are to be disregarded in calculating positive direct investment under §§ 503 and 506.

Example 14. During 1970 DI had an incremental earnings allowable of $200,000, which it did not use and may carry forward to 1971 under § 506(d). In 1971 DI elects § 503 and has aggregate annual losses under § 503(b) of $300,000. In 1971 DI may make a worldwide net transfer of capital not exceeding $1,200,000. The rule requiring that aggregate annual losses be disregarded applies to positive direct investment made under § 506, as provided by § 506(b).

In calculating positive direct investment made under § 506 in Schedule C, a DI electing § 504 must disregard total losses of all incorporated Schedule C AFNs, as provided by § 504(e). See 1969 General Bulletin § B504–6.

Example 15. During 1970 DI elects § 504 with an allowable in Schedule C of zero. DI also has in incremental earnings allowable of $200,000. During 1970 DI's Schedule C AFNs have total losses of $100,000. If DI desires to use the incremental earnings allowable in Schedule C, DI may make a positive net transfer of capital not in excess of $200,000; i.e., the losses will not be an offset for purposes of computing positive direct investment made in Schedule C under § 506. See § 506(c).

Similarly, a DI that elects § 507 must compute the additional positive direct investment made under § 506 in accordance with the rules applicable to § 507. See § 507 (c) and (d) and Examples 7–10 above.

Example 16. DI elects § 507 for 1970 and also has a § 506 incremental earnings allowable of $1 million.

DI has a wholly owned subsidiary (A) in Schedule A and a wholly owned subsidiary (C) in Schedule C. During 1970, DI makes transfers of capital to A of $4,500,000. A has losses of $500,000. C has total earnings of $5,500,000 and pays dividends of $3,500,000 to DI.

DI correctly calculates direct investment for the year as follows ($000 omitted):

	Scheduled area	
	A	B/C
Net transfer of capital: § 313(a)	4,500	0
Reinvested earnings: § 306(b)	(500)	2,000
Add back annual losses: § 507(d)	500	
Deduct annual losses: § 507(d)		(500)
Positive direct investment	4,500	1,500

The positive direct investment made by DI in this case is authorized as follows: Schedule A—$4 million by § 507(a)(2) and $500,000 by § 506; Schedules B/C—$1 million by § 507(a)(1) and $500,000 by § 506.

6. *Reduction of allowables under* § 1003. Section 1003 has been amended to clarify the order of reduction of allowables when several allowables may be available and to provide rules for reduction of the $4 million supplemental Schedule A allowable provided in new § 507(a)(2).

(a) *Order of reduction.* Amended § 1003 provides the following clarifications in the order of reduction of allowables:

(i) Unless the repayment of a borrowing is in connection with a foreign air transport borrowing, Subpart M allowables are reduced after all possible reductions have been made to Subpart E allowables for the year. See § 1003(c)(1) and (4) and Example 17 below.

(ii) The § 506 incremental earnings allowable is the last of the Subpart E allowables to be reduced. See § 1003(c)(2) and Example 22 below.

(iii) The reduction order is specified for all allowables available in Schedule C. The positive direct investment allowables in Schedule C (§ 504 (a) and (c) or (b), (d)(3), and (f)(3)(i)) are reduced before the reinvested earnings allowables (§ 504 (e) and (f)(3)(ii)). See § 1003(c)(3) and Example 18 below.

Example 17. In 1970 DI's § 504(b) earnings allowable is $600,000 in Schedule C, $1 million in Schedule B and zero in Schedule A. DI's § 1302 (Subpart M) foreign air transport allowable is $700,000. DI also has a $200,000 § 506 incremental earnings allowable. During 1970 DI repays a long-term foreign borrowing, the proceeds of which had been expended in making a transfer of capital in the amount of $2,100,000 to construct a resort hotel in Schedule B. Assuming the repayment is authorized by § 1002, DI has incurred a repayment charge of $2,100,000 under § 1003, which first reduces DI's § 504(b) allowable in Schedules B and C to zero. DI's § 506 allowable is then reduced to zero, and the Subpart M allowable is reduced to $400,000. See § 1003(c)(1) and (2).

Example 18. In 1970 DI elects § 504(b) with an allowable in Schedule C of $2 million. DI also has a carryforward under § 504(d)(3) of $300,000 as a result of negative direct investment in Schedule C during 1969 and a reinvested earnings allowable of $200,000 under § 504(f)(3)(ii) as a result of losses in Schedule C during 1968. During 1970 DI incurs a repayment charge of $2,400,000 in Schedule C. After making reductions as provided by § 1003(c)(3), DI will have left only $100,000 of the reinvested earnings allowable under § 504(f)(3)(ii).

(b) *Schedule A supplemental allowable.* The new § 507(a)(2), $4 million supplemental allowable in Schedule A will be reduced under § 1003 only to the extent that the DI has repaid a long-term foreign borrowing, the proceeds of which were expended in Schedule A or were allocated to positive direct investment in Schedule A, or to the extent that the DI has made payments on a guarantee of a Schedule A AFN borrowing or to enable such AFN to repay its borrowing. See § 1003(c)(5) and Examples 19–23 below. A DI may, however, elect not to have its § 507(a)(2) Schedule A supplemental allowable reduced in any year by a carryforward of its repayment charge under § 1003(d) with respect to Schedule A. The DI should indicate such election on Form FDI–102F filed for the year in question. See § 1003(d).

A repayment charge attributable to Schedule A will reduce the $4 million Schedule A supplemental allowable of § 507(a)(2) before reducing the basic $1 million allowable of § 507(a)(1).

Section 1003(d) has also been amended to reflect the rule that the § 507(a)(2) supplemental allowable is not reduced in all cases by a repayment charge. Accordingly, the amount of the reductions to allowables in each year determines the extent to which the repayment charge will be carried over to succeeding years.

Example 19. DI elects § 507 for 1970 and transfers $10 million to its Schedule A AFN to enable it to repay a borrowing, as authorized by § 1002(a). The repayment charge of $10 million will reduce DI's allowable in Schedule A under § 507(a)(2) to zero. See § 1003(c)(5)(i). The remaining $6 million of the repayment charge will then reduce the § 507(a)(1) allowable in Schedules B/C to zero, and there will be a carryforward charge of $5 million to 1971. In 1971 DI may elect under § 1003(d) not to have its § 507(a)(2) allowable reduced. DI's § 507(a)(1) allowable will be reduced to zero, and DI will also have a $4 million carryforward of the repayment charge to 1972, at which time DI may again elect under § 1003(d) not to have its Schedule A supplemental allowable reduced. Note that the § 1003(d) election is not available in the year the repayment charge is first incurred.

Example 20. DI elects § 507 for 1970 and transfers $5 million to its Schedule C AFN to enable it to repay a borrowing. The repayment charge will reduce DI's $1 million allowable under § 507(a)(1) to zero in 1970 and in each of the 4 succeeding years. The § 507(a)(2) Schedule A supplemental allowable will not be reduced in this case.

Example 21. DI elected § 504(a) during 1969 with allowables of $1 million in Schedule A and $1 million in Schedule B. In 1969 DI made $7 million of positive direct investment in Schedule A and $5 million in Schedule B, calculated as provided by § 306(a). To comply with the regulations, DI made a long-term foreign borrowing of $10 million and allocated $6 million of proceeds to Schedule A and the remaining $4 million to Schedule B under § 306(e). In 1970 DI elects § 507 and repays $5 million of the borrowing. DI thus incurs a repayment charge of $3 million in Schedule A and $2 million in Schedule B, apportioned as provided by § 312(a)(7). Under § 1003, DI's allowable under § 507(a)(2) in Schedule A is reduced to $1 million by the $3 million attributable to Schedule A. The $2 million attributable to Schedule B reduces the § 507(a)(1) allowable to zero in 1970 and again in 1971.

Example 22. For 1970 DI elects § 507 and also has an incremental earnings allowable of $200,000 under § 506. DI has a repayment charge of $5,100,000 in Schedule A. Under

§ 1003, the $4 million allowable is reduced to zero; then the $1 million in Schedules B and C is reduced to zero. The § 506 allowable is then reduced to $100,000.

Example 23. DI elected § 503 for 1969 and reported on Form FDI–102/102F for the year as follows ($000 omitted):

Line 11 (Reinvested earnings)	2,000
Line 12 (Transfers of capital)	3,000
Line 13 (Use of proceeds)	4,000
Line 15 (Program direct investment)	1,000

In Section VIII (Use of proceeds) of Form FDI–102/102F, DI reported as follows:

Line 40 (Expenditure of proceeds)	1,000
Line 41 (Allocation of proceeds under § 306(e)	3,000

The proceeds expended as reported on Line 40 were from the same borrowing as that allocated under § 306(e). The expenditures were: Schedule A—$850,000, and Schedule C—$150,000.

In 1970 DI elects § 507 and repays $2 million of the borrowing. DI must first apportion the § 306(e) deduction (Line 41) to each scheduled area, in accordance with new § 306(e)(3). See discussion and examples in section 7 of this notice. Assume that DI recalculates direct investment under § 306(a) (which must include deductions under § 313(d)(1) for expended proceeds) and apportions the § 306(e) deduction as follows ($000 omitted):

	Scheduled area		
	A	B	C
(a) Direct investment under § 306(a)	1,000	2,000	1,000
(b) Proportionate share	25%	50%	25%
(c) Share of § 306(e) deduction	750	1,500	750

Therefore, DI's total deductions under §§ 306(e) and 313(d)(1) in 1969 for purposes of § 312(a)(7) are: Schedule A—$1,600,000; Schedule B—$1,500,000; and Schedule C—$900,000.

