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Agencies in this issue—

Detailed list of Contents appears inside.

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Contents

(Continued on next page)

List of CFR Parts Affected

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

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

Rules and Regulations

Title 7—AGRICULTURE

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

PART 918—FRESH PEACHES GROWN IN GEORGIA

Expenses and Fixing of Rate of Assessment for 1970–71 Fiscal Period

Pursuant to the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of fresh peaches grown in Georgia, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the proposals submitted by the Industry Committee (established pursuant to said amended marketing agreement and order), it is hereby found and determined that:

§ 918.209 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and necessary to be incurred by the Industry Committee during the period March 1, 1970, through February 28, 1971, will amount to $14,357.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 918.41, is fixed at $0.01 per bushel basket of peaches (net weight of 48 pounds), or an equivalent of peaches in other containers or in bulk.

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in public rule-making procedure, and good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of fresh peaches have already begun; (2) the relevant provisions of said amended marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable peaches from the beginning of such period; and (3) the current fiscal period began March 1, 1970, and the rate of assessment herein fixed will automatically apply to all assessable peaches beginning with such date.

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

Dated: May 14, 1970.

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

[F.R. Doc. 70-6196; Filed, May 19, 1970; 8:47 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

1. In § 76.2, the introductory portion of paragraph (e) is amended by deleting therefrom the name of the State of West Virginia; paragraph (e)(17) relating to the State of West Virginia is deleted; and paragraph (f) is amended by adding the name of the State of West Virginia.

2. In § 76.2, paragraph (e)(19) relating to the State of Missouri is amended to read:

(19) *Missouri.* (i) That portion of Stoddard County bounded by a line beginning at the northwestern corner of Stoddard County at the junction of the Stoddard-Wayne and Stoddard-Butler County lines; thence, following the Stoddard-Wayne County line in an easterly direction to State Highway T; thence, following State Highway T in a generally northeasterly direction to the northern boundary of sec. 2, of T. 26 N., R. 8 E.; thence, following the northern boundary of secs. 2 and 1, of T. 26 N., R. 8 E., in an easterly direction to the northeastern corner of sec. 1, of T. 26 N., R. 8 E., thence following the eastern boundary of secs. 1, 12, and 13, of T. 26 N., R. 8 E. in a southerly direction to State Highway J; thence, following State Highway J in a northeasterly direction to State Highway WW; thence, following State Highway WW in a generally southeasterly direction to U.S. Highway 60; thence, following U.S. Highway 60 in a southwesterly direction to the St. Francis River (also the Stoddard-Butler County line); thence, following the east bank of the St. Francis River (also the Stoddard-Butler County line) in a northwesterly direction to its junction with the Stoddard-Wayne County line at the northwestern corner of Stoddard County.

(ii) That portion of Butler County bounded by a line beginning at the junction of the Butler, Carter, and Ripley County lines; thence, following the Butler-Ripley County line is an easterly and southerly direction to U.S. Highway 160; thence, following U.S. Highway 160 in an easterly direction to Lone Hill Road (also designated Route F); thence, following Lone Hill Road (also designated Route F) in a northerly direction to Proctor Creek; thence, following the south bank of Proctor Creek in a northwesterly direction to Ten Mile Creek; thence, following the east bank of Ten Mile Creek in a northwesterly direction to Ten Mile Road (also designated Road TT); thence, following Ten Mile Road (also designated Road TT) in a westerly direction to CCC Road (also known as Beaver Dam Tower Road); thence, following CCC Road (also known as Beaver Dam Tower Road), in a generally northwesterly direction to the Butler-Carter County line; thence, following the Butler-Carter County line in a southerly direction to its junction with the Butler, Ripley, and Carter County lines.

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

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

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

The amendments also exclude a portion of Pendleton County, W. Va., from the areas heretofore quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine or swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement from nonquarantined areas contained in said Part 76, will apply to the area excluded from quarantine.

The foregoing amendments also add the State of West Virginia to the list of hog cholera eradication States in § 76.2(f).

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

effective promptly in order to be of maximum benefit to affected persons.

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

Done at Washington, D.C., this 14th day of May 1970.

F. R. MANGHAM,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-6194; Filed, May 19, 1970; 8:47 a.m.]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

In § 76.2, in paragraph (e)(16) relating to the State of Virginia, subdivision (vi) relating to Surry, Isle of Wight, Southampton, and Sussex Counties is amended, and a new subdivision (xvii) relating to Southampton County is added to read:

(16) *Virginia.* * * *

(vi) The adjacent portions of Surry, Isle of Wight, Southampton, and Sussex Counties bounded by a line beginning at the junction of Secondary Highways 611 and 616 in Surry County; thence, following Secondary Highway 616 in a southwesterly direction to Secondary Highway 615; thence, following Secondary Highway 615 in a generally southeasterly direction to Primary State Highway 31; thence, following Primary State Highway 31 in a northeasterly direction to Secondary Highway 616; thence, following Secondary Highway 616 in a generally northeasterly direction to Secondary Highway 626; thence, following Secondary Highway 626 in a generally southeasterly direction to Secondary Highway 621; thence, following Secondary Highway 621 in a southwesterly direction to Secondary Highway 680; thence, following Secondary Highway 680 in a southeasterly direction to Secondary Highway 683; thence, following Secondary Highway 683 in a southerly direction to Secondary Highway 623; thence, following Secondary Highway 623 in a westerly direction to Secondary Highway 621; thence, following Secondary Highway 621 in a southwesterly direction to Secondary Highway 637; thence, following Secondary Highway 637 in a southeasterly direction to Secondary Road 620; thence, following Secondary Road 620 in a generally southwesterly direction to Secondary Highway 646; thence, following Secondary Highway 646 in a southeasterly direction to Secondary Highway 644; thence, following Secondary Highway 644 in a southwesterly direction to Secondary Highway 646; thence, following Secondary Highway 646 in a southeasterly direction to Secondary Highway 638; thence, following Secondary Highway 638 in a southwesterly direction to Secondary Highway 603; thence, following Secondary Highway 603 in a generally southwesterly direction to Secondary Highway 635; thence, following Secondary Highway 635 in a generally northeasterly direction to U.S. Highway 460; thence, following U.S. Highway 460 in a northwesterly direction to Secondary Highway 618; thence, following Secondary Highway 618 in a northeasterly direction to Secondary Highway 604; thence, following Secondary Highway 604 in a generally northwesterly direction to Secondary Highway 603; thence, following Secondary Highway 603 in a generally northerly direction to Secondary Highway 614; thence, following Secondary Highway 614 in a generally southwesterly direction to U.S. Highway 460; thence, following U.S. Highway 460 in a northwesterly direction to Primary State Highway 40; thence, following Primary State Highway 40 in a southwesterly direction to Secondary Highway 651; thence, following Secondary Highway 651 in a generally northwesterly direction to Secondary Highway 626; thence, following Secondary Highway 626 in a generally northwesterly direction to Secondary Highway 602; thence, following Secondary Highway 602 in a generally northeasterly direction to Secondary Highway 601; thence, following Secondary Highway 601 in a generally southeasterly direction to Secondary Highway 607; thence, following Secondary Highway 607 in a northeasterly direction to Secondary Highway 608; thence, following Secondary Highway 608 in a southeasterly direction to Primary State Highway 40; thence, following Primary State Highway 40 in a northeasterly direction to Secondary Highway 611; thence, following Secondary Highway 611 in a southeasterly direction to its junction with Secondary Highway 616.

* * * * *

(xvii) That portion of Southampton County bounded by a line beginning at the junction of U.S. Highway 58 and Primary State Highway 35; thence, following Primary State Highway 35 in a southwesterly direction to Secondary Highway 693; thence, following Secondary Highway 693 in a westerly direction to Secondary Highway 657; thence, following Secondary Highway 657 in a northwesterly direction to Secondary Highway 653; thence, following Secondary Highway 653 in a northeasterly direction to Secondary Highway 652; thence, following Secondary Highway 652 in a southeasterly direction to Secondary Highway 656; thence following Secondary Highway 656 in a southeasterly direction to U.S. Highway 58; thence, following U.S. Highway 58 in a southeasterly direction to its junction with Primary State Highway 35.

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

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

The amendments quarantine portions of Southampton and Surry Counties in Virginia because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to the quarantined areas designated herein.

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

Done at Washington, D.C., this 15th day of May 1970.

F. R. MANGHAM,
Acting Administrator,
Agricultural Research Service.

[F.R. Doc. 70-6222; Filed, May 19, 1970; 8:49 a.m.]

Chapter III—Consumer and Marketing Service (Meat Inspection), Department of Agriculture

SUBCHAPTER A—MEAT INSPECTION REGULATIONS

PART 327—IMPORTED PRODUCTS

Eligibility of Bulgaria and Romania for Importation of Meat Products Into the United States

On February 26, 1970, there was published in the FEDERAL REGISTER (35 F.R. 3760), a notice of a proposal to amend § 327.2 of the Federal Meat Inspection Regulations (9 CFR Part 327), to change paragraph (b) of that section to include the words "Bulgaria" and "Romania" in alphabetical order in the list of countries specified therein from which certain products (meat, meat food product, and meat byproduct) may be imported into the United States as provided in said regulations.

After due consideration of all relevant matters in connection with the notice of

proposed rule making and under the authority of the Federal Meat Inspection Act (34 Stat. 1260, as amended by the Wholesome Meat Act of 1967, 81 Stat. 584, 21 U.S.C. 601 et seq.), paragraph (b) of § 327.2 is hereby amended to read as follows:

§ 327.2 Eligibility of foreign countries for importation of product into the United States.

* * * * *

(b) It has been determined that product from the following countries, covered by foreign meat inspection certificates of the country of origin as required by § 327.6, except fresh, chilled or frozen, or other product ineligible for importation into the United States from countries in which the contagious and communicable disease of rinderpest, or of foot-and-mouth disease, or of African swine fever exists as provided in Part 94 of this title, is eligible for importation into the United States after inspection and marking as required by the applicable provisions of Parts 301 through 328 of this subchapter.

Argentina.	Ireland (Eire).
Australia.	Italy.
Austria.	Japan.
Belgium.	Luxembourg.
Bulgaria.	Mexico.
Brazil.	Netherlands.
Canada.	New Zealand.
Colombia.	Nicaragua.
Costa Rica.	Northern Ireland.
Czechoslovakia.	Norway.
Denmark.	Panama.
Dominican Republic.	Paraguay.
England and Wales.	Poland.
Finland.	Romania.
France.	Scotland.
Germany (Federal Republic).	Spain.
Guatemala.	Sweden.
Haiti.	Switzerland.
Honduras.	Uruguay.
Hungary.	Venezuela.
Iceland.	Yugoslavia.

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; 29 F.R. 16210, as amended; 33 F.R. 10750)

The foregoing amendment shall become effective 30 days following publication of this notice in the FEDERAL REGISTER.

Done at Washington, D.C., on May 14, 1970.

RICHARD E. LYNG,
Assistant Secretary.

[F.R. Doc. 70-6197; Filed, May 19, 1970; 8:47 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

Recognition of Agreement State Licenses

On December 20, 1969, the Atomic Energy Commission published in the FEDERAL REGISTER (34 F.R. 19996) a proposed amendment to its regulation 10 CFR Part 150, "Exemptions and Continued Regulatory Authority in Agreement States Under Section 274," which would (a) increase the time during which persons holding specific licenses from Agreement States may engage in activities in non-Agreement States under the general license in § 150.20 from 20 days in any period of 12 consecutive months to 180 days in any calendar year; (b) limit the application of the general license to a person holding a specific license issued by the State where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained; and (c) modify the requirements for notifying the Commission of proposed activities to be conducted in non-Agreement States under the general license.

All interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendment within 60 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. No adverse comments were received. The Commission has adopted the proposed amendments. The text of the amendment set out below is identical with the text of the proposed amendment published December 20, 1969.

The amendment increases the time that persons holding specific licenses from Agreement States are permitted to engage in activities in non-Agreement States under the general license from 20 days in any period of 12 consecutive months to 180 days in any calendar year. This increase in time will encourage the use of the general license by Agreement States specific licensees who are engaged in transient field operations.

The amendment limits use of the general license to the specific licensee whose license was issued by the Agreement State where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained. This State will be in the best position to evaluate the licensed activities and to require and enforce any corrective measures which might be desirable or necessary in the interest of public health and safety.

Agreement State specific licensees will be required to file Form AEC-241, "Report of Proposed Activities in Non-Agreement States," at least 3 days prior to engaging in any activities in non-Agreement States under § 150.20. The Director of the Commission's appropriate Regional Compliance Office is authorized to permit commencement of the activity without the 3-day period notice upon receipt of telephone notification. Also, he is authorized to waive the requirement for filing additional reports during the remainder of the calendar year, following the receipt of the initial report.

The Commission expects that the amendment of the general license in § 150.20 will permit a greater number of Agreement State specific licensees to use the general license, reduce the need for multiple specific licenses, and reduce the number of reports required of persons proposing to engage in activities under the general license. The amendment will simplify licensing of radioactive materials without compromising health and safety.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 150, is published as a document subject to codification effective thirty (30) days after publication in the FEDERAL REGISTER.

Section 150.20 of 10 CFR Part 150 is amended to read as follows:

§ 150.20 Recognition of Agreement State licenses.

(a) Subject to the provisions of paragraph (b) of this section, and person who holds a specific license from an Agreement State where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, is hereby granted a general license to conduct the same activity in non-Agreement States: *Provided*, That the specific license does not limit the activity authorized by the license to specified installations or locations.

(b) Notwithstanding any provision to the contrary in any specific license issued by an Agreement State to a person who engages in activities in a non-Agreement State under a general license provided in this section, the general license provided in this section is subject to the provisions of §§ 30.14(d), 30.34, and 30.51 to 30.63 inclusive of Part 30 of this chapter; §§ 40.41, 40.61 to 40.63 inclusive, 40.71, and 40.81 of Part 40 of this chapter; and §§ 70.32, 70.5[1] to 70.56 inclusive, 70.61, 70.62, and 70.71 of Part 70 of this chapter; and to the provisions of Parts 20 and 71 and Subpart B of Part 34 of this chapter. In addition, any person who engages in activities in non-Agreement States under a general license provided in this section:

(1) Shall, at least 3 days prior to engaging in each such activity, file four copies of Form AEC-241 (revised), "Report of Proposed Activities in Non-Agreement States," and four copies of his Agreement State specific license with the Director of the Atomic Energy Commission Regional Compliance Office listed in Appendix D of Part 20 of this chapter for the region in which the Agreement State that issued the specific license is located. The Director of the Atomic Energy Commission Regional Compliance Office may authorize such person to commence the activity upon notification by telephone of intent to conduct the proposed activity under the general license: *Provided, however*, That four copies of Form AEC-241 (revised) and four copies of the Agreement State license shall be filed within 3 days after the telephone notification. The Director of the Atomic Energy Commission Regional Compliance Office may waive the requirement for filing additional Forms AEC-241 (revised) during the remainder of the calendar year following the receipt

of the initial Form AEC-241 (revised) from a person engaging in activities under the general license provided in this section;

(2) Shall not, in any non-Agreement State transfer or dispose of radioactive material possessed or used under the general license provided in this section except by transfer to a person (i) specifically licensed by the Commission to receive such material, or (ii) exempt from the requirements for a license for such material under § 30.14 of this chapter;

(3) Shall not possess or use radioactive material, or engage in the activities authorized in paragraph (a) of this section for more than 180 days in any calendar year;

(4) Shall comply with all terms and conditions of the specific license issued by an Agreement State except such terms or conditions as are contrary to the requirements of this section.

(Secs. 161, 274, 68 Stat. 948; 73 Stat. 688; 42 U.S.C. 2201, 2021)

Dated at Germantown, Md., this 11th day of May 1970.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 70-6165; Filed, May 19, 1970; 8:45 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. L]

PART 212—INTERLOCKING BANK RELATIONSHIPS UNDER THE CLAYTON ACT

Bank Holding Companies

§ 212.102 Applicability of section 8 of the Clayton Act to bank holding companies.

(a) The Board recently was asked whether section 8 of the Clayton Act (15 U.S.C. 19) and Federal Reserve Regulation L, "Interlocking Bank Relationships Under The Clayton Act" (this Part 212), prohibit an officer, director, or employee of a member bank from serving at the same time in any such capacity with a holding company the principal activity of of which is the ownership and control of banks, where such interlocking service between the member bank and a bank in the holding company system would be prohibited.

(b) Section 8 and Regulation L, with certain exceptions, prohibit any person who is a director, officer, or employee of any member bank from serving in any such position with "any other bank, banking association, savings bank, or trust company" where the two banks are located in the same, contiguous, or adjacent cities, towns, or villages.

(c) In a similar situation involving section 32 of the Banking Act of 1933 (12 U.S.C. 78)—which prohibits interlocking personnel relationships between member banks and securities companies—the Board expressed the view that where the principal activity of a holding company is the ownership and control of a bank or banks, the holding company and each member bank subsidiary should be considered as constituting together a single entity for the purpose of that statutory provision. Accordingly, the Board concluded that section 32 prohibits a person who is primarily engaged in section 32 business, or associated as specified in that section with an organization so engaged, from serving also as an officer, director, or employee of such a holding company (1969 Federal Reserve Bulletin 52; § 218.114 of this chapter). In that interpretation, the Board stated: "* * * the affairs of the member bank and the holding company would be so closely identified and functionally related that the same possibilities of abuse which section 32 was designed to guard against would be present in the case of a director of the holding company as in the case of a director of the member bank. To give cognizance to the separate corporate entities in such a situation would * * * partially frustrate congressional purpose in enacting the statute." Likewise, the Board recently determined that concurrent service by an individual as a director of a wholly owned credit card subsidiary of a national bank and as director of another member bank in a contiguous municipality was prohibited by section 8 of the Clayton Act, since, in the Board's opinion, the credit card subsidiary was essentially a department or division of its parent bank (1970 Federal Reserve Bulletin 344; § 212.101). Furthermore, in enforcing other provisions of section 8 relating to nonbank corporations, the courts have gone beyond the specific language of that section in order to effectuate congressional purpose. U.S. v. Sears Roebuck and Co., 165 F. Supp. 356 (1958).

(d) With respect to the instant question, the Board was of the view that considerations similar to those just discussed are persuasive and that, therefore, a holding company whose principal activity is the ownership and control of banks, and each of its bank subsidiaries, should be considered as constituting together a single entity for the purposes of section 8. Accordingly, the Board concluded that, if an interlocking relationship between two banks is prohibited by section 8 (none of the exceptions specified in the statute or Regulation L being applicable), such a relationship is also prohibited between a parent holding company of one of the banks and a bank not a member of the holding company group. The Board concluded also that interlocking service between parent holding companies is prohibited by section 8 if it is prohibited between any of their respective bank subsidiaries.

(Interprets and applies 15 U.S.C. 19)

By order of the Board of Governors, May 12, 1970.

[SEAL] Elizabeth L. Carmichael,
Assistant Secretary.

[F.R. Doc. 70-6216; Filed, May 19, 1970; 8:49 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 9, Amdt. 4]

PART 121—SMALL BUSINESS SIZE STANDARDS

New Size Determination Authority for Purpose of Lease Guarantee Program

In Delegation of Authority No. 4 (Revision 1), Amendment 5, the Administrator of the Small Business Administration delegated authority to the Associate Administrator for Financial Assistance to make size determinations for the purpose of the Lease Guarantee Program.

Accordingly, Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is amended as follows:

1. Section 121.3-1(b)(4) is revised to read as follows:

§ 121.3-1 Purpose and method of establishing size standards.

* * * * *

(b) *Method of establishing size standards.* * * *

(4) *Product classification decision.* The SBA Area Administrator or his delegatee of the SBA Region in which the principal office of the applicant, not including its affiliates, is located, shall determine the appropriate SIC classification, except that for procurement purposes the determination shall be made by the official specified in § 121.3-8, and for lease guarantee reinsurance purposes the determination shall be made by the Associate Administrator for Financial Assistance. Such determination shall be subject to appeal in the manner provided in § 121.3-6.

2. The first and third sentences of § 121.3-4 are revised to read as follows:

§ 121.3-4 Size determinations.

Original size determinations shall be made by the Area Administrator, or his delegatee, serving the area in which the principal office of the concern (not including its affiliates) whose size is in question is located, except that for lease guarantee reinsurance purposes such determinations shall be made by the Associate Administrator for Financial Assistance. * * * The Area Administrator, or his delegatee, or the Associate Administrator for Financial Assistance, promptly shall notify, in writing by certified mail, return receipt requested, the concern in question and other interested persons of his decision. * * *

3. Section 121.3-6(b)(1)(ii) is revised, the first sentence of paragraph (b)(3)(i) is revised, and paragraphs (b)(4)(iv) and (c) are revised to read as follows:

§ 121.3-6 Appeals.

* * * * *

(b) *Method of appeal*—(1) *Who may appeal.* * * *

(ii) Any concern or other interested party which has been adversely affected

by a decision of an Area Administrator, or his delegatee, or of the Associate Administrator for Financial Assistance, pursuant to §§ 121.3–4 and 121.3–5.

* * * * *

(3) *Time for appeal.* (i) An appeal from a size determination or product classification by an Area Administrator or his delegatee or by the Associate Administrator for Financial Assistance, may be taken at any time, except that, because of the urgency of pending procurements, appeals concerning the small business status of a bidder or offeror in a pending procurement may be taken within five (5) days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a decision by an Area Administrator or his delegatee. * * *

* * * * *

(4) *Notice of appeal.* * * *

(iv) A concise and direct statement of the reasons why the decision of an Area Administrator or his delegatee, the contracting officer or the Associate Administrator for Financial Assistance is alleged to be erroneous.

* * * * *

(c) *Notice to interested parties.* The Size Appeals Board shall promptly acknowledge receipt of the notice of appeal and shall send a copy of such notice of appeal to the appropriate Area Administrator or his delegatee, the contracting officer (if a pending procurement is involved) and to other parties known to be interested in the appeal, or, if the appeal was from a decision of the Associate Administrator for Financial Assistance, to the Associate Administrator for Financial Assistance.

* * * * *

The above changes are only to reflect changes in SBA organization and accordingly shall become effective upon publication in the FEDERAL REGISTER.

Dated: May 7, 1970.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 70-6190; Filed, May 19, 1970; 8:47 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7042]

PART 143—TEMPORARY EXCISE TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

Payments Made Pursuant to Commitments Entered Into Prior to January 1, 1970

The following regulations relate to the application of section 4945 of the Internal Revenue Code of 1954 as added by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 513) and that part of section 4941 of the Code as added by that Act (83 Stat. 500) which relates to payments to government officials.

The regulations set forth herein are temporary and are designed to inform taxpayers, for the period prior to the issuance of final regulations or the withdrawal or modification of these temporary regulations, of the application of sections 4945 and the applicable part of section 4941 to commitments entered into prior to January 1, 1970, to make certain payments.

In order to provide such temporary regulations under sections 4941 and 4945 of the Internal Revenue Code of 1954, the following regulations are adopted. Such regulations supersede paragraph (b) of § 143.1 of Treasury Decision 7022 (26 CFR Part 143), approved January 19, 1970 (35 F.R. 763).

§ 143.8 Commitments of private foundations entered into prior to January 1, 1970 to make certain payments; self-dealing and taxable expenditures.

(a) *In general.* Section 4941(a) imposes certain taxes on a "disqualified person" with respect to each act of self-dealing between such a "disqualified person" and a private foundation. For purposes of section 4941 only, section 4946(a)(1) includes in the term "disqualified person" a "government official" as defined in section 4946(c). Section 4945(a) imposes certain taxes on each taxable expenditure, as defined in section 4945(d), of a private foundation.

(b) *Exception for certain payments.* Section 4941 shall not apply to a payment made on or after January 1, 1970, by a private foundation to a government official, and section 4945 shall not apply to an expenditure made on or after such date, if the payment or expenditure was made pursuant to a commitment entered into prior to such date, but only if such commitment was made in accordance with the foundation's usual practices and is reasonable in amount in light of its purposes. For purposes of the preceding sentence, a commitment will be considered entered into prior to January 1, 1970, if prior to such date, the amount and nature of the payments to be made and the name of the payee have been entered on the records of the payor, or have been otherwise adequately evidenced, or the notice of the payment to be received has been communicated to the payee in writing.

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

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

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

Approved: May 14, 1970.

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

[F.R. Doc. 70-6200; Filed, May 19, 1970; 8:48 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 526—INDUSTRIES OF A SEASONAL NATURE AND INDUSTRIES WITH MARKED SEASONAL PEAKS OF OPERATION

Sugarcane Processing and Milling in Florida

On page 5044 of the FEDERAL REGISTER of March 25, 1970, there was published a proposal regarding the Sugarcane Processing and Milling Industry in Florida as an industry of a seasonal nature within the meaning of section 7(c) and 7(d) of the Fair Labor Standards Act of 1938, as amended. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

No objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

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

Signed at Washington, D.C., this 14th day of May 1970.

ROBERT D. MORAN,
Administrator, Wage and Hour Division, United States Department of Labor.

Section 526.12 of Title 29, Code of Federal Regulations, is hereby amended as follows:

§ 526.12 Seasonal industries engaged in certain operations on perishable agricultural or horticultural commodities.

* * * * *

(b) * * *

(6) *Sugarcane processing and milling industries*—(i) *Sugarcane processing and milling industry in Florida.* The activities comprising the industry are the following:

(*a*) The loading of sugarcane in the fields and its transportation to a sugarcane processing mill when performed by employees of the processor; the unloading of sugarcane at the mill; and the processing of sugarcane into raw sugar, syrup, and molasses;

(*b*) The following operations when performed on the premises of a sugarcane mill while the sugarcane is being processed: The immediate refining, as one of a connected series of operations, of raw sugar produced from sugarcane ground on the premises; the refining, by the introduction into such series of operations, of raw sugar which has been produced during the same grinding season in other Florida cane processing plants of the employer, except in establishments where the refined sugar made from such transferred raw sugar constitutes one-half or more of the refined sugar produced during the cane processing season, or where purchased raw sugar, or raw sugar produced outside of Florida is refined during the cane

processing season; the burning, removing from the premises or dehydrating of bagasse resulting from the processing of sugarcane;

(c) The handling, baling, bagging, packing, and storing of the sugar, syrup, molasses, or bagasse;

(d) The repair of mechanical equipment used in loading and transporting sugarcane to the mill;

(e) Any operations necessary and incidental to those described in (a), (b), (c), and (d) of this subdivision, including the placing of these products in storage or transportation facilities on or near the premises; and

(f) Clerical, custodial, or other common activities in the harvesting and processing of sugarcane in Florida performed by employees of a processing establishment during the processing season as an incident to or in conjunction with the harvesting of the cane processed at such establishment in accordance with the customary practice of the enterprises of the sugarcane processing and milling industry in Florida.

* * * * *

(Sec. 7 (c) and (d), 52 Stat. 1063, as amended by sec. 204(c), 80 Stat. 835; 29 U.S.C. 207 (c) and (d))

[F.R. Doc. 70-6205; Filed, May 19, 1970; 8:48 a.m.]

Title 31—MONEY AND FINANCE: TREASURY

Chapter V—Office of Foreign Assets Control, Department of the Treasury

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

Importations of Certain Merchandise

Section 500.204, Appendix, Item (101) is being amended to add to the list therein of commodities from specified countries, antimony (metal) from Czechoslovakia.

As amended, Item (101) reads as follows:

(101) *Quotas for imports of certain commodities based on current availabilities.* Under certain limited circumstances, quotas have been established for the importation of certain commodities under annual limitations set by the amount determined as currently available for export.

Licenses are issued for:
Antimony (metal) from Czechoslovakia.
Cotton manufactures from Czechoslovakia, Hungary, Poland, Rumania, and the U.S.S.R.
Dried eggs from Argentina, Denmark, Federal Republic of Germany, Poland, South Africa, Spain, Sweden, and the United Kingdom.
Feathers, Asiatic, from Japan and Malaysia.
Firecrackers from Macao.
Lotus seeds from Thailand.
Lychees from Mexico.
Mung beans from Peru and Thailand.
Silk, raw and waste, from Bulgaria.
Tung oil from Malawi.
Vegetables, fresh, Chinese type, from Mexico.
Walnuts from India, Pakistan, Rumania, and Yugoslavia.

[SEAL] MARGARET W. SCHWARTZ,
Director,
Office of Foreign Assets Control.

[F.R. Doc. 70-6201; Filed, May 19, 1970; 8:48 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 36—LOAN GUARANTY

Release of Security

In § 36.4324, paragraph (a) is amended to read as follows:

§ 36.4324 Release of security.

(a) Except upon full payment of the indebtedness the holder shall not release a lien or other right in or to real property held as security for a guaranteed or insured loan, or grant a fee or other interest in such property, without the prior approval of the Administrator, unless in the opinion of the holder such release does not involve a decrease in the value of the security in excess of $500: *Provided*, That the aggregate of the reduction in the original value of the security resultant from such releases without the Administrator's prior approval does not exceed $500.

* * * * *

(72 Stat. 1114; 38 U.S.C. 210)

This VA Regulation is effective upon publication in the FEDERAL REGISTER.

Approved: May 14, 1970.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[F.R. Doc. 70-6192; Filed, May 19, 1970; 8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

REQUIREMENTS FOR COST OR PRICING DATA AND PRICE NEGOTIATIONS

Parts 5A-3, 5A-73, and 5A-76 are amended as follows:

PART 5A-3—PROCUREMENT BY NEGOTIATION

The table of contents of Part 5A-3 is amended to add the following new entries:

Sec.
5A-3.807 Pricing techniques.
5A-3.807-3 Requirements for cost or pricing data.

Subpart 5A-3.8—Price Negotiation Policies and Techniques

Subpart 5A-3.8 is amended to add new §§ 5A-3.807 and 5A-3.807-3, as follows:

§ 5A-3.807 Pricing techniques.

§ 5A-3.807-3 Requirements for cost or pricing data.

(a) Cost or pricing data which are required by the contracting officer in accordance with § 1-3.807-3 shall consist of all available facts which are relevant to the negotiation of a contract price (see § 1-3.807-3(h)). It is the contracting officer's responsibility to determine the acceptable content of such data on the basis of its adequacy for contract pricing. Where such data is determined to be inadequate, the contracting officer shall insist that the contractor give him the specific data which he needs. Advisory audit assistance may be requested in making such determinations. Contractor proposals providing required cost or pricing data which are determined to be inadequate shall be considered unacceptable.

(b) Cost of pricing data may be obtained by requesting the contractor to use the appropriate Department of Defense DD Form 633, Contract Pricing Proposal, which identifies the usual breakout of cost elements to be reported on or identified. However, the contracting officer shall not insist upon the use of this form when the contractor indicates he will make a more efficient presentation by use of another format: *Provided*, That in such cases the information furnished includes pertinent details as to cost elements and the specific statements, authorizations and certification required by the applicable form. Whenever a contractor refuses to provide cost or pricing data, the matter shall be referred, as provided for by § 1-3.807-6, to the Assistant Commissioner for Procurement, or the Assistant Commissioner for Automated Data Management Services, as appropriate.

(c) The requirements for cost or pricing data, for purposes of price negotiation, may be excepted or waived as provided for by § 1-3.807-3 (b), (c), (f), and (g). All such action shall be documented in detail in the contracting officer's record of negotiation (see § 1-3.811 (a)(4)). Whenever it is determined by the contracting officer that the requirements for cost or pricing data should be waived for exceptional conditions, he shall provide written recommendation to the Office of the appropriate Assistant Commissioner, identified in paragraph (b) of this section, for referral to higher authority.

(d) Pricing on the basis of "Established catalog or market prices of commercial items sold in substantial quantities to the general public" is defined in § 1-3.807-1(b)(2).

(1) When it is proposed to use this basis for pricing, data shall be required from the prospective contractor for review and evaluation by the contracting officer to determine whether the criteria

of § 1–3.807–1(b)(2) are met, including (i) prices claimed to be "based on" established catalog or market prices of commercial items sold in substantial quantities to the general public, and (ii) purchases of standard commercial or modified commercial items from a sole-source supplier (see § 1–3.807–12).

