FEDERAL REGISTER

VOLUME 35 • NUMBER 109

Friday, June 5, 1970 • Washington, D.C.

Pages 8727–8794

Part I

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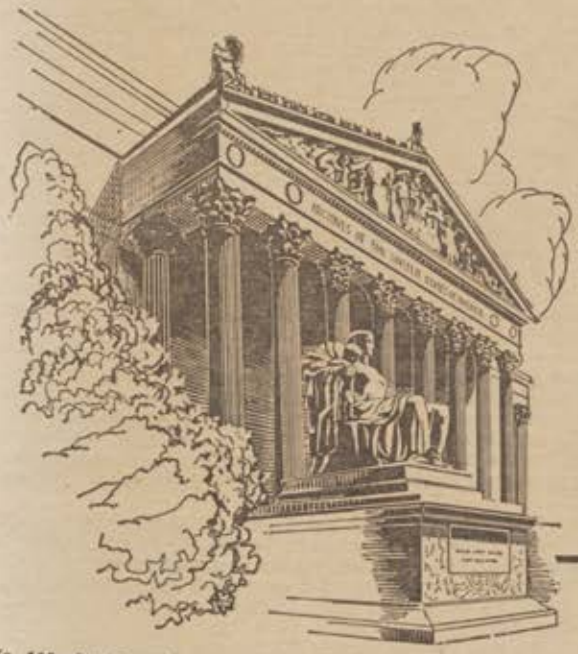

Volume 82

UNITED STATES STATUTES AT LARGE

[90th Cong., 2d Sess.]

Contains laws and concurrent resolutions enacted by the Congress during 1968, reorganization plans, and Presidential proclamations. Also included are: a subject index, tables of prior laws affected, a numerical listing of bills enacted into public and private law, and a guide to the legislative history of bills enacted into public law.

Price: $16.25

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office Washington, D.C. 20402

FEDERAL REGISTER

Area Code 202 Phone 962-8626

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

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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.

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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, in subparagraph (e)(2) relating to the State of Alabama, a new subdivision (iii) relating to Etowah and Cherokee Counties is added to read:

(e) * * *

(2) *Alabama.* * * *

(iii) The adjacent portions of Etowah and Cherokee Counties bounded by a line beginning at the junction of U.S. Highway 278 and the Reaves-John Chapel Road; thence, following U.S. Highway 278 in a southeasterly direction to the Etowah-Calhoun County line; thence, following the Etowah-Calhoun County line in a northerly direction to the Calhoun-Cherokee County line; thence, following the Calhoun-Cherokee County line in an easterly direction to County Road 19; thence, following County Road 19 in a generally northerly direction to the road from Davis Chapel-to-County Road 71; thence, following the Davis Chapel-to-County Road 71 in a northwesterly direction to County Road 71; thence, following County Road 71 in a generally southwesterly direction to Dry Creek; thence, following the east bank of Dry Creek in a southeasterly direction to Reaves-John Chapel Road; thence, following the Reaves-John Chapel Road in a southerly direction to its junction with U.S. Highway 278.

2. In § 76.2, in subparagraph (e)(16) relating to the State of Virginia, subdivision (xii) relating to Charlotte County is deleted, and subdivision (vi) relating to Surry, Isle of Wight, Southampton, and Sussex Counties is amended to read:

(e) * * *

(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 generally easterly 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 U.S. Highway 258; thence, following U.S. Highway 258 in a southwesterly direction to U.S. Highway 460; thence, following U.S. Highway 460 in a southeasterly direction to Secondary Highway 610; thence, following Secondary Highway 610 in a generally southerly direction to Secondary Highway 687; thence, following Secondary Highway 687 in a southwesterly direction to Secondary Highway 611; thence, following Secondary Highway 611 in a generally westerly direction to Secondary Highway 641; thence, following Secondary Highway 641 in a generally northeasterly 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 northeasterly direction to Secondary Highway 600; thence, following Secondary Highway 600 in a northwesterly direction to Secondary Highway 623; thence, following Secondary Highway 623 in a southwesterly direction to Secondary Highway 626; thence, following Secondary Highway 626 in a generally northwesterly direction to Secondary Highway 631; thence, following Secondary Highway 631 in a northerly direction to Secondary Highway 614; thence, following Secondary Highway 614 in a generally northeasterly direction to Secondary Highway 605; thence, following Secondary Highway 605 in a northwesterly direction to Secondary Highway 616; thence, following Secondary Highway 616 in a northeasterly 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.

* * * * *

(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 Etowah and Cherokee Counties in Alabama and portions of Surry and Isle of Wight 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 such counties.

The amendments also exclude a portion of Charlotte County, Va., from the areas heretofore quarantined because of hog cholera. Therefore, 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 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.

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 1st of June 1970.

GEORGE W. IRVING, Jr.,
Administrator,
Agricultural Research Service.

[F.R. Doc. 70-6953; Filed, June 4, 1970; 8:46 a.m.]

Title 45—PUBLIC WELFARE

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

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Free Choice of Providers of Medical Services

Part 249 of Chapter II of Title 45 of the Code of Federal Regulations is amended by adding a new section 249.11 as set forth below. This section is added to provide that any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, pharmacy or person qualified to perform the service(s) required.

§ 249.11 Free choice of providers of medical services: State plan requirement.

A State plan for medical assistance under title XIX of the Social Security Act must provide that any individual eligible for medical assistance under the plan may obtain the services available under the plan from any institution, agency, pharmacy, or practitioner, including an organization which provides such services or arranges for their availability on a prepayment basis, which is qualified to perform such services. This provision does not prohibit the State agency from establishing the fees which will be paid to providers for furnishing medical and remedial care available under the plan or from setting reasonable standards relating to the qualifications of providers of such care. In the case of Guam, Puerto Rico, and the Virgin Islands this provision applies only with respect to calendar quarters beginning after June 30, 1972.

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

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

Dated: April 2, 1970.

JOE PARKS,
Acting Administrator, Social and Rehabilitation Service.

Approved: May 26, 1970.

ROBERT H. FINCH,
Secretary.

[F.R. Doc. 70-6769; Filed, June 4, 1970; 8:48 a.m.]

Title 24—HOUSING AND HOUSING CREDIT

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

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

§ 1914.4 List of designated areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Delaware	New Castle	Elsmere	E 10 003 0150 01.	Delaware Soil and Water Conservation Commission, Georgetown, Del. 19947. Delaware Insurance Department, 21 The Green, Dover, Del. 19901.	County Engineering Bldg., Kirkwood Highway, Post Office Box 165, Wilmington, Del. 19899.	June 5, 1970.
Do	do	Newark	E 10 003 0260 01.	do	do	Do.
Do	do	New Castle	E 10 003 0370 01.	do	do	Do.
Florida	Pinellas	Madeira Beach	E 12 103 1880 01. E 12 103 1880 02.	Department of Community Affairs, 225 West Jefferson St., Tallahassee, Fla. 32303. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, Fla. 32303.	Office of the City Clerk, Municipal Bldg., 300 Municipal Dr., Madeira Beach, Fla. 33708	Do.
Georgia	De Kalb		E 13 089 0000 01. E 13 089 0000 02. E 13 089 0000 03. E 13 089 0000 04. E 13 089 0000 05. E 13 089 0000 06. E 13 089 0000 07.	State Planning and Programing Bureau, 270 Washington St. SW., Atlanta, Ga. 30334. State of Georgia Insurance Commission, Room 238, State Capitol, Atlanta, Ga. 30334.	De Kalb County Planning Department, Room 349, De Kalb Annex Bldg., 556 North McDonough St., Decatur, Ga.	Do.
Hawaii	Hawaii	Hilo and vicinity.	E 15 001 1900 01. E 15 001 1900 02. E 15 001 1900 03. E 15 001 1900 04.	Department of Land and Natural Resources, Box 621, Honolulu, Hawaii 96809. Hawaii Insurance Department, Box 3614, Honolulu, Hawaii 96811.	County of Hawaii Planning Department, 25 Aupuni St., Hilo, Hawaii 96720.	Do.
Do	Honolulu	Honolulu and vicinity.	E 15 003 2460 01 thru E 15 003 2460 15.	do	Office of the City Clerk, City Hall, Honolulu, Hawaii 96813.	Do.
Missouri	Clay	Smithville	E 29 047 7370 01.	Water Resources Board, Box 271, Jefferson City, Mo. 65101. Division of Insurance, Department of Business and Administration, Box 690, Jefferson City, Mo. 65101.	Smithville City Hall, 108 South Bridge St., Smithville, Mo. 64089.	
New Jersey.	Cape May	Wildwood	E 34 009 3670 01.	Department of Environmental Protection, Division of Water Policy and Supply, Post Office Box 1390, Trenton, N.J. 08625. Department of Banking and Insurance, State House Annex, Trenton, N.J. 08625.	Office of the Treasurer, City of Wildwood, Municipal Bldg., 4400 New Jersey Ave., Wildwood, N.J. 08260.	Do.
Do	Ocean	Barnegat Light.	E 34 029 0150 01.	do	Borough Hall, Borough of Barnegat Light, West 10th St., Barnegat Light, N.J. 08006.	Do.
Do	Passaic	Pompton Lakes.	E 34 031 2670 01.	do	Municipal Bldg., Borough of Pompton Lakes, 25 Lenox Ave., Pompton Lakes, N.J. 07442.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
Rhode Island.	Providence...	East Providence.	E 44 007 0057 01.	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, R.I. 02903. Rhode Island Insurance Department, Room 418, 49 Westminster St., Providence, R.I. 02903.	Department of Planning and Urban Development, Weaver Memorial Bldg., 31 Grove Ave., East Providence, R.I. 02914.	Do.
Texas.....	Galveston...	Friendswood.	E 48 167 2805 01.	Texas Water Development Board, 301 West Second St., Austin, Tex. 78711. State Board of Insurance, 11th and San Jacinto, Austin, Tex. 78701.	City Hall, City of Friendswood, 109 Willowick Ave., Friendswood, Tex. 77546.	Do.
Do.....	...do.....	Kemah.....	E 48 167 3007 01.	...do.....	City Hall, City of Kemah, 601 Texas Ave., Kemah, Tex. 77565.	Do.
Do.....	...do.....	League City.	E 48 167 3920 01. E 48 167 3920 02.	...do.....	City Hall, City of League City, 516 Third St., League City, Tex. 77573.	Do.
Do.....	...do.....	Texas City..	E 48 167 6860 01. E 48 167 6860 02.	...do.....	Office of the Building Inspector, City Hall, 1801 Ninth Ave., North, Texas City, Tex. 77590.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Effective date. June 5, 1970.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[F.R. Doc. 70-6986; Filed, June 4, 1970; 8:49 a.m.]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

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

§ 1915.3 List of flood hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Delaware...	New Castle...	Elsmere.....	H 10 003 0350 01.	Delaware Soil and Water Conservation Commission, Georgetown, Del. 19947. Delaware Insurance Department, 21 The Green, Dover, Del. 19901.	County Engineering Bldg., Kirkwood Highway, Post Office Box 165, Wilmington, Del. 19899.	June 5, 1970.
Do.....	...do.....	Newark.....	H 10 003 0360 01.	...do.....	...do.....	Do.
Do.....	...do.....	New Castle..	H 10 003 0370 01.	...do.....	...do.....	Do.
Florida ...	Pinellas.....	Madeira Beach.	H 12 103 1880 01. H 12 103 1880 02.	Department of Community Affairs, 225 West Jefferson St., Tallahassee, Fla. 32303. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, Fla. 32303.	Office of the City Clerk, Municipal Bldg., 300 Municipal Dr., Madeira Beach, Fla. 33708.	Do.
Georgia....	De Kalb		H 13 089 0000 01. H 13 089 0000 02. H 13 089 0000 03. H 13 089 0000 04. H 13 089 0000 05. H 13 089 0000 06. H 13 089 0000 07.	State Planning and Programming Bureau, 270 Washington St., SW., Atlanta, Ga. 30334. State of Georgia Insurance Commission, Room 238, State Capitol, Atlanta, Ga. 30334.	De Kalb County Planning Department, Room 349, De Kalb Annex Bldg., 556 North McDonough St., Decatur, Ga.	Do.
Hawaii....	Hawaii.....	Hilo and Vicinity.	H 15 001 1900 01. H 15 001 1900 02. H 15 001 1900 03. H 15 001 1900 04.	Department of Land and Natural Resources, Box 621, Honolulu, Hawaii 96809. Hawaii Insurance Department, Box 3614, Honolulu, Hawaii 96811.	County of Hawaii Planning Department, 25 Aupuni St., Hilo, Hawaii 96720.	Do.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
Do.	Honolulu	Honolulu and Vicinity.	H 15 003 2400 01 thru H 15 003 2400 15.	....do	Office of the City Clerk, City Hall, Honolulu, Hawaii 96813.	Do.
Missouri	Clay	Smithville	H 29 047 7370 01.	Water Resources Board, Box 271, Jefferson City, Mo. 65101. Division of Insurance, Department of Business and Administration, Box 690, Jefferson City, Mo. 65101.	Smithville City Hall, 108 South Bridge St., Smithville, Mo. 64089.	
New Jersey.	Cape May	Wildwood	H 34 009 3670 01.	Department of Environmental Protection, Division of Water Policy and Supply, Post Office Box 1390, Trenton, N.J. 08625. Department of Banking and Insurance, State House Annex, Trenton, N.J. 08625.	Office of the Treasurer, City of Wildwood, Municipal Bldg., 4400 New Jersey Ave., Wildwood, N.J. 08260.	Do.
Do.	Ocean	Barnegat Light.	H 34 029 0150 01.	....do	Borough Hall, Borough of Barnegat Light, West 10th St., Barnegat Light, N.J. 08006.	Do.
Do.	Passaic	Pompton Lakes.	H 34 031 2670 01.	....do	Municipal Bldg., Borough of Pompton Lakes, 25 Lenox Ave., Pompton Lakes, N.J. 07442.	Do.
Rhode Island.	Providence	East Providence.	H 44 007 0057 01.	Rhode Island Statewide Planning Program, Room 123-A, The State House Providence, R.I. 02903. Rhode Island Insurance Department, Room 418, 49 Westminster St., Providence, R.I. 02903.	Department of Planning and Urban Development, Weaver Memorial Bldg., 31 Grove Ave., East Providence, R.I. 02914.	Do.
Texas	Galveston	Friendswood.	H 48 167 2505 01.	Texas Water Development Board, 301 West Second St., Austin, Tex. 78711. State Board of Insurance, 11th and San Jacinto, Austin, Tex. 78701.	City Hall, City of Friendswood, 100 Willowick Ave., Friendswood, Tex. 77546.	Do.
Do.	do	Kemah	H 48 167 3607 01.	....do	City Hall, City of Kemah, 601 Texas Ave., Kemah, Tex. 77565.	Do.
Do.	do	League City.	H 48 167 3020 01. H 48 167 3020 02.	....do	City Hall, City of League City, 516 Third St., League City, Tex. 77573.	Do.
Do.	do	Texas City	H 48 167 6860 01. H 48 167 6860 02.	....do	Office of the Building Inspector, City Hall, 1801 Ninth Ave. North, Texas City, Tex. 77590.	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Effective date. June 5, 1970.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[F.R. Doc. 70-6987; Filed, June 4, 1970; 8:49 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 11—ARROWHEAD AND PARKSCAPE SYMBOLS

Pursuant to authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), Part 11, Title 36, Code of Federal Regulations, is hereby revised.

The purposes of the revision are to recognize reinstatement of the Arrowhead Symbol as the official emblem of the National Park Service, to recognize the Parkscape Symbol as the official tie tack or pin, to protect both symbols against unauthorized uses, and to effect certain technical changes in the regulations which relate to the terminology and uses applicable to these symbols.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. However, since no substantive change is being made in the regulations and the revision thereof reflects primarily reinstatement of the previously prescribed Arrowhead Symbol as the official National Park Service emblem, it is not deemed necessary, or in the public interest, to request comments on such revision. Therefore, the revised regulation will become effective on the date of its publication in the FEDERAL REGISTER. (5 U.S.C. 553)

Part 11 of Chapter 1 of Title 36 of the Code of Federal Regulations is revised in its entirety to read as follows:

Sec.
11.1 Definitions.
11.2 Noncommercial use.
11.3 Commercial use.
11.4 Power to revoke.
11.5 Penalties.

AUTHORITY. The provisions of this Part 11 are issued under sec. 3, 39 Stat. 535; 16 U.S.C. 3.

§ 11.1 Definitions.

(a) The term "Arrowhead Symbol," as used in this part, refers to the insignia of the National Park Service prescribed as its official symbol by notice published in the FEDERAL REGISTER of March 15, 1962 (27 F.R. 2486). That symbol, use of which had been limited by notice published in the FEDERAL REGISTER of October 22, 1968 (33 F.R. 15605–06), has been reinstated as the Service's official emblem. The term "Parkscape Symbol," as used in this part, is the same insignia referred to in the FEDERAL REGISTER notice of October 22,

1968, as the "National Park Service Symbol." The "Parkscape Symbol" has been prescribed as the official tie tack or pin to be worn by all National Park Service uniformed employees. Moreover, the tie tack or pin may be worn by employees of the Service when not in uniform as a part of their civilian attire.

(b) The term "Director" means the Director of the National Park Service, U.S. Department of the Interior, or person designated to act for him.

(c) The term "commercial use" as used in the regulations of this part refers to use of the "Arrowhead Symbol" or the "Parkscape Symbol" on souvenirs or other items of merchandise presented for sale to the public by private enterprise operating either within or outside of areas of the National Park System.

(d) The term "noncommercial use" as used in the regulations of this part refers to nongovernmental use of the "Arrowhead Symbol" or the "Parkscape Symbol" other than as described in paragraph (c) of this section.

§ 11.2 Noncommercial use.

The Director may permit the reproduction, manufacture, sale, and use of the "Arrowhead Symbol" or the "Parkscape Symbol" for noncommercial purposes with or without charge under such conditions as will contribute to purposes of education and conservation as they relate to the program of the National Park Service. All other noncommercial use is prohibited.

§ 11.3 Commercial use.

The manufacture, reproduction or use of the "Arrowhead Symbol" or the "Parkscape Symbol" for commercial purposes is prohibited.

§ 11.4 Power to revoke.

Permission granted under this part by the Director may be rescinded by him at any time upon a finding that the use of the symbol or symbols involved is injurious to their integrity or inconsistent with the purposes of the National Park Service in the fields of conservation and recreation, or for disregard of any limitations or terms contained in the permits.

§ 11.5 Penalties.

Whoever manufactures, sells or uses the "Arrowhead Symbol" or the "Parkscape Symbol" in violation of the regulations of this part shall be subject to the penalties prescribed in section 701 of title 18 of the United States Code.

Dated: May 27, 1970.

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

[F.R. Doc. 70-6952; Filed, June 4, 1970; 8:46 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1040]

PART 1033—CAR SERVICE

Distribution of Refrigerator Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of May 1970.

It appearing, that an acute shortage of mechanical refrigerator cars exist in the areas served by the Southern Pacific Transportation Co. and the Union Pacific Railroad Co., and that shippers served by the Southern Pacific Transportation Co. and the Union Pacific Railroad Co. are being deprived of such cars required for loading perishable products, creating a great economic loss; that present regulations and practices with respect to the use, supply, control, movement, distribution, exchange, interchange, and return of such mechanical refrigerator cars owned by the Pacific Fruit Express Co., a wholly owned subsidiary of the Southern Pacific Transportation Co. and the Union Pacific Railroad Co. are ineffective. It is the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1040 Distribution of refrigerator cars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service.

(1) Withdraw from distribution and return to owners empty, except as otherwise provided in subparagraphs (2) and (3) of this paragraph, all mechanical refrigerator cars owned by the Pacific Fruit Express Co. which are listed in the Official Railway Equipment Register, ICC R.E.R. 375 issued by E. J. McFarland, or reissues thereof, as having mechanical designations RP or RPL and numbered in series 100,000 through 459,500.

(2) Pacific Fruit Express Co. refrigerator cars, described in subparagraph (1) of this paragraph, available empty at a station other than a junction with the Southern Pacific Transportation Co. or Union Pacific Railroad Co. may be loaded with freight requiring protection from heat or cold and subject to the provisions of Perishable Protective Tariff 18, ICC No. 37, issued by J. D. Sutherland, supplements thereto, or reissues thereof, if destined to any station on or routed via the Southern Pacific Transportation Co. or the Union Pacific Railroad Co.

(3) Pacific Fruit Express Co. refrigerator cars described in subparagraph (1) of this paragraph available empty at a junction with the Southern Pacific Transportation Co. or with the Union Pacific Railroad Co. must be delivered at that junction to either the Southern Pacific Transportation Co. or the Union Pacific Railroad Co., either empty or loaded with freight requiring protection from heat or cold, and subject to the provisions of Perishable Protective Tariff 18, ICC No. 37, issued by J. D. Sutherland, supplements thereto, or reissues thereof.

(4) Pacific Fruit Express Co. refrigerator cars described in subparagraph (1) of this paragraph available empty at stations on the Southern Pacific Transportation Co. or the Union Pacific Railroad Co. shall be loaded only with freight requiring protection from heat or cold and subject to the provisions of Perishable Protective Tariff 18, ICC No. 37, issued by J. D. Sutherland, supplements thereto, or reissues thereof. Exception: Cars with defective mechanical refrigeration units which the Pacific Fruit Express Co. certifies cannot be repaired and placed in operating condition within 30 days. The certification provided herein shall be made to R. D. Pfahler, Director, Bureau of Operations, Interstate Commerce Commission, Washington, D.C.

(5) Pacific Fruit Express Co. refrigerator cars, described in subparagraph (1) of this paragraph, must not be back hauled empty, or held empty more than 24 hours awaiting placement for loading for the purpose of obtaining a load as authorized in subparagraphs (2) and (3) of this paragraph.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(c) *Effective date.* This order shall become effective at 12:01 a.m., June 3, 1970.

(d) *Expiration date.* This order shall expire at 11:59 p.m., August 31, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

(e) This order is issued pursuant to the authority contained in secs. 1, 12, 15, 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, 17(2). Interprets or applies secs. 1 (10–17), 15(4), 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1 (10–17), 15(4), 17(2).

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Wash-

ington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

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

[F.R. Doc. 70-6983; Filed, June 4, 1970; 8:49 a.m.]

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Ex Parte No. MC-77]

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATIONS OF MOTOR CARRIERS

Subpart B—Common Carrier Freight Tariffs and Classifications

RESTRICTIONS ON SERVICE BY MOTOR COMMON CARRIERS

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 28th day of May 1970.

Upon consideration of the record in the above-entitled proceeding, including the report and order of the Commission, of February 18, 1970, reported at 111 M.C.C. 151, prescribing a tariff content rule; and of the joint petition of Central and Southern Motor Freight Tariff Association, Inc., Central States Motor Freight Bureau, Inc., Eastern Central Motor Carriers Association, Inc., Maine Motor Rate Bureau, Middlewest Motor Freight Bureau, Inc., New England Motor Rate Bureau, Inc., Niagara Frontier Tariff Bureau, Inc., Southern Motor Carriers Rate Conference, and Southwestern Motor Freight Bureau, Inc., filed April 22, 1970, seeking postponement, until September 1, 1970, of the date on or before which tariffs filed before April 17, 1970, shall be brought into conformity with the new rule; and

It appearing, that in seeking the postponement, the petitioners refer to the complexities involved in tariff analysis, and emphasize that additional time is necessary to bring tariffs filed prior to April 17, 1970, into conformity with the rule;

It further appearing, that the length of the postponement sought is reasonable, and is justified; and good cause appearing therefor:

It is ordered, That the said report and order of February 18, 1970, be, and they are hereby, modified, by substituting the date September 1, 1970, in lieu of June 1, 1970, where it appears in § 1307.27(k)(2).

It is further ordered, That the modification effected by the first ordering paragraph be reflected in the Commission's bound volumes.

It is further ordered, That petitioners be, and they are hereby, notified and required, within 30 days of the service date of this order, to submit a report to the Commission describing in detail the actions they have taken to bring their tariffs, filed prior to April 17, 1970, into compliance with the regulations adopted in the said report and order in this proceeding. That report should specify the type of restrictions which they propose to delete, those which they propose not to delete, and those which raise questions as to the need for deletion or modification pursuant to the said report and order.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER.

By the Commission.

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

[F.R. Doc. 70-6984; Filed, June 4, 1970; 8:49 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 17—CONSERVATION OF ENDANGERED SPECIES AND OTHER FISH OR WILDLIFE

Correction

In F.R. Doc. 70-6666 appearing in the FEDERAL REGISTER for Tuesday, June 2, 1970, the following corrections should be made:

1. In the first column on page 8492, the reference in paragraph (c)(2) which reads "subparagraph (2) of this paragraph" should read "subparagraph (1) of this paragraph."

2. In the third column on page 8497, paragraph (c)(1)(v) which reads "(v) American Samoa, Honolulu, Hawaii. Rico." should read "(vi) Virgin Islands—San Juan, Puerto Rico."

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 70-CE-8-AD; Amdt. 39-1001]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 36 and A36 Airplanes

On the basis of information developed by the manufacturer and furnished the Agency, it has been determined that Beech Models 36 and A36 (Serial Nos. E-1 through E-201) and Beech Model 58 (Serial Nos. TH-1 through TH-6) airplanes are not in compliance with § 3.386 of the Civil Air Regulations. Specifically, the attachment of the seat tracks on the two center seats in these model airplanes only withstand a force developed by an 8.5g acceleration whereas the regulation requires at least 9.0g. To correct this condition the manufacturer has issued Beechcraft Service Instructions No. 0343-314 which recommends the replacement of the seat track attaching screws on the two center seats with screws having a larger grip. In order to make the requirements of the Service Instruction mandatory, and at the request of the manufacturer, an airworthiness directive is being issued requiring within 50 hours' time in service after the effective date of this AD, modification of the seat track installation on Beech Models 36 and A36 (Serial Nos. E-1 through E-201) airplanes. The Beech Model 58 airplanes are not included in this AD inasmuch as only six airplanes are involved and the manufacturer has stated that it will modify these airplanes to correct this condition.

Since the purpose of this AD is to require the Beech Models 36 and A36 airplanes to meet a certification regulatory requirement and is in the interest of safety, it is found that notice and public procedure hereon is impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

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

BEECH. Applies to Models 36 and A36 (Serial Nos. E-1 through E-201) Airplanes.

Compliance: Required as indicated, unless already accomplished.

To effect compliance with a certification regulatory requirement, accomplish the following:

Within 50 hours' time in service after the effective date of this AD, modify the seat tracks on the two center seats in accordance with Beechcraft Service Instructions No. 0343-314, or an equivalent method approved by the Chief, Engineering & Manufacturing Branch, FAA, Central Region.

This amendment becomes effective June 9, 1970.

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

Issued in Kansas City, Mo., on May 26, 1970.

EDWARD C. MARSH, *Director, Central Region.*

[F.R. Doc. 70-7051; Filed, June 4, 1970; 8:46 a.m.]

[Docket No. 70-EA-14; Amdt. 39-996]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Hiller Aircraft

On page 4333 of the FEDERAL REGISTER for March 11, 1970, the Federal Aviation Administration published a proposed rule which would require installation of mechanical stops to forestall overtravel in instances of structural and electrical malfunctions.

Interested parties were given 30 days after publication in which to submit written data or views. ATA requested that the compliance time be extended from 250 hours to 1,000 hours. However, it is opined that there was not sufficient justification to support the request, particularly in view of the fact that ATA had

been apprised of the agency's proposed action as early as January 2, 1970.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of the Federal Aviation Regulations is amended by adopting the proposed airworthiness directive as published.

This amendment is effective July 6, 1970.

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

Issued in Jamaica, N.Y., on May 19, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

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

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

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

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

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

[F.R. Doc. 70-7048; Filed June 4, 1970; 8:45 a.m.]

[Docket No. 70-EA-33; Amdt. 39-997]

PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Sikorsky S-55 and S-62A type rotorcraft.

There has been a report of a failure of the main rotor shaft due to a fatigue crack originating from a surface defect. Since this defect can exist in other rotorcraft of the same type design, an airworthiness directive is being issued to require an inspection and replacement where necessary of the main rotor shafts.

Since the foregoing requires expeditious adoption of the rule, notice and public procedure hereon are impractical and the rule may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

SIKORSKY ROTORCRAFT. Applies to S-55, S-55B, S-55C, and S-62A type helicopters certificated in all categories.

Compliance required within the next 15 hours in service after the effective date of this AD, unless already accomplished.

To prevent failure of the main rotor shaft due to fatigue cracks originating from surface conditions, accomplish the following:

(a) Inspect main rotor shaft P/N S14-35-4308-1, -2, -3, or -4, for cracks and surface conditions in accordance with applicable Sikorsky Service Bulletin No. 55B35-3 or 62B35-10 dated April 3, 1970, or later FAA-approved revision, or an equivalent inspection procedure approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(b) Main rotor shafts exhibiting crack indications, or unreworkable surface conditions shall be retired from service prior to further flight and replaced with a shaft which has been inspected in accordance with paragraph (a).

(c) Main rotor shafts found with reworkable surface conditions may be reworked in accordance with applicable Sikorsky Service Bulletin No. 55B35-3 or 62B35-10 dated April 3, 1970, or later FAA-approved revision, or an equivalent rework procedure approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region. Should the extent of rework necessitate removal of the shaft from the main gear box, then the replacement shaft must have been inspected in accordance with paragraph (a).

(d) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Eastern Region may adjust the compliance time specified in this AD if the request contains substantiating data to justify the increase for that operator.

This amendment is effective June 17, 1970.

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

Issued in Jamaica, N.Y., on May 21, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 70-7049; Filed, June 4, 1970; 8:45 a.m.]

[Airworthiness Docket No. 70-WE-18-AD; Amdt. 39-1000]

PART 39—AIRWORTHINESS DIRECTIVES

General Dynamics 340 and 440 Airplanes

There have been cracks in the MLG beam web upper flange radius area that could result in failure of the landing gear support structure. Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require repetitive inspections and reinforcement or replacement of the MLG beam web in accordance with General Dynamics 640(340D) Service Bulletin 57-3, dated April 17, 1970, or later FAA-approved revision or an equivalent FAA-approved inspection and rework procedure.

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

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

GENERAL DYNAMICS. Applies to all Model 340 and 440 Series airplanes including those modified in accordance with STC SA4-1100 or STC SA1096WE.

Compliance required as indicated.

Within the next 50 hours' time in service, after the effective date of this AD, unless already accomplished within the last 450 hours' time in service, visually inspect MLG beam webs P/N 340-1650551-7, -8, -53 and -54 for crack indications in the upper flange radius area by dye penetrant inspection procedures, in accordance with General Dynamics 640 (340D) Service Bulletin No. 57-3, dated April 17, 1970, or later FAA-approved revision, or an equivalent inspection procedure approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(a) If no cracks are found, repeat the inspection procedure outlined above at intervals not to exceed 500 hours' time in service from the last inspection.

(b) If cracks are found as a result of any of the inspections outlined above, accomplish one of the following before further flight:

(1) If MLG beam web cracking exceeds 7 inches total length and/or extends more than 2 inches forward or aft of the 340-8510109 MLG trunnion fitting, the beam web must be replaced.

(2) If MLG beam web cracking is less than 2.75 inches long and oriented in a wing chordwise direction along the web flange bend radius, either:

(i) Stop drill the crack in accordance with section 2(B)(3) of S.B. 57-3 or an equivalent rework approved by the Chief, Aircraft Engineering Division, FAA Western Region, and reinspect for further crack propagation at intervals not to exceed 50 hours' time in service until the beam is reinforced per (3) below or replaced per (1) above, or

(ii) Replace the beam web.

(3) If cracks are between 2.75 inches and 7 inches in length and do not extend more than 2 inches forward or aft of the 340-8510109 MLG trunnion fitting, either replace the beam web or stop drill and reinforce the beam web per section 2(B)(4) of S.B. 57-3 or an equivalent rework approved by the Chief, Aircraft Engineering Division, FAA Western Region. If the beam web is stop drilled and reinforced, it must be reinspected for further crack propagation at intervals not to exceed 500 hours' time in service or until the beam web is replaced.

(c) Cracks propagating beyond a stop drill hole may be restop drilled providing the crack length remains within the limits outlined above.

(d) Normal inspection intervals may be resumed when the beam web is replaced.

This amendment becomes effective June 4, 1970.

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

Issued in Los Angeles, Calif., on May 25, 1970.

ARVIN O. BASNIGHT,
Director, Western Region.

[F.R. Doc. 70-7050; Filed, June 4, 1970; 8:46 a.m.]

[Airworthiness Docket No. 70-WE-20-AD; Amdt. 39-1002]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707/720 Airplanes

Amendment 326, Part 507, FEDERAL REGISTER, August 24, 1961, AD 61-18-1, applies to Boeing 707 Series aircraft Serial Nos. 17586-17652, 17658-17690, 17692-17712, 17718-17724, 17903-17906, 17919, 17925-17930, 18012, and 18054 and Boeing Series 720 aircraft Serial Nos. 17907-17917, 18013-18020, 18023, and 18041 as indicated.

Paragraph (e) of Amendment 326 requires repetitive inspections and repairs, as necessary, for 707 and 720 Series aircraft. United Airlines requested that they be permitted to extent the inspection intervals of AD 61-18-1, paragraph (e)(1) from 420 to 450 and paragraph (e)(2) from 840 to 1,050 hours, based upon their inspection program; the 8 years experience record, and lack of discrepancies.

The FAA initiated a fleet survey to evaluate the industry experience since issuance of AD 61-18-1. The survey indicates that the discrepancies occurred on two early 720 aircraft between 8,000 and 9,000 hours, and were considered to have been caused by a combination of manufacturing process and preloading of the trunnion assembly.

The manufacturer's service records confirm the findings of the survey and the manufacturer recommended approval of (UAL) a proposed inspection interval, provided no repairs have been accomplished, in accordance with Service Bulletin No. 859(R-2).

Based on the industry record, the FAA has determined that relief may be granted by way of deleting the requirements of paragraphs (e) (1) and (2), as applicable to 720 series aircraft only, if no cracks are found or repairs are or were made in accordance with Service Bulletin No. 859 (R-2).

Since this amendment is relaxatory in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and this amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of Federal Aviation Regulations, Amendment No. 326, FEDERAL REGISTER, August 24, 1961, AD 61-18-1, is hereby amended by revising the introductory language of paragraph (e) to read:

(e) The following repetitive inspections are required on all specified 707 Series aircraft upon completion of inspections and rework outlined in (d) and on all specified 720 Series aircraft. These provisions of paragraphs (e) (1) and (2) may be deleted from the 720 aircraft inspection intervals, provided that no cracks have been found in the steel main landing gear trunnion support rib. If cracks are found or have been found in the rib assembly and repaired per Service Bulletin No. 859 (R-2) the repetitive inspections of paragraphs (e) (1) and (2) shall apply.

NOTE: Paragraphs (e) (1) through (5) remains the same.

This amendment becomes effective June 6, 1970.

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

Issued in Los Angeles, Calif., May 26, 1970.

LEE E. WARREN,
Acting Director,
FAA Western Region.

[F.R. Doc. 70-6946; Filed, June 4, 1970; 8:45 a.m.]

[Airspace Docket No. 70-SW-4]

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

Designation of Transition Area

On May 6, 1970, F.R. Doc. 70-5499 was published in the FEDERAL REGISTER (35 F.R. 7109). This document amended Part 71 of the Federal Aviation Regulations by designating the Cherokee Village, Ark., transition area. Subsequent to publication of the document, a minor error was discovered in the description of the transition area. Action is taken herein to correct this error.

Since this amendment is editorial in nature and imposes no undue burden on any person, notice and public procedure hereon are unnecessary and it may be made effective immediately.

In consideration of the foregoing, effective immediately, F.R. Doc. 70-5499 is amended by deleting "* * * on the south by V-240 * * *" and substituting "* * * on the south by V-140 * * *" therefor.

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

Issued in Fort Worth, Tex., on May 25, 1970.

A. L. COULTER,
Acting Director, Southwest Region.

[F.R. Doc. 70-6947; Filed, June 4, 1970; 8:46 a.m.]

[Airspace Docket No. 70-WA-10]

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

Designation of Terminal Control Area at Washington, D.C.

On September 30, 1969, a notice of proposed rule making (Notice 69-42; Airspace Docket No. 70-WA-10; 34 F.R. 15254) was published stating that the Federal Aviation Administration was considering the establishment of a Terminal Control Area (TCA) for Washington, D.C. Proposed rules for the control and operation of aircraft operating within terminal control areas were published separately in Notice No. 69-41 (34 F.R. 15252).

Following these issuances, a public hearing was held in Washington, D.C., at which both notices were discussed. As a result of this and other meetings with users, supplemental notices were issued on both Washington TCA and the enabling rule (Notice 69-41B) on March 13, 1970. The air traffic rules for the control and operation of aircraft within TCAs become effective June 25, 1970.

A meeting was held in Washington on May 12, 1970, with approximately 15 local representatives of Washington aviation user groups to discuss and modify the proposal contained in Notice No. 70-WA-10. Only minor changes to the notice were proposed by the group. The FAA has incorporated one of these suggested changes into this amendment.

Six comments were received on this docket that specifically dealt with the Washington airspace proposal. Four were from individuals and two from organizations. One of the organizational comments was from the Eastern Regional Operations Office of the Air Transport Association (ATA). That office, together with the Washington office of ATA, has generally favored the TCA concept. However, in connection with this docket, it is claimed that the area is too complicated; would reduce the efficiency of the ATC system in the Washington area; result in inefficient utilization of airspace; impose an undue operational penalty on IFR traffic; and the VFR corridor would compromise safety. As an alternative, the ATA suggested implementation of the Terminal Radar Service Area (TRSA) Stage III Program. There is little reason to adopt this suggestion because in most respects a compulsory TRSA and a TCA are virtually indistinguishable.

The objections received from the individuals and the Aircraft Owners and Pilots Association (AOPA) can be catalogued into the following:

1. The TCA airspace area is too complex.
2. The TCA would encompass a large amount of airspace in which general aviation aircraft would be restricted.
3. VFR corridor is inadequate and would be unusable if aircraft were operating above a cloud layer.
4. VFR traffic would be compressed below the floors and at the outer boundaries of the TCA.
5. Corridors would be preferred.

Since these objections were extensively discussed by individuals and representatives of user organizations at the public hearing held in Washington, D.C., on January 15, 1970, and subsequent meetings and discussions with user groups, further discourse on each objection appears unnecessary.

From the inception of the TCA program, the FAA pointed out that the TCA concept or any other method of control and segregation of terminal traffic would impose certain penalties on all segments of aviation. We believe the distribution of these penalties is reasonably equitable. The flight paths of IFR traffic may be extended in order to stay within the TCA airspace; likewise, VFR traffic that elects

to stay out of the TCA may be inconvenienced.

The complexity of the area results from the tailoring of the airspace to special requirements and to insure that no more airspace than is necessary will be designated as terminal control area.

One change has been made in the airspace configuration. A floor of 1,500 feet has been established for that portion of Area "A" southeast of Andrews AFB between the 5- and 7-mile radius arcs of the Andrews VORTAC.

In consideration of the foregoing and for reasons stated in Notices 69-41 and 69-41B, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 23, 1970, as hereinafter set forth.

Section 71.401(a) (35 F.R. 7784) is amended by adding the following:

WASHINGTON, D.C., TERMINAL CONTROL AREA

PRIMARY AIRPORTS

1. Washington National Airport (lat. 38°51'05" N., long. 77°02'20" W.).

2. Andrews AFB (lat. 38°48'40" N., long. 76°52'05" W.).

Boundaries: That airspace up to and including 8,000 feet MSL—

1. *Area A.* That airspace extending upward from the surface to 3,000 feet MSL and that airspace extending upward from 5,000 feet MSL within a 5-mile radius of the Washington, D.C., VOR and within a 5-mile radius of the Andrews, Md., VORTAC, including the additional airspace within a 7-mile radius of the Washington VOR bounded on the north by the Herndon, Va., 126° radial and on the south by the Washington VOR 203° radial; and including the additional airspace within a 7-mile radius of the Andrews VORTAC, bounded on the north by the Andrews VORTAC 060° radial and on the southwest by a line 3 miles east of and parallel to the Andrews VORTAC 180° radial, excluding the airspace bounded on the north by lat. 38° 45'50" N., on the east by long. 76°54'25" W. and on the southwest by an arc 5 miles in radius from the Andrews VORTAC; and excluding that airspace below 1,500 feet MSL between arcs 5 miles and 7 miles in radius from the Andrews VORTAC bounded on the north by the Andrews VORTAC 060° radial and on the southwest by a line 3 miles east of and parallel to the Andrews VORTAC 180° radial; and that airspace bounded by a line beginning at lat. 38°50'20" N., long. 77° 05'40" W.; to lat. 38°47'26" N., long. 77° 09'15" W.; to lat. 38°48'50" N., long. 77° 10'30" W.; to lat. 38°52'30" N., long. 77° 07'30" W., thence along an arc 7 miles in radius from the Washington VOR to the point of beginning.

