FEDERAL REGISTER

VOLUME 35 • NUMBER 124

Friday, June 26, 1970 • Washington, D.C.

Pages 10423–10481

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- Civil Service Commission
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- Consumer and Marketing Service
- Customs Bureau
- Federal Aviation Administration
- Federal Communications Commission
- Federal Maritime Commission
- Federal Power Commission
- Fish and Wildlife Service
- Food and Drug Administration
- Food and Nutrition Service
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CODE OF FEDERAL REGULATIONS

(Revised as of January 1, 1970)

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[*A Cumulative checklist of CFR issuances for 1970 appears in the first issue of the Federal Register each month under Title 1*]

Order from Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402

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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Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—U.S. Standards for Grades of Frozen Corn-on-the-Cob [1]

A notice of proposed rule making was published in the FEDERAL REGISTER of September 12, 1969 (34 F.R. 14334), regarding a revision of the U.S. Standards for Grades of Frozen Corn-on-the-Cob (7 CFR 52.931–52.946) and allowing interested persons until March 1, 1970, in which to submit written comments concerning the proposal.

In consideration of the additions and changes suggested in the written comments which were received concerning the proposal of September 12, 1969, a second proposal to amend the standards was published in the FEDERAL REGISTER of April 24, 1970 (35 F.R. 6592). Interested persons were allowed 45 days after such publication in which to submit comments concerning this second proposal.

The revised standards, when effective, will be the third issue by the Department of grade standards for this product.

These grade standards are issued under the authority of the Agricultural Marketing Act of 1946 (sec. 202–208, 60 Stat. 1087, as amended; 7 U.S.C. 1621–1627), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this Act upon request and upon payment of a fee to cover the cost of such services.

Statement of consideration leading to the revised standards. Comments from three sources concerning the proposal of April 24, 1970 were received by the Hearing Clerk: One from the Northwest Food Processors Association, one from the American Frozen Food Institute, and one from a large national chain food store operator.

All respondents approved the proposed standards in general. Several minor changes in wording or presentation were suggested and most are included in the revised standards.

As a result of the comments received and other information now available, the following more important changes from the proposed standards are incorporated in the revised standards:

1. Nonparallel kernels, as defined, are now classed as a "minor" instead of a "major" development defect.

2. The definitions of crushed and broken kernels is expanded to include an additional "severe" defect when the crushed and broken kernels occur in one area of the cob.

No action was taken on a suggestion to change the classification of "Dark or Readily Noticeable Silk" to apply to the individual ear rather than to the sample unit, since the effect would be to greatly increase the allowance from that proposed. Such an allowance for dark or readily noticeable silk was deemed to be not in accord with good commercial packing practice or the interest of consumers.

The standards are as follows:

PRODUCT DESCRIPTION, STYLES, COLOR, GRADES

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52.931 Product description.
52.932 Styles.
52.933 Lengths.
52.934 Colors of frozen corn-on-the-cob.
52.935 Grades.

FACTORS OF QUALITY

52.936 Ascertaining the grade of a sample unit.
52.937 Ascertaining the rating for the factors which are scored.
52.938 Color.
52.939 Uniformity of size.
52.940 Development.
52.941 Defects.
52.942 Tenderness and maturity.

EXPLANATIONS AND METHODS OF ANALYSIS

52.943 Preparation for and evaluation of stages of kernel development.
52.944 Cooking procedure and evaluation of cooked units.

LOT COMPLIANCE

52.945 Ascertaining the grade of a lot.

SCORE SHEET

52.946 Score sheet for frozen corn-on-the-cob.

AUTHORITY: The provisions of this subpart issued under sec. 202–208, 60 Stat. 1087 as amended; 7 U.S.C. 1621–1627.

PRODUCT DESCRIPTION, STYLES, COLOR, GRADES

§ 52.931 Product description.

Frozen corn-on-the-cob is the product which is prepared from sound, properly matured, fresh, sweet corn ears by removing husk and silk; by sorting, trimming, and washing to assure a clean and wholesome product. The ears are blanched, then frozen and stored at temperatures necessary for the preservation of the product.

§ 52.932 Styles.

(a) *Trimmed.* Ears trimmed at both ends to remove tip and stalk ends and/or cut to specific lengths.

(b) *Natural.* Ears trimmed at the stalk end only to remove all or most of the stalk.

§ 52.933 Lengths.

(a) *Regular.* Ears which are predominantly over 3½ inches in length.

(b) *Short.* Ears which are predominantly 3½ inches or less in length.

§ 52.934 Colors of frozen corn-on-the-cob.

(a) Golden (or yellow).
(b) White.

§ 52.935 Grades.

(a) "U.S. Grade A" (or U.S. Fancy) frozen corn-on-the-cob is composed of ears with similar varietal characteristics and that have a good flavor and odor. The ears have a good color; are at least reasonably uniform in size; are at least reasonably well developed; are practically free from defects; and are tender. The product scores not less than 90 points when rated in accordance with the scoring system outlined in this subpart.

(b) "U.S. Grade B" (or U.S. Extra Standard) frozen corn-on-the-cob is composed of ears with similar varietal characteristics and that have at least a reasonably good flavor and odor. The ears have at least a reasonably good color; may lack uniformity of size and development; are at least reasonably free from defects; and are at least reasonably tender. The product scores not less than 80 points when rated in accordance with the scoring system outlined in this subpart.

(c) "Substandard" is the quality of frozen corn-on-the-cob that fails to meet the requirements of U.S. Grade B.

FACTORS OF QUALITY

§ 52.936 Ascertaining the grade of a sample unit.

(a) *General.* The grade of a sample unit of frozen corn-on-the-cob is ascertained by considering: The flavor and odor which are not scored; the ratings for the factors of color, uniformity of size, development, defects, and tenderness, and maturity which are scored; the total score; and the limiting rules which may be applicable.

(b) *Sample unit size.* For purposes of rating the quality factors, a sample unit shall consist of four (4) ears; or, if the ears are "short" ears (trimmed to predominantly 3½ inches or less in length) the sample unit shall be eight (8) such "short" ears.

(c) *Definitions of flavor and odor.* (1) "Good flavor and odor" means that the

[1] Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

product has a good, characteristic, normal flavor and odor and is free from objectionable flavors and objectionable odors of any kind.

(2) "Reasonably good flavor and odor" means that the product may be lacking in good flavor and odor but is free from objectionable flavors and objectionable odors of any kind.

(d) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given such factors are:

Factors:	*Points*
Color	20
Uniformity of size	10
Development	10
Defects	30
Tenderness and maturity	30
Total score	100

§ 52.937 Ascertaining the rating for the factors which are scored.

The essential variations within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive. (For example, "27 to 30 points" means 27, 28, 29, or 30 points.)

§ 52.938 Color.

(a) *General.* The factor of color is evaluated immediately after the product has been water-thawed to the extent that the outer surfaces are substantially free from ice crystals.

(b) *Definition of "off-variety" kernels.* "Off-variety" kernels are those which are not blemished but which vary markedly from the predominant color and are not characteristic of the variety.

(c) (*A*) *Classification.* Frozen corn-on-the-cob that has a good color may be given a score of 18 to 20 points. "Good color" means that the corn has a typical, bright color and complies with the requirements for U.S. Grade A in table I.

(d) (*B*) *Classification.* Frozen corn-on-the-cob that has a reasonably good color may be given a score of 16 or 17 points. Frozen corn-on-the-cob that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score (limiting rule). "Reasonably good color" means a color that may be slightly dull but is not of abnormal color. Such color also complies with the requirements for U.S. Grade B in table I.

(e) (*SStd*) *Classification.* Frozen corn-on-the-cob that fails to meet the requirements of paragraph (d) of this section may be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (limiting rule).