Consequently, DI's repayment of $2 million in 1970 will be charged as follows: Schedule A (40%)—$800,000; Schedules B and C (60%)—$1,200,000. Under § 1003, DI's § 507(a)(2) Schedule A allowable will be reduced by $800,000, and the § 507(a)(1) allowable will be reduced to zero with a $200,000 carryforward to 1971 of the charge against § 507(a)(1).

7. *Section 306(e)(3) schedular apportionment of deductions.* New § 306(e)(3) has been added to provide for the schedular apportionment of deductions for allocation of borrowings to positive direct investment calculated on a worldwide basis under § 503 or calculated on a combined schedular basis under § 507 as to Schedules B and C. Section 306(e)(3) will be applicable only if the DI elects a schedular allowable and in the same year makes a repayment or reallocation of a borrowing previously allocated to worldwide or combined schedular investment. For example, if the DI makes a § 306(e) deduction from worldwide positive direct investment under § 503 and then repays the borrowing in a year in which § 504 or § 507 is elected, the repayment charge to each scheduled area for purposes of § 312(a)(7) is established by § 306(e)(3); and similarly for borrowings allocated to combined Schedules B/C under § 507 that are subsequently repaid in a year of electing § 504. Schedular apportionment of an aggregate deduction must also be made under § 306(e)(3) if the DI intends subsequently to reallocate between scheduled areas.

The rule of § 306(e)(3) does not apply to a deduction under § 313(d)(1), which is recognized in the scheduled area where the transfer of capital was made with available proceeds.

(a) *Recalculation of worldwide positive direct investment under § 503 and combined Schedules B/C positive direct investment under § 507.* Section 306(e)(3) deems a § 306(e) deduction to have been made in proportion to the amount of positive direct investment in each scheduled area (negative direct investment being treated as zero for this purpose). DI should, therefore, recalculate direct investment for each schedule, taking into account all interschedular transfers (§ 505), dividends and profit remittances. Treatment of aggregate annual losses (§§ 503(b) and 507(e)) in recalculating direct investment by scheduled area is discussed in paragraph (c) below.

Example 24. DI elected § 503 for 1969 and made positive direct investment worldwide of $2 million. To comply with the regulations, DI made a long-term foreign borrowing of $1 million and allocated the proceeds to positive direct investment, under § 306(e)(1).

Assume that DI recalculates 1969 direct investment by scheduled area as follows ($000 omitted):

	Scheduled area		
	A	B	C
Direct investment	1,000	(500)	1,500
Proportionate amount	40%	0%	60%

DI's deduction under § 306(e)(1) is deemed by § 306(e)(3) to have been made as follows: Schedule A—$400,000 ($1,000,000 × 40%); Schedule B—0; and Schedule C—$600,000 ($1,000,000 × 6%).

Complete or partial repayment of the borrowing will be charged under § 312(a)(7) to each scheduled area in the same proportions (Schedule A—40%; Schedule B—0%; and Schedule C—60%). The DI may also reallocate to other scheduled areas on the basis of the amounts apportioned to each area under § 306(e)(3).

Example 25. Same facts as in Example 24. For 1970 DI elects § 507 and makes positive direct investment of $1,200,000 in Schedules B/C, consisting of $600,000 (50%) in Schedule B and $600,000 (50%) in Schedule C. DI reallocates under § 203(d)(3) to Schedules B/C $200,000 of the $400,000 deemed allocated to Schedule A in 1969. The reallocation to combined positive direct investment in Schedules B/C under § 203(d)(3) is deemed by § 306(e)(3) to have been made as follows: Schedule B (50%)—$100,000; and Schedule C (50%)—$100,000.

In 1971 DI elects § 504 and repays the borrowing in full. For purposes of § 312(a)(7), deductions in each area are as follows: Schedule A—$200,000 ($400,000 deemed allocated in 1969 less $200,000 reallocated in 1970); Schedule B—$100,000 ($100,000 deemed allocated in 1970); and Schedule C—$700,000 ($600,000 deemed allocated in 1969 plus $100,000 deemed allocated in 1970). Transfers of capital under § 312(a)(7) on account of the repayment will be charged to each area in the same amounts.

(b) *Relation to § 313(d)(1) deductions.* If the DI also expended proceeds of the borrowing in making a transfer of capital, the § 313(d)(1) deduction will be recognized in the scheduled area where the transfer of capital was made, in addition to deductions deemed made in such area by § 306(e)(3), as illustrated by the following example:

Example 26. DI elected § 503 in 1969. During 1969 DI borrowed $1,500,000 and expended $500,000 in making transfers of capital to Schedule A, taking a deduction therefor under § 313(d)(1). DI also transferred $500,000 each to Schedules A and B and $1 million to Schedule C. To comply with the regulations, DI allocated the $1 million of remaining available proceeds to worldwide positive direct investment, taking a deduction under § 306(e)(1). DI's total deductions for purposes of § 312(a)(7) are: Schedule A—$750,000; Schedule B—$250,000; and Schedule C—$500,000, computed as follows ($000 omitted):

	Scheduled area		
	A	B	C
(a) Positive direct investment under § 306(a)	500	500	1,000
(b) § 306(e)(1) deduction		[1] 1,000	
(c) § 306(e)(1) deduction apportioned under § 306(e)(3)	250	250	500
(d) § 313(d)(1) deduction	500	0	0
(e) Total deductions	750	250	500

[1] Worldwide.

Complete or partial repayment of the borrowing in a subsequent year will be charged as follows if § 504 is elected: Schedule A—50 percent; Schedule B—16⅔ percent; and Schedule C—33⅓ percent. If § 507 is elected, the apportionment of the transfer of capital would be: Schedule A—50 percent; Schedules B and C—50 percent.

Note, however, that if the deduction taken under § 313(d)(1) had been on account of a separate borrowing, repayments of that borrowing would be charged in full to Schedule A; and repayments of the borrowing allocated under § 306(e) would be charged only on the basis of the § 306(e) deductions as shown on line (c) of the above table (i.e., Schedule A—25 percent; Schedule B—25 percent; and Schedule C—50 percent). An allocation under § 203(d)(2) would be made on the basis of the amount shown on line (d) of the table and reallocations under § 203(d)(2) or (3) on the basis of line (c).

(c) *Treatment of aggregate loss adjustments in recalculating direct investment by scheduled area.* The adjustments for losses in calculating direct investment provided by §§ 503(b), 507(c) and (d) are similar to a § 306(e) deduction from combined schedular investment insofar as they also are adjustments to aggregate amounts. Therefore, in recalculating direct investment for purposes of § 306(e)(3) the effect of these loss adjustments on direct investment totals for each area must also be apportioned. The loss adjustments which must be apportioned are (i) aggregate annual losses under § 503(b), (ii) Schedules B/C aggregate annual losses under § 507(c) and (iii) the deduction from direct investment in Schedules B/C on account of annual losses in Schedule A pursuant to § 507(d).

The treatment of these adjustments in recalculating schedular direct investment is as follows:

If DI had aggregate annual losses for purposes of § 503(b) or § 507(c), direct investment should be first calculated for each scheduled area pursuant to § 306 (a), taking all losses into account. Then DI should add to direct investment in each scheduled area in which annual earnings (§ 504(b)(4)) were negative such scheduled area's share of aggregate annual losses, to be determined by multiplying aggregate annual losses by a fraction, the numerator of which is such area's negative annual earnings under § 504(b)(4) and the denominator of which is the sum of negative annual earnings for all areas where annual earnings were negative. See line (d) of the table in Example 28 below.

Example 27. DI elected § 503 for 1969. DI had only incorporated AFNs in Schedules A and B. DI transferred $500,000 to Schedule A, where its AFNs earned $500,000; and DI transferred $1 million to Schedule B, where its AFNs had losses of $1 million. No dividends were paid. DI had aggregate annual losses of $500,000 and positive direct investment worldwide under § 503 of $1,500,000, calculated as follows ($000 omitted):

	Scheduled area		
	A	B	Worldwide
Reinvested earnings	500	(1,000)	(500)
Net transfer of capital	500	1,000	1,500
Positive direct investment under § 306	1,000	0	1,000
Add back aggregate annual losses			500
Positive direct investment under § 503			1,500

For purposes of the schedular recomputation, aggregate annual losses are added to direct investment in the area where annual earnings were negative (Schedule B) in proportion to such area's share of all negative annual earnings (Schedule B—100 percent). Therefore, DI's § 306(e)(1) deduction will be apportioned on the basis of $1 million positive direct investment in Schedule A and $500,000 positive direct investment in Schedule B.

Example 28. DI elected § 503 in 1969. DI had only incorporated AFNs in Schedules A and B and unincorporated AFNs in Schedule C. DI made transfers of capital of $1 million to its AFNs in Schedule A and $3 million to its AFNs in Schedule B. DI's AFNs in Schedule A earned $500,000; the Schedule B AFNs lost $600,000, and the Schedule C AFNs lost $400,000 but had an increase in net assets of $100,000. DI's aggregate annual losses under § 503(b), therefore, were $500,000. There were no dividends or profit remittances. DI's worldwide positive direct investment was $4,500,000.