2. *Area B.* That airspace extending upward from 1,500 feet MSL north of Andrews AFB bounded on the southeast by the Andrews VORTAC 060° radial, on the south by Area "A", on the west by the Washington VOR 043° radial and a line 2 miles west of and parallel to the Andrews VORTAC 360° radial, and on the north by a 10-mile radius arc from the Andrews VORTAC. That area south of Washington bounded on the north by Area A, on the east by a line 3 miles east of and parallel to the Andrews VORTAC 180° radial, on the south by a line passing through geographic points lat. 38°39'10" N., long. 76°47'45" W.; and lat. 38°41'25" N., long. 77°07'20" W.; and on the west by the Washington VOR 203° radial. That area northwest of Washington bounded on the east by the Washington VOR 351° radial, on the southeast by Area "A", on the southwest by the Herndon VORTAC 126° radial, and on the northwest by a 10-mile radius arc from the Washington VOR.

3. *Area C.* That airspace extending upward from 2,500 feet MSL south of Washington bounded on the north by Area B, on the east by a line 3 miles east of and parallel to the Andrews VORTAC 180° radial, on the south by a line passing through geographic points lat. 38°33'50" N., long. 76°47'30" W.; and lat. 38°36'30" N., long. 77°09'45" W.; and on the west by the Washington VOR 203° radial. That area northwest of Washington bounded on the east by the Washington VOR 351° radial, on the southeast by a 10-mile radius arc from the Washington VOR, on the southwest by the Herndon VORTAC 126° radial and on the northwest by a 15-mile radius arc from the Washington VOR. That area north of Andrews AFB bounded on the southeast by the Andrews VORTAC 060° radial, on the south by a 10-mile radius arc from the Andrews VORTAC, and on the west by a line extending 2 miles west of and parallel to the Andrews VORTAC 360° radial, and on the northeast by a 15-mile radius arc from the Andrews VORTAC.

4. *Area D.* That airspace extending upward from 4,000 feet MSL south of Washington bounded on the north by Area C, on the east by a line 3 miles east of and parallel to the Andrews VORTAC 180° radial, on the south by a 20-mile radius arc from the Andrews VORTAC and a 20-mile radius arc from the Washington VOR, and on the west by the Washington VOR 203° radial. That area northwest of Washington bounded on the east by the Washington VOR 351° radial, on the southeast by a 15-mile radius arc from the Washington VOR, on the southwest by the Herndon VORTAC 126° radial, and on the northwest by a 20-mile radius arc from Washington VOR. That area north of Andrews AFB bounded on the southeast by the Andrews VORTAC 060° radial, on the southwest by a 15-mile radius arc from Andrews VORTAC, on the west by a line 2 miles west of and parallel to the Andrews VORTAC 360° radial, and on the northeast by a 20-mile radius arc from the Washington VOR and a 20-mile radius arc from the Andrews VORTAC.

5. *Area E.* That airspace extending upward from 5,000 feet MSL southeast of Andrews AFB bounded on the southeast by a 20-mile radius arc from the Andrews VORTAC, on the west by a line extending from lat. 38°-28'40" N., long. 76°47'00" W.; to lat. 38°41'-45" N., long 76°48'20" W., and a 7-mile radius arc from the Andrews VORTAC, and on the northwest by the Andrews VORTAC 060° radial. That area southwest of Washington bounded on the southeast by the Washington VOR 203° radial, on the southwest by a 20-mile radius arc from the Washington VOR, on the northeast by the Herndon VORTAC 126° radial and a 7-mile radius arc from the Washington VOR. That area north of Washington bounded on the east by a line 2 miles west of and parallel to the Andrews VORTAC 360° radial and the Washington VOR 043° radial, on the south by a 5-mile radius arc from the Washington VOR, on the west by the Washington VOR 351° radial, and on the north by a 20-mile radius arc from the Washington VOR.

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

Issued in Washington, D.C., on June 1, 1970.

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

[F.R. Doc. 70-7045; Filed, June 4, 1970; 8:45 a.m.]

[Airspace Docket No. 70-EA-31]

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

Designation of Control Zone and Alteration of Transition Area

Correction

In F.R. Doc. 70-6591 appearing on page 8348 in the issue for Thursday, May 28, 1970, the designation in the sixth line of the Norwood, Mass., control zone description in § 71.171 now reading "71°07'51" W." should read "71°07'41" W."

Title 7—AGRICULTURE

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

[Lemon Reg. 430]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.730 Lemon Regulation 430.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the

recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 3, 1970.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period June 7, 1970, through June 13, 1970, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 325,500 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

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

Dated: June 4, 1970.

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

[F.R. Doc. 70-7091; Filed, June 4, 1970; 11:16 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 8, 14, 15, 16, 17, 22, 23, 30, 31, 32, 53, 54]

ADMINISTRATIVE REVIEW

Notice of Proposed Rule Making

Notice is hereby given that under the authority of 5 U.S.C. 301, section 251 of the Revised Statutes (19 U.S.C. 66) and section 624, Tariff Act of 1930 (19 U.S.C. 1624), in order to conform the Customs Regulations to the changes in the Tariff Act of 1930 effected by the Customs Administrative Act of 1970, Public Law 91-271, approved June 2, 1970, and to implement the administrative review procedures authorized by the Act, it is proposed to amend the Customs Regulations as set forth in tentative form below:

Chapter I of title 19 of the Code of Federal Regulations is amended to add new parts 173 through 176 as follows:

PART 173—ADMINISTRATIVE REVIEW IN GENERAL

Sec.

AUTHORITY: The provisions of this Part 173 issued under R.S. 251, secs. 501, 624, 46 Stat. 730, as amended, 759; 19 U.S.C. 66, 1501, 1624.

§ 173.0 Scope.

This part deals with the general authority of review, the authority to reliquidate voluntarily, the authority to correct for clerical error, mistake of fact, or other inadvertence under section 520 (c)(1), Tariff Act of 1930, as amended, the authority to review an entry of household or personal effects, and the power to reliquidate an entry on account of fraud.

§ 173.1 Authority to review for error.

District directors have broad responsibility and authority to review transactions to insure that the rate and amount of duty assessed on imported merchandise is correct and that the transaction is otherwise in accordance with the law. This authority extends to errors in the construction of a law and to errors adverse to the Government as well as the importer.

§ 173.2 Transactions which may be reviewed and corrected.

The district director may review transactions for correctness, and take appropriate action under his general authority to correct errors, including those in appraisement where appropriate, at the time of:

(a) Liquidation of an entry;

(b) Voluntary reliquidation completed within 90 days after liquidation;

(c) Voluntary correction of an exaction within 90 days after the exaction was made;

(d) Reliquidation made pursuant to a valid protest covering the particular merchandise as to which a change is in order; or

(e) Modification, pursuant to a valid protest, of a transaction or decision which is neither a liquidation or reliquidation.

§ 173.3 Voluntary reliquidation.

(a) *Authority to reliquidate.* The district director within 90 days from the date notice of the original liquidation is given to the importer, consignee, or agent, may reliquidate on his own initiative a liquidation or a reliquidation to correct errors in appraisement, classification, or any other element entering into the liquidation or reliquidation, including errors based on misconstruction of applicable law. A voluntary reliquidation may be made even though a protest has been filed, and whether the error is discovered by the district director or is brought to his attention by an interested party.

(b) *Notice of reliquidation.* Notice of a voluntary reliquidation shall be given in accordance with the requirements for giving notice of the original liquidation.

(Sec. 501, 46 Stat. 730, as amended; 19 U.S.C. 1501)

§ 173.4 Correction of clerical error, mistake of fact, or inadvertence.

(a) *Authority to review and correct.* Even though a valid protest was not filed, the district director, upon timely application, may correct pursuant to section 520(c)(1), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)(1)), a clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (b) of this section, by reliquidation or other appropriate action.

(b) *Transactions which may be corrected.* Correction pursuant to section 520(c)(1), Tariff Act of 1930, as amended, may be made in any entry, liquidation, appraisement, or other Customs transaction if the clerical error, mistake of fact, or other inadvertence:

(1) Does not amount to an error in the construction of a law;

(2) Is adverse to the importer; and

(3) Is manifest from the record or established by documentary evidence.

(c) *Limitation on time for application.* A clerical error, mistake of fact, or other inadvertence meeting the requirements of paragraph (b) of this section must be brought to the attention of the district director:

(1) Within 1 year after the date of entry, or other transaction (including liquidation, reliquidation, or exaction) if the error, mistake of fact, or other inadvertence is in the entry, or other transaction (including a liquidation, reliquidation, or exaction), or

(2) Within 90 days after liquidation or exaction when the liquidation or exaction is made more than 9 months after the date of entry, or other transaction, except that in cases where the error is in liquidation, reliquidation, or exaction, the 1-year limitation shall apply.

(Sec. 520, 46 Stat. 739, as amended; 19 U.S.C. 1520)

§ 173.5 Review of entry covering household or personal effects.

An error in the liquidation of an entry covering household or personal effects may be corrected by the district director even though a timely protest was not filed if an application for refund is filed with the district director within 1 year after the date of the entry and no waiver of compliance with applicable regulations is involved other than a waiver which the district director has authority to grant. Where the district director has no authority to grant the waiver, the application shall be referred to the Commissioner of Customs.

(Sec. 520, 46 Stat. 739, as amended; 19 U.S.C. 1520)

§ 173.6 Review of entry for fraud.

The district director may review any entry in which fraud is suspected. Where probable cause to believe there is fraud in the case is found by the district director, he may reliquidate an entry within 2 years (exclusive of the time during which a protest is pending) after the date of liquidation or last reliquidation.

(Sec. 521, 46 Stat. 739; 19 U.S.C. 1521)

PART 174—PROTESTS

Sec.

Sec.
174.26 Disposition after further review.
174.27 Consideration of additional arguments.
174.28 Allowance or denial of protests.
174.29 Notice protest denied.

AUTHORITY: The provisions of this Part 174 issued under R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624. Subpart B also issued under sec. 514, 46 Stat. 736, as amended; 19 U.S.C. 1514. Subpart C also issued under sec. 515, 46 Stat. 736, as amended; 19 U.S.C. 1515.

§ 174.0 Scope.

This part deals with the administrative review of decisions of the district director, including the requirements for the filing of protests against such decisions, amendment of protests, review and accelerated disposition, and provisions dealing with further administrative review.

Subpart A—General Provisions

§ 174.1 Definitions.

When used in this part, the following terms shall have the meaning indicated:

(a) *District director.* "District director" means the district director of Customs at a headquarters port other than the port of New York, N.Y., and the regional commissioner of Customs for Customs Region II at the port of New York, N.Y.

(b) *Further review.* "Further review" means review of the decision of the district director by Customs officers on a level higher than the district, and in Region II by Customs officers who did not participate directly in the decision which is the subject of the protest.

§ 174.2 Applicability of provisions.

(a) *In general.* The provisions of this part shall be applicable to protests against decisions involving:

(1) Articles excluded from entry or entered or withdrawn from warehouse for consumption on or after October 1, 1970;

(2) Articles entered or withdrawn from warehouse for consumption prior to October 1, 1970, for which appraisement has not become final by October 1, 1970;

(3) Articles entered or withdrawn from warehouse for consumption prior to October 1, 1970, for which the appraisement has become final but with respect to which the entry has not been liquidated prior to October 1, 1970;

(4) Articles entered or withdrawn from warehouse for consumption with respect to which the entry has been liquidated prior to October 1, 1970, if the time for filing a protest has not expired or a protest has not been disallowed in whole or in part before October 1, 1970; or

(5) Articles excluded from entry before October 1, 1970, with respect to which the time for filing a protest has not expired or a protest has not been disallowed in whole or in part before October 1, 1970.

(b) *Limitations*—(1) *Appraisement not final.* When the appraisement of articles entered or withdrawn from warehouse for consumption prior to October 1, 1970, is not final by October 1, 1970, because an appeal for reappraisement was timely filed prior to such date, the provisions of this part relating to protests shall be applicable to a protest filed after the court's decision on the appeal to reappraisement has become final. Such protest shall not include issues which were raised or could have been raised on the appeal for reappraisement.

(2) *Protest not disallowed.* When a protest filed prior to October 1, 1970, has not been disallowed in whole or in part before such date, the provisions of this part shall be applicable to such protests. The time within which any action must be taken under the provisions of this part with respect to such a protest shall commence on the date the protest was in fact filed.

§ 174.3 Power of attorney to file protest.

(a) *When required.* When a protest is filed by a person acting as agent or attorney in fact for the principal, other than an attorney at law or a customhouse broker or his authorized employee acting in his behalf, there shall have been filed or shall be filed with the protest a power of attorney which either specifically authorizes such agent to make, sign, and file the protest or grants unlimited authority to such agent. No power of attorney to file a protest shall be required in the following cases:

(1) *Attorney at law.* When the protest is filed by an attorney at law as agent or attorney for the principal, the signing of the protest as agent or attorney for the principal by the attorney at law shall be considered a declaration by him that he is currently a member in good standing of the highest court of a State, possession, territory, commonwealth, or the District of Columbia, and has been authorized to sign and file the protest for the principal.

(2) *Customhouse broker or his employee.* When the protest is filed by a customhouse broker, or an authorized employee acting in his behalf, as agent or attorney in fact for the principal, the signing of the protest by the customhouse broker or an authorized employee in his behalf shall be considered a declaration by the broker that he or the employee signing in his behalf, is authorized to sign and file the protest for the principal. The customhouse broker shall have on file, however, a general power of attorney to transact Customs business for the principal on Customs Form 5291.

(b) *Procedure when power of attorney not filed.* If a protest is filed by a person purporting to be an agent for the protesting party, and such person is not named in a power of attorney as required by paragraph (a), the protest shall be returned to the purported agent without being numbered or stamped with the date of receipt, and shall be deemed not filed. Return of such a protest shall not interrupt the running of the period for filing a protest prescribed by section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514).

(c) *Execution of power of attorney*—(1) *Corporation.* A corporate power of attorney to file protests shall be signed by a duly authorized officer or employee of the corporation. If the district director is otherwise satisfied as to the authority of such corporate officer or employee to grant such power of attorney, compliance with the requirements of section 8.19(e) of this chapter may be waived with respect to such power.

(2) *Partnership.* A partnership power of attorney to file protests may be signed by one member in the name of the partnership, provided the power recites the name of all the members.

(d) *Duration.* Powers of attorney issued by a partnership shall be limited to a period not to exceed 2 years from the date of receipt thereof by the district director. All other powers of attorney may be granted for an unlimited period.

(e) *Revocation.* Any power of attorney shall be subject to revocation at any time by written notice given to and received by the district director.

(Secs. 514, 515, 46 Stat. 734, as amended; 19 U.S.C. 1514, 1515)

Subpart B—Protests

§ 174.11 Matters subject to protest.

The following decisions of the district director, including the legality of all orders and findings entering into the same, may be protested under the provisions of section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514):

(a) The appraised value of merchandise;

(b) The classification and rate and amount of duties chargeable;

(c) All charges or exactions of whatever character within the jurisdiction of the Secretary of the Treasury;

(d) The exclusion of merchandise from entry or delivery under any provision of the Customs laws;

(e) The liquidation or reliquidation of an entry, or any modification thereof;

(f) The refusal to pay a claim for drawback; and

(g) The refusal to reliquidate an entry under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)).

§ 174.12 Consolidation of protests filed by different parties.

Separate protests relating to one category of merchandise covered by an entry shall oe considered as a single protest whether filed as a single protest or filed as separate protests relating to the same category by one or more parties in interest or an authorized agent.

§ 174.13 Contents of protest.

(a) *Contents and number of copies required.* Protests against decisions of the district director shall be filed in quadruplicate on Customs Form 19, addressed to the district director, and signed by the person protesting, or his agent or attorney. All schedules or other attachments to a protest shall also be filed in quadruplicate. A protest shall not be deemed filed, and shall be returned to the protesting party, unless the form contains the following information:

(1) The name and address of the protestant, and the name and address of his

agent or attorney if signed by one of these;

(2) The importer number of the protestant. If the protestant is represented by an agent having power of attorney, the importer number of the agent shall also be shown;

(3) The number and date of the entry;

(4) The date of liquidation of the entry;

(5) A specific description of the merchandise affected by the decision as to which protest is made; and

(6) The nature of, and reason for the objection set forth distinctly and specifically with respect to each category, payment, claim, decision, or refusal, stating the applicable provisions of law, if any, under which relief is claimed, and the factual matter and legal arguments in support of the objection.

(b) *Optional designation for refunds.* If desired by the owner or protesting party, the statement "any refunds (and/or other information) with respect to the entry under protest shall be mailed to the owner in care of ---------- (Name and Address of Agent) ----------" may be appended to the protest. This designation supersedes any existing designation previously authorized on Customs Form 4811.

§ 174.14 Filing of protests.

(a) *By whom filed.* Protests may be filed by the importer, consignee, or the person paying any charge or exaction, filing any claim for drawback, or seeking entry or delivery with respect to merchandise which is the subject of the decision protested, or his agent or attorney subject to the provisions of section 174.3.

(b) *Manner of filing.* Each protest shall be addressed to the district director. Protests shall be filed with the district director to whom addressed except that when the protested entry is made at a port other than the district headquarters, the protest may be filed with the port director at the port of entry.

(c) *Time of filing.* Protests shall be filed, in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), within 90 days after either:

(1) The date of notice of liquidation or reliquidation in accordance with section 16.2(d), 16.12(a), or 16.12(c) of this chapter; or

(2) The date of the decision, involving neither a liquidation nor reliquidation, as to which the protest is made (e.g., the date of an exaction, or the date of written notice excluding merchandise from entry or delivery under any provision of the Customs laws).

(d) *Date of filing.* The date on which a protest is received by the Customs officer with whom it is required to be filed shall be deemed the date on which it is filed.

§ 174.15 Amendment of protests.

(a) *When allowed.* A protest may be amended at any time prior to the expiration of the 90-day period within which a protest may be filed determined in accordance with section 174.14(c). The amendment may assert additional claims pertaining to the administrative decision which is the subject of the protest, or may challenge an additional administrative decision relating to the same category of merchandise which is the subject of the protest. For the presentation of additional grounds or arguments in support of a valid protest after the 90-day period has expired see section 174.27.

(b) *Contents and number of copies of amendment.* An amendment to a protest shall be filed in quadruplicate and shall not be deemed filed, and shall be returned to the party attempting to file the amendment, unless it contains the following information set forth in the following order:

(1) The name, address, and importer number of the protesting party and the name and address of his agent or attorney if filed by one of these;

(2) The entry number to which the amended protest is directed and date of the entry;

(3) The number of the original protest;

(4) A specific description of the merchandise affected by the decision as to which the protest was filed; and

(5) The nature of and reason for the objection raised by the amendment set forth distinctly and specifically with respect to each category, payment, claim, decision, or refusal, stating the applicable provisions of law, if any, under which relief is claimed and the factual matter and legal arguments in support of the objection.

(c) *By whom filed.* An amendment to a protest may be filed only by the person filing such protest, or his agent or attorney subject to the provisions of section 174.3.

(d) *Place of filing.* An amendment to a protest shall be filed with the district director or port director with whom the protest was filed.

§ 174.16 Limitation on protests after reliquidation.

A protest shall not be filed against the decision of the district director on reliquidation upon any question not involved in the reliquidation.

Subpart C—Review and Disposition of Protests

§ 174.21 Time for review of protests.

(a) *In general.* The district director shall review and act on a protest filed in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514) within 2 years from the date the protest was filed. If several timely filed protests are treated as part of a single protest pursuant to section 174.12, the 2-year period shall be deemed to run from the date the last such protest was filed in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514).

(b) *Accelerated disposition of protest—*(1) *Request for accelerated disposition.* Accelerated disposition of a protest filed in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514) may be obtained at any time after 90 days from the filing of such protest, by filing by registered or certified mail a written request for accelerated disposition with the district director to whom the protest was addressed.

(2) *Contents of request.* A request for accelerated disposition of protest shall not be deemed filed unless it contains the following information:

(i) The name, address, and importer number of the protestant, and the name and address of his agent or attorney if filed by one of these;

(ii) The number and date of the entry involved; and

(iii) The date of filing and number of the protest for which accelerated disposition is requested.

(3) *Review following request.* The district director shall review the protest which is the subject of the request within 30 days from the date of mailing of a request for accelerated disposition filed in accordance with the provisions of this section, and may allow or deny the protest in whole or in part.

(4) *Failure to allow or deny protest within 30-day period.* If the district director fails to allow or deny a protest which is the subject of a request for accelerated disposition within 30 days from the date of mailing of such request, the protest shall be deemed to have been denied at the close of the 30th day following such date of mailing.

(5) *Multiple protests.* If several timely protests filed by different persons are treated as part of a single protest pursuant to § 174.12, a request for accelerated disposition filed by any one of the protesting parties shall be treated as a request for accelerated disposition by all the parties.

§ 174.22 Further review of protests.

A protesting party may obtain further review of a protest by filing, on the form prescribed in § 174.24, an application for such review within the time allowed and in the manner prescribed by § 174.14 for the filing of protest. The filing of an application for further review shall not preclude review and allowance of the protest by the district director whose decision is the subject of the protest. If the protest would be denied in whole or in part by the district director in the absence of an application for further review he shall, in accordance with § 174.25, forward the protest for further review.

§ 174.23 Criteria for further review.

Further review of a protest which would otherwise be denied by the district director shall be accorded a party filing an application for further review which meets the requirements of § 174.24 when the decision against which the protest was filed:

(a) Is alleged to be inconsistent with a published ruling of the Commissioner of Customs or his designee, or a published abstract thereof, or with a decision made in any district with respect to the same or substantially similar merchandise;

(b) Is alleged to involve questions of law or fact which have not been ruled

upon by the Commissioner of Customs or his designee; or

(c) Involves matters previously ruled upon by the Commissioner of Customs or his designee but facts are alleged or legal arguments presented which were not considered at the time of the original ruling.

§ 174.24 Contents and number of copies of application for further review.

An application for further review shall be filed in quadruplicate on Customs Form 20 and shall be denied unless it contains the following information:

(a) Information identifying the protest to which it applies and the protesting party and his importer number;

(b) Allegations that the protesting party:

(1) Has not previously received an adverse administrative decision from the Commissioner of Customs or his designee nor has presently pending an application for an administrative decision on the same claim with respect to the same category of merchandise; and

(2) Has not received a final advance decision from the Customs courts on the same claim with respect to the same category of merchandise and does not have an action involving such a claim pending before the Customs courts.

(c) A statement of any facts or additional legal arguments, not part of the record, upon which he relies, including the criterion set forth in § 174.23 which justifies further review.

§ 174.25 Review of protest after application for further review.

(a) *Protest allowed.* If upon review of a protest for which an application for further review was filed the district director is satisfied that the claim is valid, he shall allow the protest.

(b) *Other protests.* If upon review of a protest for which an application for further review was filed the district director decides that the protest in his judgment should be denied in whole or in part, he shall forward the application together with the protest and appropriate documents to be reviewed as follows:

(1) A protest shall be reviewed by the Commissioner of Customs or his designee under Customs Delegation Order No. 1 (Revision 1), T.D. 69-126 (34 F.R. 8208), as amended from time to time, if the protest and application for review raise an issue involving either:

(i) Lack of uniformity of treatment;

(ii) The existence of an established and uniform practice;

(iii) The interpretation of a court decision or ruling of the Commissioner of Customs or his designee; or

(iv) Questions which have not been the subject of a Bureau ruling or court decision.

(2) All other protests shall be reviewed by the regional commissioner of Customs or his designee for the region in which the district lies. Such designee shall be a Customs officer who did not participate directly in the decision which is the subject of the protest.

§ 174.26 Disposition after further review.

Upon completion of further review, the protest and appropriate documents forwarded for review shall be returned to the district director together with directions for the disposition of the protest.

§ 174.27 Consideration of additional arguments.

In determining whether to allow or deny a protest filed within the time allowed, a reviewing officer may consider alternative claims and additional grounds or arguments submitted in writing by the protesting party with respect to any decision which is the subject of a valid protest at any time prior to disposition of the protest.

§ 174.28 Allowance or denial of protests.

The district director shall allow or deny in whole or in part a protest filed in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514) within 2 years from the date the protest was filed. If the protest is allowed in whole or in part the district director shall remit or refund any duties, charge, or exaction found to have been collected in excess, or pay any drawback found due. If the protest is denied in whole or in part the district director shall give notice of the denial in the form and manner prescribed in section 174.29.

§ 174.29 Notice of denial of protest.

Notice of denial of a protest shall be mailed to the person filing the protest or his agent in all cases other than those in which accelerated disposition was requested and in which no action has been taken within 30 days after the date of mailing of the request. For purposes of section 515(a), Tariff Act of 1930, as amended (19 U.S.C. 1515(a)), the date appearing on such notice shall be deemed the date on which such notice was mailed.

PART 175—PETITIONS BY AMERICAN MANUFACTURERS, PRODUCERS, AND WHOLESALERS

Sec.

AUTHORITY: The provisions of this Part 175 issued under R.S. 251, as amended, secs. 516, 624, 46 Stat. 735, as amended, 759; 19 U.S.C. 66, 1516, 1624.

§ 175.0 Scope.

This part sets forth the procedures applicable to requests by American manufacturers, producers, and wholesalers for the classification and rate of duty applicable to designated imported merchandise, and to petitions alleging that the appraised value is too low, that the classification is not correct, or that the proper rate of duty is not being assessed upon designated imported merchandise which is claimed to be similar to the class or kind of merchandise manufactured, produced, or wholesaled by the petitioner.

Subpart A—Request for Classification and Rate of Duty

§ 175.1 Submission of request.

Written requests pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), for information as to the classification and rate of duty imposed upon designated imported merchandise shall be submitted in triplicate to the Commissioner of Customs.

§ 175.2 Contents of request.

The request for information shall contain the following information:

(a) The name of the person making the request, his principal place of business, and the fact that he is an American manufacturer, producer, or wholesaler;

(b) A designation of the imported merchandise for which the classification and rate is requested; and

(c) A showing of the class or kind of merchandise manufactured, produced, or sold by him which is claimed to be similar to the imported merchandise in such detail as will permit the Commissioner to establish the similarity between the domestic and foreign merchandise.

Subpart B—Petitions

§ 175.11 Filing of petitions.

(a) *Number of copies and where filed.* All petitions pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), shall be submitted to the Commissioner of Customs in triplicate.

(b) *By whom filed.* Petitions may be filed by the American manufacturers, producers, or wholesalers themsleves, or by duly authorized attorneys or agents on their behalf. A petition filed by a corporation shall be signed by an officer thereof, and a petition filed by a partnership shall be signed by a member thereof.

§ 175.12 Contents of petition.

The petition shall be itemized as to each class or kind of merchandise involved, and shall contain the following:

(a) The name of the petitioner, his principal place of business, and the fact that he is an American manufacturer, producer, or wholesaler;

(b) A statement showing the class or kind of merchandise manufactured, produced, or sold by him which is claimed to be similar to the imported merchandise in such detail as will permit the Commissioner of Customs to establish the similarity between the domestic and foreign merchandise;

(c) Such information as the petitioner may have as to the port or ports at which such merchandise is being imported into the United States; and

(d) A presentation, in detail, of the information required by section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516).

Subpart C—Procedure Following Petition

§ 175.21 Inspection of documents and papers.

A petitioner shall not be permitted in any case to inspect documents or papers of the consignee or importer which are exempted from disclosure under section 26.7 of this chapter.

§ 175.22 Publication of decisions following petition.

(a) *Incorrect appraised value, classification, or rate of duty.* If the appraised value of, classification of, or rate of duty upon imported merchandise of the character which is the subject of a petition is found to be incorrect, the Commissioner of Customs shall so inform the petitioner, and shall cause the proper value, classification, or rate of duty to be published in the FEDERAL REGISTER and the weekly Customs Bulletin. Such merchandise entered for consumption or withdrawn from warehouse for consumption after 30 days after the date of publication of such notice to the petitioner in the Customs Bulletin shall be appraised, classified, or assessed as to rate of duty in accordance with the published decision.

(b) *Correct appraised value, classification, or rate of duty.* If the appraised value of, classification of, or rate of duty upon the imported merchandise which is the subject of the petition is found to be correct, the Commissioner of Customs shall so notify the petitioner, but the decision shall not be published.

§ 175.23 Notice of desire to contest decision.

If the petitioner is dissatisfied with the decision of the Commissioner that the appraised value, classification, or rate of duty is correct for the merchandise which was the subject of the petition, in accordance with section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516) he may file with the Commissioner of Customs not later than 30 days after the date of the decision a notice that he desires to contest the appraised value of, classification of, or rate of duty assessed upon the imported merchandise.

§ 175.24 Publication following notice of desire to contest.

Upon receipt of a properly filed petitioner's notice that he desires to contest the decision as to the appraised value of, classification of, or rate of duty assessed upon the imported merchandise, the Commissioner of Customs shall cause to be published in the FEDERAL REGISTER and the weekly Customs Bulletin a notice of his decision as to the proper appraised value of, classification of, or rate of duty assessed upon the imported merchandise, and of petitioner's desire to contest the decision.

§ 175.25 Procedure at port of entry designated by petitioner.

(a) *Information as to character and description of merchandise.* All information secured by the district director for the port designated by the petitioner in his petition as to the character and description of merchandise of the kind covered by the petition and entered after publication by the Commissioner of Customs of his decision as to the proper appraised value, classification and rate of duty, and samples of such merchandise, shall be made available to the petitioner upon application by him to the district director.

(b) *Notice of liquidation.* Notice of liquidation of the first of the entries to be liquidated which would enable the petitioner to present the issue desired shall be given to the petitioner by the district director or the designated port as required by section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516).

(c) *Further notice when issue not presented.* If, upon examination of the information and inspection of any sample supplied by the district director, the petitioner believes and the district director agrees that the merchandise or the facts surrounding this importation are not sufficient to raise the issue involved in the petition, the district director shall then give the petitioner notice of the first liquidation thereafter which will permit the framing of the issue covered by the petition. The district director shall, under the same conditions, continue to give notice for so long as he is of the opinion that the petitioner affirmatively intends to contest. When the district director concludes that the petitioner does not intend to contest the decision of the Commissioner of Customs, he shall refer the matter to the Commissioner of Customs for his decision before issuing any further notice of liquidation.

PART 176—PROCEEDINGS IN THE CUSTOMS COURT

Sec.
176.0 Scope.

Subpart A—Service

176.1 Service of summons.
176.2 Service of notice of appeal.

Subpart B—Transmission of Records

176.11 Transmission of records to Customs Court.

Subpart C—Statement of Agreed Facts

176.21 Referral of statements of agreed facts for certification.
176.22 Statements treating with identification of merchandise.
176.23 Certificate.
176.24 Deletion of protest or entry number.

Subpart D—Procedure Following Court Decision

176.31 Reliquidation following decision of court.

AUTHORITY: The provisions of this Part 176 issued under R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624.

§ 176.0 Scope.

This part deals with service of summons and notice of appeal in actions before the Customs Court, the transmission of records to the court, statements of agreed facts, and Customs procedures following a decision by the court.

Subpart A—Service

§ 176.1 Service of summons.

When an action is initiated in the Customs Court a copy of the summons shall be served in the manner prescribed by the Customs Court upon the district director for each Customs district in which a protest cited in the summons was denied, and an additional copy shall be served upon the Assistant Chief Counsel for Customs Court Litigation, Bureau of Customs, 26 Federal Plaza, New York, N.Y. 10007.

(28 U.S.C. 2632, as amended)

§ 176.2 Service of notice of appeal.

When the United States is an appellee in an appeal taken to the Court of Customs and Patent Appeals, a copy of the notice of appeal shall be served in the manner provided for the service of a copy of the summons in the Customs Court in § 176.1.

(28 U.S.C. 2601, as amended)

Subpart B—Transmission of Records

§ 176.11 Transmission of records to Customs Court.

Upon receipt of service of a summons the following items shall be immediately transmitted to the Customs Court as part of the official record by the Customs officer concerned:

(a) Consumption or other entry;
(b) Commercial invoice;
(c) Special Customs invoice;
(d) Copy of protest;
(e) Copy of denial of protest in whole or in part;
(f) Importer's exhibits;
(g) Official samples;
(h) Any official laboratory reports;
(i) The summary sheet;
(j) In any case in which one or more of the items listed as (a) through (i) do not exist, the Customs officer shall include a statement to that effect, identifying the items which do not exist.

(28 U.S.C. 2632, as amended)

Subpart C—Statement of Agreed Facts

§ 176.21 Referral of statement of agreed facts for certification.

Statements of agreed facts (also referred to as stipulations) to be used by the Department of Justice in submitting cases to the Customs Court may be referred for certification to Customs officials by the office of the Assistant Attorney General, Customs Section, Civil Division, Department of Justice, 26 Federal Plaza, New York, N.Y. 10007.

§ 176.22 Statements treating with identification of merchandise.

In those instances in which the statement of agreed facts treats with the identification of merchandise, each item or class of merchandise mentioned in the statement shall be identified by a separate capital letter and by the initials of

the certifying officer, but in no case shall the letter or symbol "X" be used for such identification purposes. That portion of the statement which treats with the identification of merchandise shall indicate that the merchandise is marked on the invoice in substantially the following form:

It is hereby stipulated and agreed by and between counsel for the plaintiff and the Assistant Attorney General, attorney for the United States, that the merchandise ----------, covered by the
(Give description)
protests enumerated in Schedule A, attached, and represented by the items marked "A," "B," "C," etc., on the invoice(s), and checked by ----------
----
(The certifying official will here print or type his full name and initial the name thereafter)
(assessed, appraised, etc.) ----------
---------- is the same in all material respects as the merchandise passed upon in the case of ----------.

§ 176.23 Certificate.

At the end of each statement of agreed facts there shall be added a certificate in one of the following forms:

(a) If the statement follows a test case:

I certify that I have reviewed the statement of agreed facts and that I am familiar with the merchandise covered by the decision cited in the statement.

It is my opinion that the items covered by the statement of agreed facts are similar in all material respects to the merchandise covered by the test case, and I do so certify.

(Signature of certifying officer)

---------- ----------
(Date) (Title)

Approved:

(Signature of reviewing officer)

(Title)

(b) If the statement does not follow a test case:

I certify that I have reviewed the statement of agreed facts and that I am familiar with merchandise covered by the statement. It is my opinion that the facts recited in the statement are true and I do so certify.

(Signature of certifying officer)

---------- ----------
(Date) (Title)

Approved:

(Signature of reviewing officer)

(Title)

§ 176.24 Deletion of protest or entry number.

If any protest number or entry number is to be deleted from a schedule of protest numbers or entry numbers attached to or embodied in a statement of agreed facts, a line shall be drawn through the number and the change shall be initialed by the Customs officers making and approving the certificate.

Subpart D—Procedure Following Court Decision

§ 176.31 Reliquidation following decision of court.

(a) *Decision of U.S. Customs Court.* An entry which is the subject of a decision of the U.S. Customs Court shall be reliquidated in accordance with the judgment order thereon at the expiration of 60 days from the date of the decision, unless an appeal or motion for a rehearing is filed. However, entries which are the subject of decisions of the court following a decision of the Court of Customs and Patent Appeals which involve the same issue, or which are based on submission of an agreed statement of fact, may be reliquidated immediately upon receipt of the judgment orders from the U.S. Customs Court.

(b) *Decision of the Court of Customs and Patent Appeals.* An entry covering merchandise which is the subject of a decision of the Court of Customs and Patent Appeals shall be reliquidated at the expiration of 90 days from the date of entry of decision by that court and only upon receipt of the judgment order from the U.S. Customs Court. However, no such entry shall be reliquidated pursuant to such order if a petition for certiorari is taken to the Supreme Court.

(Sec. 514, 46 Stat. 734, as amended; 19 U.S.C. 1514)

PART 8—LIABILITY FOR DUTIES; ENTRY OF IMPORTED MERCHANDISE

In § 8.29, the last sentence of paragraph (c) is amended to read: "Liquidation shall not be withheld for a period of more than 15 days from the date of mailing such notice unless in the judgment of the district director there are compelling reasons that would warrant such action."

The citation of authority for § 8.29 is amended to read:

(Secs. 499, 505, 623, 46 Stat. 728, as amended, 732, as amended, 759, as amended; 19 U.S.C. 1499, 1505, 1623)
(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 14—APPRAISEMENT

Section 14.1 is amended as follows:

Paragraph (a) and footnote 1 are deleted.

Paragraph (b) is amended by substituting "district director" for "collector" in the first sentence, and "District directors" for "Collectors of Customs" in the second sentence.

Paragraph (c) is amended by substituting "district director" for "collector or the appraiser".

The citation of authority for § 14.1 is amended to read:

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

The citation of authority for § 14.2 is amended to read:

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

Section 14.3 is amended as follows:

In paragraph (c), "district director" is substituted for "appraiser".

Paragraph (e) and footnote 8 are deleted.

The citation of authority for § 14.3 is amended to read:

(Secs. 402, 500, 46 Stat. 708, as amended, 729, as amended; sec. 402, 70 Stat. 943; 19 U.S.C. 1401a, 1402, 1500)

Section 14.4 is amended by substituting "district director" for "appraiser" in the first sentence and in paragraphs (b) and (e) and "district director's" for "appraiser's" in paragraph (d).

In § 14.5, paragraphs (d), (e) and (n) are amended by substituting "Regional Commissioner" for "appraiser" wherever it appears.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 15—RELIEF FROM DUTIES ON MERCHANDISE LOST, STOLEN, DESTROYED, INJURED, ABANDONED, OR SHORT-SHIPPED

Section 15.7 is amended as follows:

Paragraph (a) is amended by substituting "district director" for "collector" wherever it appears.

Paragraph (b) is amended to read:

(b) If the district director is satisfied after any necessary investigation that the merchandise contains excessive moisture or other impurities not usually found in or upon such or similar merchandise, he shall make allowance for the amount thereof in the liquidation of the entry.

Paragraph (c) is deleted.

Section 15.8 is amended to read as follows:

§ 15.8 Shortages; lost packages; deficiencies in contents of packages.

(a) Allowance in the assessment of duties shall be made for lost or missing merchandise included in the entry when it is established to the satisfaction of the district director of Customs before the liquidation of the entry becomes final that the merchandise claimed to be lost or missing was not imported. The foregoing shall not apply in the case of merchandise arriving under an immediate transportation entry. (See section 18.6 of this chapter.)

(b) Allowance for deficiency in any package found upon examination in accordance with section 499, Tariff Act of 1930, as amended, shall be made in the liquidation of the entry if it is established to the satisfaction of the district director that the merchandise was not imported.

(Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

Section 15.10 is amended as follows:

Paragraph (a) is amended by deleting "and is so reported to the collector by the appraiser".

Subparagraph (1) of paragraph (b) is amended by substituting "district director" for "collector".

Subparagraph (3) of paragraph (b) is amended by deleting "reported by the appraiser" and substituting "determined".

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 16—LIQUIDATION OF DUTIES

Part 16 is amended by deleting footnote 1 and the section heading of § 16.1 is amended by deleting the footnote reference "1".

The citation of authority for § 16.1 is amended to read:

(Sec. 500, 46 Stat. 729, as amended; 19 U.S.C. 1500)

The citation of authority for § 16.2 is amended to read:

(Sec. 500, 46 Stat. 729, as amended, sec. 321, 52 Stat. 1801, as amended; 19 U.S.C. 1321, 1505)

In § 16.3 paragraph (a) is amended to read:

(a) The district director of Customs shall suspend the liquidation of entries on which bonds are open for the production of documents affecting the rate of duty pending the performance or nonperformance under the bond, except as provided in § 8.15(d) of this chapter.

The citation of authority for § 16.3 is amended to read:

(Sec. 500, 46 Stat. 729, as amended; 19 U.S.C. 1500)

In section 16.4, paragraph (e) is amended as follows:

That portion of the second sentence preceding the colon is amended to read: "Thereafter, when the district director is in possession of sufficient information to apply the instructions in this section, he shall proceed with the appraisement and liquidation in the case of any importation of merchandise exported on a date for which the Federal Reserve Bank of New York certifies such multiple rates, according to the following procedure:"

Subparagraph (2) is deleted.