(2) If the data obtained from the prospective contractor and other data available to the contracting officer do not meet the criteria of § 1–3.807–1(b)(2), the prospective contractor shall be required to submit cost or pricing data and negotiations shall be conducted on the basis thereof. Accordingly, in all solicitations for negotiated contracts where the basis for pricing described in subparagraph (1) of this paragraph is proposed, provision shall be made to reserve the right to require cost or pricing data. Upon final agreement on price(s), after completion of negotiations, the cost or pricing data shall be certified pursuant to § 1–3.807–4. In appropriate cases (see § 1–3.807–3 (c) and (g), the provision for cost or pricing data may also be made in solicitations for contracts not expected to exceed $100,000.

(3) The foregoing requirements shall be implemented by inclusion in solicitations of the "Basis for Price Negotiation Provision" prescribed in § 5A–73.121(a) and use of the format prescribed in § 5A–76.313; however, when the latter is used in solicitations for other than multiple-award Federal Supply Schedule contracts, it should be modified to delete material pertinent only to that type of contract.

(e) Advisory audit assistance relative to contract audit as a pricing aid shall be obtained as provided for by §§ 1–3.809 and 5–3.809. The action required as a result of postaward audit of cost or pricing data is stated in § 1–3.812.

(f) The extent of documentation for an appropriate record of price negotiations is provided by § 1–3.811.

(g) The criteria for use of contract clauses in solicitations and contracts, in connection with the requirements for cost or pricing data, is stated in § 1–3.807–3(e).

(h) Further general guidance relative to the requirements for cost or pricing data may be obtained by reference to Appendix A of the Armed Services Procurement Regulations Manual for Contract Pricing, dated February 14, 1969, and issued by the Department of Defense, copies of which have been made available in each FSS buying activity.

PART 5A–73—FEDERAL SUPPLY SCHEDULE PROGRAM

The table of contents of Part 5A–73 is amended to add the following new entry:

Sec.
5A–73.121 Basis for price negotiation of multiple award schedule contracts.

Subpart 5A–73.1—Production and Maintenance

Subpart 5A–73.1 is amended to add new § 5A–73.121, as follows:

§ 5A–73.121 Basis for price negotiation of multiple award schedule contracts.

(a) The following provisions shall be included in all solicitations for multiple award schedule contracts.

BASIS FOR PRICE NEGOTIATION

A. *General.* Prices for items to be awarded under this solicitation normally will be negotiated on the basis of discounts from suppliers' established catalog or market prices. Pricing data for the purpose of such negotiation shall be submitted and certified as hereafter provided.

B. *Established Catalog or Market Prices.* If the prices offered under this solicitation are based on established catalog or market prices, a certification is required that such prices are established catalog or market prices for commercial items as defined in FPR 1–3.807–1(b)(2).

C. *Certificate of Established Catalog or Market Price.* This is to certify that to the best of my knowledge and belief:

(a) The price(s) quoted in this proposal is based on established catalog or market prices of commercial items, as defined in FPR 1–3.807–1(b)(2), in effect as of the date of supplier's offer or as of the dates of any revisions submitted during the course of negotiations.

(b) Substantial quantities of the items have been sold to the general public at such prices.

(c) All of the data (including sales data) submitted with this offer are accurate, complete, and current representations of actual transactions to the date when price negotiations are concluded.

Name and Title of Person Authorized To Sign Offer (Type or Print) _____
_____
Signature _____
Firm _____
Date of Execution _____

CAUTION: False statement may subject the offeror to penalties provided by statute and regulation.

D. *Price Reduction for Defective Pricing Data.* If, subsequent to the award of any contract resulting from this solicitation, it is found that any price negotiated in connection with this contract was increased by any significant amount because the prices, data, and facts were not as stated in the offeror's "Certificate of Established Catalog or Market Price," then the contract price(s) shall be reduced by such amount and the contract shall be modified in writing to reflect such adjustment. Failure to agree on such a reduction, subsequent to a "final decision" by the contracting officer in this matter, shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of the contract.

E. *Access to Records.* By submission of this proposal, the offeror grants to the contracting officer, or his authorized representative, the right to examine, for the purpose of verifying the (1) statements made in the above "Certificate of Established Catalog or Market Price" or (2) cost or pricing data (including computations and projections) submitted in connection with the "Certificate of Current Cost or Pricing Data" (see F below), those books, records, documents, papers, and other supporting data which involve transactions related to this proposal which will permit adequate evaluation and verification thereof.

F. *Cost or Pricing Data.* (a) If it is determined by the Government that the price(s) quoted under this solicitation is not based on established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation, the offeror shall submit in writing cost or pricing data in support of the proposed price. The data shall summarize incurred and estimated costs (and attached supporting schedules and information) suitable for a detailed review and analysis in the light of the specific facts of this procurement. For example, the cost or pricing data shall identify the major elements of cost or price which the offeror considers necessary and reasonable in the efficient performance of the contract, such as: direct material (including purchased parts, subcontracted items, standard commercial items, etc.); direct labor (engineering and/or manufacturing) and related overhead; general and administrative expenses; and proposed profit or fee (see FPR 1–3.807–2(c) and 1–3.807–3(h)).

(b) The offeror shall certify, by the use of the certificate in FPR 1–3.807–4, that to the best of his knowledge and belief, the cost or pricing data submitted in accordance with the above is accurate, complete and current.

(c) The above-referenced "Certificate of Current Cost or Pricing Data" is implemented by the contract clauses in FPR 1–3.814, including those clauses pertaining to "Price Reduction for Defective Cost or Pricing Data" and "Audit-Price Adjustments." The applicable and appropriate clauses cited therein are incorporated by reference in this solicitation, and shall become a part of any contract awarded pursuant to this solicitation.

(b) Pricing data required by this § 5A–73.121 shall be obtained by use of Discount Schedule and Marketing Data sheets (see paragraph (c) of this section). In this regard, offerors shall be required to prepare individual data sheet sets for each Index Item Number on which an offer is being submitted. Offerors shall also be required to reproduce the data sheet sets from the sample set attached to the solicitation.

(c) The format for "Discount Schedule and Marketing Data" which is pertinent to the provision of § 5A–73.120 and this § 5A–73.121 is contained in § 5A–76.313.

PART 5A–76—EXHIBITS

The table of contents of Part 5A–76 is amended to add the following new entry:

Sec.
5A–76.313 Format for Discount Schedule and Marketing Data.

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

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

Dated: May 7, 1970.

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

[F.R. Doc. 70–6173; Filed, May 19, 1970; 8:45 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18801; FCC 70-502]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments; Certain FM Broadcast Stations

In the matter of amendment of § 73.202 (b), Table of Assignments, FM Broadcast Stations (Sioux Center, Iowa; Caruthersville, Mo.; Kerrville, Tex.; Brandenburg, Ky.; Steamboat Springs, Colo.; Drew, Miss.; Weston, W. Va.; Chanute, Kans.; Mexia, Tex.; Rutland, Vt.; Boone, Iowa; Berlin, N.H.), RM-1491, RM-1511, RM-1517, RM-1527, RM-1533, RM-1539, RM-1502, RM-1534, and RM-1556.

First report and order. 1. The Commission has under consideration its notice of proposed rule making issued on February 20, 1970 (FCC 70-176, 35 F.R. 3822), inviting comments on a number of changes in the FM Table of Assignments advanced by various parties and on the Commission's own motion. All comments filed pursuant to the notice were considered in making the following determinations; no comments opposing any of the actions taken herein were filed. Except as noted, the population figures were obtained from the 1960 U.S. Census. This decision disposes of all subject petitions and proposals, except RM-1539, Drew, Miss., and the Commission's proposal concerning Berlin, N.H. Disposition of the latter proposals will be included in a future order .

2. *RM-1491, Sioux Center, Iowa (Tri-State Broadcasters, Inc.); RM-1511, Caruthersville, Mo. (Pemiscot Broadcasters); RM-1517, Kerrville, Tex. (Harry C. Wisehart, Jr.); RM-1527, Brandenburg, Ky. (Jane Marlow Willis, Thelma Marlow Willis, and James M. Willis); RM-1533, Steamboat Springs, Colo. (Robert D. Zellmer).* In the above cases, interested parties are seeking the assignment of a first Class A channel in a community without requiring any other changes in the table. All proposed assignments are alleged and appear to meet the minimum separation requirements of the rules. The communities range in population from 1,542 persons for Brandenburg, Ky., to 8,901 persons for Kerrville, Tex. Caruthersville, Brandenburg, and Steamboat Springs are county seats of their respective counties. The communities of Sioux Center and Caruthersville each has one daytime-only AM Station. Kerrville has a Class IV AM station. The remaining two communities have no local radio outlet. We find that the named communities merit the requested assignments and that such assignments would serve the public interest. We are therefore adopting the following additions to the table.

City	Channel No.
Sioux Center, Iowa	232A
Caruthersville, Mo	276A
Kerrville, Tex	232A
Brandenburg, Ky	228A
Steamboat Springs, Colo	265A

3. *RM-1502, Weston, W. Va.* Central West Virginia Service Corp. (Central), Weston, W. Va., filed a petition December 9, 1968, amending it on September 2, 1969, seeking assignment of Channel 272A to Weston as the community's first FM assignment, without requiring any other changes in assignments. Weston, population 8,754 persons, is the county seat and largest community of Lewis County, population 19,711. There are no commercial FM assignments in the county and the only local aural outlet is petitioner's daytime-only AM operation, WHAW (AM), at Weston.

4. Weston is located about 2 miles inside the boundary of the zone containing the National Radio Astronomy Observatory (NRAO) and the Naval Radio Research Station (NRRS), as geographically defined by § 73.215(a) of the rules. Accordingly, the petitioner coordinated its proposal with NRAO and NRRS pursuant to the procedure indicated in report and order, Docket No. 16991, released February 17, 1967, 6 FCC 2d 793, concerning proposed FM channel assignments in the Quiet Zone. By letter of March 26, 1969, counsel for NRAO advised that it does not object to Central's proposal, but requests that if the assignment is adopted, it be on the condition that any station eventually authorized on the channel be required to suppress its signal in the direction of the Sugar Grove, W. Va., NRAO installation by at least 12.5 db. By subsequent amendment to its petition, Central stated that it would not object to such a condition for a station operating on Channel 272A at Weston from a site within the Quiet Zone.

5. We are of the opinion that assignment of a first Class A channel to Weston would serve the public interest and the proposal is therefore being adopted. It is expected that any application filed for the channel specifying a transmitting site located within the Quiet Zone boundaries will be in conformity with the radiation restrictions described in the preceding paragraph.

6. *RM-1534, Chanute, Kans.* On November 24, 1969, Neosho County Broadcasting, Inc., a potential applicant for a new FM station at Chanute, Kans., filed a petition requesting that Channel 288A be substituted for Channel 252A at Chanute. The petitioner states that after submission of an application for Channel 252A, it learned that the channel is short-spaced with cochannel Station KCJC Kansas City. It is demonstrated by proponent that the proposed assignment of Channel 288A meets the minimum spacing requirements of the rules in the general vicinity of Chanute. The proposed change eliminating a short-spaced assignment in the Table would serve the public interest. Channel 252A is therefore being deleted and Channel 288A assigned in place thereof at Chanute, Kans.

7. *RM-1556, Mexia, Tex.* The city of Dallas, Tex., licensee of Station WRR-FM, Dallas, filed a petition January 22, 1970, requesting that Channel 285A be substituted in place of Channel 265A at Mexia, Tex. In support thereof, petitioner points out that the present assignment of vacant Channel 265 is only about 78 miles from the site authorized for Station WRR-FM, whereas the required minimum spacing is 105 miles. The city states that it desires to file an application to accomplish, among other things, a change in site for WRR-FM, and wants to avoid the possibility of facing difficulties with such an application because of the short-spaced assignment. It is proposed that Channel 285A, which is shown to meet the spacing requirements, be assigned to Mexia.

8. In the notice we concurred with petitioner's obective of removing an undesirable short-spaced assignment from the table. However, we offered an alternate channel for consideration at Mexia, Channel 252A, which it appeared would afford more latitude in the selection of sites by future potential applicants at Mexia, than would Channel 285A. Comments were therefore invited on the following changes:

City	Channel No.	
	Delete	Add
Mexia, Tex	285A	252A or 285A

No comments were received in response to either of the above alternate proposals. Accordingly, we are adopting the proposal to delete Channel 265A and assigning Channel 252A in lieu thereof at Mexia, Tex.

9. *Boone, Iowa.* By rule making in Docket No. 16601 (Second Report and Order, FCC 66-1156, published in the FEDERAL REGISTER on Dec. 21, 1966, 31 F.R. 16316) Channel 255 was substituted for Channels 252A and 257A at Boone, Iowa, in response to a petition by Boone Biblical College. The license of Station KFHO-FM, Channel 257A, Boone, held by Boone Biblical College, was also modified in the same order to specify operation on Channel 255 in lieu of 257A, subject to the selection of a new site which conformed with the rules and minimum spacing requirements with a then pending application for a new station on Channel 256 at Mankato, Minn.[1]

10. In response to the order, Boone submitted a proposal involving a site that was 17 miles short with the site subsequently granted for the Mankato station (KEYC-FM). The proposal was denied because of the shortage. On July 2, 1968, Boone submitted a proposal for a site about 21 miles south-southeast of Boone, and, while this proposal met the required spacing with KEYC-FM, it resulted in a short spacing (IF taboo) with Station KDPS, Channel 201, Des Moines. Upon discovery of the further conflict, Boone amended the proposal to specify the site first denied. A request for waiver of the mileage separation requirements and a subsequent request for reconsideration were denied, and we further stated that Channel 255 should be deleted and Channel

[1] The Mankato application was subsequently granted for the site located 24 miles southeast of Mankato, and call letters KEYC-FM were assigned.

257A reinstated in its place. (Memorandum Opinion and Order, FCC 69-937, 19 FCC 2d 155 (August 1969).) The notice herein proposed these actions.

11. In making the assignment of Channel 255 to Boone in 1966, the fact was overlooked that maintaining the minimum spacing with the site specified for Station KEYC-FM would not permit the required spacing to be attained with Station KDPS. Thus, the assignment was technically in error and had this fact been recognized at the time the assignment obviously would not have been made. In view of the impossibility of Channel 255 being used at Boone, Iowa, in conformity with the technical provisions of the rules, it becomes necessary to delete the assignment from the table. It does not appear that any other Class C channels are assignable to Boone. We therefore are reassigning Class A Channels 252A and 257A, which were deleted from Boone at the time Channel 255 was assigned, and deleting Channel 255.

12. Boone has continuously operated Station KFGQ-FM on Channel 257A under an interim authority pending the change to Channel 255. In view of the changes being adopted herein, that portion of the Commission's order in Docket No. 16601 (see paragraph 9, above) modifying the license of Station KFGQ to specify operation on Channel 255, is being rescinded herein below.

13. *Rutland, Vt.* It was observed in the Notice that assignment of Channels 246 and 251 to Rutland, Vt., in the original Table of Assignments (1963) was on the basis that Rutland was located in Zone I. Rutland, in fact, is located in Zone II, since it is situated about 6.5 miles north of the nearest point on the zone boundary (43.5° parallel). Section 73.260(b) of the rules provides that assignments in Zone I, other than Class A channels, shall be classified as Class B, and that assignments in Zone II (other than Class A) shall carry a Class C classification. It has been determined that neither of the Rutland assignments meet the minimum mileage requirements if they are considered as Class C channels; however, they do meet the required minimum spacings as Class B assignments.

14. It does not appear from a study of the area that any Class C assignment for Rutland is possible under the rules. We are therefore adopting our notice proposal, and designating, by appropriate notations in the Table of Assignments, Channels 246 and 251 at Rutland as Class B channels. Accordingly, they will henceforth be regarded as Class B assignments for purposes of determining maximum allowable facilities and applicable minimum mileage requirements with other existing or proposed table assignments. It is to be noted that this action represents an exceptional departure from the customary practice of basing station classifications solely on the basis of the zone in which they are located. The classification change being made here gives formal recognition to the classification on which the channels were inadvertently assigned originally and were subsequently regarded by most interested parties. Since no Class C channels appear available for Rutland, the only other alternative would be to delete the channels entirely or to substitute Class A channels. Either of the latter would adversely affect a Rutland station already authorized with Class B facilities. In view of these circumstances, we find that the action taken will be in the public interest and the departure from our normal policy is therefore warranted. Because of the unique circumstances attending this case, this is not a precedent for considering future proposed changes in channel classifications not in conformity with the rules.

15. Authority for the adoption of the amendments contained herein is contained in sections 4(i), 303, 307(b), and 316 of the Communications Act of 1934, as amended.

16. In view of the above determinations: *It is ordered*, That effective June 22, 1970, § 73.202 of the Commission's rules and regulations is amended to read, with respect to the communities listed below, as follows:

City	Channel No.
Colo:	
Steamboat Springs	265A
Iowa:	
Boone	252A, 257A
Sioux Center	232A
Kansas:	
Chanute	288A
Kentucky:	
Brandenburg	228A
Missouri:	
Caruthersville	276A
Texas:	
Kerrville	232A
Mexia	252A
Vermont:	
Rutland	[1] 246, [1] 251
West Virginia:	
Weston	272A

[1] Channels 246 and 251 at Rutland, Vt., are regarded as Class B assignments.

17. *It is further ordered*, That paragraph 9, second report and order, adopted December 15, 1966, in Docket No. 16601, FCC 66-1156 (which modified the license of Station KFGQ-FM to specify operation on Channel 255 in lieu of Channel 257A at Boone, Iowa) is hereby rescinded.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; Sec. 316, 66 Stat. 717; 47 U.S.C. 154, 303, 307, 316)

Adopted: May 13, 1970.

Released: May 15, 1970.

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

[F.R. Doc. 70-6209; Filed, May 19, 1970; 8:48 a.m.]

[Docket No. 18794; FCC 70-503]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments; Certain FM Broadcast Stations

In the matter of amendment of § 73.202, Table of Assignments, FM Broadcast Stations. (Riviera Beach, West Palm Beach, and Jupiter, Fla.), RM-1449, RM-1488, and RM-1518.

Report and order. 1. The Commission has under consideration its notice of proposed rule making issued on February 6, 1970 (FCC 70-132, 35 F.R. 2831), inviting comments on changes in the FM Table of Assignments in response to three petitions filed by parties seeking Class A channel assignments in each of the three Florida communities of West Palm Beach, Riviera Beach, and Jupiter. All of these communities are located in the West Palm Beach Standard Metropolitan Statistical Area (SMSA). The technical aspects of the various proposals and the needs and radio services presently available to the communities involved were fully set forth in the notice and hence need not be reiterated in detail here.

2. In response to the subject petitions, the notice issued in this proceeding proposed a plan which would assign the specific channels sought in West Palm Beach and Riviera Beach. However, because of a conflict between the proposed assignments of Channel 221A to both West Palm Beach and Jupiter, the plan included an alternate proposal to assign Channel 244A to Jupiter. The plan set forth in the notice is as follows:

City	Channel No.	
	Present	Proposed
(all in Florida)		
Clewiston	221A	292A
Jupiter		244A
Riviera Beach		232A
West Palm Beach	283, 300	221A, 283, 300

3. Comments were filed in response to the notice supporting the above plan by Daytona Broadcasting, Inc., the petitioner (RM-1488) requesting the West Palm Beach assignments, and by Francis C. Kegel, the petitioner (RM-1449) seeking the Riviera Beach assignment. No comments were filed by Lighthouse Broadcasting Co., Inc., the petitioner (RM-1518) proposing a first FM assignment at Jupiter.

4. As discussed in the notice, the assignment of Channel 221A in the area would require deletion of that channel from Clewiston, where it is unoccupied. Channel 292A is available for replacement at Clewiston. We customarily give careful consideration to the possible preclusion impact on the immediately lower-adjacent educational channels (218, 219 and 220) whenever an assignment of Channel 221A is proposed. It has been demonstrated in this proceeding that shifting Channel 221A from Clewiston to the West Palm Beach area would develop preclusion in very limited coastal areas for Channels 218, 219, and 220, but that such areas would appear to be more than compensated by the elimination of very substantial preclusion areas on the same channels which presently exist between Lake Okeechobee and the Florida west coast, as long as Channel 221A is assigned to Clewiston.

5. Adoption of the above plan would make available a third FM assignment

to West Palm Beach, the principal community of its SMSA, and would conform to the population criterion employed in the design of the original Table of Assignments (1963) for a city of its size (population 56,208). Intermixture of a Class A channel with Class C channels in the same community appears justified here, since no additional Class C channel is available. We are also of the opinion that the requests for a first Class A channel to each of Riviera Beach (population 13,046) and Jupiter (population 1,058) have merit and that the assignments should be provided. Although Jupiter has a 1960 population of only 1,058, we note that it is outside of the West Palm Beach Urbanized Area and that the proposed assignment would not deprive any other community of equal or greater size from obtaining a first FM assignment. We further note that each of the assignments under consideration here, if adopted, would become available for applications specifying North Palm Beach (population 2,684) or Lake Park (population 3,589) under the "10-mile" provision of § 73.203(b). Finally, based on the evidence provided in this proceeding, it does not apear that any community not presently having an FM assignment, or warranting special consideration, would be precluded from a channel if the proposed assignments were made. Because of the spacing requirements, none of the proposed assignments could be assigned to Lake Worth, the second largest city in the SMSA and presently without an FM channel. There were no comments filed in opposition to any of the changes being considered here.

6. In view of the foregoing, we conclude that adoption of the proposed changes outlined in paragraph 2, above, would serve the public interest. We are therefore adopting the assignment of Channel 221A to West Palm Beach, Channel 232A to Riviera Beach, Channel 244A to Jupiter, and substituting channel 292A for 221A at Clewiston, all in Florida. It is to be noted that any application filed for Channel 221A at West Palm Beach will require a site near the northern city boundary in order to meet the minimum spacing requirements of the rules.

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

8. In accordance with the foregoing determinations: *It is ordered*, That effective June 22, 1970, § 73.202 of the Commission's rules, the FM Table of Assignments, is amended to read, insofar as the communities named below are concerned, as follows:

City	Channel No.
Florida:	
Clewiston	292A
Jupiter	244A
Riviera Beach	232A
West Palm Beach	221A, 283, 300

9. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: May 13, 1970.

Released: May 15, 1970.

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

[F.R. Doc. 70-6210; Filed, May 19, 1970; 8:48 a.m.]

[Docket No. 18601; FCC 70-514]

PART 73—RADIO BROADCAST SERVICES

Broadcast of Telephone Conversations

Report and order. 1. On July 9, 1969, the Commission adopted a notice of proposed rule making, 34 F.R. 11984, in which it requested comments on the following proposed rule:

> Before recording a telephone conversation for broadcast or broadcasting a telephone conversation simultaneously with its occurrence, a licensee shall inform any party to the call, not aware of the facts, of the licensee's intention to broadcast the conversation.

2. The Commission issued the notice of proposed rule making to clarify the notice requirements for licensees in the event they intend to broadcast telephone conversations. Before the Carterfone decision (Carter v. A.T. & T. Co., 13 FCC 2d 420 (1968)), a "beep tone" was involved and served in most instances to alert a party to a telephone conversation with a broadcast station employee that his call was being recorded and that the station might intend to broadcast the conversation. Under Carterfone, broadcast stations may interconnect their broadcast facilities to exchange and toll telephones, and thus may broadcast live, two-way conversations without the use of the "beep tone" warning which is used when telephone calls are recorded.

3. Timely comments were filed by Karl F. Anuta, Donald E. Pearson, and the Columbia Broadcasting System, Inc. (CBS). Mr. Anuta agrees with the proposed rule but states that it does not go far enough in that it lacks provisions for enforcement or determining, in the case of complaints, whether the advance notice had or had not been given, and thus nothing to prevent "harrassing complaints" on the one hand or "unscrupulous broadcasting" on the other. He would require that the notice of intent to broadcast be recorded by the licensee and retained for 90 days, and that any complaints would have to be made within that period (and served on the licensee) in order to be considered. Mr. Pearson also agrees with the rule as far as it goes, but would also require, without any provision for exception, that the consent of the other party be secured before any broadcast.

4. CBS is in general agreement with the proposed rule, but believes that the rule is too narrowly drawn, making the requirement turn on actual "awareness" and foreclosing any presumption of knowledge from the circumstances of the call, in situations where the party should be aware of the likelihood of broadcast, whether or not it can be established that he actually was. The "open mike" shows referred to in the notice are mentioned as such situations, and also cases where reporters or other station personnel phone in a news story or where persons call a generally advertised station phone number to give news items, community calendar or "bulletin board" material, etc. It is stated that in such cases the parties do not presume the conversation to be private and "consent by implication" to the broadcast then or later. CBS requests that the notice need not be given where the other party "is aware or should be aware that the conversation or part of it may be broadcast."

5. The Commission has considered these comments, and believes that the rule in the exact form proposed would present some uncertainties and problems in enforcement, and also that there are some situations (although not necessarily all of those mentioned by CBS) where awareness and therefore implied consent may be presumed from the surrounding circumstances without the need for factual inquiry into whether or not there was awareness in fact. These include "open mike" shows and conversations between employees at the station and station reporters, including part-time "stringers". Accordingly, the rule adopted herein provides for omission of notice where the other party is aware or may be presumed to be aware from the circumstances of the call, that his conversation may be broadcast, the latter obtaining only where the other party is associated with the station or originates the call and it is obviously in connection with a program, such as an "open mike" show, on which phone conversations are customarily broadcast. Considering the high imporance of notifying persons before their phone calls are made publicly available, this is as far beyond actual awareness as we believe it appropriate to go.[1]

6. With the exception thus narrowly limited, we believe that it is unnecessary to adopt the explicit consent requirement suggested by Mr. Pearson, since under these limited circumstances it may be presumed that consent is implied even if not specifically given. We also believe Mr. Anuta's suggestion to be unnecessary and unduly burdensome, since it would involve a recording and retention procedure in many cases where it is obvious that the other party is aware and no question will, in all probability, ever arise, such as the situations mentioned above. The problems in this area have not been numerous or serious enough to warrant such a requirement.

7. Authority for the amendment set forth below is contained in sections 4 (i) and (j), and 303(r) of the Communications Act of 1934, as amended.

[1] Thus, it does not appear that the "bulletin board" type of arrangement referred to by CBS would always be one where the station customarily puts the calling party on the air. If it is not, in our view, specific notice should be required.

8. In view of the foregoing: *It is ordered*, Effective June 22, 1970, that new §§ 73.126, 73.296, 73.592, and 73.664 are added to Part 73 of the Commission's rules, as set forth below.

9. *It is further ordered*, That this proceeding is terminated.

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

Adopted: May 13, 1970.

Released: May 15, 1970.

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

In Part 73 of the Commission's rules, new §§ 73.126, 73.296, 73.592, 73.664, and 73.1206 are added in Subparts A, B, C, D, and H, respectively, to read as follows:

§ 73.126 Broadcast of telephone conversations.

See § 73.1206, which is applicable to all standard broadcast stations.

§ 73.296 Broadcast of telephone conversations.

See § 73.1206, which is applicable to all FM broadcast stations.

§ 73.592 Broadcast of telephone conversations.

See § 73.1206, which is applicable to all noncommercial educational FM stations.

§ 73.664 Broadcast of telephone conversations.

See § 73.1206, which is applicable to all television broadcast stations.

§ 73.1206 Broadcast of telephone conversations.

Before recording a telephone conversation for broadcast, or broadcasting such a conversation simultaneously with its occurrence, a licensee shall inform any party to the call of the licensee's intion to broadcast the conversation, except where such party is aware, or may be presumed to be aware from the circumstances of the conversation, that it is being or likely will be broadcast. Such awareness is presumed to exist only when the other party to the call is associated with the station (such as as employee or part-time reporter), or where the other party originates the call and it is obvious that it is in connection with a program in which the station customarily broadcasts telephone conversations.

[F.R. Doc. 70-6211; Filed, May 19, 1970; 8:48 a.m.]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 25; Amdt. 71-9]

PART 71—STANDARD TIME ZONE BOUNDARIES

Relocation of Central-Mountain Standard Time Zone Boundary in Texas

The purpose of this amendment to Part 71 of Title 49 of the Code of Federal Regulations is to change the existing boundary line between the mountain time zone and the central time zone as it applies to the State of Texas.

On April 17, 1970, the Department of Transportation published in the FEDERAL REGISTER a notice of proposed rule making (35 F.R. 6280) requesting comments on a proposal to relocate the boundary line between the central time zone and the mountain time zone so as to place El Paso and Hudspeth Counties of Texas in the mountain time zone. The proposal was based on written requests from the County Commissioners Courts of El Paso and Hudspeth Counties requesting that their respective counties be placed in the mountain time zone.

The Act of March 4, 1921, chapter 173 (15 U.S.C. 265; 41 Stat. 1446) placed all of the State of Texas in the central time zone. Except for the segment of the central-mountain time zone boundary that the 1921 Act placed on the western boundary of Texas and Oklahoma and a segment of the mountain-Pacific time zone boundary in Idaho covered by the Act of March 3, 1923 (15 U.S.C. 264), other time zone boundaries can be relocated through administrative proceedings conducted by the Department of Transportation.

El Paso and Hudspeth Counties have, for many years, informally observed mountain time despite having been placed by law in the central zone. Although the Department of Transportation was petitioned by the Governor of Texas and civic and commercial activities in the area to place the area in the mountain time zone, the 1921 law precluded any administrative relocation of the time zone boundary in Texas until Public Law 91-228 (84 Stat. 119) was enacted on April 10, 1970. The new law provides:

That notwithstanding the first section of the Act of March 4, 1921 (15 U.S.C. 265), the Secretary of Transportation may, upon the written request of the County Commissioners Court of El Paso County, Texas, change the boundary line between the central standard time zone and the mountain standard time zone, so as to place El Paso County in the mountain time zone, in the manner prescribed in section 1 of the Act of March 19, 1918, as amended (15 U.S.C. 261), and section 5 of the Act of April 13, 1966 (15 U.S.C. 266). In the same manner, the Secretary of Transportation may also place Hudspeth County, Texas, in the mountain standard time zone, if the Hudspeth County Commissioners Court so requests in writing and if El Paso County is to be placed in that time zone.

It was pointed out in the notice of proposed rule making that El Paso and Hudspeth Counties are located approximately 1,000 miles west of the 90th meridian, which is the prime meridian for solar time in the central zone. All of El Paso County and nearly all of Hudspeth County are west of the 105th meridian, the prime meridian for solar time in the mountain zone. If they were placed in the mountain zone, they would observe a time more consonant with the position of the sun. In fact, El Paso, under mountain time, would be only 5 minutes off true sun time, whereas under central time it is off 1 hour and 5 minutes.

Interested persons were given a 14-day period within which to comment in writing on the proposal. A public hearing was held on April 24, 1970, in El Paso by a representative of the Department of Transportation during which interested persons had an opportunity to comment on the proposal either orally or in writing or both.

Among those appearing at the public hearing in support of mountain time were the U.S. Representative for the district, the county judges of both counties, a representative of the mayor of the city of El Paso, and representatives of the El Paso business, newspaper, and educational communities. Only one person testified in favor of central time.

Over 90 percent of the written comments received by the Department, before and after the hearing, favored mountain time.

The Atchison, Topeka, and Santa Fe Railroad, under an operating exception contained in § 71.6(f)(1) of Title 49, Code of Federal Regulations, conducts operations on its line of railroad between the Texas-New Mexico State line (near Anthony, Tex.) and the city of El Paso on mountain time. Relocation of the time zone boundary will make this operating exception unnecessary. However, in order to maintain the city of El Paso as the time change point for the several lines of railroad that connect there, operating exceptions are required to allow operations of the Southern Pacific and the Texas and Pacific Railroads between the city of El Paso and the east line of Hudspeth County to be conducted on central time.