The following table illustrates the recalculation by scheduled area of 1969 direct investment ($000 omitted):

	Scheduled area		
	A	B	C
(a) Reinvested earnings	500	(600)	
(b) Net transfer of capital	1,000	3,000	100
(c) Direct investment under § 306(a)	1,500	2,400	100
(d) Adjustment for aggregate annual losses for purposes of § 306(e)(3)	0	[1] 300	[2] 200
(e) Direct investment for purposes of § 306(e)(3)	1,500	2,700	300

[1] 500×600÷1,000=300.
[2] 500×400÷1,000=200.

A deduction made under § 306(e), then, is deemed apportioned to the scheduled areas as follows: ⅓ to Schedule A; ⅔ to Schedule B; and 1/15 to Schedule C.

Schedules B/C aggregate annual losses (§ 507(e)), which are disregarded in calculating Schedules B/C direct investment under § 507(c), should be treated in the same way. But because only two schedules are involved the adjustment may be simplified as follows: (i) If aggregate annual losses in Schedules B/C are the result of negative annual earnings (§ 504(b)(4)) in both schedules, add back the amount of negative annual earnings in each scheduled area; and (ii) if aggregate annual losses in Schedules B/C are the result of negative annual earnings in only one schedule, add back the amount of aggregate annual losses to such schedule.

Example 29. DI elects § 507 for 1970. DI's Schedule A AFNs have annual earnings of $2 million; DI's Schedule B AFNs have losses of $500,000; and DI's Schedule C AFNs have losses of $1 million. Therefore, under § 507(c) DI would have had Schedules B/C aggregate annual losses of $1,500,000, which are added back to direct investment in Schedules B/C but deducted from direct investment in Schedule A. If in a subsequent year it is necessary to recompute schedular direct investment for Schedules B and C pursuant to § 306(e)(3), the losses in each area should be added back to direct investment as otherwise calculated under § 306(a). The deduction in Schedule A is not affected.

The other aggregate adjustment that must be considered in a schedular recalculation of § 507 direct investment in Schedules B/C is the deduction under § 507(d) on account of annual losses in Schedule A. Section 507(d) provides that if there are annual losses in Schedule A, such losses are disregarded in calculating Schedule A direct investment but reduce direct investment in Schedules B/C to the extent of annual earnings in Schedules B/C. In making a schedular recalculation of combined Schedules B/C direct investment, the § 507(d) deduction should be apportioned on the basis of each schedule's share of positive annual earnings. See § 507(d)(2). Note that the deduction for Schedule A losses will not be possible in any year of aggregate annual losses in Schedules B/C so that it will never be necessary to make both adjustments.

Example 30. DI elects § 507 in 1970. Schedule A AFNs have annual losses of $2 million; Schedule B AFNs have annual earnings of $400,000; and Schedule C AFNs have annual earnings of $1,200,000. Under § 507(d), direct investment in Schedules B/C may be reduced by the Schedule A losses but only to the extent of $1,600,000. For purposes of § 306(e)(3) this aggregate deduction should be apportioned as follows in calculating direct investment in each schedule: Schedule B—$400,000; Schedule C—$1,200,000.

On the other hand, if there had been negative annual earnings in Schedule B of $400,000 and positive annual earnings in Schedule C of $2 million, the $1,600,000 deduction under § 507(d) would be apportioned as follows: Schedule B—0; Schedule C—$1,600,000.

It should be noted that the above recomputations will be necessary only if there are borrowing repayments or reallocations in a year of electing an allowable that is more "schedular" than the allowable elected when the borrowing deductions were made.

(d) *Apportionment by other methods.* If a DI is unable to recompute direct investment by scheduled area, the Office may, upon application, permit deductions to be apportioned on some other reasonable basis.

8. *Miscellaneous amendments.* A number of miscellaneous technical amendments that are not discussed elsewhere in this notice have been made in the following sections: §§ 203, 301, 302, 312, 503, and 601. These amendments are as follows:

Section 203 (c) and (d)(1) have been amended to incorporate the $25,000 de minimis exemptions to those provisions contained in § 203(e), which has been revoked. Paragraph (c) of § 301 has been revoked, being obsolete, and § 302(a) has been amended to conform to the change in § 301.

Section 312(c)(1) has been amended by adding a provision (new subdivision (ii)) relating to merger, consolidation or other reorganization among DIs. New § 312(c)(ii) provides, in effect, that if two or more DIs merge or otherwise reorganize, any transfer among them of interests in AFNs will be treated in the same manner as acquisitions described in § 312(c)(1)(i) (former § 312(c)(1)). In other words, no transfers of capital will occur, but there will be an allocation of direct investment items, and revised reports will be required.

In addition, the provisions of former § 312(c)(1), now contained in § 312(c)(1)(i), have been amended to provide that the attribution of §§ 313(d)(1), 306(e), and 203(d)(2) and (3) deductions will depend upon whether or not the acquiring DI assumes the obligation to repay the underlying borrowing for which the deductions were made.

Section 503(c) has been amended to include reference to § 504(e) and § 1302.

Section 601 has been amended to increase the required retention period for certain records of transactions between a DI and its AFNs. Records as to transactions concerning which information is required in any report that must be submitted to the Office must now be retained for at least 3 years after the date of the report relating to or containing information concerning the transaction. It is also provided that records of DI-AFN transactions that are not reportable must be retained for at least 3 years after the date of filing the annual report for the year in which such transaction occurred.

9. *Effect on 1969 General Bulletin.* The 1969 General Bulletin published in the FEDERAL REGISTER on November 5, 1969 (34 F.R. No. 213) interprets the regulations as in effect for 1969, and will continue to do so for 1970 to the extent not affected by these amendments. Therefore, the 1969 General Bulletin will need to be used with care in 1970.

Interested persons are invited to submit written comments, suggestions, or objections concerning the proposed amendments to the Chief Counsel, Office of Foreign Direct Investments, Department of Commerce, Washington, D.C.

20230. Communications concerning the proposed amendments will be considered if received within 30 days after publication of this notice in the FEDERAL REGISTER. Subsequent to such time, the amendments will be published in the FEDERAL REGISTER in final form as proposed or as changed in the light of comments received.

The text of the proposed amendments is as follows:

1. Paragraph (e) of § 1000.203 is revoked, and § 1000.203 (c) and (d)(1) are revised to read as follows:

§ 1000.203 Liquid foreign balances.

* * * * *

(c) Each direct investor is hereby required to limit the amount of liquid foreign balances held at the end of any month (other than those that are Canadian foreign balances, as defined in § 1000.1105(a), or are available proceeds, as defined in § 1000.324(d)) to the greater of (1) the average end-of-month amounts of such balances held by such direct investor during 1965 and 1966 (whether or not a direct investor at that time) or (2) $25,000.

(d) (1) A direct investor which holds available proceeds, as defined in § 1000.324(d), in excess of $25,000 in the form of foreign balances or in the form of securities (including debt obligations, equity interests and any other type of investment contract) of foreign nationals or in the form of any other foreign property as of the end of any year commencing with the year 1969 shall be prohibited from making a positive net transfer of capital to any scheduled area for such year, but only to the extent such positive net transfer of capital results in positive direct investment in such scheduled area for such year that is not authorized by § 1000.1002: *Provided*, That this subparagraph shall not apply to a direct investor which elects to be governed for such year by § 1000.503 or § 1000.507: *And provided further*, That for purposes of this subparagraph, allocations to positive direct investment under § 1000.306(e) or subparagraph (2) of this paragraph and reallocations under subparagraph (3) of this paragraph shall be deemed to reduce any positive net transfer of capital to a scheduled area and thereafter to reduce any reinvested earnings in such scheduled area.

* * * * *

(e) [Revoked]

2. Section 1000.301 is amended to revoke paragraph (c) of that section.

§ 1000.301 Foreign country.

* * * * *

(c) [Revoked]

* * * * *

3. Section 1000.302(a) is revised to read as follows:

§ 1000.302 Foreign national.

(a) The term "foreign national" means a foreign country (as defined in § 1000.301) and any person which is not a person within the United States (as defined in § 1000.322), including a corporation or partnership organized under the laws of a foreign country (as defined in § 1000.304(a)(1)(i)), a business venture conducted within a foreign country (as defined in § 1000.304(a)(1)(ii) and (iii)), and a foreign bank (as defined in § 1000.317(b)).

* * * * *

4. A new subparagraph (3) is added to § 1000.306(e) to read as follows:

§ 1000.306 Positive and negative direct investment.

* * * * *

(e) * * *

(3) A deduction made pursuant to subparagraph (1) of this paragraph from positive direct investment in all scheduled areas by a direct investor electing to be governed by § 1000.503 for any year, commencing with the year 1969, shall be deemed to have been made in each scheduled area in the same proportions as the amount of positive direct investment (calculated as provided in paragraph (a) of this section, but disregarding each scheduled area's proportionate share of aggregate annual losses as defined in § 1000.503(b)) made by the direct investor in such scheduled area during such year. A deduction made pursuant to subparagraph (1) of this paragraph or § 1000.203(d) (2) or (3) from positive direct investment in Schedules B and C by a direct investor electing to be governed by § 1000.507 for any year, commencing with the year 1970, shall be deemed to have been made in each such scheduled area in the same proportions as the amount of positive direct investment (calculated as provided in paragraph (a) of this section and § 1000.507(d)(2), but disregarding each such scheduled area's proportionate share of aggregate annual losses as defined in § 1000.507(e)) made by the direct investor in such scheduled area during such year. The Secretary may, upon application pursuant to § 1000.801, permit a direct investor to apportion such deductions in some other manner reasonably reflecting the direct investor's interests in each scheduled area during such year.