In subparagraph (3), (4), and (5), "appraiser or collector" is deleted wherever it appears, and "district director" is substituted.

The citation of authority for § 16.4 is amended to read:

(Secs. 500, 522, 46 Stat. 729, as amended, 739, as amended; 19 U.S.C. 1500, 31 U.S.C. 372)

In § 16.5, paragraph (c) is amended by deleting at the end therof the words "as indicated by the appraiser's report".

The citation of authority for § 16.5 is amended to read:

(Secs. 315, 500, 46 Stat. 695, as amended, 729, as amended; 19 U.S.C. 1315, 1500)

Section 16.7 is amended by deleting from the first sentence the words "by the appraiser and is reported to the collector in accordance with section 499, Tariff Act of 1930, as amended,".

The citation of authority for § 16.7 is amended to read:

(Secs. 499, 505, 555, 46 Stat. 728, as amended, 732, as amended, 743, as amended; 19 U.S.C. 1499, 1505, 1555)

Section 16.10 is amended as follows:

Paragraphs (a), (b), (d), (e), and (f), are amended by deleting "60" and substituting "90".

Paragraph (c) is amended by deleting the last sentence and substituting the following: "A change to a lower rate of duty, when decided upon, shall be applicable to all unliquidated entries and to all protested entries involving the same issue which have not been denied in whole or in part."

Paragraph (g) is amended by deleting "forwarded to the Customs Court" and substituting "denied in whole or in part".

The citation of authority for § 16.10 is amended to read:

(Secs. 315, 500, 501, 46 Stat. 695, as amended, 729, as amended, 730, as amended; 19 U.S.C. 1315, 1500, 1501)

The citation of authority for § 16.11 is amended to read:

(Sec. 500, 46 Stat. 729, as amended; 19 U.S.C. 1500)

The citation of authority for § 16.12 is amended to read:

(Sec. 500, 46 Stat. 729, as amended; 19 U.S.C. 1500)

Part 16 is amended by deleting §§ 16.13 and 16.14, and footnote 12.

Section 16.24 is amended by substituting "district director" for "appraiser" wherever it appears.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 17—PROTESTS AND REAPPRAISEMENTS

Part 17 is deleted from Chapter I of Title 19 of the Code of Federal Regulations.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 624)

PART 22—DRAWBACK

Section 22.44 is amended by deleting "collector" and substituting "district director" therefore whenever it appears, and by substituting "90 days" for "60 days".

The citation of authority for § 22.44 is amended to read:

(Sec. 514, 46 Stat. 734, as amended; 19 U.S.C. 1514)

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 23—ENFORCEMENT OF CUSTOMS AND NAVIGATION LAWS

In § 23.18 the second sentence is amended to read: Upon determination that the value does not exceed $2,500, the district director shall proceed to give notice by advertisement of the summary sale for such time as he considers reasonable.

Section 23.28 is amended by deleting "appraiser, person acting as appraiser, collector" and substituting "district director".

Part 23 is amended by deleting footnote 44, and section 23.28 is amended to delete the footnote reference "44".

In § 23.29 the first sentence is amended by deleting "proper officer" and substituting "district director".

Part 23 is amended by deleting footnote 45, and § 23.29 is amended to delete the footnote reference "45".

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 30—FOREIGN-TRADE ZONES

In § 30.21, paragraph (e) is amended to read:

(e) *Procedures for protest.* The requirements, privileges, and procedures of notices of appraisement, posting of liquidations, and protests against decisions of the district director relating to privileged foreign merchandise are the same as those prescribed in the case of merchandise covered by an entry for warehouse in Customs territory.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 31—CUSTOMHOUSE BROKERS

Section 31.40 is amended to read:

§ 31.40 Protests.

A broker shall not act in behalf of any person, or attempt to represent any person, in respect of any protest, unless he shall previously have been authorized to do so in accordance with § 174.3 of this chapter.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 32—TRADE FAIRS

In § 32.42, paragraph (b) is amended by deleting the second sentence thereof.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 53—ANTIDUMPING

Section 53.1 is amended by deleting "appeals for reappraisement, applications for review of reappraisements,".

Section 53.57 is amended by deleting the second sentence thereof.

The title of Subpart E of Part 53 is amended to read "Antidumping Protests".

Section 53.64 is amended to read as follows:

§ 53.64 Antidumping protests procedures.

Protests relating to the Antidumping Act, 1921, shall be made in the same manner as protests relating to ordinary Customs duties.

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

PART 54—CERTAIN IMPORTATIONS TEMPORARILY FREE OF DUTY

In § 54.3, subparagraph (3) of paragraph (b) is amended to read:

(3) Such a declaration, adequately describing and identifying the articles, is subsequently filed at the customhouse, and the entry, if liquidated, can be reliquidated in accordance with section

501, Tariff Act of 1930, as amended (19 U.S.C. 1501), or section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)).

(R.S. 251, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

Prior to adoption, consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Washington, D.C., 20226, and received not later than July 15, 1970. No hearing will be held.

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

Approved: June 3, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-7030; Filed, June 4, 1970; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1007]

[Docket No. AO-366-A5]

MILK IN GEORGIA MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Notice is hereby given of a public hearing to be held at the Holiday Inn Central, 1944 Piedmont Circle NE., Atlanta, Ga., beginning at 9:30 a.m., local time, on June 12, 1970, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Georgia marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Several interested parties have indicated a need for clarification of certain of the base plan provisions of the order. The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which may require amendment of the provisions of §§ 1007.110 and 1007.111 as they relate to the establishment and transfer of bases.

Such a review of the base plan will include the following issues for consideration:

1. Whether a producer who did not earn a base in the base-forming period may acquire a base by transfer;

2. Whether such a producer may receive the base price for a volume of milk equal to the transferred base plus that for which he would have received the base price as a nonbase holding producer;

3. Whether further conditions should be imposed on the transfer of bases;

4. Whether transfers of base become effective as of the first day of the month in which the market administrator receives a request for transfer, or on the first day of the following month; and

5. Whether a base that is jointly held may be transferred only in its entirety.

Proposed by the Dairy Division, Consumer and Marketing Service:

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, E. Hickman Greene, 11 Corporate Square, Room 200, Post Office Box 49025, Atlanta, Ga 30329, or from the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on June 1, 1970.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[F.R. Doc. 70-6954; Filed, June 4, 1970; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 81]

PUERTO RICO AIR QUALITY CONTROL REGION

Proposed Designation and Consultation With Appropriate 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 the Puerto Rico Air Quality Control Region as set forth in the following new § 81.77 which would be added to Part 81 of Title 42, Code of Federal Regulations. It is proposed to make such designation 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 17-59, 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 Commonwealth of Puerto Rico and appropriate local authorities, both within and without the proposed region, who are affected by or interested in the proposed designation, are hereby given notice of an opportunity to consult with representatives of the Secretary concerning such designation. Such consultation will take place at 10 a.m., June 12, 1970, at the Post Theater, Building 147, South Gate Road, Fort Buchanan, Guaynabo, P.R.

Mr. Doyle J. Borchers is hereby designated as Chairman for the consultation. 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.

Authorities wishing to participate in the consultation should notify the Office of the Commissioner, National Air Pollution Control Administration, Parklawn Building, Room 17-59, 5600 Fishers Lane, Rockville, Md. 20852, of such intention at least 1 week prior to the consultation. A report prepared for the consultation is available upon request to the Office of the Commissioner.

In Part 81 a new § 81.77 is proposed to be added to read as follows:

§ 81.77 Puerto Rico Air Quality Control Region.

The Puerto Rico Air Quality Control Region consists of the 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):

The entire Commonwealth of Puerto Rico:
Puerto Rico and surrounding islands.
Vieques and surrounding islands.
Culebras and surrounding islands.

This action is proposed under the authority of sections 107(a) and 301(2) 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: June 1, 1970.

JOHN T. MIDDLETON,
Commissioner, National Air Pollution Control Administration.

[F.R. Doc. 70-6951; Filed, June 4, 1970; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 70-EA-30]

CONTROL ZONES AND TRANSITION AREAS

Proposed Alteration, Designation and Revocation

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Cleveland, Ohio (Cuyahoga County Airport), and Willoughby, Ohio, control zone; alter the Cleveland, Ohio (Cleveland-Hopkins International Airport) (35 F.R. 2067), Cleveland, Ohio (Burke-Lakefront Airport) (35 F.R. 2067), control

zones and Cleveland, Ohio, 700-foot transition area (35 F.R. 2161); revoke the Chagrin Falls, Ohio (35 F.R. 2157), Painesville, Ohio (35 F.R. 2238), and Willoughby, Ohio (35 F.R. 2285), transition areas.

The U.S. Standard for Terminal Instrument Approach Procedures requires alteration of the Cleveland, Ohio, 700-foot transition area and Cleveland, Ohio (Cleveland-Hopkins International Airport), control zone to provide the necessary controlled airspace to protect aircraft executing the revised instrument approach procedures for Cleveland-Hopkins International Airport.

The Strongsville, Ohio, VOR will be decommissioned in the near future and the Strongsville Airpark VOR-RWY 9 instrument approach procedure will be canceled. The Cleveland, Ohio, transition area and Cleveland, Ohio (Cleveland-Hopkins International Airport), control zone descriptions must also be amended to delete the references to this facility.

The proposed alteration of the Cleveland, Ohio, transition area also includes the transition area airspace required to protect aircraft executing the instrument approach procedures for Burke-Lakefront Airport, Cuyahoga County Airport, Lost Nation Airport, Concord Airpark, Casement Airport, and Chagrin Falls Airport. Therefore, we are proposing to revoke the Chagrin Falls, Ohio; Painesville, Ohio; and Willoughby, Ohio, transition areas.

Control zones are proposed to provide additional controlled airspace to protect aircraft executing the instrument approach procedures at Cuyahoga County Airport and Lost Nation Airport. The communications requirement to support these control zones are available and the weather observations and reporting requirements will be met. The proposed alteration of the Cleveland, Ohio (Burke-Lakefront Airport), control zone will increase the basic control zone radius from 4 miles to 5 miles in accordance with current airspace criteria for designation of control zones.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Standards Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Cleveland, Ohio, proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to:

(a) Delete the description of the Cleveland, Ohio (Cleveland-Hopkins International Airport), control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center 41°24'30" N., 81°51'00" W., of Cleveland-Hopkins International Airport, Cleveland, Ohio; within 1.5 miles each side of the Runway 5-R ILS localizer southwest course, extending from the 5-mile radius zone to 3 miles northeast of the Gilbert RBN; within 2 miles each side of the Runway 23-L ILS localizer northeast course, extending from the 5-mile radius zone to 2 miles southwest of the Stadium RBN; within 2 miles each side of the Runway 28-R ILS localizer east course, extending from the 5-mile radius zone to 2 miles west of the Brecksville RBN; within 2 miles each side of the Runway 18-R centerline extended from the 5-mile radius zone to 7.5 miles south of the end of the runway.

(b) Delete the description of the Cleveland, Ohio (Burke-Lakefront Airport), control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center 41°31'00" N., 81°41'00" W., of Burke-Lakefront Airport, Cleveland, Ohio; within 2 miles each side of the Burke-Lakefront ILS localizer northeast course, extending from the 5-mile radius zone to the OM, excluding the portion within the Cleveland, Ohio (Cleveland-Hopkins International Airport), control zone. This control zone shall be effective from 0700 to 2300 hours, local time, daily.

(c) Designate a Cleveland, Ohio (Cuyahoga County Airport), control zone described as follows:

CLEVELAND, OHIO (CUYAHOGA COUNTY AIRPORT)

Within a 5-mile radius of the center 41°-34'00" N., 81°29'15" W. of Cuyahoga County Airport, Cleveland, Ohio; within 2.5 miles each side of the 050° bearing from the Cuyahoga County RBN, extending from the 5-mile radius zone to 5 miles northeast of the RBN, excluding the portion within the Cleveland, Ohio (Burke-Lakefront Airport), control zone. This control zone shall be effective from 0700 to 2200 hours, local time, daily.

(d) Designate a Willoughby, Ohio, control zone described as follows:

WILLOUGHBY, OHIO

Within a 5-mile radius of the center 41°41'00" N., 81°23'20" W. of Lost Nation Airport, Willoughby, Ohio; within 2.5 miles each side of the 088° bearing from the Lost Nation RBN, Willoughly, Ohio, 41°40'58" N., 81°22'53" W., extending from the 5-mile radius zone to 7 miles east of the RBN; within 3.5 miles each side of the 246° bearing from the Lost Nation RBN, extending from the 5-mile radius zone to 10.5 miles southwest of the RBN; within 3.5 miles each side of the 268° bearing from the Lost Nation RBN, extending from the 5-mile radius zone to 11 miles west of the RBN; excluding the portion within the Cleveland, Ohio (Cuyahoga County Airport), control zone. This control shall be effective from 0800 to 2130 hours, local time, daily.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to:

(a) Delete the description of the Cleveland, Ohio, 700-foot transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 12.5-mile radius of the center (41°24'30" N., 81°51'00" W.), of Cleveland-Hopkins International Airport, Cleveland, Ohio; within 3 miles each side of the Cleveland-Hopkins International Airport Runway 18-R centerline, extended from the 12.5-mile radius area to 14.5 miles south of the end of the runway; within 3 miles each side of the 230° bearing from the Gilbert, Ohio, RBN extending from the 12.5-miles radius area to 5 miles southwest of the RBN; within 3 miles each side of the Cleveland-Hopkins International Airport Runway 28-R centerline, extended from the 12.5-mile radius area to 13 miles west of the end of the runway; within the area bounded by a line beginning at a point on the Cleveland, Ohio, VORTAC 041° radial 20 miles northeast of the VORTAC, thence along a line bearing 052° from this point to its intersection with the arc of a 15-mile radius circle centered on Lost Nation Airport, Willoughby, Ohio (41°-41'00" N., 81°23'20" W.), thence clockwise along the arc of the 15-mile radius circle to its intersection with the arc of a 9-mile radius circle centered on Casement Airport, Painesville, Ohio (41°44'05" N., 81°13'25" W.), thence clockwise along the arc of the 9-mile radius circle to its intersection with the arc of a 7.5-mile radius circle centered on Concord Airpark, Painesville, Ohio (41°40'00" N., 81°12'00" W.), thence clockwise along the arc of the 7.5-mile radius circle to its point of intersection with a line 2 miles east and parallel to the Chardon VORTAC 350° radial, thence south along this parallel line to its point of intersection with the Chardon VORTAC 080° radial, thence west along the Chardon VORTAC 080° radial to the Chardon VORTAC, thence southeast along the Chardon VORTAC 145° radial to a point 2 miles southeast of the VORTAC, thence southwest along a line 2 miles southeast and parallel to the Chardon VORTAC 235° radial commencing at the point of intersection of this parallel line and the Chardon VORTAC 145° radial to the point of intersection with the arc of a 5.5-mile radius circle centered on Chagrin Falls Airport, Chagrin Falls, Ohio (41°25'45" N., 81°19'50" W.), thence clockwise along the arc of the 5.5-mile radius circle to the point of intersection of the 5.5-mile arc with a line bearing 180° from a point 41°25'45" N., 81°19'50" W., thence direct to the intersection of a 126° bearing from the Brecksville, Ohio, RBN and the arc of a 12.5-mile radius circle centered on the Cleveland-Hopkins International Airport, thence to the point of beginning.

(b) In the description of the Cleveland, Ohio, 1,200-foot transition area, delete the words, "excluding the portion within the Willoughby, Ohio, transition area".

(c) Revoke the Chagrin Falls, Ohio, transition area.

(d) Revoke the Painesville, Ohio, transition area.

(e) Revoke the Willoughby, Ohio, transition area.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 15, 1970.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[F.R. Doc. 70-7046; Filed, June 4, 1970; 8:45 a.m.]

[14 CFR Parts 71, 73]

[Airspace Docket No. 70-SW-17]

TEMPORARY RESTRICTED AREA AND CONTROLLED AIRSPACE

Proposed Designation and Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Parts 71 and 73 of the Federal Aviation Regulations which would establish a temporary restricted area at White Sands Proving Grounds, N. Mex., and alter the description of the continental control area in order to reflect the establishment of the restricted area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

In Airspace Docket No. 65-SW-23 (30 F.R. 9577), temporary Restricted Areas R-5116A and B at White Sands Proving Grounds, N. Mex., were designated for the period September 15, 1965, through February 1, 1966, in support of a classified project associated with the Hound Dog Missile Program.

Subsequently, R-5116A has been redesignated for three temporary periods (31 F.R. 958, 13987, 16127, and 33 F.R. 6085).

The Department of the Air Force has now submitted a further request for the designation R-5116A from sunrise to sunset, for the period October 1, 1970, through December 31, 1970. The area would be activated for only a period of minutes during each launching of a Hound Dog Missile and the same procedures in effect previously would apply to this designation. These procedures include (1) sufficient advance notice of the activation of this area that will permit notification to the public by all news media available and in regularly scheduled broadcasts of Flight Service Stations in the vicinity, and (2) coordination by the Air Force with the Albuquerque ARTC Center so the missile launchings will have a minimum impact on published air carrier schedules.

In consideration of the foregoing, the FAA proposes the airspace actions as hereinafter set forth.

1. R-5116A White Sands Proving Grounds, N. Mex.

Boundaries. Beginning at lat. 33°53'40" N., long. 106°44'35" W.; to lat. 34°20'35" N., long. 107°02'35" W.; to lat. 34°25'00" N., long. 106°51'45" W.; to lat. 34°09'55" N., long. 106°41'35" W.; to the point of beginning.

Designated altitudes. Surface to FL 240, excluding the airspace below 7,000 feet MSL west of long. 106°50'00" W.

Time of designation. Sunrise to sunset, October 1, 1970, through December 31, 1970, as published in NOTAMs at least 12 hours in advance of use.

Controlling agency. Federal Aviation Administration, Albuquerque ARTC Center.

Using agency. Commander, Air Force Missile Development Center, Holloman AFB, N. Mex.

2. The description of the continental control area would be altered to include Restricted Area R-5116A.

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

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

T. MCCORMACK,
Acting Chief, Airspace and Air Traffic Rules Division.

[F.R. Doc. 70-7047; Filed, June 4, 1970; 8:45 a.m.]

FEDERAL MARITIME COMMISSION

[46 CFR Part 540]

[Docket No. 70-20]

SECURITY FOR THE PROTECTION OF THE PUBLIC

Enlargement of Time To File Replies and Answers

JUNE 1, 1970.

To enable Hearing Counsel to reply to late-filed comments received in this proceeding (35 F.R. 6762), time within which Hearing Counsel's replies shall be filed is enlarged to and including June 5, 1970. Time within which answers to Hearing Counsel's replies shall be filed is enlarged to and including June 15, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-6974; Filed, June 4, 1970; 8:48 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

STEPHEN NIEL MOYSENKO

Notice of Granting of Relief

Notice is hereby given that Stephen Niel Moysenko, 39 Royal Circle, Salem, N.H. 03079, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on June 24, 1963, in the Essex County Superior Court, Lawrence, Mass., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Stephen N. Moysenko, because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Apendix), because of such conviction, it would be unlawful for Stephen N. Moysenko to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Stephen N. Moysenko's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Stephen N. Moysenko be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 21st day of May 1970.

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

[F.R. Doc. 70-6962; Filed, June 4, 1970; 8:47 a.m.]

GARY N. PECK

Notice of Granting of Relief

Notice is hereby given that Gary N. Peck, 2111 Mangrum Avenue, Sacramento, Calif. 95822, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on or about February 7, 1958, in the Superior Court, County of Glenn, Calif., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Gary N. Peck, because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Gary N. Peck to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Gary N. Peck's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Gary N. Peck be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 20th day of May 1970.

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

[F.R. Doc. 70-6963; Filed, June 4, 1970; 8:47 a.m.]

DAVID SHARP

Notice of Granting of Relief

Notice is hereby given that David Sharp, 1560 Lemay, Detroit, Mich. 48214, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on June 28, 1935, in the Detroit Recorder's Court, and on August 15, 1947, in the Detroit Recorder's Court, Detroit, Mich., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for David Sharp because of such convictions, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for David Sharp to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered David Sharp's application and:

1. I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

2. It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that David Sharp be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 22d day of May 1970.

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

[F.R. Doc. 70-6964; Filed, June 4, 1970; 8:47 a.m.]

LONNIE ISAAC THURMAN

Notice of Granting of Relief

Notice is hereby given that Lonnie Isaac Thurman, 4700 Parkridge Avenue, Des Moines, Iowa, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction

on May 11, 1956, by the District Court of Polk County in Des Moines, Iowa, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Lonnie I. Thurman, because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Lonnie I. Thurman to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Lonnie I. Thurman's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Lonnie I. Thurman be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 21st day of May 1970.

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

[F.R. Doc. 70-6965; Filed, June 4, 1970; 8:47 a.m.]

THOMAS T. TRIPP

Notice of Granting of Relief

Notice is hereby given that Thomas T. Tripp, 30365 Avon Court, Westland, Mich. 48185, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on or about October 10, 1962, in the Federal District Court, Detroit, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Thomas T. Tripp, because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Tripp to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Thomas T. Tripp's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Thomas T. Tripp be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 21st day of May 1970.

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

[F.R. Doc. 70-6966; Filed, June 4, 1970; 8:47 a.m.]

ROBERT C. TURNER

Notice of Granting of Relief

Notice is hereby given that Robert C. Turner, 30 Clinton St., Elmont, Long Island, N.Y., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction in April 1936, in the Nassau County Court, Mineola, Long Island, N.Y., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Robert C. Turner, because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Turner to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Mr. Turner's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Robert C. Turner be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 22d day of May 1970.

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

[F.R. Doc. 70-6967; Filed, June 4, 1970; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. G-468]

THOMAS C. BARNWELL, JR. AND DAVID JONES

Notice of Loan Application

Thomas C. Barnwell, Jr. and David Jones, Post Office Box 1234, Hilton Head Island, S.C. 29928, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 49.6-foot registered length wood vessel to engage in the fishery for shrimp.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (50 CFR Part 250, as revised) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Acting Chief, Division of Financial Assistance.

[F.R. Doc. 70-6961; Filed, June 4, 1970; 8:47 a.m.]

DEPARTMENT OF COMMERCE

[Department Organization Order 30–1A, Amdt. 2]

Office of the Secretary

ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

Delegation of Authority

The following amendment to the order was issued by the Secretary of Commerce on May 22, 1970. This material amends the material appearing at 34 F.R. 336 of January 9, 1969.

Department Organization Order 30–1A (formerly DO 2–A) of December 26, 1968, is hereby further amended as follows:

SEC. 3. *Delegation of authority.* Paragraph .01, add the following subparagraph to read:

".o Title 37, United States Code, with respect to pay and allowances for ESSA Commissioned Officers."

Effective Date: May 22, 1970.

LARRY A. JOBE,
Assistant Secretary for Administration.

[F.R. Doc. 70–6970; Filed, June 4, 1970; 8:48 a.m.]

[Department Organization Order 35–2B]

BUREAU OF THE CENSUS

Organization and Function

This material supersedes the material appearing at 33 F.R. 5376 of April 4, 1968 and 34 F.R. 1332 of January 28, 1969.

SECTION 1. *Purpose.* This order prescribes the organization and assignment of functions within the Bureau of the Census.

SEC. 2. *Organization structure.* The principal organization structure and lines of authority shall be as depicted in the attached organization chart. (A copy of the organization chart is on file with original of this document with the Office of the Federal Register.)

SEC. 3. *Office of the director.* .01 The Director determines policies and directs the programs of the Bureau of the Census, taking into account applicable legislative requirements and the needs of users of statistical information. He is responsible for the conduct of the activities of the Bureau of the Census and for coordinating its statistical programs and activities with those of other Federal statistical agencies with due recognition of the programs developed and regulations issued by the Bureau of the Budget.

.02 The Deputy Director shares with the Director generally in the direction of the Bureau, and performs the duties of the Director during the latter's absence.

.03 The Special Assistant for Public Affairs shall coordinate the public relations activities of the Bureau; provide information to the public; and develop, with the policy guidance of the Department's Office of Public Affairs, Bureau information programs designed to facilitate data collections. Nothing herein shall affect the procedures and authorities established under and by Department Administrative Order 205–12, "Public Information."

.04 The Special Assistant to the Director shall coordinate and give general direction to activities concerned with providing Bureau of the Census statistical services to the Congress, Congressional offices, and State and local officials.

.05 The Legal Adviser shall provide legal services for the Bureau, subject to the overall authority of the Department's General Counsel as provided in Department Organization Order 10–6.

SEC. 4. *Office of Associate Director for Administration.* The Associate Director for Administration is the principal assistant and advisor to the Director on field data collection activities, and on organization, management and administrative activities. Through his staff and organizational units reporting to him, he shall:

a. Plan and coordinate budget and fiscal programs, including the preparation of official budget estimates and justification, the allocation and control of all funds, and the administration of finance and accounting activities;

b. Plan and coordinate, on a bureau-wide basis, management analysis and program reporting activities, including production standards, scheduling and control, directives and reports management, organization and general management improvement activities;

c. Plan and coordinate the personnel management program, including classification and pay administration, staffing, employee development, employee relations and services, records and reports;

SEC. 7. *Office of Associate Director for Economic Fields.* The Associate Director is the principal assistant to the Director on economic programs, and advises him as to necessary and feasible statistical programs in these fields.

.01 The Deputy Associate Director for Economic Surveys is the principal assistant to the Associate Director on surveys in specific economic fields. Through his staff and organizational units reporting to him, he shall:

a. Formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys, censuses, or compilations relating to the characteristics of wholesale, retail, and service enterprises, various aspects of the construction industry, export and import trade of the United States and foreign trade shipping, State and local government operations and finances, and operations of manufacturing, mineral industries, transportation and related industries;

b. Conduct research on the nature and extent of needs for statistical data in each of the economic fields and on survey design and methodology; and

c. Prepare special analytical and interpretive reports, monographs, and special studies.

.02 The Deputy Associate Director for Economic Statistics and Analysis is the principal assistant to the Associate Director on statistics and analysis which involve a variety of economic fields. Through his staff and organizational units reporting to him, he shall:

a. Formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from administrative records and from multifield surveys; plan, develop, and maintain systems of industry and commodity classification for Bureau use, and develop classification manuals; and develop and maintain a directory of establishments;

b. Conduct studies on improving the usefulness and validity of Bureau's economic data; review comparability among different classification systems; develop and prepare studies of trends and relationships in the Bureau's economic reports and in series from other sources; and

c. Prepare special analytical and interpretive reports, monographs and special studies.

SEC. 8. *Office of Associate Director for Research and Development.* The Associate Director is the principal assistant to the Director on research and development programs, and advises him with regard to proposed plans and programs of the Bureau to assure the statistical adequacy of proposed data collections and the application of appropriate statistical methodology and techniques. Through this staff and the organizational units reporting to him, he shall:

a. Formulate and coordinate mathematical, statistical, psychological, and other research and development activities designed to produce maximum yield in program design, methodological concepts, coverage, and survey results of measurable acceptance levels of accuracy at least cost, and advise on the development and effectiveness of the overall design of the totality of systems and methods for application in the work of the Bureau;

b. Provide technical guidance or coordination of research and development and the introduction of new conceptual methods or system designs to the various programs of the Bureau;

Regional office	Region No.	Area served
Seattle, Wash.	VII	Washington, Oregon, Montana, Alaska, and northern half of Idaho.
Charlotte, N.C.	VIII	Virginia, West Virginia, North Carolina, South Carolina, eastern Kentucky, and northeastern part of Tennessee.
Atlanta, Ga.	IX	Mississippi, Alabama, Georgia, Florida, and the State of Tennessee, excluding the northeastern part of the State assigned to Region VIII.
Dallas, Tex.	X	Oklahoma, Arkansas, Louisiana, and Texas except for the western part.
Denver, Colo.	XI	Wyoming, Utah, Colorado, Arizona, New Mexico, southern half of Idaho, and western part of Texas.
Los Angeles, Calif.	XII	California, Nevada, and Hawaii.

.02 Each Regional Office carries out assigned field data collection programs, including recurring and special national

sample surveys of varying sizes and complexity, periodic censuses, and special censuses and surveys.

.03 As may be required for a specific census or special survey, temporary district or other subordinate offices are established under the Regional Offices.

Effective date: May 21, 1970.

LARRY A. JOBE,
Assistant Secretary for Administration.

[F.R. Doc. 70-6971; Filed, June 4, 1970; 8:48 a.m.]

[Department Organization Order 10-2]

ASSISTANT SECRETARY FOR ECONOMIC AFFAIRS

Authority, Duties and Responsibilities

The following order was issued by the Secretary of Commerce on May 20, 1970. This material supersedes the material appearing at 28 F.R. 3182 of April 2, 1963.

SECTION 1. *Purpose.* This order prescribes the scope of authority and the duties and responsibilities of the Assistant Secretary for Economic Affairs.

SEC. 2. *Administrative designation.* The position of Assistant Secretary of Commerce heretofore designated as the Assistant Secretary for Economic Affairs shall continue to be so designated. The Assistant Secretary is appointed by the President, by and with the advice and consent of the Senate.

SEC. 3. *Scope of authority.* The Assistant Secretary for Economic Affairs shall exercise policy direction and general supervision over the Bureau of the Census and the Office of Business Economics.

SEC. 4. *Duties and responsibilities.* The Assistant Secretary for Economic Affairs shall serve as the principal economic adviser to the Secretary and as the Chief Economist of the Department. He shall serve also as adviser to other Commerce officials with respect to such matters, in which capacity he shall keep under review economic policy positions and recommendations. In the discharge of his duties and responsibilities he shall:

a. Coordinate and review the economic research and statistical programs of the Department, and coordinate these programs with related programs of other agencies of the Federal Government; and

b. Serve as the Department's liaison with the Council of Economic Advisers and with other high-level economic officials of the Government.

SEC. 5. *Deputy Assistant Secretaries for Economic Affairs.* The Assistant Secretary shall be assisted by Deputy Assistant Secretaries as follows:

a. The Deputy Assistant Secretary for Economic Affairs shall be the principal assistant to the Assistant Secretary and shall assume the latters' full duties during his absence.

b. The Deputy Assistant Secretary for Economic Policy Review shall assist in the formulation, review, and coordination of economic policy matters of the Department.

c. The Deputy Assistant Secretary for Industry Economics shall serve as Executive Director, National Industrial Pollution Control Council and shall perform such other duties as are assigned.

Effective date: May 20, 1970.

LARRY A. JOBE,
Assistant Secretary for Administration.

[F.R. Doc. 70-6972; Filed, June 4, 1970; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-181; NDA No. 3-911 etc.]

SULFAGUANIDINE

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of the New-Drug Applications

In an announcement published in the FEDERAL REGISTER of June 7, 1969 (34 F.R. 9095), Lederle Laboratories, holder of new-drug application No. 3-911 for Sulfaguanidine Tablets (0.5 gram), and any interested person who might be adversely affected, were invited to submit pertinent data bearing on the intention of the Commissioner of Food and Drugs to initiate proceedings to withdraw approval of the new-drug application.

On June 24, 1969, Lederle Laboratories responded by proposing that sulfaguanidine be considered as an alternate choice for antimicrobial therapy in ulcerative colitis when salicylazosulfapyridine is not tolerated. The Commissioner concludes that this submission contained no new information providing substantial evidence of effectiveness for either this condition of use or any other condition of use for this drug.

No other persons have submitted data pertinent to the proposal. Therefore, notice is given to Lederle Laboratories, Division of American Cyanamid Co., Pearl River, N.Y. 10965 (NDA 3-911), Calco Chemical Co., Division of American Cyanamid Co., Bound Brook, N.J. (NDA 3-912), E. R. Squibb & Sons, New York, N.Y. (NDA 3-938), and Parke Davis & Co., Holland, Mich. (NDA 4-314), and to any other interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the above-specified new-drug applications and all amendments and supplements thereto on the grounds that new information with respect to such drug, evaluated together with the information available when the applications were approved, shows there is a lack of substantial evidence that the drug will have the effect it is represented to have in the treatment of acute bacillary dysentery and as a preoperative and postoperative measure in colonic resection to reduce sequalae and shorten the period of hospitalization, in that the majority of strains of Shigella are now resistant to sulfonamides in vivo.

In accordance with provisions of section 505 of the act (21 U.S.C. 355) and regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicants, 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 and offered for the same conditions of use 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, Food, Drug, and Environmental Health Division, 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 their election 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 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 showing there is a genuine and substantial issue of fact that requires a hearing. If the hearing is requested and is 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. (35 F.R. 7250; May 8, 1970)

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 26, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-6959; Filed, June 4, 1970; 8:47 a.m.]

[DESI 12585V]

TYLOSIN TARTRATE

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparation: Tylan Injectable Sterile; contains tylosin tartrate soluble powder which when mixed with water according to directions produces a solution equivalent in activity to 25 milligrams of tylosin base per cubic centimeter; marketed by Elanco Products Co., Division of Eli Lilly & Co., Post Office Box 618, Indianapolis, Ind. 46206.

The product is intended for use in chickens and turkeys for chronic respiratory disease and infectious sinusitis.

The Academy concluded that the drug is probably effective for use as an aid in the control of respiratory disease in broilers and replacement flocks in chickens and in the control of infectious sinusitis in turkeys. The Academy stated that the antimicrobial effect of the drug is recognized; however, several label changes are needed as follows:

1. Each disease claim should be properly qualified as "appropriate for use in (name of disease) caused by pathogens sensitive to tylosin."

2. Label claims made "for prevention of" or "to prevent" should be replaced with "as an aid in the control of" or "to aid in the control."

3. Dosage should be expressed on a milligram-per-pound of body weight basis.

The Academy further stated that more information is needed on blood concentrations to support the dosage schedule and claims made in the labeling.

The Food and Drug Administration concurs with the Academy's conclusions.

This evaluation is concerned only with the drug's effectiveness and safety to the animals to which administered. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing in this announcement will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites as residues in food products derived from treated animals.

This announcement is published (1) to inform the holders of new animal drug applications of the findings of the Academy and of the Food and Drug Administration and (2) to inform all interested persons that such articles to be marketed must be the subject of approved new animal drug applications and comply with all other requirements of the Federal Food, Drug, and Cosmetic Act.

Holders of new animal drug applications are provided 6 months from publication of this announcement in the FEDERAL REGISTER to submit adequate documentation in support of the labeling used.

Each holder of a "deemed approved" new animal drug application (i.e., an application which became effective on the basis of safety prior to Oct. 10, 1962) for such drugs is requested to submit updating information as needed to make the application current with regard to manufacture of the drug including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 (21 U.S.C. 512) of the Federal Food, Drug, and Cosmetic Act.

Written comments regarding this announcement, including requests for an informal conference, may be addressed to the Bureau of Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

The holder of the application for the subject drug has been mailed a copy of the NAS-NRC report. Any manufacturer, packer, or distributor of a drug of similar composition and labeling to it or any other interested person may also obtain a copy by writing to the Food and Drug Administration, Press Relations Office, 5600 Fishers Lane, Rockville, Md. 20852.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 512, 52 Stat. 1050-51, 82 Stat. 343-51; 21 U.S.C. 352, 360b) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 25, 1970.

SAM D. FINE,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-6960; Filed, June 4, 1970; 8:47 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANT REGIONAL ADMINISTRATOR FOR EQUAL OPPORTUNITY, NEW YORK REGIONAL OFFICE

Redelegation of Authority With Respect to Fair Housing

SECTION A. *Authority with respect to fair housing.* The Assistant Regional Administrator for Equal Opportunity is authorized to exercise the power and authority of the Secretary of Housing and Urban Development under title VIII (Fair Housing) of the Civil Rights Act of 1968, Public Law 90-284 (42 U.S.C. 3601-3619), except the authority to:

1. Issue a subpena or an interrogatory under section 811 of the Act (42 U.S.C. 3611).

2. Make studies and publish reports under section 808(e) of the Act (42 U.S.C. 3608(d)).

3. Issue rules and regulations.

SEC. B. *Authority to redelegate.* The Assistant Regional Administrator for Equal Opportunity is further authorized to redelegate to subordinate employees the authority of the Secretary to administer oaths under section 811(a) of the Act (42 U.S.C. 3611(a)).

SEC. C. *Supersedure; continuation in effect of redelegation.* This redelegation of authority supersedes the redelegation to the Assistant Regional Administrator for Equal Opportunity with respect to fair housing published at 34 F.R. 15818, October 14, 1969.

The redelegation of authority by the Assistant Regional Administrator for Equal Opportunity to named employees to administer oaths published at 34 F.R. 15818, October 14, 1969, is continued in effect as if issued under this redelegation of authority unless and until expressly modified or revoked.

(Redelegation of authority by Assistant Secretary for Equal Opportunity effective Apr. 30, 1970, 35 F.R. 6877, Apr. 30, 1970)

Effective date. This redelegation of authority shall be effective upon publication in the FEDERAL REGISTER.

S. WILLIAM GREEN,
Regional Administrator, New York Regional Office.

[F.R. Doc. 70-7003; Filed, June 4, 1970; 8:49 a.m.]

ASSISTANT REGIONAL ADMINISTRATOR FOR EQUAL OPPORTUNITY, ATLANTA REGIONAL OFFICE

Redelegation of Authority With Respect to Fair Housing

SECTION A. *Authority with respect to fair housing.* The Assistant Regional Administrator for Equal Opportunity is authorized to exercise the power and authority of the Secretary of Housing and Urban Development under title VIII (Fair Housing) of the Civil Rights Act of 1968, Public Law 90-284 (42 U.S.C. 3601-3619), except the authority to:

1. Issue a subpena or an interrogatory under section 811 of the Act (42 U.S.C. 3611).

2. Make studies and publish reports under section 808(e) of the Act (42 U.S.C. 3608(d)).

3. Issue rules and regulations.

SEC. B. *Authority to redelegate.* The Assistant Regional Administrator for Equal Opportunity is further authorized to redelegate to subordinate employees the authority of the Secretary to administer oaths under section 811(a) of the Act (42 U.S.C. 3611(a)).

SEC. C. *Supersedure; continuation in effect of redelegation.* This redelegation of authority supersedes the redelegation published at 34 F.R. 7043, April 29, 1969. The redelegation of authority by the Assistant Regional Administrator for Equal Opportunity published at 35 F.R. 1023-1024, January 24, 1970, is continued in effect as if issued under this redelegation of authority unless and until expressly modified or revoked.

(Redelegation of authority by Assistant Secretary for Equal Opportunity effective Apr. 30, 1970, 35 F.R. 6877, Apr. 30, 1970)

Effective date. This redelegation of authority shall be effective upon publication in the FEDERAL REGISTER.

CHARLES C. ADAMS,
Acting Regional Administrator,
Atlanta Regional Office.

[F.R. Doc. 70-7004; Filed, June 4, 1970; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 70-72]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

Correction

In F.R. Doc. 70-6547, appearing at page 8317, in the issue of Wednesday, May 27, 1970, in the third column of page 8318 under the heading "Buoyant Vests, Unicellular Plastic Foam, Adult and Child" the first Approval No. should read "160.052/98/0".

ATOMIC ENERGY COMMISSION

[Docket No. 50-249]

COMMONWEALTH EDISON CO.

Order Extending Provisional Construction Permit Completion Date

By application dated April 6, 1970, Commonwealth Edison Co. requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-22. The permit authorizes Commonwealth Edison Co. to construct a single cycle, boiling water nuclear reactor, known as Dresden Unit 3, at the Dresden Nuclear Power Station in Grundy County, Ill.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations, *It is hereby ordered*, That the latest completion date specified in Provisional Construction Permit No. CPPR-22 is extended from June 1, 1970 to December 1, 1970.

Dated at Bethesda, Md., this 28th day of May 1970.

For the Atomic Energy Commission.

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

[F.R. Doc. 70-6955; Filed, June 4, 1970; 8:47 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 20838, etc.]

NORFOLK-NEW YORK

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceeding is assigned to be held before the Board on June 24, 1970, at 10 a.m., e.d.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C. June 2, 1970.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 70-6976; Filed, June 4, 1970; 8:48 a.m.]

[Docket No. 22144]

TAL, TRANSPORTES AEREOS DEL LITORAL, S.A.

Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on June 10, 1970, at 2 p.m., e.d.s.t., in Room 911, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the undersigned examiner.