Because of the relocation of the mountain-central time zone boundary in Kearny County, Kans., on March 8, 1970 (35 F.R. 2667), it is necessary to adjust the descriptive language in the operating exception granted to the Atchison, Topeka, and Santa Fe authorizing it to carry mountain time east of the time zone boundary to the change points in Scott City and Dodge City, Kans.

In consideration of the foregoing, paragraphs (e) and (f) (1) and (2) of § 71.6 of Title 49 of the Code of Federal Regulations are amended, effective at 2 a.m. on Sunday, May 17, 1970, to read as follows:

§ 71.6 Boundary line between central and mountain zones.

* * * * *

(e) *Oklahoma-Texas-New Mexico.* From the intersections of the Kansas-Colorado boundary with the northern boundary of the State of Oklahoma westerly along the Colorado-Oklahoma boundary to the northwest corner of the State of Oklahoma; thence southerly along the west boundary of the State of Oklahoma and the west boundary of the State of Texas to the southeast corner of the State of New Mexico; thence westerly along the Texas-New Mexico boundary to the east line of Hudspeth County, Tex.; thence southerly along the east line of Hudspeth County, Tex., to the boundary line between the United States and Mexico.

(f) *Operating exceptions*—(1) *Lines east of boundary excepted from central*

zone. Those portions of the following lines of railroad, located east of the zone boundary line described in this section, are, for operating purposes only, excepted from the U.S. standard central time zone and included within the U.S. standard mountain time zone:

Railroad	From—	To—
Atchison, Topeka, & Santa Fe.	East line of T. 24 S., R. 36 W., Kearny County, Kans.	Scott City and Dodge City, Kans.
Do.	Kansas-Colorado State line.	Satanta, Kans.
Do.	Colorado-Oklahoma State line.	Dodge City, Kans., via Boise City, Okla.
Chicago, Burlington, & Quincy.	East line of Hooker County, Nebr.	Ravenna, Nebr.
Do.	East line of Perkins County, Nebr.	Holdrege, Nebr.
Do.	East line of Chase County, Nebr.	McCook, Nebr.
Do.	East line of Dundy County, Nebr.	Do.
Chicago & Northwestern.	West line of T. 34 N., R. 30 W., Cherry County, Nebr.	Long Pine, Nebr.
Great Northern.	Montana-North Dakota State line.	Williston, N. Dak.
Do.	Yellowstone River, N. Dak.	Waterford City, N. Dak.
Northern Pacific.	East line of T. 138 N., R. 83 W., Morton County, N. Dak.	Mandan, N. Dak.
Do.	North line of T. 140 N., R. 81 W., Morton County, N. Dak.	Do.
Do.	South line of T. 130 N., R. 81 W., Morton County, N. Dak.	Do.
Union Pacific.	East line of Keith County, Nebr.	North Platte, Nebr.
Do.	East line of Wallace County, Kans.	Ellis, Kans.

(2) *Lines west of boundary included in central zone.* Those portions of the following lines of railroad located west of the zone boundary line described in this section are, for operating purposes only, excepted from the U.S. standard mountain time zone and included within the U.S. standard central time zone:

Railroad	From—	To—
Atchison, Topeka, & Santa Fe.	Texas-New Mexico State line (Near Texico, N. Mex.).	Clovis, N. Mex.
Chicago, Rock Island & Pacific.	Texas-New Mexico State line.	Tucumcari, N. Mex.
Do.	West line of Thomas County, Kans.	Goodland, Kans.
Missouri.	West line of Wichita County, Kans.	Pueblo, Colo.
Soo Line.	Montana-North Dakota State line.	Whitetail, Mont.
Southern Pacific.	East line of Hudspeth County, Tex.	El Paso, Tex.
Texas & Pacific.	Do	Do.

* * * * *

In consideration of the requests by El Paso County and Hudspeth County officials for early adoption of the proposed relocation and in view of the magnitude of support for mountain time, I find that good cause exists for making this amendment effective in less than 30 days.

This amendment does not concern adherence to or exemption from advanced (daylight saving) time. The Uniform Time Act of 1966 requires observance of advanced time within each established time zone from the last Sunday in April to the last Sunday in October, but permits any State to exempt itself, by law, from observing advanced time within that State. The Department has no administrative authority with respect to this requirement.

(Act of Mar. 19, 1918, as amended by the Uniform Time Act of 1966 (15 U.S.C. 260–267); sec. 6(e)(5), Department of Transportation Act (49 U.S.C. 1655(e)(5)))

Issued in Washington, D.C., on May 12, 1970.

JOHN A. VOLPE,
Secretary of Transportation.

[F.R. Doc. 70-6193; Filed, May 19, 1970; 8:47 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

Necedah National Wildlife Refuge, Wis.

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

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

WISCONSIN

NECEDAH NATIONAL WILDLIFE REFUGE

Sport fishing on the Necedah National Wildlife Refuge, Wis., is permitted only on the Sprague-Mather Pool. The open area, approximately 2,000 acres is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

(1) Fishing permitted June 1, 1970, through September 30, 1970.

(2) The use of boats without motors is permitted.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through September 30, 1970.

DAVID J. BROWN,
Refuge Manager, Necedah National Wildlife Refuge, Necedah, Wis.

MAY 11, 1970.

[F.R. Doc. 70-6228; Filed, May 19, 1970; 8:50 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

SUBCHAPTER C—DRUGS

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

PART 135g—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

Monensin and 3-Nitro-4-Hydroxyphenylarsonic Acid

The Commissioner of Food and Drugs has evaluated new animal drug applications (38-878V, 41-500V) filed by Elanco Products Co., Division of Eli Lilly & Co., Indianapolis, Ind. 46206, regarding the use of monensin alone and with 3-nitro-4-hydroxyphenylarsonic acid in the feed of broiler chickens for prevention of coccidiosis caused by specified organisms, for growth promotion and feed efficiency, and for improved pigmentation. The applications are approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), in accordance with § 3.517 (21 CFR 3.517), and under authority delegated to the Commissioner (21 CFR 2.120), Parts 121, 135e, and 135g are amended as follows:

1. Section 121.262(c) is amended by adding to table 1 a new item, as follows:

§ 121.262 3-Nitro-4-hydroxyphenylarsonic acid.

* * * * *

(c) * * *

TABLE 1—3-NITRO-4-HYDROXYPHENYLARSONIC ACID IN COMPLETE CHICKEN AND TURKEY FEED

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1.13 * * *	* * *	* * *	* * *	* * *	* * *
1.14 3-Nitro-4-hydroxyphenylarsonic acid.	45.4 (0.005%)	Monensin	110 (as monensic acid activity).	For broiler chickens; do not feed to laying chickens; withdraw 5 days before slaughter; as sole source of organic arsenic.	Growth promotion and feed efficiency; improving pigmentation; as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*
* * *	* * *	* * *	* * *	* * *	* * *

2. The following new section is added to Part 135e:

§ 135e.50 **Monensin.**

(a) *Specifications.* Monensin is the dried mycelial filter cake produced by the fermentation of *Streptomyces cinnamonensis.* Its potency is not less than 50 grams of monensic acid activity per pound of mycelial cake when assayed microbiologically. A minimum of 90 percent of monensin activity is derived from monensin A.

(b) *Approvals.* Premix level 44 grams of monensic acid activity per pound granted to Elanco Products Co., Division of Eli Lilly & Co., Indianapolis, Ind. 46206.

(c) *Assay limits.* Finished feed not less than 75 percent nor more than 125 percent of labeled amount.

(d) *Special considerations.* Finished feed should bear an expiration date of 30 days after its date of manufacture.

(e) *Related tolerance in edible products.* See § 135g.68 of this chapter.

(f) *Conditions of use.*

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1. Monensin	110 (as monensic acid activity).	* * *	* * *	For broiler chickens; do not feed to laying chickens; withdraw 72 hours before slaughter.	As an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*
2. Monensin	110 (as monensic acid activity).	3-Nitro-4-hydroxy-phenylarsonic acid.	45.4 (0.005%)	For broiler chickens; do not feed to laying chickens; withdraw 5 days before slaughter; as sole source of organic arsenic.	As an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima;* growth promotion and feed efficiency; improving pigmentation.

3. The following new section is added to Part 135g:

§ 135g.68 **Monensin.**

A tolerance of 0.05 part per million is established for negligible residues of monensin, calculated as monensic acid, in the edible tissues of chickens.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: May 5, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-6177; Filed, May 19, 1970; 8:46 a.m.]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

CARBOHYDRASE AND CELLULASE ENZYME PREPARATION

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 0A2507) filed by Fehmerling Associates, Post Office Box 236, 577 Shiloh Pike, Bridgeton, N.J. 08302, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of carbohydrase and cellulase enzyme preparation, derived from *Aspergillus niger,* for removal of visceral mass (bellies) in clam processing. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended by adding to Subpart D the following new section:

§ 121.1233 **Carbohydrase and cellulase enzyme preparation.**

Carbohydrase and cellulase enzyme preparation derived from *Aspergillus niger* may be safely used for removal of visceral mass (bellies) in clam processing in accordance with the following prescribed conditions:

(a) *Aspergillus niger* is classified as follows: Class, Deuteromycetes; order, Moniliales; family, Moniliaceae; genus, *Aspergillus;* species, *niger.*

(b) The strain of *Aspergillus niger* is nonpathogenic and nontoxic in man or other animals.

(c) The additive is produced by a process that completely removes the organism *Aspergillus niger* from the carbohydrase and cellulase enzyme product.

(d) The additive is used in an amount not in excess of the minimum required to produce its intended effect.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

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

Dated: May 8, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-6176; Filed, May 19, 1970; 8:46 a.m.]

PART 147—ANTIBIOTICS INTENDED FOR USE IN THE LABORATORY DIAGNOSIS OF DISEASE

Oleandomycin Phosphate Diagnostic Sensitivity Powder

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the

Commissioner of Food and Drugs (21 CFR 2.120), § 147.10 *Oleandomycin phosphate diagonostic sensitivity powder* is amended as follows to delete the crystallinity requirement for the subject drug:

1. Paragraph (a) (1) is amended by deleting the word "crystalline" from the first sentence.

2. Paragraph (a) (4) (i) (*a*) is revised to read as follows:

(*a*) The oleandomycin phosphate used in making the batch for potency, moisture, pH, and identity.

The Commissioner of Food and Drugs finds that deleting the above requirement for the subject diagnostic sensitivity powder will have no adverse effect on the article's function. Since this order relaxes existing requirements and is noncontroversial, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER.

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

Dated: May 11, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-6178; Filed, May 19, 1970; 8:46 a.m.]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3400]

DEATH VALLEY NATIONAL MONUMENT, CALIF.

Surface Use Regulation of Mineral Lands

The mining laws of the United States were extended to Death Valley National Monument by the Act of June 13, 1933 (48 Stat. 139; 16 U.S.C. 447) "subject, however, to the surface use of locations, entries, or patents under general regulations to be prescribed by the Secretary of the Interior." The present regulation paraphrases this provision.

The purpose of this amendment is to conform the language of the regulations more closely to the language of the Act.

It is the policy of this Department, whenever practicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested parties may submit written comments, suggestions, or objections with respect to the proposed rules to the Director (210), Bureau of Land Management, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Subpart 3400 of Chapter II of Title 43 of the Code of Federal Regulations is amended as follows:

In § 3400.1 paragraph (c)(1) is amended to read as follows:

§ 3400.1 Lands subject to location and purchase.

* * * * *

(c) * * *

(1) The mining laws were extended to the Death Valley National Monument, Calif., by the Act of June 13, 1933 (48 Stat. 139; 16 U.S.C. 447). The Act provides that surface use of locations, entries, or patents is subject to general regulations prescribed by the Secretary of the Interior. The regulations governing surface use in Death Valley National Monument are in 36 CFR 7.26.

* * * * *

HARRISON LOESCH,
Assistant Secretary of the Interior.

MAY 13, 1970.

[F.R. Doc. 70-6180; Filed, May 19, 1970; 8:46 a.m.]

Fish and Wildlife Service

[50 CFR Part 273]

FROZEN RAW SCALLOPS

Proposed Standards for Grades

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 6(a) of the Fish and Wildlife Act of August 8, 1956 (16 U.S.C. 742e), it is proposed to amend Title 50, Code of Federal Regulations by the addition of Part 273. The purpose of this amendment is to issue Standards for Grades of Frozen Raw Scallops as indicated below in accordance with the authority contained in title II of the Agricultural Marketing Act of August 14, 1946, as amended (7 U.S.C. 1621–1627).

It is the policy of the Department of the Interior whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Director, Bureau of Commercial Fisheries, U.S. Fish and Wildlife Service, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

J. M. PATTON,
Acting Director.

PART 273—U.S. STANDARDS FOR GRADES OF FROZEN RAW SCALLOPS

Sec.

AUTHORITY: The provisions of this Part 273 issued under sec. 6, 70 Stat. 1122; 16 U.S.C. sec. 742e; and secs. 203 and 205, 60 Stat. 1087, 1090 as amended; 7 U.S.C. 1622, 1624.

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act.

§ 273.1 Description of the product.

Frozen raw scallops are clean, wholesome, adequately drained, whole or cut adductor muscles of the scallop of the regular commercial species. The portion of the scallop used shall be only the adductor muscle "eye" which controls the shell movement. Scallops shall be washed, drained, packed, and frozen in accordance with good manufacturing practices and are maintained at temperatures necessary for the preservation of the product. Only scallops of a single species shall be used within a lot.

§ 273.2 Styles.

(a) *Style I.* Solid pack scallops are frozen together into a solid mass.

(1) *Substyle a.* Glazed.

(2) *Substyle b.* Not glazed.

(b) *Style II.* Individually quick-frozen pack (IQF) scallops are individually quick frozen. Individual scallops can be separated without thawing.

(1) *Substyle a.* Glazed.

(2) *Substyle b.* Not glazed.

§ 273.3 Types.

(a) *Type 1.* Abductor muscle present (gristle, sweetmeat, catch muscle).

(b) *Type 2.* Abductor muscle removed.

§ 273.4 Grades.

(a) "U.S. Grade A" is the quality of frozen raw scallops that (1) possess good flavor and odor and that (2) for those factors that are rated in accordance with the scoring system outlined in this part, have a total score of 85 to 100 points.

(b) "U.S. Grade B" is the quality of frozen raw scallops that (1) possess at least reasonably good flavor and odor, and that (2) rate a total score of not less than 70 points for these factors of quality that are rated in accordance with the scoring system outlined in this part.

(c) "Substandard" is the quality of frozen raw scallops that meets the requirements of § 273.1, *Description of the product,* but otherwise fails to meet the requirements of "U.S. Grade B."

§ 273.11 Determination of the grade.

In a plant under Continuous USDI Inspection, the grade is determined by examining the product for factors 1–5 in the fresh or thawed state and Factor 6 in the cooked state. For lot inspection, examination of the product for Factor 1 is carried out in the frozen state and 2–5 in the thawed state. Factor 6 is examined in the cooked state.

(a) *Factors rated by score points.* Points are deducted for variation in the quality of each factor in accordance with the schedule in Table 1. The total of points deducted is subtracted from 100 to obtain the score. The maximum score is 100, the minimum score is 0.

(b) *Factors not rated by score points.* The factor of "Flavor and odor" is evaluated organoleptically by smelling and tasting the product in the cooked state.

(1) Good flavor and odor (essential requirements for a U.S. Grade A product) means that the product has the typical flavor and odor of the species and is free from bitterness, staleness, and off-flavor and off-odors of any kind.

(2) Reasonably good flavor and odor (minimum requirements for a U.S. Grade B product) means the product is lacking in good flavor and odor but is free from objectionable off-flavors and off-odors of any kind.

§ 273.21 Definitions and methods.

(a) *Selection of the sample unit.* The sample unit shall consist of the primary container and its entire contents. The number and size of sample units to be examined shall be as indicated in § 273.25.

(b) *Examination of sample, frozen state.* When this product is examined under Continuous USDI Inspection, the samples are examined for Factor 1 in Table 1 in the fresh or thawed state.

When the product is lot inspected, the samples are examined for Factor 1, in Table 1 in the frozen state.

TABLE 1—SCHEDULE OF POINT DEDUCTIONS PER SAMPLE

Factors scored	Method of determining score	Deduct
FROZEN STATE		
1 Dehydration	Small degree: Easily scraped off of each 10 percent of top surface affected.	2
	Large degree: Deep dehydration not easily scraped off, affecting each 10 percent of surface.	4
FRESH OR THAWED STATE		
2 Undesirable pieces.	Percent by weight:	
	Up to 5 percent	3
	Over 5 percent—not over 10 percent.	6
	Over 10 percent	16
3 Uniformity	Weight ratio:	
	Over 2.5—not over 3.0	4
	Over 3.0—not over 3.3	6
	Over 3.3	10
4 Color	Each 10 percent by count of nonuniform colored scallops in excess of the 10 percent of nonuniform colored scallops permitted.	10
5 Extraneous material.	Minor: Each instance of minor extraneous material in the sample unit per pound.	1
	Major: Each instance of major extraneous material in the sample unit per pound.	5
COOKED STATE		
6 Texture	Firm but tender and moist	0
	Small degree: Moderately tough, dry, and fibrous or mushy.	5
	Large degree: Excessively tough, dry and fibrous or mushy.	15

(1) "Dehydration" refers to the loss of moisture from the scallops surface during frozen storage. Small degree of dehydration is color-masking but can be easily scraped off. Large degree of dehydration is deep, color-masking, and requires a knife, or other instrument to scrape it off.

(c) *Examination of sample, thawed state.* When necessary, thawing the sample is best accomplished by enclosing it in a water impermeable film-type bag and immersing in an agitated water bath at 68° F.±2° F. The complete thawing of the product is determined by gently squeezing the bag occasionally until no hard core or ice crystals are felt.

(1) Undesirable small pieces are pieces which will pass through the openings in a ¾-inch sieve for larger size scallops. For the smaller scallops, such as bay scallops, undesirable pieces are pieces of scallops that do not have the general conformation of the other scallops. The total weight of these pieces within a sample unit will be obtained. These pieces shall not be used for determining the weight ratio.

(2) Uniformity of size refers to the degree of weight uniformity of the individual scallops. This factor is measured by obtaining a weight ratio between the largest and smallest scallops. The determination is made on the thawed scallops by dividing the total weight of the 15 mination is made on the thawed scallops by the 15 percent (by count) of the smallest scallops.

(3) "Color" refers to reasonably uniform color characteristics of the species used within an individual container. Only noticeable variation in color from the predominating color of the scallops in the container is considered. Medium gray to black colored scallops are not to be graded.

(4) "Extraneous materials" are pieces or fragments of undesirable material that are naturally present in or on the scallops and which should be removed during processing.

(i) An instance of minor extraneous material includes but is not limited to each occurrence of intestines, seaweed, etc., and each aggregate of sand and grit up to ½-inch square and located on the scallop surface. Deduction points shall be assessed for additional instances of intestines, seaweed, etc., and aggregates of sand and grit up to ½-inch square.

(ii) An instance of major extraneous material includes but is not limited to each instance of shell or aggregate of embedded sand or other extraneous embedded material that affects the appearance or eating quality of the product.

(d) *Examination of sample, cooked state.* Cooked state means the state of the sample after being cooked. Place at least 25 percent by weight of the thawed sample from each sample unit into a boilable film-type pouch and seal. Submerge the pouch and its contents into boiling water for about 3 to 4 minutes or until cooked. Alternatively the product is placed into a baking pan lined with aluminum foil. A cover of aluminum foil is crimped around the edges of the top of the pan. The pan is placed in an oven that has been pre-heated to 450° F. for 20 minutes or until cooking has been completed. Flavor and odor and texture shall be evaluated in the cooked state.

(1) "Texture" refers to the firmness, tenderness, and moistness of the cooked scallop meat, which is characteristic of the species.

(e) *General definitions.* (1) "Small" (overall assessment) refers to a condition that is noticeable but is only slightly objectionable.

(2) "Large" (overall assessment) refers to a condition that not only is noticeable but is seriously objectionable.

(3) "Minor" (individual assessment) refers to a defect that slightly affects the appearance and/or utility of the product.

(4) "Major" (individual assessment) refers to a defect that seriously affects the appearance and/or utility of the product.

(5) "Net weight" means the total weight of the scallop meats within the package after removal of all packaging materials, ice glaze, or other protective materials.

§ 273.25 Tolerances for certification of officially drawn samples.

The sample rate and grades of specific lots shall be certified in accordance with Part 260 of this chapter (Regulations Governing Processed Fishery Products).

[F.R. Doc. 70-6181; Filed, May 19, 1970; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 724]

TOBACCO ALLOTMENT AND MARKETING QUOTA REGULATIONS, 1968–69 AND SUBSEQUENT MARKETING YEARS

Notice of Proposed Rule Making

Pursuant to the authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended, the Department is preparing to amend the regulations (33 F.R. 15521, as amended), for establishing farm acreage allotments and marketing quotas, the issuance of marketing cards, the identification of marketings of tobacco, the collection and refund of penalties, and the records and reports incident thereto for Burley, Fire-cured, Dark air-cured, Virginia sun-cured, Cigar-binder (types 51 and 52), Cigar-filler and binder (types 42, 43, 44, 53, 54, and 55), and Maryland tobacco.

The purpose of this document is to give notice of the proposed changes in the regulations. The proposed changes are discussed as follows:

1. To utilize more fully the Department's automatic data processing equipment, § 724.66(b) would be amended (a) to eliminate the requirement for the signature (actual or facsimile) of a member of the county committee on each Form MQ–24, Notice of Allotment, mailed to the farm operator, and (b) to authorize the county committee to post a copy of the automatic data processing printout of allotment data in lieu of posting copies of Forms MQ–24 for public inspection.

2. Section 724.68(c) would be amended to require county committees to personally review and approve leases and transfers of tobacco allotments and not permit them to redelegate this authority.

3. Section 724.80 would be amended to provide that in certification counties (as defined in Part 718 of this chapter), if the farm operator certifies the acreage for fire-cured, Dark air-cured, Virginia sun-cured, Cigar-binder (types 51 and 52), Cigar-filler and binder (types 42–44 and 53–55), or Maryland tobacco to be within the farm allotment and (i) a farm check discloses that such allotment has been exceeded but by not more than a tolerance of the larger of 0.03 acre or 5 percent of the farm allotment (not to exceed 1 acre) and (ii) if the excess acreage is not disposed of pursuant to § 724.80, any excess marketing card (Form MJ–77) issued would bear the converted rate of penalty for the farm and would be stamped or marked "eligible for price support". Similarly, in the case of burley tobacco acreage in excess of the farm allotment, but within the aforementioned tolerance, is not disposed of pursuant to § 724.80, a Form MQ–76 would be issued bearing the converted rate of penalty. The Burley marketing card would not be stamped to indicate price support because current regulations

provide that a producer's Burley tobacco is eligible for price support unless the card is stamped or marked "no price support".

4. Sections 724.86, 724.91, 724.96, and 724.99 would be amended to provide for the identification of Fire-cured, Dark air-cured, Virginia sun-cured, and Maryland tobacco produced on within quota farms by Form MQ–76 marketing cards, without the use of memos of sales. Prior to the return of any Form MQ–76 to the county office, the farm operator would be required to certify thereon the amount of tobacco marketed from the farm.

5. Section 724.87(a) would be amended to clarify that it is the responsibility of the dealer to enter data on the producer's burley marketing card to cover nonauction purchases of tobacco he makes.

6. Section 724.89 would be amended to include the 1969–70 average market price for tobacco and the 1970–71 rate of penalty on marketings of excess tobacco.

7. Section 724.91 would be amended to include a new paragraph (k) to provide that where a dealer purchases and resells several kinds of tobacco and such kinds of tobacco are mixed in reporting data on MQ–79, Dealers Record, penalty would be due on all excess resales at the highest rate of penalty applicable to any kind of tobacco reported or due to be reported.

8. Section 724.95(a) would be amended to provide that if a farm operator in a certification county (as defined in Part 718 of this chapter) files a certification of tobacco acreage on the farm, and after a farm visit and measurement of the acreage, it is determined by the county committee (with approval of the State committee) that the certification was false (either significantly undercertification or significantly overcertification) in what amounts to a scheme or device to defeat the purpose of the program the allotment next established for the farm would be subject to being reduced after an informal hearing with the operator. The acreage falsely certified (difference between certified and measured acreage) times the farm's actual yield would be the pounds in violation for purposes of computing the reduction in the acreage allotment.

9. Section 724.99 would be amended to include a new paragraph (g) to clarify that dealers who have tobacco transactions (acquisition of tobacco or resales) after the final reporting date of April 1, set forth in § 724.99(f), shall make reports of such data on MQ–79.

10. Section 724.109 would be amended to provide for retention of records for 3 years after the end of the marketing year instead of 2 years. This is desirable because of the time required to discover warehouse and dealer violations and to complete formal investigations.

Prior to the issuance of the proposed changes in the regulations, data, views or recommendations pertaining thereto which are submitted to the Director, Commodity Programs Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, will be given consideration, provided such submissions are postmarked not later than 15 days after the date of publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in the manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on May 13, 1970.

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

[F.R. Doc. 70-6223; Filed, May 19, 1970; 8:50 a.m.]

Consumer and Marketing Service

[7 CFR Part 26]

GRAIN STANDARDS

General Requirements for Official Certificates

Under the authority contained in the U.S. Grain Standards Act (7 U.S.C. 71 et seq.), as amended by Public Law 90–487, notice is hereby given pursuant to the administrative procedure provisions of 5 U.S.C. 553, that the United States Department of Agriculture proposes to amend § 26.59 of the regulations (7 CFR 26.59) under the Act.

Statement of considerations. On February 8, 1969, there was published in the FEDERAL REGISTER an amendment of the regulations (7 CFR 26.1 et seq.) under the U.S. Grain Standards Act, as amended. Section 26.59 of the regulations (7 CFR 26.59) prescribes the general requirements for official certificates. Section 26.59(b)(12) of the regulations (7 CFR 26.59(b)(12)) prescribes that the date or dates the grain was sampled and the method of sampling the grain be shown. (Exceptions which are not pertinent to this notice are shown in the footnote to the section.)

Export grain marketing groups, both commercial and governmental, have expressed concern that the mandatory showing of the date or dates the grain was sampled and the method of sampling on export certificates which represent cargo shipments could result in confusion among the foreign buyers and could unduly complicate the export marketing of U.S. grain. The groups recommended that the regulations be amended so the showing of the date or dates the grain was sampled and the method of sampling would not be required on export certificates representing cargo shipments.

A meeting with interested export grain marketing groups was held in Washington, D.C., on March 18 to discuss the showing of the information on export certificates. On the basis of information presented at the meeting, it appears that the mandatory showing of such information on export certificates which represent cargo shipments could further complicate the export marketing of U.S. grain and that § 26.59(b)(12) should be amended accordingly.

The amendment would not preclude the permissive showing, at the request of the applicant, of the date or dates the grain was sampled or the method of sampling on export certificates which represent cargo shipments.

Subparagraph (12) of paragraph (b) of § 26.59 would be amended to read as follows:

§ 26.59 Official certificates (general requirements).

* * * * *

(b) * * *

(12) The date or dates the grain was sampled and the method of sampling the grain.[1] (This subparagraph is not applicable to export certificates for cargo shipments.)

* * * * *

Opportunity is hereby afforded all interested parties to submit written data, views, or arguments, with respect to the proposed amendment of the regulations, to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions should be in duplicate and should be received by the Hearing Clerk not later than 45 days after this notice is published in the FEDERAL REGISTER. All submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFP 1.27(b)).

Consideration will be given to the written data, views, or arguments received by the Hearing Clerk and to other information available to the U.S. Department of Agriculture before final determination is made with respect to this proposal.

Done in Washington, D.C., this 14th day of May 1970.

G. R. GRANGE,
Deputy Administrator, Marketing Services.

[F.R. Doc. 70-6195; Filed, May 19, 1970; 8:47 a.m.]

[7 CFR Part 58]

INSTANT NONFAT DRY MILK

Standards; Requirements for Grade, Grade Not Assignable, and Test Methods

Notice is hereby given that the U.S. Department of Agriculture is considering the issuance, as hereinafter provided, of amendments to the U.S. Standards for Instant Nonfat Dry Milk. This grade standard is issued under authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended, 7 U.S.C. 1621) which provides for the issuance of official U.S. Grades to designate different levels of quality for the voluntary use of producers, buyers and consumers. Official grading service is also provided under this Act upon request of the applicant and upon payment of a fee to cover the cost of the service.

The proposed amendments provide under Subpart U, §§ 58.2753, 58.2754, and 58.2756 for the following changes:

1. Reduce the bacterial estimate to not more than 30,000 per gram.

2. Reduce the coliform count to not more than 10 per gram.

3. Express the dispersibility requirement for U.S. Extra grade as 85 percent.

4. Determine phosphatase activity at the option of the Department or when requested by the buyer or seller.

5. Reference the Modified Moats-Dabbah Method as the test procedure for measuring dispersibility.

Statement of consideration. The proposed amendments to the standards are based on information received or developed by the Department since 1958. Surveys of commercially available brands of instant nonfat dry milk have been made by the Dairy Division in 1958, 1960, 1965, 1967, and 1969. Additional data has been obtained during 1969 in the purchase programs of instant nonfat dry milk for use in USDA food distribution programs. The test results obtained from these surveys show that the industry has the capability of meeting the proposed amendments. The present U.S. Standards for Instant Nonfat Dry Milk became effective in May 1963.

By reducing the bacterial estimate to not more than 30,000 per gram, it will make the test method consistent with the approved test procedures for making bacertial tests. The reduction of the coliform count to not more than 10 per gram will bring this requirement into its proper significance as an indicator of post pasteurization contamination.

Since the standard was developed, the manufacture of mechanical equipment previously used for determining dispersibility had been discontinued. Therefore, the Market Quality Research Division, Agricultural Research Service, USDA, developed a nonmechanical method for determining the dispersibility of nonfat dry milk. This method called the Moats-Dabbah method was published in April 1968. As a result of subsequent tests by USDA, American Dry Milk Institute and dry milk industry members, certain changes in the method were suggested and made to improve reproducibility and use of the new test method which was modified accordingly. The Modified Moats-Dabbah Method for Determining Dispersibility of Nonfat Dry Milk has been agreed upon by the Dairy Division and ADMI. The method is now available from the U.S. Department of Agriculture, Consumer and Marketing Service, Dairy Division.

Data on dispersibility for instant nonfat dry milk and regular nonfat dry milk has been gathered from samples obtained from commercial sources, manufacturers, American Dry Milk Institute and the Dairy Division, Consumer and Marketing Service, USDA. Evaluation of the data indicates that by using the Modified Moats-Dabbah method it will effectively differentiate between regular and instant nonfat dry milk, and that a level of 85 percent is a reasonable requirement for U.S. Extra Grade.

Positive pasteurization can only be assured when the heat treatment is conducted in properly operated equipment which is approved by an appropriate regulatory agency. Since the phosphatase test is a method for measuring the efficiency of pasteurization it should not be extended to assure positive pasteurization. Therefore, in determining "U.S. Grade not assignable" the requirement of running the phosphatase test shall be at the option of the Department or when requested by the buyer or seller.

The proposal has been discussed with the American Dry Milk Institute and others in the dry milk industry.

All persons who desire to submit written data, views or arguments in connection with the aforesaid proposals shall file the same in duplicate with the Hearing Clerk, Room 112, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the date of publication in the FEDERAL REGISTER. All written submissions pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments to Subpart U are as follows:

1. Change subparagraph (3)(i) of § 58.2753(a), *Requirements for the U.S. grade*, to read as follows:

(i) *Bacterial estimate.* Not more than 30,000 per gram, standard plate count.

2. Change subparagraph (3)(ii) of § 58.2753(a), *Requirements for the U.S. grade*, to read as follows:

(ii) *Coliform count.* Not more than 10 per gram.