5. Section 1000.312(c)(1) is revised to read as follows:

§ 1000.312 Transfers of capital.

* * * * *

(c) * * *

(1) (i) An acquisition by a direct investor described in paragraph (a)(1) of this section if the acquisition is from a person within the United States acting for its own account and such person is, immediately prior to the time of acquisition, a direct investor in the affiliated foreign national. On and after June 10, 1969, if the acquisition is of an equity interest, the direct investment made by the divesting direct investor in the affiliated foreign national in the year of the acquisition and during the years 1965 and 1966 shall be deemed to have been made by the acquiring direct investor (except that the provisions of § 1000.203 (d) (2) and (3), § 1000.306(e) and § 1000.313(d)(1) shall be disregarded in calculating such direct investment, unless the acquiring direct investor shall have assumed the obligation to repay the long-term foreign borrowing in connection with which the deductions under such sections were made), and the divesting direct investor's share in earnings or losses in the affiliated foreign national prior to the acquisition for purposes of determining annual earnings, total earnings, and reinvested earnings under § 1000.504 (a)(3)(ii) and (b)(4) shall be deemed attributable to the acquiring direct investor: *Provided*, That only that portion of such direct investment and share in earnings or losses reasonably allocable to the interest acquired shall be deemed to have been made by or attributed to the acquiring direct investor: *And provided further*, That revised Forms FDI–101, and revised Forms FDI–102F for the year preceding the year in which the acquisition occurs, are filed by the acquiring and divesting direct investors on or before the end of the month following the close of the calendar quarter during which the acquisition occurs. Any direct investment, or share in earnings or losses, deemed made by or attributed to an acquiring direct investor under this subparagraph shall be excluded in the computation of direct investment or earnings or losses of the divesting direct investor.

(ii) The provisions of subdivision (i) of this subparagraph shall apply to an acquisition as described in such subdivision which occurs in connection with or as a result of any combination (by merger, consolidation, reorganization, or otherwise) of two or more direct investors, in which case the surviving direct investor shall be deemed an acquiring direct investor and any other direct investor involved in the combination shall be deemed a divesting direct investor.

* * * * *

6. Paragraph (a) and subparagraphs (3) and (4) of paragraph (a) of § 1000.502 are revised, and new paragraphs (c) and (d) are added to that section, to read as follows:

§ 1000.502 Elections with respect to §§ 1000.503, 1000.504 and 1000.507.

(a) A direct investor shall elect for each year, commencing with the year 1970, to be governed by the provisions of

* * * * *

(3) Section 1000.504(b), or

(4) Section 1000.507.

* * * * *

(c) A direct investor that elects to be governed by the provisions of § 1000.507 for any year may not thereafter elect to be governed by the provisions of § 1000.503 without obtaining prior permission of the Secretary.

(d) A direct investor that elects to be governed by the provisions of § 1000.503 for any year, commencing with the year 1970, may not thereafter elect to be governed by the provisions of § 1000.507 without obtaining prior permission of the Secretary.

7. Section 1000.503(c) is amended to read as follows:

§ 1000.503 Positive direct investment not exceeding $1 million; minimum allowable.

* * * * *

(c) If a direct investor elects to make positive direct investment during any year commencing with the year 1969 as authorized under this section, no positive direct investment shall be authorized in such year under § 1000.504 and any positive direct investment which would otherwise have been authorized in such year under § 1000.504 (d), (e), or (f) or § 1000.1302 shall, notwithstanding those provisions, not be authorized in such year or succeeding years.

* * * * *

8. Section 1000.504(a)(3) is amended to read as follows.

§ 1000.504 Authorized positive direct investment in scheduled areas; schedular allowables.

(a) * * *

(3) In Schedule C, in an amount not exceeding 35 percent of the average of direct investment by the direct investor in Schedule C during the years 1965 and 1966.

* * * * *

9. Section 1000.506(a)(4), (b), (c) and (d) are revised to read as follows:

§ 1000.506 Additional authorized positive direct investment in any one or more scheduled areas; incremental earnings allowable.

(a) * * *

(4) The term "incremental earnings allowable" means, with respect to each year beginning with the year 1970 in which there are incremental earnings, a sum equal to the amount, if any, by which 40 percent of the incremental earnings for such year exceeds the greatest of the following (computed without regard to the reduction provisions of § 1000.1003 or any authorization, exemption, ruling, compliance settlement or order, or any other order issued by the Secretary and without regard to any election made under § 1000.502(a)): (i) The amount of positive direct investment authorized to be made by the direct investor during such year in all scheduled areas under § 1000.503, or (ii) the amount of positive direct investment, if any, authorized to be made by the direct investor during such year in all scheduled areas under § 1000.504(a) (1), (2), and (3), or (iii) the amount of positive direct investment, if any, authorized to be made by the direct investor during such year in all scheduled areas under § 1000.504(b) (1), (2), and (3).

(b) For any year, commencing with the year 1970, a direct investor that elects under § 1000.502(a)(1) may make additional positive direct investment in excess of that authorized by § 1000.503 in all scheduled areas in an aggregate amount not exceeding the direct investor's incremental earnings allowable for such year. A direct investor that elects § 1000.503 shall compute additional positive direct investment made pursuant to paragraph (d) of this section in accordance with § 1000.503(b).

(c) For any year, commencing with the year 1970, a direct investor that elects under § 1000.502(a) (2) or (3) or (4) may make additional positive direct investment in excess of that authorized by § 1000.504 or § 1000.507 in any scheduled area in an amount not exceeding the direct investor's incremental earnings allowable for such year: *Provided*, That the aggregate of positive direct investment made pursuant to this paragraph in all scheduled areas shall not exceed the incremental earnings allowable. A direct investor that elects § 1000.504 shall compute additional positive direct investment made in Schedule C for such year pursuant to this section in accordance with § 1000.504(e). A direct investor that elects § 1000.507 shall compute additional positive direct investment made in Schedule A and in Schedules B and C for such year pursuant to this section in accordance with § 1000.507 (c) and (d).

(d) If, during any year commencing with the year 1970, the incremental earnings allowable authorized to a direct investor exceeds the aggregate of additional positive direct investment made in all scheduled areas pursuant to paragraph (b) or (c) of this section, the direct investor is authorized to make additional positive direct investment, during succeeding years, in the same manner as provided in paragraphs (b) and (c) of this section, in an aggregate amount not exceeding such excess.

10. A new § 1000.507 is added to read as follows:

§ 1000.507 Alternative minimum and Schedule A supplemental allowable.

(a) If for any year commencing with the year 1970 a direct investor elects under § 1000.502(a)(4), positive direct investment for such year is authorized as follows:

(1) In Schedules B and C in an aggregate amount not exceeding $1 million; and

(2) In Schedule A in an amount not exceeding $4 million.

(b) If during any year commencing with the year 1970 the aggregate amount of positive direct investment authorized to a direct investor in Schedules B and C under paragraph (a)(1) of this section exceeds the aggregate amount of direct investment (whether positive or negative) made by the direct investor during such year in Schedules B and C, the direct investor is authorized to make additional positive direct investment in Schedule A during the same year in an aggregate amount of not more than the amount of such excess.

(c) For purposes of this section, aggregate annual losses of incorporated and unincorporated affiliated foreign nationals in Schedules B and C during any year shall be disregarded in calculating aggregate direct investment made by a direct investor in Schedules B and C during such year: *Provided*, That the amount of such aggregate annual losses shall be deducted from direct investment made in Schedule A during such year: *And provided further*, That the amount so deducted shall not exceed the direct investor's annual earnings, as defined in § 1000.504(b)(4), in Schedule A for such year.

(d) (1) For purposes of this section, annual losses of incorporated and unincorporated affiliated foreign nationals in Schedule A during any year shall be disregarded in calculating direct investment made by a direct investor in Schedule A during such year: *Provided*, That the amount of such annual losses shall be deducted from the aggregate of direct investment made in Schedules B and C during such year: *And provided further*, That the amount so deducted shall not exceed the aggregate of the direct investor's annual earnings, as defined in § 1000.504(b)(4), in Schedules B and C for such year.

(2) For purposes of § 1000.306(e)(3), a deduction from direct investment in Schedules B and C pursuant to subparagraph (1) of this paragraph shall be deemed to have been made in each such scheduled area in the same proportions as the amount of annual earnings, as defined in § 1000.504(b)(4), in such scheduled area for such year: *Provided*, That annual earnings of less than zero in Schedule B or C shall, for purposes of this subparagraph, be treated as zero annual earnings in such scheduled area.

(e) For purposes of this section, the term "annual losses" means the algebraic sum of a direct investor's annual earnings in Schedule A, as defined in § 1000.504(b)(4), if such sum is negative; and the term "aggregate annual losses" means the algebraic sum of a direct investor's annual earnings, as defined in § 1000.504(b)(4), in Schedules B and C, if such sum is negative.