TABLE I

REQUIREMENTS FOR UNIFORMITY OF COLOR AND OFF-VARIETY KERNELS

	Uniformity of color		Off-variety kernels	
	Each ear in the sample unit	All ears in the sample unit	Each ear in the sample unit	All ears in the sample unit
			Maximum number	
U.S. Grade A	Practically uniform	Reasonably uniform	3 kernels	6 kernels.
U.S. Grade B	Reasonably uniform	Fairly uniform	15 kernels	30 kernels.

§ 52.939 Uniformity of size.

(a) *General.* The rating for uniformity of size is based on the variations in length and diameter of the ears. The diameter is the largest diameter measured at right angles to the longitudinal axis.

(b) (*A*) *Classification.* Frozen corn-on-the-cob that is practically uniform in size may be given a score of 9 or 10 points. "Practically uniform in size" means that the variations in the diameter and/or length of the ears do not exceed the variations allowed for U.S. Grade A, for the applicable style, in table II.

(c) (*B*) *Classification.* Frozen corn-on-the-cob that is only reasonably uniform in size may be given a score of 8 points. "Reasonably uniform in size" means that the variations in the diameter and/or length of the ears do not exceed the variations allowed for U.S. Grade B, for the applicable style, in table II.

(d) (*SStd*) *Classification.* Frozen corn-on-the-cob that exceeds the varitions allowed for U.S. Grade B, for the applicable style, in table II may be given a score of 0 to 7 points and shall not be graded above Grade B, regardless of the total score (partial limiting rule).

TABLE II

VARIATION LIMITS FOR DIAMETER AND LENGTH

	Trimmed style				Natural style (untrimmed)	
	Regular length ears		Short length ears			
	Diameter	Length	Diameter	Length	Diameter	Length
	Maximum variation in the sample unit					
U.S. Grade A	½ inch	¾ inch	½ inch	½ inch	½ inch	1½ inches;
U.S. Grade B	¾ inch	1 inch	¾ inch	½ inch	¾ inch	2 inches.

§ 52.940 Development.

(a) *General.* (1) Development refers to the extent that the ears are filled with corn kernels and the pattern arrangement, as applicable, of such kernels on the cob.

(2) Classification of "development defects", if applicable, are made on each ear, regardless of length.

(3) Evlauation of this factor as to grade is made on the basis of a sample unit.

(b) *Conditions of evaluation.* (1) The classification of "development defects" is done after the product has been thawed to the extent that the outer surfaces are substantially free from ice crystals.

(2) For natural style, "development defects" over the outermost one (1) inch of the tip end of the ear are not scored.

(c) (*A*) *Classification.* Frozen corn-on-the-cob that is well developed may be given a score of 9 or 10 points. "Well developed" means that the ears in the sample unit are well filled with kernels and the appearance of none of the ears in the sample unit is materially affected by missing, or underdeveloped kernels. In addition, any "development defects" present (as defined and classified in this section) do not exceed the allowances in table III.

(d) (*B*) *Classification.* Frozen corn-on-the-cob that is reasonably well developed may be given a score of 8 points. "Reasonably well developed" means that the ears in the sample unit are reasonably well filled with kernels and the appearance of none of the ears in the sample unit is seriously affected by missing, or underdeveloped kernels. In addition, any "development defects" present (as defined and classified in this section) do not exceed the allowances in table III.

(e) (*SStd*) *Classification.* Frozen corn-on-the-cob that fails to meet the requirements of paragraph (d) of this section may be given a score of 0 to 7 points and shall not be graded above Grade B, regardless of the total score for the product (partial limiting rule).

(f) *Definitions and classification of "development defects".*

Type of development defect (applicable to each ear, regardless of length)	Classification	
	Minor	Major
Twisted ear:		
An ear twisted—more than the width of 4 rows of kernels or more than ½ of the circumference—from one end to the other	X	
Nonparallel kernels: (Not applicable to varieties which characteristically have staggered rows.)		
An ear having an area comprised of three (3) or more adjacent nonparallel rows extending more than two (2) inches, lengthwise, of the ear	X	
Separation of rows exceeding ½ the length of the ear:		
One space showing cob more than ¼, but not more than ½, the width of an average size kernel	X	
Two or more such spaces showing cob more than ¼, but not more than ½, the width of an average size kernel.	X	
A space or spaces showing cob more than ½ the width of an average size kernel	X	

TABLE III

DEVELOPMENT DEFECTS FOR EACH GRADE

Grade classification	Total of Minor only (applicable only when there are no major)	Total of Minor and Major	Limit for Major
	Maximum in the sample unit		
U.S. Grade A	3	2	1
U.S. Grade B	5	4	2

§ 52.941 **Defects.**

(a) *General.* (1) This factor refers to the degree of freedom from such defects as crushed and broken kernels, blemished kernels, poorly trimmed ears, attached stalk, husk, and dark or readily noticeable silk.

(2) Crushed and broken kernels, blemished kernels, poorly trimmed ears, and attached stalk are scored on the basis of individual ears, regardless of length.

(3) Husk and silk are aggregated and are scored on the basis of a sample unit.

(b) *Conditions of evaluation.* (1) The classification of defects is done after the product has been water-thawed.

(2) For natural style, defects over the outermost one (1) inch of tip end of ear are not scored except for those kernels which are classed as blemished.

(c) (*A*) *Classification.* Frozen corn-on-the-cob that is practically free from defects may be given a total score of 27 to 30 points. "Practically free from defects" means that:

(1) Any combination of defects present (whether or not specifically defined) may slightly, but not materially, detract from the appearance or edibility of the product; and

(2) The defects present (as defined and classified in this section) do not exceed the allowances in Table IV.

(d) (*B*) *Classification.* Frozen corn-on-the-cob that is reasonably free from defects may be given a score of 24 to 26 points. Frozen corn-on-the-cob that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (limiting rule). "Reasonably free from defects" means that:

(1) Any combination of defects present (whether or not specifically defined) does not seriously detract from the appearance or edibility of the product; and

(2) The defects present (as defined and classified in this section) do not exceed the allowances in Table IV.

(e) (*SStd*) *Classification.* Frozen corn-on-the-cob that fails to meet the requirements of paragraph (d) of this section may be given a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product (limiting rule).

(f) *Definitions and classifications of defects.*

Types of defects and definitions	Classification: Minor	Major	Severe
Applicable to an individual ear, regardless of length			
Crushed or broken kernels (other than those at end of ears caused by trimming or cutting):			
Short length ears:			
7 to 15 kernels	X		
16 to 30 kernels		X	
More than 30 kernels			X
or			
16 or more kernels in one area materially affecting the appearance of the ear			X
Regular length ears:			
10 to 25 kernels	X		
26 to 50 kernels		X	
More than 50 kernels			X
or			
26 or more kernels in one area materially affecting the appearance of the ear			X
Blemished kernels (includes, but is not limited to, kernels affected by discoloration, blemishes pathological injury, or other damage):			
Short length ears:			
1 or 2 kernels	X		
3 or 4 kernels		X	
More than 4 kernels			X
Regular length ears:			
2 or 3 kernels	X		
4, 5, or 6 kernels		X	
More than 6 kernels			X
Poorly trimmed ears:			
More than 30°, but not more than 45°, from a right-angle cut	X		
More than 45° from a right-angle cut		X	
Stalks:			
More than 1/4 inch, but not more than 1/2 inch, of attached stalk	X		
More than 1/2 inch of attached stalk		X	
The following are aggregated and apply to the entire sample unit			
Attached or loose husk:			
More than one (1) square inch but not more than two (2) square inches	X		
More than two (2) square inches but not more than three (3) square inches		X	
More than three (3) square inches			X
Dark or readily noticeable silk (strands one (1) inch long or longer):			
10 to 20 inches	X		
21 to 30 inches		X	
Over 30 inches			X

TABLE IV

DEFECTS FOR EACH GRADE

Grade classification	Total of Minor only (applicable only when there are no Major or Severe)	Total of Minor, Major, and Severe	Limit for Major and Severe	Limit for Severe
		Maximum per sample unit		
U.S. Grade A	6	4	1	0
U.S. Grade B	12	9	3	1

§ 52.942 **Tenderness and maturity.**

(a) *General.* The tenderness and maturity of the frozen corn-on-the-cob is determined by:

(1) Checking for presence of a blister-stage of kernel development on water-thawed ears;

(2) Checking the stages of kernel development in accordance with the method in § 52.943; and

(3) Checking the tenderness of the pericarp and affirming the maturity of the kernels after cooking in accordance with the method in § 52.944.