3. Change subparagraph (3)(viii) of § 58.2753(a), *Requirements for the U.S. grade*, to read as follows:

(viii) *Dispersibility.* Not less than 85.0 percent.

4. Change paragraph (c) of § 58.2754, *U.S. Grade not assignable* to read as follows: "(c) the phosphatase test, when run at the option of the Department or when requested by the buyer or seller, shows more than 4 micrograms of phenol per ml. of reconstituted nonfat milk."

5. Change paragraph (a) of § 58.2756 (a), *Test methods*, last sentence, to read as follows: "Dispersibility shall be determined by the Modified Moats-Dabbah Method."

Done at Washington, D.C., this 14th day of May 1970.

G. R. GRANGE,
Deputy Administrator,
Marketing Services.

[F.R. Doc. 70-6224; Filed, May 19, 1970; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 81]

AIR QUALITY CONTROL REGIONS

Notice of Proposed Designation of Interstate Regions and Consultations With Appropriate State and Local Authorities

Pursuant to authority delegated by the Secretary and redelegated to the Commissioner of the National Air Pollution Control Administration (33 F.R. 9909), notice is hereby given of a proposal to designate Interstate Air Quality Control Regions as set forth in the following new §§ 81.55–81.74 inclusive which would be added to Part 81 of Title 42, Code of Federal Regulations. It is proposed to make such designations effective upon republication.

Interested persons may submit written data, views, or arguments in triplicate to the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17–82, 5600 Fishers Lane, Rockville, Md. 20852. All relevant material received not later than 30 days after the publication of this notice will be considered.

Interested authorities of the States of Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin and appropriate local authorities, both within and without the proposed regions, who are affected by or interested in the proposed designations, are hereby given notice of an opportunity to consult with representatives of the Secretary concerning such designations. The schedule for such consultations is as follows:

Allentown-Bethlehem-Easton (Pennsylvania)—Phillipsburg (New Jersey) Interstate Air Quality Control Region, July 2, 1970, 2 p.m., Courtroom, U.S. Customs Courthouse, 1 Federal Plaza, New York City, N.Y.

Binghamton (New York)—(Pennsylvania) Interstate Air Quality Control Region, July 2, 1970, 11 a.m., Courtroom, U.S. Customs Courthouse, 1 Federal Plaza, New York City, N.Y.

Bristol (Virginia)—Johnson City (Tennessee) Interstate Air Quality Control Region, June 23, 1970, 11 a.m., Auditorium A, National Communicable Disease Center, 1600 Clifton Road NE., Atlanta, Ga.

Columbus (Georgia)—Phenix City (Alabama) Interstate Air Quality Control Region, June 23, 1970, 2 p.m., Auditorium A, National Communicable Disease Center, 1600 Clifton Road NE., Atlanta, Ga.

Cumberland (Maryland)—Keyser (West Virginia) Interstate Air Quality Control Region, June 25, 1970, 9 a.m., Room B67, U.S. Department of Health, Education, and Welfare, 220 Seventh Street NE., Charlottesville, Va.

Duluth (Minnesota)—Superior (Wisconsin) Interstate Air Quality Control Region, June 29, 1970, 1 p.m., Lecture Hall, The Field Museum of Natural History, Roosevelt Road and Lake Shore Drive, Chicago, Ill.

Evansville (Indiana)—Owensboro-Henderson (Kentucky) Interstate Air Quality Control Region, June 26, 1970, 9 a.m., Room B67, U.S. Department of Health, Education, and Welfare, 220 Seventh Street NE., Charlottesville, Va.

Florence (Alabama)—Corinth (Mississippi)—(Tennessee) Interstate Air Quality Control Region, June 22, 1970, 3 p.m., Auditorium A, National Communicable Disease Center, 1600 Clifton Road NE., Atlanta, Ga.

Fort Smith (Arkansas)—Muskogee (Oklahoma) Interstate Air Quality Control Region, July 7, 1970, 9 a.m., Room 330, U.S. District Court, Federal Building, Bryan and Ervay Streets, Dallas, Tex.

Huntington (West Virginia)—Ashland (Kentucky)—Portsmouth-Ironton (Ohio) Interstate Air Quality Control Region, June 25, 1970, 2 p.m., Room B67, U.S. Department of Health, Education, and Welfare, 220 Seventh Street NE., Charlottesville, Va.

Joplin (Missouri)—Northeast Oklahoma (Oklahoma)—Southeast Kansas (Kansas)—Fayetteville (Arkansas) Interstate Air Quality Control Region, July 7, 1970, 11 a.m., Room 330, U.S. District Court, Federal Building, Bryan and Ervay Streets, Dallas, Tex.

La Crosse (Wisconsin)—Winona (Minnesota) Interstate Air Quality Control Region, June 29, 1970, 3 p.m., Lecture Hall, The Field Museum of Natural History, Roosevelt Road and Lake Shore Drive, Chicago, Ill.

Menominee-Escanaba (Michigan)—Marinette (Wisconsin) Interstate Air Quality Control Region, June 30, 1970, 2 p.m., Lecture Hall, The Field Museum of Natural History, Roosevelt Road and Lake Shore Drive, Chicago, Ill.

Mobile (Alabama)—Pensacola-Panama City (Florida)—Gulfport (Mississippi) Interstate Air Quality Control Region, June 22, 1970, 1 p.m., Auditorium A, National Communicable Disease Center, 1600 Clifton Road NE., Atlanta, Ga.

Paducah (Kentucky)—Cairo (Illinois) Interstate Air Quality Control Region, June 26, 1970, 11 a.m., Room B67, U.S. Department of Health, Education, and Welfare, 220 Seventh Street NE., Charlottesville, Va.

Parkersburg (West Virginia)—Marietta (Ohio) Interstate Air Quality Control Region, June 25, 1970, 11 a.m., Room B67, U.S. Department of Health, Education, and Welfare, 220 Seventh Street NE., Charlottesville, Va.

Rockford (Illinois)—Janesville-Beloit (Wisconsin) Interstate Air Quality Control Region, June 30, 1970, 9 a.m., Lecture Hall, The Field Museum of Natural History, Roosevelt Road and Lake Shore Drive, Chicago, Ill.

Scottsboro (Alabama)—Jasper (Tennessee) Interstate Air Quality Control Region, June 23, 1970, 9 a.m., Auditorium A, National Communicable Disease Center, 1600 Clifton Road NE., Atlanta, Ga.

South Bend-Elkhart (Indiana)—Benton Harbor (Michigan) Interstate Air Quality Control Region, June 30, 1970, 11 a.m., Lecture Hall, The Field Museum of Natural History, Roosevelt Road and Lake Shore Drive, Chicago, Ill.

Youngstown (Ohio)—Erie (Pennsylvania) Interstate Air Quality Control Region, July 2, 1970, 9 a.m., Courtroom, U.S. Customs Courthouse, 1 Federal Plaza, New York City, N.Y.

Mr. Doyle J. Borchers is hereby designated as Chairman for these consultations. The Chairman shall fix the time, date, and place of later sessions and may convene, reconvene, recess, and adjourn the sessions as he deems appropriate to expedite the proceedings.

State and local authorities wishing to participate in a particular consultation should notify the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17-82, 5600 Fishers Lane, Rockville, Md. 20852, of such intention at least 1 week prior to the consultation.

In Part 81 the following new sections are proposed to be added to read as follows:

§ 81.55 Allentown - Bethlehem - Easton (Pennsylvania)—Phillipsburg (New Jersey) Interstate Air Quality Control Region.

The Allentown - Bethlehem - Easton (Pennsylvania)—Phillipsburg (New Jersey) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Pennsylvania:

Lehigh County.	Northampton County.

In the State of New Jersey:

Hunterdon County.	Warren County.
Sussex County.	

§ 81.56 Binghamton (New York)—(Pennsylvania) Interstate Air Quality Control Region.

The Binghamton (New York)—(Pennsylvania) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the areas so dlimited):

In the State of New York:

Broome County.	Tioga County.

In the State of Pennsylvania:

Bradford County.	Susquehanna County.

§ 81.57 Bristol (Virginia)—Johnson City (Tennessee) Interstate Air Quality Control Region.

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

In the State of Virginia:

Bristol City.	Scott County.
Lee County.	Smyth County.
Norton City.	Washington County.
Russell County.	Wise County.

In the State of Tennessee:

Carter County.	Hawkins County.
Greene County.	Sullivan County.
Hancock County.	Washington County.

§ 81.58 Columbus (Georgia)—Phenix City (Alabama) Interstate Air Quality Control Region.

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

In the State of Georgia:

Chattahoochee County.	Muscogee County.
Harris County.	Stewart County.
	Troup County.

In the State of Alabama:

Chambers County.	Russell County.
Lee County.	

§ 81.59 Cumberland (Maryland)—Keyser (West Virginia) Interstate Air Quality Control Region.

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

In the State of Maryland:

Allegany County.	Garrett County.

In the State of West Virginia:

Grant County.	Mineral County.

§ 81.60 Duluth (Minnesota)—Superior (Wisconsin) Interstate Air Quality Control Region.

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

In the State of Minnesota:

Carlton County.	Pine County.
Cook County.	St. Louis County.
Lake County.	

In the State of Wisconsin:

Bayfield County.	Douglas County.
Burnett County.	

§ 81.61 Evansville (Indiana)—Owensboro-Henderson (Kentucky) Interstate Air Quality Control Region.

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

In the State of Indiana:

Dubois County.
Gibson County.
Perry County.
Pike County.
Posey County.
Spencer County.
Vanderburgh County.
Warrick County.

In the State of Kentucky:

Daviess County.
Hancock County.
Henderson County.
Union County.

§ 81.62 Florence (Alabama)—Corinth (Mississippi) — (Tennessee) Interstate Air Quality Control Region.

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

In the State of Alabama:

Colbert County.
Franklin County.
Lauderdale County.

In the State of Mississippi:

Alcorn County.
Tishomingo County.

In the State of Tennessee:

Hardin County.

§ 81.63 Fort Smith (Arkansas)—Muskogee (Oklahoma) Interstate Air Quality Control Region.

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

In the State of Arkansas:

Crawford County.
Sebastian County.

In the State of Oklahoma:

Haskell County.
Latimer County.
Le Flore County.
McIntosh County.
Muskogee County.
Okmulgee County.
Pittsburgh County.
Sequoyah County.

§ 81.64 Huntington (West Virginia)—Ashland (Kentucky)—Portsmouth-Ironton (Ohio) Interstate Air Quality Control Region.

The Huntington (West Virginia)—Ashland (Kentucky)—Portsmouth-Ironton (Ohio) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of West Virginia:

Cabell County.
Mason County.
Wayne County.

In the State of Kentucky:

Boyd County.
Greenup County.
Lawrence County.

In the State of Ohio:

Gallia County.
Lawrence County.
Scioto County.

§ 81.65 Joplin (Missouri)—Northeast Oklahoma (Oklahoma)—Southeast Kansas (Kansas)—Fayetteville (Arkansas) Interstate Air Quality Control Region.

The Joplin (Missouri)—Northeast Oklahoma (Oklahoma) — Southeast Kansas (Kansas)—Fayetteville (Arkansas) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Missouri:

Barton County.
Jasper County.
McDonald County.
Newton County.

In the State of Oklahoma:

Adair County.
Cherokee County.
Craig County.
Delaware County.
Mayes County.
Nowata County.
Ottawa County.
Rogers County.
Wagoner County.
Washington County.

In the State of Kansas:

Cherokee County.
Crawford County.
Labette County.
Montgomery County.

In the State of Arkansas:

Benton County.
Washington County.

§ 81.66 La Crosse (Wisconsin)—Winona (Minnesota) Interstate Air Quality Control Region.

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

In the State of Wisconsin:

Buffalo County.
La Crosse County.
Trempealeau County.
Vernon County.

In the State of Minnesota:

Houston County.
Wabasha County.
Winona County.

§ 81.67 Menominee-Escanaba (Michigan)—Marinette (Wisconsin) Interstate Air Quality Control Region.

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

In the State of Michigan:

Delta County.
Dickinson County.
Menominee County.

In the State of Wisconsin:

Florence County.
Marinette County.
Oconto County.

§ 81.68 Mobile (Alabama)—Pensacola-Panama City (Florida)—Gulfport (Mississippi) Interstate Air Quality Control Region.

The Mobile (Alabama)—Pensacola-Panama City (Florida)—Gulfport (Mississippi) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Alabama:

Baldwin County.
Escambia County.
Mobile County.

In the State of Florida:

Bay County.
Calhoun County.
Escambia County.
Gulf County.
Holmes County.
Jackson County.
Okaloosa County.
Santa Rosa County.
Walton County.
Washington County.

In the State of Mississippi:

Hancock County.
Harrison County.
Jackson County.
Pearl River County.

§ 81.69 Paducah (Kentucky)—Cairo (Illinois) Interstate Air Quality Control Region.

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

In the State of Kentucky:

Ballard County.
Marshall County.
McCracken County.

In the State of Illinois:

Alexander County.
Massac County.
Pope County.
Pulaski County.

§ 81.70 Parkersburg (West Virginia)—Marietta (Ohio) Interstate Air Quality Control Region.

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

In the State of West Virginia:

Jackson County. Wetzel County.
Pleasants County. Wood County.
Tyler County.

In the State of Ohio:

Athens County. Washington County.
Meigs County.

§ 81.71 Rockford (Illinois)—Janesville-Beloit (Wisconsin) Interstate Air Quality Control Region.

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

In the State of Illinois:

Boone County. Stephenson County.
De Kalb County. Winnebago County.
Ogle County.

In the State of Wisconsin:

Rock County.

§ 81.72 Scottsboro (Alabama)—Jasper (Tennessee) Interstate Air Quality Control Region.

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

In the State of Alabama:

De Kalb County. Jackson County.

In the State of Tennessee:

Bledsoe County. Sequatchie County.
Marion County.

§ 81.73 South Bend-Elkhart (Indiana)—Benton Harbor (Michigan) Interstate Air Quality Control Region.

The South Bend-Elkhart (Indiana)—Benton Harbor (Michigan) Interstate Air Quality Control Region consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Indiana:

Elkhart County. Marshall County.
Kosciusko County. St. Joseph County.
LaPorte County.

In the State of Michigan:

Berrien County. Van Buren County.
Cass County.

§ 81.74 Youngstown (Ohio)—Erie (Pennsylvania) Interstate Air Quality Control Region.

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

In the State of Ohio:

Ashtabula County. Trumbull County.
Mahoning County.

In the State of Pennsylvania:

Crawford County. Mercer County.
Erie County.

This action is proposed under the authority of sections 107(a) and 301(a) of the Clean Air Act, section 2, Public Law 90-148, 81 Stat. 490, 504, 42 U.S.C. 1857c-2(a), 1857g(a).

Dated: May 15, 1970.

RAYMOND SMITH,
Acting Commissioner, National Air Pollution Control Administration.

[F.R. Doc. 70-6230; Filed, May 19, 1970; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 83]

[Docket No. 18854; FCC 70-497]

AUXILIARY SOURCE OF ELECTRICAL ENERGY ON CERTAIN UNITED STATES VESSELS

Notice of Proposed Rule Making

In the matter of amendment of Part 83 to provide for an auxiliary source of electrical energy on certain United States vessels subject to the Great Lakes Agreement.

1. Notice of proposed rule making in the above-entitled matter is hereby given. In brief, the Commission proposes to amend Part 83 of its rules to require an auxiliary source of electrical energy for radiotelephone installations on Great Lakes cargo vessels of 1,000 gross tons or more.

2. The basic authority governing the use of radio for safety purposes by watercraft plying the Great Lakes is the Agreement for the Promotion of Safety on the Great Lakes by means of Radio, more commonly referred to as the Great Lakes Agreement. The Great Lakes Agreement entered into force on November 13, 1954, and was concluded between the United States and Canadian Governments out of mutual concern that Great Lakes vessels be equipped with adequate and effective radio installations for all safety purposes.[1] Accordingly, the Agreement prescribes certain standards and requirements applicable to radio installations on specified types of vessels navigating the Great Lakes and the associated waters named in the Agreement.

3. All vessels subject to the Great Lakes Agreement and the Regulations annexed thereto are required to have available "a main source of energy sufficient to energize properly and immediately the radiotelephone installation." Agreement, Regulation 1-3. On most vessels plying the Great Lakes, this "main source of energy" is the vessel's normal electrical system, whose source is a generator normally located in the engine room in the after part of the vessel. The radiotelephone installation itself must be located "as high as practicable in the upper part of the vessel", and the main operating position of the radiotelephone installation must be located "on the bridge" of the vessel. Agreement, Regulation 1-1. The latter requirements normally place the radiotelephone installation and main operating position therefor in the forward part of the vessel, a considerable distance from the main source of energy. Consequently, should a vessel break in half or suffer major damage between the forward and after parts of the vessel, electrical power for the operation of radio equipment would likely be terminated.

4. To meet the foregoing contingency in the situation of passenger carrying vessels of 1,000 gross tons or more, Regulation 1-3 of the Agreement (as well as the Commission's rules, § 83.545) requires an independent, auxiliary source of energy capable of energizing the radiotelephone installation for at least four continuous hours; and the auxiliary source, like the radiotelephone installation, must be located "as high as possible in the upper part of the vessel." No similar requirement with respect to vessels of other descriptions was provided for in the Agreement, and this matter was left with a recommendation "that further study be made by both Contracting Governments * * * and that information on this subject be exchanged between the two." Conference Recommendation, Annex 5 of the U.S. Delegation Report.

5. The Commission is presently persuaded that the considerations which led to the auxiliary power requirement in Regulation 1-3 of the Agreement also support the advisability and necessity of a similar requirement for large United States Great Lakes cargo vessels other than those meeting the definition of passenger carrying vessels. Reference here need only be made to the tragedy late in 1966 wherein the Great Lakes Ore Carrier "Daniel J. Morrell" broke in half and sank with only one survivor; no distress signals were received from the stricken vessel, and it later developed that the radio equipment aboard had been rendered useless due to cessation of power accompanying the breaking in half of the vessel. Many U.S. Great Lakes cargo vessels are now equipped, on a voluntary basis, with auxiliary power sources to reduce the likelihood of similar tragedies, and it is the purpose of this proceeding

[1] Under section 1 of the Communications Act of 1934, as amended, 47 U.S.C. section 151, the Commission is charged with the general responsibility of "promoting safety of life and property through the use of wire and radio communication".

to provide for such equipment on a mandatory basis for all U.S. cargo vessels subject to the Great Lakes Agreement.

6. The requirement being proposed here for U.S. cargo vessels is essentially the same as that presently in force for passenger vessels, except that the continuous hours provisions is for two rather than 4 hours. In this connection, most of the cargo vessels now carrying auxiliary power sources have equipment of the lesser capability, and the Commission believes that it would be inequitable to require owners who have voluntarily purchased this safety equipment to now replace it. When considering the routes of voyages of Great Lakes cargo vessels, the proximity of other vessels, and the numerous coast stations and Coast Guard shore stations with which to communicate in the event of distress, it is believed that 2 hours capacity is adequate.

7. With respect to this matter of auxiliary power sources for radiotelephone installations, the Great Lakes Agreement prescribed minimum requirements only, in terms of the established safety objectives of the Agreement. As stated above, it was recognized that further study of pertinent matters would be made by both of the Contracting Governments; and neither Government was precluded from establishing additional requirements applicable to vessels of its own registry. Thus, while the agreement is open to amendment, this approach is not the only means of accomplishing desired objectives, and, in this instance, the Commission has already been advised by the Canadian Government that other regulatory measures have now been enforced by it to prevent the hazard which these proposals are designed to overcome. Given the safety purposes stated in the Agreement, and the commitments of the parties to take all steps necessary to achieve those objectives, the Commission believes it would be remiss in its responsibilities under the Agreement and the Communications Act, if it did not prescribe additional requirements for vessels of U.S. registry in those instances where it is determined that they are necessary safety measures.

8. The proposed amendments set forth below, are issued pursuant to the authority contained in section 1 and 303(r) of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments herein on or before June 22, 1970, and reply comments on or before July 2, 1970. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision herein, the Commission may take into account other relevant information before it, in addition to the specific comments invited by this notice.

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

Adopted: May 13, 1970.

Released: May 15, 1970.

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

A. Part 83, Stations on Shipboard in the Maritime Services, is amended as follows:

Section 83.545, paragraphs (a) and (d) are amended as follows:

§ 83.545 Auxiliary source of energy.

(a) An auxiliary source of energy shall be provided as follows:

(1) Passenger carrying vessels which are of 1,000 gross tons and over shall be provided with an auxiliary source of energy, independent of the vessel's normal electrical system and capable of properly energizing the radiotelephone installation and the electric light prescribed by § 83.547, in addition to any other electrical loads to which it may supply energy in times of emergency or distress, for at least 4 continuous hours under normal operating conditions. When meeting this 4-hour requirement, such auxiliary source of energy shall be located on the level of the main pilothouse or at lease one deck above the vessel's main deck;

(2) Vessels of 1,000 gross tons or more, other than passenger carrying vessels, shall be provided with an auxiliary source of energy, independent of the vessel's normal electrical system and capable of properly energizing the radiotelephone installation and the electric light prescribed by § 83.547, in addition to any other electrical loads to which it may supply energy in times of emergency or distress, for at least 2 continuous hours under normal operating conditions. When meeting this 2-hour requirement, such auxiliary source of energy shall be located on the level of the main pilothouse or at least one deck above the vessel's main deck;

* * * * *

(d) The shipowner, operating company, or station licensee, when directed by the Commission or its authorized representatives, shall prove by demonstration as prescribed in subparagraphs (1), (2), (3), and (4) of this paragraph, or by such other means as may be deemed necessary, that the auxiliary source of energy is capable of meeting the requirements of paragraph (a) of this section:

(1) When the auxiliary source of energy consists of or includes a storage battery, proof of the ability of such battery to operate continuously and effectively over the required period of time is authorized to be established by a discharge test over the required period of time, when supplying power at the voltage required for normal and effective operation to an electrical load as prescribed by subparagraph (3) of this paragraph:

(2) When the auxiliary source of energy consists of or includes an engine-driven generator, proof of the adequacy of the engine fuel supply to operate the unit continuously and effectively over the required period of time may be established by using as a basis the fuel consumption during a continuous period of 1 hour when supplying power, at the voltage required for normal and effective operation, to an electrical load as prescribed by subparagraph (3) of this paragraph:

(3) For the purpose of determining the electrical load to be supplied, the following formula shall be used:

(i) One-half the current consumption of the required transmitter at its rated output power; plus

(ii) Current consumption of the required receiver; plus

(iii) Current consumption of the electric light prescribed by § 83.547; plus

(iv) The sum of the current consumption of all other loads to which the auxiliary source of energy may supply power in time of emergency or distress;

(4) At the conclusion of the test specified in subparagraphs (1) and (2) of this paragraph, no part of the auxiliary source of energy shall have an excessive temperature rise, nor shall the specific gravity or voltage of any storage battery be below the 90 percent discharge point as determined from information (such as voltage curves or specific gravity tables) supplied by the manufacturer of the type of battery involved.

[F.R. Doc. 70-6214; Filed, May 19, 1970; 8:49 a.m.]

FEDERAL TRADE COMMISSION

[16 CFR Part 426]

ADVERTISING OF CYCLAMATE-CONTAINING ARTIFICIAL SWEETENERS AS NONPRESCRIPTION DRUGS

Notice of Public Hearing and Opportunity To Submit Data, Views or Arguments Regarding Proposed Trade Regulation Rule

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., and the provisions of Part 1, Subpart B of the Commission's procedures and rules of practice, 16 CFR 1.11, et seq., has initiated a proceeding for the promulgation of a Trade Regulation Rule relating to the advertising of cyclamate-containing artificial sweeteners as nonprescripton drugs, and proposes the Trade Regulation Rule hereinafter set forth.

The Commission has initiated this proceeding, having reason to believe that:

1. Many marketers have offered for sale and sold in commerce, as "commerce" is defined in the Federal Trade Commission Act, cyclamate-containing artificial sweeteners as nonprescription drugs.

2. Consumption of cyclamate-containing artificial sweeteners as nonprescription drugs, when taken in large dosages, may be dangerous to health.

NOTE: On the basis of animal studies disclosing the presence of malignant bladder tumors after the animals had been subjected to large dose levels of cyclamates for long periods, the Commissioner of the Food and Drug Administration, Department of Health, Education, and Welfare, concluded that cyclamates could no longer be regarded as generally recognized as safe for use in food.

3. Without the proper disclosure in advertising, a substantial portion of the general consuming public might be led to believe that such nonprescription drug products can be consumed in large dosages without danger to health, and that such nonprescription drug products can safely be consumed by anyone and without medical supervision, when, in fact, said products in large dosages may be dangerous to health, said products are intended only for consumption by a limited class of persons—the diabetic and the obese patient under medical supervision—in whom weight reduction and control are essential for health, and said products can be safely consumed only under medical supervision and in accordance with the cautionary statements appearing on the label or in the labeling thereof.

NOTE: The Food and Administration has approved a new drug application for cyclamates on a nonprescription, drug-labeled basis, with the following labeling requirement, 34 F.R. 20427, December 31, 1969:

"(2) *Indications.* Include the statement 'For use only with calorie-controlled diets by diabetics or obese patients under medical supervision.' Also, set forth thereafter in a a box the statement 'Caution: Medical supervision is essential for safe use.' "

4. The failure to disclose in advertising that cyclamate-containing artificial sweeteners as nonprescription drugs may be dangerous to health when taken in large dosages, should be used only with calorie-controlled diets by diabetics or obese patients under medical supervision, and should be consumed only under medical supervision for safe use, has the capacity and tendency to mislead and deceive purchasers and prospective purchasers.

5. Such practice constitutes a violation of sections 5 and 12 of the Federal Trade Commission Act.

In taking this action the Commission has considered, among other things, the labeling requirements of the Food and Drug Administration as to the safety of cyclamate-containing artificial sweeteners and, on the basis of its accumulated experience in the field of hazardous products and all available studies and reports in this matter, is of the opinion that the public interest in a Trade Regulation Rulemaking proceeding is specific and substantial.

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

§ 426.1 The Rule.

(a) In connection with the sale or offering for sale of cyclamate-containing artificial sweeteners as nonprescription drugs, subject to the jurisdictional requirements of sections 5 and 12 of the Federal Trade Commission Act, it is an unfair or deceptive act or practice to fail to include in the advertising of such products a clear and conspicuous cautionary statement that said products may be dangerous to health when taken in large dosages, that said products should only be used with calorie-controlled diets by diabetics or obese patients under medical supervision, and that medical supervision is essential for safe use.

(b) Example of a proper cautionary statement:

CAUTION: This product contains cyclamate which, when taken in large dosages, may be dangerous to health. For use only with calorie-controlled diets by diabetics or obese patients under medical supervision. Medical supervision is essential for safe use.

All interested persons, including members of the public, are urged to submit comments on the proposed rule set forth above, or to recommend any desirable revisions. Such data, views, or arguments may be filed with the Chief, Division of Trade Regulation Rules, Bureau of Industry Guidance, Federal Trade Commission, Pennsylvania Avenue and Sixth Street NW., Washington, D.C. 20580, not later than July 14, 1970. To the extent practicable, persons wishing to file written presentations in excess of two pages should submit 20 copies.

All interested parties are also given notice of opportunity to make oral presentation of data, views, or arguments with respect to the proposed rule at a hearing to be held at 10 a.m., e.d.t., July 21, 1970, in Room 532 of the Federal Trade Commission Building, Washington, D.C.

Any persons desiring to orally present his views at the hearing should so inform the Chief, Division of Trade Regulation Rules, not later than July 14, 1970, and state the estimated time required for his oral presentation. Reasonable limitations upon the length of time allotted to any person may be imposed. In addition, all parties desiring to deliver a prepared statement at the hearing should file such statement with the Chief, Division of Trade Regulation Rules, on or before July 14, 1970.

The data, views, or arguments presented with respect to the proposed rule will be available for examination by interested parties at the office of the Assistant Secretary for Legal and Public Records, Federal Trade Commission's Washington address given above, and will be considered by the Commission in the establishment of a Trade Regulation Rule.

All persons, firms, corporations, or others engaged in the sale or distribution of cyclamate-containing nonprescription drug products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, would be subject to the requirements of any Trade Regulation Rule promulgated in the course of this proceeding.

Where a Trade Regulation Rule is relevant to any issue involved in an adjudicative proceeding thereafter instituted, the Commission may rely upon the rule to resolve such issue, provided that the respondent shall have been given a fair hearing on the applicability of the rule to the particular case.

Trade Regulation Rules express the experience and judgment of the Commission, based on facts of which it has knowledge derived from studies, reports, investigations, hearings, and other proceedings, or within official notice concerning the substantive requirements of the statutes which it administers.

The Commission has reason to believe that the practices which would be prohibited by the proposed rule are widespread in this industry. This proceeding is designed to inform all industry members of their obligations under the law and assure equitable treatment in complying therewith.

Issued: May 20, 1970.

By the Commission.

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

[F.R. Doc. 70-6139; Filed, May 19, 1970; 8:45 a.m.]

Notices

DEPARTMENT OF STATE

Agency for International Development

[Delegation of Authority 39, Amdt. 4]

ASSISTANT ADMINISTRATOR FOR PRIVATE RESOURCES ET AL.

Delegation of Authority Relating to Investment Insurance, Investment Guaranties, Investment Encouragement and Loans to Private Borrowers

Pursuant to the authority contained in section 239(b) of the Foreign Assistance Act of 1961, as amended (hereinafter the "Act"), the Presidential Determination, dated December 30, 1969 (35 F.R. 43), section 621 of the Act, and the authority delegated to me by Delegation of Authority No. 104, as amended, from the Secretary of State dated November 3, 1961 (26 F.R. 10608) and in accordance with Executive Orders 10900 and 10973, Delegation of Authority No. 39 dated April 13, 1964 (29 F.R. 5355), as amended, is hereby further amended as follows:

1. Delete subparagraph (C) of paragraph 1;

2. Delete at the end of subparagraph (D) of paragraph 1 the following clause: "; except that authority delegated in this subparagraph shall not be exercised with respect to countries or areas within the responsibility of the Assistant Administrator for Latin America".

3. In subparagraph (D) of paragraph 1 delete the words "and (f)".

4. Delete subparagraph (A)(ii) of paragraph 3.

5. In subparagraph (B) of paragraph 3 delete the words "sections 222 and 234(b)" and substitute therefore the words "section 222".

6. In all other respects the aforesaid Delegation of Authority No. 39, as amended, shall remain in full force and effect.

7. This delegation of authority shall be deemed effective as of the date hereof.

Dated: May 11, 1970.

JOHN A. HANNAH,
Administrator.

[F.R. Doc. 70-6191; Filed, May 19, 1970; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 21866-4]

DOMESTIC PASSENGER FARE INVESTIGATION

Notice of Postponement of Hearing, Change in Place of Hearing, and Change in Procedural Dates

Domestic passenger fare investigation, phase 4—joint fares:

Pursuant to Order 70-5-53 of the Board, dated May 13, 1970, notice is hereby given that the hearing in this proceeding, presently scheduled for June 8, 1970, in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., has been postponed until June 15, 1970, commencing at 10 a.m., e.d.s.t. The hearing will be held in Room 726, rather than Room 911.

Each of the remaining prehearing procedural dates is hereby postponed for one week: That is, the date for serving direct exhibits and direct testimony is postponed from May 15, 1970, to May 22, 1970 (except those of the Bureau of Economics, which shall be served May 27, 1970), and the date for serving rebuttal exhibits and rebuttal testimony is postponed from June 3, 1970, to June 10, 1970.

[SEAL] E. ROBERT SEAVER,
Hearing Examiner.