(f) If a direct investor elects to make positive direct investment during any year commencing with the year 1970 as authorized under this section, no positive direct investment shall be authorized in such year under § 1000.504 and any positive direct investment which would otherwise have been authorized in such year under § 1000.504 (d), (e), or (f) or § 1000.1302 shall, notwithstanding those provisions, not be authorized in such year or succeeding years.

11. Section 1000.601 is revised to read as follows:

§ 1000.601 Records.

Every person subject to the provisions of this part shall keep in the United States a full and accurate record of each transaction engaged in by it which is subject to the provisions of this part, regardless of whether such transaction is effected pursuant to authorization or otherwise, and of every other transaction between such person and an affiliated foreign national. Such records (including, but not limited to, source materials, journals or other books of original entry, ledgers, financial statements, work papers, regardless of by whom prepared, and minute books) shall

be retained for at least 3 years after the date of the filing of any report relating to or containing information concerning such transaction, whether or not the transaction is individually identified. Records relating to transactions with respect to which there is no reporting requirement shall be retained for at least 3 years after the filing of the annual report relating to the year in which such transactions occurred.

12. Section 1000.905(b)(2) is revised to read as follows:

§ 1000.905 Associated groups.

* * * * *

(b) * * *

(2) (i) Notwithstanding the provisions of § 1000.503, positive direct investment made during any year, commencing with the year 1970, by members of an associated group that elect § 1000.503 in group affiliated foreign nationals of the associated group shall not be authorized by § 1000.503, unless the aggregate of direct investment made during the year by all such members (being considered for purposes of this subdivision as a single direct investor) in all group affiliated foreign nationals would have been authorized by § 1000.503.

(ii) Notwithstanding the provisions of § 1000.507, positive direct investment made during any year, commencing with the year 1970, by members of an associated group that elect § 1000.507 in group affiliated foreign nationals of the associated group shall not be authorized by § 1000.507, unless the aggregate of direct investment made during the year by all such members (being considered for purposes of this subdivision as a single direct investor) in all group affiliated foreign nationals would have been authorized by § 1000.507.

(iii) If one or more members of an associated group elect § 1000.503 and one or more other members of the group elect § 1000.507, for any year commencing with the year 1970, positive direct investment by such members in group affiliated foreign nationals shall not be authorized by § 1000.503 or § 1000.507, unless the algebraic sum of the following is not in excess of $1,000,000: Aggregate direct investment made during the year pursuant to § 1000.503 in all group affiliated foreign nationals by the members electing § 1000.503 plus aggregate direct investment made during the year pursuant to § 1000.507 (a)(1) and (b) in all group affiliated foreign nationals by the members electing § 1000.507.

* * * * *

13. Section 1000.906(b)(3)(ii) is revised, and new subdivisions (iii) and (iv) are added to subparagraph (3) of § 1000.906(b), to read as follows:

§ 1000.906 Ownership of direct investors.

* * * * *

(b) * * *

(3) * * *

(ii) Notwithstanding the provisions of § 1000.503, positive direct investment made (or deemed to have been made under subdivision (i) of this subparagraph) during any year, commencing with the year 1970, by consenting owners that elect § 1000.503 in an affiliated foreign national of the principal direct investor shall not be authorized by § 1000.503, unless the aggregate of direct investment made or deemed to have been made during the year by all consenting and nonconsenting owners electing § 1000.503 (such owners being considered for purposes of this subdivision as a single direct investor) in all affiliated foreign nationals of the principal direct investor would have been authorized by § 1000.503.

(iii) Notwithstanding the provisions of § 1000.507, positive direct investment made (or deemed to have been made under subdivision (i) of this subparagraph) during any year, commencing with the year 1970, by consenting owners that elect § 1000.507 in an affiliated foreign national of the principal direct investor shall not be authorized by § 1000.507, unless the aggregate of direct investment made or deemed to have been made during the year by all consenting and nonconsenting owners electing § 1000.507 (such owners being considered for purposes of this subdivision as a single direct investor) in all affiliated foreign nationals of the principal direct investor would have been authorized by § 1000.507.

(iv) If one or more consenting owners elect § 1000.503 and one or more other consenting owners elect § 1000.507, for any year commencing with the year 1970, positive direct investment made (or deemed to have been made under subdivision (i) of this subparagraph) by such consenting owners in affiliated foreign nationals of the principal direct investor shall not be authorized by § 1000.503 or § 1000.507, unless the algebraic sum of the following is not in excess of $1 million: Aggregate direct investment made or deemed to have been made during the year pursuant to § 1000.503 in all affiliated foreign nationals of the principal direct investor by all consenting and nonconsenting owners that elect § 1000.503 plus aggregate direct investment made or deemed to have been made during the year pursuant to § 1000.507 (a)(1) and (b) in all affiliated foreign nationals of the principal direct investor by all consenting and nonconsenting owners that elect § 1000.507.

* * * * *

14. Section 1000.1003 (c) and (d) are revised to read as follows:

* * * * *

§ 1000.1003 Effect of transfers of capital in repayment of borrowings.

(c) (1) In any year, commencing with the year 1970, in which a repayment charge is incurred, the amount of positive direct investment authorized to be made by the direct investor shall be reduced as follows: Except as hereinafter provided, reduction shall be made first in the amount of positive direct investment authorized under Subpart E of this part in the scheduled area in which the positive direct investment under § 1000.1002 was made, and, to the extent that the repayment charge exceeds the amount of positive direct investment so authorized in such scheduled area, further reduction shall be made in the amount of positive direct investment authorized under Subpart E of this part in Schedules C, B, and A, in that order, and then in the amount of positive direct investment authorized under Subpart M of this part: *Provided*, That the amount of the reduction shall not exceed the repayment charge and that such reduction shall not reduce authorized positive direct investment under said subparts in any year to an amount less than zero.

(2) Reductions under subparagraph (1) of this paragraph in the amount of positive direct investment authorized under Subpart E of this part shall be made first in the aggregate amount of positive direct investment authorized under § 1000.503, § 1000.504, or § 1000.507 (except as provided in paragraph (d) of this section), whichever is elected by the direct investor for the year, and then in the amount of positive direct investment authorized under § 1000.506.

(3) Reductions under subparagraph (1) of this paragraph in the amount of positive direct investment authorized in Schedule C pursuant to § 1000.504 shall be made first in the amount of authorized positive direct investment under § 1000.504 (a) and (c) or (b), (d)(3), and (f)(3)(i), and then in the amount of authorized reinvested earnings under § 1000.504 (e) and (f)(3)(ii).

(4) Reductions in the amount of authorized positive direct investment under subparagraph (1) of this paragraph for a repayment charge attributable to transfers of capital primarily related to operations in foreign air transportation by direct investors described in § 1000.1302(a) shall be made first in the amount of authorized positive direct investment under Subpart M of this part.

(5) Reductions under subparagraph (1) of this paragraph in the amount of positive direct investment authorized under § 1000.507(a)(2) shall be made only to the extent that the repayment charge is the result of:

(i) Transfers of capital described in § 1000.1002(a) (1), (2), (3), or (5): *Provided*, That the borrowings referred to in § 1000.1002(a) (1), (2), (3), and (5) are borrowings of affiliated foreign nationals located in Schedule A; or

(ii) Transfers of capital described in § 1000.1002(a) (3), (4), or (6), to the extent that the proceeds of the borrowings referred to in § 1000.1002(a) (3), (4), and (6) were expended in or allocated to Schedule A, at the time of repayment, and for which a deduction was made under § 1000.203(d)(2), § 1000.203(d)(3), § 1000.306(e), or § 1000.313(d)(1).

(d) If the repayment charge incurred in any year exceeds the amount of authorized positive direct investment reduced under this section, reductions shall be made in each succeeding year in the same manner and order as set forth in paragraph (c) of this section. Notwithstanding the provisions of this paragraph (d), a direct investor may elect for any year, by so indicating on its Annual Report Form FDI-102F for such year, that the amount of positive direct investment that it is authorized to make in Schedule

A under § 1000.507(a)(2) shall not be reduced pursuant to this paragraph for such year.

15. The amendments hereby adopted shall be effective as of the date of publication in final form in the FEDERAL REGISTER and shall apply to all direct investment and affected transactions occurring during the year 1970 and succeeding years.

(Sec. 5, Act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 F.R. 47)

RICHARD P. URFER,
Director, Office of Foreign Direct Investments.

MARCH 3, 1970.

[F.R. Doc. 70-2763; Filed, Mar. 10, 1970; 8:45 a.m.]

[15 CFR Part 1000]

FOREIGN DIRECT INVESTMENT REGULATIONS

Notice of Proposed Rule Making

EDITORIAL NOTE: The Foreign Direct Investment Regulations (the "regulations") appear in Title 15, Chapter X, Part 1000 of the Code of Federal Regulations ("CFR"). Thus, all sections of the regulations contained in CFR are preceded by the designation "1000" (e.g., § 1000.201). The "1000" prefix has, for convenience, been eliminated from the section references contained in this notice. The term "part" when used in the regulations means Part 1000 of CFR. References to sections of the 1969 General Bulletin published by the Office of Foreign Direct Investments (the "Office") correspond to section numbers of the regulations, but are preceded by the designation "B" (e.g., § B201), and major topical subdivisions are indicated by a numerical suffix (e.g., § B201-1). The abbreviations "DI" and "AFN" are used in this notice to refer to "direct investor" and "affiliated foreign national," respectively.