(b) *Definitions of stages of kernel development.* (1) "Blister stage": The kernel contents are thin and watery or slightly cloudy or translucent and the pericarp is generally very pale in color. An ear is considered to be in the blister stage if more than one-fifth of the kernels are in the blister stage.

(2) "Milk stage": The kernel contents are opaque and viscous. Light pressure is required to remove contents.

(3) "Early cream stage": The kernel contents are slightly creamy and viscous. Reasonably firm pressure is required to remove contents which show only slight separation of clear liquid.

(4) "Cream stage": The kernel contents are creamy and thick. Firm pressure is required to remove contents which show no free liquid.

(5) "Dough or overmature stage": The kernel contents are semi-solid or hard and require considerable pressure to remove contents which appears starchy or doughlike.

(c) (*A*) *Classification.* Frozen corn-on-the-cob that is tender, but none of the ars in the blister stage, may be given a score of 27 to 30 points. "Tender" means that the kernels are in the milk or early cream stage of maturity and the pericarp is reasonably tender.

(d) (*B*) *Classification.* If the frozen corn-on-the-cob is reasonably tender, and none of the ears are in the blister stage, a score of 24 to 26 points may be given. Frozen corn-on-the-cob that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (limiting rule). "Reasonably tender" means that the kernels are in the cream stage or better stage of maturity and the pericarp is fairly tender.

(e) (*SStd*) *Classification.* Frozen corn-on-the-cob that fails to meet the requirements of paragraph (d) of this section may be given a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product (limiting rule).

EXPLANATIONS AND METHODS OF ANALYSIS

§ 52.943 **Preparation for and evaluation of stages of kernel development.**

(a) The sample unit is water-thawed only to the extent that the ears are substantially free from ice crystals.

(b) At least three (3) complete adjacent rows of kernels from each ear (or an equivalent number of kernels if the kernels are not in rows) are removed by cutting the kernels off, near but above their attachment to the cob.

(c) The cut kernels from all the ears in a sample unit are well mixed and an adequate representative sub-sample is removed.

(d) Sufficient kernels from the sub-sample are squeezed to properly evaluate the degree of maturity in accordance with the definitions in § 52.942.

§ 52.944 Cooking procedure and evaluation of cooked units.

(a) An adequate representative number of ears in the sample unit are evaluated after cooking to ascertain:

(1) The degree of maturity of kernel contents;

(2) Tenderness of the pericarp; and

(3) The flavor and odor.

(b) This cooking procedure is not intended as a recipe, but for the purposes of this subpart, frozen corn-on-the-cob is cooked (and the evaluation thereof) is as follows:

(1) Place the sample units into rapidly boiling water with sufficient water to completely cover the ears;

(2) Return the water to a rapid boil;

(3) Maintain a rolling boil for exactly five (5) minutes;

(4) Remove the ears immediately, and allow to cool sufficiently to evaluate factors of maturity, tenderness of pericarp, and flavor and odor by eating the corn directly from the cob.

LOT COMPLIANCE

§ 52.945 Ascertaining the grade of a lot.

The grade of a lot of frozen corn-on-the-cob covered by these standards is determined by the procedures set forth in the regulations governing inspection and certification of processed fruits and vegetables, processed products thereof, and certain other processed food products (§§ 52.1—52.87), except that these provisions apply wherever applicable:

(a) *Container size.* In considering the size of a container for purposes of selecting samples from a lot, an ear shall be considered to weigh 8 ounces except that ears which are trimmed to approximately 3½ inches or less in length shall be considered to weigh 4 ounces each.

(b) *Dozen.* In calculating the number of dozens of ears, ears which are trimmed to approximately 3½ inches or less in length shall be considered as 24 of such ears being the equivalent of one dozen ears.

SCORE SHEET

§ 52.946 Score sheet for frozen corn-on-the-cob.

Size and kind of container..........
Container marks or identification..........
Label..........
Net weight (ounces)..........
Style (trimmed or natural)..........
Length of ears (inches)..........
Color (yellow or white)..........

Factors			Score points
Color	20	(A)	18-20
		(B)	16-17
		(SStd)	[1] 0-15
Uniformity of size	10	(A)	9-10
		(B)	8
		(SStd)	[2] 0-7
Development	10	(A)	9-10
		(B)	8
		(SStd)	[2] 0-7
Defects	30	(A)	27-30
		(B)	[1] 24-26
		(SStd)	[1] 0-23
Tenderness and maturity	30	(A)	27-30
		(B)	[1] 24-62
		(SStd)	[1] 0-23
Total score	100		

Flavor and odor..........
(A) Good; (B) Reasonably good; (SStd) Objectionable.
Grade..........

[1] Indicates limiting rule.
[2] Indicates partial limiting rule.

Effective date. The amended standards shall become effective 30 days after publication in the FEDERAL REGISTER.

Dated: June 19, 1970.

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

[F.R. Doc. 70-8053; Filed, June 25, 1970; 8:45 a.m.]

Chapter II—Food and Nutrition Service, Department of Agriculture

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Appendix—Second Apportionment of Food Assistance Funds Pursuant to National School Lunch Act, Fiscal Year 1970

Pursuant to section 11 of the National School Lunch Act, as amended, food assistance funds available for the fiscal year ending June 30, 1970, are reapportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$2,060,866	$2,043,888	$16,978
Alaska	143,083	143,083	----------
Arizona	553,125	553,125	----------
Arkansas	1,661,006	1,641,181	19,825
California	1,232,134	1,232,134	----------
Colorado	263,452	228,136	35,316
Connecticut	129,612	129,612	----------
Delaware	45,325	45,297	28
District of Columbia	281,173	281,173	----------
Florida	2,551,184	2,532,726	18,458
Georgia	2,345,755	2,345,755	----------
Guam	4,238	4,238	----------
Hawaii	139,824	103,379	36,445
Idaho	56,441	52,359	4,082
Illinois	531,641	531,641	----------
Indiana	242,993	242,993	----------
Iowa	259,802	211,427	48,375
Kansas	199,858	199,858	----------
Kentucky	1,619,214	1,619,214	----------
Louisiana	1,762,845	1,762,845	----------
Maine	211,218	178,406	32,812
Maryland	252,631	225,455	27,176
Massachusetts	689,681	689,681	----------
Michigan	386,950	327,656	59,294
Minnesota	328,249	271,037	57,212
Mississippi	1,803,176	1,803,176	----------
Missouri	624,993	624,993	----------
Montana	107,953	89,984	17,969
Nebraska	234,089	187,603	46,486
Nevada	25,005	24,773	232
New Hampshire	48,705	48,705	----------
New Jersey	453,142	370,961	82,181
New Mexico	630,712	630,712	----------
New York	6,270,297	6,270,297	----------
North Carolina	2,961,222	2,961,222	----------
North Dakota	111,660	81,323	30,337
Ohio	974,383	826,527	147,856
Oklahoma	550,036	550,036	----------
Oregon	117,670	117,670	----------
Pennsylvania	731,682	463,581	268,101
Puerto Rico	1,312,484	1,312,484	----------
Rhode Island	93,018	93,018	----------
South Carolina	2,913,221	2,905,466	7,755
South Dakota	131,089	131,089	----------
Tennessee	1,659,572	1,641,241	18,331
Texas	2,000,927	1,941,798	59,129
Utah	295,318	295,318	----------
Vermont	65,679	65,679	----------
Virginia	1,426,995	1,415,206	11,789
Virgin Islands	----------	----------	----------
Washington	231,486	217,898	13,588
West Virginia	741,590	731,210	10,380
Wisconsin	269,475	186,233	83,242
Wyoming	34,843	34,843	----------
Samoa, American	27,278	27,278	----------
Total	44,800,000	43,646,623	1,153,377

(Secs. 2-12, 60 Stat. 230-233, as amended, 76 Stat. 946; 42 U.S.C. 1751-1760)

Dated: June 22, 1970.