Dated at Washington, D.C., June 1, 1970.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[F.R. Doc. 70-6977; Filed, June 4, 1970; 8:48 a.m.]

[Docket No. 22214]

INTERAMERICAN AIRFREIGHT CO.

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 16, 1970, at 10 a.m., e.d.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner William J. Madden.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless at or prior to the conference a person objects or shows reason for further postponement.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 70-6978; Filed, June 4, 1970; 8:48 a.m.]

[Docket No. 22238; Order 70-5-139]

BRANIFF AIRWAYS, INC. ET AL.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 26th day of May 1970.

U.S. Mainland-Hawaiian Fare Revisions proposed by Braniff Airways, Inc., Continental Air Lines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc.

By tariff revisions[1] marked to become effective June 1, 1970, Braniff Airways, Inc. (Braniff), Continental Air Lines, Inc. (Continental), Northwest Airlines, Inc. (Northwest), Pan American World Airways, Inc. (Pan American), Trans World Airlines, Inc. (TWA), United Air Lines, Inc. (United), and Western Air Lines, Inc. (Western), propose to revise most of the U.S. Mainland-Hawaii fares.

All of the carriers propose to increase first-class fares (generally amounting to a one-way increase of $15), and eliminate first-class round-trip discounts. In addition, where applicable, the carriers propose to increase youth and military standby and reservation fares, Discover America fares, and fares for parents and spouses of U.S. military personnel (R & R) fares by reflecting the continuation of existing percentage relationships to respective coach fares. As for coach and third-class fares, three different proposals are now pending before the Board.

In essence, Continental proposes to increase both peak and offpeak coach and third-class fares and reduce the number of offpeak travel days from 4 to 3.[2] Northwest and Pan American, while proposing to increase peak and offpeak coach fares by different amounts, also seek to delete third-class fares and retain the existing offpeak period.[3]

In constructing its peak coach fares to interior mainland points, Continental applied the Los Angeles-Honolulu rate per mile of $.0467 to mileages constructed over the Los Angeles gateway and proposes an offpeak coach differential of $15. Similarly, the carrier's proposal establishes peak economy fares at the offpeak coach level with offpeak economy $10 below.

Northwest's proposal would increase only offpeak coach fares by $1, while Pan

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[1] Revisions to Airline Tariff Publishers, Inc., agent, Tariffs CAB Nos. 90, 98, and 101; International Air Traffic Corp., agent, Tariff CAB No. 382; Trans World Airlines, Inc., Tariff CAB No. 212; United Air Lines, Inc., Tariff CAB No. 260.

[2] TWA and Braniff have filed to match Continental's proposal; however, Braniff does not propose to establish third-class fares.

[3] United and Western have filed to match Pan American's proposal.

American's proposal would increase peak/offpeak coach fares $5 and $6 respectively. Under these two proposals, coach fares to interior cities west of Chicago would reflect respective increases proposed at the gateways. For Chicago/Milwaukee and points east thereof, the increases would amount to $13/$14 for peak/offpeak coach respectively. Generally, the carriers propose to maintain the same $15 peak/offpeak coach fare differential to interior points as they do at the gateways.

In a separate proposal, Braniff proposes to reduce the minimum-stay provisions applicable to Group Inclusive Tour Basing Fares from 13 to 7 days after the date of departure.

In justifying the proposed increase, the carriers generally allege that inflationary trends have produced sharp increases in operating costs and that adjustments in Hawaii fares are clearly warranted. In addition, the carriers allude to the fact that fares in all other domestic and territorial operations were increased in 1969, while Hawaiian fares were reduced. In support of its proposal to cancel its thrift fares, Northwest alleges that third-class service is improperly priced, costly and difficult to administer, and also coach passengers are in actuality subsidizing third-class passengers, as fares applicable to economy service do not pay for the cost of providing the basic transportation. Continental asserts it is proposing to reduce the off-peak travel period from 4 days to 3 mainly because of a traffic imbalance in economy traffic during the existing 4-day off-peak period. The carrier shows coach traffic to be almost evenly split between peak and off-peak.

Braniff submits, as justification for reducing the minimum-stay requirement applicable to its Group Inclusive Tour Basing fares, that it has determined that the majority of such traffic currently moving to Hawaii takes advantage of stopover provisions for Los Angeles, Las Vegas or San Francisco, and stays in Hawaii an average of only 6 or 7 nights. Braniff does not serve these popular stopover points, and believes its proposal will put it in a better position to participate in this traffic.

Complaints have been filed by Continental, Northwest, and the Department of Defense (DOD)—each directed at different aspects of the various proposed revisions.

Continental requests that the proposals to eliminate third-class service as proposed by Northwest, Pan American, United and Western be suspended and investigated. Continental alleges that to eliminate a basic, low-fare service that has wide public use would be unreasonable in that such a move would place the burden of the increase on passengers using the lowest fare.[4] Furthermore, Continental alleges that elimination of economy service would be disastrous in view of the present softening of this predominantly tourist market; the increased capacity of B–747 aircraft now being introduced in these markets; and the fact that the majority of traffic is for vacation purposes and very price conscious.

Northwest's complaint is against Braniff's proposal to reduce the minimum-stay requirement applicable to Group Inclusive Tour Basing (GIT) fares from 13 days to 7 days after departure and requests suspension and investigation of the proposal. Northwest alleges that the liberalization of the minimum-stay requirement will produce widespread diversion of normal fares and individual Inclusive Tour Basing Fares. Based on 1968 data, Northwest contends that under the Braniff proposal, 73 percent of all Hawaii passengers would qualify for the GIT discounts. In conclusion, Northwest alludes to the fact that, while Braniff has proposed to increase all of its existing fares to Hawaii, it also proposes to make revisions to GIT fares which will only reduce the carriers' yields.

The complaint filed by DOD requests investigation and suspension of all proposed increases in military standby/reservation fares and local first-class fares. The complainant alleges that the proposed increases have not been justified by the carriers and that the increases will result in an unjust burden on U.S. Armed Forces personnel. Similarly, the complainant stresses the need for continued low fares for military personnel both from the standpoint of morale and national defense. DOD also alleges that the proposed increases in first-class fares will increase the cost of National Defense and be detrimental to the taxpayers in view of the fact that first-class service is used at times in the defense mission.

Upon consideration of all relevant matters, the Board has determined that the proposed fare revisions, except for the first-class fare increases, and the proposals of Continental and TWA to reduce the number of off-peak days from 4 to 3, may be unjust, or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that these proposals should be suspended pending investigation.

The fare increases proposed would result in revenue increases estimated by the carriers to be 9.4 percent under the Pan Am proposal, and 12.5 percent under Continental's proposal. Northwest did not provide an estimate for its proposal but we believe it too would be very substantial because it would discontinue the third-class fares. Increases of these magnitudes have not been justified, and may be excessive.

Each of the proposals would result in significant increases in the lowest fares presently available; the one-way increases ranging with the exception from $10 to $15 in the case of both peak and off-peak third-class fares. These increases range as high as 17.6 percent and could tend to have a depressing effect upon traffic, and be detrimental to the carriers' profitability in light of an admittedly soft market and the imminent introduction of B–747 aircraft. Moreover, the proposed cancellation of the economy-class fares coupled with the increase in coach fares produces a compounding effect for passengers who have been using the economy service.

While the Board has determined that the coach and economy-fare increases proposed by the carriers should be suspended, we believe that lesser increases in Hawaiian-Mainland fares are now warranted. These operations have been affected by the same inflationary pressures that resulted in two domestic fare increases during 1969, but the Hawaiian-Mainland fares were not increased last year and in fact were reduced. We conclude that a partial restoration of last year's reductions should be permitted.

Accordingly, we have decided to permit an increase of $5 in coach and economy fares ($6 in the case of off-peak coach) between Hawaii and the west coast gateways. We will permit similar increases to inland points provided the resulting fares-per-mile using direct miles do not exceed the Los Angeles-Hawaii fares-per-mile. Historically, fares between Hawaii and Mainland points have been constructed on the basis of combinations of fares over the west coast gateways. We see no reason for continuing this practice since direct services are now provided between many interior points and Hawaii.

If the carriers desire to refile to reflect the increases indicated above as acceptable to the Board, such filings should be made on at least 30 days' notice.[5] Many passengers are in the process of making their travel plans for the summer, and for this reason we will not permit the increases we deem warranted to be filed on short notice.

Turning to the Braniff proposal to reduce the minimum-stay requirements of its group inclusive tour basing fares from 13 days to 7 days, we have concluded that this sharp reduction in the minimum return period may result in diversion from higher-fared services of Braniff and other carriers, and should be suspended. Under Braniff's proposal, a considerable amount of additional traffic would qualify for GIT travel, and we are not persuaded that the proposal would generate enough traffic to offset the revenue lost through diversion.

With regard to Continental's proposal to reduce the number of offpeak days from 4 days to 3, the carrier has submitted data which shows that a considerable imbalance in economy traffic exists, with most of it moving during the off-peak period. The proposal should tend to spread traffic more evenly during the days of the week.

We will permit the carriers to increase first-class fares, as proposed because those services are considerably underpriced in relation to costs, particularly for B–747 aircraft, which in the near future will be carrying a substantial part of the Hawaiian traffic. We conclude that

[4] Continental alleges that 38.4 percent of its Los Angeles-Hawaii traffic and 69.2 percent of its Seattle/Portland traffic use economy service.

[5] The first-class fare increases are being permitted to become effective on June 1, 1970, as filed.

DOD's complaint does not establish grounds for suspending the first-class fare increases.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204, 403, 404, and 1002 thereof.

It is ordered, That:

1. An investigation is instituted to determine whether the fares and provisions described in Appendix A attached hereto,* and rules, regulations, or practices affecting such fares and provisions, are or will be, unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful to determine and prescribe the lawful fares and provisions, and rules, regulations, and practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto * are suspended and their use deferred to and including August 29, 1970, unless otherwise ordered by the Board, and that no changes be made herein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaints of Northwest Airlines, Inc. in Docket 22198, the Department of Defense in Docket 22199, and Continental Air Lines, Inc. in Docket 22200, are hereby dismissed; and

4. A copy of this order will be filed with the aforesaid tariffs and be served on Braniff Airways, Inc., Continental Air Lines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., and the complainants in Docket 22199.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.†

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

[F.R. Doc. 70-6949; Filed, June 4, 1970; 8:46 a.m.]

[Dockets Nos. 21866-5, 22239; Order 70-5-142]

BRANIFF AIRWAYS, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of May 1970.

By tariff revisions * marked to become effective June 1, 1970, Braniff Airways, Inc. (Braniff), proposed to cancel Discover America fares in markets under 600 miles; eliminate blackout restrictions on Discover America, youth reservation, military reservation, and family fares; and increase military reservation fares from 66⅔ percent to 80 percent of coach fares. The latter proposal would equalize Braniff's military reservation fares with the present level of its youth reservation fares. The blackout periods involved are from noon to midnight on Fridays, and Sundays in the case of Discover America and family fares; from noon to 9 p.m. on Fridays in the case of military and youth reservation fares.

Braniff states that the purpose of the adjustments is to bring the fares in line with demand, giving better recognition to the diversionary versus the generative effect of certain promotional fares in short-haul markets, the equalization of discounts afforded special classes of reserved-seat passengers, and the need for additional revenues.

Braniff alleges that costs continue to increase; that new labor agreements include raises not remotely offset by productivity gains and emphasize the need for additional revenues; that the domestic fare adjustments in effect since last October were scarcely sufficient to meet then known cost increases, and have done nothing to offset increases since that time; and that Braniff and the industry as a whole are earning less than a reasonable return on investment. Braniff estimates that the proposed changes would increase its passenger revenues by approximately one million dollars annually, or 0.5 percent.

With regard to Discover America fares, Braniff alleges that excursion fares are not economically justified on a system-wide basis, and that excursion travel in short-haul markets is composed primarily of traffic that would move in any event. It is contended that excursion fares should be applicable only in markets where maximum stimulation of new traffic is possible, and that they should be limited to markets of sufficient length that the dollar differential is meaningful in the decision whether to travel and in attracting passengers who might otherwise move by automobile.

Braniff alleges that military reservation fares should be increased to the level now pertaining to youth reservation travel, since there is no social or economic basis upon which to differentiate between military and youth travel in reserved-seat service.

Complaints have been filed by Eastern Air Lines, Inc. (Eastern), and the Department of Defense (DOD). Eastern requests that the Board suspend and investigate Braniff's proposal to eliminate all periods of unavailability now applicable to its major discount fares. Eastern alleges that discount fares traditionally have been justified on the ground that they generate new traffic, and shift demand of a segment of the traveling public from peak to off-peak periods, and that Braniff's proposal runs counter to this purpose. It is alleged that Braniff's proposal would result in a weekend superpeak with one of two results, either full-fare passengers would be lost because of lack of capacity, or the airlines would increase capacity for the peak with a resulting intensification of underutilization during the remaining 5 days of the week. Either result would allegedly destroy the economics of the discount fares.

Eastern also alleges that there is no logical basis in fact for suggesting that new traffic would be generated by elimination of the blackout periods; that it is clear that the removal of the weekend blackouts would be wholly diversionary and that the diversion would be large; and that it has a pool of Friday and Sunday afternoon revenues of approximately $162 million which would be subject to dilution. Eastern further alleges that Braniff's proposal to eliminate blackout periods involves several issues in the Domestic Passenger Fare Investigation, Docket 21866-5; that experiments which have broad adverse ramifications for the industry should be suspended pending investigation; and that Braniff has failed to provide the Board with any data or analysis relating to the cost or effect of the elimination of blackout restrictions, which is essential to the Board's consideration of a fare proposal which would introduce discount fares into major peak traffic periods for the first time.

The Department of Defense (DOD) has filed a complaint against the increase in military reservation fares. DOD alleges there has been absolutely no showing of need, nor any justification whatsoever, for increasing these fares, or showing that the basis upon which the fares are predicated is the proper basis to use. DOD also alleges that more than two and one-half million personnel in the armed forces regularly make use of the military leave reservation fares, and that the proposed increase in these fares will create a very real and unjust burden on these people. DOD claims it has an extreme interest in a continuation of the military leave reservation fares at the current level for a very simple but important reason—morale; that personnel in the armed forces receive low pay and are forced to seek low cost transportation for their leave and other personal travel; and that many of these persons use air service for periodic visits home that could not be made, because of the time element, by any means other than air travel. Finally, DOD alleges that discount fares of the air carriers are under investigation before the Board in the Domestic Passenger Fare Investigation, Docket 21866-5, and that the fares involved herein should not be increased until the Board concludes its investigation and renders its decision in that proceeding.

Upon consideration of the tariff proposals, the complaints and answers thereto and other relevant matters, the Board finds that Braniff's proposals may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful. The Board further concludes that the tariffs in question should be suspended pending investigation. These tariff proposals, except for the military reservation fares and related provisions, are already under investigation in Phase 5 of the Domestic Passenger Fare Investigation, Docket 21866-5. We will institute a separate

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* Filed as part of the original document.

† Statement of member Adams dissenting in part filed as part of the original document.

* Revisions to Airline Tariff Publishers, Inc., Agent, Tariffs CAB No.'s 90, 98, 101, and 117.

proceeding to investigate the military reservation fares and applicability provision herein suspended.

Braniff indicates that excursion fares should be limited to "markets of sufficent length (a) to make the dollar differential meaningful in the decision whether to travel and (b) to attract passengers who might otherwise move by private automobile." While we do not necessarily disagree with this statement as a general proposition, the Board is unable to conclude that it supports the reasonableness of eliminating Discover America excursion fares in all markets up to 600 miles in distance. The dollar differential between this fare and the normal round-trip cash fare in a 300-mile market is $11, a magnitude which whether or not to fly. The effect of this proposal is to raise the lowest available fare in markets under 600 miles by some 25 percent, which we believe could be expected to have adverse effect upon traffic and revenues. This is particularly true in light of the two general fare increases permitted in 1969, which in each case involved relatively greater increases in short-haul than in long-haul fares. For these reasons, we are not prepared to permit Braniff's proposed cancellation of Discover America fares without investigation.

Our decision to suspend the proposal to make the major discount fares available at all times is consistent with our recent action in Order 70-4-136, wherein the Board suspended a proposal of other carriers to provide that their military reservation fares would apply at all times systemwide. We suspended that proposal after concluding that it would tend to undermine the economic basis of the reduced fares, and we believe Braniff's proposal can be expected to have the same effect, as described by Eastern in its complaint.

We will suspend the proposed increases in military reservation fares due to the magnitude of the increase of approximately 20 percent. If permitted, this proposal would place a significant burden on military personnel, either in the form of higher fares, or less favorable service if they downgrade to standby fares. The Board permitted similar increases in youth reservation fares effective October 1, 1969; however, national defense considerations were not a factor with those fares. We are not persuaded that the continuation of the 50 percent standby fares adequately satisfies the need for the availability to our military personnel of low cost transportation on a broad basis.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204, 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation is instituted to determine whether the military reservation fares and provisions described in Appendix A attached hereto,[2] and rules, regulations, or practices affecting such fares and provisions, are or will be, unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful to determine and prescribe the lawful fares and provisions, and rules, regulations, and practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto[2] are suspended and their use deferred to and including August 29, 1970, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, and in Order 70-5-40, dated May 8, 1970, the complaints in Dockets 22146 and 22154 are dismissed;

4. The investigation of the military reservation fares and provisions ordered in paragraph 1 be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

5. A copy of the order will be filed with the aforesaid tariffs and be served on Inc., and the complainant in Docket Braniff Airways, Inc., Eastern Air Lines, 22146, which are hereby made parties to the investigation ordered in paragraph 1.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[3]

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-6950; Filed, June 4, 1970; 8:46 a.m.]

CIVIL SERVICE COMMISSION

DEPARTMENT OF COMMERCE

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Director, Office of Public Affairs, Office of the Secretary.

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

[F.R. Doc. 70-6990; Filed, June 4, 1970; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Communications Commission to fill by noncareer executive assignment in the excepted service the position of Chief, Cable Television Bureau.

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

[F.R. Doc. 70-6991; Filed, June 4, 1970; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Director, Facilities Engineering and Construction Agency, Office of the Secretary.

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

[F.R. Doc. 70-6992; Filed, June 4, 1970; 8:49 a.m.]

DEPARTMENT OF LABOR

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Director, Job Corps, Manpower Administration.

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

[F.R. Doc. 70-6993; Filed, June 4, 1970; 8:49 a.m.]

DEPARTMENT OF THE TREASURY

Notice of Grant of Authority To Make Noncareer Executive Assignments

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Treasury to fill by noncareer executive assignment in the excepted service the position of Director, Office of Law Enforcement, Office of Assistant Secretary (Enforcement Operations).

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

[F.R. Doc. 70-6994; Filed, June 4, 1970; 8:49 a.m.]

[2] Filed as part of the original document.

[3] Dissenting statement of member Adams and statement of vice chairman Gillilland filed as part of the original document.

DEPARTMENT OF TRANSPORTATION

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Special Projects Officer, Office of the Secretary.

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

[F.R. Doc. 70-6995; Filed, June 4, 1970; 8:49 a.m.]

SELECTIVE SERVICE SYSTEM

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Selective Service System to fill by noncareer executive assignment in the excepted service the position of General Counsel.

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

[F.R. Doc. 70-6996; Filed, June 4, 1970; 8:49 a.m.]

UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the United States Arms Control and Disarmament Agency to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Director, Economics Bureau.

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

[F.R. Doc. 70-6997; Filed, June 4, 1970; 8:49 a.m.]

DEPARTMENT OF COMMERCE

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Director of Public Affairs, Office of the Secretary.

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

[F.R. Doc. 70-6998; Filed, June 4, 1970; 8:49 a.m.]

DEPARTMENT OF LABOR

Notice of Revocation of Authority To Make a 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 Labor to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Director, Job Corps.

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

[F.R. Doc. 70-6999; Filed, June 4, 1970; 8:49 a.m.]

DEPARTMENT OF TRANSPORTATION

Notice of Revocation of Authority To Make a 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 Transportation to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Public Affairs, Office of the Assistant Secretary for Public Affairs.

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

[F.R. Doc. 70-7000; Filed, June 4, 1970; 8:49 a.m.]

DEPARTMENT OF JUSTICE

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Head, Executive Office for U.S. Attorneys to Associate Deputy Attorney General for U.S. Attorneys, Office of the Deputy Attorney General.

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-7001; Filed, June 4, 1970; 8:49 a.m.]

FEDERAL HOME LOAN BANK BOARD

Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, F.R. Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from "Director, Office of Federal Home Loan Bank Operations" to "Director, Office of System Finance and Bank Operations".

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70-7002; Filed, June 4, 1970; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 494]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

JUNE 1, 1970.

Pursuant to §§ 1.227(b)(3) and 21.26 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the list below, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below, if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

File No., applicant, call sign and nature of application

7665-C2-P-70—City of Fairbanks Municipal Utilities System (New), C.P. for a new 2-way station to be located at Ester, 9 miles west of Fairbanks, Alaska, to operate on frequencies 152.51 and 152.54 MHz.

7666-C2-P-(2)70—Communications Equipment & Service Co. (KWA632), C.P. to relocate control facilities to location No. 2: 1010 College Road, Fairbanks, Alaska, operating on frequency 75.68 MHz and reorient repeater antenna operating on frequency 72.30 MHz.

7667-C2-P-(3)70—Pacific Northwest Bell Telephone Co. (New), C.P. for a new 1-way station to be located at location No. 1: 235 East Hillcrest, Eugene, Oreg.; location No. 2: Kelly Butte, 850 Park Lane, Springfield, Oreg.; and location No. 3: 2526 Lawrence Street, Lawrence, Oreg.

7668-C2-P-70—Northern Mobile Telephone Co. (New), C.P. for a new 2-way station to be located at 648 North Main Street, Akron, Ohio, to operate on frequency 454.275 MHz and twenty dispatch stations pursuant to section 21.519(a) of the Commission's rules.

7669-C2-P/ML-70—Pacific Telephone & Telegraph Co. (KA4326), C.P. and modification of license to add the following frequencies: 152.84, 158.10, 454.375, 454.425, 454.475, 454.525, 454.575, 454.625, 454.675, 454.725, 454.775, 454.825, 454.875, 454.925, and 454.975 MHz to operate with 43 mobile units in any location within the territory of the grantee.

7670-C2-P-70—Radio Services (KFJ900), C.P. to replace base transmitter operating on frequency 152.03 MHz; change the antenna system for same and relocate facilities to the KDAL-TV tower, Observation Road, Duluth, Minn.

7671-C2-P-70—United Telephone Co. of the West (KAQ626), C.P. to change the antenna system and relocate facilities to 2802 Avenue D, Scottsbluff, Nebr., operating on 152.75 MHz.

7672-C2-P-70—Salem Radio Piging (KLF656), C.P. to replace the transmitter operating on frequency 43.22 MHz. Station location: 7.5 miles southwest of Salem, Oreg.

7677-C2-P-70—Gerard T. Uht (KEK289), C.P. to add facilities at a new site described as location No. 2: 337 Payne Avenue, North Tonawanda, N.Y., to operate on frequency 152.06 MHz.

7678-C2-P-70—Radio Dispatch Co. (KEC927), C.P. to replace transmitter operating on 152.18 MHz. Station location: 0.25 mile east of Hightstown, N.J.

7679-C2-P-70—Imperial Communications Corp. (KMA262), C.P. to relocate facilities operating on 152.18 MHz from location No. 1 to a new site described as location No. 4: Mount Woodson, Calif.

7861-C2-P-(2)70—The Mountain States Telephone & Telegraph Co. (New), C.P. for a new 2-way station to be located at Mule Mountain, 2.3 miles northwest of Bisbee, Ariz., to operate on frequency 152.81 MHz base and 158.07 MHz test.

7862-C2-P-(4)70—Mobilfone (New), C.P. for an Air-Ground station to be located at location No. 1: 0.125 mile south of La Feria, Tex., to operate on frequency 454.675 MHz signaling; 454.850 MHz base; and 459.050 MHz repeater; and at location No. 2: 2.5 miles north of U.S. Highway No. 83 on North 10th Street, McAllen, Tex., to operate on frequencies 454.025 and 454.050 MHz control.

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE—continued

7863-C2-P-(10)70—Southern Bell Telephone & Telegraph Co. (KIC345), C.P. to add frequencies 454.375, 454.700, 454.425, 454.450, 454.500, 454.550, and 454.600 MHz base; add 459.375, 459.400, 459.425, 459.450, 459.500, 459.550, and 459.600 MHz test; change the antenna system at location No. 1: 36 Northeast Second Street, Miami, Fla., and relocate base facilities on 152.66 MHz to same location.

7864-C2-P-(3)70—Seattle Radiotelephone Service (KOA783), C.P. to add frequencies 754.075, 454.150, and 454.200 MHz, at a new site described as location No. 2: First National Bank Building, Seattle, Wash.

7865-C2-P-70—Southwestern Bell Telephone Co. (KKU286), C.P. to change the antenna system operating on 152.63 MHz. Station location: 5.1 miles northwest of Pampa, Tex.

7866-C2-P-70—Capital Telephone Co. (KDN410), C.P. to change the antenna system operating on 152.72 MHz. Station location: East of Highway No. 54, 0.5 mile south of Holt Summit, Mo.

7928-C2-P-70—RAM Broadcasting of South Carolina, Inc. (New), C.P. for a new Air-Ground station to be located at Remount Road, North Charleston, S.C., to operate on frequency 454.675 MHz signaling and 454.800 MHz base.

7929-C2-P-(3)70—Salinas Valley Radio Telephone Co. (KMA837), C.P. to replace transmitters operating on frequencies 152.03, 152.06, 152.15 MHz; change the antenna system and relocate same to location No. 1: Mount Toro, 12 miles south-southeast of Salinas, Calif.

Major Amendment

1464-C2-P-(6)70—Kern Radio Dispatch (KMD993), Amended to change base frequency to 454.075 MHz. All other particulars remain same reported on public notice dated Sept. 29, 1969, Report No. 459.

Correction

3072-C2-P-69—Radio Dispatch Co. (New), Correct to read:
7926-C2-P-70—Radio Dispatch Co. (New), C.P. for a new 1-way station to be located at 0.55 mile west of Milmay, N.J., to operate on base frequency 152.24 MHz.

7482-C2-P-70—Dome Communications (KLF516), Correct to read: C.P. to change control frequency to 454.15 MHz. All other particulars same as reported on public notice dated May 18, 1970.

RURAL RADIO SERVICE

7528-C1-P-70—The Mountain States Telephone & Telegraph Co. (KPX64), C.P. to replace transmitter operating on frequency 454.60 MHz communicating with station KPX65, Organ Pipe National Monument, Ariz. Station location: TM-181 (Childs Mountain), 6.7 miles northwest of Gibson, Ariz.

7529-C1-P-70—The Mountain States Telephone & Telegraph Co. (KPX65), C.P. to replace transmitter operating on frequency 459.60 MHz communicating with station KPX64, TM-181 (Child's Mountain) Gibson, Ariz. Station location: Organ Pipe National Monument, 5 miles north of Lukesville, Ariz.

7673-C1-P-70—The Mountain States Telephone & Telegraph Co. (KAM40), C.P. to replace transmitter operating on frequency 157.95 MHz. Station location: 5.5 miles east of Thatcher, Colo.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIERS)

7674-C1-P-70—Pacific Northwest Bell Telephone Co. (New), C.P. for a new station. Frequencies 11,245 and 11,485 MHz. Location: Mount Pisgah, 4 miles southeast of Springfield, Oreg.

7675-C1-P-70—Pacific Northwest Bell Telephone Co. (New), C.P. for a new station. Frequencies 10,795 and 11,035 MHz. Location: 224 Hazel Street, Oakridge, Oreg.

7676-C1-P-70—The Pacific Telephone & Telegraph Co. (KME46), C.P. to add 6271.4 MHz directed toward San Diego, Calif., at its station 3848 Seventh Avenue, San Diego, Calif. (1-way transmission to KEBS Studio).

7140-C1-ML-70—The Pacific Telephone & Telegraph Co. (KMA37), Modification of license to change frequencies from 11,285, 11,365, 11,445, 11,525, 11,605, and 11,685 MHz to 11,225, 11,305, 11,385, 11,465, 11,545, and 11,625 MHz directed toward Los Angeles. Location: Oat Mountain, 5.5 miles southwest of Newhall, Calif.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

7141-C1-ML-70—The Pacific Telephone & Telegraph Co. (KMA38), Modification of license to change frequencies from 10,755, 10,835, 10,915, 10,995, 11,075 and 11,155, MHz to 10,785, 10,815, 10,895, 10,975, 11,055, and 11,135 MHz toward Oat Mountain, Calif. Location: 434 South Grand Avenue, Los Angeles, Calif.

American Telephone & Telegraph Co. C.P.'s (19) to construct one additional Type TD-2 radio relay channel from Omaha, Nebr., to Prospect Valley, Colo., and from Prospect Valley to Buckhorn Mountain, Colo.

7680-C1-P-70—American Telephone & Telegraph Co. (KAC60), Add frequency 3910 MHz directed toward Arlington, Nebr. Location: 118 South 19th Street, Omaha, Nebr.

7681-C1-P-70—American Telephone & Telegraph Co. (KAC59), Add frequency 3870 MHz toward North Bend, Nebr. Location: 2.9 miles southeast of Arlington, Nebr.

7682-C1-P-70—American Telephone & Telegraph Co. (KAC39), Add 3790 MHz toward Fullerton, Nebr. Location: 8.2 miles south of Columbus, Nebr.

7684-C1-P-70—American Telephone & Telegraph Co. (KAC38), Add 3830 MHz toward St. Libory, Nebr. Location: 1.2 miles west of Fullerton, Nebr.

7685-C1-P-70—American Telephone & Telegraph Co. (KAC37), Add frequency 3790 MHz directed toward Gibbon, Nebr. Location: 5.5 miles northwest of St. Libory, Nebr.

7686-C1-P-70—American Telephone & Telegraph Co. (KAC36), Add 3830 MHz toward Elm Creek, Nebr. Location: 7.5 miles north of Gibbon, Nebr.

7687-C1-P-70—American Telephone & Telegraph Co. (KAC35), Add 3790 MHz toward Cozad, Nebr. Location: 3.6 miles northeast of Elm Creek, Nebr.

7688-C1-P-70—American Telephone & Telegraph Co. (KAC34), Add 3830 MHz toward Maxwell, Nebr. Location: 7.5 miles south-southwest of Cozad, Nebr.

7689-C1-P-70—American Telephone & Telegraph Co. (KAC33), Add 3790 MHz toward Sutherland, Nebr. Location: 3.6 miles north of Maxwell, Nebr.

7690-C1-P-70—American Telephone & Telegraph Co. (KAC32), Add 3910 MHz toward Ogallala, Nebr. Location: 2.2 miles south of Sutherland, Nebr.

7691-C1-P-70—American Telephone & Telegraph Co. (KAC31), Add 3870 MHz toward Julesburg, Colo. Location: 4.7 miles northeast of Ogallala, Nebr.

7692-C1-P-70—American Telephone & Telegraph Co. (KAC30), Add 3910 MHz toward Peetz, Colo. Location: 4.5 miles southeast of Julesburg, Colo.

7693-C1-P-70—American Telephone & Telegraph Co. (KAB29), Add 3870 MHz toward Atwood, Colo. Location: 10 miles east of Peetz, Colo.

7694-C1-P-70—American Telephone & Telegraph Co. (KAB28), Add 3910 MHz toward Fort Morgan, Colo. Location: 5.5 miles southeast of Atwood, Colo.

7695—C1-P-70—American Telephone & Telegraph Co. (KAB27), Add 3870 MHz toward Prospect Valley, Colo. Location: Fort Morgan, 6.5 miles northwest of Snyder, Colo.

7696-C1-P-70—American Telephone & Telegraph Co. (KAB26), Add 3770 and 4170 MHz toward Greely, Colo. Location: 6.5 miles east of Prospect Valley, Colo.

7697-C1-P-70—American Telephone & Telegraph Co. (KAM69), Add frequencies 3730 and 4130 MHz directed toward Buckhorn Mountain, Colo. Location: 9 miles southeast of Greeley, Colo.

7698-C1-P-70—American Telephone & Telegraph Co. (KAC61), Add two TD-2 receivers to existing antenna system at its station 8 miles west of Bellvue, Colo.

7699-C1-P-70—New Jersey Bell Telephone Co. (KEA69), C.P. to add frequencies 6108.3 and 11,015 MHz toward West Orange, N.J. Location: 75 Passaic Street, Rochelle Park, N.J.

7700-C1-P-70—New Jersey Bell Telephone Co. (KEK97), C.P. add 11,445 and 11,685 MHz toward Newark, add 6390.0 and 11,425 MHz toward Rochelle Park, N.J. Location: 490 Prospect Avenue, West Orange, N.J.

7701-C1-P-70—New Jersey Bell Telephone Co. (KEK98), C.P. add 10,755 and 10,995 MHz toward West Orange, N.J. Location: 95 William Street, Newark, N.J.

7867-C1-P-70—Bell Telephone Co. of Nevada (KPF96), C.P. to add frequency 2170 MHz directed toward Orovada, Nev. Location: Winnemucca Mountain, 3.8 miles northwest of Winnemucca, Nev.

7868-C1-P-70—Bell Telephone Co. of Nevada (New), C.P. for a new station. Frequency: 2120 MHz. Location: 3.8 miles west of Orovada, Nev.

7869-C1-ML-70—The Pacific Telephone & Telegraph Co. (KMA40), C.P. and modification of license to add 11,015 MHz toward 9255 Sunset Boulevard, Los Angeles, Calif. Location: 1429 North Gower Street, Los Angeles, Calif.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

7870-C1-P-70—General Telephone Co. of Florida (KIL88), C.P. to add 6034.2 MHz toward Clearwater, Fla. Location: 519 Zack Street, Tampa, Fla.

7871-C1-P-70—General Telephone Co. of Florida (KIN50), C.P. to add 6286.2 MHz toward Tampa, Fla., and change coordinates to latitude 27°57'59" N., longitude 82°47'02" W. Location: Cleveland Avenue and Betty Lane, Clearwater, Fla.

7872-C1-P-70—South Central Bell Telephone Co. (KYC46), C.P. to add 6152.8 MHz directed toward Claysville, Ky. Location: 0.4 mile north of Centerville, Ky.

7873-C1-P-70—South Central Bell Telephone Co. (WAY83), C.P. to add 6360.3 MHz toward Maysville, Ky. Location: 4.3 miles southeast of Claysville, Ky.

7874-C1-P-70—South Central Bell Telephone Co. (KLP20), C.P. to add 5989.7 and 6049.0 MHz directed toward Holcomb, Miss. Location: 201 East George Street, Greenwood, Miss.

7875-C1-P-70—South Central Bell Telephone Co. (New), C.P. for a new station. Frequencies: 6212.0 and 6271.4 MHz on azimuth 211°13' and 6241.7, 6360.3 MHz on azimuth 50°56'. Location: 3.5 miles southwest of Holcomb, Miss.

7876-C1-P-70—South Central Bell Telephone Co. (New), C.P. for a new station. Frequencies: 5960.0, 5974.8, 5989.7, 6034.2, 6078.6, 6093.5, and 6108.3 MHz. Location: 1 mile southeast of Hardy, Miss.

7877-C1-P-70—South Central Bell Telephone Co. (New), C.P. for a new station. Frequencies: 6197.2 and 6256.5 MHz. Location: 502 First Street, Grenada, Miss.

7878-C1-P-70—South Central Bell Telephone Co. (New), C.P. for a new station. Frequencies: 6212.0, 6241.7, 6330.7, and 6360.3 MHz. Location: 4.3 miles south of Water Valley, Miss.

7879-C1-P-70—South Central Bell Telephone Co. (New), C.P. for a new station. Frequencies: 5960.0, 5989.7, 6078.6, and 6108.3 MHz. Location: 2 miles southwest of Oxford, Miss.

7880-C1-P-70—South Central Bell Telephone Co. (New), C.P. for a new station. Frequencies: 6212.0, 6241.7, 6330.7, and 6360.3 MHz. Location: 1.4 miles east of Toccopola, Miss.

7881-C1-P-70—South Central Bell Telephone Co. (New), C.P. for a new station. Frequencies: 5960.0, 5989.7, 6078.6, and 6049.0 MHz. Location: Liberty Street, Pontotoc, Miss.

7882-C1-P-70—South Central Bell Telephone Co. (KLR71), C.P. to add 6212.0 and 6330.7 MHz directed toward Pontotoc, Miss., and replace tower. Location: 337 North Broadway, Tupelo, Miss.

7931-C1-P-70—Florida Telephone Corp. (KIP43), C.P. to add 6404.79 and 11,605 MHz directed toward Belleview, Fla. Location: 319 East Broadway, Ocala, Fla.

7932-C1-P-70—Florida Telephone Corp. (New), C.P. for a new station. Frequencies: 5989.675, 10,835, 11,445, and 11,685 MHz. Location: Corner of Seventh Street and Agnew Avenue, Belleview, Fla.

7933-C1-P-70—Florida Telephone Corp. (New), C.P. for a new station. Frequencies: 10,915 and 11,115 MHz. Location: Spring Road, 300 feet west of State Road 484, Silver Springs Shores, Fla.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

7660-C1-ML-70—Southwest Texas Transmission Co. (KLR38), Modification of license to permit carriage of audio signal on subcarrier channel of licensed microwave frequency. Location: Fohn Hill, 1.3 miles south-southeast of D'Hanis, Tex.

7661-C1-ML-70—Southwest Texas Transmission Co. (KKY45), Modification of license to add audio subcarrier same as above. Location: 3.5 miles northeast of Uvalde, Tex.

7662-C1-ML-70—Southwest Texas Transmission Co. (KKY46), Modification of license to add audio subcarrier same as above. Location: Las Moras, 3 miles northeast of Brackettville, Tex.

(Informative: Applicant proposes to provide the audio signal of station KITE of San Antonio, Tex., to station KWDR in Del Rio, Tex.)

7663-C1-P-70—American Microwave & Communications, Inc. (KQH75), C.P. to add frequency 6219.5H MHz on azimuth 57°00' at station 4.5 miles west of Fairview, Mich., at latitude 44°44'48" N., longitude 84°08'09" W.

(Informative: Applicant requests waiver of section 21.701(1) of the Commission's rules. Applicant proposes to provide the television signal of station WWTV of Cadillac, Mich., to Alpena, Mich., for delivery to General Electric Cablevision Corp.)

7664-C1-MP-70—American Microwave & Communications, Inc. (KYO50), Modification of C.P. to change frequencies from 11,525.0V and 11,685.0V to 6338.1V and 6397.4V MHz on azimuth 4°05'. Applicant requests waiver of section 21.701(1) of the Commission's rules. Location: West of Harrison, Mich., at latitude 44°01'46" N., longitude 84°51'01" W.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)—continued

7892-C1-P-70—Mountain Microwave Corp. (New), C.P. for a new station at KLZ-TV Studio Site, 123 Speer Boulevard, Denver, Colo., at latitude 39°43'34" N., longitude 104°59'06" W. Frequency 6034.2V MHz on azimuth 271°34'.

7893-C1-P-70—Mountain Microwave Corp. (WAN44), C.P. to add frequency 6286.2H MHz on azimuth 168°06' at Colorow Hill, 2 miles southwest of Golden, Colo., at latitude 39°-43'54" N., longitude 105°14'58" W.

7894-C1-P-70—Mountain Microwave Corp. (KBI22), C.P. to add frequency 6078.6H MHz on azimuth 255°28' at Almagre Mountain, 8 miles west of Broadmoor, Colo. (latitude 38°-46'25" N., longitude 104°59'30" W.).

7895-C1-P-70—Mountain Microwave Corp. (KBT67), C.P. to add frequency 6197.2H MHz on azimuth 264°35' at Monarch Pass, 17 miles west of Salida, Colo. (latitude 38°29'46" N., longitude 106°19'01" W.).

7896-C1-P-70—Mountain Microwave Corp. (KBT68), C.P. to change frequency 6108.3 MHz to 11,325V MHz toward Grand Junction, Delta, and Montrose, Colo., on azimuths 313°-08', 320°19', and 300°52' and add a new transmitter to operate on frequency 6108.3V MHz toward Grand Junction on azimuth 313°08'. Location: Waterdog Peak, 13 miles southeast of Montrose, Colo. (latitude 38°23'15" N., longitude 107°40'26" W.).

7897-C1-P-70—Mountain Microwave Corp. (KVD95), C.P. to add frequency 6345.5V MHz on azimuths 43°48' and 310°40'. Location: 2.5 miles southwest of Grand Junction, Colo. (latitude 39°03'31" N., longitude 108°36'04" W.).