Notice is hereby given that the Office of Foreign Direct Investments (the "Office") proposes to amend the Foreign Direct Investment Regulations (the "regulations") by the addition of proposed Subpart N (Overseas Finance Subsidiaries). Subpart N shall be effective as of the date of its publication in final form in the FEDERAL REGISTER.

In general, Subpart N accords special status to funds acquired in certain long-term borrowings from sources outside the United States and Canada by an AFN which has been qualified as an overseas finance subsidiary ("OFS"). When such funds are lent by the OFS to the DI, they may be used as an offset to positive direct investment. Such funds may also be transferred between the OFS and other AFNs of the DI without involving transfers of capital. Repayment of an OFS's qualified foreign borrowing by the DI or the OFS has much the same effect as repayment of long-term foreign borrowing by a DI. All other subparts of the regulations apply to all OFS transactions except to the extent modified by Subpart N.

The Office has previously issued specific authorizations, under § 801, which, in effect, treat certain borrowing by an OFS as "long-term foreign borrowing" under the regulations. Adoption of Subpart N will make it unnecessary for a DI to obtain such a specific authorization. Any such specific authorizations issued in 1968, 1969, or 1970 will be superseded by Subpart N as of the effective date of Subpart N.

A section-by-section analysis of Subpart N follows:

1. *Section 1401.* The definition of an OFS is contained in § 1401(a). As provided in §§ 1401(a)(3) and 1402(a), an AFN may qualify as an OFS only if the AFN's "principal business" is to borrow funds from foreign nationals, other than AFNs or Canadian persons, on terms which would qualify such borrowings as long-term foreign borrowing if made by a DI (see § 1401(b)), and to lend such borrowed funds to the DI or to lend such funds to or invest them in other AFNs.

Contributions of funds or other property by the DI to the equity capital of the OFS contribute § 312(a) transfers of capital to the OFS.

Section 1401(b) defines "overseas borrowing" as borrowing by an OFS which would be long-term foreign borrowing, under §§ 324 (a) and (e), and 1106, if made by a DI. Refinancing of overseas borrowing by subsequent overseas borrowing does not constitute a repayment of the first borrowing or the making of a new overseas borrowing.

Section 1401(c) defines "overseas proceeds" as the amount of funds or other property received by the OFS in overseas borrowing. Overseas proceeds invested by the OFS or the DI in debt obligations of or equity interests in other AFNs of the DI remain overseas proceeds until repayment of the overseas borrowing or intercompany borrowing. See § 1404.

Section 1401(d) defines "available overseas proceeds" as overseas proceeds held by the OFS. Notwithstanding § 505, available overseas proceeds may be transferred to AFNs of the DI without being included in the computation of net transfer of capital under § 313. See § 1403(a)(2).

In addition, if available overseas proceeds are transferred to the DI in "intercompany borrowing," as defined in § 1401(e), such funds become available proceeds of long-term foreign borrowing. See § 1403(a)(1). The promissory note evidencing such loan must have an original maturity of at least 12 months after the original date of the loan and the note must be held thereafter by the OFS. If the OFS ceases to hold the note at any time, (1) the loan of proceeds of overseas borrowing by the OFS to the DI will fail to qualify as an intercompany borrowing, (2) the intercompany borrowing will be deemed to have been repaid, as provided in § 1404(a), and (3) the Office may revoke the OFS's qualification, as provided in § 1402(c).

2. *Section 1402.* As provided in § 1402(a), OFS qualification is conditioned upon the filing of a certificate in letter form, addressed to the Director, Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230, which certificate shall name the AFN to be qualified as an OFS, and shall present sufficient information to demonstrate that the AFN has been organized, is presently operating, and that the DI intends that it will continue to operate as provided in § 1401(a)(1), (2), and (3). If the person signing the certificate is not an officer of the DI, evidence of authority to file such a certificate must be attached.

Any certificate filed with the Office shall be effective for the compliance year in which it is filed and thereafter, unless withdrawn by the DI with the permission of the Office or revoked by the Office, as provided in § 1402(c). The Office will not revoke any certificate unless the Office determines that the AFN was not organized, did not operate or is no longer operating in the manner provided in § 1401(a)(1), (2), and (3).

As provided in § 1402(d), all specific authorizations previously issued by the Office deeming certain financing AFNs to be persons within the United States shall be of no further effect after the effective date of Subpart N. Each such AFN shall be deemed to have qualified as an OFS under § 1402(a) as of the effective date of Subpart N, and transfers of funds or other property between the OFS, DI, and AFNs shall be governed by Subpart N after such effective date, and not by the terms of such specific authorizations.

3. *Section 1403.* Pursuant to § 1403(a)(1), the transfer of available overseas proceeds to the DI, in exchange for a promissory note of the DI having an original maturity of at least 12 months after the date of the loan, which note is thereafter held by the OFS, is not a transfer of capital under § 312(b), but does result in such proceeds of overseas borrowing being treated as available proceeds of long-term foreign borrowing, as defined in § 324(d).

Pursuant to § 1403(a)(2), transfers of available overseas proceeds by the OFS to AFNs of the DI in exchange for debt obligations of or equity interests in such AFNs do not result in transfers of capital, notwithstanding §§ 505 and 313. Pursuant to § 1403(a)(3), overseas proceeds can also be returned by AFNs to the OFS without a transfer of capital, notwithstanding §§ 505 and 313. Note, however, that repayment of the intercompany borrowing or the overseas borrowing may have the effect of reducing such overseas proceeds (see § 1404) and any subsequent transfer by the AFN to the OFS may, therefore, not be exempt from the provisions of § 505. Note also that overseas proceeds transferred by an OFS to an AFN in exchange for equity interests in such AFN are not increased by appreciation of the value of the securities.

Example 1. DI desires to make a transfer of capital to Schedule C in 1970 in the amount of $10 million. DI causes a wholly owned incorporated Schedule C AFN to organize a Schedule A OFS in the Netherlands Antilles (for which a certificate under § 1402(a) is properly filed in due course) and to contribute $2 million to such OFS as original equity capital. OFS receives $10 million from an overseas borrowing which has been fully guaranteed by the DI as to repayment of principal and payment of interest. OFS lends $10 million to DI in return for a promissory note having an original maturity of 1 year which is held by the OFS. DI expends

$10 million in a transfer of capital to Schedule C. The capitalization of the OFS results in a § 312(b) transfer of capital of $2 million from Schedule C and a § 312(a) transfer of capital of $2 million to Schedule A pursuant to § 505. The loan of $10 million by the OFS to its DI does not constitute a § 312(b) transfer of capital. However, the $10 million of overseas proceeds in the hands of the DI are deemed to be available proceeds of long-term foreign borrowing. The transfer of the $10 million to an AFN in Schedule C is a § 312(a) transfer of capital offset by expenditure of available proceeds under § 313(d)(1).

Example 2. In 1970 an OFS in Schedule C receives $10 million of overseas proceeds and invests $6 million thereof in equity interests in an AFN in Schedule B. In 1971 the DI repays $3 million, resulting in a transfer of capital to Schedule B of $3 million under § 1404(a)(2). Later in the same year the OFS sells to an unaffiliated foreign national $3 million of the stock the OFS had acquired in the Schedule B AFN. Under § 1403(a)(3), the DI may account for the sale as being free from §§ 505 and 313, and treat the remaining investment as no longer being overseas proceeds. Alternatively, the DI may treat the transfer as subject to §§ 505 and 313 and treat the $3 million still invested as overseas proceeds. The books and records required to be maintained pursuant to § 1402(b) must reflect the DI's accounting.

Example 3. A Schedule A OFS invests $6 million of available overseas proceeds in equity securities in a Schedule B AFN. Prior to repayment of the overseas borrowing, the equity interest is sold to an unaffiliated foreign national for $7 million. Only $6 million are overseas proceeds, which are free from §§ 505 and 313.

Pursuant to § 1403(b)(1), foreign balances of an OFS (other than available overseas proceeds and funds contributed as equity capital) held in liquid form are deemed to be liquid foreign balances of the DI and are subject to limitation under § 203(c).

Example 4. DI borrows $5 million from a foreign bank in long-term foreign borrowing under § 324. The $5 million are contributed by DI to an AFN as original equity capital. The AFN places such funds in a demand deposit account in the foreign bank from which the DI borrowed the $5 million. The AFN is thereafter qualified as an OFS. The funds are not considered liquid foreign balances of the DI under § 203(c). See § 1403(b).

Example 5. As a result of repayment of overseas borrowing by a DI under § 1404(a)(4), available overseas proceeds held by the OFS lose their status as overseas proceeds. Such funds held by the OFS are thereafter considered liquid foreign balances under § 203(c).

Pursuant to § 1403(b)(2), a DI who elects § 504 and whose OFS holds available overseas proceeds at the end of any year is subject to the prohibitions of § 203(d)(1).

Example 6. A DI electing § 504 organizes an AFN in the Netherlands Antilles and in due course qualifies it as an OFS. During 1970, the OFS holds available overseas proceeds of $3 million and transfers $1 million of available overseas proceeds to the DI in intercompany borrowing, thereby generating available proceeds of long-term foreign borrowing under § 1403(a)(1). On December 1, such available proceeds of long-term foreign borrowing are expended in transfers of capital. The DI is prohibited from making positive net transfers of capital which will result in positive direct investment during 1970. To avoid this prohibition, the OFS could have transferred the $3 million of available overseas proceeds either to AFNs, in exchange for debt obligations of or equity interests in such AFNs, or to the DI in intercompany borrowing.