HOWARD P. DAVIS,
Acting Administrator.

[F.R. Doc. 70-8085; Filed, June 25, 1970; 8:45 a.m.]

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

[Valencia Orange Reg. 319]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.619 Valencia Orange Regulation 319.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of

such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this 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 Valencia oranges 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 Valencia oranges; 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 23, 1970.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period June 26, 1970, through July 2, 1970, are hereby fixed as follows:

(i) District 1: 202,000 cartons;

(ii) District 2: 248,000 cartons;

(iii) District 3: 73,703 cartons.

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

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

Dated: June 24, 1970.

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

[F.R. Doc. 70-8153; Filed, June 24, 1970; 11:45 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 9, Amdt. 4]

PART 121—SMALL BUSINESS SIZE STANDARDS

Appeals; Correction

In F.R. Doc. 70-6190 appearing in the FEDERAL REGISTER of May 20, 1970, on page 7726, the words "or disposals" were inadvertently omitted immediately following the word "procurements" in the eighth line of the first sentence of revised § 121.3-6(b)(3)(i).

As corrected the first sentence of § 121.3-6(b)(3) reads as follows:

§ 121.3-6 Appeals.

* * * * *

(b) *Method of appeal.* * * *

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

* * * * *

Dated: June 18, 1970.

HILARY SANDOVAL, Jr.,
Administrator.

[F.R. Doc. 70-8081; Filed, June 25, 1970; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10394; Amdt. 708]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rulemaking dockets of the FAA in accordance with the procedures set forth in amendment No. 97-696 (35 F.R. 5610).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20590. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, D.C. 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $125.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

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

Section 97.11 is amended by establishing, revising or canceling the following L/MF-ADF(NDB)-VOR SIAPs, effective July 23, 1970.

Detroit, Mich.—Willow Run Airport; NDB (ADF) Runway 5R/L, Amdt. 21; Canceled.

Section 97.13 is amended by establishing, revising or canceling the following Ter VOR SIAPs, effective July 23, 1970.

Detroit, Mich.—Willow Run Airport; Ter VOR-5R, Amdt. 4; Canceled.
Detroit, Mich.—Willow Run Airport; Ter VOR-23L, Amdt. 5; Canceled.
Detroit, Mich.—Willow Run Airport; Ter VOR-27L, Amdt. 4; Canceled.

Section 97.17 is amended by establishing, revising, or canceling the following ILS SIAPs, effective July 23, 1970.

Detroit, Mich.—Willow Run Airport; ILS Runway 5R/L, Amdt. 20; Canceled.
Detroit, Mich.—Willow Run Airport; ILS-23 R and L (BC), Amdt. 8; Canceled.

Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAPs, effective July 23, 1970.

Alabaster, Ala.—Shelby County Airport; VOR-1, Amdt. 1; Revised.
Albion, N.J.—Albion Airport; VOR Runway 4, Amdt. 1; Revised.
Auburn, Ind.—Auburn-DeKalb Airport; VOR-1, Amdt. 2; Revised.
Auburn, Ind.—Auburn-DeKalb Airport; VOR Runway 9, Orig.; Established.
Detroit, Mich.—Willow Run Airport; VOR Runway 5R, Orig.; Established.
Detroit, Mich.—Willow Run Airport; VOR Runway 23L, Orig.; Established.
Fort Lauderdale, Fla.—Fort Lauderdale-Hollywood International Airport; VOR Runway 9L, Amdt. 11; Revised.
Hammonton, N.J.—Hammonton Municipal Airport; VOR-1, Amdt. 1; Revised.
Kansas City, Kans.—Fairfax Municipal Airport; VOR-1, Orig.; Established.

Kansas City, Kans.—Fairfax Municipal Airport; VOR Runway 17, Amdt. 5; Revised.
Kansas City, Mo.—Municipal Airport; VOR-1, Amdt. 4; Revised.
Kansas City, Mo.—Municipal Airport; VOR Runway 3, Amdt. 5; Revised.
Kansas City, Mo.—Municipal Airport; VOR Runway 18, Amdt. 9; Revised.
Kansas City, Mo.—Municipal Airport; VOR Runway 21, Amdt. 4; Revised.
Kearney, Nebr.—Kearney Municipal Airport; VOR Runway 36, Orig.; Established.
Los Angeles, Calif.—Los Angeles International Airport; VOR Runway 7L/R, Amdt. 4; Revised.
Los Angeles, Calif.—Los Angeles International Airport; VOR Runway 25L/R, Amdt. 5; Revised.
Manitowoc, Wis.—Manitowoc Municipal Airport; VOR Runway 17, Amdt. 5; Revised.
Manitowoc, Wis.—Manitowoc Municipal Airport; VOR Runway 17, Amdt. 3; Revised.
Mankato, Minn.—Mankato Municipal Airport; VOR Runway 33, Orig.; Established.
Selinsgrove, Pa.—Penn Valley Airport; VOR-1; Amdt. 1; Revised.
Spokane, Wash.—Spokane International Airport; VOR Runway 3, Amdt. 7; Revised.
Sussex, N.J.—Sussex Airport; VOR-1, Amdt. 2; Revised.

Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAPs, effective July 2, 1970.

Decatur, Ill.—Decatur Airport; VOR Runway 36, Amdt. 7; Revised.

Section 97.25 is amended by establishing, revising, or canceling the following LOC-LDA SIAPs, effective July 23, 1970.

Detroit, Mich.—Willow Run Airport; LOC (BC) Runway 23L, Orig.; Established.
Los Angeles, Calif.—Los Angeles International Airport; LOC (BC) Runway 6L, Amdt. 3; Revised.
Los Angeles, Calif.—Los Angeles International Airport; Parallel LOC (BC) Runway 6L, Orig.; Established.
Los Angeles, Calif.—Los Angeles International Airport LOC (BC) Runway 6R, Amdt. 3; Revised.
Los Angeles, Calif.—Los Angeles International Airport; LOC (BC) Runway 7R, Amdt. 4; Revised.
Spokane, Wash.—Spokane International Airport; LOC (BC) Runway 3, Amdt. 5; Revised.

Section 97.27 is amended by establishing, revising or canceling the following NDB/ADF SIAPs, effective July 23, 1970.

Broken Bow, Nebr.—Broken Bow Municipal Airport; NDB (ADF) Runway 14, Orig.; Established.
Defiance, Ohio—Defiance Memorial Airport; NDB (ADF) Runway 12, Amdt. 2; Revised.
Detroit, Mich.—Willow Run Airport; NDB (ADF) Runway 5R, Orig.; Established.
Kaiser, Mo.—Lee C. Fine Memorial Airport; NDB (ADF) Runway 21, Orig.; Established.
Kansas City, Kans.—Fairfax Municipal Airport; NDB (ADF)-1, Amdt. 6; Revised.
Kansas City, Mo.—Municipal Airport; NDB (ADF) Runway 18, Amdt. 8; Revised.
Los Angeles, Calif.—Los Angeles International Airport; NDB (ADF) Runway 24 L/R, Amdt. 4; Revised.
Los Angeles, Calif.—Los Angeles International Airport; NDB (ADF) Runway 25 L/R, Amdt. 32; Revised.
Morristown, N.J.—Morristown Municipal Airport; NDB (ADF) Runway 5, Amdt. 5; Revised.
Spokane, Wash.—Spokane International Airport; NDB (ADF) Runway 21, Amdt. 9; Revised.

Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective July 23, 1970.

Detroit, Mich.—Willow Run Airport; IRS Runway 5R, Orig.; Established.
Kansas City, Kans.—Fairfax Municipal Airport; ILS-1, Amdt. 9; Revised.
Kansas City, Mo.—Municipal Airport; ILS Runway 18, Amdt. 10; Revised.
Los Angeles, Calif.—Los Angeles International Airport; ILS Runway 7L, Amdt. 2; Revised.
Los Angeles, Calif.—Los Angeles International Airport; Parallel ILS Runway 7L, Orig.; Established.
Los Angeles, Calif.—Los Angeles International Airport; ILS Runway 24L, Amdt. 5; Revised.
Los Angeles, Calif.—Los Angeles International Airport; ILS Runway 24R, Amdt. 1; Revised.
Los Angeles, Calif.—Los Angeles International Airport; Parallel ILS Runway 24R, Amdt. 2; Revised.
Los Angeles, Calif.—Los Angeles International Airport; Parallel ILS Runway 24L/R, Amdt. 3; Revised.
Los Angeles, Calif.—Los Angeles International Airport; ILS Runway 25L, Amdt. 36; Revised.
Los Angeles, Calif.—Los Angeles International Airport; Parallel ILS Runway 25L, Amdt. 1; Revised.
Los Angeles, Calif.—Los Angeles International Airport; ILS Runway 25R, Amdt. 13; Revised.
Los Angeles, Calif.—Los Angeles International Airport; Parallel ILS Runway 25L/R, Amdt. 2; Revised.
Spokane, Wash.—Spokane International Airport; ILS Runway 21, Amdt. 12; Revised.

Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective July 2, 1970.

Decatur, Ill.—Decatur Airport; ILS Runway 6, Orig.; Established.

Section 97.31 is amended by establishing, revising, or canceling the following Radar SIAPs, effective July 23, 1970.

Detroit, Mich.—Willow Run Airport; Radar-1, Amdt. 1; Revised.
Los Angeles, Calif.—Los Angeles International Airport; Radar-1, Amdt. 26; Revised.
Spokane, Wash.—Spokane International Airport; Radar-1, Amdt. 6; Revised.

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

Issued in Washington, D.C., on June 17, 1970.

W. E. ROGERS,
Acting Director,
Flight Standards Service.

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

[F.R. Doc. 70-8045; Filed, June 25, 1970; 8:45 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Departmental Reg. 108.622]

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Priority Dates

Part 42, Chapter I, Title 22 of the Code of Federal Regulations is being amended to further clarify the intent of § 42.62(a).

Paragraph (a) of § 42.62 is amended to read as follows:

§ 42.62 Priority date of individual applicants.

(a) The priority date of a preference visa applicant shall be the filing date of the approved petition which accorded him that preference.

* * * * *

Effective date. These amendments shall become effective upon publication in the FEDERAL REGISTER.

The provisions of the Administrative Procedure Act (80 Stat. 383; 5 U.S.C. 553) relative to notice of proposed rule making are inapplicable to this order because the regulation contained herein involves foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

BARBARA M. WATSON,
Administrator, Bureau of Security and Consular Affairs.

JUNE 8, 1970.

[F.R. Doc. 70-8100; Filed, June 25, 1970; 8:47 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 105—General Services Administration

PART 105-735—STANDARDS OF CONDUCT

Inconsequential Financial Interests

Part 105-735, Standards of Conduct, is amended to provide that certain employee financial interests are exempt from 18 U.S.C. 208 because they are determined to be too remote or too inconsequential to affect integrity.

Subpart 105-735.2—Standards of Conduct for Employees

Section 105-735.204 is amended by amending paragraph (a)(1) and adding a new paragraph (d) to reflect exempted financial interests, as follows:

§ 105–735.204 Financial interests.

(a) An employee shall not:

(1) Subject to the exemptions contained in paragraph (d) of this section, have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with his GSA duties and responsibilities; or

* * * * *

(d) The following financial interests are exempted from 18 U.S.C. 208, pursuant to 18 U.S.C. 208(b)(2), because they are deemed too remote or too inconsequential to affect the integrity of the employee's services:

(1) Financial interests in an enterprise, in the form of shares in the ownership thereof, including preferred and common stocks, whether voting or nonvoting, and warrants to purchase such shares;

(2) Financial interests in an enterprise in the form of bonds, notes, or other evidences of indebtedness; and

(3) Investments in State or local government bonds and investments in shares of a widely held diversified mutual fund or regulated investment company:

Provided, That the total market value of the financial interest with respect to any individual enterprise under subparagraphs (1) and (2) of this paragraph does not exceed $5,000 and the holdings in any class of shares, bonds, or other evidences of indebtedness of the enterprise do not exceed 1 percent of the dollar value of the outstanding shares, bonds, or other evidences of indebtedness in said class.

Subpart 105–735.4—Statements of Employment and Financial Interests

Section 105–735.407 is revised to exclude information exempted under § 105–735.204(d), as follows:

§ 105–735.407 Information prohibited.

(a) An employee is not required to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's:

(1) Connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For this purpose, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests; or

(2) Financial interests exempted under § 105–735.204(d).

(b) The provisions of paragraph (a) of this section also apply to special Government employees.

(18 U.S.C. 208(b)(2); E.O. 11222, 3 CFR 1964–1965 Supp.; 5 CFR 735.104)

These amendments were approved by the Civil Service Commission on June 16, 1970.

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

Dated: June 22, 1970.

JOHN W. CHAPMAN, Jr.,
Acting Administrator of General Services.

[F.R. Doc. 70-8181; Filed, June 25, 1970; 8:49 a.m.]

Chapter 114—Department of the Interior

PART 114–42—PROPERTY REHABILITATION SERVICES AND FACILITIES

Reclamation of Precious Metals and Critical Materials

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 (Supp. III, 1965–1967) and section 205(c), 63 Stat. 390; 40 U.S.C. 486(c), new Subpart 114–42.3 is added to Chapter 114, Title 41 of the Code of Federal Regulations as set forth below.

This new subpart shall become effective on the date of publication in the FEDERAL REGISTER.

LAWRENCE H. DUNN,
Assistant Secretary for Administration.

JUNE 19, 1970.

Subpart 114–42.3—Reclamation of Precious Metals and Critical Materials

Sec.
114–42.302 Recovery of silver from used photographic fixing solution and scrap film.
114–42.302–1 Agency surveys.
114–42.302–2 Reporting to GSA.
114–42.302–4 Agencies' responsibility.

AUTHORITY: The provisions of this Subpart 114–42.3 issued under 5 U.S.C. 301 (Supp. III, 1965–1967) and sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 114–42.3—Reclamation of Precious Metals and Critical Materials

§ 114–42.302 Recovery of silver from used photographic fixing solution and scrap film.

The head of each bureau and office which generates used photographic fixing solution and scrap film shall be responsible for establishing and pursuing a program for recovering silver from these articles in accordance with the provisions of FPMR 101–42.3.

§ 114–42.302–1 Agency surveys.

Bureaus and offices shall conduct an annual survey at each installation, facility, or activity which generates used photographic fixing solution and scrap film and which does not currently operate a recovery program, to determine the economic feasibility of implementing recovery precedures. The results of the survey should be recorded in the format set out in FPMR 101–42.4901, and serve as a basis for a determination as to whether recovery procedures are economically feasible.

§ 114–42.302–2 Reporting to GSA.

The semiannual report prescribed in FPMR 101–42.302–2 should be prepared in the format illustrated in § 101–42.4902 of this title, consolidated for the bureau, and submitted, in duplicate, to the Director of Management Operations by the 25th of January and July of each year.