7898-C1-P-70—Mountain Microwave Corp. (KPP90), C.P. to add frequency 6256.5V MHz on azimuth 283°15' at Roan Cliffs, 24.5 miles north of Westwater, Utah (latitude 39°26'10" N., longitude 109°10'12" W.).

7899-C1-P-70—Mountain Microwave Corp. (KPP89), C.P. to add frequency 6019.3V MHz on azimuth 286°11' at Bruin Point, 7 miles north-northeast of Dragerton, Utah (latitude 39°38'40" N., longitude 110°20'50" W.).

7900-C1-P-70—Mountain Microwave Corp. (KPP88), C.P. to add frequency 6108.3V MHz on azimuth 314°48' at Colton, 15 miles northwest of Helper, Utah (latitude 39°48'37" N., longitude 111°05'55" W.).

7901-C1-P-70—Mountain Microwave Corp. (WAN45), C.P. to add frequency 6197.2V MHz on azimuth 52°28' at Nelson Peak, 18 miles southwest of Salt Lake City, Utah (latitude 40°-36'30.5" N., longitude 112°09'34" W.).

(Informative: Applicant proposes to deliver a CBS television network feed to KREX-TV, Grand Junction, Colo., and KSL-TV, Salt Lake City, Utah, per request of its customer, Columbia Broadcasting System, Inc.)

Major Amendment

2684-C1-P-70—American Microwave & Communications, Inc. (KSV63), Application amended to change frequency from 6041.6 MHz to 5982.3 MHz toward Newberry, Mich., on azimuth 290°00'. Other particulars same as reported on public notice dated Nov. 24, 1969.

[F.R. Doc. 70-6930; Filed, June 4, 1970; 8:45 a.m.]

FEDERAL MARITIME COMMISSION

MONITOR INTERNATIONAL FORWARDING CORP. ET AL.

Independent Ocean Freight Forwarder Licenses; Certain Applicants

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

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

Monitor International Forwarding Corp., 407 Pine Street, Sausalito, Calif. 94111.
Officers:
Henry P. Wright—President.
James P. Donahue—Secretary/Treasurer.
Bruce L. Bromberg—Director.

David E. Porter, 2361 Air Lane, S.D. International Airport, Post Office Box 388, San Diego, Calif. 92112.
Officer: David E. Porter—Owner.

John Joseph Duffy, American Operating, Inc., 2700 Broening Highway, Baltimore, Md. 21222.
Officers:
John J. Duffy—President.
Richard E. Gress—Vice President.
Evamae Duffy—Secretary/Treasurer.

Crown Cargo Services, Inc., Building 2144, Door N-4, M.I.A.D.—Miami International Airport, Post Office Box 1262, Miami, Fla. 33148.
Officers:
Jose A. Galdo—President.
Moises Zighelboim—Vice President.
Elias Legra—Secretary.

Robert J. Semany, d.b.a. Altransco Customsbrokers, 4461 West Jefferson Avenue, 305 Detroit Harbor Terminals Building, Detroit, Mich. 48209.
Officer: Robert J. Semany—Sole owner.

Dated: June 1, 1970.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-6975; Filed, June 4, 1970; 8:48 a.m.]

FEDERAL POWER COMMISSION

[Docket Nos. G-2751 etc.]

E. J. DUNIGAN, JR. ET AL.

Findings and Order After Statutory Hearing

MAY 25, 1970.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, terminating proceedings, substituting respondents, making successors co-respondents, redesignating proceedings, accepting agreement and undertaking for filing, requiring filing of agreements and undertakings, and accepting related rate schedules and supplements for filing.

Each of the applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions, as supplemented and amended.

Applicants have filed related FPC gas rate schedules or supplements thereto and propose to initiate, abandon, add to or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's statement of general policy No. 61-1, as amended, or involve sales for which permanent certificates have been previously issued; except that sales from areas for which area rates have been determined are authorized to be made at or below the applicable area base rates adjusted for quality of the gas, and under the conditions prescribed in the orders determining said rates.

E. J. Dunigan, Jr. et al., applicants in Docket No. G-2751, propose to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to I. J. Huval et al., FPC Gas Rate Schedule No. 1. Said rate schedule will be redesignated as that of applicants. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI61-7. Therefore, applicants will be made co-respondents in said proceeding. The proceeding will be redesignated accordingly; and applicants will be required to file an agreement and undertaking to assure the refund of any amounts collected by them in excess of the amount determined to be just and reasonable in said proceeding.

North American Royalties, Inc., applicant in Dockets Nos. G-7943, G-10700, and CI64-372, proposes, as the result of a merger, to continue the sales of natural gas heretofore authorized in said dockets to be made pursuant to Gordon Street, Inc., FPC Gas Rate Schedules Nos. 3, 4, and 5, respectively. Said rate schedules will be redesignated as those of applicant. Gordon Street, Inc., is retaining amounts collected under said rate schedules subject to refund in Dockets Nos. RI61-372, RI61-373, and RI65-212[1] heretofore ordered to be refunded by the order of November 26, 1968, in Docket No. AR61-1 et al., 40 FPC 1359, and permitted to be retained by the order of January 17, 1969, in Docket No. AR61-1 et al., 41 FPC 53. Therefore, applicant

[1] The proceedings in Dockets Nos. RI61-372 and RI65-212 are both applicable to the sales authorized in Dockets Nos. G-7943 and G-10700. The proceeding in Docket No. RI 61-373 is applicable to the sales authorized in Docket No. G-17459. The certificate issued in Docket No. G-17459 has been terminated. There are no refund liabilities with respect to the sale authorized in Docket No. CI64-372.

will be substituted in lieu of Gordon Street, Inc., as respondent in the proceedings pending in Dockets Nos. RI61–372, RI61–373, and RI65–212 and the proceedings will be redesignated accordingly.

Reading and Bates, Inc. (Operator) et al., applicant in Docket No. CI62–578, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to Thornton Petroleum Corp. (Operator) et al., FPC Gas Rate Schedule No. 7. Said rate schedule will be redesignated as that of applicant. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI68–678. Applicant indicates in its certificate application that it intends to be responsible for the total refund from the time that the rate was made effective subject to refund. Therefore, applicant will be substituted in lieu of Thornton as respondent in the proceeding pending in Docket No. RI68–678 and said proceeding will be redesignated accordingly. Applicant has heretofore filed a general undertaking to assure the refund of amounts collected in excess of amounts determined to be just and reasonable in proceedings under section 4(e) of the Natural Gas Act.

Graham-Michaelis Drilling Co., applicant in Docket No. CI70–631, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. CI62–1240 to be made pursuant to Cities Service Oil Co. FPC Gas Rate Schedule No. 157. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of applicant. The presently effective rate under Cities Service's rate schedule is in effect subject to refund in Docket No. RI69–520, and applicant has submitted an agreement and undertaking to assure the refund of any amounts collected by it in excess of the amount determined to be just and reasonable in said proceeding. Therefore, applicant will be made co-respondent in said proceeding; the proceeding will be redesignated accordingly; and the agreement and undertaking will be accepted for filing.

Phillips Petroleum Co., applicant in Docket No. CI70–706, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G–16973 to be made pursuant to Humble Oil & Refining Co. FPC Gas Rate Schedule No. 220. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of applicant. The presently effective rate under Humble's FPC Gas Rate Schedule No. 220 is in effect subject to refund in Docket No. RI69–570, and a prior increased rate under said rate schedule was collected for a locked-in period subject to refund in Docket No. RI68–2. Applicant has filed a motion to be made co-respondent in the proceeding pending in Docket No. RI69–570. Therefore, applicant will be made a co-respondent in the proceedings pending in Dockets Nos. RI68–2 and RI69–570, and the proceedings will be redesignated accordingly. Phillips has heretofore filed a general undertaking to assure the refund of amounts collected by it in excess of the amounts determined to be just and reasonable in the proceedings under section 4(e) of the Natural Gas Act.

Petroleum Corporation of Texas (Operator) et al., applicant in Docket No. CI70–710, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G–18924 to be made pursuant to Humble Oil & Refining Co. FPC Gas Rate Schedule No. 157. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of applicant. The presently effective rate under Humble's rate schedule is in effect subject to refund in Docket No. RI63–6. Applicant indicates in its certificate application that it intends to assume the total refund obligation from the time that the increased rate was made effective subject to refund. Therefore, applicant will be made a co-respondent in the proceeding pending in Docket No. RI63–6; the proceeding will be redesignated accordingly; and applicant will be required to file an agreement and undertaking to assure the refund of all amounts collected in excess of the amount determined to be just and reasonable in said proceeding with respect to sales from the acreage acquired from Humble.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petitions to intervene, notices of intervention or protests to the granting of the applications have been filed.

At a hearing held on May 21, 1970, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record.

The Commission finds:

(1) Each applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(4) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in various dockets involved herein should be amended as hereinafter ordered and conditioned.

(6) The sales of natural gas proposed to be abandoned as hereinbefore described and as more fully described in the applications and in the tabulation herein are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(7) The abandonments proposed by Applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to applicants relating to the abandonments hereinafter permitted and approved should be terminated or that the orders issuing said certificates should be amended by deleting therefrom authorization to sell natural gas from the subject acreage.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the rate proceeding pending in Docket No. RI67–272 should be terminated only with respect to sales made pursuant to Mobile Oil Corp. FPC Gas Rate Schedules Nos. 296 and 319; that the rate proceeding pending in Docket No. RI69–8 should be terminated in its entirety; and that the issue of refunds for sales made under Mobil's FPC Gas Rate Schedules Nos. 296 and 319 should be subject to the rate proceedings pending in Docket No. RI67–273 as it pertains to sales made under Mobil's FPC Gas Rate Schedule No. 178.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the rate proceeding pending in Docket No. RI70–441 should be terminated only with respect to sales made pursuant to Sun Oil Co. FPC Gas Rate Schedule No. 32.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that E. J. Dunigan, Jr., et al., should be made co-respondents in the proceeding pending in Docket No. RI61–7; that said proceeding should be redesignated accordingly; and that they should be required to file an agreement and undertaking.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that North American

Royalties, Inc., should be substituted in lieu of Gordon Street, Inc., as respondent in the proceedings pending in Dockets Nos. RI61–372, RI61–373, and RI65–212 and that said proceedings should be redesignated accordingly.

(13) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Reading and Bates, Inc. (Operator), et al., should be substituted in lieu of Thornton Petroleum Corp. (Operator), et al., as respondent in the proceeding pending in Docket No. RI68–678 and that said proceeding should be redesignated accordingly.

(14) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Graham-Michaelis Drilling Co. should be made co-respondent in the proceeding pending in Docket No. RI69–520, that said proceeding should be redesignated accordingly, and that the agreement and undertaking submitted by Graham-Michaelis should be accepted for filing.

(15) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Phillips Petroleum Co. should be made a co-respondent in the proceedings pending in Dockets Nos. RI68–2 and RI69–570, and that said proceedings should be redesignated accordingly.

(16) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Petroleum Corporation of Texas (Operator) et al., should be made a co-respondent in the proceeding pending in Docket No. RI63–6; that said proceeding should be redesignated accordingly; and that Petroleum Corporation of Texas should be required to file an agreement and undertaking.

(17) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The certificates issued herein and the amended certificates are subject to the following conditions:

(a) The initial rate for the sale authorized in Docket No. CI70–687 shall be the applicable area base rate prescribed in Opinion No. 546, as modified by Opinion No. 546–A, as adjusted for quality of gas, or the contract rate, whichever is lower. Within 90 days from the date of initial delivery applicant shall file a rate schedule quality statement in the form prescribed in Opinion No. 546.

(b) If the quality of the gas delivered by applicant in Docket No. CI70–687 deviates at any time from the quality standards set forth in Opinion No. 546, as modified by Opinion No. 546–A, so as to require a downward adjustment of the existing rate, a notice of change in rate shall be filed pursuant to section 4 of the Natural Gas Act; *Provided, however,* That adjustments reflecting changes in B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of a notice of change in rate.

(c) No increase in rate shall be filed by applicant in Docket No. CI70–687 prior to January 1, 1974, at any price which would exceed the ceiling prescribed for the Southern Louisiana area as provided by Opinion No. 546–A.

(d) Applicant in Docket No. CI70–687 shall not require buyer to take-or-pay for an annual quantity of gas well gas which is in excess of an average of 1 Mcf per day for each 7,300 Mcf of determined gas well gas reserves or the specified contract quantity, whichever is the lesser amount. This condition shall remain in effect pending further Commission order in the subject docket or in other matters relating to the buyer's take-or-pay obligations under the subject contract.

(e) The authorization granted in Docket No. CI70–832 shall be subject to Opinions Nos. 546 and 546–A, and accompanying orders, specifically including those relating to rate reductions, refunds and filings required by those orders for sales made on or after February 1, 1970.

(f) The initial rates for sales authorized in Docket No. CI70–538 shall be 13 cents per Mcf at 14.65 p.s.i.a. for sweet gas and 12.5534 cents per Mcf at 14.65 p.s.i.a. for sour gas. Applicant shall file a revised billing statement reflecting the 13-cent rate as required by the regulations under the Natural Gas Act.

(g) The rate for the sale authorized in Docket No. CI60–214 shall be 17 cents per Mcf at 14.65 p.s.i.a. including tax reimbursement and subject to B.t.u. adjustment; and the initial rate for the sale authorized in Docket No. CI70–665 shall be 17 cents per Mcf at 14.65 p.s.i.a. subject to B.T.U. adjustment.

(h) The initial rate for the sale authorized in Docket No. CI70–760 shall be 28 cents per Mcf at 60° F. (equivalent to 27.89 cents per Mcf at 62° F.) or the contract rate, whichever is lower. Applicant may file a notice of change in rate pursuant to section 154.94 of the Commission's regulations if it desires to charge any other rate. Applicant shall file a revised billing statement reflecting the transportation charge of 0.893-cent per Mcf of its initial rate as required by the regulations under the Natural Gas Act.

(i) Applicants in Dockets Nos. CI70–665 and CI70–830 shall not require buyers to take-or-pay for an annual quantity of gas well gas during the first 2 contract years which is in excess of an average of 1 Mcf per day for each 3,650 Mcf of determined gas well gas reserves and a 1 Mcf per day for each 7,300 Mcf of determined gas reserves thereafter or the specified contract quantities, whichever are the lesser amounts.

(j) The authorization granted in Docket No. CI70–806 is conditioned upon any determination which may be made in the proceeding pending in Docket No. R–338 with respect to the transportation of liquefiable hydrocarbons from acreage in the Jewell Martin Unit No. 1, sec. 22, T. 5 N., R. 19 E., Northwest Dombey Field, Texas County, Okla. Within 30 days from the date of this order applicant shall file a sample billing statement reflecting the rate of 17-cent per Mcf at 14.65 p.s.i.a. as required by the regulations under the Natural Gas Act.

(E) Within 30 days from the date of this order applicant in Docket No. CI65–1198 shall file a sample billing statement; and applicant in Docket No. CI65–1286 shall file a revised billing statement as required by the regulations under the Natural Gas Act.

(F) Applicant in Docket No. CI61–1461 may file a notice of change in rate pursuant to § 154.94 of the Commission's regulations if it desires to collect the B.t.u. adjustment provided for in the related contract for sales from the acreage previously covered under El Paso Products Co. FPC Gas Rate Schedule No. 11.

(G) The orders issuing certificates in Dockets Nos. G–6265, G–13299, CI60–214, CI61–1461, CI65–1286, and CI66–53 are amended by adding thereto or deleting therefrom authorization to sell natural gas as described in the tabulation herein.

(H) The order issuing a certificate to Mobil Oil Corp. in Docket No. G–11946 is amended to include the sales of natural gas heretofore authorized in Dockets Nos. G–7640 and CI63–466 to be made pursuant to Mobil's FPC Gas Rate

Schedules Nos. 296 and 319, respectively; and the certificates heretofore issued in Dockets Nos. G–7640 and CI63–466 are terminated.

(I) The rate proceeding pending in Docket No. RI67–272 is terminated only with respect to sales made pursuant to Mobil Oil Corp. FPC Gas Rate Schedules Nos. 296 and 319; the rate proceeding pending in Docket No. RI69–8 is terminated in its entirety; and the issue of refunds for sales made under Mobil's FPC Gas Rate Schedules Nos. 296 and 319 shall be subject to the rate proceedings pending in Docket No. RI67–273 as it pertains to sales made under Mobil's FPC Gas Rate Schedule No. 178.

(J) The order issuing a certificate in Docket No. CI67–248 is amended by authorizing the gathering and compression of gas for Raymond H. Hedge (Operator) et al.

(K) The orders issuing certificates in Dockets Nos. G–2751, G–4574, G–7943, G–10700, CI61–776, CI61–1212, CI61–1631, CI61–1787, CI62–323, CI62–578, CI63–921, CI64–372, CI64–949, CI65–1198, and CI67–276 are amended by substituting the successors in interest as certificate holders.

(L) The orders issuing certificates in the following dockets are amended to reflect the deletion of acreage where new certificates are issued herein to authorize service from the subject acreage:

Amend to delete acreage	*New certificate*
G–14606	CI70–832
G–16973	CI70–706
G–18924	CI70–710
CI62–1240	CI70–631
CI67–794	CI70–853
CI67–1691	CI70–806

(M) Permission for and approval of the abandonment of service by applicants, as hereinbefore described, all as more fully described in the applications and in the tabulation herein are granted.

(N) Permission for and approval of the abandonment in Docket No. CI70–855 shall not be construed to relieve applicant of any refund obligations in the rate proceeding pending in Docket No. RI65–137.

(O) The certificates heretofore issued in Dockets Nos. G–5478, G–6626, G–6651, CI64–869, CI64–1391, CI66–84, CI66–480, CI66–863, CI67–1049, and CI68–1207 are terminated.

(P) The rate proceeding pending in Docket No. RI70–441 is terminated only with respect to sales made pursuant to Sun Oil Co. FPC Gas Rate Schedule No. 32.

(Q) E. J. Dunigan, Jr., et al., are made co-respondents in the proceeding pending in Docket No. RI61–7 and said proceeding is redesignated accordingly. E. J. Dunigan, Jr., et al., shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(R) Within 30 days from the issuance of this order, E. J. Dunigan, Jr., et al., shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking in Docket No. RI61–7 to assure the refund of any amounts collected by them, together with interest at the rate of seven percent per annum, in excess of the amount determined to be just and reasonable in said proceeding. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing. The agreement and undertaking shall remain in full force and effect until discharged by the Commission.

(S) North American Royalties, Inc., is substituted in lieu of Gordon Street, Inc., as respondent in the proceedings pending in Dockets Nos. RI61–372, RI61–373, and RI65–212. North American Royalties, Inc., shall comply with the refunding and reporting procedure required by the orders of November 26, 1968, 40 FPC 1359, and January 17, 1969, 41 FPC 53, in Docket No. AR61–1 et al.

(T) Reading and Bates, Inc. (Operator) et al., is substituted in lieu of Thornton Petroleum Corp. (Operator) et al., as respondent in the proceeding pending in Docket No. RI68–678 and said proceeding is redesignated accordingly. Reading and Bates shall comply with the refunding and reporting procedure required by the Natural Gas Act and section 154.102 of the regulations thereunder.

(U) Graham-Michaelis Drilling Co. is made co-respondent in the proceeding pending in Docket No. RI69–520, said proceeding is redesignated accordingly, and the agreement and undertaking submitted by Graham-Michaelis is accepted for filing. The agreement and undertaking shall remain in full force and effect until discharged by the Commission. Graham-Michaelis shall comply with the refunding and reporting procedure required by the Natural Gas Act and section 154.102 of the regulations thereunder.

(V) Phillips Petroleum Co. is made a co-respondent in the proceedings pending in Dockets Nos. RI68–2 and RI69–570, and said proceedings are redesignated accordingly. For sales made pursuant to its FPC Gas Rate Schedule No. 474 Phillips shall charge and collect 17 cents per Mcf at 14.65 p.s.i.a., subject to refund in Docket No. RI68–2, from June 1, 1969, through August 20, 1969, and 18.615 cents per Mcf at 14.65 p.s.i.a., subject to refund in Docket No. RI69–570, from August 21, 1969. Phillips shall comply with the refunding and reporting procedure required by the Natural Gas Act and section 154.102 of the regulations thereunder.

(W) Petroleum Corporation of Texas (Operator) et al., is made a co-respondent in the proceeding pending in Docket No. RI63–6 and said proceeding is redesignated accordingly. Petroleum Corporation of Texas shall comply with the refunding and reporting procedure required by the Natural Gas Act and section 154.102 of the regulations thereunder.

(X) Within 30 days from the date of this order, Petroleum Corporation of Texas (Operator) et al., shall execute, in the form set out below, and shall file with the Secretary of the Commission an acceptable agreement and undertaking in Docket No. RI63–6 to assure the refund of all amounts collected under Humble Oil & Refining Co. FPC Gas Rate Schedule No. 157 and Petroleum Corporation of Texas (Operator) et al., FPC Gas Rate Schedule No. 31, together with interest at the rate of 7 percent per annum, in excess of the amount determined to be just and reasonable in said proceeding with respect to sales from the acreage acquired by Petroleum Corporation of Texas from Humble. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreement and undertaking shall be deemed to have been accepted for filing. The agreement and undertaking shall remain in full force and effect until discharged by the Commission.

(Y) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as described in the tabulation herein.

By the Commission.

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

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
G–2751 ..... E 12–2–68	E. J. Dunigan, Jr., et al. (successor to I. J. Huval et al.)	Northern Natural Gas Co., West Panhandle Field, Gray County, Tex.	I. J. Huval et al., FPC GRS No. 1.	2	.....
			Supplement Nos. 1–3	2	1–3
			Notice of Succession 11–30–68.		.....
			Assignment 6–1–67	2	4
			Effective date: 6–1–67		.....
G–4574 ..... E 3–10–70	Garner & Gawthrop, Inc. (successor to E. R. Gawthrop and J. Ralph Garner).	Pennzoil United, Inc., Tennile District, Harrison County, W. Va.	E. R. Gawthrop and J. Ralph Garner, FPC GRS No. 2.	2	.....
			Supplement Nos. 1–3	2	1–3
			Notice of succession 3–7–70.		.....
			Assignment 12–1–69	2	4
			Effective date: 12–1–69		.....
G–6265 ..... D 3–9–70	Getty Oil Co.	Lone Star Gas Co., Sholem Alechem Field, Carter County, Okla.	Letter Agreement 12–10–69.[1][2]	45	5

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
G-7943 E 12-22-69	North American Royalties, Inc. (successor to Gordon Street, Inc.).	El Paso Natural Gas Co., Strayberry Field, Reagan County, Tex.	Gordon Street, Inc., FPC GRS No. 3. Agreement of merger 4-4-69. Effective date: 6-30-69.	1	
G-10700 E 12-22-69	do	do	Gordon Street, Inc., FPC GRS No. 4. Agreement of merger 4-4-69. Effective date: 6-30-69.	2	
G-11946 (G-7640) (CI63-466) C 10-13-69 [2]	Mobil Oil Corp. (Operator) et al.	Tennessee Gas Pipeline Company, a division of Tenneco Inc., Seeligson Field, Jim Wells County, Tex.	Amendatory agreement 10-9-69 [4] (supersedes Mobil's FPC GRS Nos. 296 and 319).[3]	[5] 178	7
(G-7640) [2]	do	do	Notice of supersession 10-9-69. [4 6]	[5] 296	7
(CI63-466) [2]	do	do	Notice of supersession 10-9-69. [4 6]	[5] 319	7 11
G-13299 D 1-11-68	Atlantic Richfield Co. (Operator) et al.	Michigan Wisconsin Pipe Line Co., Laverne Area, Beaver County, Okla.	Assignment 11-16-67 [2 7]	414	53
G-17456 A 1-5-59	Union Oil Co. of California.	United Gas Pipe Line Co., Tri-Channel Field, Nueces County, Tex.	Contract 11-21-58 Letter 11-21-58	33 33	1
CI60-214 C 2-1-68	Petroleum, Inc.	Michigan Wisconsin Pipe Line Co., Mocane-Laverne Field, Beaver County, Okla.	Amendatory agreement 11-24-67. Compliance 3-18-68 [4 8]	39 39	4 5
CI61-776 E 1-15-70	Dal-Ken Corp. et al. (successor to Kelly, Butterworth & Lemann).	Equitable Gas Co., Court House District, Lewis County, W. Va.	Kelly, Butterworth & Lemann, FPC GRS No. 3. Supplement No. 1. Notice of succession 12-28-69. Assignment 3-4-69 [9] Assignment 9-18-69 [10] Effective date: 11-1-69.	1 1 1 1	1 2 3
CI61-1212 E 1-15-70	do	Equitable Gas Co., Collins Settlement District Lewis County, W. Va.	Kelly, Butterworth & Lemann, FPC GRS No. 4. Supplement No. 1. Notice of succession 12-28-69. Assignment 3-4-69 [9] Assignment 9-18-69 [10] Effective date: 11-1-69.	2 2 2 2	1 2 3
CI61-1461 C 3-16-70	El Paso Products Co. (Operator) et al.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., East Rock Springs Field, Sweetwater County, Wyo.	Contract 10-31-69 [11 12]	17	
CI61-1631 E 1-15-70	Dal-Ken Corp. et al. (successor to Kelly, Butterworth & Lemann).	Equitable Gas Co., Court House District, Lewis County, W. Va.	Kelly, Butterworth & Lemann, FPC GRS No. 6. Supplement No. 1. Notice of succession 12-28-69. Assignment 3-4-69 [9] Assignment 9-18-69 [10] Effective date: 11-1-69.	4 4 4 4	1 2 3
CI61-1787 E 3-10-70	Garner & Gawthrop, Inc. (successor to E. R. Gawthrop and J. Ralph Garner).	Consolidated Gas Supply Corp., Tennile District, Harrison County, W. Va.	E. R. Gawthrop and J. Ralph Garner, FPC GRS No. 1. Supplement Nos. 1-6. Notice of succession 3-7-70. Assignment 12-1-69. Effective date: 12-1-69.	1 1 1	1-6 7
CI62-323 E 2-2-70	Dal-Ken Corp. (successor to Kelly, Butterworth & Lemann).	Equitable Gas Co., Court House District, Lewis County, W. Va.	Kelly, Butterworth & Lemann, FPC GRS No. 7. Supplement No. 1. Notice of succession 12-28-69. Assignment 3-4-69 [9] Assignment 9-18-69 [10] Effective date: 11-1-69.	5 5 5 5	1 2 3
CI62-578 E 1-12-70	Reading and Bates, Inc. (Operator) et al. (successor to Thornton Petroleum Corp. (Operator) et al.).	Northern Natural Gas Co., Hansford Field, Hansford County, Tex.	Thornton Petroleum Corp. (Operator) et al., FPC GRS No. 7. Supplement Nos. 1-3. Notice of succession (undated). Supplemental agreement 5-29-68 [13] Effective date: 2-12-70. Assignment 10-23-69 [14] Effective date: 10-1-69.	7 7 7 7	1-3 4 5
CI63-921 E 2-11-70	Charles E. Reed, et ux., d.b.a. Reed Oil Co. (successor to Harry R. Cronin, Jr., et al., d.b.a. H.R.C. Gas & Oil Association).	Equitable Gas Co., Grant District, Wetzel County, W. Va.	Harry R. Cronin, Jr., et al., d.b.a. H.R.C. Gas & Oil Associates, FPC GRS No. 1. Notice of succession 2-4-70. Assignment 3-12-68 [9] Assignment description 2-16-70. [15] Effective date: 1-1-70.	1 1	1 2
CI64-372 E 12-22-69	North American Royalties, Inc. (Operator), et al., (successor to Gordon Street, Inc. (Operator), et al.).	Tennessee Gas Pipeline Company, a division of Tenneco Inc., East Alligator Bayou Field, Chambers County, Tex.	Gordon Street, Inc. (Operator), et al., FPC GRS No. 5. Agreement of merger 4-4-69. Effective date: 6-30-69.	3	
CI64-549 E 2-5-70	Reserve Oil & Gas Company (successor to Mohawk Petroleum Corp.).	Colorado Interstate Gas Company, a division of Colorado Interstate Corp., Desert Springs Field, Sweetwater County, Wyo.	Mohawk Petroleum Corp., FPC GRS No. 1. Supplement No. 1. Notice of succession (undated). Assignment 8-22-69 [9] Effective date: 8-22-69.	46 46 46	1 2
CI65-1198 E 3-6-70 [16]	White Shield Oil & Gas Corp. (successor to Valor Production Co.).	Almos Gas Gathering Co., Linke Field, Bee County, Tex.	Valor Production Co., FPC GRS No. 2. Supplement Nos. 1-2. Notice of succession (undated). Assignment 2-15-70. Effective date: 1-1-69.	8 8 8	1-2 3
CI65-1286 C 3-11-70	Rincon Oil & Gas Corp.	El Paso Natural Gas Co., Dakota Field, Rio Arriba County, N. Mex.	Supplemental agreement 3-2-70.[3]	5	5
CI66-53 D 2-16-70	Mobil Oil Corp.	Northern Natural Gas Co., East Clark Area, Harper County, Okla.	Notice of cancellation 2-12-70.[3 18]	425	5
CI67-248 12-29-69 [19]	Beacon Gasoline Co.	Acreage in Webster Parish, La.[20]	Contract 10-28-69 [21] Letter agreement 10-28-69.[22] Gathering agreement 10-28-69. Letter agreement 10-28-69.[3]	21 21 21 21	1 2 3
CI67-276 E 2-11-70	Charles E. Reed, et ux., d.b.a. Reed Oil Co. (successor to Harry R. Cronin, Jr., et al., d.b.a. H.R.C. Gas & Oil Associates).	Equitable Gas Co., Grant District, Marion County, W. Va.	Harry R. Cronin, Jr., et al., d.b.a. H.R.C. Gas & Oil Associates, FPC GRS No. 3. Notice of succession 2-4-70. Assignment 3-12-68 [9] Effective date: 1-1-70. Contract 6-30-54.	2 2 34	1
CI70-538 A 12-8-69	Kirby Petroleum Co. (Operator), et al.	Phillips Petroleum Co., Cheatham Lease, Hutchinson County, Tex.			

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
CI70-633 (CI62-1240) F 1-12-70 [24]	Graham-Michaelis Drilling Co. (successor to Cities Service Oil Co.).	Northern Natural Gas Co., Harper Ranch North Morrow Sand Field, Clark County, Kans.	Contract 3-6-62 [25]	90	
			Assignment 9-1-69 [26]	90	1
			Effective date: 9-1-69		
CI70-665 A 1-22-70	Edwin L. Cox	Michigan Wisconsin Pipe Line Co., Laverne Field, Beaver County, Okla.	Contract 1-2-70	81	
			Compliance 3-3-70 [3] [27]	81	1
CI70-687 A 1-28-70 [28]	Atlantic Richfield Co. [28]	Southern Natural Gas Co., Block 21, Main Pass Area, Zone 1, La.	Contract 11-17-69 [4]	630	
CI70-706 (G-16073) F 1-30-70	Phillips Petroleum Co. (successor to Humble Oil & Refining Co.).	Natural Gas Pipeline Co. of America, Southeast Camrick Field, Beaver County, Okla.	Contract 10-1-58 [29]	474	
			Letter agreement 10-22-58	474	1
			Amendment 10-24-60	474	2
			Agreement 1-1-63	474	3
			Assignment 12-3-69 [30]	474	4
			Effective date: 6-1-69		
CI70-710 (G-18024) F 2-2-70	Petroleum Corp. of Texas (Operator), et al. (successor to Humble Oil & Refining Co.).	Coastal States Gas Producing Co., Northwest Orange Grove Field, Jim Wells County, Tex.	Contract 4-13-59 [31]	31	
			Letter Agreement 4-13-59	31	1
			Letter Agreement 9-1-59	31	2
			Letter Agreement 7-21-67	31	3
			Assignment 5-16-69 [32]	31	4
			Assignment 5-29-69 [33]	31	5
			Effective date: 4-1-69		
(G-18024) [34a]	Humble Oil & Refining Co.	do	Assignment 5-16-69 [32]	157	3
			Effective date: 4-1-69		
CI70-735 (CI68-1287) B 2-12-70	Cecil Meadows Enterprises.	United Fuel Gas Co., Rocky Fork Field, Union District, Kanawha County, W. Va.	Notice of cancellation 3-25-70 [3] [35]	1	1
CI70-755 (CI66-863) B 2-24-70	Har-Ken Oil Co. (Operator) et al.	Texas Gas Transmission Corp., Midland Field, Muhlenberg County, Ky.	Notice of cancellation 2-6-70 [3] [36]	8	1
CI70-760 A 2-24-70 4-6-70 [37]	Union Drilling, Inc., et al.	Equitable Gas Co., Holly and Salt Lick Districts, Braxton County, W. Va.	Contract 1-2-70	43	
			Supplemental Agreement 3-2-70 [3]	43	1
CI70-791 A 3-2-70	Knight & Miller Oil Corp. (Operator) et al.	Kansas-Nebraska Natural Gas Co., Inc., Cloverleaf Field, Logan County, Colo.	Contract 1-2-70 (No. L-1739).	1	
CI70-792 A 3-2-70	do	do	Contract 1-2-70 (No. L-1747).	2	
CI70-806 (CI67-1691) F 3-5-70	Texas Oil & Gas Corp. (successor to Humble Oil & Refining Co.).	Panhandle Eastern Pipe Line Co., Northwest Dombey Field, Texas County, Okla.	Contract 5-2-67 [38]	58	
			Amendment 2-23-68	58	1
			Assignment 10-22-69 [39]	58	2
			Effective date: 10-22-69		
			Assignment 10-27-69 [40]	58	3
			Assignment 10-29-69 [41]	58	4
			Effective date: 10-29-69		
CI70-825 (CI67-1949) B 3-9-70	Central Gas Co. et al	Consolidated Gas Supply Corp., Sheridan District, Calhoun County, W. Va.	Notice of cancellation 3-5-70 [3] [34]	4	1
CI70-826 (G-5478) B 3-9-70	N. M. Beardmore	Consolidated Gas Supply Corp., Salt Lick District, Braxton County, W. Va.	Notice of cancellation 3-5-70 [3] [35]	1	22
CI70-827 (CI66-84) B 3-9-70	M. D. Carey, d.b.a. Carey Oil Co., et al.	Consolidated Gas Supply Corp., Grant District, Doddridge County, W. Va.	Notice of cancellation 3-5-70 [3] [35]	4	1
CI70-829 (G-6626) B 3-6-70	Sun Oil Co.	Transcontinental Gas Pipe Line Corp., Mission Valley Field, Victoria County, Tex.	Notice of cancellation 3-4-70 [3] [35]	3	13
CI70-830 A 3-10-70	Beacon Resources Corp. (Operator) et al. [42]	Cities Service Gas Co., De Geer Northeast Field, Barber County, Kans.	Contract 2-19-70 [5]	2	
CI70-832 (G-14606) F 3-6-70	Earl E. Wall (successor to Humble Oil & Refining Co.).	Transcontinental Gas Pipe Line Corp., Lucy Field, St. Charles Parish, La.	Contract 3-11-58 [43]	1	
			Assignment 3-24-70 [44]	1	1
			Effective date: 2-1-70		
(G-14606) [34a]	Humble Oil & Refining Co.	do	Notice of partial cancellation 3-11-70 [44]	128	4
			Effective date: 2-1-70		
CI70-837 A 3-10-70	Garner & Gawthrop, Inc. (successor to E. R. Gawthrop and J. Ralph Garner).	Pennzoil United, Inc., Tennile District, Harrison County, W. Va.	Contract 5-26-49 [45]	3	
			Assignment 12-1-69 [46]	3	1
			Effective date: 12-1-69		
CI70-838 (G-6651) B 3-12-70	Sun Oil Co.	Texas Eastern Transmission Corp., Helen Gohlke Field, Victoria County, Tex.	Notice of cancellation 3-9-70 [3] [35]	[47] 32	20
CI70-844 A 3-9-70	Kingwood Oil Co.	Arkansas Louisiana Gas Co., Arkoma Area, Le Flore County, Okla.	Ratified 8-28-67	24	
			Ratified 1-19-66	24	1
			Contract 3-30-64	24	2
			Letter agreement 3-30-64	24	3
			Letter agreement 11-28-67	24	4
CI70-845 A 3-16-70	Weipenn Gas Co., Inc., by Weiner enterprise.	Equitable Gas Co., Otter District, Braxton County, W. Va.	Contract 3-10-70 [6]	3	
CI70-848 (CI66-480) B 3-17-70	Vincent & Welch, Inc	Valley Gas Transmission, Inc., Woodlawn Field, Jefferson Davis Parish, La.	Notice of Cancellation 3-11-70 [3] [35]	4	1
CI70-849 A 3-18-70	Allen Beard	United Fuel Gas Co, Coopers Creek Field, Kanawha County, W. Va.	Contract 1-21-70	9	
CI70-852 (CI67-794) F 3-16-70	Pan American Petroleum Corp. (successor to John Briggs).	Northern Natural Gas Co., 42-Township Area, Ellis County, Okla.	Contract 5-19-66 [48]	545	
			Lease agreement 1-1-70 [49]	545	1
			Lease agreement 1-1-70 [50]	545	2
			Assignment 1-1-70 [51]	545	3
			Effective date: 1-1-70		
CI70-853 A 3-18-70	Mustang Exploration Co., Inc.	Transcontinental Gas Pipe Line Corp., Trans-Tex Field, Wharton County, Tex.	Contract 2-24-70 [3] [52]	1	
CI70-855 (CI64-1391) B 3-18-70	Houston Oil & Minerals Corp. (Operator), et al.	Texas Eastern Transmission Corp., West Weesatche Field, Goliad County, Tex.	Notice of cancellation 3-18-70 [3] [35]	4	20
CI70-856 (CI64-889) B 3-18-70	do	Texas Eastern Transmission Corp., West Weesatche Field, Goliad County, Tex.	Notice of cancellation 3-18-70 [3] [35]	6	4
CI70-857 A 3-18-70	Union Drilling, Inc.	Cumberland & Allegheny Gas Co., Meade District, Upshur County, W. Va.	Contract 11-5-68 [3] [53]	87	
CI70-858 A 3-18-70	do	Cumberland & Allegheny Gas Co., Washington District, Upshur County, W. Va.	Contract 11-5-68 [3] [53]	56	

[1] Production of gas no longer economically feasible.
[2] Effective date: Date of this order.
[3] Applicant requests that its certificate in Docket No. G-11946 be amended to include those sales heretofore authorized in Dockets Nos. G-7660 and CI63-466 to be made pursuant to its FPC GRS Nos. 296 and 319, respectively, and that the certificates in the latter dockets be terminated. No new sales are proposed.
[4] Includes buyer's agreement to purchase all gas attributable in the field under this rate schedule.
[5] Contracts comprising these rate schedules are identical except for acreage dedication.
[6] Evidences Mobil's intention to discontinue sales under the rate schedule and to continue the sales under its FPC GRS No. 178.
[7] Deletes acreage assigned to Cleary Petroleum, Inc.
[8] Complies with temporary certificate issued Mar. 8, 1968. By letter dated Mar. 27, 1970, applicant states willingness to accept permanent authorization conditioned to an initial rate of 17 cents per Mcf including tax.