4. *Section 1404.* Repayment of overseas borrowing by the DI or the OFS and repayment of intercompany borrowing by the DI result in transfers of capital and reductions of overseas proceeds, and may also result in reductions of available proceeds of long-term foreign borrowing. Imposition of such charges and reductions is designed to insure compliance with the principal business test set forth in § 1401(a)(3) and to achieve the general effects of § 312(a)(7) governing repayment of a DI's own long-term foreign borrowing.

Repayment of overseas or intercompany borrowing by the DI results in the following charges:

(1) Pursuant to § 1404(a)(1), transfers of capital are charged proportionately to the scheduled areas where the DI has expended or allocated available proceeds of long-term foreign borrowing, resulting from overseas borrowing, and to the extent such available proceeds are expended or allocated. Such repayments also have the effect of extinguishing the overseas proceeds used by the DI in such expenditures or allocation.

(2) Pursuant to § 1404(a)(2), if the amount of repayment exceeds the aggregate transfers of capital under § 1401(a)(1), transfers of capital will be charged to the scheduled areas where the OFS has transferred overseas proceeds pursuant to § 1403(a)(2), in proportion to and to the extent of such transfers. Such transfers of capital also extinguish the transferred funds' status as overseas proceeds.

(3) Pursuant to § 1404(a)(3), if the amount of repayment exceeds the aggregate transfers of capital under § 1404(a)(1) and (2), there is a reduction of available proceeds of long-term foreign borrowing, resulting from intercompany borrowing. Such reduction also extinguishes in equal amount the overseas proceeds held by the DI.

(4) Pursuant to § 1404(a)(4), any repayment in excess of transfers of capital and reductions of available proceeds pursuant to § 1404(a)(1), (2), and (3) is a transfer of capital to the scheduled area in which the OFS is incorporated. Overseas proceeds held by the OFS are extinguished in an amount equal to such transfer.

In the event of repayment of overseas borrowing as a result of the debt holders' exercise of conversion or similar rights, transfers of capital and reduction of available proceeds are deferred until the year following such conversion, under § 1404(a)(5).

The total amount of overseas proceeds may, due to discounts, commissions or fees, be less than the amount of the outstanding overseas borrowing. Under these circumstances, the aggregate amount of transfers of capital and reductions of proceeds pursuant to § 1404 cannot exceed the amount of overseas proceeds. See § 1404(a)(6). The amount repaid attributable to discounts, commissions or fees is deemed to be the last amount repaid.

Example 7. In 1970, a Schedule A OFS issues $10 million of debentures which are sold at a discount, and the OFS receives $9,500,000 as available overseas proceeds. The OFS transfers $1 million to Schedule C AFNs and $2 million to Schedule B AFNs. Then $6 million is transferred in intercompany borrowing to the DI, which expends $4 million in a transfer of capital to Schedule C and allocates $1,500,000 to positive direct investment in Schedule A. In 1972, $7 million of the debentures are redeemed and, in 1973, $3 million are redeemed. In 1972 the transfers of capital would be: Under § 1404(a)(1), $4 million to Schedule C and $1,500,000 to Schedule A; and under § 1404(a)(2), $500,000 to Schedule C and $1 million to Schedule B. In 1973 the transfers of capital would be: Under § 1404(a)(2), $500,000 to Schedule C and $1 million to Schedule B; under § 1404(a)(3), there would be a $500,000 reduction in available proceeds; and then under § 1404(a)(4) there would be a $500,000 transfer of capital to Schedule A. Although repayment equalled $10 million, the aggregate transfers of capital and reduction under § 1404(a)(6) equal only $9,500,000, the original amount of available overseas proceeds.

Example 8. A Schedule A OFS receives $9,500,000 from the issue of $10 million of debentures. The OFS keeps $500,000 as available overseas proceeds and $9 million are loaned to the DI in intercompany borrowing. DI does not expend or allocate the resulting available proceeds. DI repays the $10 million overseas borrowing. There are no transfers of capital under § 1404(a)(1) or (2); there is a reduction of available proceeds in the amount of $9 million under § 1404(a)(3), and under § 1404(a)(4) a transfer of capital to Schedule A of $500,000.

Example 9. A Schedule A OFS receives $10 million of overseas proceeds and transfers $6 million of overseas proceeds to an AFN in Schedule C and $4 million to an AFN in Schedule B. In 1971, the DI repays $1 million of overseas borrowing, and there are transfers of capital to Schedule C of $600,000 and to Schedule B of $400,000 under § 1404(a)(2). In 1972, the OFS disposes of its interest in the Schedule B AFN and receives $5 million in cash. Only $3,600,000 of such funds constitute overseas proceeds. The OFS lends $3,600,000 to the DI in intercompany borrowing and the DI allocates the resulting available proceeds to positive direct investment in Schedule C. In 1973, the DI repays the balance of the overseas borrowing. There is a transfer of capital to Schedule C of $3,600,000 under § 1401(a)(1) and a transfer of capital to Schedule C of $5,400,000, pursuant to § 1404(a)(2).

Pursuant to § 1404(b), repayment of overseas borrowing by the OFS first reduces available overseas proceeds and then available proceeds of long-term foreign borrowing resulting from the overseas borrowing being repaid. If the amount of repayment exceeds such reductions, the excess is treated as repayment of overseas borrowing by the direct investor under § 1404(a).

Example 10. In 1970, OFS receives $10 million of available overseas proceeds from an overseas borrowing, and lends $9 million to the DI in intercompany borrowing. The OFS invests $500,000 in debt obligations of AFNs. The DI expends $8 million of the resultant available proceeds in a transfer of capital to Schedule C. In 1971, the OFS repays $2 million. Available overseas proceeds are reduced from $500,000 to zero under § 1404(b)

(1). Available proceeds are reduced from $1 million to zero under § 1404(b)(2). There is a transfer of capital, under § 1404(a)(1), to Schedule C in the amount of $500,000.

Example 11. In 1970, an OFS receives $10 million of available overseas proceeds, lends the $10 million to the DI in intercompany borrowing, which are allocated to positive direct investment in Schedule C. DI repays intercompany borrowing, in 1971, in the amount of $10 million. Under § 1404(a)(1), there is a charge to Schedule C of $10 million, and overseas proceeds are extinguished. The OFS repays the overseas borrowing. Since there are no remaining overseas proceeds, no transfer of capital or further reduction results. See § 1404(a)(6).

5. *Section 1405.* Under § 1405 repayment by a DI of an overseas borrowing or an intercompany borrowing to enable the OFS to repay its overseas borrowing will be generally authorized in a manner similar to repayment by a DI of other AFN borrowing under Subpart J. As in the case of DI guarantees of AFN borrowing, the general authorization of § 1002 is conditioned upon the filing by the DI of a certificate pursuant to § 1002(b). Note that, by virtue of § 1405(a), DI's guarantee of an OFS borrowing that does not qualify as an overseas borrowing is not covered either by § 1405(b) or by § 1002(a).

Interested persons are invited to submit written comments, suggestions, or objections concerning proposed Subpart N to the Chief Counsel, Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230. Communications concerning proposed Subpart N will be considered if received within 30 days after publication of this notice in the FEDERAL REGISTER. Subsequent to such time, Subpart N will be published in the FEDERAL REGISTER in final form as proposed or as changed in the light of comments received.

1. A new Subpart N is added to read as follows:

Subpart N—Overseas Finance Subsidiaries

Sec.
1000.1401 Definitions.
1000.1402 Qualification.
1000.1403 Special exemptions; foreign balances.
1000.1404 Repayment of overseas borrowing and intercompany borrowing.
1000.1405 Authorized repayments.

Subpart N—Overseas Finance Subsidiaries

§ 1000.1401 Definitions.

(a) "Overseas finance subsidiary" of a direct investor means an affiliated foreign national which:

(1) Is incorporated under the laws of a foreign country other than Canada;

(2) Is directly or indirectly wholly owned (disregarding directors' qualifying shares) by the direct investor;

(3) Has as its principal business making overseas borrowing (as defined in paragraph (b) of this section) and investing available overseas proceeds (as defined in paragraph (d) of this section) in (i) debt obligations of the direct investor pursuant to intercompany borrowing (as defined in paragraph (e) of this section) or (ii) debt obligations of or equity securities in affiliated foreign nationals of the direct investor; and

(4) Has been qualified as an overseas finance subsidiary pursuant to § 1000.1402(a).

(b) "Overseas borrowing" means borrowing by an overseas finance subsidiary which, if made by a direct investor, would qualify as long-term foreign borrowing under § 1000.324. The refinancing in whole or in part of an overseas borrowing (by virtue of the renewal, extension, or continuance thereof or a subsequent overseas borrowing from the same or another lender) shall not, to that extent, be deemed a repayment of the borrowing or the making of a new borrowing.

(c) "Overseas proceeds" means the amount of funds or other property received by an overseas finance subsidiary from the first purchaser or holder in exchange for the debt obligation issued or created in connection with an overseas borrowing, less reductions provided for in § 1000.1404.