(a) The report is to be submitted if used photographic fixing solution and scrap film are generated, whether or not a silver recovery program is installed.

(b) The report is not required if your bureau or office does not generate a hypo solution or scrap film. In such cases, a memorandum one-time report to that effect will suffice.

§ 114–42.302–4 Agencies' responsibility.

FPMR 101–42.302–4 contemplates that consideration be given to installing a silver recovery unit regardless of the quantity of hypo solution generated at a given location. Where, after such consideration, it is determined locally, or as may be otherwise directed by the head of the bureau or office, that (a) installation of a local recovery unit is not economically feasible, and (b) processing by another agency in the area is impracticable, the advice of the appropriate GSA regional office should be sought as to possible alternative recovery procedures.

[F.R. Doc. 70-8088; Filed, June 25, 1970; 8:46 a.m.]

PART 114–42—PROPERTY REHABILITATION SERVICES AND FACILITIES

PART 114–47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Miscellaneous Amendments

Pursuant to the authority of the Secretary of the Interior, contained in 5 U.S.C. 301, the following amendments are made to previously published regulations in Chapter 114 of Title 41 of the Code of Federal Regulations.

These amendments are effective upon publication in the FEDERAL REGISTER.

LAWRENCE H. DUNN,
Assistant Secretary for Administration.

JUNE 19, 1970.

I. The following amends 41 CFR 114–42 as previously published at 34 F.R. 1020:

Subpart 114–42.2—Property Rehabilitation Services Performed by Federal Facilities

1. Subpart 114–42.2 is amended by changing the caption reading "Maintenance and Rehabilitation" to read as set forth above to conform with a recent revision of the Federal property management regulations.

§ 114–42.203 [Amended]

2. Section 114–42.203 is amended by changing the caption reading "Additional facilities" to read "Notifications" to conform with a recent revision of the Federal property management regulations.

II. The following amends 41 CFR 114–47 as previously published at 35 F.R. 295:

Subpart 114–47.3—Surplus Real Property Disposal

1. The table of contents for Subpart 114–47.3 is amended to:

(a) Add the following new entries:

Sec.
114–47.308 Special disposal provisions.
114–47.308–3 Property for use as public parks, recreational areas, or historic monument sites.

(b) Change "114–47.302–8 Report of identical bids" to read "114–47.304–8 Report of identical bids".

2. The following text material is added to Subpart 114–47.3:

§ 114–47.308 Special disposal provisions.

§ 114–47.308–3 Property for use as public parks, recreational areas, or historic monument sites.

In the event title to surplus real property previously conveyed to a public agency pursuant to 50 U.S.C. 1622(h) reverts to the United States, the Department of the Interior will report such property to the General Services Administration for disposition. Whenever such a report is required, it will be made by the Bureau of Outdoor Recreation pursuant to the authority delegated in 248 DM 1.1C. The report will be in letter form and addressed to the General Services Administration regional office for the region in which the reverted property is located.

[F.R. Doc. 70-8087; Filed, June 25, 1970; 8:46 a.m.]

Title 46—SHIPPING

Chapter III—Coast Guard (Great Lakes Pilotage), Department of Transportation

[CGFR 70–29a]

PART 401—GREAT LAKES PILOTAGE REGULATIONS

Miscellaneous Amendments

1. On February 28, 1970, a notice of proposed rule making regarding amendments to Part 401, Chapter III, Title 46, Code of Federal Regulations, was published in the Federal Register (35 F.R. 3919). In accordance with the notice, a public hearing regarding the proposed amendments was held on March 26, 1970, in Cleveland, Ohio. Interested parties were given the opportunity to participate in the rulemaking by submitting written data, views, arguments or comments regarding the proposed amendments before or at the public hearing and by making oral comments at the public hearing.

2. After the public hearing, the data, views, arguments, and comments submitted by interested parties regarding the proposed amendments were thoroughly considered by the Coast Guard. Thereafter, the representatives of the United States entered into discussions with the representatives of Canada. As a result of these discussions, a new memorandum of arrangements concerning Great Lakes Pilotage was executed by the Secretary of Transportation and the Minister of Transport, to become effective July 7, 1970.

3. Certain changes have been made in the amendments proposed in the February 28, 1970, notice. In § 401.110 minor clarifying changes have been made in the proposed additional definitions. These minor clarifying changes in definitions, have been reflected in § 401.400. Further, § 401.400 has been made applicable to § 401.425. In § 401.405, the basic rates for pilotage in the designated waters have been decreased from the proposed. Also in § 401.410 the basic rates for pilotage in the undesignated waters have been modified slightly. Both of these adjustments have been made based on a detailed joint review of traffic projections and revenue requirements. The provisions of § 401.420 have been made applicable to both the undesignated and the designated waters, an upper limit of basic rates has been retained, and minor clarifying language changes have been incorporated. Finally, in § 401.425 the conditions under which an additional pilot may be required are more clearly delineated. It is intended that the provisions of § 401.425 will be utilized only after careful review of the need in each individual case.

4. Since these amendments involve a foreign affairs function of the United States, they can be made effective in less than 30 days.

5. Part 401 of Title 46 of the Code of Federal Regulations (46 CFR Part 401) is amended as follows:

Subpart A—General

I. Section 401.110 is amended by adding paragraph (a)(10) to read as follows:

§ 401.110 Definitions.

(a) * * *

(10) Rate computation definitions:

(i) "Length" means the distance between the forward and after extremities of the ship.

(ii) "Breadth" means the maximum breadth to the outside of the shell plating of the ship.

(iii) "Depth" means the vertical distance at amidships from the top of the keel plate to the uppermost continuous deck, fore and aft, and which extends to the sides of the ship. The continuity of a deck shall not be considered to be affected by the existence of tonnage openings, engine spaces, or a step in the deck.

Subpart D—Rates, Charges, and Conditions for Pilotage Services

II. The table of sections of Part 401, Subpart D, is amended to read as follows:

Sec.
401.400 Calculation of pilotage units and determination of weighting factor.
401.405 Basic rates on designated waters.
401.410 Basic rates on undesignated waters.
401.420 Cancellation, delay, or interruption in rendition of services.
401.425 Provision for additional pilot.
401.430 Prohibited charges.
401.431 Disputed charges.
401.440 Advance payment of charges.
401.450 Pilot change points.
401.451 Pilot rest periods.

III. Section 401.400 is revised to read as follows:

§ 401.400 Calculation of pilotage units and determination of weighting factor.

The equivalent pilotage unit number and appropriate weighting factor for each ship shall be computed by utilizing the following formula and table:

(a) Pilotage unit computation:

$$\text{Pilotage Unit} = \frac{\text{Length} \times \text{Breadth} \times \text{Depth}}{10{,}000}$$

(b) Weighting factor table:

Range of pilotage units:	Weighing factor
0–99	.85
100–129	1.00
130–159	1.15
160 and over	1.30

(c) The charge for pilotage service is obtained by multiplying the weighting factor, obtained from paragraph (b) of this section by the appropriate basic rate specified in §§ 401.405, 401.410, 401.420, and 401.425.

IV. Part 401 is amended by adding § 401.405 to read as follows:

§ 401.405 Basic rates on designated waters.

Except as provided under § 401.420 the following basic rates shall be payable for all services and assignments performed by United States and Canadian registered pilots in the following areas of the U.S. waters of the Great Lakes described in § 401.300, pursuant to the Memorandum of Arrangements, Great Lakes Pilotage:

(a) District 1:

(1) Between Snell Lock and Cape Vincent or Kingston, whether or not undesignated waters are traversed—$305.

(2) Between Snell Lock and Cardinal, Prescott, or Ogdensburg—$155.

(3) Between Cardinal, Prescott, or Ogdensburg and Cape Vincent or Kingston, whether or not undesignated waters are traversed—$220.