[F.R. Doc. 70-6225; Filed, May 19, 1970; 8:50 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 70-119]

REIMBURSABLE SERVICES

Excess Cost of Preclearance Operations

MAY 11, 1970.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning May 17, 1970:

Installation	*Biweekly excess cost*
Montreal, Canada	$2,767
Toronto, Canada	4,013
Kindley Field, Bermuda	836
Nassau, Bahama Islands	5,416
Vancouver, Canada	1,536
Winnipeg, Canada	401

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

[F.R. Doc. 70-6202; Filed, May 19, 1970; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana 12496]

MONTANA

Notice of Proposed Classification of Public Lands for Multiple Use Management; Correction

MAY 11, 1970.

In F.R. Doc. 70-4430 appearing on pages 6015-6016 of the issue for Saturday, April 11, 1970, the following correction should be made:

The entry under T. 9 S., R. 28 E., which now "reads Sec. 15, W½NW¼, SW¼ SW¼, and E½SW¼ lying west of the Big Horn Canyon National Recreation Area;" should read "Sec. 15, W½NW¼, NW¼SW¼, and E½SW¼ lying west of the Big Horn Canyon National Recreation Area".

EDWIN ZAIDLICZ,
State Director.

[F.R. Doc. 70-6179; Filed, May 19, 1970; 8:46 a.m.]

[OR 6160]

OREGON

Notice of Proposed Withdrawal and Reservation of Land

MAY 12, 1970.

The Department of Agriculture, on behalf of the Forest Service, has filed application, OR 6160, for the withdrawal of the public land described below, from all forms of appropriation under the public land laws including the mining laws, but not the mineral leasing laws.

The applicant desires the land for the Ripplebrook Campground in the Mount Hood National Forest.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 729 Northeast Oregon Street, Post Office Box 2965, Portland, Oreg. 97208.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the land for purposes other than the applicant's, to eliminate land needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the land and its resources.

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant it, a public hearing will be held at a convenient time and place which will be announced.

The land involved in the application is:

WILLAMETTE MERIDIAN

MOUNT HOOD NATIONAL FOREST

Ripplebrook Campground

T. 6 S., R. 6 E.,
sec. 2, S½ of lot 2 and those parts of NW¼SW¼NE¼ and NE¼SE¼NW¼ north of Oak Grove Fork of Clackamas River and east of County Road No. 224.

Containing approximately 45 acres in Clackamas County, Oreg.

VIRGIL O. SEISER,
Chief, Branch of Lands.

[F.R. Doc. 70-6227; Filed, May 19, 1970; 8:50 a.m.]

Bureau of Reclamation

[Public Announcement 36, Amdt. 1]

COLUMBIA BASIN PROJECT, WASH.

Sale of Full-Time Farm Units

Public announcement of the sale of farm units in the Quincy Columbia Basin Irrigation District, Columbia Basin Project, Wash., dated November 19, 1964, published in the FEDERAL REGISTER at 29 F.R. 16262, on December 4, 1964, is amended by deleting section 14.d. *Residence requirements* as applicable to Farm Unit 107, Irrigation Block 81. This amendment does not apply to other farm units sold under Public Announcement 36.

The purchaser has developed and farmed Farm Unit 107, Irrigation Block 81, while living with his parents and commuting to the unit. The purpose of this amendment is to waive the residence requirement for establishment by the purchaser of residence by actually living on the unit for a period of 1 year and the requirement for establishment of a permanent habitable dwelling.

ELLIS L. ARMSTRONG,
Commissioner of Reclamation.

MAY 14, 1970.

[F.R. Doc. 70-6226; Filed, May 19, 1970; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

CALIFORNIA STATE COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No.: 70-00357-99-46040. Applicant: California State College, 25800 Hillary Street, Hayward, Calif. 94542. Article: Electron Microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article's primary function will be for teaching and instruction. Simplicity of operation and the short training period required for its use make this instrument ideal for teaching. It will be necessary for students of limited background having no previous experience in electronics or electron microscopy, to be trained in the techniques of electron microscopy within a few weeks. The course, outlined in detail, consists of 17 lectures and 10 laboratory periods. The secondary function of the article will be for graduate research in the fine structure of biological or geological material.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is an intermediate electron microscope which, in terms of sophistication and capabilities, lies between the simple, portable electron microscope and the highly complex research types. The applicant intends to use the foreign article for teaching beginning students the fundamentals of electron microscope techniques and, for this purpose, requires a transitional instrument for bridging the gap between the use of the light microscope and the research type of electron microscope. The most closely comparable domestic instrument available at the time the application was received was the EMU-4B electron microscope which was formerly being manufactured by the Radio Corp. of America (RCA), and which is currently being produced by Forgflo Corp. (Forgflo). The Model EMU-4B electron microscope is a highly sophisticated and relatively complex research electron microscope intended for the use of an expert. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum of March 31, 1970, that the simplicity of operation of the foreign article is pertinent to the applicant's educational purposes.

For this reason, we find that the Model EMU-4B electron microscope is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-6166; Filed, May 19, 1970; 8:45 a.m.]

CHILDREN'S HOSPITAL OF LOS ANGELES

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00368-00-46040. Applicant: Children's Hospital of Los Angeles, Post Office Box 54700, Los Angeles, Calif. 90054. Article: Universal cassette without magazine. Magazine with 24 plate holders. Manufacturer: Siemens, West Germany.

Intended use of article: The article will be used on an existing Siemens electron microscope in the applicant institution.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article consists of accessories to a priorly imported electron microscope manufactured by the same source that supplies the article.

The Department of Commerce knows of no similar accessories which are interchangeable with the foreign article, or can readily be adapted to the electron microscope with which the article is intended to be used.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-6167; Filed, May 19, 1970; 8:45 a.m.]

DEPARTMENT OF COMMERCE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00359-50-44630. Applicant: U.S. Department of Commerce, ESSA, Weather Bureau, Rural Route 1, Box 105, Sterling, Va. 22170. Article: Pulsed light ceilometer system. Manufacturer: Compagnie Des Compteurs, France.

Intended use of article: The article will be used for comparison tests with similar instruments made in the United States.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has been loaned to the applicant by the French government so that comparison tests can be made with similar instruments being manufactured in the United States.

We are advised by the National Bureau of Standards (NBS) in its memorandum dated March 16, 1970, that no instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-6170; Filed, May 19, 1970; 8:45 a.m.]

RESEARCH TRIANGLE INSTITUTE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00372-00-11000. Applicant: Research Triangle Institute, Post Office Box 12194, Research Triangle Park, N.C. 27709. Article: Mass marker, Model LKB 9010. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article is an accessory for a gas chromatograph-mass spectrometer at the applicant institution.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is an accessory to a priorly imported gas chromatograph-mass spectrometer manufactured by the same source that supplies the article.

The Department of Commerce knows of no similar accessory which is interchangeable with the foreign article, or can readily be adapted to the gas chromatograph-mass spectrometer with which the article is intended to be used.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Service Administration.

[F.R. Doc. 70-6168; Filed, May 19, 1970; 8:45 a.m.]

TEMPLE UNIVERSITY HEALTH SCIENCES CENTER

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00358-33-46040. Applicant: Temple University Health Sciences Center, Skin and Cancer Hospital, 3322 North Broad Street, Philadelphia, Pa. 19140. Article: Electron microscope, Model EM 801. Manufacturer: GEC-AEI Electronics Ltd., United Kingdom.

Intended use of article: The article will be used to examine ultrathin sections and surface replications of biological material. The instrument will service the entire department, several investigators, and a large number of research projects. The research programs involve a study of the role of plasma membrane specializations in regulating normal cell behavior, as well as abnormal and cancer cell systems.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is equipped with a tilt stage having a guaranteed resolving power of 5 angstroms. The most closely comparable domestic instrument available at the time the application was received was the Model EMU-4B electron microscope which was formerly being manufactured by the Radio Corp. of America (RCA), and which is currently being produced by Forgflo Corp. (Forgflo). The Model EMU-4B electron microscope can be equipped with a tilt stage but the guaranteed resolving power of this stage is greater than 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving power.) We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated March 31, 1970, that the guaranteed resolving power of the tilt stage of the foreign article is pertinent to the applicant's research studies.

We, therefore, find that the Model EMU-4B electron microscope is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-6169; Filed, May 19, 1970; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CHEMAGRO CORP.

Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Chemagro Corp., Post Office Box 4913, Hawthorn Road, Kansas City, Mo. 64120, has withdrawn its petition, notice of which was published in the FEDERAL REGISTER of December 10, 1966 (31 F.R. 15609), proposing that a food additive regulation be established to provide for the safe use of *O,O*-dimethyl *O*-[4-(methylthio)-*m*-tolyl] phosphorothioate in the feed of beef cattle for the control of cattle grubs.

Dated: May 7, 1970.

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

[F.R. Doc. 70-6174; Filed, May 19, 1970; 8:45 a.m.]

[Docket No. FDC-D-177; NDA No. 11-742 et al.]

PENTYLENETETRAZOL-CONTAINING DRUGS

Drugs for Human Use; Drug Efficacy Study Implementation; Notice of Opportunity for Hearing

In an announcement (DESI 10508) published in the FEDERAL REGISTER of August 26, 1969 (34 F.R. 13673), Philips Roxane Laboratories, Division of Philips Roxane, Inc., 330 Oak Street, Columbus, Ohio 43216, and Nysco Laboratories, Inc., 34-24 Vernon Boulevard, Long Island City, N.Y. 11106, the holders of the new-drug applications for Geroniazol Injection (NDA 11-742) containing per milliliter 100 milligrams pentylenetetrozol and 50 milligrams of nicotinic acid, as sodium nicotinate; and Nicozol with Reserpine tablets (NDA 10-508) containing 100 milligrams of pentylenetetrazol, 50 milligrams of nicotinic acid, and 0.25 milligram of reserpine per tablet, respectively, as well as any other interested person, were invited to submit pertinent data bearing on the announced intention to initiate proceedings to withdraw approval of the new-drug applications.

On December 18, 1969, Philips Roxane submitted material for consideration. The material was reviewed and considered together with other available information, does not provide substantial evidence of effectiveness of the drug for the recommended uses in man.

Therefore, notice is hereby given to Philips Roxane Laboratories, Division of Philips Roxane, Inc., and Nysco Laboratories, Inc., and to any other interested person who may be adversely affected by such action, including Hart Laboratories, Station Square One, Paoli, Pa. 19301, holder of NDA 11-347 (Nicozol with Reserpine Tablets), originally applied for by Drug Specialties, Inc., Winston-Salem, N.C., that the Commissioner of Food and Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new-drug applications and all amendments and supplements thereto on the grounds that there is a lack of substantial evidence that these drugs have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

In addition to the new-drug applications listed above, a number of other applications provide for preparations containing pentylenetetrazol for systemic use in humans. Their holders have voluntarily requested withdrawal of approval of those applications, thereby waiving opportunity for hearing; therefore, they are not listed in this notice.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicant, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing to show why approval of any new-drug application listed herein should not be withdrawn. Promulgation of the proposed order will cause any drug for human use containing the same active substances to be a new drug for which an approved new-drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Office of the General Counsel, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the new-drug applications. Failure of such persons to file such a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion concerning a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing, giving the reasons why the approval of the new-drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition. The request must set forth specific facts showing there is a genuine and substantial issue of fact that requires a hearing. If the hearing is requested and justified by the response to this notice, the issues will be defined, a hearing examiner will be appointed, and he shall issue a written notice of the time and place at which the hearing will commence.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: May 12, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-6175; Filed, May 19, 1970; 8:45 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANT SECRETARY AND DEPUTY ASSISTANT SECRETARY FOR MODEL CITIES

Delegation of Authority

SECTION A. *Authority delegated with respect to model cities program.* The Assistant Secretary for Model Cities and the Deputy Assistant Secretary for Model Cities each is authorized to exercise the power and authority of the Secretary of Housing and Urban Development with respect to the model cities program under title I of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3301-3313), except that the authority to make reservations or allocations of grant funds in connection with initial contracts and the authority to authorize initial contracts and commitments for Federal grant assistance are subject to the approval of the Secretary of Housing and Urban Development, and except the authority:

1. To make contracts for urban renewal projects under section 103(b) of the Housing Act of 1949, as amended (42 U.S.C. 1453), pursuant to section 113 of the Demonstration Cities and Metropolitan Development Act of 1966.

2. Under section 107 with respect to relocation requirements and payments: *Provided, however,* That the Assistant Secretary and the Deputy Assistant Secretary each is authorized to make supplemental grants for relocation payments under section 107(b)(1).

3. To issue rules and regulations.

SEC. B. *Authority to issue rules and regulations.* The assistant Secretary for Model Cities and the Deputy Assistant Secretary for Model Cities each is authorized to issue such rules and regulations as may be necessary to carry out the power and authority delegated herein.

SEC. C. *Authority to redelegate.* The Assistant Secretary for Model Cities is authorized to:

1. Redelegate to subordinate employees any of the authority delegated under section A, except the authority to:

a. Make reservations or allocations of grant funds;

b. Authorize contracts and commitments for Federal grant assistance and amendatory contracts which provide for an increase in the total Federal grant amount set forth in a contract: *Provided, however,* That the authority to authorize waivers of contract provisions may be redelegated;

c. Suspend or terminate Federal grant assistance; and authorize further redelegation thereof to subordinate employees.

2. Redelegate to Regional Administrators and Deputy Regional Administrators the authority delegated under section A.

3. Authorize Regional Administrators and Deputy Regional Administrators to

make successive redelegations to subordinate employees of the authority under section A and redelegated under section C, 2, except the authority to:

a. Make reservations or allocations of grant funds;

b. Authorize contracts and commitments for Federal grant assistance and amendatory contracts which provide for an increase in the total Federal grant amount set forth in a contract: *Provided, however,* That the authority to authorize waivers of contract provisions may be redelegated;

c. Suspend or terminate Federal grant assistance.

SEC. D. *Authority to designate Acting Assistant Secretary for Model Cities and acting subordinate officials.* The Assistant Secretary for Model Cities is authorized, with respect to employees or positions under his jurisdiction, to:

1. Designate one or more employees to serve as Acting Assistant Secretary for Model Cities during the absence of the Assistant Secretary for Model Cities.

2. Designate one or more employees to serve in an acting capacity during the absence of an appointee to a position or during a vacancy in a position.

3. Authorize the head of an organizational unit to designate one or more subordinate employees to serve as acting head of the unit during the absence of the head of the unit.

SEC. E. *Supersedure and Revocation.* This document supersedes the delegation of authority published at 32 F.R. 17496, Dec. 6, 1967, as amended at 33 F.R. 11685, Aug. 16, 1968; and revokes the delegation of authority published at 33 F.R. 12202, Aug. 29, 1968; which supersedure and revocation are effective as of publication of this document in the FEDERAL REGISTER.

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Effective date. This delegation of authority is effective as of March 13, 1970.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[F.R. Doc. 70-6199; Filed, May 19, 1970; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-334]

DUQUESNE LIGHT CO. ET AL.

Notice of Availability of Statement on Environmental Considerations

Duquesne Light Co., Pennsylvania Power Co., and Ohio Edison Co.

Pursuant to the National Environmental Policy Act of 1969 and to the Atomic Energy Commission's regulations in 10 CFR Part 50, notice is hereby given that a document entitled "Statement on Environmental Considerations Involved in the Construction and Proposed Operation by Duquesne Light Co., Pennsylvania Power Co., and Ohio Edison Co. of the Beaver Valley Power Station" is being placed in the following locations where it will be available for inspection by members of the public: The Commission's Public Document Room, 1717 H Street NW., Washington, D.C.; and the Office of the Chairman of the Board of Supervisors, Beaver County Courthouse, Beaver, Pa. Single copies of the statement may be obtained by writing to the Director, Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 13th day of May 1970.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[F.R. Doc. 70-6215; Filed, May 19, 1970; 8:49 a.m.]

[Docket No. 50-255]

CONSUMERS POWER CO.

Notice of Hearing on Provisional Operating License

In the matter of Consumers Power Co. (Palisades Plant); Docket No. 50-255.

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", and Part 2, "Rules of Practice", notice is hereby given that a hearing will be held at 10 a.m., local time, on June 23, 1970, in Room 200, Kalamazoo City Hall, 241 West South Street, Kalamazoo, Mich., to consider the application filed under section 104(b) of the Act by the Consumers Power Co. (applicant) for a provisional operating license which would authorize the operation of a pressurized water nuclear power reactor (facility) at steady-state power levels up to a maximum of 2,200 megawatts thermal at the applicant's Palisades Plant in Covert Township, Van Buren County, Mich., approximately 4½ miles south of South Haven, Mich.

The hearing will be conducted by an atomic safety and licensing board designated by the Atomic Energy Commission (Commission), consisting of Mr. Warren E. Nyer, Idaho Falls, Idaho; Dr. Clarke Williams, Upton, Long Island, N.Y.; and Samuel W. Jensch, Esq., Washington, D.C., Chairman. Dr. David B. Hall, Los Alamos, N. Mex., has been designated as a technically qualified alternate, and James P. Gleason, Esq., Rockville, Md., has been designated as an alternate qualified in the conduct of administrative proceedings.

Construction of the reactor was authorized by Provisional Construction Permit No. CPPR-25 issued by the Commission on March 14, 1967, following a public hearing.

A notice of proposed issuance of a provisional operating license for the facility was issued by the Commission on March 10, 1970 (35 F.R. 4310). The notice provided that within 30 days from the date of publication, any person whose interest might be affected by the issuance of the license could file a petition for leave to intervene in accordance with the requirements of 10 CFR Part 2, "Rules of Practice". On April 8, 1970, Mr. Ron McCandlis and Dr. Joseph T. Sobota filed a timely petition for leave to intervene in the proceeding on behalf of Michigan Steelhead and Salmon Fishermen's Association, Thermal Ecology Must Be Preserved (T.E.M.P.), Concerned Petitioning Citizens, The American Fishing Tackle Manufacturers, The Sport Fishing Institute, and The Michigan Lakes and Streams Association (petitioners), and requested a public hearing.

On April 14, 1970, the applicant filed an answer to the petition for leave to intervene, stating that it did not object to the granting of intervention to the petitioners or to their request for a public hearing: *Provided,* The petitioners corrected certain specified deficiencies in their petition for leave to intervene and provided further that petitioners' participation was limited to those matters subject to the substantive regulatory jurisdiction of the Commission and to matters within the issues set forth in any notice of hearing which may be issued by the Commission in response to the petition for leave to intervene. The AEC regulatory staff filed an answer to the petition for leave to intervene on April 15, 1970, and took the position that it had no objections to permitting the petitioners to intervene.

In view of the foregoing, the Commission has determined that a public hearing should be held and that the petitioners may be admitted to intervene as parties in this proceeding, subject to the proviso that the petitioners furnish to the atomic safety and licensing board evidence of the representational authority of Mr. McCandlis and Dr. Sobota and file a written statement with the atomic safety and licensing board setting forth how the interests of each of the petitioners may be affected by the proposed licensing action.

A prehearing conference will be held at the same location on June 2, 1970, at 2 p.m., local time, to consider pertinent matters in accordance with 10 CFR 2.752, and section II of Appendix A of 10 CFR Part 2.

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-25, the Act, and the rules and regulations of the Commission to complete the application for the provisional operating license;

2. Whether construction of the facility has proceeded, and there is reasonable assurance that it will be completed, in conformity with Provisional Construction Permit No. CPPR-25, 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 the 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 satisfied the applicable provisions of 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements", of the Commission's regulations;

6. Whether there is reasonable assurance that the facility 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.

While the matter of the full power license is pending before the atomic safety and licensing board, the board may, upon motion in writing and upon good cause shown, consider and act upon such request as the applicant may make for a provisional operating license authorizing fuel loading and low power testing. Any such action by the atomic safety and licensing board shall be taken with due regard to the rights of all parties to the proceeding, including the right of any party to be heard to the extent that his contentions are relevant to the activity to be authorized. Prior to taking any such action, the atomic safety and licensing board shall, with respect to any contested activity to be authorized, make appropriate findings in the form of an initial decision on the issues specified in this notice of hearing.

Answers to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, must be received from the applicant and from the intervenors by May 28, 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 atomic safety and licensing 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 copies of each such paper with the Commission.

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), the statement on environmental considerations under the National Environmental Policy Act of 1969 (Public Law 91-190) and Appendix D to the Commission's regulations in 10 CFR Part 50, and the Safety Evaluation, as amended, 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 as well as copies of the documents referred to above will also be available for inspection by members of the public in Suite 201, Kalamazoo City Hall, 241 West South Street, Kalamazoo, Mich., on Mondays to Fridays between the hours of 8 a.m. and 5 p.m. Copies of the proposed provisional operating license, the ACRS report, the statement on environmental considerations and the regulatory staff's Safety Evaluation, as amended, may be obtained by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

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 subparagraph (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 Germantown, Md., this 18th day of May 1970.

UNITED STATES ATOMIC ENERGY COMMISSION,
F. T. HOBBS,
Assistant Secretary.

[F.R. Doc. 70-6323; Filed, May 19, 1970; 10:03 a.m.]

CIVIL SERVICE COMMISSION

DEPARTMENT OF THE INTERIOR

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary (Federal-State Relations).

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

[F.R. Doc. 70-6229; Filed, May 19, 1970; 8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 17916, 17917; FCC 70R-180]

GLENN WEST AND SOUNDVISION BROADCASTING, INC.

Memorandum Opinion and Order Enlarging Issues

In re applications of Glenn West, Portland, Ind., Docket No. 17916, File No. BPH-5820; Soundvision Broadcasting, Inc., Portland, Ind., Docket No. 17917, File No. BPH-5899; for construction permits.

1. This proceeding involves the mutually exclusive applications of Glenn West (West) and Soundvision Broadcasting, Inc. (Soundvision), each seeking authority to construct a new FM broadcast station at Portland, Ind.[1] The proceeding was designated for hearing by Commission Order, FCC 67-1328, released December 28, 1967, on a standard comparative issue. The Review Board subsequently enlarged the scope of the proceeding by adding financial qualifications issues with respect to West. (12 FCC 2d 674, 13 RR 2d 2 (1968).) In an Initial Decision, FCC 69D-54, released October 24, 1969, the Hearing Examiner proposed to grant the West application and to deny the competing Soundvision application. Presently before the Review Board is a petition to enlarge issues, filed December 19, 1969, by West, which requests the addition to this proceeding of a misrepresentation[2] issue against Soundvision based upon assertions made by Soundvision in its exceptions to the Initial Decision and brief in support thereof, filed with the Review Board on November 24, 1969.[3]

2. In his petition,[4] West requests that the issues be enlarged in this proceeding to include the following inquiry:

To determine whether Soundvision Broadcasting, Inc., is guilty of a lack of candor

[1] The mutually exclusive application of The Graphic Printing Co., Inc., was dismissed with prejudice by the Board upon the joint request of Graphic and Soundvision. See 12 FCC 2d 677, 13 RR 2d 28 (1968); 12 FCC 2d 894 (1968).

[2] In the introductory paragraph of its petition, West requests that a misrepresentation issue be added to the proceeding; however, the specific issue, as framed by the petitioner and as noted, infra, is cast in terms of Soundvision's alleged lack of candor.

[3] Also before the Board are the following related pleadings: (a) Opposition, filed Jan. 2, 1970, by Soundvision; (b) comments, filed Jan. 2, 1970, by the Broadcast Bureau; and (c) reply, filed Jan. 14, 1970, by West.

[4] Although the instant petition was filed after the hearing record was closed and an Initial Decision was issued, West has not requested a simultaneous reopening of the record and remand to the Examiner for further hearing. Since such relief is a prerequisite to enlargement of issues, the Board will assume that such relief is implicitly requested and will consider the West petition accordingly.

concerning the carriage of locally originated programs on the Portland CATV system, and in light of the evidence thus adduced whether the applicant possesses the requisite qualifications to become a Commission licensee.

Preliminarily, West notes that Omer K. Wright, the President and a 25 percent stockholder of Soundvision, is also a 25 percent stockholder of a CATV system operating in Portland, Ind.[2] The petitioner points out that the Examiner, in his initial decision, after noting Wright's interest in the CATV system, found that the system had no plans for program origination with the exception of time, weather, temperature and emergency warning announcements; that, in its exceptions and supporting brief, Soundvision took issue with the Examiner's conclusions based on Wright's CATV interest; and that Soundvision therein reiterated and reaffirmed record testimony to the effect that the CATV system will not originate programing. In spite of these representations by Soundvision and Wright, however, the petitioner contends that the CATV system has been and is presently carrying locally originated programing beyond the scope indicated in Soundvision's record testimony and that Soundvision has failed to disclose such action to the Commission in this proceeding. In support of this contention, West submits a newspaper clipping (undated) and affidavits of Keith Rutledge, Jr., and Pat Reinhard, a local Portland sports announcer and sports scorekeeper, respectively. The newspaper clipping appears to be an advertisement on behalf of the CATV system and announces the initiation of live coverage of Portland High School's football games on "Channel 12 on Cable TV (Sound Only)". Rutledge, in his affidavit, enumerates nine specific Portland High football and basketball games during October, November, and December of 1969, which, he states, he has witnessed being fed over the CATV system in Portland; he also lists seven commercial sponsors, all of Portland, who were heard on these broadcasts. Rutledge further states that he "witnessed horse racing with results, beauty queen contests and other advertising by the same CATV system on a TV monitor set at the Jay County fairgrounds in Portland, Ind., each afternoon, Monday through Friday, from 3 to 5 p.m. during the week of August 3, 1969, while on other activities there". Reinhard, in his affidavit, enumerates three specific Portland High basketball games during November and December 1969, which, he states, he has witnessed being fed over the CATV system, and identifies the same commercial sponsors as indicated in Rutledge's statement. West contends that the newspaper clipping and the affidavits belie Soundvision's assertions in the hearing record and in its brief in support of exceptions that the CATV system planned no such program originations and indicate that Soundvision has been lacking in candor in relying on record testimony which it knows to be untrue. The petitioner argues that the apparent change in the operation of the CATV system is critical with respect to the diversification criterion of the comparative issue herein, and asserts that the system, through locally sponsored originations, is now in competition with West's AM station in Portland for local audience and advertising. Since the Board, in its consideration of these proposals, will have to weigh Soundvision's interest in the CATV system against West's ownership of the only radio station in Portland (WPGW) and since Soundvision was precluded from relying on testimony concerning the system's origination plans which was no longer accurate, the petitioner concludes that a lack of candor issue is warranted.[3]

3. In support of West's petition, the Broadcast Bureau notes that Wright's ownership interests in both the applicant corporation and the local CATV system could have decisional significance in this comparative proceeding (citing Lorain Community Broadcasting Co., 13 FCC 2d 106, 13 RR 2d 382, reconsideration denied 14 FC 2d 604, 14 RR 2d 155), and that this is particularly so if the CATV system were to engage in program origination. The Bureau submits that the factual allegations contained in West's petition warrant an inquiry as to whether Soundvision, in stating in its brief in support of exceptions that the CATV system will not be originating programs, has been guilty of a misrepresentation of material facts to the Commission; that Soundvision's continued reliance on an out-of-date record which served to preserve its comparative position warrants an inquiry into the applicant's candor; and, finally, that Soundvision's failure to report to the Commission the extent of the CATV system's program originations warrants an inquiry into the applicant's compliance with the requirements of § 1.65 of the Commission's rules. Although the Bureau points out that the system was apparently originating programs prior to the release of the initial decision and that West has not explained why he did not immediately petition for reopening of the record herein, the Bureau concludes that the seriousness of the questions raised warrants enlargement of the issues. Therefore, the Bureau suggests that the record in this proceeding be reopened for the adduction of evidence concerning the nature and extent of the CATV system's program origination under misrepresentation, candor and Rule 1.65 issues and under the diversification criterion of the comparative issue.

4. In opposition to West's request, Soundvision submits the affidavit of Wright, the applicant's President and 25 percent stockholder. Mr. Wright states that the video originations from the Jay County Fair and the audio-only sports broadcasters of the CATV system are fully consistent with his testimony at the hearing to the effect that, while he had no plans to originate programing other than time, temperature, weather and emergency warning announcements, he would consider program originations if such would serve the public interest and would be economically feasible. In regard to the Fair originations, Wright points out that it is probably the largest social event in Portland; that the only radio station in Portland produces no live remote broadcasts from the Fair; and that, for these reasons and at the request of Fair officials, he provided about 6 hours of taped programing from the Fair during the week of August 3, 1969, with origination equipment borrowed from and returned to his brother who is part-owner of a CATV system at Marshall-Albion, Mich. Mr. Wright also states that no advertising was used with the Fair originations, which were produced as a public service. In regard to the sports originations, Wright explains that a former mayor of Portland and former broadcaster of Portland High School sports events, F. M. Montgomery, requested that the CATV system be used to cover regularly scheduled Portland High School games and that, in response to this request and others, the CATV system, which owned no video origination equipment except a time and weather scanner at the system's head-end, provided an audio-only coverage of almost all Portland High School football and basketball games. This audio-only coverage, Wright asserts, was not contemplated by his testimony concerning "cablecasting", and, therefore, he concludes that since the system has no origination plans beyond those about which he testified during the hearing, he has not been guilty of misrepresentation as alleged. Soundvision also submits the affidavit of Montgomery who affirms Wright's statement concerning his (Montgomery's) role in suggesting coverage of local sporting events by the CATV system. Ultimately, Soundvision argues that the question here is not one of misrepresentation, but one of the amount of program origination by the system; that the amount of such origination is intended to fill in program and service gaps of Portland's local radio station and is, therefore, in the public interest; and that since West's petition is without merit, the mandate of The Edgefield-Saluda Radio Co. precedent[5] cannot be invoked here and the petition should be dismissed for its untimely filing.

5. In reply, West contends that the underlying theme in Soundvision's opposition—that the type of activity under discussion is in the public interest since there is a "need" for the service in Portland—misses the point entirely. Whether such service is needed or is in the public interest, West urges, is irrelevant to the question of the applicant's candor. While West states that it has not claimed that the hearing testimony

[2] According to Wright's affidavit (attached to the Soundvision opposition), the name of the CATV system was changed in Dec. 1969, from Soundvision, Inc., to Triad CATV of Indiana, Inc.

[3] In regard to the timeliness of its filing, the petitioner urges that the disqualifying nature of the issues raised and the likelihood of proving the allegations made outweigh procedural requirements and compel the Board to consider on the merits even an untimely filed petition. In this regard, we note that the instant request was filed some 25 days after the filing of Soundvision's exceptions and supporting brief.

[5] 5 FCC 2d 148, 8 RR 2d 611 (1966).

did not contemplate such origination by the CATV system, it does claim that Soundvision was under a duty to notify the Commission of the fact that originations beyond the scope of "time, temperature, weather and emergency warning system" were being produced by the system. Furthermore, the petitioner maintains that Soundvision was guilty of misrepresentation when it continued to rely on hearing testimony without any indication that circumstances had changed. West points out that Soundvision has offered no authority for the proposition that local origination contemplates only video transmissions and that, even assuming there is merit to the argument, Soundvision has offered no explanation for its failure to report the Jay County Fair originations to the Commission. West also notes that the applicant has not denied that commercial time was sold on the system, a circumstance that is clearly relevant to the diversification factor of the comparative issue herein. Finally, West dismisses the procedural attacks on its request by pointing out that its petition was filed only 25 days after its discovery of new facts and by asserting that the seriousness of the allegations made here outweighs any tardiness on its part.