(d) "Available overseas proceeds" means overseas proceeds held by the overseas finance subsidiary.

(e) "Intercompany borrowing" means a borrowing by a direct investor from its overseas finance subsidiary of available overseas proceeds in exchange for which the overseas finance subsidiary receives and thereafter holds a debt obligation of the direct investor having an original maturity of at least 12 months from the original date of such borrowing.

§ 1000.1402 Qualification.

(a) *Certificate.* An affiliated foreign national may be qualified as an overseas finance subsidiary for any year, commencing with the year 1970, if its direct investor shall have delivered to the Secretary in such year or in any prior year a certificate executed by the direct investor, or its duly authorized representative, which certificate states that:

(1) The affiliated foreign national has been organized as provided in § 1000.1401(a)(1) and (2) and is at the date of such certification operating in a manner that its principal business is as provided in § 1000.1401(a)(3); and

(2) The direct investor will take all action necessary to cause such affiliated foreign national at all times to operate in the manner provided in § 1000.1401(a)(3).

(b) *Records.* A direct investor shall maintain books and records that identify separately each overseas borrowing and intercompany borrowing, the uses to which such borrowings have been put, and all repayments thereof.

(c) *Revocation.* Qualification as an overseas finance subsidiary may not thereafter be withdrawn or cancelled by the direct investor except as permitted by the Secretary by authorization, exemption or otherwise. The Secretary may revoke the qualification of an affiliated foreign national as an overseas finance subsidiary if he determines, in his discretion, that such affiliated foreign national was not organized as provided in § 1000.1401(a)(1) and (2), is not operating in the manner provided in § 1000.1401(a)(3), or has not complied with paragraph (b) of this section.

(d) *Effect on certain specific authorizations.* Any foreign incorporated finance subsidiary which, pursuant to specific authorization issued under § 1000.801, has been deemed to be a person within the United States, shall, from and after the effective date of this Subpart N, be governed in all respects by the provisions of this subpart in lieu of the provisions and conditions of such specific authorization, except that no certificate need be filed pursuant to subparagraph (a) of this section.

§ 1000.1403 Special exemptions: foreign balances.

(a) *Transfers of overseas proceeds.* (1) The transfer of available overseas proceeds to a direct investor by its overseas finance subsidiary in intercompany borrowing shall not be a transfer of capital pursuant to § 1000.312(b), and the overseas proceeds so transferred to the direct investor shall, at the time of such transfer, become available proceeds of long-term foreign borrowing (as defined in § 1000.324(d)) for all purposes of this part.

(2) Notwithstanding § 1000.505, the transfer of available overseas proceeds by an overseas finance subsidiary in the acquisition of equity interests in or debt obligations of other affiliated foreign nationals of the direct investor shall not be included by the direct investor in the calculation of net transfer of capital pursuant to § 1000.313.

(3) Notwithstanding § 1000.505, the transfer of overseas proceeds to an overseas finance subsidiary upon the satisfaction, liquidation, sale or other disposition of equity interests or debt obligations acquired pursuant to subparagraph (2) of this paragraph shall not be included by the direct investor in the calculation of net transfer of capital pursuant to § 1000.313.

(b) *Foreign balances; prohibited positive net transfer of capital.* (1) Foreign balances, as defined in § 1000.203(a)(1), other than (i) available overseas proceeds and (ii) funds contributed to an overseas finance subsidiary by the direct investor as original or additional equity capital, which balances are held in liquid form by an overseas finance subsidiary, shall be included in the computation of liquid foreign balances held by the direct investor for purposes of § 1000.203(c).

(2) For purposes of § 1000.203(d)(1), available overseas proceeds shall be deemed to be available proceeds of long-term foreign borrowing held by the direct investor.

§ 1000.1404 Repayment of overseas borrowing and intercompany borrowing.

(a) For purposes of this paragraph, the term "repayment" shall mean (i) complete or partial repayment by the direct investor of overseas borrowing or intercompany borrowing or (ii) complete or partial repayment of intercompany borrowing by the direct investor to enable the overseas finance subsidiary to

repay overseas borrowing. Notwithstanding § 1000.312(a) (6) and (7), a repayment shall have the effect prescribed by subparagraphs (1) through (6) of this paragraph:

(1) A repayment shall constitute a transfer of capital under § 1000.312(a) to each scheduled area in proportion to and to the extent that the direct investor has expended or allocated to such scheduled area overseas proceeds which became available proceeds of long-term foreign borrowing pursuant to § 1000.1403(a)(1). Overseas proceeds so expended or allocated shall be reduced in the amount of any transfer of capital to such scheduled area made under this subparagraph.

(2) The amount of repayment that exceeds the aggregate amount of transfers of capital made pursuant to subparagraph (1) of this paragraph shall constitute a transfer of capital under § 1000.312(a) to each scheduled area in proportion to and to the extent that the overseas financed subsidiary has, at the time of the repayment, invested overseas proceeds in other affiliated foreign nationals of the direct investor pursuant to § 1000.1403(a)(2). Overseas proceeds so invested shall be reduced by an amount equal to and to the scheduled area of the transfer of capital prescribed by this subparagraph.

(3) The amount of repayment that exceeds the aggregate amount of transfers of capital made under subparagraphs (1) and (2) of this paragraph shall reduce the amount of overseas proceeds held by the direct investor pursuant to § 1000.1403(a)(1). Overseas proceeds which became available proceeds of long-term foreign borrowing pursuant to such section shall be reduced in the same amount as the reduction of such available proceeds of long-term foreign borrowing.

(4) The amount of repayment that exceeds the aggregate amount of (i) transfers of capital pursuant to subparagraphs (1) and (2) of this paragraph and (ii) the reduction of proceeds pursuant to subparagraph (3) of this paragraph shall constitute a transfer of capital under § 1000.312(a) to the scheduled area in which the overseas finance subsidiary is incorporated. Overseas proceeds held by the overseas finance subsidiary at the time of the repayment shall be reduced in the amount of such transfer of capital.

(5) For purposes of subparagraphs (1) through (4) of this paragraph, repayment consisting of the delivery of equity securities of a direct investor to holders of debt instruments issued by the overseas finance subsidiary in connection with an overseas borrowing, pursuant to the exercise of conversion or similar rights, shall be deemed to have been made in the year immediately following the year in which the conversion or similar rights are exercised.

(6) The aggregate amount of transfers of capital and reduction of available proceeds of long-term foreign borrowing made pursuant to subparagraphs (1) through (4) of this paragraph and paragraph (b) of this section shall not exceed the amount of overseas proceeds (calculated without regard to the provisions of subparagraphs (1) through (4) of this paragraph).

(b) (1) The complete or partial repayment of an overseas borrowing by an overseas finance subsidiary shall reduce available overseas proceeds, but not to an amount less than zero. Overseas proceeds shall be reduced in the same amount as such reduction of available overseas proceeds.

(2) The amount of such repayment that exceeds the reduction of available overseas proceeds made pursuant to subparagraph (1) of this paragraph shall reduce the amount of any available proceeds of long-term foreign borrowing held by the direct investor pursuant to § 1000.1403(a)(1). Overseas proceeds which became available proceeds of long-term foreign borrowing pursuant to such section shall be reduced in the same amount as the reduction of such available proceeds of long-term foreign borrowing.

(3) The amount of such repayment that exceeds the aggregate amount of reductions of available overseas proceeds and available proceeds of long-term foreign borrowing pursuant to subparagraphs (1) and (2) of this paragraph shall be treated as repayment of overseas borrowing by the direct investor with the effects prescribed by paragraph (a) of this section.

(c) The complete or partial repayment of overseas borrowing made by an affiliated foreign national of the direct investor on behalf of an overseas finance subsidiary shall be treated as a repayment by the direct investor, as provided in paragraph (a) of this section: *Provided*, That such repayment shall also be treated as a transfer in the amount of such repayment from such affiliated foreign national to the direct investor.

§ 1000.1405 **Authorized repayments.**

(a) Overseas borrowing shall be deemed to be a borrowing by an affiliated foreign national within the meaning of § 1000.1001(a). A borrowing by an overseas finance subsidiary other than an overseas borrowing shall not be deemed to be a borrowing by an affiliated foreign national for any purposes of this part.

(b) Subject to the provisions of § 1000.1003, positive direct investment by a direct investor during any year in affiliated foreign nationals in any scheduled area is authorized, notwithstanding the provisions of § 1000.201, to the extent such positive direct investment is attributable to a transfer of capital pursuant to a guarantee in repayment of overseas borrowing or in repayment of intercompany borrowing to enable an overseas finance subsidiary to repay an overseas borrowing: *Provided*, That the direct investor shall have complied with the certification requirements set forth in § 1000.1002(b).

(c) For purposes of § 1000.1002 (b) and (c), the term "transfer of capital" shall mean a transfer of capital attributable to a repayment as defined in § 1000.1404(a).

(d) All reference to Subpart J in § 1000.1002(d) and all reference to § 1000.1002 in § 1000.1003 shall be deemed to include reference to paragraph (b) of this section.

2. The amendment hereby adopted shall be effective as of the date of publication in final form in the FEDERAL REGISTER and shall apply to all affected transactions occurring after such date except as otherwise provided in such amendment.

(Sec. 5, Act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 F.R. 47)

RICHARD P. URFER,
Director, Office of Foreign Direct Investments.

MARCH 6, 1970.

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