[9] Effective date: Date of initial delivery (applicant shall advise the Commission as to such date).
[10] From H. Stanley Butterworth and Paul B. Lemann to Corinne Roy Kelly.
[11] From Corinne Roy Kelly to applicant.
[12] Supersedes El Paso's FPC GRS No. 11 only insofar as it pertains to secs. 4, 8, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34, T. 18 N., R. 29 W. (other acreage remains dedicated to FPC GRS No. 11); and dedicates additional acreage previously undedicated.
[12a] Effective date: Date of initial delivery for the additional acreage and date of this order for the acreage previously dedicated to FPC GRS No. 11.
[13] Amends provisions concerning testing of meters and determination of specific gravity.
[14] From Thornton Petroleum Corp. to applicant.
[15] Pertains to Virginia Myers, et vir., et al., lease.
[16] Describes prior assignments and leases which identify the subject acreage in the contract dedication and in the assignment dated Mar. 12, 1968.
[17] From Mohawk Liquidating Corp. (formerly Mohawk Petroleum Corp.) to applicant.
[18] By letter dated Mar. 13, 1970, applicant amended its application to provide for a rate of 12 cents per Mcf, the predecessor's certificated rate.
[19] Deletes nonproducing acreage released from contract.
[20] Applicant requests authorization to gather, process and compress the subject gas in its Webster Parish Plant and deliver such gas to Texas Gas Transmission Corp. For this service it will receive from the producers 0.25 cent per Mcf gathering charge.
[21] Between Beacon and Raymond H. Hedge et al., Hedge's sale to Texas Gas was authorized in Docket No. CI70-527.
[22] Amends measurement provisions in Schedule No.1 of the basic contract.
[23] Pertains to Emmett R. Shaver et al., Lease.
[24] Application was erroneously noticed as an initial service.
[25] On file as Cities Service Oil Co. FPC GRS No. 137.
[26] From Cities Service Oil Co. to Graham-Michaelis Drilling Co.
[27] Accepts conditioned temporary certificate issued Feb. 2, 1970. Applicant indicates willingness to accept a permanent certificate conditioned to 17 cents per Mcf plus B.t.u. adjustment and conditioning buyer's take-or-pay obligation to a 1 to 3,650 ratio of takes to reserves during the first 2 contract years and a 1 to 7,300 ratio thereafter.
[28] Jan. 1, 1974, moratorium provided by Opinion No. 546-A.
[29] Applicant has indicated willingness to accept a permanent certificate conditioned to the rate of 20 cents per Mcf, adjusted for quality as prescribed in Opinion No. 546; contract rate is 21.25 cents per Mcf.
[30] Also on file as Humble Oil & Refining Co. FPC GRS No. 220.
[31] From Humble Oil & RefiningCo. to Phillips Petroleum Co.
[32] Between Humble Oil & Refining Co. and Coastal States Gas Producing Co.; on file as Humble Oil & Refining Co. FPC GRS No. 157.
[33] Assigns acreage from Humble to Petroleum Corporation of Texas.
[34] Assigns one-half interest acquired from Humble from Petroleum Corp. of Texas, to Ibex Partnership, covered as "et al." party by Petroleum.
[34a] No certificate filing made or necessary; only the related rate filing is being accepted.
[35] Source of gas depleted.
[36] Commission order dated June 23, 1969, in Docket No. CP69-227 authorized Texas Gas Transmission Corp. to convert the Midland Kentucky Gas Field to an underground gas storage field.
[37] Amendment to pending certificate application to reflect proposed rate of 28 cents in lieu of 27.104 cents.
[38] Contract on file as Humble Oil & Refining Co. FPC GRS No. 427.
[39] From Humble Oil & Refining Co. to Texas Oil & Gas Corp.
[40] From Humble Oil & Refining Co. to Toyah Corp.
[41] From Toyah Corp. to Texas Oil & Gas Corp.
[42] By letter dated Mar. 24, 1970, applicant expressed willingness to accept a permanent certificate limiting buyer's take-or-pay obligation to a 1 to 3,650 ratio of takes to reserves during the first 2 contract years and a 1 to 7,300 ratio thereafter.
[43] Between Humble Oil & Refining Co. and Transcontinental; on file as Humble Oil & Refining Co. FPC GRS No. 128.
[44] Assigns acreage from Humble Oil & Refining Co. to Earl E. Wall.
[45] Sale being rendered on June 7, 1954, by predecessor; predecessor never made certificate or rate filings.
[46] Instrument whereby applicant acquired ownership.
[47] Rate of 14.6617 cents effective subject to refund in Docket No. RI70-441; however, no amounts have been collected subject to refund. Therefore, the rate proceeding pending in Docket No. RI70-441 will be terminated only with respect to sales made pursuant to FPC GRS No. 32.
[48] On file as John Briggs FPC GRS No. 1.
[49] Covers the acreage in sec. 34, T. 22 N., R. 24 W.
[50] Covers the acreage in sec. 23, T. 23 N., R. 26 W.
[51] From John Briggs to Pan American Petroleum Corp.
[52] Provides that contract term will be 10 years and will begin on date of first delivery.
[53] Sale being rendered without prior Commission authorization.

Suggested agreement and undertaking:

BEFORE THE FEDERAL POWER COMMISSION

(Name of Respondent: _____)

Docket No._____

AGREEMENT AND UNDERTAKING OF (NAME OF RESPONDENT) TO COMPLY WITH REFUNDING AND REPORTING PROVISIONS OF SECTION 154.102 OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

(Name of Respondent) hereby agrees and undertakes to comply with the refunding and reporting provisions of section 154.102 of the Commission's regulations under the Natural Gas Act insofar as they are applicable to the proceeding in Docket No. _____, and has caused this agreement and undertaking to be executed and sealed in its name by a duly authorized officer this _____ day of _____, 19___.

(Name of Respondent)

By _____

Attest:

_____

[F.R. Doc. 70-6817; Filed, June 4, 1970; 8:45 a.m.]

[Docket No. G-2683 etc.]

DUQUESNE NATURAL GAS CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

MAY 25, 1970.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are 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 applications should on or before June 19, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

All certificates of public convenience and necessity granting applications for sales from the Permian Basin area will be

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

issued at rates not exceeding the applicable area ceiling rates established in Opinions Nos. 468 and 468–A, 34 FPC 159 and 1068, or the contractually authorized rates, whichever are less, unless at the time of filing of such certificate applications or within the time fixed for filing protests and petitions to intervene applicants indicate in writing that they are unwilling to accept such certificates.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
G-2683 E 4-29-70	Duquesne Natural Gas Co. (successor to Associated Programs, Inc. (Operator) et al.), 306 Southwest Tower, Houston, Tex. 77002.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Trans-Tex Field, Wharton County, Tex.	15.0	14.65
G-4229 E 4-29-70	do	Trunkline Gas Co., Cage Ranch Field, Brooks County, Tex.	[1] 15.4536	14.65
G-8408 E 4-29-70	Duquesne Natural Gas Co. (successor to Associated Programs, Inc.).	Trunkline Gas Co., Alfred-Almond Field, Jim Wells County, Tex.	[1] 15.4269	14.65
G-17399 C 2-12-70 as supplement 3-23-70	Perry R. Bass (Operator) et al., 1210 Fort Worth National Bank Bldg., Fort Worth, Tex. 76102.	Texas Gas Transmission Corp., South Bayne Field Area, Acadia Parish, La.	[2] 20.625	15.025
G-18587 E 5-7-70	Maynard Oil Co. (Operator) (successor to Estate of Bennett L. Woolley et al.), 2030 1 Main Place, Dallas, Tex. 75250.	Natural Gas Pipeline Co. of America, Boonsville (Bend Conglomerate, Gas), Field, Wise County, Tex.	[1] 17.3138	14.65
CI61-752 C 5-5-70	Atlantic Richfield Co., Post Office Box 2819, Dallas, Tex. 75221.	Michigan Wisconsin Pipe Line Co., acreage in Woodward County, Okla.	[4] 17.0	14.65
CI62-839 E 4-14-70	A.W. Bailey (successor to Louis A. Condry, Trustee), Route No. 3, Box 24, Harrisville, W. Va. 26362.	Consolidated Gas Supply Corp., West Union District, Doddridge County, W. Va.	25.0	15.325
CI62-983 E 4-24-70	Dal-Ken Corp. (successor to Kelly, Butterworth & Lemann), Box 353, Worthington, Ohio 43085.	Consolidated Gas Supply Corp., Collins Settlement District, Lewis County, W. Va.	25.0	15.325
CI63-1229 E 4-24-70	Dal-Ken Corp. (successor to J. N. Ryan d.b.a. Butterworth & Lemann).	Consolidated Gas Supply Corp., Grant and Union Districts, Harrison County, W. Va.	20.0	15.325
CI63-1560 E 4-29-70	Duquesne Natural Gas Co. (successor to Associated Programs, Inc.).	Valley Gas Transmission, Inc., Koopman and San Diego East Fields, Jim Wells and Duval Counties, Tex.	[5] 15.0	14.65
CI64-1142 E 5-4-70	Terra Resources, Inc. (successor to C.R.A., Inc. (Operator), et al.), 1450 Fourth National Bank Bldg., Tulsa, Okla. 74119.	Kansas-Nebraska Natural Gas Co., Inc., North Shawnee Flat Top Field, Converse County, Wyo.	12.0	15.025
CI65-307 E 4-29-70	Duquesne Natural Gas Co. (successor to Associated Programs, Inc.).	Texas Eastern Transmission Corp., Englehart Field, Colorado County, Tex.	15.0	14.65
CI66-176 C 5-6-70	Skelly Oil Co. (Operator) et al., Post Office Box 1650, Tulsa, Okla. 74102.	Arkansas Louisiana Gas Co. acreage in Latimer County, Okla.	16.0	14.65

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI68-106 A 7-31-67 as amended 9-18-67	Union Oil Co. of California, Union Oil Center, Los Angeles, Calif. 90017.	El Paso Natural Gas Co., Brown Bassett Field, Crockett County, Tex.	[4] 16.5	14.65
CI68-228 A 8-31-67 C 2-9-68 C 1-19-70	Hunt Oil Co., 1401 Elm St., Dallas, Tex. 75202.	do	[4] 16.5 [4] 17.5	14.65 14.65
CI68-1217 [3] E 4-17-70	Leslie Bowling (Operator) et al. (successor to Jack E. Koch Oil Co., Inc. (Operator) et al.) c/o Patrick F. Taylor, 402 DeMontluzin Bldg., New Orleans, La. 70112.	United Gas Pipe Line Co., East Bel City Field, Calcasieu Parish, La.	[7] 20.0	15.025
CI69-483 [3] E 4-24-70	Dal-Ken Corp. (successor to Kelly, Butterworth & Lemann).	Consolidated Gas Supply Corp., Clark District, Harrison County, W. Va.	[4] 28.0 [8] 30.0	15.325
CI69-596 [3] E 5-5-70	Terra Resources, Inc. (successor to C.R.A., Inc., et al.).	Tennessee Gas Pipeline Co., a division of Tenneco Inc., South Sweet Lake Bay Field, Terrebonne Parish, La.	20.0	15.025
CI70-985 A 4-30-70	Eason Oil Co., Post Office Box 18775, Oklahoma City, Okla. 73118.	Northern Natural Gas Co., West Sharon Field, Woodward County, Okla.	[4] 20.0	14.65
CI70-986 A 5-1-70	Cleary Funds, Inc., et al., c/o G. D. Ashabranner, attorney, Lawyers Bldg., Oklahoma City, Okla. 73102.	Panhandle Eastern Pipe Line Co., acreage in Ellis County, Okla.	[4] 20.0	14.65
CI70-987 A 5-1-70	Texaco, Inc., Post Office Box 52332, Houston, Tex. 77052.	Texas Gas Transmission Corp., Block 11 Field, South Marsh Island Area, Offshore Louisiana.	[9] 22.0	15.025
CI70-988 (CI60-459) F 4-30-70	Michael V. Kelly and William E. Brock, d.b.a. Kelly-Brock (successor to Atlantic Richfield Co.), 1420 Americana Bldg., Houston, Tex. 77002.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Englehart Field, Colorado County, Tex.	[10] 16.96	14.65
CI70-990 A 5-6-70	Getty Oil Co., Post Office Box 1404, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Ship Shoal Block 198, Offshore St. Mary and Terrebonne Parishes, La.	22.25	15.025
CI70-991 A 5-7-70	LaCoastal Petroleum Corp., 1868 Mockingbird Lane, Dallas, Tex. 75235.	Texas Eastern Transmission Corp., South Gist Field, Jasper County, Tex.	18.5	14.65
CI70-992 A 5-4-70	White Shield Oil & Gas Corp., c/o Robert E. McCormack, attorney, Suite 102, 5963 East 31st St., Tulsa, Okla. 74135	Michigan Wisconsin Pipe Line Co., Cheyenne Valley Field, Major County, Okla.	[11] 21.04	14.65
CI70-993 A 5-4-70	Robert J. Beams (Operator) et al., 2128 Republic National Bank Tower, Dallas, Tex. 75201.	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Vilas Field, Baca County, Colo.	[4] 14.6	14.65
CI70-994 A 5-5-70	Southwest Oil Industries, Inc., 801 First National Bldg., Oklahoma City, Okla. 73102	Arkansas Louisiana Gas Co., Kinta Field, Sequoyah County, Okla.	15.0	14.65
CI70-995 A 5-6-70	Mobil Oil Corp., Post Office Box 1774, Houston, Tex. 77001.	Transwestern Pipeline Co., Guymon Field, Cimarron County, Okla.	17.0	14.65
CI70-996 A 5-7-70	G. M. Close, First National Bldg., Oklahoma City, Okla. 73102.	Panhandle Eastern Pipe Line Co., Oakdale Pool, Woods County, Okla.	[12] 15.0	14.65
CI70-997 A 5-6-70	Texas International Petroleum Corp., 2625 Line Ave., Shreveport, La. 71104.	Arkansas Louisiana Gas Co., Wilburton Field, Latimer County, Okla.	16.0	14.65
CI70-998 A 5-7-70	Rimrock Exploration Co. (Operator) et al., 863 First National Bldg., Oklahoma City, Okla. 73102.	Northern Natural Gas Co., Mocane-Laverne Field, Beaver County, Okla.	[4] 20.0	14.65
CI70-999 A 5-8-70	Texaco, Inc.	Panhandle Eastern Pipe Line Co., Midwell, Northwest Field, Cimarron County, Okla.	[13] 17.0	14.65
CI70-1000 A 5-11-70	Gene Stalnaker Drilling Co. et al., Letter Gap, W. Va. 25255.	Consolidated Gas Supply Corp., Center District, Gilmer County, W. Va.	28.0	15.325

Docket No. and date filed	Applicant	Purchaser, field, and location	Price per Mcf	Pressure base
CI70-1001..... A 5-11-70	D. A. Dorward, 41 North Chesterfield Road, Columbus, Ohio 43209.	Consolidated Gas Supply Corp., Hackers Creek District, Lewis County, W. Va.	28.0	15.325
CI70-1002..... A 5-11-70	Continental Oil Co., Post Office Box 2197, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Block 198 Ship Shoal Area, Ship Shoal 176 Field, Offshore Louisiana.	22.25	15.025
CI70-1003..... A 5-11-70	White Shield Oil & Gas Corp. (Operator) et al.	Texas Eastern Transmission Corp., Grand Cane Field, DeSoto Parish, La.	18.75	15.025
CI70-1004..... A 5-11-70	Heeter-Vandergrift, Route 1, Box 175, Spencer, W. Va.	Consolidated Gas Supply Corp., Washington District, Calhoun County, W. Va.	28.0	15.325
CI70-1005..... A 5-11-70	Royal Oil & Gas Corp., Clark Bldg., Indiana, Pa. 15701.	Consolidated Gas Supply Corp., Center District, Gilmer County, W. Va.	27.0	15.325
CI70-1006..... A 5-11-70	Franklin Adkins, 35 Valley View Dr., Vienna, W. Va. 26101.	Consolidated Gas Supply Corp., Glenville District, Gilmer County, W. Va.	28.0	15.325
CI70-1007..... A 5-11-70	Jones & Pellow Oil Co., 101 Northeast 26th St., Oklahoma City, Okla. 73105.	Panhandle Eastern Pipe Line Co., acreage in Woods County, Okla.	[4] 20.0	14.65
CI70-1008..... A 5-12-70	Cities Service Oil Co., Post Office Box 300, Tulsa, Okla. 74102.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Block 198, Ship Shoal Area, Offshore Louisiana.	22.25	15.025
CI70-1009..... B 5-11-70	Lone Star Producing Co., 301 South Harwood St., Dallas, Tex. 75201.	Transcontinental Gas Pipe Line Corp., Oakville Field, Live Oak County, Tex.	Depleted	.....
CI70-1010..... B 5-11-70	Pennzoil Producing Co., 900 Southwest Tower, Houston, Tex. 77002.	Claiborne Gasoline Co., Mount Olive Field, Claiborne Parish, La.	Uneconomical	.....

[1] Rate in effect subject to refund in Docket No. RI70-1038. Subject to dehydration charge.
[2] Sale from additional acreage added by contract amendment dated Apr. 10, 1962, at a settlement rate approved by Commission order of Mar. 13, 1963, in Docket No. G-17560 et al.
[3] Subject to upward B.t.u. adjustment.
[4] Subject to upward and downward B.t.u. adjustment.
[5] Rate in effect subject to refund in Docket No. RI67-452.
[6] Pending—no permanent certificate issued.
[7] Rate being collected pursuant to a conditioned temporary certificate.
[8] If average daily delivery is less than 1,000 Mcf per month.
[9] If average daily delivery is 1,000 Mcf or more per month.
[10] Applicant agrees to accept certificate conditioned as Opinion Nos. 546 and 546-A.
[11] Rate in effect subject to refund in Docket No. RI70-700.
[12] Includes 1.04 cents tax reimbursement. Subject to upward and downward B.t.u. adjustment.
[13] Contract provides for rate of 20 cents per Mcf; however, Applicant states its willingness to accept certificate conditioned to the rate of 15 cents per Mcf, plus B.t.u. adjustment.
[14] Contract provides for rate of 20 cents per Mcf, plus B.t.u. adjustment; however, Applicant agrees to accept certificate conditioned to an initial rate of 17 cents per Mcf, subject to B.t.u. adjustment.

[F.R. Doc. 70-6818; Filed, June 5, 1970; 8:45 a.m.]

FEDERAL RESERVE SYSTEM

FIRST VIRGINIA BANKSHARES CORP.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First Virginia Bankshares Corp., Arlington, Va., for approval of acquisition of 90 percent or more of the voting shares of First Atlantic Bank, Hampton, Va., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), the application of First Virginia Bankshares Corp., Arlington, Va. ("Applicant"), a registered bank holding company, for the Board's prior approval of the acquisition of 90 percent or more of the voting shares of First Atlantic Bank, Hampton, Va., a proposed new bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Banking of the State of Virginia and requested his views and recommendation. The Commissioner recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on April 9, 1970 (35 F.R. 5843), 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 U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

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. Upon such consideration, the Board finds that:

Applicant is the sixth largest banking organization, and the fourth largest bank holding company, in Virginia, controlling 12 subsidiary banks which hold 6.4 percent of total bank deposits in the State. (All banking data are as of June 30, 1969, adusted to reflect holding company formations and acquisitions approved by the Board to date.) Since Bank is a proposed new bank, consummation of the proposal would not increase concentration in any market.

While two of applicant's subsidiaries operate offices 14 and 17 miles distant, respectively, from Bank's proposed site, these offices are not readily accessible to the Newport News-Hampton area where Bank will be located, and Virginia law prohibits the subsidiaries of applicant referred to, on the one hand, and Bank, on the other, from branching into the others' service areas.

Applicant's entry should stimulate additional competition and lead to some deconcentration in the area. Consummation of the proposed acquisition would neither eliminate existing competition, foreclose potential competition, nor have 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, and would have a procompetitive effect in the Newport News-Hampton area. The banking factors, as applied to the facts of record, and considerations relating to the convenience and needs of the communities to be served are consistent with approval of the application. 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 in the findings summarized above, that said application be and hereby is approved, provided that the action so approved shall not be consummated (a) before the thirtieth calendar day following the date of this Order or (b) later than 3 months after the date of this order; and that First Atlantic Bank shall be opened for business not later than 6 months after the date of this order. The latter time periods may be extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors.[1]

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-6956; Filed, June 4, 1970; 8:47 a.m.]

MARSHALL & ILSLEY BANK STOCK CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Marshall & Ilsley Bank Stock Corp., which is a bank holding company located in Milwaukee, Wis., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of The First National Bank of the City of Superior, Superior, Wis.

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

(1) any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Maisel, and Brimmer.
Absent and not voting: Governors Daane and Sherrill.

in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

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

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

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

By order of the Board of Governors, May 28, 1970.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-6957; Filed, June 4, 1970; 8:47 a.m.]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs., Temp. Reg. F-71]

ADVANCED RECORD SYSTEM

Administrative Control of Input Traffic During Emergency Conditions

1. *Purpose.* This regulation establishes procedures for administrative control of input traffic to the Advanced Record System (ARS) during emergency conditions. It also implements the "Minimize" guidelines prescribed by the National Communications System (NCS) Memorandum NCS 1-69, dated September 24, 1969.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires October 31, 1970. Prior to expiration, the provisions of this regulation will be incorporated in Part 101-35 of the Federal Property Management Regulations.

4. *Background.* Experience during emergencies and operational exercises has revealed that NCS telecommunications networks are not always adequate to support the normal peak period traffic in addition to traffic that may be generated as a result of an emergency situation. Various methods have been used in an effort to reduce nonessential traffic to facilitate the flow of essential traffic over these networks. The most effective way of eliminating nonessential traffic during emergencies is to assign responsibility for screening messages to the originator as directed by agency clearance officers.

5. *Definitions.*

a. The term "Minimize" as used herein is an administrative control procedure which restricts certain traffic on the ARS during an emergency to facilitate the expeditious handling of essential traffic.

b. Essential traffic is defined as messages of any precedence which must be transmitted electrically to avoid a serious detrimental impact on agency mission accomplishments or safety of life and property.

6. *Policy.* GSA will determine when to impose "Minimize" on the ARS to insure that essential messages are expeditiously handled. Contingent upon operational conditions encountered, "Minimize" control may apply to only portions of the system.

7. *Procedure.* GSA will inform headquarters offices of ARS subscriber agencies by ARS message when "Minimize" is imposed. The "Minimize" notice will identify the area affected by the action and the type of traffic excluded. The notice will contain "Minimize" as the first word in the text. GSA also will inform agencies when the "Minimize" condition is canceled.

8. *Agency responsibility.* Headquarters offices of subscriber agencies shall notify their field stations when a "Minimize" is imposed by GSA. Writers, originators, clearance officers, signatory officials, or other designated agency representatives shall evaluate each message to determine whether electrical transmission is essential and shall annotate those which must be sent immediately with the phrase "Minimize Considered."

9. *Information.* Agencies may obtain further information from:

General Services Administration, Transportation and Communications Service, Office of Telecommunications Operations (TO), Washington, D.C. 20405.
Telephone: IDS Code 183-2084, FTS 202 343-2084.

Dated: May 28, 1970.

ROBERT L. KUNZIG,
Administrator of General Services.

[F.R. Doc. 70-6958; Filed, June 4, 1970; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-5765]

FOUR SEASONS NURSING CENTERS OF AMERICA, INC.

Order Suspending Trading

JUNE 1, 1970.

The common stock, 50 cents par value, of Four Seasons Nursing Centers of America, Inc., being listed and registered on the American Stock Exchange and having unlisted trading privileges on 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 America, 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 Exchanges 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 exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 2, 1970 through June 11, 1970, both dates, inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-6988; Filed, June 4, 1970; 8:49 a.m.]

[812-2759]

MINNESOTA MUTUAL LIFE INSURANCE CO. AND MINNESOTA MUTUAL VARIABLE FUND D

Notice of Application

JUNE 1, 1970.

Notice is hereby given that Minnesota Mutual Life Insurance Co. (Minnesota Mutual) and Minnesota Mutual Variable Fund D (Fund), 345 Cedar Street, St. Paul, Minn. 55101 (hereinafter collectively called Applicants) have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act), 15 U.S.C. sec. 80a-1 et seq., for an order exempting certain transactions from the provisions of section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

The Fund, an open-end diversified management company registered under the Act, was established by Minnesota Mutual in connection with the offering to the public of individual and group variable annuity contracts. Minnesota Mutual is the principal underwriter for the Fund.

A purchaser of a variable annuity contract may chose to have a portion of each net purchase payment allocated to Minnesota Mutual's general assets for accumulation at a guaranteed interest rate. The same rate of sales charge applies whether amounts are allocated to the Fund or to the general assets of Minnesota Mutual.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except

at current offering price described in the prospectus. Section 6(c) permits the Commission, upon application, to exempt a transaction or transactions from any provision of the Act if it finds that such an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants seek an exemption from section 22(d) to the extent necessary to permit values accumulated at a guaranteed interest rate as previously described, to be transferred to the Fund during the period before the annuity commencement date, or applied to provide variable annuity payments at the annuity commencement date, without the imposition of any additional sales charge. Such transfer would be made upon written request by the contract owner (and, where applicable, the participant) and Minnesota Mutual's consent. Applicants assert that no selling expense is anticipated in connection with such transfers and that, since the same sales charge is deducted with respect to all purchase payments, whether allocated to Fund or to Minnesota Mutual's general assets, elimination of any additional sales charge upon the transfer would not involve unfair discrimination.

Notice is further given that any interested person may, not later than June 22, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

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

[F.R. Doc. 70-6989; Filed, June 4, 1970; 8:49 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

JUNE 2, 1970.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41970—*Beet or cane sugar from points in Louisiana and Texas.* Filed by Southwestern Freight Bureau, agent (No. B-170), for interested rail carriers. Rates on sugar, beet or cane, in bulk or in packages, in carloads, as described in the application, from points in Louisiana and Texas, to points in Illinois, southwestern and western trunkline territories.

Grounds for relief—Market competition and rate relationship.

By the Commission.

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

[F.R. Doc. 70-6980; Filed, June 4, 1970; 8:48 a.m.]

[Notice 90]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 2, 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 5227 (Sub-No. 2 TA), filed May 26, 1970. Applicant: ECONOMY MOVERS, INC., Post Office Box 201, Mead, Nebr. 68041. Applicant's representative: Frederick J. Coffman, Post Office Box 806, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings or houses, metal, iron and steel, knocked down or in sections, including all component parts, materials, supplies, and fixtures, and accessories used in the erection, construction and completion thereof;* and structural steel and metal panels, from points at or near Houston, Tex., to points in Nebraska and Iowa, for 180 days. Supporting shipper: Bundy Peterson Building Co., 80 West Sixth Street, Fremont, Nebr. Send protests to: District Supervisor Johnston, Interstate Commerce Commission, Bureau of Operations, 315 Post Office Building, Lincoln, Nebr. 68508.

No. MC 71642 (Sub-No. 11 TA), filed May 26, 1970. Applicant: N. S. DeSHONG, 3201 Mill Creek Road, Wilmington, Del. 19808. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fiber*, in rolls, from plantsite of NVF Co., Yorklyn, Del., to Troy, N.Y., for account of NVF Co., Wilmington, Del., for 180 days. Supporting shipper: NVF Co., Wilmington, Del. 19899; D. Harding, Traffic Manager. Send protests to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 206 Old Post Office Building, 129 East Main Street, Salisbury, Md. 21801.

No. MC 106398 (Sub-No. 478 TA), filed May 26, 1970. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections, mounted on wheeled undercarriages, from the plantsite of USCO, Inc., Fauquier County, Va., to points in Virginia; New York; Pennsylvania; Maryland; Delaware; Maine; Vermont; New Hampshire; Rhode Island; Connecticut; Massachusetts, and New Jersey, for 180 days. Supporting shipper: Ivon L. Hauenstein, president, USCO, Inc., Post Office Box 6832, Richmond, Va. 23230. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 125230 (Sub-No. 1 TA), filed May 27, 1970. Applicant: TIPPECANOE TRUCKING, INC., 1414 Lawton Street, New Castle, Ind. 47362. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated metal buildings, sections and accessories*, knocked down, in bundles, from Greenfield, Ind., to points in Illinois, Kentucky, Michigan, Missouri,

Nebraska, Ohio, Pennsylvania, Tennessee, and Wisconsin, and *rejected or refused shipments* on return, for 150 days. Supporting shipper: Ajax Metal Building Division, The American Ship Building Co., Greenfield, Ind. 46140. Send protests to: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 125521 (Sub-No. 10 TA), filed May 28, 1970. Applicant: FUNK MOTOR TRANSPORTATION, INC., Box 75, Bridge Street, Grand Rapids, Ohio 43522. Applicant's representative: Arthur R. Cline, 420 Security Building, Toledo, Ohio 43604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Detroit, Mich., to St. Henry, Ohio, for 150 days. Supporting shipper: Fullenkamp Distributing Co., 221 North Walnut Street, St. Henry, Ohio 45883. Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5234 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

No. MC 127042 (Sub-No. 60 TA), filed May 26, 1970. Applicant: HAGEN, INC., 4120 Floyd Boulevard, Post Office Box 6, Leeds Station, Sioux City, Iowa 51108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except hides and commodities in bulk, from Nampa, Idaho, to points in Minnesota, Illinois, and Wisconsin, for 180 days. Supporting shipper: H. M. Keim Co., Ltd., Nampa, Idaho. Send protests to: Carroll Russell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 304 Post Office Building, Sioux City, Iowa 51101.

No. MC 127539 (Sub-No. 13 TA), filed May 26, 1970. Applicant: PARKER REFRIGERATED SERVICE, INC., 3533 East 11th Street, Tacoma, Wash. 98421. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, when moving in vehicles equipped with mechanical refrigeration, from Buena Park, Calif., and Portland, Oreg., to Medford, Eugene, Coos Bay, Portland, Clackamas, Hillsboro, Klamath Falls, Springfield, Corvallis, Salem, Albany, Roseburg, Oregon, Aberdeen, Vancouver, Chehalis, Tacoma, Seattle, Everett, Walla Walla, Pasco, Bellevue, Yakima, and Spokane, Wash., for 150 days. Supporting shipper: Kraft Food, Division of National Dairy Products Corp., 2660 Newhall Street, San Francisco, Calif. 94119. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 127705 (Sub-No. 34 TA), filed May 26, 1970. Applicant: KREVDA BROS. EXPRESS, INC., Post Office Box 68, Gas City, Ind. 46933. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and closures therefor*, from Indianapolis, Ind., to Bellwood, Calumet City, Chicago, Cicero, Elk Grove, Maywood, Melrose Park, North Chicago, Pekin, and Rockford, Ill., for 180 days. Supporting shipper: Glass Container Corp., 1301 Keystone Avenue, Indianapolis, Ind. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

No. MC 128375 (Sub-No. 42 TA), filed May 26, 1970. Applicant: CRETE CARRIER CORPORATION, Crete, Nebr. 68333. Applicant's representative: Richard A. Peterson, Post Office Box 806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is marketed by home products' distributors*, from the plantsite of Amway Corp. at Ada, Mich., or its commercial zone, to points in Washington, Oregon, Idaho, Montana, Wyoming, South Dakota, Nebraska, Iowa, Kansas, Colorado, Utah, Nevada, California, Arizona, New Mexico, Texas, Oklahoma, Missouri, Louisiana, Florida, Georgia, and Tennessee, for 180 days. Supporting shipper: Amway Corp., 7575 East Fulton Road, Ada, Mich. 49301. Send protests to: District Supervisor Johnston, Bureau of Operations, Interstate Commerce Commission, 315 Post Office Building, Lincoln, Nebr. 68508.

No. MC 129219 (Sub-No. 3 TA), filed May 22, 1970. Applicant: CMD TRANSPORTATION, INC., 3750 Southeast Belmont Street, Portland, Oreg. 97214. Applicant's representative: Philip G. Skofstad, 4410 Northeast Fremont, Portland, Oreg. 97213. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electric storage batteries and allied components*, between Los Angeles and San Jose, Calif., on the one hand, and, on the other, points in California, Idaho, Montana, Nevada, Oregon, Utah, and Washington. *Scrap and junk electric storage batteries*, from points in California, Idaho, Montana, Nevada, and Salt Lake City, Utah, all under a continuing contract with E. S. B., Inc., for 180 days. Supporting shipper: ESB, Inc., 2000 East Ohio Building, Post Office Box 6266, Cleveland, Ohio 44101.

Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 120 Southwest Fourth Avenue, Portland, Oreg. 97204.

No. MC 134637 TA, filed May 26, 1970. Applicant: SILICA TRANSPORT, INC., Melbourne, Ark. 72556. Applicant's representative: Louis Tarlowski, Pyramid Life Building, Little Rock, Ark. 72201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silica sand, silica flour, and resin coated sand*, in bags and in bulk, from plantsite and facilities of Silica Products Co., Inc., Guion, Ark., to points in Alabama, Georgia, Illinois, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas, for 150 days. Supporting shipper: Silica Products Co., Inc., Box 248, Guion, Ark. 72540. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 134642 TA, filed May 28, 1970. Applicant: ELWOOD HORTON, Post Office Box 30, Kimballton, Va. 24107. Applicant's representative: G. Marshall Mundy, 105 Franklin Road SW., Roanoke, Va. 24004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed stone and bituminous asphalt*, in dump trucks, from Ripplemead, Va., and points within 1½ miles thereof to points in Monroe, Mercer, and Summers Counties, W. Va., for 180 days. Supporting shippers: Virginian Limestone Corp., Ripplemead, Va. 24150; Adams Construction Co., 2725 Roanoke Avenue SW., Roanoke, Va. 24015. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, Va. 24011.

By the Commission.

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

[F.R. Doc. 70-6979; Filed, June 4, 1970; 8:48 a.m.]

[Ex Parte No. 265]

INCREASED FREIGHT RATES, 1970

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 1st day of June 1970.

It appearing, that having before it certain tariff schedules publishing proposed increases in freight rates and charges to become effective on and after June 2, 1970, the Commission by order entered March 6, 1970, as amended, instituted an investigation into the lawfulness of the said schedules;

It further appearing, that by an order entered May 27, 1970, the Commission suspended the operation of the said schedules but permitted the filing by the respondents of schedules providing for an increase not to exceed 5 percent, subject to specified holddowns, and continued the investigation for the purpose of investigating the lawfulness of all the rates, charges, and regulations which were contained in the suspended schedules as well as in the schedules authorized to be filed;

And it further appearing, that the aforesaid investigation will comprehend all issues cognizable under the Interstate Commerce Act and related statutes administered by the Commission to the

extent that same are relevant and material to the matters here under investigation;

It is ordered, That the following special rules of practice shall apply to such investigation:

(a) *Verified statements of evidentiary facts.* All evidence material and pertinent to the issues above set forth (except oral cross-examination and rebuttal related thereto) shall be submitted in the form of verified statements (affidavits), with or without attached appendices. Each such verified statement shall be signed in ink by the affiant and verified (notarized) in the manner provided by Rule 50 and Form No. 6 of the Commission's general rules of practice. The post office address of the affiant or his counsel shall be shown.

(b) Respondents shall, to the extent practicable, submit specific evidence to demonstrate the efficiency and economy of their existing operations and service to the shipping public, shall explain their proposals to improve the efficiency and economy of such operations and service, and shall inform the Commission of the current status of steps actually taken to implement these proposals. Any party opposing the above-described tariffs may submit evidence of specific deficiencies in the service of respondents, accompanied by recommendations as to how such deficiencies may be overcome, eliminated or ameliorated, and the extent to which the Commission should consider and/or take corrective action, as a part of any relief granted respondents herein.

(c) *Certificate of service.* Each verified statement shall contain a certificate of service stating that it has been timely served on opposing parties, as herein provided; and verified statements not so served will not be considered.

(d) *Argument.* Argument in support of an affiant's position may be included in a separate section of the document containing the verified statement, or in a separate document simultaneously filed and served.

(e) *Filing and service of verified statements.* All parties shall file their verified statements and accompanying arguments, if any, on or before June 24, 1970; and if mailed, they shall be mailed in time to be received by that date. All parties shall submit an original and 24 copies of each such document for the use of the Commission, which shall be sent to Mr. H. Neil Garson, Secretary, Interstate Commerce Commission, Washington, D.C. 20423. Parties opposing the tariff schedules shall serve 25 copies upon Mr. Edward A. Kaier, American Railroad Building, 1920 L Street NW., Washington, D.C. 20036, which shall constitute service upon all respondents. Respondents shall serve one copy of their verified statements and arguments, if any, upon each of the parties who filed a protest or verified statement in opposition in this proceeding pursuant to the provisions of the Commission's order entered March 6, 1970. Any party who has filed a verified statement or verified reply statement pursuant to the provisions of paragraphs (a), (b), or (d) of the said order of March 6, 1970, may rely thereon or may supplement said statements by a further statement as provided in this paragraph. The aforesaid statements which have already been filed and served need not be refiled or served upon opposing parties.

(f) On or before July 15, 1970, any party may file a reply statement which shall in like manner be filed with the Commission and served upon opposing parties as set forth in paragraph (e), except that reply verified statements filed by the respondents may be served only upon the protestant to whose statement the reply is directed. Copies of any statement filed pursuant to the provisions of the order shall be furnished to any interested party upon request addressed to the affiant or his counsel.

(g) *Voluntary abatement of unlawfulness.* In the interest of limiting the issues requiring further proceedings, respondent's reply documents may contain statements of the extent, if any, to which respondents are agreeable voluntarily to abate any alleged unlawfulness specified in protestants' documents.

(h) *Documents previously submitted.* Protests, replies thereto, and oral and written arguments heretofore submitted in this proceeding will not be further considered unless filed and served in the form of verified statements as provided in paragraph (a).

(i) *Requests for cross-examination.* Parties desiring to cross-examine affiants regarding facts contained in their verified statements may request oral hearing for this purpose, and for the purpose of submitting rebuttal evidence, by letter to the Commission, with copies to the affiant, and to his counsel, if and be indicated, on or before July 22, 1970.

(j) *Hearings.* Hearings will be held only upon a satisfactory showing of a genuine dispute as to a material fact, at times and places to be hereafter fixed.

(k) *Service of orders and notices.* Future orders and notices of the Commission in this proceeding will be sent only to those parties participating as herein provided and to those other interested persons who specifically request to be included on the service list.

(l) *Communications.* Communications concerning this order or this proceeding should be addressed to Mr. H. Neil Garson, Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

And it is further ordered, That a copy of this order be filed with the Director, Division of the Federal Register for publication in the FEDERAL REGISTER as notice to interested parties.

By the Commission Division 2.

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

[F.R. Doc. 70-6981; Filed, June 4, 1970; 8:48 a.m.]

[S.O. 994; ICC Order No. 47]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Rerouting or Diversion of Traffic

In the opinion of R. D. Pfahler, agent, the Chicago, Rock Island and Pacific Railroad Co. is unable to transport traffic over its line between Rock Rapids, Iowa, and Sioux Falls, S. Dak., because of track damage caused by floods and high water.

It is ordered, That:

(a) The Chicago, Rock Island and Pacific Railroad Co. being unable to transport traffic over its line between Rock Rapids, Iowa, and Sioux Falls, S. Dak., because of track damage caused by floods and high water, that line and its connections are hereby authorized to reroute and divert such traffic via any available route, to expedite the movement.

(b) Concurrence of receiving road to be obtained: The railroad diverting the traffic shall receive the concurrence of the lines over which the traffic is rerouted or diverted before the rerouting or diversion is ordered.

(c) Notification to shippers: Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 10 a.m., May 29, 1970.

(g) Expiration date: This order shall expire at 11:59 p.m., July 31, 1970, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 29, 1970.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[F.R. Doc. 70-6982; Filed, June 4, 1970; 8:48 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—JUNE

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 June.

47 CFR—Continued

49 CFR

50 CFR

FEDERAL REGISTER

VOLUME 35 • NUMBER 109

Friday, June 5, 1970 • Washington, D.C.

PART II

Department of Health, Education, and Welfare

Social and Rehabilitation Service

Public Assistance Programs

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

[45 CFR Ch. II]

PUBLIC ASSISTANCE PROGRAMS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations set forth certain requirements and provisions for the public assistance programs under the Social Security Act now contained in the Handbook of Public Assistance Administration (including Supplement D) and certain other requirements relating to State plan programs for which funds are administered by the Social and Rehabilitation Service.

The primary purpose is to incorporate existing requirements in the Code of Federal Regulations. Any significance substantive changes will be published later. It is anticipated that a new State plan system, adapted to these regulations, will be implemented within a few months.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from date of publication of this notice in the FEDERAL REGISTER.

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302; sec. 7(b), 68 Stat. 658, 29 U.S.C. 37(b); sec. 133, 77 Stat. 287, 42 U.S.C. 2673; sec. 101 et seq., 79 Stat. 218–226, 42 U.S.C. 3001 et seq.; and secs. 131 and 401, 82 Stat. 466, 471, 42 U.S.C. 3841, 3881)

Dated: May 6, 1970.

JOHN D. TWINAME,
Administrator, Social and Rehabilitation Service.

Approved: May 26, 1970.

ROBERT H. FINCH,
Secretary.

Chapter II of Title 45 of the Code of Federal Regulations is amended to include regulations which set forth certain requirements and provisions for the public assistance programs under the Social Security Act now contained in the Handbook of Public Assistance Administration and certain other requirements relating to State plan programs for which funds are administered by the Social and Rehabilitation Service. The amendments to Chapter II are:

1. Part 204 is added as follows:

PART 204—GENERAL ADMINISTRATION—SOCIAL AND REHABILITATION SERVICE GRANT PROGRAMS

§ 204.1 Submittal of State plans for Governor's review.