6. If, as petitioner contends, Soundvision has relied in its exceptions to the initial decision and supporting brief upon testimony at the hearing regarding the scope of the CATV system's program origination that is no longer accurate, then failure to inform the Commission of this development, in view of Soundvision's appeal of the Examiner's initial decision, could reflect adversely on the applicant's qualifications to be a Commission licensee. In the Board's view, the factual allegations relied upon by the petitioner are sufficient to raise a substantial question in this regard, and although West has not explained its failure to apprise the Commission of the system's program originations at an earlier date, the seriousness of the charges and the likelihood of proving the allegations made are so substantial as to outweigh the public interest benefits inherent in an expeditious disposition of Commission business. See West Central Ohio Broadcasters, Inc., 4 FCC 2d 934, 8 RR 2d 623 (1966); The Edgefield-Saluda Radio Company, supra. Thus, the allegations that: (1) Wright testified at the hearing that, with limited exceptions, the CATV system did not plan to originate its own programing; (2) the system has originated both video and audio-only programing beyond the scope of the exceptions noted by Wright and has apparently sold commercial spots during such origination; [8] and (3) Soundvision claims a strong diversification preference under the comparative issue [9] support the petitioner's request. These allegations assume added significance when considered in light of the facts that: (1) The CATV system may now be in competition with West's AM station for local advertising and for local audience; (2) Wright's ownership interest in both the applicant corporation and the local CATV system, especially if it were to engage in local program origination, could have decisional significance in this comparative proceeding; and (3) Soundvision's affirmative reliance on an allegedly out-of-date record served to preserve its comparative position.

7. Other considerations relevant to our conclusion to reopen the record in this proceeding for further hearing on the issues suggested by the petitioner (and as amplified by the Broadcast Bureau) should also be mentioned. First, in view of the Hearing Examiner's explicit reliance on Wright's testimony at the hearing regarding the CATV system's program origination plans,[10] Soundvision was effectively put on notice that the scope of the system's local program origination was a material factor in the ultimate resolution of this comparative proceeding. Second, Soundvision not only did not disclose to the Commission relevant changes in the scope of the system's operations, but, more significantly, it affirmatively relied in its supporting brief upon a hearing record which it knew was out-of-date. Third, Soundvision has not cited, nor has the Board discovered, authority for the proposition that local program origination by a CATV system does not contemplate aural-only transmissions. It is clear to the Board that a CATV system, in originating local programs, whether aural-only or aural and video, may effectively compete with broadcast stations for listening audience and advertising support; that this possibility of competition may reflect a substantial change of decisional significance in the scope of the CATV system's operations between the time of Wright's original testimony herein and the present; [11] and that this apparent change in the scope of the system's operations is one that should be considered under the diversification criterion of the comparative issue. See Lorain Community Broadcasting Co., supra.[12] For all of the foregoing reasons, therefore, we believe that a substantial question is presented concerning Soundvision's conduct and whether the applicant has engaged in misrepresentation or behavior lacking in candor in its dealings with the Commission. As the Broadcast Bureau suggests, Soundvision's failure to report to the Commission the apparent extent of the CATV system's current program originations also warrants an inquiry into the applicant's compliance with the requirements of § 1.65 of the rules, and the Board will specify an appropriate issue.

8. *Accordingly, it is ordered*, That the petition to enlarge issues, filed December 19, 1969, by Glenn West, is granted; and

9. *It is further ordered*, That the record in this proceeding is reopened and this proceeding is remanded to the Hearing Examiner for further hearing and for the preparation of a supplemental initial decision consistent with this memorandum opinion and order; and

10. *It is further ordered*, That the issues in this proceeding are enlarged by the addition of the following issues: [13]

(a) To determine the nature and scope of local programing origination by the Portland, Ind., CATV system (Triad CATV of Indiana, Inc.), past, present, and planned;

(b) To determine, in light of the evidence adduced under Issue (a) above and the representations made in this proceeding concerning the nature and scope of the Portland CATV system's program origination, whether Soundvision Broadcasting, Inc., has engaged in misrepresentation or conduct lacking in candor in its dealings with the Commission and, if so, the effect thereof on the basic and/or comparative qualifications of Soundvision Broadcasting, Inc., to be a Commission licensee;

(c) To determine whether Soundvision Broadcasting, Inc., has failed to report substantial changes in matters involving its application as specifically referred to in this memorandum opinion and order as required by § 1.65 of the Commission's rules and, if so, the effect of such noncompliance on the basic and/or comparative qualifications of Soundvision Broadcasting, Inc., to be a Commission licensee; and

11. *It is further ordered*, That the burden of proceeding with the introduction of evidence under the issues added herein will be on Glenn West, and the burden of proof will be on Soundvision Broadcasting, Inc.

[8] In his affidavit, Wright castigates Glenn West for allegedly not having mentioned that the Portland CATV system is not doing "any VIDEO cablecasting at the present time". As noted at paragraph 2, supra, the newspaper clipping attached to the instant request does indicate the system's coverage of Portland High football games by "sound only". It should also be noted that Wright has not disputed West's assertions concerning the commercial sponsorship of the Portland High sporting events.

[9] See paragraph 39 of Soundvision's Brief in Support of Exceptions to Initial Decision, filed Nov. 24, 1969. In paragraph 38, Soundvision, in discussing the comparison to be made between the CATV and West's local AM station, refers to the fact that "there is unrebutted testimony that there will be no local origination on this CATV system".

[10] See paragraph 23 of initial decision's findings of fact and paragraph 4 of initial decision's conclusions.

[11] By its first report and order in Docket No. 18397, 20 FCC 2d 201, 17 RR 2d 1570, released Oct. 27, 1969, concerning CATV program origination, the Commission recognized the capacity of a CATV system to operate as a local outlet through "cablecasting"—the distribution of programing originating by the system or by another entity, exclusive of broadcast signals carried on the system.

[12] Our Lorain holding indicates that the significance of the ownership of a CATV system under the diversification criterion is even greater where the CATV system is actually originating a local program service.

[13] The Hearing Examiner, if he resolves the qualifications issues being added herein in favor of Soundvision, will want to consider the effect of the evidence adduced under Issue (a) concerning the nature and scope of the CATV system's program origination under the diversification criterion of the comparative issue.

Adopted: May 13, 1970.

Released: May 14, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[14]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 70-6212; Filed, May 19, 1970; 8:49 a.m.]

[Dockets Nos. 18711, 18712; FCC 70R-175]

WPIX, INC., AND FORUM COMMUNICATIONS, INC.

Memorandum Opinion and Order Enlarging Issues

In regard applications of WPIX, Inc. (WPIX), New York, N.Y., Docket No. 18711, File No. BRCT-98, for renewal of broadcast license; Forum Communications, Inc., New York, N.Y., Docket No. 18712, File No. BPCT-4249, for construction permit for new television broadcast station.

1. This proceeding involves the application of WPIX, Inc. (WPIX), for renewal of license of its television broadcast Station WPIX on Channel 11, New York, N.Y., and the mutually exclusive application of Forum Communications, Inc. (Forum), for a construction permit for the same facilities. By order, released October 28, 1969 (FCC 69-1162, 20 FCC 2d 298, 17 RR 2d 782), the Commission designated the two applications for consolidated hearing, specifying, inter alia, a Suburban programing issue against WPIX and the standard comparative issue. Presently before the Review Board is a petition to modify and enlarge issues, filed November 17, 1969, by Forum, which seeks modification of the Suburban issue and the addition of a sponsorship identification issue against WPIX, a misrepresentation issue against WPIX, and comparative efforts and programing issues.[1]

Sponsorship identification issue. 2. In support of its request for a sponsorship identification issue, Forum submits that between 1963 and 1967, a "check swapping" arrangement, undisclosed to the viewing public, prevailed at Station WPIX. According to Forum, performers appeared on certain entertainment programs produced and broadcast by Station WPIX pursuant to an arrangement whereby record or music publishing companies compensated the station for the performances involved, but without proper sponsorship identification as required by section 317(a)(1) of the Communications Act of 1934, as amended, and § 73.654(a) of the Commission's rules.[2] More particularly, Forum alleges that in 1963 and 1964, no announcements regarding sponsorship were made and that from 1965 until discontinuance of the programs in 1967, WPIX announced only that the appearances were "arranged through" the various record or publishing companies. With respect to the latter broadcasts, Forum contends that the Act and rules require no less than an announcement that the appearances were "paid for or furnished" by the companies. Forum argues, therefore, that the public was not adequately informed by WPIX of the payments involved; and further submits that the House Committee on Interstate and Foreign Commerce, in considering the 1960 amendments to section 317, expressly found that announcements using the words "arranged through" constituted "one of the most flagrant abuses of the law" (citing H.R. Rep. No. 1800, 86th Cong., first session (1960)). Although some of the alleged violations occurred prior to WPIX's most recent renewal term, Forum asserts that the "continuing pattern" of violations, which extended into the 1966-69 term, warrants inquiry. The facts underlying Forum's request for a sponsorship identification issue are stated by the petitioner to be derived from an affidavit of a "former employee of WPIX." However, the affiant's identity is not disclosed and the affidavit in question is not submitted. Forum alleges that it has not supplied the affiant's identity and his affidavit in order to protect the affiant from "possible economic repercussions." Forum submits that if the issue is added it would then seek an appropriate protective order so that it could introduce the affidavit and testimony of the affiant.

3. In opposition, WPIX first alleges that Forum has not complied with § 1.229(c) of the rules in that its allegations are not sufficiently specific to support the request and are not supported by affidavits of persons with personal knowledge of the facts alleged. Nevertheless, WPIX states, its own investigation reveals that Forum's petition "probably concerns" "The Clay Cole Show", a program produced by WPIX during the years in question. According to WPIX's vice president—operations, Leavitt J. Pope, whose affidavit is attached to WPIX's opposition, a "check exchange arrangement", such as the one described in Forum's petition, did, in fact, exist. Under this "arrangement", recording companies paid the performance fees of the entertainers under contract to them who appeared on the shows in return for a suitable credit at the end of the show; WPIX in turn paid the entertainers. Pope asserts that, contrary to Forum's allegation, he (Pope) required appropriate sponsorship announcements to be made when the check exchange practice was begun in 1964 and that he was repeatedly assured by station employees that these instructions were being followed. Pope further states that the later announcements which were made disclosed that appearances of certain acts on the show were "arranged through" particular record companies, "or words to that effect", and that such announcements conform both with "general industry practice" and with the Commission's rules. WPIX also disputes Forum's reliance on the House Report accompanying the 1960 amendments to the Communications Act, alleging that the announcements Forum refers to were condemned in the committee report since they were "plugs" and tended to misrepresent the true nature of the agreement involved, neither of which circumstances is allegedly present here. Thus, according to WPIX, the practice condemned by the congressional committee contemplated payment of moneys for announcements at the end of a TV program that "travel for the show was arranged through" a particular airline, whereas, in fact, several different airlines provided travel for the show. All these circumstances, WPIX concludes, require denial of the requested issue. The Broadcast Bureau, in its opposition, also urges denial of the request for failure to comply with Rule 1.229(c).

4. Forum attaches to its reply pleading the affidavit of Clay Cole, dated November 3, 1969, and identifies it as the one originally withheld, but now submitted because WPIX has allegedly taken the economic reprisals Forum had referred to in its petition. That is, Forum asserts, WPIX cancelled "Scene Seventy", a show on which Cole was master of ceremonies after learning that Cole was the unidentified affiant. Forum points out that Cole states in the affidavit that the check exchange arrangement began as early as 1963, not 1964, as Pope contends in his affidavit, and Forum insists, the disputed House Report was concerned with whether particular announcements were adequately designed to inform the viewing public that the station was being paid for some of the material it presented, not with particular arrangements in any one situation. These arguments, Forum concludes, adequately meet the objections raised by the opposition pleadings and warrant addition of the requested issue.

5. In its motion for leave to file rejoinder, WPIX argues that its pleading

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[14] Review Board Members Nelson and Kessler dissenting.

[1] Related pleadings before the Board are: (a) Opposition, filed Nov. 23, 1969, by WPIX; (b) opposition, filed Dec. 19, 1969, by the Broadcast Bureau; (c) reply, filed Jan. 7, 1970, by Forum; (d) motion for leave to file rejoinder, filed Jan. 19, 1970, by WPIX; (e) rejoinder to (c), filed Jan. 19, 1970, by WPIX; and (f) comments on (d) and (e), filed Jan. 22, 1970, by Forum.

[2] Section 317(a)(1) reads in pertinent part:

"All matter broadcast by any radio station for which any money, service or other valuable consideration is directly or indirectly paid, or promised to or charged or accepted by, the station so broadcasting, from any person, shall, at the time the same is so broadcast, be announced as paid for or furnished, as the case may be, by such person."

Rule 73.654(a) reads in pertinent part:

"When a television broadcast station transmits any matter for which money, services, or other valuable consideration is either directly or indirectly paid or promised to, or charged or received by, such station, the station shall broadcast an announcement that such matter is sponsored, paid for, or furnished, either in whole or in part, and by whom or on whose behalf such consideration was supplied."

should be accepted so that it may respond to the Cole affidavit which was submitted with Forum's reply pleading and to the accusations made by Forum concerning the cancellation by WPIX of "Scene Seventy". In its rejoinder, WPIX contends that Cole's affidavit does not adequately answer the arguments made in WPIX's opposition pleading. Thus, WPIX notes that Cole's affidavit does not specify dates or times of the appearances on the show in question or of the alleged violations. Nor, WPIX contends, does the affidavit explain why WPIX would wait until 1965 to broadcast sponsorship identifications which it allegedly ordered to be carried in 1964, and WPIX questions Cole's recollection, insisting that the arrangements in question were, in fact, begun in 1964, not 1963, as he states. Regarding the charges of retaliation against Cole, WPIX attaches another Pope affidavit which recites that the decision to cancel "Scene Seventy" was made at a periodic review session of the station's entire program schedule by a number of executives and was unrelated to Cole's appearance on the show, a fact which Pope states he was personally unaware of. WPIX further argues that it could not have acted against Cole in the way alleged since it had no way of identifying him as the affiant since Forum withheld his identification, and, in any case, charges of economic reprisal are contradicted by the fact that Cole did obtain employment on "Scene Seventy" which is broadcast over many other television stations. WPIX concludes that the nature of Forum's allegations in this regard reflects adversely on its responsibility and candor as an applicant. Forum, in its comments on WPIX's rejoinder, interposes no objection to consideration of that pleading, but alleges that it does not respond adequately to Forum's contentions. Thus, Forum sees no "significant disagreement" between the versions of the applicants regarding the check exchange practice; and, Forum asserts, the fact that WPIX canceled "Scene Seventy" just 9 days after Forum filed its initial pleading "speaks for itself."[3] Indeed, Forum concludes, WPIX's claim that the Cole affidavit is unrelated to the cancellation "defies credulity."

6. Prior to discussing the merits of the instant request, a brief comment concerning the procedures utilized appears appropriate. The Board does not approve of the untimely filing of supporting affidavits. There are other means by which Forum could have supplied the affidavit and, at the same time protected the affiant from economic harm. The Commission's procedural rules are not without meaning; rather, their purpose is to expedite the Commission's consideration of substantive matters. Although procedural requirements have at times been relaxed where substantial questions were raised on the merits, that is not the case here. We have considered the belated Cole affidavit since we are at the same time accepting WPIX's rejoinder, in which it had an opportunity to respond to it. However, we see no reason to address ourselves to the allegations surrounding the original withholding of the Cole affidavit; the parties have not presented us with anything amounting to a formal request for a lack of candor or other disqualifying issue in this regard. Regarding the substantive request that is presented, we believe the allegations do support addition of a sponsorship identification issue. As to some of the broadcasts of "The Clay Cole Show" in question, the affidavits of Cole and Pope are in direct conflict as to when the check exchange arrangement was initiated as well as whether any sponsorship identifications were made at all. In our opinion, this conflict raises a substantial question as to whether WPIX has complied with the letter and spirit of section 317 of the Communications Act and § 73.654(a) of the rules. The allegations concerning other broadcasts essentially amount to a dispute as to whether the broadcasting of information to the effect that appearances of performers were "arranged through" instead of "paid for or furnished" is an appropriate announcement. We recognize that the Commission has not in the past expressly addressed itself to this question, and the House Report which petitioner relies upon and which accompanied hearings held in 1960 on "payola" and related unfair and deceptive broadcast practices, does not delineate specific congressional intent on this point. Nevertheless, we believe that a substantial question is raised as to whether these announcements were capable of conveying to the television audience the fact that the appearances were paid for or furnished by the record companies in question. We note, too, that some of these latter violations apparently occurred during WPIX's most recent license term and, as such, the need for inquiry is reinforced by the recently promulgated Policy Statement on Comparative Hearings Involving Regular Renewal Applicants, FCC 70-62, 18 RR 2d 1901, released January 15, 1970, in which the Commission indicated that a renewal applicant's record in the preceding license term would be of principal importance at hearing when challenged by a new applicant. These grounds considered, an appropriate sponsorship identification issue will be added.

Misrepresentation issue. 7. In support of a request for a misrepresentation issue against WPIX, Forum alleges that WPIX misrepresented the facts of its community survey efforts in its renewal application. In this regard, Forum notes that Exhibit III[4] of WPIX's application lists 132 community leaders with whom "personal contacts and interviews" were allegedly made by WPIX in connection with its community survey. However, Forum alleges, its investigation reveals that 10 of these individuals deny being consulted "in the manner stated by WPIX". To substantiate this allegation, Forum attaches the following documents to its pleading: (1) the sworn affidavits of (a) Barry Gottehrer, assistant to the mayor of the city of New York; (b) Lawrence K. Grossman, president of Forum, who allegedly spoke with Charles Reilly, executive director of the Catholic Communications Foundation; (c) Theodora Sklover, who allegedly spoke with Al Zeff of the Independent Taxi-Owners Association, Dr. Edmund Lipton, phychiatrist, and Jack Kaplan, president of the J. B. Kaplan Co.; and (d) Ronnie Myers Eldridge, a Forum officer, who allegedly spoke with Leonard M. Simon and Leonard P. Stavisky, members of the New York State Assembly; and (2) unsworn letters to Forum's principals from (a) Charles Rembar, a New York City attorney, (b) Stephen B. Farber, executive assistant to Governor Richard J. Hughes of New Jersey, and (c) Congressman James H. Scheuer of New York. The basic thrust of these sworn and unsworn documents is that the reputed contacts regarding community needs and interests were not, in fact, made as stated by WPIX. In addition, Forum states that it contacted approximately 30 of the persons listed in the WPIX exhibit, and, of these, a large proportion (i.e., 10) dispute being consulted by WPIX. According to Forum, this raises a sufficient question to warrant an evidentiary inquiry. Forum contacted appeared on WPIX programs and that WPIX's list of community contacts might consist largely of such persons; however, Forum concludes that these consultations would still not be consistent with the statement in the exhibit that each of the 132 leaders was "consulted on the most significant needs and interests of the community, particularly that part of it which he represents, and also that person's view on how the applicant has been and can be responsive to those needs."

8. WPIX, in opposition, asserts that Forum's allegation of misrepresentation is a "gross distortion", because WPIX did, in fact, consult with all 10 persons listed in Forum's petition. WPIX contends that Exhibit II of its application shows that it uses eight methods for ascertaining community needs; and, that among these are "Participation by community leaders and officials on WPIX news and Public Affairs programs" and "Personal contacts and interviews by principals of the station with community leaders", and that Forum's petition only amounts to a claim that some persons the application indicates were personally interviewed were actually contacted in connection with personal appearances on WPIX programs. Six of the 10 challenged contacts were made in this manner, WPIX concedes, but in each case community problems were discussed; and the absence of any intent to deceive is confirmed by its listing of the names in question both in Exhibit II and a later exhibit showing those contacted in connection with program appearances. Moreover, WPIX alleges, the two types of contacts are quite similar in that the

[3] Forum is referring to the date of the periodic review session at which the decision to cancel was made, Nov. 26, 1969.

[4] This information actually appears in Exhibit II of WPIX's renewal application.

latter are not limited to on-the-air responses but ordinarily include two pre-broadcast meetings with WPIX representatives. WPIX concludes as to these six—Charles Rembar, Al Zeff, Jack Kaplan, Dr. Edmond Lipton, Leonard M. Simon, and Leonard Stavisky—that no issue is warranted where only the description of the contacts, not their authenticity, is questioned, citing Ultravision Broadcasting Co., 11 FCC 2d 394, 12 RR 2d 137 (1968), affirmed, WEBR, Inc. v. FCC, —— U.S. App. D.C ——, 420 F 2d 158, 16 RR 2d 2191 (1969). As for the remaining contacts, Leavitt J. Pope, in his attached affidavit, states that Barry Gottehrer, Governor Richard Hughes, Charles Reilly, and Congressman James Scheuer were all contacted at various meetings at which they and WPIX representatives were present. The Broadcast Bureau opposes the issue on procedural grounds, noting that, with the exception of Barry Gottehrer, affidavits by the 10 disputed interviewees are not submitted, but only "hearsay" statements not in compliance within section 1.229 of the rules. Regarding Gottehrer's affidavit, the Bureau asserts that several defects in its form, such as the illegibility of the affiant's and the notary's signatures, render it unreliable.

9. In its reply pleading, Forum argues that the Bureau's position is not protective of the Commission's rules as it purports to be, but is protective of the existing licensee, which is contrary to the affirmative role the Bureau must play in developing a meaningful record, as required by United Church of Christ v. FCC, —— U.S. App. D.C. ——, —— F. 2d ——, 16 RR 2d 2095 (1969). Regarding Gottehrer's affidavit, Forum asserts that the Bureau is "quibbling", but, nevertheless, it submits a new affidavit of Gottehrer to eliminate the inadequacies of the original. Forum challenges the Bureau's characterization of the other statements as "hearsay", asserting, for example, that the letter of Charles Rembar, being a member of the New York bar, is reliable and that other denials of WPIX contacts are contained in affidavits, albeit those of WPIX personnel. Regarding WPIX's opposition, Forum asserts that WPIX's application listing those interviewed in connection with program appearances does not indicate that this information was responsive to the community ascertainment questions in the application form. Furthermore, Forum contends, WPIX's application expressly recognized the difference between contracts with persons appearing on their programs and personal consultations designed to elicit significant community needs; and the misrepresentations derived, Forum concludes, from WPIX's recognition that a list of persons appearing on its programs would not be sufficient to meet the Commission's survey requirements.

10. The Review Board believes that the petitioner has not raised a substantial question of misrepresentation. In its application form, WPIX indicated that it used a number of methods for ascertaining community needs, and although the 132 leaders in community life in question were listed under the "Personal contacts and interviews * * *" category, Exhibit II also points out that broadcast interviews with community leaders were used to ascertain community needs and reference is made to Exhibit VIII, wherein a list of programs and participants is offered. Six of the disputed contacts were apparently made in this fashion, and the denials furnished by Forum appear to be simply the result of the phrasing of the question asked by the petitioner; that is, in seeking verification, Forum emphasized language suggesting a general consultation as to community needs and interests without apparently indicating that the contact could have come in the more narrow context of the course of a broadcast program interview. At least one of these program participants, Charles Rembar, recalled participating in such a program dealing with censorship, but denied the contact on the grounds that it was "* * * not the kind of consultation you describe," indicating that a different framing of the question might have elicited a different response. There is no one prescribed manner in which such contacts are to be made, so long as suggestions as to community needs and interests are obtained; in Charles Rembar's case, his description of the broadcast interview comports with that stated in Leavitt J. Pope's affidavit as the contact WPIX was referring to in its application, and Pope's affidavit also reports significant suggestions received from the five others contacted in this fashion.

11. Regarding the four remaining disputed contacts, the Board believes that Forum has not adequately substantiated its allegations. Thus, absent an adequate explanation of why affidavits of persons with personal knowledge could not be obtained, we cannot accept the unsworn letter of Stephen B. Farber, speaking for Governor Hughes of New Jersey, nor can we rely upon the affidavit of a Forum principal as support for a statement allegedly made by Charles Reilly. Rule 1.229(c). In his sworn affidavit, Pope specifies a date on which officials of WPIX met with Governor Hughes about TV service in New Jersey. The nature of the meeting is specified; in contrast, Farber's unsworn letter merely states that a search of office records reveals "no reference" on any consultations "with Governor Hughes to learn his views on the significant needs and interests of New Jersey". The foregoing deficiencies in Forum's petition are especially glaring here since Forum had an opportunity to supply personal affidavits with its reply, but failed to do so. The same deficiency is present regarding the unsworn letter of Congressman Scheuer. Moreover, in his case, the asserted conflict may be more apparent than real since he expressly qualifies his denial of a meeting to discuss community needs with the reservation that, "[a]s a member of Congress, of course, I do meet and talk to thousands of people every year, so that it is conceivable that I may have had an informal conversation * * *". See Ultravision Broadcasting Co., 11 FCC 2d 394, 403, 12 RR 2d 137, 148 (1968). Finally, as to Barry Gottehrer, a personal affidavit is properly submitted, and we note that his second affidavit meets any objection in form raised against it by the Bureau. However, according to Leavitt J. Pope's affidavit, Gottehrer participated in a meeting at his office on March 21, 1968, with the president of WPIX and others, and discussed " 'methods for keeping New York City cool' during the coming summer months in terms of racial tensions and the role that a television station could play in this effort." Gottehrer's denial that he was contacted "on the most significant needs and interests of the community" may not have been intended to preclude this more narrow contact. In short, out of 132 contacts listed in WPIX's application, petitioner has adequately substantiated an alleged conflict regarding only one of those contacts, and even in that instance, the conflict appears to be more one of semantics than of substance. We do not regard this as an adequate basis for the addition of a misrepresentation issue. We note, however, that the nature and adequacy of WPIX's contacts may be explored within the framework of the existing Suburban programing issue. Should evidence produced at the hearing indicate a substantial basis for a misrepresentation issue, Forum may at that time make an appropriate request for enlargement. See Ultravision Broadcasting Co., 3 FCC 2d 66, 7 RR 2d 554 (1966).[5]

Modification of Suburban issue. 12. In support of its request to modify the Suburban issue against WPIX to inquire, on a disqualifying basis, into WPIX's programing during the past license period, Forum alleges that its study of WPIX's renewal application and of New York City newspapers reveals that the licensee did not adequately cover several major news events occurring during the preceding license term (1966–1969).[6] For example, Forum asserts, no programs were broadcast by WPIX in response to the Newark rioting in July 1968; no special broadcasts dealt with the New York City sanitationmen's strike in January 1968; no special programs were broadcast to cover the campus disruptions at Columbia University and The City College in May 1968 and May 1969; and WPIX's coverage of the assassination of Senator Robert F. Kennedy in June 1968, was limited largely to tapping into pooled funeral coverage. In addition, Forum alleges, the New York City

[5] With respect to Forum's reliance on The United Church of Christ case regarding the role of the Bureau in contested renewal proceedings, we cannot agree that the Bureau has been protective of WPIX. The role and position of the Bureau, of necessity, must be based on FCC policies and rules. See National Broadcasting Company, Inc., 21 FCC 2d 195, 196, 18 RR 2d 74, 77 (1970).

[6] The Suburban issue, with Forum's proposed modifications in brackets, would read as follows:

The efforts made by WPIX, Inc. to ascertain the community needs and interests of the area to be served [and the means by which it met those needs and interests during the past license period] and the means by which it proposes to meet those needs and interests [during the ensuing license period].

teachers' strikes of 1968 and the local and national elections of 1966, 1967, and 1968 were not adequately covered by WPIX. Forum contends that more programing than daily news reports in response to these important events is the "minimum required" of a licensee. In Forum's view, nothing less than a "continuing effort" to ascertain and meet community needs is required, citing the Commission's 1960 En Banc Programing Inquiry.[7] In addition, Forum alleges that WPIX's renewal application discloses that the licensee's ascertainment efforts were made immediately prior to filing and not as part of a continuing effort over the license period. Furthermore, according to Forum, WPIX's promise of news coverage in its 1966 renewal application did not meet its actual performance; thus, 4 percent news was proposed by WPIX, but only 2 percent was delivered. Forum insists that there was no adequate justification for this disparity. Indeed, Forum contends, WPIX's efforts have improved only after the spur of the filing of a competing application; thus, for example, WPIX increased its news staff significantly after its license had been challenged, and added substantial public affairs programing only after filing its renewal application. This recent upgrading Forum concludes, emphasizes the inadequacy of WPIX's past programing and reinforces the need for inquiry.

13. In opposition, WPIX asserts that its ascertainment efforts, contrary to Forum's contentions, have occurred throughout its license term, although many early contacts were not listed in the application, but concedes that the majority occurred in the last year in accordance with section IV–B of the application form and in order to more closely relate contacts to proposed programing in the future license term. With respect to coverage of major news events, WPIX maintains that its reporting was in each case thorough and comparable to that provided by other New York City television stations. In his affidavit attached to WPIX's opposition, Leavitt J. Pope details the coverage of each event cited by Forum stating that these events were covered on regularly scheduled news programs and in special programing. For example, with respect to the Newark riots, Pope states, WPIX's evening news reports were replete with filmed reports and interviews; the sanitationmen's strike was featured as a prominent story in news reports and Governor Rockefeller's news conference on the subject was carried, albeit rebroadcast; in response to the teachers' strikes, 16 half-hour programs teaching New York Regents subjects were broadcast; and a special 5½ hour memorial to Robert F. Kennedy was broadcast following his assassination and 18 hours in all on the tragedy were broadcast. In addition, WPIX argues, no promise-versus-performance question is raised by Forum's allegations since differences in the 1966 and 1969 news percentages are attributable largely to different methods of calculation, i.e., the 1966 application form included commercial time whereas the 1969 form excluded it. Further, WPIX states, its increase in news staff and new public service programing reinforces, rather than weakens, its position, and is an additional reason to deny Forum's request.

14. In reply, Forum challenges the adequacy of WPIX's treatment of the important news events in question, as detailed in the Pope affidavit. For example, Forum contends, WPIX's coverage of the Newark rioting omitted major precipitating events (citing the Kerner Commission Report); its reaction to the strikes of the sanitationmen and the teachers was late; its coverage of the Kennedy assassination was too limited; and it devoted a diminishing amount of time to the election campaigns of 1966, 1967, and 1968. These programing deficiencies, Forum concludes, warrant a disqualifying issue.

15. The request for modification of the designated Suburban issue will be denied. As Forum points out in its petition, WPIX's past programing will be inquired into at the hearing under the inquiry called for in the renewal Policy Statement, supra. Forum's showing in support of modification of the Suburban issue is inadequate, in our view, to warrant a disqualifying inquiry into WPIX's past programing. Petitioner's principal contention relates to the adequacy of WPIX's programing in response to major events over the period of the last license term. Such an inquiry more properly relates to the applicant's past broadcast record rather than to the Suburban inquiry, which is essentially prospective in nature. Moreover, Forum's proposed inquiry into the quality and nature of WPIX's news coverage is both unwarranted and inappropriate under well established constitutional principles protecting the freedom of the press. Cf. CBS Program, "Hunger In America," 20 FCC 2d 143, 17 RR 2d 674 (1969); Columbia Broadcasting System (WBBM–TV), 18 FCC 2d 124, 16 RR 2d 207 (1969); Democratic National Convention Television Coverage, 16 FCC 2d 650, 15 RR 2d 791 (1969). Furthermore, although the premise of petitioner's claim is based on the requirement that an applicant make "continuing efforts" to determine and meet community needs, and although we recognize that the Commission used such language in its En Banc Programing Inquiry, supra, and more recently in City of Camden, 18 FCC 2d 412, 16 RR 2d 555 (1969), in our view, this language does not dictate continuous surveys but rather a consistent awareness of and responsiveness to community problems. Thus, the allegation that most of WPIX's survey efforts were concentrated in the latter part of its term is not persuasive in view of WPIX's response that contracts occurred throughout the license term but not all were reported in its application. And any question as to the adequacy of the contacts that were reported will be explored in the context of the designated Suburban issue. In the recent Policy Statement on Comparative Hearings Involving Renewal Applicants, supra, the Commission indicated that a renewal applicant would have to demonstrate that "its program service during the preceding license term has been substantially attuned to meeting the needs and interests of the area." The inquiry sought by Forum is, in our view, encompassed by the Policy Statement, at least insofar as it relates to whether WPIX's programing has been adequately responsive to important events in the course of the last license term. Accordingly, no disqualifying issue is required in this regard. Forum's other allegations relating to belated upgrading in WPIX's service likewise do not require addition of an issue in light of the Policy Statement's clear direction that no evidence as to improved service after the filing of a competing application will be admissible at hearing; therefore, if such upgrading has in fact occurred, WPIX will not be permitted to benefit from it at the hearing.[8] Finally, no promise-versus-performance issue is warranted; in our view, WPIX has adequately rebutted the allegations in this regard, and Forum has not shown a failure to substantially comply with representations in the last WPIX renewal application concerning time devoted to news. Cf. Sioux Empire Broadcasting Co., 8 FCC 2d 605, 10 RR 2d 483 (1967).