(4) For pilotage commencing or terminating at any point above Snell Lock other than those named in subparagraph (1), (2), or (3) of this paragraph, $3 per statute mile but with a minimum basic rate of—$70.

(5) For a movage in any harbor—$120.

(b) District 2:

(1) Passage through the Welland Canal or any part thereof, $10 for each statute mile plus $35 for each lock transited but with a minimum basic of $120 and a maximum basic rate for a through trip of $430. When pilots are changed at Lock 7 on a through trip the basic rates are apportioned as follows:

(i) Between northerly limits and Lock 7—$215.

(ii) Between Lock 7 and southerly limits—$215.

(2) Between Southeast Shoal or any point on Lake Erie west thereof and any point on the St. Clair River or the approaches thereto

as far as the northerly limit of the District—$250.

When pilots are changed at Detroit/Windsor on a through trip the basic rates are apportioned as follows:

(1) Between Southeast Shoal or any point on Lake Erie west thereof and Detroit/Windsor—$125.

(ii) Between Detroit/Windsor and the northerly limits—$125.

(3) Between Southeast Shoal and any point on Lake Erie west thereof or on the Detroit River—$160.

(4) Between any point on Lake Erie west of Southeast Shoal and any point on the Detroit River—$160.

(5) Between points on Lake Erie west of Southeast Shoal—$125.

(6) Between points on the Detroit River—$125.

(7) Between any point on the Detroit River and any point of the St. Clair River or its approaches as far as the northerly limit of the District—$160.

(8) Between points on the St. Clair River including the approaches thereto as far as the northerly limit of the District—$125.

(c) District 3:

(1) Between the southerly limit of the District and the northerly limit of the District or the Algoma Steel Corp. wharf at Sault Ste. Marine, Ontario—$320.

(2) Between the southerly limit of the District and Saulte Ste. Marine, Michigan, or any point in Sault Ste. Marie, Ontario, other than the Algoma Steel Corp. Wharf—$260.

(3) Between the northerly limit of the District and Sault Ste. Marie, Ontario including the Algoma Steel Corp. Wharf, or Sault Ste. Marie, Michigan—$120.

(4) For a movage in any harbor—$125.

V. Section 401.410 is revised to read as follows:

§ 401.410 Basic rates on undesignated waters.

(a) Except as provided under § 401.420 and subject to paragraph (b) of this section, the basic rates to be paid by a ship that has a registered pilot on board in the undesignated waters shall be:

In Lake Ontario—$60;
In Lake Erie—$65;
In Lakes Huron and Michigan—$45;
In Lake Superior—$65;

for each 6-hour period or part thereof that the pilot is on board, plus $60 for each time the pilot performs the docking or undocking of the ship on entering or leaving a harbor or performs a movage of the ship within a harbor.

(b) When a registered pilot is carried on a ship in a direct transit of the undesignated waters of Lake Erie between Southeast Shoal and Port Colborne, the basic rates referred to in paragraph (a) of this section are not payable unless:

(1) The ship is required by law to have a registered pilot on board in those waters; or

(2) Services are performed by the pilot in those waters at the request of the master.

VI. Section 401.420 is revised to read as follows:

§ 401.420 Cancellation, delay or interruption in rendition of services.

(a) When, in designated or undesignated waters, the passage of a ship is interrupted for the purpose of loading or discharging cargo or for any reason and the services of the registered pilot are retained during such interruption or when a pilot is detained on board a ship after the end of an assignment for the convenience of the ship, the ship shall pay an additional charge calculated on a basic rate of $10 for each hour or part of an hour during which each interruption lasts with a maximum basic rate of $160 for each 24-hour period of such interruption. However, there is no charge for any interruption caused by ice, weather, or traffic, except during the period beginning the 1st day of December and ending on the 8th day of the following April. Additionally, no charge shall be made for any interruption if the total interruption is ended during the 6-hour period for which a charge has been made under § 401.410.

(b) When, in designated or undesignated waters, the departure or the movage of a ship for which a registered pilot has been ordered is delayed for the convenience of the ship for more than 1 hour after the pilot reports for duty at the designated boarding point or after the time for which he is ordered, whichever is the later, the ship shall pay an additional charge calculated on a basic rate of $10 for each hour or part of an hour after the first hour of such delay, with a maximum basic rate of $160 for each 24-hour period of such delay.

(c) When, in designated or undesignated waters, a registered pilot reports for duty as ordered and the order is canceled, the ship shall pay:

(1) A cancellation charge calculated on a basic rate of $60;

(2) If the cancellation is more than 1 hour after the pilot reports for duty at the designated boarding point or after the time for which he is ordered, whichever is the later, a further charge calculated on a basic rate of $10 for each hour or part of an hour after the first hour, with a maximum basic rate of $160 for each 24-hour period of such cancellation.

VII. Part 401 is amended by adding § 401.425 to read as follows:

§ 401.425 Provision for additional pilot.

The Director, Great Lakes Pilotage Staff, U.S. Coast Guard, or the Regional Superintendent of Pilots, Ministry of Transport, may require the assignment of two pilots to a ship upon request of the ship or when in his judgment because of anticipated long transit, uncommon ship size, adverse weather and sea conditions or other abnormal circumstances the assignment of two pilots is considered necessary for the safe navigation of the ship. Additionally, he shall direct which of the pilots is to be in charge, as circumstances may require. The charge to the ship shall be one and one-half the charge provided for in §§ 401.405, 401.410, and 401.420. This section does not apply to a ship in a direct transit of the undesignated waters of Lake Erie between Southeast Shoal and Port Colborne unless the ship is required by law to have a registered pilot on board in these waters.

(Secs. 4, 5, 74 Stat. 260; sec. 6(a) (4), 80 Stat. 937, 46 U.S.C. 216b, 216c, 49 U.S.C. 1655(a) (4); 49 CFR 1.46(a) (35 F.R. 4959))

Effective date. These amendments shall be effective on July 7, 1970.

Dated: June 24, 1970.

C. R. BENDER,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 70-8215; Filed, June 25, 1970; 8:49 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18556; FCC 70-630]

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

Miscellaneous Amendments

Report and order. In the matter of amendment of Part 21 of the rules and regulations applicable to the domestic public radio services (other than maritime mobile), Docket No. 18556; RM-1341.

1. On June 4, 1969, the Commission released a memorandum opinion and order and notice of proposed rule making (FCC 69-581, 34 F.R. 9126), setting out proposed revisions of Part 21 of the rules. We noted as our purpose for the proceeding the need for an overall examination of Part 21 in order to make the processing of applications and handling of pleadings and proceedings more efficient and expeditious. To pinpoint the problem areas and aid in evaluating a most equitable solution, informal opinions and/or formal comments were solicited from interested parties—operators, potential operators, equipment and parts manufacturers, etc. On the basis of their most helpful responses, we issued the above referenced notice of proposed rule making. We could not of course, albeit the attempt, accommodate all of the requests.[1] The supporting comments[2] however, convince the Commission that we did accomplish the ultimate objective, and that adoption of the rules as set forth in appendix A below would be in the public interest.

2. The proposed amendments to §§ 21.109 and 21.121(d) would authorize the licensee of a station to inter alia change or replace certain equipment without prior authorization "if, after such change or addition the effective

[1] Requests were made for clarification of several of the proposed rule changes. The following sections were modified to accommodate such requests and the changes appropriately reflected in appendix A: sections 21.15(a); 21.15(h); 21.27(c); 21.118(d); 21.121(d); 21.204; 21.516(b) (4). Because the amendments are clarifying in nature, the prior notice provision of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, does not apply.