A State plan under title I, IV–A, IV–B, X, XIV, XVI, or XIX of the Social Security Act, section 5 or 15 of the Vocational Rehabilitation Act, title I of the Mental Retardation Facilities and Community Mental Health Centers Construction Act, title III of the Older Americans Act, or title I of the Juvenile Delinquency Prevention and Control Act of 1968, must be submitted to the State Governor for his review and comments, and the State plan must provide that the Governor will be given opportunity to review State plan amendments and long-range program planning projections or other periodic reports thereon. This requirement does not apply to periodic statistical or budget and other fiscal reports. Under this requirement, the Office of the Governor will be afforded a period of 45 days in which to review the material. Any comments made will be transmitted to the Social and Rehabilitation Service with the documents.

2. Part 205 is amended to add the following sections:

PART 205—GENERAL ADMINISTRATION — PUBLIC ASSISTANCE PROGRAMS

Sec.

§ 205.5 Plan amendments.

State plan requirements: A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act must provide that:

(a) The plan will be reviewed at least annually for the purpose of determining necessary amendments;

(b) The plan will be amended whenever necessary to reflect new or revised Federal statutes or regulations, or material change in any phase of State law, organization, policy or State agency operations;

(c) Plan amendments will be submitted to the Social and Rehabilitation Service before the effective date of the amendments or, in any case, before the end of the quarter in which they become effective.

§ 205.6 Program and financial plan.

State plan requirements: A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act must provide that the State agency will develop annually, for its own use, an updated multiyear program and financial plan in accordance with Social and Rehabilitation Service guides, which will contain the agency's plan to achieve the objectives of the program under the pertinent title of the Act and information on progress toward these objectives. Under this requirement, a copy of the program and financial plan will be made available to the Social and Rehabilitation Service.

§ 205.30 Methods of administration.

State plan requirements: A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act must provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient operation of the plan.

§ 205.40 Quality control system.

State plan requirements: A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act must provide for a system of quality control in accordance with Federal specifications. Under this requirement:

(a) The State agency's system of quality control must be implemented through:

(1) Application of one of the sampling methods prescribed by the Social and Rehabilitation Service;

(2) Use of federally prescribed schedules and instructions, or schedules which provide for identical information as a minimum;

(3) Field investigations, including home visits to all recipients whose cases fall within the sample of the active caseload and, as necessary, to persons who have been denied assistance or whose assistance has been terminated;

(4) Use of qualified staff under appropriate direction;

(5) Reporting to the Federal Government as prescribed.

(b) The State agency must submit to the Social and Rehabilitation Service, in accordance with Federal instructions:

(1) A brief description of the State's sampling plan including the system of selecting the sample;

(2) The State's plan for use of staff; and

(3) The plan for analysis of and action on findings.

§ 205.50 Safeguarding information.

(a) *State plan requirements.* A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act, except as provided in paragraph (b) of this section, must provide that:

(1) Pursuant to State statute which imposes legal sanctions:

(i) The use or disclosure of information concerning applicants and recipients will be limited to purposes directly connected with the administration of the program;

(ii) The State agency has authority to implement and enforce the provisions for safeguarding information about applicants and recipients;

(iii) Publication of lists or names of applicants and recipients will be prohibited.

(2) The agency will have clearly defined criteria which govern the types of information that are safeguarded and the conditions under which such information may be released or used. Under this requirement:

(i) Types of information to be safeguarded include but are not limited to:

(*a*) The names and addresses of applicants and recipients and amounts of assistance provided;

(*b*) Information related to the social and economic conditions or circumstances of a particular individual;

(*c*) Agency evaluation of information about a particular individual;

(*d*) Medical data, including diagnosis and past history of disease or disability, concerning a particular individual.

(ii) The release or use of information concerning individuals applying for or receiving financial or medical assistance is restricted to persons or agency representatves who are subject to standards of confidentiality which are comparable to those of the agency administering the financial and medical assistance programs.

(iii) The family or individual is informed whenever possble of a request for information from an outside source, and permission is obtained to meet the request.

(iv) In the event of the issuance of a subpoena for the case record or for any agency representative to testify concerning an applicant or recipient, the court's attention is called, through proper channels to the statutory provisions and the policies or rules and regulations against disclosure of information.

(3) The agency will publicize provisions governing the confidential nature of information about applicants and recipients, including the legal sanctions imposed for improper disclosure and use.

(4) All materials sent or distributed to applicants, recipients, or medical vendors, including material enclosed in envelopes containing checks, will be limited to those which are directly related to the administration of the program and will not have political implications. Under this requirement:

(i) Specifically excluded from mailing or distribution are materials such as "holiday" greetings, general public announcements, voting information, alien registration notices;

(ii) Not prohibited from such mailing or distribution are materials in the immediate interest of the health and welfare of applicants and recipients, such as announcements of free medical examinations, availability of surplus food, and consumer protection information;

(iii) Only the names of persons directly connected with the administration of the program are contained in material sent or distributed to applicants, recipients, and vendors, and such persons are identified only in their official capacity with the State or local agency.

(b) *Exception.* In respect to a State plan under title I, IV–A, X, XIV, or XVI of the Social Security Act, exception to the requirements of paragraph (a) of this section may be made by reason of the enactment or enforcement of State legislation, prescribing any conditions under which public access may be had to records of the disbursement of funds or payments under such titles within the State, if such legislation prohibits the use of any list or names obtained through such access to such records for commercial or political purposes.

§ 205.60 Reports and maintenance of records.

State plan requirements: A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act must provide that:

(a) The State agency will maintain or supervise the maintenance of records necessary for the proper and efficient operation of the plan, including records regarding applications, determination of eligibility, the provision of financial or medical assistance or social services, and administrative cost; and statistical, fiscal and other records necessary for reporting and accountability required by the Secretary; and will retain such records for such periods as are prescribed by the Secretary. Under this requirement, individual records are kept which contain pertinent facts about each applicant and recipient and include information as to the date of application and date and basis of its disposition; facts essential to determination of initial and continuing eligibility, need for, and provision of financial or medical assistance or social services, and basis for discontinuing assistance or services.

(b) The State agency will make such reports in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports.

§ 205.100 Single State agency.

(a) *State plan requirements.* A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act must:

(1) Except as provided in paragraph (b) of this section, provide for the establishment or designation of a single State agency with authority to administer or supervise the administration of the plan.

(2) Include a certification by the attorney general of the State identifying the single State agency and citing the legal authority under which such agency administers, or supervises the administration of, the plan on a statewide basis including the authority to make rules and regulations governing the administration of the plan by such agency or rules and regulations that are binding on the political subdivisions, if the plan is administered by them.

(3) In the event the single State agency responsible for the plan for MA is other than the State agency responsible for the plan for OAA or for AABD (insofar as it relates to the aged), provide:

(i) That determination of eligibility for medical assistance under the plan will be made by the State or local agency administering such plan for OAA or for AABD (insofar as it relates to the aged) in accordance with standards, rules, regulations, and policies established by the single State agency responsible for the MA program, and

(ii) That there is a written agreement between the two State agencies, showing the relationships and respective responsibilities of the two agencies.

(b) *Exceptions.* (1) A State plan for AABD may provide for the designation of a separate State agency to administer or supervise the administration of the plan which relates to blind individuals, but only if, on January 1, 1962, and on the date of the submittal of the plan for AABD, such separate agency was responsible for the plan for AB and was different from the State agency responsible for the plans for OAA and APTD. In such case, the requirements and conditions of this section must be met by each such agency.

(2) A State plan for MA may provide for the designation of a separate State agency to administer or supervise the administration of the plan which relates to blind individuals, but only if, on January 1, 1965, and on the date of the submittal of the plan for MA, such separate agency was responsible for the plan for AB or for AABD (insofar as it relates to the blind) and was different from the State agency responsible for the plan for OAA or for AABD (insofar as it relates to the aged). In such case, the requirements and conditions of this section must be met by each such agency.

(c) *Conditions for implementing the requirements of paragraph (a) of this section.* (1) The State agency will not delegate to other than its own officials its authority for exercising administrative discretion in the administration or supervision of the plan, including the issuance of policies, rules, and regulations on program matters.

(2) In the event that any rules and regulations or decisions of the single State agency are subject to review, clearance, or other action by other offices or agencies of the State government, the requisite authority of the single State agency will not be impaired.

(3) In the event that any services are performed for the single State agency by other State or local agencies or offices, such agencies and offices must not have authority to review, change, or disapprove any administrative decision of the single State agency, or otherwise substitute their judgment for that of the agency as to the application of policies, rules, and regulations promulgated by the State agency.

§ 205.101 Organization for administration.

(a) A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act shall include a description of the organization and functions of the single State agency and an organizational chart of the agency.

(b) A State plan under title XIX of the Act must:

(1) Provide for the establishment of a medical assistance unit in the single State agency which shall include the program director and other appropriate staff for participation in the development, analysis, and evaluation of the State's medical assistance program,

(2) Include a description of the organization and functions of the medical assistance unit and an organizational chart of the unit, and

(3) Include a description of the kinds and numbers of professional medical personnel and supporting staff that will be used in the administration of the plan and of the responsibilities they will have.

(c) Where applicable, a State plan under title I, IV–A, X, XIV, or XVI of the Act shall identify the organizational unit within the State agency which is responsible for operation of the plan, and shall include a description of its organization and functions and an organizational chart of the unit. (See also Part 220 of this Chapter for requirements concerning the organization for administration of the service programs under title IV–A and title IV–B of the Act.)

§ 205.120 State-wide operation.

State plan requirements: A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act must provide that:

(a) It shall be in operation, through a system of local offices, on a statewide basis in accordance with equitable standards for assistance and administration that are mandatory throughout the State;

(b) If administered by political subdivisions of the State, the plan will be mandatory on such political subdivisions;

(c) The State agency will assure that the plan is continuously in operation in all local offices or agencies through:

(1) Methods for informing staff of State policies, standards, procedures and instructions; and

(2) Regular planned examination and evaluation of operations in local offices by regularly assigned State staff, including regular visits by such staff; and through reports, controls, or other necessary methods.

§ 205.130 State financial participation.

State plan requirements:

(a) A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act must provide that:

(1) State (as distinguished from local) funds will be used in both assistance and administration; and

(2) State and Federal funds will be apportioned among the political subdivisions of the State on a basis consistent with equitable treatment of individuals in similar circumstances throughout the State.

(b) A State plan under title I, IV–A, X, XIV, or XVI of the Act must provide further that State funds will be used to pay a substantial part of the total costs of the assistance programs.

(c) A State plan under title XIX of the Act must provide further that State funds will be used to pay not less than 40 percentum of the non-Federal share of the total expenditures under the plan and either:

(1) State funds will be used to pay all of the non-Federal share of the total expenditures under the plan, or

(2) If there is local financial participation, there will be a method of apportioning State and Federal funds among the political subdivisions of the State on an equalization or other basis that will assure that lack of funds from local sources does not result in lowering the amount, duration, scope, or quality of care and services or level of administration under the plan in any part of the State.

§ 205.145 Fiscal policies and accountability.

State plan requirements: A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act must provide that the State agency, in discharging its fiscal accountability, will maintain an accounting system and supporting fiscal records adequate to assure that claims for Federal funds are in accord with applicable Federal requirements. Under this requirement, State and, where applicable, local agencies are required to maintain accounting records, identifiable for each of the above titles of the Act, for a period of 3 years after the end of the Federal fiscal year if audit by or on behalf of the Department has occurred by that time. If such audit has not occurred, the records must be retained until audit or until 5 years following the end of the Federal fiscal year, whichever is earlier. However, in all cases, records shall be retained until resolution of audit questions.

§ 205.150 Cost allocation.

State plan requirements: A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act must provide that the State agency will establish and maintain methods and procedures for properly charging the costs of activities under the plan to the program in accordance with Federal requirements (Bureau of the Budget Circular A–87 and Department and Social and Rehabilitation Service regulations and instructions). Such methods and procedures and revisions of them are subject to approval by the Department; revisions must be submitted promptly and in no case later than 12 months following the effective date of the change. The State's methods and procedures must include a description of the method for:

(a) Allocating all administrative costs of the State department in which the State agency is located between Federal and non-Federal programs;

(b) Identifying, of the costs applicable to more than one of the Federal programs, those applicable to each of the separate programs, in accordance with program classifications specified by the Secretary; and

(c) Segregating costs in paragraph (b) by service and income maintenance functions, where applicable, and such other classifications as are found necessary by the Secretary.

§ 205.170 State standards for office space, equipment, and facilities.

State plan requirements: A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act must provide that:

(a) The State agency will establish and maintain standards for office space, equipment, and facilities that will adequately and effectively meet program and staff needs. Under this requirement, offices must be well marked and clearly identifiable in the community as a public service.

(b) The State agency will assure that the standards are continuously in effect in all State and local offices or agencies, including agency suboffices, and special centers through:

(1) Making information about the standards available to State and local staff and other appropriate persons;

(2) Regular planned evaluation of housing and facilities by regularly assigned staff through visits, reports, controls and other necessary methods;

(3) Methods for enforcement when necessary to secure compliance with State standards.

§ 205.190 Standard-setting authority for institutions.

(a) *State plan requirements.* If a State plan under title I, X, XIV, XVI, or XIX of the Social Security Act includes financial or medical assistance to or in behalf of individuals in institutions as defined in § 233.60(b) (1) and (2) of this chapter, the plan must:

(1) Provide for the designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(2) Provide that the State agency will keep on file and make available to the Social and Rehabilitation Service upon request:

(i) A listing of the types or kinds of institutions in which an individual may receive financial and/or medical assistance;

(ii) A record naming the State authority(ies) responsible for establishing and maintaining standards for such types of institutions;

(iii) The standards to be utilized by such State authority(ies) for approval or licensing of institutions including, to the extent applicable, standards related to the following factors:

(*a*) Health (continuing physician and nursing services, dietary standards, drug controls, and accident prevention);

(*b*) Humane treatment;

(*c*) Sanitation;

(*d*) Types of construction;

(*e*) Physical facilities, including space and accommodations per person;

(*f*) Fire and safety;

(*g*) Staffing, in number and qualifications, related to the purposes and scope of services of the institution;

(*h*) Patient records;

(*i*) Admission procedures;

(*j*) Administrative and fiscal records;

(*k*) The control by the individual, or his guardian or protective payee, of the individual's personal affairs.

A plan under title XIX must describe these standards.

(3) Provide for cooperative arrangements with the standard-setting authority(ies) in the development of standards directed toward assuring adequate quality of care; in upgrading of institutional programs and practice; in actions necessary to close institutions that mistreat or are hazardous to the safety of the patients; and in planning so that institutions may be geographically located in accordance with need.

(b) *Federal financial participation.* (1) Federal financial participation is available in staff and related costs of the State or local agency that are necessary to discharge the responsibilities of the State agency under this section, including such costs for staff:

(i) Participating with other agencies and community groups in activities to set up the authority(ies) and to advise on the formulation of policy for the establishment and maintenance of standards;

(ii) On loan for a time limited period to work with the standard-setting authority(ies) in upgrading institutional care;

(iii) Engaged in the function of coordination in States where there is more than one authority; and

(iv) Engaged in adjusting complaints and making reports and recommendations to the standard-setting authority(ies) on conditions which appear to be in violation of such standards.

(2) Federal financial participation is not available in the costs incurred by the standard-setting authority(ies) in establishing and maintaining standards for institutions.

§ 205.200 Standards of personnel administration.

(a) A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act must provide that methods of personnel administration will be established and maintained in the State agency administering or supervising the State plan and in local agencies administering the State plan in conformity with the Standards for a Merit System of Personnel Administration, 45 CFR Part 70. Under this requirement, laws, rules, regulations, and policy statements effectuating such methods of personnel administration are a part of the State plan. Statements of acceptance of these standards by all official local agencies included in the State plan must be obtained and methods must be established by the State to assure compliance by local jurisdictions. These statements and citations of applicable State laws, rules, regulations, and policies which provide assurance of conformity to the standards in 45 CFR Part 70 must be submitted to the Department of Health, Education, and Welfare for determination as to adequacy. Copies of the materials cited and of similar local materials maintained by a State official responsible for compliance by local jurisdictions must be furnished to the Department on request.

(b) The Secretary of Health, Education, and Welfare shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods.

§ 205.202 Staff development.

(a) *State plan requirements.* A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act must provide for a staff development program for personnel in all classes of positions and for volunteers, to improve the operation of the State program and to assure a high quality of service, including:

(1) An orientation program for new staff;

(2) A program of continuing training opportunities held under expert leadership at suitable intervals;

(3) Provision for paid educational leave to enable selected staff to qualify for positions requiring subprofessional, technical, and professional education, and

(4) Provision for progressively increasing the number of staff on educational leave until the agency has an adequate number of qualified staff to fill such positions not later than July 1, 1975, except that, in the case of a plan under title XIX, this requirement is effective July 1, 1971, and the date for achieving an adequate number of qualified staff is not later than July 1, 1977.

NOTE: Qualifications and staffing for staff development positions will be covered under the SRS Manpower Policy—when issued.

(b) *Conditions for staff development programs.* A staff development program under paragraph (a) of this section shall:

(1) If it includes educational leave for employees in a worker-in-training classification, provide that the tenure of such employees will be limited to the period of education and that such persons will be promoted to the appropriate regular classification upon successful completion of the education;

(2) If it includes educational grants for persons preparing for employment, provide for

(i) The use of criteria for selection of candidates, and

(ii) Conditions under which such grants are to be made;

(3) If it includes teaching grants to educational institutions, provide that such grants are made only to establish or expand educational programs necessary to prepare persons for the administration of the agency's program, and only to institutions accredited by the appropriate accrediting body.

(c) *Federal financial participation.* (1) For the State plan under title IV–A of the Act, Federal financial participation is available at 75 percent for training and staff development costs.

(2) For the State plans under titles I, X, XIV, and XVI of the Act, Federal financial participation is available at 75 percent for training and staff development costs if the plan provides for social services in accordance with the regulations in Part 222, Subparts A and B of this chapter. Otherwise, Federal financial participation in such costs is available at 50 percent.

(3) Costs which may be claimed under titles I, IV–A, X, XIV, and XVI of the Act are the following:

(i) *State and local staff development personnel.* Payment of personal services for staff development personnel, including clerical and other staff, and all other expenses, e.g., travel, per diem, rent, postage, communications, equipment, etc. Only personnel who are assigned at least half time to staff development or who are detailed to staff development activities for at least 4 consecutive weeks may be considered staff development personnel.

(ii) *Agency session planned to train staff in content dealing with public assistance.* (*a*) Costs of operating training centers, including personal services and travel of staff, equipment, rental of space, and other expenses of operating the center.

(*b*) Payment of personal services, travel, per diem and training expenses of staff while attending full-time training sessions which are for four or more consecutive work weeks

(*c*) Payment of travel, per diem and educational expenses of staff while attending training sessions which are for less than 4 consecutive work weeks.

(*d*) Payment for purchase and development of necessary teaching materials and equipment: e.g., books, audiovisual aids, and technical devices.

(*e*) Costs of maintaining and operating the agency library as an essential resource to the agency's in-service training program. If the library is maintained as a general reference library for total agency operations, the staff development director and the librarian will recommend the appropriate proportion of library costs to be charged to the training program.

(*f*) Payment to outside experts employed to conduct special courses, including personal services, travel, and per diem.

(*g*) Payment of the costs of special courses developed outside the agency, in collaboration with staff development personnel, as a special part of the agency's organized in-service training program.

(*h*) Costs of rental of space attributable to training activities.

(iii) *Persons preparing for employment in public assistance.* Payments made directly to an individual, or to an educational institution on behalf of such individual, for costs of education in preparing for employment in public assistance.

(iv) *Education for work in public assistance.* (*a*) Costs of field instruction in public assistance for graduate social work students, field experience for undergraduate social welfare students, and student training programs including: rental of space, salaries, travel to and from field work units, clerical assistance, teaching materials and equipment, such as books and audiovisual aids necessary for effective instruction, and salaries of persons participating in summer student training programs in

social work and related professional assignments.

(b) Grants to graduate schools of social work or to undergraduate colleges offering a social welfare sequence for classroom instruction or for other purposes related to the needs of the public assistance programs including: salaries, clerical assistance, necessary travel, teaching material and equipment necessary for effective instruction, such as books, and audiovisual aids.

(v) *Educational leave.* (a) Direct payments to employees on educational leave in an amount not to exceed salary plus the additional costs of obtaining the education.

(1) Payment of personal services, travel, per diem, costs of education and educational expenses of persons granted full-time educational leave, and for those on work-study leave.

(2) Payment of travel, per diem, costs of education and expenses other than personal services of persons granted part-time educational leave or of persons on work-study plan with more than one-half of work load.

(b) Payments covering some or all of the items, in (a) of this subdivision (v), made directly to an educational institution on behalf of an employee on educational leave.

(vi) *Training leave.* (a) Payment of personal services, travel, per diem and training expenses of staff granted training leave for attendance at sessions of four or more consecutive workweeks.

(b) Payment of travel, per diem, and other training expenses of staff granted training leave for attendance at sessions of less than 4 workweeks.

(ii) Costs which may be claimed as training and staff development expenditures for Federal financial participation under title XIX of the Act are those specified in subparagraph (3) of this paragraph, under subdivision (i) for State and local staff development personnel; under subdivision (ii) for agency sessions planned to train staff in content dealing with medical assistance; under subdivision (v)(a) for educational leave; under subdivision (vi) for training leave; and under subdivision (vii) for special leave; and, in addition, the costs of field instruction in medical assistance for graduate students, field experience for undergraduate students, and student training programs.

(vii) *Special leave.* Direct payments to employees on special leave in an amount not to exceed salary, plus such additional costs of the educational program as may be agreed upon by the agency and the staff member.

(viii) *Agency membership in other organizations.* Payment for costs of State or local agency membership in organizations for the advancement of education or training when such membership primarily is attributable to the agency's staff development program needs.

(4) (i) For the State plan under title XIX of the Act, Federal financial participation is available at 75 percent for training and educational leave, with respect to title XIX, of skilled professional medical personnel, and staff directly supporting such personnel, of the State agency or any other public agency in the administration of the medical assistance program at the State or local level. In addition, Federal financial participation in expenditures for training personnel who are working both under title XIX and under title I, IV–A, X, XIV, or XVI may be claimed under such other title at applicable rates. Any other expenditures are matchable at 50 percent.

3. Part 206 is added as follows:

PART 206—APPLICATION, DETERMINATION OF ELIGIBILITY AND FURNISHING ASSISTANCE—PUBLIC ASSISTANCE PROGRAMS

§ 206.10 Application, determination of eligibility and furnishing of assistance.

(a) *State plan requirements.* A State plan under title I, IV–A, X, XIV, XVI, or XIX of the Social Security Act must provide that:

(1) Each individual wishing to do so will have the opportunity to apply for assistance without delay. Under this requirement the agency accepts application from the applicant himself or someone acting responsibly for him, in person, by mail or by telephone. Individuals eligible for financial assistance are eligible for medical assistance without a separate application.

(2) Applicants will be informed about the eligibility requirements and their rights and obligations under the program. Under this requirement individuals are given information in written form, and orally as appropriate, about coverage, conditions of eligibility, scope of the program, and related services available, and the rights and responsibilities of applicants for and recipients of assistance. Specifically developed bulletins or pamphlets explaining the rules regarding eligibility and appeals in simple, understandable terms, are publicized and available in quantity.

(3) A decision will be made promptly on applications, pursuant to reasonable State-established time standards not in excess of 30 days for OAA, AFDC, and AB (and in AABD and MA as to the aged and blind) and 60 days in APTD (and in AABD and MA as to the disabled). Under this requirement, the standard covers the time from date of application to the date that notification of authorization of payment, denial of assistance or change of award, or the eligibility decision with respect to medical assistance, is mailed to the applicant or recipient. The State's time standards apply except in unusual circumstances (e.g., where the agency cannot reach a decision because of failure or delay on the part of the applicant or an examining physician, or because of some administrative or other emergency that could not be controlled by the agency), in which instances the case record should show the cause for the delay. The agency's standards of promptness for acting on applications or redetermining eligibility may not be used as a basis for denial of an application or for terminating assistance.

(4) Written notice will be sent to applicants and recipients to indicate that assistance has been authorized (including the amount, if financial assistance) or that it has been denied or terminated for a specified reason. Under this requirement, the notice must include the right to request a fair hearing about the decision (see section 205.10 of this chapter).

(5) Financial assistance and medical care and services included in the plan will be furnished promptly to eligible individuals without any delay attributable to the agency's administrative process, and will be continued regularly to all eligible individuals until they are found to be ineligible. Under this requirement there must be arrangements to assist applicants and recipients in obtaining medical care and services in emergency situations on a 24-hour basis, 7 days a week.

(6) Individuals found eligible will qualify for medical assistance beginning no later than the date on which the individual applied for assistance, whether financial or medical. Eligibility for medical assistance may go back 3 months prior to the month of application, with Federal financial participation if the State plan so provides. Under this regulation, the period for which an individual is eligible for medical assistance can be different from the period of eligibility for financial assistance. Federal financial participation is available in payments for financial assistance for periods beginning with the month in which all eligibility conditions are met and in which an application has been received.

(7) The agency will give advance notice of questions it has about an individual's eligibility so that a recipient has an opportunity to discuss his situation before receiving formal written notice of reduction in payment or termination of assistance.

(8) Each decision regarding eligibility or ineligibility will be supported by information in the applicant's or recipient's case record. Under this requirement each application is disposed of by a finding of eligibility or ineligibility unless

(i) The applicant voluntarily withdraws his application, and there is an entry in the case record that a notice has been sent to confirm the applicant's notification to the agency that he does not desire to pursue his application; or

(ii) There is an entry in the case record that the application has been disposed of because the applicant died or could not be located.

(9) Where an individual has been determined to be eligible, eligibility will be reconsidered or redetermined:

(i) When required on the basis of information the agency had obtained previously about anticipated changes in the individual's situation;

(ii) Promptly, within 30 days, after a report is obtained which indicates changes in the individual's circumstances may affect the amount of assistance to which he is entitled or may make him ineligible; and

(iii) Periodically, within agency-established time standards, but not less

frequently than every 6 months in AFDC, and every 12 months in the other categories, including medical assistance, on eligibility factors subject to change.

(10) Standards and methods for determination of eligibility will be consistent with the objectives of the programs, will respect the rights of individuals under the United States Constitution, the Social Security Act, title VI of the Civil Rights Act of 1964, and all other relevant provisions of Federal and State laws, and will not result in practices that violate the individual's privacy or personal dignity, or harass him or violate his constitutional rights. Under this requirement, the agency especially guards against violations of legal rights and common decencies in such areas as entering a home by force, or without permission, or under false pretenses; making home visits outside of working hours, and particularly making such visits during sleeping hours; and searching in the home, for example, in rooms, closets, drawers, or papers, to seek clues to possible deception.

(11) With respect to title XIX, policies and procedures will assure that eligibility for medical assistance will be determined in a manner consistent with simplicity of administration and the best interests of the applicant or recipient.

(12) In determining initial and continuing eligibility:

(i) Applicants and recipients will be relied upon as the primary source of information in making the decision about their eligibility.

(ii) The agency will help applicants and recipients provide needed information, as necessary, or will obtain the information for them if, because of physical, mental, or other difficulties, they themselves are unable to provide it.

(iii) Verification of circumstances pertaining to eligibility will be limited to what is reasonably necessary to ensure the legality of expenditures under this program.

Under the requirements of this subparagraph:

(a) The agency takes no steps in the exploration of eligibility to which the applicant or recipient does not agree. It obtains specific consent for outside contacts, gives a clear explanation of what information is desired, why it is needed, and how it will be used;

(b) If other procedures are followed in an exceptional situation, they are consistent with subparagraph (10) of this paragraph, and the case record specifies what procedures were followed and why they were needed;

(c) When information available from the applicant or recipient is inconclusive and does not support a decision of eligibility, the agency explains to the individual what questions remain and how he can resolve or help to resolve them, what actions the agency can take to resolve them and the need for their resolution if eligibility is to be established or reconfirmed. If the individual is unwilling to have the agency seek verifying information, the agency, unable to determine that eligibility exists, denies or terminates assistance;

(d) if a simplified method is used in the determination and redetermination of eligibility, the requirements of § 205.20 of this chapter apply.

(13) The State agency will establish and maintain methods by which it will be kept currently informed about local agencies' adherence to the State plan provisions and to the State agency's procedural requirements for determining eligibility, and it will take corrective action when necessary.

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

(1) "Applicant" is a person who has, directly, or through someone acting responsibly for him, requested public assistance from the agency administering the program, and whose application has not been terminated.

(2) "Application" is an action by which an individual indicates to the agency administering public assistance his desire to receive assistance. The relative with whom a child is living or will live ordinarily makes application for the child for AFDC. An application is distinguished from an inquiry, which is simply a request for information about eligibility requirements for public assistance. Such inquiry may be followed by an application.

4. Part 208 is added as follows:

PART 208—ASSISTANCE TO AGED INDIVIDUALS IN INSTITUTIONS FOR MENTAL DISEASES

§ 208.1 Assistance to individuals 65 years of age or older in institutions for mental diseases.

(a) *State plan requirements.* A State plan under title I, XVI, or XIX of the Social Security Act which includes assistance to or in behalf of individuals 65 years of age or older who are patients in institutions for mental diseases must provide for:

(1) Having in effect written agreements with the State authority (or authorities) concerned with mental diseases, and with those individual institutions not under the jurisdiction of such State authorities, in which assistance is provided, which clearly set forth the respective responsibilities of the State agency and the State authorities or institutions, with respect to the individuals to whom or on whose behalf payments are made, including arrangements for:

(i) Joint planning and for development of alternate methods of care;

(ii) Immediate readmittance to the institutions when needed for individuals in alternate methods of care;

(iii) Access by appropriate representatives of the State agency to the medical facility, the patient, and the patient's records as necessary for carrying out the State agency's responsibilities;

(iv) Necessary recording, reporting, exchange of medical and social information, and other procedures.

(2) A recorded individual plan of treatment and care to assure that the institutional care provided serves the best interest of each patient, i.e., maintains the patient at or restores him to the greatest possible degree of health and independent functioning, including:

(i) Initial and periodic review of his medical, psychiatric and social needs. In fulfilling this requirement initial reviews shall be conducted for each patient not later than 90 days after approval of the State plan, and for each recipient-patient subsequently included, not later than 30 days after payments are initiated in his behalf;

(ii) Appropriate medical treatment within the institution;

(iii) Periodic determination of his need for continued treatment in the institution and for alternate care arrangements. In fulfilling this requirement such determinations shall be conducted at least quarterly;

(iv) Appropriate social services.

(3) The development of alternate plans of care, making maximum utilization of available resources, for recipients 65 years of age or older who would otherwise need care in such institutions, to meet their medical, social, and financial needs.

(4) Making available social services referred to in section 3(a)(4)(A) (i) and (ii) or section 1603(a)(4)(A) (i) and (ii) of this Act which are appropriate for such recipients.

(5) Methods of determining the reasonable cost of institutional care for such patients in compliance with section 250.30 of this chapter.

(6) Methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such recipients and such patients will be effectively carried out.

(7) If the State plan includes patients in public institutions for mental diseases, showing that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program for all age groups, through appropriate mental health and public welfare resources, including provision for utilization of community mental health centers, nursing homes and other alternatives to care in public institutions; for arrangements for joint planning with the State authority(ies) for this purpose; and for annual reports showing the progress made. In fulfilling this requirement such annual reports are to be submitted within three months after the close of each fiscal year in which the State has a program of assistance to individuals 65 years of age or older in public institutions for mental diseases.

(b) *Federal financial participation.* (1) Federal payments under this section for any quarter shall be made only to the extent that total State expenditures for mental health services for such quarter exceed the average of the total expenditures for such services for each quarter of the fiscal year ending June 30, 1965. As a basis for determination of the proper amount of Federal payments, the

State agency shall submit to the Secretary annual reports which show total expenditures from Federal, State and local sources for mental health services (including payment to or in behalf of individuals with mental health problems) under State and local public health and public welfare programs including total expenditures for each quarter of the fiscal year ending June 30, 1965, and total expenditures for each quarter in which the State has received Federal financial participation in making payments in behalf of individuals 65 years of age or over in institutions for mental diseases; and which show for each quarter all assistance payments and administrative costs incurred in behalf of individuals 65 years of age or older in institutions for mental diseases, and of Federal shares of such payments and such costs. In fulfilling this requirement such reports should be submitted not later than 3 months after the close of the fiscal year.

(2) For purposes of this section, an institution for mental diseases is one that meets the definition contained in § 249.10(b)(14)(iv) of this chapter.

5. Part 233 is amended to add the following sections:

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

Sec.
233.10 General provisions regarding coverage and eligibility.
233.30 Age.
233.50 Citizenship.
233.60 Institutional status.
233.70 Blindness.
233.80 Disability.
233.90 Factors specific to AFDC.
233.110 AFDC foster care.

§ 233.10 General provisions regarding coverage and eligibility.

(a) *State plan requirements.* A State plan under title I, IV–A, X, XIV, or XVI, of the Social Security Act must:

(1) Specify the groups of individuals, based on reasonable classifications, that will be included in the program, and all the conditions of eligibility that must be met by the individuals in the groups. Under this requirement:

(i) States have substantial latitude and corresponding responsibility for determining the coverage, nature and scope of their public assistance programs. Although the public assistance titles define the coverage in which the Federal Government will participate financially, a State may provide coverage on a broader or more limited basis. However, it may not impose any eligibility condition that is prohibited under the Social Security Act.

(ii) The groups selected for inclusion in the plan and the eligibility conditions imposed must not exclude individuals or groups on an arbitrary or unreasonable basis, and must not result in inequitable treatment of individuals or groups in the light of the provisions and purposes of the public assistance titles of the Social Security Act.

(iii) There must be clarity as to what groups are included in the plan, and which are within, and which are outside, the scope of Federal financial participation.

(iv) Eligibility conditions must be applied on a consistent and equitable basis throughout the State.

(v) A plan under title XVI must have the same eligibility conditions and other requirements for the aged, blind, and disabled, except as otherwise specifically required or permitted by the Act.

(vi) Eligibility conditions or agency procedures or methods must not preclude the opportunity for an individual to apply and obtain a determination of eligibility or ineligibility.

(vii) Methods of determining eligibility must be consistent with the objective of assisting all eligible persons to qualify.

(2) Provide that the State agency will establish methods for identifying the expenditures for assistance for any groups included in the plan for whom Federal financial participation in assistance may not be claimed.

In addition, a State plan under title IV–A, X, XIV, or XVI of the Act, must:

(3) Provide that no aid or assistance will be provided under the plan to an individual with respect to a period for which he is receiving aid or assistance under a State plan approved under any other of such titles or under title I of the Act.

(b) *Federal financial participation.* (1) The provisions which govern Federal financial participation in assistance payments are set forth in the Social Security Act, throughout this chapter, and in other policy issuances by the Secretary. Where indicated, State plan provisions are prerequisite to Federal financial participation with respect to the applicable groups and payments. In general, State plan provisions on need also determine the limits of Federal financial participation. Questions of Federal financial participation are raised regarding assistance payments in which the State refuses to participate because of the failure of a local authority to apply State requirements. With these exceptions, the Federal agency does not ordinarily determine, for purposes of financial participation, whether State plan provisions which are not required by the Federal Act, regulations, or policies have been met.

(2) The following is a summary statement regarding the groups for whom Federal financial participation is available. (More detailed information is given elsewhere.)

(i) OAA—for needy individuals under the plan who are 65 years of age or older.

(ii) AFDC—for:

(*a*) Needy children under the plan who are:

(*1*) Under the age of 18, or under 21 if regularly attending a school, college, or university, or regularly attending a course of vocational or technical training;

(*2*) Deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, or unemployment of a father; and

(*3*) Living in the home of a parent or of certain relatives specified in the Act, or in foster care under certain conditions.

(*b*) The parent or other caretaker relative of a dependent child and, in certain situations, the parent's or relative's spouse.

(iii) AB—for needy individuals under the plan who are blind.

(iv) APTD—for needy individuals under the plan who are 18 years of age or older and permanently and totally disabled.

(v) AABD—for needy individuals under the plan who are aged, blind, or 18 years of age or older and permanently and totally disabled.

(3) Federal financial participation is available for assistance payments for the entire month if for any portion of the month the individual met all of the eligibility conditions imposed by Federal requirements.

(4) Federal financial participation is available in assistance payments which are continued, in accordance with the State plan, for a temporary period during which the effects of an eligibility condition are being overcome, e.g., blindness in AB, disability in APTD, physical or mental incapacity, continued absence of a parent, or unemployment of a father in AFDC.

§ 233.30 Age.

(a) *Condition for plan approval.* A State plan under title I or XVI of the Social Security Act may not impose any age requirement of more than 65 years.

(b) *Federal financial participation.* (1) Federal financial participation is available in financial assistance provided to otherwise eligible persons who were, for any portion of the month for which assistance is paid:

(i) In OAA or AABD with respect to the aged, 65 years of age or over;

(ii) In AFDC, under 18 years of age; or under 21 years of age if a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment;

(iii) In AB or AABD with respect to the blind, any age;

(iv) In APTD or AABD with respect to the disabled, 18 years of age or older.

(2) Federal determination of whether an individual meets the age requirements of the Social Security Act will be made according to the common-law method (under which a specific age is attained the day before the anniversary of birth), unless the State plan specifies that the popular usage method (under which an age is attained on the anniversary of birth), is used.

(3) The State agency may adopt an arbitrary date such as July 1 as the point from which age will be computed in all instances where the month of an individual's birth is not available, but the year can be established.

§ 233.50 Citizenship.

Conditions for plan approval. (a) A State plan under title I, X, XIV, or XVI of the Social Security Act may not exclude an otherwise eligible citizen of the

United States, regardless of how (by birth or by naturalization), or when, citizenship was obtained.

(b) A State plan may include all persons without regard to citizenship status. Where there is an eligibility requirement applicable to noncitizens, a State plan may, as an alternative to excluding all noncitizens, provide for qualifying noncitizens, otherwise eligible, who have resided in the United States for a specified number of years.

§ 233.60 Institutional status.

(a) *Federal financial participation.* (1) Federal financial participation under Title I, X, XIV, or XVI of the Social Security Act is not available in payments to or in behalf of any individual who is an inmate of a public institution except as a patient in a medical institution.

(2) (i) Federal financial participation under title X or XIV of the Social Security Act is not available in payments to or in behalf of any individual who is a patient in an institution for tuberculosis or mental diseases.

(ii) Federal financial participation under title XVI of the Social Security Act is not available in payments to or in behalf of any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases.

(3) For purposes of this paragraph:

(i) Federal financial participation is available in payments for the month in which an individual (if otherwise eligible) became an inmate of a public institution, or a patient in an institution for tuberculosis or mental diseases;

(ii) Whether an institution is one for tuberculosis or mental diseases will be determined by whether its overall character is that of a facility established and maintained primarily for the care and treatment of individuals with tuberculosis or mental diseases (whether or not it is licensed);

(iii) An institution for the mentally retarded may be distinguished from an institution for mental diseases;

(iv) An individual on conditional release or convalescent leave from an institution for mental diseases is not considered to be a patient in such institution.

(b) *Definitions.* For purposes of Federal financial participation under paragraph (a) of this section:

(1) "Institution" means an establishment which furnishes (in single or multiple facilities) food and shelter to four or more persons unrelated to the proprietor, and in addition, provides some treatment or services which meet some need beyond the basic provision of food and shelter.

(2) "In an institution" refers to an individual who is admitted to participate in the living arrangements and to receive treatment or services provided there which are appropriate to his requirements.

(3) "Public institution" means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

(4) "Inmate of a public institution" means a person who is living in a public institution. An individual is not considered an inmate when:

(i) He is in a public educational or vocational training institution, for purposes of securing education or vocational training, or

(ii) He is in a public institution for a temporary emergent period pending other arrangements appropriate to his needs.

(5) "Medical institution" means an institution which:

(i) Is organized to provide medical care, including nursing and convalescent care;

(ii) Has the necessary professional personnel, equipment, and facilities to manage the medical, nursing, and other health needs of patients on a continuing basis in accordance with accepted standards;

(iii) Is authorized under State law to provide medical care;

(iv) Is staffed by professional personnel who have clear and definite responsibility to the institution in the provision of professional medical and nursing services including adequate and continual medical care and supervision by a physician; sufficient registered nurse or licensed practical nurse supervision and services and nurse aid services to meet nursing care needs; and appropriate guidance by a physician(s) on the professional aspects of operating the facility.