Comparative efforts and programing issue. 16. Forum seeks the addition of an issue to compare both the efforts made by the applicants to ascertain community needs and the proposals of each to meet such ascertained needs. In support of a comparative efforts inquiry, Forum notes initially that WPIX made 132 undefined contacts with community leaders whereas it (Forum) interviewed 586 community leaders. Forum states that the Channel 11 service area includes 18,500,000 people in four states and its signal reaches into 34 major cities, including eight cities with populations over 100,000 and seven Standard Metropolitan Statistical Areas with a combined population of over 16 million, all containing a vast diversity of peoples, needs and interests. To analyze the efforts of both applicants to survey these communities, Forum attaches detailed breakdowns of their respective efforts by geographic community and by category of community leaders, as set forth in the En Banc Programing Statement, supra, i.e., public officials, educators, religious leaders and so forth. In all categories, Forum avers its efforts were significantly superior. For example, Forum asserts, it contacted 183 representatives of "City and Community Oriented Services and Organizations" and WPIX contacted six; Forum interviewed 80 leaders in education and WPIX 12; Forum interviewed 52 representatives of eleemosynary organizations, WPIX

[7] Report and Statement of Policy Re: Commission En Banc Programing Inquiry, 25 FR 7291, 20 RR 1901 (1960).

[8] Similarity, to the extent Forum's allegations charge improved service in the last year of WPIX's license term, we note that no issue is required in that the Policy Statement makes clear such belated improvement would not be controlling or determinative in the licensee's favor.

seven; Forum contacted 55 persons representing minority group interests, WPIX eight. In addition, petitioner contends, its efforts were conducted throughout its service area, and its figures show that it made far greater efforts to ascertain needs in the areas outside New York City as well as within. Furthermore, Forum states, group meetings and "Forum Forums" have been held and are being held with select members of the public to further ascertain their needs. Petitioner notes that on November 13, 1969, WPIX filed with the Examiner an ameendment to reflect about 600 additional contacts which, Forum states "matches [its own survey] in size and scope." However, petitioner argues, WPIX's efforts were made merely in response to Forum's showing in an effort to "shore up" its application, rather than as a sincere indication of a continuing effort to ascertain community needs. As such, Forum contends, the amended showing is entitled to little, if any, weight. Even if WPIX's amendment is considered, Forum asserts, significant disparities still exist between the applicants' showings. For example, although WPIX in its amendment states that it "has been in contact" with the community leaders listed, it did not state that it had personally interviewed such leaders to ascertain community needs. Furthermore, Forum alleges, despite WPIX's increased contacts, it has not proposed any increase in local programming or change in any other program category.

17. Regarding comparative programing, Forum states that virtually all of the programs WPIX is now broadcasting to meet ascertained needs were added after the filing of Forum's instant application, and are, accordingly, entitled to little weight; Forum notes that it intends to explore the circumstances of this alleged "upgrading" at the hearing under the designated Suburban issue. Accepting the legitimacy of WPIX's amended showing for the sake of argument, however, Forum asserts that significant differences between the applicants still warrant investigation. Thus, Forum contends, it found a primary need for public participation in the events which concern them through the programing of the television station, and this required direct participation by the station in the community. Forum submits that it has responded to this need whereas WPIX has not. Thus, Forum states that it proposes to devote 48 hours a week, or about 35 percent of its weekly program schedule to local programing, which would include 19 local programs. In contrast, maintains Forum, WPIX proposes 15½ hours a week—or 12 percent of its schedule—for local programing. Furthermore, petitioner states, it will devote about 9 hours a week to news programs as compared with 6 hours proposed by WPIX. In addition, Forum asserts, it proposes a 66-man news staff as compared with 49 for WPIX, and proposes to permanently station some in major news areas which would include "store front" news bureaus in the ghettoes. Forum also points out that it proposes 9 hours and 21 minutes of Public Affairs programing, all of which will be produced by the station and deal with local matters; WPIX, in comparison, proposes 4½ hours in this category, less than half of which will be originated by it or will deal with local issues. This unprecedented amount of local live programing contrasts with WPIX's program proposal which, petitioner avers, has not been related to any ascertained community needs. All of these alleged differences, Forum concludes, warrant addition of the following issue:

> To determine on a comparative basis whether there are differences between the applicants with respect to the efforts made by each to ascertain the needs and interests of the area to be served and the means by which each proposes to meet those needs and interests.

18. In opposition, WPIX initially argues that the Commission expressly compared the respective survey efforts of the applicants in designating the case for hearing and decided to add only a Suburban issue thereby making clear its intent that no comparative efforts issue was warranted. Even if the Board finds no reasoned analysis of the question in the designation order, WPIX argues, Forum has not made a threshold showing that significant differences in the applicants' efforts exist, citing Chapman Radio and Television Co., 7 FCC 2d 213, 9 RR 2d 635 (1967). WPIX asserts that Forum's allegations are deficient because they are addressed to WPIX's original, unamended showing, and the Examiner accepted its November 12, 1969, programing amendment by memorandum opinion and order released November 1, 1969 (FCC 69M–1558). Therefore, contends WPIX, no useful purpose would be served by adding a comparative efforts issue based upon the original Suburban showing, citing Voice of Dixie, Inc., 20 FCC 2d 869, 17 RR 2d 1199 (1969). WPIX states that its amendment lists approximately 700 contacts with identification and need ascertained from each, and, contrary to Forum's allegation, the consultations included personal interviews. WPIX disputes Forum's assertion that its surveys have not been related to its programing, and submits with its pleading, Attachment A to its amendment, which contains a discussion of numerous public affairs programs it broadcast in response to information gained in its surveys. Finally, WPIX challenges the allegedly exceptional nature of Forum's survey efforts, contending that Forum's initial survey was not taken by Forum's principals, but by an independent survey organization; that a large number of persons contacted merely expressed program preferences or a desire for publicity for their organizations; and that Forum does not explain why it relied for half of its initial survey contacts in New Jersey and Connecticut on only three communities. These criticisms are not designed to raise questions requiring hearing, WPIX concludes, but only to illustrate that where both applicants have made a large number of contacts and related them to programing, no issue is warranted.

19. With respect to Forum's request for a comparative programing issue, WPIX argues that the Commission is reluctant to designate such an issue in the absence of a prima facie showing by the proponent that significant differences exist in the programing to be offered and that its claimed superiority is related to its ascertainment of community needs, citing Chapman Radio, supra. According to WPIX, Forum has neither met this test nor demonstrated that the differences alleged relate to more than ordinary differences in judgment. Thus, WPIX recites that it plans to allot 5 percent of its programing to news, 3.7 percent to public affairs and 10 percent to all other programs exclusive of sports and entertainment, whereas Forum proposes 6.94 percent, 7.27 percent, and 9.6 percent of its schedule, respectively, to these categories; such differences do not warrant an issue, WPIX asserts, citing, inter alia, Voice of Dixie, Inc., supra. Conceding that Forum proposes considerably more local, live programing than it does, WPIX argues that this difference does not justify an issue. There are deficiencies in Forum's showing in this regard, WPIX contends, since its application does not report when its contacts were made and whether its local live proposal was, in fact, formulated in response to suggestions received. Forum's petition amounts only to an effort to "out-promise" it, WPIX contends. Finally, WPIX argues, the Board should be "chary" regarding requests for programing issues in comparative hearings involving new applicants so as not to permit promise to outweigh proven performance. The Broadcast Bureau opposes both a comparative efforts and a comparative programing issue, arguing that in light of WPIX's recent amendment, no significant differences any longer exist between the applicants' surveys or program proposals. Beyond this, the Bureau opines that the existence of the Suburban issue as to one applicant and not the other should not automatically require a comparative efforts issue at this time, citing Florida-Georgia Television Co., Inc., 10 FCC 2d 844, 11 RR 2d 873 (1967). A decision on the requested issue, the Bureau believes, should await the required showing under the Suburban issue, so that it may be determined whether any significant differences in fact exist.

20. In reply, Forum disputes WPIX's assertion that the Commission compared the applicants' survey efforts in the designation Order, contending that no such comparison, express or implied, was made. In addition, Forum argues, specification of a Suburban issue against WPIX does not preclude the Board from adding a comparative issue, citing Regal Broadcasting Corp. (WHRL–FM), 14 FCC 2d 849, 14 RR 2d 411 (1968). Forum argues that it did not ignore WPIX's amended showing, but noted that the absence of dates of the listed contacts made it impossible to tell whether the previously submitted program proposal of WPIX was based at all on consultations listed in its amendment. Further, petitioner repeats, a question is raised as to whether WPIX's additional contacts were bona

fide or not, and the requested comparative efforts issue would allow exploration of this question. Regarding the comparative programing request, Forum insists that its proposal is superior not only in terms of percentages, but also in its attention to the ascertained needs of its area. For example, petitioner stresses that its significantly larger news staff will not only permit presentation of high quality news programs but also ensure deep local community involvement. Further, Forum states, its Public Affairs programing not only exceeds WPIX's but is all produced by the station and deals with local matters, and is a direct result of Forum's conclusion from its survey efforts that there is a significant need for in-depth involvement of the media in local affairs. Its heavy local programing in response to this need is, petitioner contends, more than an attempt to outpromise its rival, as WPIX alleges; but, in fact, WPIX's programing is itself nothing more than a "proposal" since its plans have been upgraded since the filing of Forum's application.

21. Pursuant to the doctrine of Atlantic Broadcasting Co., 5 FCC 2d 717, 8 RR 2d 991 (1966), the Board believes that it must consider petitioner's arguments with respect to a comparative efforts issue on the merits. We do not consider the statement in the designation order that Forum had satisfied the Suburban requirements, whereas WPIX had not, to be a "reasoned analysis" of the comparative efforts of the applicants. We also conclude, however, that such an issue is not warranted by the pleadings. The Chapman case made clear that only a "significant disparity" in efforts would be considered at hearing. In our view, differences of the required magnitude only appear prior to WPIX's November 12 amendment. Although Forum's ascertainment efforts are impressive, WPIX's amended showing is also extensive, and Forum in fact does not specifically allege that WPIX's showing, after amendment, is also significantly inferior. In light of the fact that the Examiner has accepted WPIX's amendment, we see no point to adding an issue based solely on the showings made in the unamended application forms. The arguments Forum addresses to WPIX's amended showing are unpersuasive. Thus, regarding the allegation of a "shored up" showing, we believe this allegation, as well as the allegation that the absence of dates for the WPIX contracts in its amendment clouds its program proposal, are germane to and are included within the already specified Suburban issue regarding WPIX. As such, adequate opportunity for exploration may be had at the hearing without need for an additional issue.

22. It is well established that a comparative programing issue is warranted only where differences in proposed program plans go beyond ordinary differences in judgment and show a superior devotion to public service. Chapman Radio and Television Company, supra. The Board believes that a substantial question in this regard has been raised. It appears from the pleadings that Forum proposes substantially greater local, live programing than does WPIX, not only in terms of hours of programing, percentage of overall broadcast time, and number of programs, but also in the generic category of Public Affairs programing and in terms of greater resources and efforts devoted to such programing, i.e., news staff and local news bureaus. Indeed, these substantial differences are not disputed by WPIX. The need for such extensive local programing is stated by Forum in its application to be deeply rooted in the New York community. It is Forum's position that it has ferreted out this need in its surveys and that it proposes adequate programing in response to the need while WPIX does not. The principal ground upon which WPIX opposes the comparative programing issue is its claim that, in its petition, Forum has not related its programing in this regard to its ascertainment of community needs, as required by Chapman. However, WPIX overlooks the extensive showing made in Forum's application in this regard, and, on this basis, we conclude that petitioner's pleadings together with the showing in its application warrant inclusion of a comparative programing issue.[9] In its original pleading, petitioner indicated that involvement by the broadcaster in and responsiveness to matters of local concern was the predominant need ascertained throughout its extensive survey efforts. This is reflected in the diverse contacts listed in petitioner's original application; for example, a need for in-depth coverage of local and community news was found; responsiveness to the special problems of the underprivileged, teenagers, women, children, and the elderly in the area, and a need for focusing on law enforcement were ascertained. (Exhibit P–2.) In Exhibit P–3 of its application, petitioner specifically translates these ascertained needs into a number of programs it intends to broadcast. Another extensive list of suggestions and evaluation is provided in petitioner's amendment filed October 9, 1969. A review of all this material indicates that a substantial question has been raised as to whether petitioner shows an unusual attention to local community matters for which there is a demonstrated community need, justifying inquiry. Finally, we disagree with the Bureau's position that our consideration of the addition of this issue should await the outcome of the designated Suburban issue; the latter is noncomparative in nature and we thus fail to see how its resolution bears upon the instant request. See Regal Broadcasting Corp. (WHRL–FM), supra.

23. *Accordingly, it is ordered*, That the motion for leave to file rejoinder, filed January 19, 1970, by WPIX, Inc. is granted, and the rejoinder, filed January 19, 1970, is accepted; That the petition to modify and enlarge issues, filed November 17, 1969, by Forum Communications, Inc. is granted to the extent herein indicated; and is denied in all other respects; and that the issues in this proceeding are enlarged to include the following:

(a) To determine whether WPIX, Inc., violated the Commission's sponsor identification rules with respect to the broadcast of "The Clay Cole Show", and, if so, the effect thereof on the basic and/or comparative qualifications of WPIX, Inc. to remain an FCC licensee.

(b) To determine on a comparative basis whether there are significant differences between the applicants with respect to the means by which each proposes to meet the ascertained needs of the area to be served.

24. *It is further ordered*, That the burden of proceeding under issue (a) herein added shall be upon Forum Communications, Inc., and the burden of proof shall be upon WPIX, Inc.

Adopted: May 8, 1970.

Released: May 11, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[10]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-6213; Filed, May 19, 1970; 8:49 a.m.]

[9] We note, however, that pursuant to the Policy Statement on renewal applicants, supra, no comparative inquiry will be held if the renewal applicant meets the threshold requirement set forth in the Policy Statement.

[10] Review Board Member Kessler absent; dissenting statement of Board Member Nelson filed as part of original document.

FEDERAL POWER COMMISSION

[Docket No. CP70-270]

EL PASO NATURAL GAS CO.

Notice of Application

MAY 15, 1970.

Take notice that on May 8, 1970, El Paso Natural Gas Co. (Applicant), Post Office Box 1492, El Paso, Tex. 79999, filed in docket No. CP70-270 and application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant proposes to construct and operate a compressor station consisting of two 1,068 horsepower gas turbine-driven centrifugal compressor units and appurtenances and a regulating and measuring station consisting of two 12¾-inch orifice meter runs and appurtenances, all on Applicant's Reno Lateral in Idaho for the purpose of providing a total daily design capacity of approximately 100,000 Mcf. The application states that such facilities are necessary to enable Applicant to meet the estimated firm natural gas requirements of Southwest Gas Corp. through the 1972–73 heating season.

The total estimated cost of the proposed facilities is $1,056,523, which will

be financed by working funds and short-term borrowings.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 8, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-6206; Filed, May 19, 1970; 8:48 a.m.]

[Docket No. CP68-154]

EL PASO NATURAL GAS CO.

Notice of Petition To Amend

MAY 15, 1970.

Take notice that on May 8, 1970, El Paso Natural Gas Co. (petitioner), Post Office Box 1492, El Paso, Tex. 79999, filed in Docket No. CP68-154 a petition to amend the order of the Commission issued on February 1, 1968, to permit the operation of its existing facilities for direct sale and delivery of increased volumes of natural gas to Paul Lime Plant, Inc. (Paul Lime), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it was requested by Paul Lime to increase authorized natural gas service to Paul Lime from 4,800 Mcf per day to 6,200 Mcf per day, in order to meet requirements of Paul Lime after it places its new kiln in operation in its Paul Spur plant near Douglas, Ariz.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 8, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-6207; Filed, May 19, 1970; 8:48 a.m.]

[Docket No. CP69-309]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Petition to Amend

MAY 13, 1970.

Take notice that on May 5, 1970, Michigan Wisconsin Pipe Line Co. (petitioner), 1 Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP69-306 a petition to amend the order of the Commission issued on August 12, 1969, to authorize an increase in the maximum daily quantity of natural gas to be delivered by petitioner to North Central Public Service Co. (North Central), all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

Petitioner was authorized by the aforementioned order to deliver to North Central up to 6,150 Mcf of natural gas per day and 1,168,500 Mcf per year. Petitioner states that North Central, in order to serve the firm requirements of its customers during the remainder of this contract year without incurring annual overrun penalties, has requested an increase in the maximum daily quantity to be delivered of 2,000 Mcf which will increase its firm supply by 246,000 Mcf.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before June 8, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-6183; Filed, May 19, 1970; 8:46 a.m.]

[Docket No. E-7538]

PACIFIC POWER & LIGHT CO.

Notice of Application

MAY 14, 1970.

Take notice that on May 11, 1970, Pacific Power & Light Co. (applicant), a corporation organized under the laws of the State of Maine and qualified to transact business in the States of Oregon, Wyoming, Washington, California, Montana, and Idaho, with its principal business office at Portland, Oreg., filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of $25 million in principal amount of its first mortgage bonds.

The new bonds are to be issued under and pursuant to applicant's presently existing mortgage and deed of trust dated as of July 1, 1947, to Morgan Guaranty Trust Co. of New York and R. E. Sparrow, as trustees, as supplemented and as proposed to be supplemented by a 22d supplemental indenture thereto. The new bonds are to be dated July 1, 1970, and are to bear interest at a rate per annum to be fixed by competitive bidding and will mature on July 1, 2000. Applicant proposes to sell the new bonds at competitive bidding in accordance with applicable requirements of § 34.1a of the Commission's regulations under the Federal Power Act.

The net proceeds from the issuance and sale of the new bonds are proposed to be applied to the temporary prepayment of promissory notes outstanding under a credit agreement dated December 31, 1969, or outstanding commercial paper, or both, and to finance construction expenditures. The issuance of the new bonds is part of a financing program pursuant to which applicant will finance its construction expenditures for 1970, presently estimated at $121,345,000, part of which it is contemplated will be raised through cash to be internally generated, through sale of additional bonds later in 1970, through the sale of common stock, and through short-term borrowings.

Any person desiring to be heard or to make any protest with reference to said application should, on or before June 5, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-6184; Filed, May 19, 1970; 8:46 a.m.]

[Docket No. RI70-1611]

PENNZOIL PRODUCING CO.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

MAY 14, 1970.

Respondent named herein has filed a proposed change in rate and charge of a currently effective rate schedule for the sale of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rate and charge 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 a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its 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, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its 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 supplement to the rate schedule filed by respondent 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 respondent shall 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 a copy thereof upon the purchaser under the rate schedule involved. Unless respondent is advised to the contrary within 15 days after the filing of its agreement and undertaking, such agreement and undertaking shall be deemed to have been accepted.[1]

(C) Until otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding 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 July 3, 1970.

By the Commission.

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

[1] 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.
RI70-1611	Pennzoil Producing Co.[2], 900 Southwest Tower, Houston, Tex. 77002.	215	[3] 4 16	United Gas Pipe Line Co. (Lirette Field, Terrebonne Parish, La.) (South Louisiana Area).	$12,500	4-16-70	[4] 4-16-70	[5] 4-17-70	18.5	[7] [8] 19.5	RI60-406.

[2] Both buyer and seller are wholly owned subsidiaries of Pennzoil United, Inc.
[3] Includes documents establishing newly discovered reservoirs which entitles respondent to higher ceiling rates in accordance with Opinion No. 567.
[4] Applies only to gas well gas sales from the newly discovered reservoirs.
[5] The stated effective date is the date of filing.
[6] The suspension period is limited to 1 day.
[7] Increase filed pursuant to Opinion No. 567.
[8] Pressure base is 15.025.

Pennzoil Producing Co. (Pennzoil) has submitted, pursuant to the provisions of Opinion No. 567, a proposed rate increase under its FPC Gas Rate Schedule 215 relative to sales of gas well gas to its affiliate, United Gas Pipe Line Co.,[9] from newly discovered reservoirs in south Louisiana. Supporting documents, as required by Opinion No. 567, were also submitted. The proposed increase, amounting to $12,500 annually, is to a rate that does not exceed the applicable area ceiling rate. Consistent with the Commission's policy of suspending for 1 day increases to affiliates,[10] we conclude that Pennzoil's subject increase, inasmuch as it was filed subsequent to April 1, 1970, deadline set forth in the Commission's order of February 24, 1970 (to qualify for a retroactive Nov. 1, 1969 effective date), be suspended for 1 day from the date of filing on April 16, 1970.

[F.R. Doc. 70-6187; Filed, May 19, 1970; 8:47 a.m.]

[Docket No. CP70-273]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Application

MAY 15, 1970.

Take notice that on May 12, 1970, Texas Eastern Transmission Corp. (applicant), Post Office Box 2521, Houston, Tex. 77001, filed in Docket No. CP70-273 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 11 miles of 16-inch pipeline and appurtenant facilities extending from its existing 24-inch pipeline in the Block 6 Field, Main Pass Area of offshore Louisiana, to the Block 95 Field in that area. Applicant states that the proposed facilities are necessary to enable it to receive natural gas from Texaco, Inc., in the Block 95 Field to replenish gas supplies used to fulfill existing commitments to applicant's customers.

The total estimated cost of the proposed facilities is $3,355,000, which will be financed initially under revolving credit agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 3, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

GORDON M. GRANT, *Secretary.*

[F.R. Doc. 70-6208; Filed, May 19, 1970; 8:48 a.m.]

[9] Both Pennzoil Producing Co. and United Gas Pipe Line Co. are wholly owned subsidiaries of Pennzoil United, Inc.
[10] Increases that do not exceed applicable ceilings.

[Docket No. CP70-193 (Phase II)]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Amendment to Application

MAY 14, 1970.

Take notice that on May 7, 1970, Transcontinental Gas Pipe Line Corp. (applicant), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP70-193 (Phase II) an amendment to the application pending in said docket by proposing specific allocations of natural gas for its existing resale customers to be served by the additional pipeline and storage services proposed in the subject application.

Applicant proposes the following increased sales and services:

Customer	Rate schedule	Maximum day quantity (Mcf)
Brooklyn Union Gas Co., The	CD-3	5,700
Consolidated Edison Co. of New York, Inc.	CD-3	3,800
Delmarva Power & Light Co.	CD-3	1,300
Eastern Shore Natural Gas Co.	CD-3	400
Elizabethtown Gas Co.	CD-3	1,500
Long Island Lighting Co.	CD-3	3,500
Pennsylvania Gas & Water Co.	CD-3	2,600
Philadelphia Electric Co.	CD-3	3,500
Philadelphia Gas Works Division of UGI Corp.	CD-3	3,200
Public Service Electric & Gas Co.	CD-3	10,200
South Jersey Gas Co.	CD-3	2,300
Union Gas Co.	CD-3	260
Carolina Pipeline Co.	CD-2	300
Clinton-Newberry Natural Gas Authority.	CD-2	100
Danville, Va., City of	CD-2	500
Fort Hill Natural Gas Authority	CD-2	200
Greenwood, S.C., City of	CD-2	100
Laurens, S.C., City of	CD-2	100
Lexington, N.C., City of	CD-2	200
North Carolina Gas Service Division of Pennsylvania & Southern Gas Co.	CD-2	200
Piedmont Natural Gas Co., Inc.	CD-2	4,700
Public Service Co. of North Carolina, Inc.	CD-2	3,400
Shelby, N.C., City of	CD-2	100
Southwestern Virginia Gas Co.	CD-2	100
Union, S.C., City of	CD-2	100
Alexander City, Ala., City of	CD-1	500
Atlanta Gas Light Co.	CD-1	3,600
United Cities Gas Co., Georgia Division.	CD-1	100
Blacksburg, S.C., City of	G-2	30
Kings Mountain, N.C., City of	G-2	210
Bowman, Ga., City of	G-1	25
Buford, Ga., City of	G-1	150
Commerce, Ga., City of	G-1	110
East Central Alabama Gas District	G-1	100
Hartwell, Ga., City of	G-1	125
Lawrenceville, Ga., City of	G-1	420
Madison, Ga., City of	G-1	155
Monroe, Ga., City of	G-1	340
Sugar Hill, Ga., City of	G-1	35
Winder, Ga., City of	OG-1	140
Total pipeline service		54,400
Atlanta Gas Light Co.	GSS	4,800
Brooklyn Union Gas Co., The	GSS	10,600
Carolina Pipeline Co.	GSS	500
Clinton-Newberry Natural Gas Authority.	GSS	100
Danville, Va., City of	GSS	500
Delmarva Power & Light Co.	GSS	1,700
Eastern Shore Natural Gas Co.	GSS	600
Elizabethtown Gas Co.	GSS	2,000
Fort Hill Natural Gas Authority	GSS	300
Laurens, S.C., City of	GSS	200
Lexington, N.C., City of	GSS	300
Long Island Lighting Co.	GSS	4,700
North Carolina Gas Service Division of Pennsylvania & Southern Gas Co.	GSS	200
Pennsylvania Gas & Water Co.	GSS	3,500
Philadelphia Electric Co.	GSS	4,700
Philadelphia Gas Works Division of UGI Corp.	GSS	6,400
Piedmont Natural Gas Co., Inc.	GSS	6,400
Public Service Co. of North Carolina, Inc.	GSS	4,500
Public Service Electric & Gas Co.	GSS	13,700
Shelby, N.C., City of	GSS	200
South Jersey Gas Co.	GSS	3,100
Southwestern Virginia Gas Co.	GSS	200
UGI Corp.	GSS	100
Union Gas Co.	GSS	400
Union, S.C., City of	GSS	100
United Cities Gas Co., Georgia Division.	GSS	200
Total underground storage service.		70,000
Brooklyn Union Gas Co., The	PS-3	4,100
Consolidated Edison Co. of New York, Inc.	PS-3	9,800
Delmarva Power & Light Co.	PS-3	1,600
Eastern Shore Natural Gas Co.	PS-3	500
Elizabethtown Gas Co.	PS-3	1,900
Long Island Lighting Co.	PS-3	1,900
Pennsylvania Gas & Water Co.	PS-3	3,300
Philadelphia Electric Co.	PS-3	4,400
Philadelphia Gas Works Division of UGI Corp.	PS-3	1,900
Public Service Electric & Gas Co.	PS-3	12,800
South Jersey Gas Co.	PS-3	2,900
UGI Corp.	PS-3	1,300
Union Gas Co.	PS-3	300
Clinton-Newberry Natural Gas Authority.	PS-2	100
Fort Hill Natural Gas Authority	PS-2	200
Greenwood, S.C., City of	PS-2	100
Kings Mountain, N.C., City of	PS-2	200
Laurens, S.C., City of	PS-2	100
Lexington, N.C., City of	PS-2	300
North Carolina Gas Service Division of Pennsylvania & Southern Gas Co.	PS-2	200
Piedmont Natural Gas Co., Inc.	PS-2	5,900
Public Service Co. of North Carolina, Inc.	PS-2	4,200
Shelby, N.C., City of	PS-2	200
Southwestern Virginia Gas Co.	PS-2	200
Union, S.C., City of	PS-2	100
Atlanta Gas Light Co.	PS-1	4,500
Buford, Ga., City of	PS-1	300
Monroe, Ga., City of	PS-1	200
Toccoa, Ga., City of	PS-1	300
United Cities Gas Co., Georgia Division.	PS-1	200
Total pipeline peaking service		63,900
Total additional service		188,300

The details of the proposed increased sales and services are more fully set forth in the amendment to the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before June 8, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-6185; Filed, May 19, 1970; 8:46 a.m.]

[Docket No. CP70-269]

TRUNKLINE GAS CO.

Notice of Application

MAY 14, 1970.

Take notice that on May 5, 1970, Trunkline Gas Co. (applicant), Post Office Box 1642, Houston, Tex. 77001, filed in Docket No. CP70-269 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce and the construction and operation of certain facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 20,000 Mcf of natural gas per day for Pan American Petroleum Co. (Pan American) through an existing portion of applicant's system in Colorado and Waller Counties, Tex. The gas is to be produced in the Ramsey Field Area and will be delivered into applicant's 12-inch supply line and transported through its mainline to a point upstream of its Station 31 in Waller County, where it will be redelivered to Pan American. Applicant further proposes to construct and operate the necessary tap and side valves to enable applicant to receive such volumes and the necessary tap, side valves, and measuring facilities for the redelivery of said volumes to Pan American.

The total estimated cost of the proposed facilities is $25,200, which will be financed by available general funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 8, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-6186; Filed, May 19, 1970; 8:46 a.m.]

FEDERAL RESERVE SYSTEM

HUNTINGTON BANCSHARES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Huntington Bancshares Inc., Columbus, Ohio, for approval of acquisition of 80 percent or more of the voting shares of The Lucas County State Bank, Toledo, Ohio.

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)), the application of Huntington Bancshares Inc., Columbus, Ohio (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of The Lucas County State Bank, Toledo, Ohio (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Ohio Superintendent of Banks and requested his views and recommendation. The Superintendent recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on March 31, 1970 (35 F.R. 5375), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant controls six banks (34 offices) with total deposits of $588 million, representing 3 percent of the total bank deposits in the State of Ohio. (All banking data are as of June 30, 1969, adjusted to reflect holding company formations and acquisitions approved by the Board to date.) Upon acquisition of bank ($50 million deposits), applicant's share of State deposits would increase to 3.2 percent. The headquarters of bank and of The Bank of Wood County Co., whose acquisition by applicant was recently approved by the Board, are located about 24 miles apart. The nearest offices of these banks are located slightly over 4 miles from each other and consummation of both acquisitions would eliminate a small amount of existing competition between them. This is offset by the enhancement of bank's competitive capability in relation to its much larger competitors in its service area which its proposed acquisition by applicant may be expected to bring about. Development of further competition between the two banks is unlikely to take place in view of the relatively overbanked condition of the only two communities where, under Ohio law, both banks may establish branches. Consummation of the proposed acquisition therefore would not eliminate significant existing competition or foreclose significant potential competition, and would not have undue adverse effects on the viability or competitive effectiveness of any competing bank.

Based upon the foregoing, the Board concludes that consummation of the proposed acquisition would not have an adverse effect on competition in any relevant area. The banking factors, as applied to the facts of record, are consistent with approval of the application, and considerations relating to the convenience and needs of the communities to be served lend some weight in support of approval. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth above, that said application be and hereby is approved: *Provided*, That the action 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 time be extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Board of Governors,[1] May 12, 1970.

[SEAL] ELIZABETH L. CARMICHAEL,
Assistant Secretary.

[F.R. Doc. 70-6171; Filed, May 19, 1970; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-5765]

FOUR SEASONS NURSING CENTERS OF AMERICA, INC.

Order Suspending Trading

MAY 12, 1970.

The common stock, 50 cents par value, of Four Seasons Nursing Centers of American, Inc., being traded on the American Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange, and the Boston Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Four Seasons Nursing Centers of American, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period May 13, 1970, through May 22, 1970, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-6189; Filed, May 19, 1970; 8:47 a.m.]

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

DEPARTMENT OF LABOR

Office of the Secretary

UNIROYAL RUBBER FOOTWEAR PLANT, WOONSOCKET, R.I.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of April 20, 1970, the U.S. Tariff Commission made a report of the results of an investigation (TEA-W-13 and TEA-W-14) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of the production and maintenance workers of the Uniroyal Rubber Footwear Plant, Woonsocket, R.I., and a similar petition filed on behalf of the quality control inspectors, laboratory and technical employees, shipping clerks, store clerks, factory clerks, office and clerical employees, instructors, supervisors, foremen, assistant foremen, and general foremen, superintendents, executives, and other salaried employees at the plant. The report contained the Commission's affirmative finding that, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with plastic- or rubber-soled footwear with fabric uppers produced by the Uniroyal Rubber Footwear Plant are being imported into the United States in such increased quantities as to cause unemployment or underemployment of a significant number or proportion of the workers of such plant.

Upon receipt of the Commission's report, the Department's Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation following which he made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigations, 34 F.R. 18342; 35 F.R. 6734; 29 CFR Part 90). After due consideration, I make the following certification:

Those production, maintenance, and salaried workers of the Uniroyal Rubber Footwear Plant, located at Woonsocket,

R.I., who became or will become unemployed or underemployed on or after June 5, 1969, are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 13th day of May 1970.

GEORGE H. HILDEBRAND,
Deputy Under Secretary,
International Affairs.

[F.R. Doc. 70-6188; Filed, May 19, 1970; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 6]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 15, 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)(0)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

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

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

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 545), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed May 4, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From junction New Jersey Highway 3 and the New Jersey Turnpike (Interchange No. 17), over the New Jersey Turnpike to junction U.S. Highway 46 (Interchange No. 18), thence over U.S. Highway 46 to junction New Jersey Highway 17, thence over New Jersey Highway 17 to junction New York Thruway (Interchange No. 15), thence over the New York Thruway to junction New York Highway 17 (Interchange No. 16), thence over New York Highway 17 to Binghamton, N.Y., 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 junction New Jersey Highway 3 and the New Jersey Turnpike (Interchange No. 17) over New Jersey Highway 3 to junction U.S. Highway 46, thence over U.S. Highway 46 to junction U.S. Highway 611 at Columbia, N.J., thence over U.S. Highway 611 to junction Pennsylvania Highway 307, thence over Pennsylvania Highway 307 to junction U.S. Highway 11 in Scranton, Pa., thence over U.S. Highway 11 to Binghamton, N.Y., and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-6218; Filed, May 19, 1970; 8:49 a.m.]

[Notice 45]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MAY 15, 1970.

The following publications are governed by the new § 1.247 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 129806 (Sub-No. 4), filed April 20, 1970. Applicant: J. MITCHKO TRUCKING, INC., Rural Delivery 1, Limecrest Road, Lafayette, N.J. 07848. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in package and in bulk, from facilities of the Morton Salt Co. at Seneca Lake, N.Y. (Yates County), to points in Vermont, New Hampshire, Connecticut, Massachusetts, Rhode Island, Pennsylvania, New Jersey, Delaware, Virginia, Maryland, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

HEARING: June 23, 1970, at the Offices of the Interstate Commerce Commission, Washington, D.C., before an examiner to be later designated.

No. MC 119988 (Sub-No. 27) (Republication), filed November 12, 1969, published in the FEDERAL REGISTER issue of December 11, 1969, and republished this issue. Applicant: GREAT WESTERN TRUCKING CO., INC., 811½ Timberline Drive, Post Office Box 1384, Lufkin, Tex. 75902. Applicant's representative: Mert Starnes, 904 Lavaca, Austin, Tex. 78701. An order of the Commission, Operating Rights Board, dated April 29, 1970, and served May 13, 1970, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of newsprint, from points in Angelina County, Tex., to points in Alabama, Florida, Kentucky, Mississippi, and Tennessee. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

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-10830. Authority sought for control and merger by YELLOW FREIGHT SYSTEM, INC., 92d Street at State Line Road, Kansas City, Mo. 64114, of the operating rights and property of SCOTT TRANSPORTATION CO., 705 South Lugo, San Bernardino, Calif. 92408, and for acquisition by GEORGE E. POWELL, 801 West 64th Terrace, Kansas City, Mo., GEORGE E. POWELL, JR., 1040 West 57th Street, Kansas City, Mo., and LESTER H. BRICKMAN, 6419 Belinder, Shawnee Mission, Kans., of control of such rights and property through the transactiton. Applicants' attorneys: Richard K. Andrews, 1500 Commerce Trust Building, Kansas City, Mo. 64106, and David Axelrod, 39 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be controlled and merged: Under certificates of registration, in Docket No. MC-120563, Subs 1 and 2, covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of California. YELLOW FREIGHT SYSTEM, INC., is authorized to operate as a *common carrier* in Arizona, Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nevada, New Mexico, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas,

Utah, Wisconsin, Wyoming, Louisiana, South Dakota, Maryland, and Virginia. Application has not been filed for temporary authority under section 210a(b). NOTE: No. MC-112713 Sub-122 is a matter directly related.

No. MC-F-10831. Authority sought for control and merger by ENGEL TRUCKING, INC. 530 Scott Street, Chicago, Ill. 60610, of the operating rights and property of M AND M HEAVY HAULERS CORP., 1240 Emmitt Road, Akron, Ohio 44306, and for acquisition by THOMAS H. GRANT, also of Chicago, Ill., of control of such rights and property through the transaction. Applicants' attorney: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Operating rights sought to be controlled and merged: *Household goods* as defined by the Commission, *livestock, and heavy machinery*, as a *common carrier*, over irregular routes, between points in Tuscarawas County, Ohio, on the one hand, and, on the other, points in Ohio, Pennsylvania, and West Virginia. ENGEL TRUCKING, INC., is authorized to operate as a *common carrier* in Pennsylvania, New York, Ohio, Maryland, Michigan, Kentucky, Connecticut, Delaware, Maine, Massachusetts, Minnesota, New Hampshire, North Carolina, Rhode Island, Vermont, Virginia, Indiana, Illinois, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10832. Authority sought for (1) purchase by CASKET DISTRIBUTORS, INC., Rural Route No. 2, West Harrison, Ind. 45030, of the operating rights of EDGAR BISCHOFF, doing business as CASKET DISTRIBUTORS, Rural Route No. 2, West Harrison, Ind. 45030, and for acquisition by EDGAR BISCHOFF, also of West Harrison, Ind. 45030, of control of such rights through the purchase; and (2) control by EDGAR BISCHOFF, Rural Route No. 2, West Harrison, Ind. 45030, of ARROW TRANSFER, INC., Rural Route No. 2, West Harrison, Ind. 45030. Applicants' attorney: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, Ohio 45202. Operating rights sought to be (1) transferred and (2) controlled: (1) *Caskets, and casket displays and funeral supplies* when moving with caskets, as a *contract carrier* over irregular routes, from the plantsite of the Batesville Casket Co., Inc., of Batesville, Ind., to points in the United States (except Alaska and Hawaii), from Lancaster, Ky., certain specified points in New York; Baltimore, Md.; Boston and Cambridge, Mass.; Chicago, Ill.; Cincinnati and Cleveland, Ohio; certain specified points in Texas, Decatur, Ga.; Erwin and Nashville, Tenn.; Duluth, Minn.; Indianapolis, Ind.; Louisville, Ky.; Newark, N.J.; New Haven, Conn.; Norfolk, Va.; Oklahoma City, Okla.; Orlando, Fla.; Philadelphia and Pittsburgh, Pa.; Portland, Maine; Providence, R.I.; and Washington, D.C.; from Waco and Dallas, Tex., to Erwin, Tenn., and Lancaster, Ky.; from Erwin, Tenn., to Lancaster, Ky.; from Nashville, Tenn., to certain specified points in New York; Baltimore, Md.; Boston, Mass.; Chicago, Ill.; Cincinnati and Cleveland, Ohio; certain specified points in Texas, Decatur, Ga.; Duluth, Minn.; Indianapolis, Ind.; Louisville and Lancaster, Ky.; Newark, N.J.; New Haven, Conn.; Norfolk, Va.; Oklahoma City, Okla.; Orlando, Fla.; Philadelphia, and Pittsburgh, Pa.; Portland, Maine; Providence, R.I.; and Washington, D.C.; with restriction; from Cincinnati, Ohio, to points in the United States (except Alaska and Hawaii), with restrictions;

Uncrated caskets, casket displays, funeral supplies, and crated caskets in mixed loads with uncrated caskets, from Lancaster, Ky., Erwin and Nashville, Tenn.; Cambridge, Mass.; Pittsburgh, Pa.; and Waco and Dallas, Tex.; to points in the United States (except Alaska and Hawaii), from Nashua N.H.; to points in the United States (except Alaska and Hawaii), with restriction; from Columbus, Ohio, to points in the United States (except Alaska and Hawaii), with restriction; *uncrated caskets, and casket displays and funeral supplies* when moving with caskets, and *crated caskets* when moving with uncrated caskets, from Leesville, S.C., to points in the United States (except Alaska, Hawaii, and South Carolina) with restriction; from Modoc, Ind., to points in the United States (except Alaska, Indiana, and Hawaii), with restrictions; (2) *cheese and condensed whey*, as a *contract carrier* over irregular routes, from Stanford, Ky., to Cincinnati, Ohio, serving no intermediate points; *cheese, butter, and powdered milk*, from Cincinnati, Ohio, and Stanford, Ky., to points in Alabama and Virginia; *oleomargarine*, from Stanford, Ky., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, and Virginia, from Cincinnati, Ohio, to points in Alabama and Virginia, with restriction; from Cincinnati, Ohio, to points in Tennessee, North Carolina, South Carolina, Georgia, and Florida, with restrictions;

Powdered milk, from Cincinnati, Ohio, to points in Florida, Georgia, North Carolina, South Carolina, and Tennessee, from Stanford, Ky., to Cincinnati, Ohio, and points in Tennessee, North Carolina, South Carolina, Georgia, and Florida, with restriction; *oleomargarine*, in vehicles equipped with mechanical refrigeration, from Cincinnati, Ohio, to certain specified points in Kentucky, with restriction; *acid, cleansing compounds or solutions, cleansing apparatus, cream or milk testing and weighing apparatus, and stationery supplies*, between Cincinnati, Ohio, on the one hand, and, on the other, certain specified points in Kentucky; *cheese and butter*, from Cincinnati, Ohio, and Covington and Stanford, Ky., to Middlesboro, Ky., points in North Carolina (except Asheville, N.C.), South Carolina (with exceptions), and points in Georgia, and Tennessee, with restriction; from Cincinnati, Ohio, and Covington and Stanford, Ky., to Asheville, N.C., and certain specified points in South Carolina, and points in Florida; *cream, butter, and empty milk cans*, between Cincinnati, Ohio, on the one hand, and, on the other, certain specified points in Kentucky; *cream and butter*, from certain specified points in Kentucky, to Cincinnati, Ohio, *buttermilk*, in bulk, from Harrodsburg and Lexington, Ky., to Cincinnati, Ohio; *butter*, from Cincinnati, Ohio, to certain specified points in Kentucky; *cheese*, from Cincinnati, Ohio, to certain specified points in Kentucky; *condensed whey*, in containers, from Stanford, Ky., to points in Tennessee, Georgia, North Carolina, South Carolina, and Florida; *whey*, in bulk, in tank vehicles, from Stanford, Ky., to points in Alabama, Delaware, Florida, Georgia, Indiana, Maryland, North Carolina, Ohio, South Carolina, Tennessee, Virginia, and West Virginia; and *butter, margarine, cured sausage, and meats* (frozen and cured), and *dry milk powder, cheese, cheese products, and margarine oils* (except in bulk, in tank vehicles), from Stanford and Springfield, Ky., to points in Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Maryland, Massachusetts, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, with restriction. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10833. Authority sought for purchase by GUS VANDER POL AND HENRY VANDER POL, doing business as OAK HARBOR FREIGHT LINES, 6314 Seventh Avenue South, Seattle, Wash. 98108, of the operating rights of JAMES A. POWELL, doing business as GRANITE AUTO FREIGHT, 229 Dorn Avenue, Everett, Wash. 98201. Applicant's attorney: Carl A. Jonson, 400 Central Building, Seattle, Wash. 98104. Operating rights sought to be transferred: *General commodities*, excepting, among others, classes A and B explosives, household goods, and commodities in bulk, as a *common carrier*, over regular routes, between Everett, Wash., and Granite Falls, Wash., serving the intermediate and off-route points of Machias, Hartford, and Lake Stevens, Wash., and those within 2 miles of the specified route, between Granite Falls, Wash., and Big Four Inn, Wash., serving the off-route logging and mining camps within 6 miles of the specified route, unrestricted; and all intermediate points, subject to exceptions as specified above. Vendee is authorized to operate as a *common carrier* in the State of Washington. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10834. Authority sought for purchase by GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Enid, Okla. 73701, of a portion of the operating rights of SMITH TRANSIT, INC., 1200 Simons Building, Dallas, Tex. 75201, and for acquisition by GROENDYKE INVESTMENT, INC., and in turn by H. C. GROENDYKE, both also of Enid, Okla., of control of such rights through the purchase. Applicants' attorneys: Alvin J. Meiklejohn, Jr., 420 Denver Club Building, Denver, Colo. 80202, and William D. White, 2505 Republic Bank Tower, Dallas, Tex. 75201. Operating rights sought to be transferred: *Liquid chemicals*, in bulk, in tank

vehicles, as a *common carrier*, over irregular routes, from Texas City, Tex., to points in Alabama, Arkansas, Kansas, Louisiana, Mississippi, Missouri, New Mexico, and Oklahoma, from points in Nueces, County, Tex. (except from Bishop, Tex., to Baton Rouge, Lake Charles, and New Orleans, La., and Oklahoma City, Okla.), to points in Alabama (except Fox), Arkansas, Kansas, Louisiana, Mississippi, Missouri, New Mexico, and Oklahoma, between points in area composed of points in Galveston County, Tex., and points in that part of Harris County, Tex., south of a straight line through Crosby and Humble, Tex., extending to the boundary line of Harris County; between certain specified points in Texas, with no services between points in Galveston County, Tex., and those in Harris County, Tex., south of a straight line through Crosby and Humble, Tex., extending to the boundary line of Harris County, Tex., with restrictions;

Glycols, in bulk, in tank vehicles, from North Seadrift, Tex., to points in Alabama, Arkansas, Kansas, Louisiana, Mississippi, Missouri, New Mexico, and Oklahoma; *alcohols, acetates, ketones, glycols, and their compounds and derivatives*, in bulk, in tank vehicles, from Bishop, Tex., to points in Alabama, Arkansas, Kansas, Mississippi, Missouri, Oklahoma (except Oklahoma City), and Louisiana (except Baton Rouge, Lake Charles, and New Orleans); *nitrogen compounds*, from North Seadrift, Tex., to points in Alabama, Arizona, Arkansas, Colorado, Kansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Utah; *nitrogen compounds when contaminated or otherwise unfit for their intended use*, from points in Alabama, Arizona, Arkansas, Colorado, Kansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Utah, to North Seadrift, Tex., with restriction; *liquid chemicals*, from the plantsite of Jefferson Chemical Co. in Montgomery County, Tex., to points in Georgia, Illinois, Indiana, Mississippi, Missouri, Ohio, North Carolina, South Carolina, and Wisconsin; *flour*, in bulk, between points in Oklahoma, Texas, Louisiana, Arkansas, and New Mexico; *flour*, in bulk, in tank vehicles, from Atchison, Kans., to points in Iowa, Nebraska, and Missouri, from Portland, Oreg., to points in Washington, and points in that part of California on and north of U.S. Highway 40, from Springfield, Ill., and Louisville, Ky., to points in Indiana and Ohio; *sodium arsenite*, in bulk, in tank and hopper-type vehicles, from Texarkana, Ark., to Mexia and Orange, Tex.;

Refined tall oil, and *fatty acids* derived from vegetable oil, in bulk, in tank vehicles, from Panama City, Fla., to points in Oklahoma and Texas (except points in Harris County, Tex.), with restriction; *animal and poultry medicines*, liquid, in bulk, in tank vehicles, from the plantsite of Jefferson Chemical Co., at Austin, Tex., to points in California, Arizona, Arkansas, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee (except Kingsport, Tenn.), Utah, Washington, Wisconsin, and Wyoming, with restriction; *liquid chemicals* (except liquefied petroleum gas), in bulk, in tank vehicles, from Bishop and Corpus Christi, Tex., to points in North Dakota, Oregon, Washington, and Wyoming, with restriction; and *chemicals*, in bulk, except those sold for use as fertilizer, from the plantsite of Union Carbide Corp. at or near Taft, St. Charles Parish, La., to points in Texas, from the plantsite of Hooker Chemical Corp. at or near Taft, St. Charles Parish, La., to points in Texas, from the plantsites of Union Carbide Corp. at Brownsville, North Seadrift, and Texas City, Tex., to the plantsite of Union Carbide Corp. at or near Taft, St. Charles Parish, La., with restrictions. Vendee is authorized to operate as a *common carrier* in all points in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-10835. Authority sought for control by CHIPPEWA MOTOR FREIGHT, INC., 2645 Harlem Street, Eau Claire, Wis. 54701, of McCLAIN DRAY LINE, INC., Marion, Ind. 46952, and for acquisition by FRANK BABBITT, also of Eau Claire, Wis., of control of McCLAIN DRAY LINE, INC., through the acquisition by CHIPPEWA MOTOR FREIGHT, INC. Applicants' attorneys: Axelrod, Goodman, Steiner and Bazelon, 39 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be controlled: *General commodities*, excepting, among others, classes A and B explosives, household goods, and commodities in bulk, as a *common carrier*, over regular routes, between Marion, Ind., and Chicago, Ill., serving certain intermediate points, between Marion, Ind., and Anderson, Ind., serving the intermediate point of Alexandria, Ind., and certain off-route points, between Marion, Ind., and Muncie, Ind., serving certain intermediate points, between Marion, Ind., and Muncie, Ind., serving no intermediate points, but serving certain off-route points, between Marion, Ind., and Muncie, Ind., serving the intermediate points of Gas City and Hartford City, Ind., and the off-route points of Alexandria and Jonesboro, Ind., between Richmond, Ind., and Muncie, Ind., serving no intermediate points, between Muncie, Ind., and Connersville, Ind., between New Castle, Ind., and Richmond, Ind., serving all intermediate points; between Cincinnati, Ohio, and Hamilton, Ohio, serving no intermediate points, between Hamilton, Ohio, and Millville, Ohio, serving all intermediate points, with restriction; between Hamilton, Ohio, and Oxford, Ohio, between junction Ohio Highways 177 and 130, and McGonigle, Ohio, serving all intermediate points, between Oxford, Ohio, and Richmond, Ind., serving all intermediate points, and the off-route points of Boston and Kitchell, Ind., over numerous alternate routes for operating convenience only;

General commodities, except those of unusual value, household goods as defined by the Commission, and commodities in bulk, between Connersville, Ind., and College Corner, Ohio, serving all intermediate points and the off-route point of Brownsville, Ind.; *general commodities*, except those of unusual value, and household goods as defined by the Commission, between Cincinnati, Ohio, and College Corner, Ohio, serving all intermediate points; *general commodities*, excepting, among others, household goods, classes A and B explosives, and commodities in bulk, over irregular routes, between Oxford, Ohio, on the one hand, and, on the other, points in Ohio within a radius of 50 miles of Oxford; *general commodities*, except household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in Ohio and Indiana within 40 miles of Oxford, Ohio; *prepared roofing and roofing material*, from Joliet, Ill., to Marion, Ind.; *building materials and supplies, and iron and steel articles*, between Oxford, Ohio, and points within 25 miles thereof, on the one hand, and, on the other, points in Ohio, and that part of Indiana south of U.S. Highway 24 and east of U.S. Highway 41, including points on the indicated portions of the highways specified; *iron and steel articles*, from the plantsite of Jones & Laughlin Steel Corp. located in Putnam County, Ill., to points in Indiana and Ohio, with restrictions; and *materials, equipment, and supplies* used in the manufacturing and processing of iron and steel articles, from points in Indiana and Ohio, to the plantsite of Jones & Laughlin Steel Corp., located in Putnam County, Ill., with restrictions. Vendee is authorized to operate as a *common carrier* in Wisconsin, Minnesota, Illinois, Indiana, and Iowa. Application has been filed for temporary authority under section 210a(b).

By the Commission.

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

[F.R. Doc. 70-6219; Filed, May 19, 1970; 8:49 a.m.]

[Notice 79]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MAY 15, 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 107496 (Sub-No. 779 TA), filed May 13, 1970. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Des Moines, Iowa 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry malt*, in bulk, in pneumatic tank vehicles, from Minneapolis, Minn., to Rice Lake, Wis., for 150 days. Supporting shipper: Fleischmann Malting Co., Inc., 410 Grain Exchange, Minneapolis, Minn. 55415. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 108341 (Sub-No. 26 TA), filed May 11, 1970. Applicant: MOSS TRUCKING COMPANY, INC., Post Office Box 8409, Charlotte, N.C. 28208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Architectural precast stone*, from Greensboro, N.C., to New York, N.Y., for 180 days. Supporting shipper: Exposaic Industries, Inc., Post Office Box 15027, Winston-Salem, N.C. 27103. Send protests to: Jack K. Huff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 316 East Morehead, Suite 417 (BSR Building), Charlotte, N.C. 28202.

No. MC 108380 (Sub-No. 78 TA), filed May 11, 1970. Applicant: JOHNSTON'S FUEL LINERS, INC., Post Office Box 100, 808 Birch Street, Newcastle, Wyo. 82701. Applicant's representative: Truman Stockton, The 1650 Grant Street Building, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, from points in Rosebud County, Mont., to points in Campbell County, Wyo., for 120 days. Supporting shipper: N. C. Ginther Gasoline Plants, Box 1759, Gillette, Wyo. 82716. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 204 Lierd Building, 259 South Center Street, Casper, Wyo. 82601.

No. MC 124078 (Sub-No. 434 TA), filed May 13, 1970. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, Wis. 53246. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from Van Wert, Ohio, to points in Indiana, Kentucky, Michigan, and West Virginia, for 150 days. Supporting shipper: USS Agri-Chemicals, Division of United States Steel Corp., 30 Pryor Street SW., Atlanta, Ga. 30301; (Bruce N. Maney—Motor Carrier Supervisor). 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 126472 (Sub-No. 11 TA), filed May 13, 1970. Applicant: WILLCOXSON TRANSPORT, INC., Post Office Box 16, Bloomfield, Iowa 52537. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer compounds*, in bulk, in conveyor trailers, from the facilities of Chevron Chemical Co. at or near Fort Madison, Iowa, to points in Illinois and Missouri, for 180 days. Supporting shipper: Chevron Chemical Co., Post Office Box 282, Fort Madison, Iowa 52627. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 127867 (Sub-No. 5 TA), filed May 13, 1970. Applicant: TRANSOL COMPANY, 116 Forest Avenue, Des Moines, Iowa 50314. Applicant's representative: William L. Fairbank, 610 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Solvents*, from Avondale, Mo., to points in Iowa, points in Nebraska in the Omaha, Nebr., commercial zone, and points in Illinois in the Rock Island-Moline commercial zone, for 180 days. Supporting shipper: Barton Solvents, Inc., Barton Solvents Co., Barton Naphtha Corp., Post Office Box 221, Des Moines, Iowa 50301. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 133655 (Sub-No. 30 TA), filed May 11, 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*, as defined by the Commission, from points in Deaf Smith County, Tex., to points in Massachusetts, Pennsylvania, New Jersey, New York, Maryland, Nevada, Colorado, and Los Angeles, Calif., for 180 days. Supporting shippers: Caviness Packing Co., Inc., Post Office Box 790, Hereford, Tex. 79045; Wilson Beef & Lamb Co., Post Office Box 1858, Hereford, Tex. 79045. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 918 Tyler Street, Amarillo, Tex. 79101.

No. MC 133671 (Sub-No. 1 TA), filed May 11, 1970. Applicant: MILLER BROS. CO., INC., Post Office Box 1, Hyrum, Utah 84319. Applicant's representative: William J. M. Dalgliesh, 419 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, 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, between points in Cache County, Utah, and points in California, Nevada, Montana, Idaho, Oregon, Washington, Colorado, Wyoming, and Arizona, under a continuing contract with E. A. Miller & Sons Packing Co., Inc., for 180 days. Supporting shipper: E. A. Miller & Sons Packing Co., Inc., Hyrum, Utah 84319 (Ernest J. Miller, Vice President). Send protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6201 Federal Building, Salt Lake City, Utah 84111.

No. MC 134590 TA, filed May 11, 1970. Applicant: EASCO CORP., 4616 North Broadway, St. Louis, Mo. 63147. Applicant's representative: B. W. LaTourette, Jr., 611 Olive Street, Room 1850, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New Furniture and Furnishings*, crated, from St. Louis, Mo., to points in Missouri and Illinois, within a 200-mile radius of St. Louis, Mo., restricted to shipments having a prior rail movement, for 180 days. Supporting shippers: There are approximately 28 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: District Supervisor J. P. Werthmann, Bureau of Operations, Interstate Commerce Commission, Room 3248, 1520 Market Street, St. Louis, Mo. 63103.

By the Commission.

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

[F.R. Doc. 70-6220; Filed, May 19, 1970; 8:49 a.m.]

[Notice 537]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 15, 1970.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-72153. By application filed May 13, 1970, THE AIRFIELD SERVICE COMPANY, 193 Turnpike Road, Windsor Locks, Conn., seeks temporary authority to lease the operating rights of JOHN STELMASZEK and PASQUALE CIAMPI, 12 High View Road, New Milford, Conn., under section 210a(b). The transfer to THE AIRFIELD SERVICE COMPANY, of the operating rights of JOHN STELMASZEK and PASQUALE CIAMPI, is presently pending.

By the Commission.

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

[F.R. Doc. 70-6221; Filed, May 19, 1970; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—MAY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during May.

3 CFR

PROCLAMATIONS:
3982 ... 6999
3983 ... 7105
3984 ... 7169

EXECUTIVE ORDERS:
July 2, 1910 (revoked in part by PLO 4814) ... 7255
March 28, 1924 (revoked by PLO 4812) ... 7254
April 17, 1926 (revoked in part by PLO 4813) ... 7255

5 CFR

213 ... 6957, 7123, 7124, 7171, 7283, 7426, 7493, 7559
550 ... 7171

7 CFR

19 ... 7493
51 ... 6957, 7249
53 ... 7064
201 ... 7411
301 ... 7001, 7002, 7361
354 ... 7689
404 ... 7361
411 ... 7361
724 ... 7361
775 ... 6958, 7495
798 ... 7172
877 ... 7064
905 ... 7411
907 ... 7172, 7503
908 ... 7173, 7504, 7637
910 ... 7003, 7283, 7362, 7637, 7691
917 ... 7064
918 ... 7362, 7723
944 ... 7504
959 ... 7065
966 ... 7003
1041 ... 7173
1097 ... 7283
1102 ... 7283
1108 ... 7283
1201 ... 7066
1421 ... 7363, 7504
1485 ... 7505
1600 ... 7505

PROPOSED RULES:
26 ... 7739
29 ... 7427
58 ... 7739
724 ... 7738
725 ... 7075
Ch. IX ... 7077
914 ... 7183
981 ... 7428
1005 ... 6965
1006 ... 7023
1007 ... 7566
1012 ... 7023
1013 ... 7023
1032 ... 7082
1033 ... 6965
1034 ... 6965
1035 ... 6965
1041 ... 6965
1050 ... 7082

8 CFR

100 ... 7249
103 ... 7284
204 ... 7284
205 ... 7285
212 ... 7637
238 ... 7285, 7638
242 ... 7638

PROPOSED RULES:
103 ... 7018
214 ... 7018

9 CFR

71 ... 7249
76 ... 6958, 7004, 7066, 7107, 7175, 7285, 7370, 7376, 7412, 7505, 7638, 7723, 7724
78 ... 7692
327 ... 7724

PROPOSED RULES:
109 ... 7652
113 ... 7652
114 ... 7652
121 ... 7652

10 CFR

1 ... 7285
2 ... 7639, 7640
50 ... 7640
70 ... 7640
150 ... 7640, 7725

12 CFR

1 ... 7549
207 ... 6959, 7376
212 ... 7726
220 ... 7249, 7376
221 ... 6959, 7250, 7377
226 ... 7550
545 ... 7377, 7693
561 ... 7377
563 ... 7377, 7693
608 ... 7005

PROPOSED RULES:
545 ... 7130
563 ... 7131

13 CFR

121 ... 7726

14 CFR

21 ... 7292
25 ... 7108
29 ... 7293
37 ... 6914, 7641
39 ... 6916, 6917, 7006, 7051, 7293, 7294, 7378, 7551, 7552
43 ... 7641
61 ... 7007
71 ... 6917, 7051, 7108, 7109, 7175–7177, 7237, 7294, 7378, 7379, 7412, 7552, 7553, 7694
73 ... 6917, 7051, 7295, 7553
75 ... 7051, 7109, 7553
91 ... 7108, 7293
97 ... 6918, 7052, 7237, 7506
121 ... 7108, 7293, 7641

14 CFR—Continued

127 ... 7293
202 ... 7109
203 ... 7110
205 ... 7110
207 ... 7295
208 ... 7295, 7694
212 ... 7297
214 ... 7298
221 ... 7298
287 ... 7110
295 ... 7298
298 ... 7695
302 ... 7111
376 ... 7111

PROPOSED RULES:
39 ... 6967, 7185, 7435, 7436, 7655
71 ... 6968, 6969, 7186, 7303–7305, 7384, 7436, 7584–7586, 7656–7658, 7703
73 ... 6969
75 ... 7020, 7305
91 ... 7020
121 ... 7021, 7083
127 ... 7083
207 ... 7587
208 ... 7587
212 ... 7587
214 ... 7587
221 ... 7513
249 ... 7587
295 ... 7587
399 ... 7587

15 CFR

371 ... 7379
1000 ... 7220, 7228

PROPOSED RULES:
1000 ... 7183

16 CFR

13 ... 7007–7009, 7298, 7507–7511

PROPOSED RULES:
90 ... 6969
425 ... 7437
426 ... 7744
502 ... 7705

17 CFR

240 ... 7643, 7644
249 ... 7068

PROPOSED RULES:
270 ... 7132

18 CFR

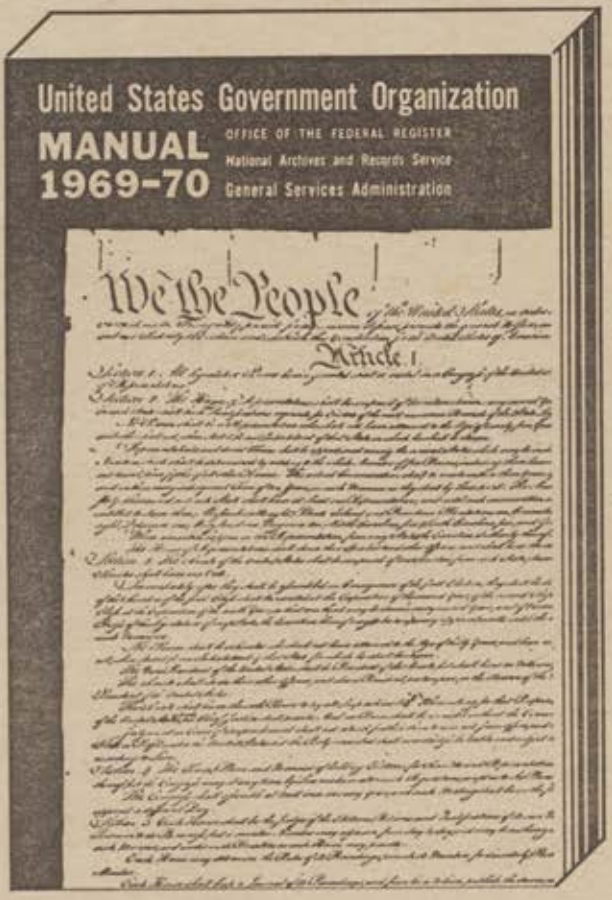
2 ... 7511
250 ... 7010
260 ... 6960, 7412
620 ... 7379

PROPOSED RULES:
2 ... 7385
157 ... 7262, 7385
201 ... 7262
204 ... 7262
260 ... 7262

19 CFR

4 ... 7299, 7645
23 ... 7645

United States Government Organization MANUAL 1969–70



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