(6) "Institution for tuberculosis" means an institution which is primarily engaged in providing diagnosis, treatment, or care of persons with tuberculosis, including medical attention, nursing care, and related services.

(7) "Institution for mental diseases" means an institution which is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care, and related services.

(8) "Patient" means an individual who is in need of and receiving professional services directed by a licensed practitioner of the healing arts toward maintenance, improvement, or protection of health, or alleviation of illness, disability, or pain.

§ 233.70 Blindness.

(a) *State plan requirements.* A State plan under title X or XVI of the Social Security Act must:

(1) Contain a definition of blindness in terms of ophthalmic measurement. The following definition is recommended: An individual is considered blind if he has central visual acuity of 20/200 or less in the better eye with correcting glasses or a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance of no greater than 20°.

(2) Provide that, in any instance in which a determination is to be made whether an individual is blind according to the State's definition, there will be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select. Under this requirement, no examination is necessary when both eyes are missing.

(3) Provide that each eye examination report will be reviewed by a State supervising ophthalmologist who is responsible for making the agency's decision that the applicant or recipient does or does not meet the State's definition of blindness, and for determining if and when reexaminations are necessary.

(b) *Federal financial participation.*— (1) *Assistance payments.* Federal financial participation is available in assistance provided to or in behalf of any otherwise eligible person who is blind. Blindness may be considered as continuing until an examination by a qualified examiner establishes the fact that the recipient's vision has improved beyond the State's definition of blindness.

(2) *Administrative expenses.* Federal financial participation is available in any expenditures incident to the eye examination necessary to determine who is a blind individual.

§ 233.80 Disability.

(a) *State plan requirements.* A State plan under title XIV or XVI of the Social Security Act must:

(1) Contain a definition of permanently and totally disabled, showing that:

(i) "Permanently" is related to the duration of the impairment or combination of impairments; and

(ii) "Totally" is related to the degree of disability

The following definition is recommended:

"Permanently and totally disabled" means that the individual has some permanent physical or mental impairment, disease, or loss, or combination thereof, the substantially precludes him from engaging in useful occupations within his competence, such as holding a job.

Under this definition:

"Permanently" refers to a condition which is not likely to improve or which will continue throughout the lifetime of the individual; it may be a condition which is not likely to respond to any known therapeutic procedures, or a condition which is likely to remain static or to become worse unless certain therapeutic measures are carried out, where treatment is unavailable, inadvisable, or is refused by the individual on a reasonable basis; "permanently" does not rule out the possibility of vocational rehabilitation or even possible recovery in light of future medical advances or changed prognosis; in this sense the term refers to a condition which continues indefinitely, as distinct from one which is temporary or transient;

"Totally" involves considerations in addition to those verified through the medical findings, such as age, training, skills, and work experience, and the probable functioning of the individual in his particular situation in light of his impairment;

an individual's disability would usually be tested in relation to ability to engage in remunerative employment; homemaking would be an appropriate test only for individuals, such as housewives, who were homemakers prior to the disability and who do not require employment to meet their needs without public assistance; eligibility may continue, even after a period of rehabilitation and readjustment, if the individual's work capacity is still very considerably limited (in comparison with that of a normal person) in terms of such factors as the speed with which he can work, the amount he can produce in a given period of time, and the number of hours he is able to work.

(2) Provide for the review of each medical report and social history by technically competent persons—not less than a physician and a social worker qualified by professional training and pertinent experience—acting cooperatively, who are responsible for the agency's decision that the applicant does or does not meet the State's definition of permanent and total disability. Under this requirement:

(i) The medical report must include a substantiated diagnosis, based either on existing medical evidence or upon current medical examination;

(ii) The social history must contain sufficient information to make it possible to relate the medical findings to the activities of the "useful occupation" and to determine whether the individual is totally disabled, and

(iii) The review physician is responsible for setting dates for reexamination; the review team is responsible for reviewing reexamination reports in conjunction with the social data, to determine whether disabled recipients whose health condition may improve continue to meet the State's definition of permanent and total disability.

(3) Provide for cooperative arrangements with related programs, such as vocational rehabilitation services.

(b) *Federal financial participation*—(1) *Assistance payments.* Federal financial participation is available in payments to or in behalf of any otherwise eligible individual who is permanently and totally disabled. Permanent and total disability may be considered as continuing until the review team establishes the fact that the recipient's disability is no longer within the State's definition of permanent and total disability.

(2) *Administrative expenses.* Federal financial participation is available in any expenditures incident to the medical examinations necessary to determine who is a permanently and totally disabled individual.

§ 233.90 Factors specific to AFDC.

(a) *Condition for plan approval.* A child may not be denied AFDC either initially or subsequently "because of the conditions of the home in which the child resides", or because the home is considered "unsuitable", unless "provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child". (Section 404(b) of the Social Security Act.)

(b) *Federal financial participation.* (1) Federal financial participation under title IV–A of the Social Security Act in payments with respect to a "dependent child", as defined in section 406(a) of the Act, is available within the following interpretations:

(i) *Needy child deprived by reason of.* The phrase "needy child * * * deprived * * * by reason of" requires that both need and deprivation of parental support or care exist in the individual case but does not require an affirmative showing that a causal relationship exists in the individual case. The phrase encompasses the situation of any child who is in need and otherwise eligible, and whose parent—father or mother—either has died, has a physical or mental incapacity, or is continually absent from the home. This interpretation is equally applicable whether the parent was the chief breadwinner or devoted himself or herself primarily to the care of the child, or whether or not the parents were married to each other. The determination whether a child has been deprived of parental support or care is made in relation to the child's natural parent or, as appropriate, the adoptive parent or stepparent described in § 203.1 of this chapter.

(ii) *Death of a parent.* If either parent of a child is deceased, the child may be deemed deprived of parental support or care, and may, if he is in need and otherwise eligible, be included within the scope of the program.

(iii) *Continued absence of the parent from the home.* Continued absence of the parent from the home constitutes the reason for deprivation of parental support or care when the parent is out of the home, the nature of the absence is such as either to interrupt or to terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of the absence precludes counting on the parent's performance of his function in planning for the present support or care of the child. If these conditions exist, the parent may be absent for any reason, and he may have left only recently or some time previously.

(iv) *"Physical or mental incapacity".* "Physical or mental incapacity" of a parent may be deemed to exist when one parent has a physical or mental defect, illness, or disability. The determination may be based on the simple fact of the existence of incapacity, and not upon its cause, degree, duration, or accompanying factors.

(v) *"Living with [a specified relative] in a place of residence maintained * * * as his * * * own home".* (a) A child may be considered to meet the requirement of living with one of the relatives specified in the Act if his home is with a parent or a person in one of the following groups:

(1) Any blood relative, including those of half-blood, and including first cousins, nephews, or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(2) Stepfather, stepmother, stepbrother, and stepsister.

(3) Persons who legally adopt a child or his parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with State law.

(4) Spouses of any persons named in the above groups even after the marriage is terminated by death or divorce.

(b) A home is the family setting maintained or in process of being established, as evidenced by assumption and continuation of responsibility for day to day care of the child by the relative with whom the child is living. A home exists so long as the relative exercises responsibility for the care and control of the child, even though either the child or the relative is temporarily absent from the customary family setting. Within this interpretation, the child is considered to be "living with" his relative even though

(1) He is under the jurisdiction of the court (e.g., receiving probation services or protective supervision); or

(2) Legal custody is held by an agency that does not have physical possession of the child.

(vi) *"Regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment."* A child may be considered in regular attendance at school or a training course in months in which he is not attending because of official school or training program vacation, illness, convalescence, or family emergency, and for the month in which he completes or discontinues his school or training program.

(2) Federal financial participation is available in initial payments made on behalf of a child who is in a foster home or institution if the child goes to live with a relative specified in section 406(a)(1) of the Social Security Act within 30 days of the receipt of the first payment.

(3) Federal financial participation is available in payments with respect to an unborn child when the fact of pregnancy has been determined by medical diagnosis.

(4) Federal financial participation is available in payments made for the entire month in the course of which a child leaves the home of a specified relative, provided payments are not made for a concurrent period for the same child in the home of another relative or in AFDC–FC.

(5) Federal financial participation is available in payments made to persons acting for relatives specified in section 406(a)(1) of the Act in emergency situations that deprive the child of the care of the relative through whom he as been receiving aid, for a temporary period necessary to make and carry out plans for the child's continuing care and support.

(6) Federal financial participation (at the 50 percent rate) is available in any expenses incurred in establishing eligibility for AFDC, including expenses

incident to obtaining necessary information to determine the existence of incapacity of a parent or pregnancy of a mother.

6. Part 233 is further amended by revising section 233.110 to read as follows:

§ 233.110 AFDC Foster Care.

(a) *State plan requirements.* A State plan under title IV–A of the Social Security Act must:

(1) Provide that aid will be given in the form of foster care for each otherwise eligible child:

(i) Who was removed after April 30, 1961, from the home of a relative specified in the AFDC plan, as a result of a judicial determination that continuance in the home of the relative would be contrary to his welfare, for any reason, and who has been placed in foster care as a result of such determination; and

(ii) (*a*) Who, in or for the month in which that court action was initiated, was receiving AFDC, or would have received AFDC if application had been made, or

(*b*) Who lived with a relative specified in the AFDC plan within 6 months prior to the month in which that court action was initiated, and who would have received AFDC in or for such month if in such month he had been living with (and removed from the home of) such a relative and application had been made for him; and

(iii) Whose placement and care are the responsibility of the State agency administering or supervising the administration of the AFDC plan, or, if the State so elects, are the responsibility of any other public agency, or type or types of public agencies specified in the plan, with whom the State agency has a currently effective agreement that provides for development of a plan satisfactory to the State agency for AFDC–FC children in accordance with subparagraph (2) of this paragraph and that contains other provisions necessary to achieve the objectives of the State's AFDC plan.

(2) Provide for development of a plan for each child described in subparagraph (1) of this paragraph, so that:

(i) He will be placed in a foster family home or a child care institution in accordance with his needs;

(ii) His need for and the appropriateness of his care and services in such placement will be periodically reviewed;

(iii) Services will be provided to improve the conditions in the home from which he was removed or to make possible his placement in the home of another relative under the State's AFDC plan. (See § 220.19 of this chapter.)

(3) Provide that maximum use will be made of the services of employees of the State public welfare agency responsible for the plan for child-welfare services under title IV–B of the Act or of any local agency participating in the administration of such plan.

(4) Specify:

(i) In what types of child care institutions (private nonprofit, or public, or both), in addition to foster family homes, placement will be made; and

(ii) Whether payments will be made to foster homes and institutions only or also to other agencies.

(5) Provide that there will be specific criteria for determining the amount of payment for foster care in foster family homes and in child care institutions. In establishing rates of payment to institutions, only those items included for care in foster family homes will be included, and overhead costs of the institution will be excluded.

Under the requirements of this paragraph, provision must be made for both foster family care and institutional care in accordance with the individual child's needs; public institutions may be used, without Federal financial participation, to discharge the institutional obligation in whole or in part; and the use of institutions outside the State will also meet the requirement for the provision of institutional care.

(b) *Federal financial participation.* (1) Federal financial participation is available, effective January 1, 1968, in AFDC–FC payments not to exceed an average of $100 per month per recipient, made on behalf of children as specified in section 408 of the Social Security Act, who are included in the approved State AFDC plan. The maximum of $100 average per month per recipient may be disregarded when the State claims Federal funds under the provisions of section 1118 of the Act.

(2) Federal financial participation is available in AFDC–FC payments made to an individual providing care in a foster family home, to a private nonprofit child care institution, or to a cooperating public or nonprofit private child placement or child-care agency.

7. Part 235 is added as follows:

PART 235—ADMINISTRATION OF FINANCIAL ASSISTANCE PROGRAMS

Sec.
235.70 Notice to law enforcement officials.
235.110 Fraud.

§ 235.70 Notice to law enforcement officials.

State plan requirements: A State plan under title IV–A of the Social Security Act must provide that:

(a) The appropriate law enforcement officials will be notified in writing promptly as soon as AFDC has been furnished in respect to a child who is believed to have been deserted or abandoned by a parent. This requirement is fulfilled by providing the following information:

A statement that AFDC has been furnished (date) to relative (name and address) in behalf of children (name and ages) in his home, who appear to have been deserted or abandoned by their parent(s) (name and address, if known).

Under this requirement, the appropriate law enforcement officials are those responsible for initiating actions in cases of desertion or abandonment, as those terms are defined under State law.

(b) Criteria will be established for the selection of cases in which notice is given to law enforcement officials that AFDC has been furnished in respect to a dependent child believed to have been deserted or abandoned by a parent. In fulfilling this requirement, the criteria will include instructions for identification of the persons who, under State law, are defined as parents responsible for support of minor children, and against whom legal action may be taken under such laws for desertion or abandonment.

(c) All applicants affected by the reporting requirement will be informed as early as possible during the application process, and each applicant will be afforded the opportunity to withdraw his application, if he wishes, before payment is issued and the required notice sent to the law enforcement officials.

§ 235.110 Fraud.

State plan requirements: A State plan under title I, IV–A, X, XIV, or XVI of the Social Security Act must provide:

(a) That the State agency will establish and maintain:

(1) Methods and criteria for identifying situations in which a question of fraud in the program may exist, and

(2) Procedures developed in cooperation with the State's legal authorities for referring to law enforcement officials situations in which there is valid reason to suspect that fraud has been practiced.

The definition of fraud for purposes of this section will be determined in accordance with State law.

(b) For methods of investigation of situations in which there is a question of fraud, that do not infringe on the legal rights of persons involved and are consistent with the principles recognized as affording due process of law.

(c) For the designation of official position(s) responsible for referral of situations involving suspected fraud to the proper authorities.

8. Part 246 is added as follows:

PART 246—STATE ORGANIZATION—MEDICAL ASSISTANCE PROGRAMS

§ 246.10 State medical care advisory committees.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must provide that:

(1) There will be an advisory committee to the State agency director on health and medical care services, appointed by the director of the State agency or a higher State authority. Appointments to the committee will provide for rotation and continuity.

(2) The medical care advisory committee will include:

(i) Board certified physicians and other representatives of the health professions who are familiar with the medical needs of low income population groups and with the resources available and required for their care;

(ii) Members of consumers' groups including title XIX recipients, and consumer organizations such as labor unions,

cooperatives, consumer-sponsored prepaid group practice plans, and others; and

(iii) The director of the public welfare department or of the public health department, whichever does not head the single State agency for the title XIX plan.

(3) The medical care advisory committee will have adequate opportunity for meaningful participation in policy development and program administration, including the furtherance of recipient participation in the program of the agency.

(4) The medical care advisory committee will be provided such staff assistance from within the agency and such independent technical assistance as are needed to enable it to make effective recommendations, and will be provided with financial arrangements, where necessary, to make possible the participation of recipients in the work of the committee.

(b) *Federal financial participation.* Federal financial participation of 50 percent is available for the activities of the medical care advisory committee.

9. Part 248 is amended to add the following sections:

PART 248—COVERAGE AND CONDITIONS OF ELIGIBILITY FOR MEDICAL ASSISTANCE

Sec.

§ 248.10 Coverage and conditions of eligibility for medical assistance.

(a) *Definitions.* When used in this part:

(1) The term "categorically needy" refers to an individual who is receiving financial assistance under the State's approved plan under title I, IV–A, X, XIV, or XVI of the Social Security Act, or is in need under the State's standards for financial eligibility in such plan. (See § 233.20 of this chapter.)

(2) The term "medically needy" refers to an individual whose income and resources equal or exceed the State's standards under the appropriate financial assistance plan but are insufficient to meet his costs for medical insurance premiums and for necessary medical and remedial care and services recognized under State law but not encompassed in the State plan for medical assistance, plus his costs for medical and remedial care and services included in the State plan.

(b) *State plan requirements.* A State plan under title XIX of the Social Security Act must:

(1) Provide that medical assistance will be available to the following groups of "categorically needy" persons:

(i) All individuals receiving aid or assistance under the State's approved plans under titles I, IV–A, X, XIV, and XVI of the Act;

(ii) All individuals under 21 who are, or would be, except for age of school attendance requirements, dependent children under the State's approved AFDC plan;

(iii) All persons who would be eligible for aid or assistance under one of the other approved State plans except for any eligibility condition or other requirement in such plan that is specifically prohibited in a program of medical assistance under title XIX of the Act.

(2) Specify any other groups of "categorically needy" individuals (not covered by subparagraph (1) of this paragraph), that will be included in the program. These may include:

(i) Persons who meet all the conditions of eligibility, including financial eligibility, of one of the State's other approved plans, but have not applied for such assistance.

(ii) Persons in a medical facility—skilled nursing home, hospital, institution for tuberculosis, or mental disease—who, if they left such facility, would be eligible for financial assistance under another of the State's approved plans. This includes persons in medical facilities who have enough income to meet their personal needs while in the institution, but not enough to meet their needs outside the facility according to the appropriate State plan.

(iii) Persons who would be eligible for financial assistance under another State public assistance plan, except that the State plan imposes eligibility conditions more stringent than, or in addition to, those required under the Social Security Act. For example, persons who are needy and 18 years of age or older and permanently and totally disabled under the Federal definition of permanent and total disability, but who are excluded from APTD under the State's more restricted definition of disability; or persons who would be eligible for AFDC if the State's program covered families with children deprived of parental support or care to the full extent permitted under title IV–A of the Act, including AFDC for families with unemployed fathers.

(iv) All individuals under 21 who qualify on the basis of financial eligibility, but do not qualify as dependent children under a State's AFDC plan; or groups of such individuals is based on reasonable classifications. Children in foster homes or private institutions for whom public agencies are assuming financial responsibility, in whole or in part, constitute a reasonable classification. The additional inclusion of children placed in foster homes or private institutions by private, nonprofit agencies would also be considered reasonable.

(v) Caretaker relatives enumerated in section 406(a)(1) of the Act who have in their care one or more children under 21 who, except for age or school attendance requirements, would be dependent children under the State's AFDC plan.

(3) Specify, if the plan includes the medically needy, that it covers all medically needy groups that correspond to the covered categorically needy groups. Exception: coverage of "essential" spouses of recipients of OAA, AB, APTD, or AABD does not require coverage of essential spouses of nonmoney payment recipients, either categorically needy or medically needy.

(4) Specify all conditions of eligibility that must be met by members of all optional groups included in the plan.

(5) If the plan includes groups of individuals for whose medical care and services Federal financial participation is not available, specify such groups, and provide that the State agency will establish methods for identifying the expenditures for medical care and services in which Federal financial participation may not be claimed.

(c) *Conditions for plan approval.* (1) All groups the State elects to include in the program are based on reasonable classifications, that is, they do not result in arbitrary or inequitable treatment of individuals or groups, or result in exclusion of groups or persons on the basis of any classification that is arbitrary or unreasonable, or is otherwise inconsistent with the broad objectives of title XIX of the Act.

(2) There is clarity as to what groups are included, and which are within the scope, and which are outside the scope, of Federal financial participation in the cost of medical assistance provided.

(3) Except for need, the conditions of eligibility that are imposed on elective groups (including any groups for whose medical care and services Federal financial participation is not available) are not more stringent or more numerous than those imposed on individuals receiving aid or assistance under any of the approved State plans.

(4) No age, residence, citizenship, or other requirement is imposed that is prohibited by title XIX of the Act.

(5) No person unrelated to the applicant or recipient is held financially responsible for him; nor is any condition of eligibility imposed that holds a relative responsible who is not the spouse of the individual who needs medical care or services, or the parent of such individual, who is under 21, or is blind, or is permanently and totally disabled.

(d) *Federal financial participation—*(1) *Administrative costs.* Federal financial participation is available in the administrative costs of providing medical care and services to all persons covered under the plan, including those in the cost of whose medical care and services the Federal Government does not share, provided all other provisions of the approved State plan are applicable to them.

(2) *Medical assistance.* Federal financial participation is available, pursuant to part 250 of this chapter, in payments for medical care and services provided under the State plan to any financially eligible individual who is:

(i) Under the age of 21; or

(ii) A parent or other caretaker relative specified in section 406(a)(1) of the Act (see § 233.90(b)(1)(v)(*a*) of this chapter with whom a child under the age of 21 is living, if such relative is eligible or would, except that the child is not regularly attending school or a course of vocational training, and except

for need, be eligible to receive payments within the scope of Federal financial participation under title IV–A of the Act; only one such parent or other caretaker relative, plus the spouse of such parent (who meets the conditions specified in section 406(b)(1) of the Act (see § 237.50(b) (3) (4) of this chapter)), are within the scope of Federal financial participation under title IV–A of the Act; or

(iii) 65 years of age or older; or

(iv) Blind; or

(v) 18 years of age or older and permanently and totally disabled; or

(vi) The spouse of a recipient of OAA, AB, APTD, or AABD who is considered "an essential person" (see § 248.11 of this part);

but excluding any such care or services provided to any individual who is an inmate of a public institution (except as a patient in a medical institution), or who is under age 65 and a patient in an institution for tuberculosis or mental diseases. See § 248.60.

(3) Federal financial participation is available in medical assistance provided to individuals who were eligible therefor in the month in which the medical care or services were provided.

(4) Federal financial participation is available in medical assistance for individuals, in accordance with the State plan, during a temporary period while the effects of certain eligibility conditions such as blindness, disability, continued absence or incapacity of a parent, or unemployment of a father, are being overcome.

10. Part 248 is further amended by revising section 248.21 to read as follows:

§ 248.21 Financial eligibility—medical assistance programs.

(a) *State plan requirements.* A State plan under title XIX of the Social Security Act must:

(1) With respect to the categorically needy:

(i) Specify that the financial eligibility conditions of the pertinent financial assistance plan will apply;

(ii) Provide for the application of income first to maintenance costs.

(2) With respect to both the categorically needy and, if they are included in the plan, the medically needy:

(i) Provide that only such income and resources as are actually available will be considered and that income and resources will be reasonably evaluated;

(ii) Provide that financial responsibility of any individual for any applicant or recipient of medical assistance will be limited to the responsibility of spouse for spouse and of parents for children under age 21, or blind, or permanently and totally disabled;

(iii) Specify the extent to which the financial responsibility of any such relatives is taken into account.

(3) With respect to the medically needy, if they are included in the plan:

(i) Provide levels of income and resources for maintenance, in total dollar amounts, as a basis for establishing financial eligibility for medical assistance. Under this requirement:

(*a*) Such income levels must be comparable as among individuals and families of varying sizes;

(*b*) The income levels for maintenance must be, as a minimum, at the levels of the most liberal money payment standard used by the State, at any time on or after January 1, 1966, as a measure of financial eligibility in any categorical money payment program in the State, or at the level for which Federal financial participation is available pursuant to paragraph (b) of this section, whichever is less. Where a State imposes any deduction, cost sharing, enrollment fee, premium, or similar charge under the plan with respect to any medical assistance furnished to an individual thereunder, such charge may not be imposed to the extent that it would reduce the individual's income below the most liberal money payment standard referred to in the preceding sentence;

(*c*) A lower income level for maintenance must be used for individuals not living in their own homes but receiving care in nursing homes, institutions for tuberculosis or mental diseases or other medical facilities providing long-term care. This lower income level must be reasonable in amount for clothing and personal needs for such individuals. When such an individual's home is maintained for a spouse or other dependents, the appropriate income level for such dependents, plus the individual's income level for maintenance in a long-term care facility, is applicable;

(*d*) Resources which may be held must, as a minimum, be at the most liberal level used in any money payment program in the State on or after January 1, 1966, and the amount of liquid assets which may be held must increase with an increase in the number of individuals in the family. There must be separate levels established for resources.

(ii) Provide that there will be a flexible measurement of available income which will be applied in the following order of priority:

(*a*) First, for maintenance, so that any income in an amount at or below the established level will be protected for maintenance;

(*b*) Next, income in excess of that needed for maintenance will be applied to costs incurred for medical insurance premiums and for necessary medical or remedial care recognized under State law and not encompased within the State plan for medical assistance. States may set reasonable limits on such medical services for which excess income may be applied.

(*c*) All of the remaining excess income will be applied to costs of medical assistance included in the State plan.

(iii) Provide that all income and resources (after all State policies governing the disregard, or setting aside for future needs, of income and resources in the State's approved plans under titles I, IV–A, X, XIV, and XVI have been applied) will be considered in establishing eligibility, and in the flexible application of income to medical costs not in the State plan, and payment toward the medical assistance costs.

(iv) Provide that only such income and resources will be considered as will be "in hand" within a period, preferably of not more than 3 months, but not in excess of 6 months, ahead, including the month in which medical services were rendered, for which payment would be made under the plan.

(b) *Federal financial participation.* (1) Federal financial participation is available in payments made in behalf of categorically needy individuals.

(2) Payments in behalf of medically needy individuals are subject to Federal financial participation only to the extent that they are made for a member of a family the annual income of which is within the income levels established in the following:

(i) In the case of any State, the applicable income levels with respect to periods after December 31, 1969 are 133⅓ percent of the amounts specified in subdivision (ii) of this subparagraph. Any total yearly income levels established by applying the above percentage which are not multiples of $100 shall be rounded to the next higher multiple of $100. Federal financial participation is available for a person whose annual income exceeds this level to the extent that medical expenses exceed the income excess (see subdivision (ii)(*c*) of this subparagraph).

(ii) The amounts to be applied in calculating the income levels referred to in subdivision (i) of this subparagraph are the highest amounts which would ordinarily be paid to a family of the same size without any income or resources in the form of money payments, under the approved AFDC plan of the State, subject to the following modifications:

(*a*) In the case of a single individual the amount of the income level shall be reasonably related to the amounts payable under such plan to families consisting of two or more individuals who are without income or resources.

(*b*) If the amounts established under such plan are subject to a maximum family limit, the income level for families which exceed such limit will be determined by adding an amount for each member of the family to such limit. The amounts to be added shall be reasonably related to those established under the plan for families which are within the maximum family limit.

(*c*) In computing a family's or individual's income for purposes of subdivisions (i) and (ii) of this subparagraph, there shall be excluded any costs (whether in the form of insurance premiums or otherwise) incurred by such family or individual for medical care or for any other type of remedial care recognized under State law.

(3) If a State furnishes medical assistance on the basis of income levels which are higher than those specified in this section, the State agency must

submit to the Department of Health, Education, and Welfare for its approval income levels which are calculated on the basis provided in this section, and must establish procedures to assure that claims for Federal financial participation are limited accordingly.

§ 248.30 Age.

(a) *Conditions for plan approval.* A State plan under title XIX of the Social Security Act may not impose:

(1) Any age requirement of more than 65 years;

(2) Any age requirement which excludes any individual who has not attained the age of 21 and is or would, except for the provisions of section 406(a)(2) of the Act (regarding attendance at school or a training course), be a dependent child under the State's AFDC plan; or

(3) Age requirements more stringent than are imposed in the State's approved plans for financial assistance.

(b) *Federal financial participation.* (1) Federal financial participation is available in medical assistance provided to otherwise eligible persons who were, for any portion of the month in which they received medical care or services, under 21 years of age, or 65 years of age or over, or 18 years of age or over and permanently and totally disabled. There is no Federal requirement as to age for blind persons.

(2) Federal determination of whether an individual meets the age requirements of the Social Security Act will be made according to the common-law method (under which a specific age is attained the day before the anniversary of birth), unless the State plan specifies that the popular usage method (under which an age is attained on the anniversary of birth) is used.

(3) The State agency may adopt an arbitrary date such as July 1 as the point from which age will be computed in all instances where the month of an individual's birth is not available, but the year can be established.

§ 248.50 Citizenship.

Conditions for plan approval:

(a) A State plan under title XIX of the Social Security Act may not exclude an otherwise eligible citizen of the United States, regardless of how (by birth or by naturalization), or when, citizenship was obtained.

(b) A State plan which includes the medically needy must include all otherwise eligible individuals, regardless of citizenship status, unless all of the State's approved financial assistance plans require citizenship as a condition of eligibility.

(c) A State plan may include persons without regard to citizenship status, even though all of the State's financial assistance plans contain such a requirement.

§ 248.60 Institutional status.

(a) *Federal financial participation.* (1) Federal financial participation under title XIX of the Social Security Act is not available in medical assistance for any individual who is an inmate of a public institution except as a patient in a medical institution.

(2) Federal financial participation under title XIX of the Social Security Act is not available in medical assistance for any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases.

(3) For purposes of this paragraph:

(i) Federal financial participation is available in the costs of medical assistance for the month in which an individual (if otherwise eligible) became an inmate of a public institution, or a patient in an institution for tuberculosis or mental diseases;

(ii) Whether an institution is one for tuberculosis or mental diseases will be determined by whether its overall character is that of a facility established and maintained primarily for the care and treatment of individuals with tuberculosis or mental diseases (whether or not it is licensed);

(iii) An institution for the mentally retarded may be distinguished from an institution for mental diseases;

(iv) An individual on conditional release or convalescent leave from an institution for mental diseases is not considered to be a patient in such institution.

(b) *Definitions.* For purposes of Federal financial participation under paragraph (a) of this section: (1) "Institution" means an establishment which furnishes (in single or multiple facilities) food and shelter to four or more persons unrelated to the proprietor, and in addition, provides some treatment or services which meet some need beyond the basic provision of food and shelter.

(2) "In an institution" refers to an individual who is admitted to participate in the living arrangements and to receive treatment or services provided there which are appropriate to his requirements.

(3) "Public institution" means an institution that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control.

(4) "Inmate of a public institution" means a person who is living in a public institution. An individual is not considered an inmate when:

(i) He is in a public educational or vocational training institution, for purposes of securing education or vocational training, or

(ii) He is in a public institution for a temporary emergent period pending other arrangements appropriate to his needs.

(5) "Medical institution" means an institution which:

(i) Is organized to provide medical care, including nursing and convalescent care;

(ii) Has the necessary professional personnel, equipment, and facilities to manage the medical, nursing, and other health needs of patients on a continuing basis in accordance with accepted standards;

(iii) Is authorized under State law to provide medical care;

(iv) Is staffed by professional personnel who have clear and definite responsibility to the institution in the provision of professional medical and nursing services including adequate and continual medical care and supervision by a physician; sufficient registered nurse or licensed practical nurse supervision and services and nurse aid services to meet nursing care needs; and appropriate guidance by a physician(s) on the professional aspects of operating the facility.

(6) "Institution for tuberculosis" means an institution which is primarily engaged in providing diagnosis, treatment, or care of persons with tuberculosis, including medical attention, nursing care, and related services.

(7) "Institution for mental diseases" means an institution which is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services.

(8) "Patient" means an individual who is in need of and receiving professional services directed by a licensed practitioner of the healing arts toward maintenance, improvement or protection of health, or alleviation of illness, disability, or pain.

§ 248.70 Blindness.

(a) *State plan requirements.* A State plan under title XIX of the Social Security Act must:

(1) Contain a definition of blindness in terms of ophthalmic measurement. The following definition is recommended:

An individual is considered blind if he has central visual acuity of 20/200 or less in the better eye with correcting glasses or a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance of no greater than 20°.

(2) Provide that, in any instance in which a determination is to be made whether an individual is blind according to the State's definition, there will be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select. Under this requirement, no examination is necessary when both eyes are missing.

(3) Provide that each eye examination report will be reviewed by a State supervising ophthalmologist who is responsible for making the agency's decision that the applicant or recipient does or does not meet the State's definition of blindness, and for determining if and when reexaminations are necessary.

(b) *Federal financial participation—*(1) *Assistance payments.* Federal financial participation is available in medical assistance provided to any otherwise eligible person who is blind. Blindness may be considered as continuing until an examination by a qualified examiner establishes the fact that the recipient's vision has improved beyond the State's definition of blindness.

(2) *Administrative expenses.* Federal financial participation is available in any expenditures incident to the eye examination necessary to determine who is a blind individual.

§ 248.80 **Disability.**

(a) *State plan requirements.* A State plan under title XIX of the Social Security Act must:

(1) Contain a definition of permanently and totally disabled, showing that:

(i) "Permanently" is related to the duration of the impairment or combination of impairments; and

(ii) "Totally" is related to the degree of disability.

The following definition is recommended. "Permanently and totally disabled" means that the individual has some permanent physical or mental impairment, disease, or loss, or combination thereof, that substantially precludes him from engaging in useful occupations within his competence, such as holding a job.

Under this definition:

"Permanently" refers to a condition which is not likely to improve or which will continue throughout the lifetime of the individual; it may be a condition which is not likely to respond to any known therapeutic procedures, or a condition which is likely to remain static or to become worse unless certain therapeutic measures are carried out, where treatment is unavailable, inadvisable, or is refused by the individual on a reasonable basis; "permanently" does not rule out the possibility of vocational rehabilitation or even possible recovery in light of future medical advances or changed prognosis; in this sense the term refers to a condition which continues indefinitely, as distinct from one which is temporary or transient;

"Totally" involves considerations in addition to those verified through the medical findings, such as age, training, skills, and work experience, and the probable functioning of the individual in his particular situation in light of his impairment; an individual's disability would usually be tested in relation to ability to engage in remunerative employment; homemaking would be an appropriate test only for individuals, such as housewives, who were homemakers prior to the disability and who do not require employment to meet their needs without public assistance; eligibility may continue, even after a period of rehabilitation and readjustment, if the individual's work capacity is still very considerably limited (in comparison with that of a normal person) in terms of such factors as the speed with which he can work, the amount he can produce in a given period of time, and the number of hours he is able to work.

(2) Provide for the review of each medical report and social history by technically competent persons—not less than a physician and a social worker qualified by professional training and pertinent experience—acting cooperatively, who are responsible for the agency's decision that the applicant does or does not meet the State's definition of permanent and total disability. Under this requirement:

(i) The medical report must include a substantiated diagnosis, based either on existing medical evidence or upon current medical examination;

(ii) The social history must contain sufficient information to make it possible to relate the medical findings to the activities of the "useful occupation" and to determine whether the individual is totally disabled; and

(iii) The review physician is responsible for setting dates for reexamination; the review team is responsible for reviewing reexamination reports in conjunction with the social data, to determine whether disabled recipients whose health condition may improve continue to meet the State's definition of permanent and total disability.

(b) *Federal financial participation*—(1) *Assistance payments.* Federal financial participation is available in medical assistance provided to any otherwise eligible individual who is permanently and totally disabled. Permanent and total disability may be considered as continuing until the review team establishes the fact that the recipient's disability is no longer within the State's definition of permanent and total disability.

(2) *Administrative expenses.* Federal financial participation is available in any expenditures incident to the medical examination necessary to determine who is a permanently and totally disabled individual.

11. Part 249 is amended to add the following sections:

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

Sec.

§ 249.70 **Liens and recoveries.**

State plan requirements: A State plan under title XIX of the Social Security Act must provide that:

(a) No lien or encumbrance of any kind will be required from or be imposed against the property of any individual prior to his death because of medical assistance paid or to be paid on his behalf or at any time if he was under 65 years of age when he received such assistance (except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual).

(b) There will be no adjustment or recovery of medical assistance correctly paid, except from the estate of an individual who was 65 years of age or older when he received such assistance, and then only after the death of his surviving spouse, if any, and only at a time when he has no surviving child who is under age 21 or is blind or permanently and totally disabled.

Under this regulation, the term "property" includes not only the homestead but all other personal and real property in which the recipient has a legal interest; and a money payment under another program may not be reduced as a method of recovery for vendor payments incorrectly paid under title XIX of the Act.

§ 249.82 **Contracts with health insurance organizations, fiscal agents, and private nonmedical institutions.**

(a) *Definitions.*—(1) *Arrangement with health-insuring organization.* A health-insuring arrangement is present where the contractor agrees to pay the costs of benefits provided under the contract in consideration of an amount called a premium, paid by the State agency for each eligible individual. Under this arrangement, the State agency would be obligated to pay for eligible individuals a monthly premium for each month for which coverage of the medical care and services provided for in the contract is to be made available, whether or not such individuals needed such care and services. Such payment might be made in advance of the coverage period or shortly thereafter. Also, the State agency would not pay for any loss incurred by the contractor from claims exceeding premiums paid or from increases in administrative costs of the contractor during the covered period, and, normally, the State agency would not be charged separately for the administrative functions performed by the contractor since these functions are a coordinate part of the health insurance agreement.

(2) *Arrangement with fiscal agent.* A fiscal agent type arrangement is present where the contractor agrees to process and audit vendor claims for payment and may perform certain other functions which would otherwise be performed by the State agency in providing medical care and services to recipients for an amount sufficient to cover his costs of performing the agreed-upon functions. Under this arrangement, the State agency assumes liability for vendor claims for medical care and services rendered eligible recipients, and frequently pays a separate charge to the contractor for costs incurred in performing the agreed-upon functions.

(3) *Arrangement with private nonmedical institution.* An arrangement with a private nonmedical institution, such as a child-care institution or maternity home, is present where the contractor agrees to provide specified medical services through its own salaried medical personnel or to provide such services through contracts or other arrangements with medical providers. Under this arrangement, the State agency would be obligated to pay for eligible individuals a monthly capitation amount for each month for which coverage of the medical care and services provided for in the contract is to be made available, whether or not such individuals needed such care and services. Such payment might be made in advance of the coverage period or shortly thereafter.

(b) *State plan requirements.* (1) A State plan under title XIX of the Social Security Act which provides part or all

of its medical assistance through arrangement with health-insuring organizations must provide that, as a minimum, the contract will:

(i) Identify the amount of the premium to be paid, when it is to be paid, and the coverage group and period;

(ii) Specify the amount, duration, and scope of medical care and services to be provided, and the fee schedule or other basis on which the contractor will make payment;

(iii) Provide that the premium payment constitutes full discharge of all responsibility by the State for costs of covered medical care and services provided to covered eligible recipients during the contract period;

(iv) Provide for periodic renegotiation of the premium rate and/or medical care and services furnished under contract;

(v) Provide that the contractor shall maintain and provide such records as are necessary for the State to meet the requirements for reporting placed on the State by the Federal agency, and provide that the contractor shall furnish such other reports as required by the State or local agency; and

(vi) Include the period of time the contract will be in effect, together with provisions for termination.

(2) A State plan under title XIX of the Act which provides part or all of its medical assistance through arrangement with fiscal agents must provide that, as a minimum, the contract will:

(i) Identify the type of functions to be performed by the contractor, the amount to be paid the contractor for performing the functions, the basis for the amount, when payment is to be made, and the coverage group;

(ii) Provide that the contractor will make payments for medical care in accordance with the rules and regulations established by the State agency;

(iii) Provide that the contractor shall maintain and provide such records as are necessary for the State to meet the requirements for reporting placed on the State by the Federal agency, and provide that the contractor shall furnish such other reports as required by the State or local agency;

(iv) Provide for periodic renegotiation of the amount paid in relation to the costs of service provided; and

(v) Include the period of time the contract will be in effect together with provisions for termination.

(3) A State plan under title XIX of the Act which provides part of its medical assistance through arrangement with private nonmedical institutions must provide that, as a minimum, the contract will:

(i) Identify the capitation amount to be paid, when it is to be paid, and the coverage group;

(ii) Specify the amount, duration and scope of medical care and services to be provided;

(iii) Specify the basis for payment to the provider for authorized service;

(iv) Provide for periodic renegotiation of the amount paid in relation to the costs of services provided;

(v) Provide that the contractor shall maintain and provide such records as are necessary for the State to meet the requirements for reporting placed on the State by the Federal agency, and provide that the contractor shall furnish such other reports as required by the State or local agency; and

(vi) Include the period of time the contract will be in effect, together with provisions for termination.

(c) *Conditions for Federal financial participation.* (1) The total amount paid to the health-insuring organization (pursuant to paragraph (b)(1) of this section) for carrying out the provisions of the contract will be regarded as assistance costs for Federal financial participation even if the contract provides for a separate charge for the contractor's administrative costs.

(2) The total amount paid to the private nonmedical institution (pursuant to paragraph (b)(3) of this section) for carrying out the provisions of the contract will be limited to cost of medical care and services and will be regarded as assistance costs for Federal financial participation.

(3) Under contracts with fiscal agents, the amount paid to the supplier of medical care will be considered for Federal financial participation as assistance costs, and the amount paid to the contractor for performing the agreed-upon functions will be considered as administrative costs.

(4) For Federal financial participation, the State agency must submit the contract to the Social and Rehabilitation Service not later than the end of the first quarter for which Federal financial participation will be claimed for expenditures made thereunder.

[F.R. Doc. 70-6771; Filed, June 4, 1970; 8:45 a.m.]