[2] List of parties filing comments appears in appendix B below.

radiated power of the station in any direction is not decreased by more than 1.5 dB below that specified in the application for which authorization is issued." Several parties now contend that the 1.5 dB is too confining and ask that the decrease be changed to 3.0 dB. At the same time Motorola and NARS have asked to have § 21.121(a)(2) amended by redefining or deleting the phrase "type-accepted" on the ground that in situations in which some transmitters can operate with variable powers not specifically shown on the radio equipment list, "type-accepted" output power causes confusion. We find a grant of neither request warranted at this time. We pointed out in paragraph 8 of the notice, that although the changes as proposed in §§ 21.109 and 21.121 were not completely in conformity with the requests, they did nevertheless establish a reasonable accommodation and balance between administrative convenience and the practicalities of a licensee's operation. Absent a convincing showing to the contrary this view continues to prevail. In this regard, we believe the substitution of the 60-day period for the former 30-day period in § 21.516(b) during which actual traffic loading data is to be gathered, is likewise a reasonable accommodation. Any additional forecast may be made under the new § 21.516(b)(5). The request by the National Association of Radiotelephone Systems (NARS) for the change to a 90-day period is therefore, rejected.

3. American Telephone and Telegraph Co. (A.T. & T.) asks that § 21.118 be amended by adding a new paragraph (g). In its view, the change would "confirm and clarify the present practices of operating stations in the point-to-point microwave service unattended when remote alarm facilities are provided to an alarm center." Although it is the practice of many carriers to use remote alarm facilities, it has not been our policy to require them as a condition for unattended operation (see § 21.205(1)). If A.T. & T. believes that alarm facilities should be mandatory, we would suggest that the matter be addressed (with supporting arguments) in a petition for rule making. We similarly suggest that a separate rule making be sought with respect to the request for change in § 21.512 dealing with the list of priorities for mobile telephone service.

4. Concern is again expressed that unless a rule is promulgated to protect the existing carriers from a duplication of facilities, the carriers will be unable to truly and properly serve the public interest. More specifically, Communications Industries, Inc. (CI) asks that § 21.504 of the rules be amended to place on the applicant for a new radio common carrier station the burden of making a two-pronged showing: (a) That there is a need for the additional facilities, and (b) that the authorized facilities in the area are not or will not be adequate to meet this need. CI concedes that "inefficient carriers" should not be protected, but urges on the other hand that lengthy and costly protest proceedings may cause diligent carriers to become "litigation poor" and unable to finance significant improvements in their systems. CI contends that until the new applicant is required to make the specific factual allegation of need for the new station, as requested by the proposed amendment, the "particular factual situation" called for in paragraph 9 of the notice will not arise. Hence, the Commission will not be in a position to assign the burden of proof where it belongs, and reject as defective any application which fails to meet the standards set out in the rules, until the appropriate rule is established. General Communications Service, Inc. (GCS), urges additionally in support,[3] that the removal of competition has historically been considered the quid pro quo for public utilities regulation, but that under the present policy the Commission is both regulating and inviting competition, with the result that there is "a proliferation of RCCs and destructive competition in most major market areas." Philadelphia Mobile Telephone Co. (Mobile),[4] on the other hand urges essentially that to require a new applicant to prove the future inability or unwillingness of the existing carrier to provide adequate service would result in insulating the existing operator from competition, a situation contrary to the public interest; and further that although "natural monopolies" may be entitled to protection from competition, the mobile radiotelephone business does not fall into that category, and does not merit protection from "intramodal competition."

5. At present, an applicant for a new facility is required to indicate in his application the need by the public for the proposed facility. CI seeks, in essence, to have us prescribe by rule the specific showing an applicant must make, in order that applications may be dismissed without hearing for failure to meet the prescribed standard. We declined in the notice (par. 9) to propose such a departure from present practice. Nothing advanced in the comments of the parties persuades us that the requested change is warranted or would serve the public interest. The uncontrolled and unlimited competition under some circumstances may have destructive impact on the quality and cost of service available to the public. However, identification of those circumstances cannot be encompassed by a simple rule and there is no evidence before us that such a rule is necessary. The parties continue to rely on broad general allegations as previously, and even though slightly expanded, predicated nevertheless on conjecture and speculation rather than on fact. This affords no basis for formulation of a rule. Moreover, the proposed change could conceivably result in making the service exclusionary and insulate the existing operator from any possible competition, contrary to any Commission intent. Accordingly, in the present circumstances, we adhere to our conclusion that the public interest would be best served by continuing the present practice. For similar reasons we will also deny the request by Motorola Communications and Electronics Inc. (Motorola), for more definitive guidelines over and above those listed in § 21.516 of the rules, concerning a request by an existing operator for additional channels.

6. We will likewise deny NARS request that we reconsider our previous rejection of its suggested rule revision of § 21.509(k) to permit dispatch station subscribers to communicate not only with the subscriber's mobile units, but also with all other mobile units of the RCC licensee's system, and the companion request that a multiple dispatch station subscriber be permitted to communicate dispatch station to dispatch station when the composition of the traffic is related to relevant mobile communications. We have adequately enunciated our position concerning this request in paragraphs 10 and 11 of the notice.

7. In our notice a change was proposed in § 21.700 of the rules to require inter alia that applications proposing services other than public message service, must include a showing that at least 50 percent of the customers (on the microwave system involved), including customers of any interconnecting carriers receiving applicant's service, are unrelated and unaffiliated with the applicant. Currently the rule applies only to CATV system customers. On consideration of the comments, we are of the view that the proposed change is not warranted at this time. Accordingly, no change will be made to § 21.700 of the rules. Similarly, no change will be made in § 21.800 of the rules at this time.

8. NARS expresses some concern that the Commission failed to give consideration to its proposal that permissible communications should include provision for automatic report back to base station from mobile units, from alarm systems, and telemetry of many descriptions, notwithstanding the public need for the "services described". Although the Commission is prepared to meet its responsibility and encourages the more effective use of the radio facilities in the public interest, we do not deem it advisable to issue carte blanche authorizations for new services and techniques. Hence, in keeping with NARS statement that informal discussions on this type of service have been sympathetically received in the past, we are again encouraging NARS, and/or any other interested party, upon proper and substantial information with respect to the specific nature of the proposed service or techniques, its relation to the common carrier radio services, and the potential electrical impact upon existing service, to

[3] Approximately 35 MCCs have filed affirmative statements in support of CI's basic contention, to wit, that duplication of facilities would result in the possible elimination of the ability of the mobile radio stations to serve the public interest. However, these statements for the most part, contain no substantive information and are therefore not specifically referenced.

[4] For good cause shown, Mobile's petition to accept the late-filed reply comments is granted, and the comments accepted and considered.

submit a request for a developmental service pursuant to Subpart F of Part 21 of the rules.

9. A brief final comment concerning our reasons for rejecting several additional requests for modification of the rules would we believe, avoid the need for future consideration of these requests in their present posture. E.g., Hawaiian Telephone Co. (Hawaiian) points out that in view of the particular financing arrangement of its company, it would be impracticable to amend its first mortgage indenture agreement to accommodate the terms of the rules. It therefore, requests that § 21.15(d) be changed to require the specific financing arrangements for a chattel mortgage to be filed only in cases where the terms are in favor of the vendor of the transmitter. Since this financing problem appears to be unique to Hawaiian, we will not make it the subject of the overall rule changes. A.T. & T.'s request to amend § 21.15(f) to eliminate the need to file a Form 714 together with the ancillary information notwithstanding applicant's attestation that there would not be an excess of height criteria specified in Part 17, and United States Independent Telephone Association (USITA's) request to modify § 21.20(c) to require only "decisionally significant" documents or information to be filed, will each be rejected for the same general reason, to wit, the need by the Commission of the appropriate information for a proper examination and evaluation of each of the applications filed. Motorola's request to distinguish in § 21.-23 (c) and (d) between major and minor amendments is not really meaningful since the examples are ones already adjudicated and in most instances serve as precedents. We believe the time references in §§ 21.33(a), 21.212(a), 21.610 (a), and 21.808(a) are all adequate and proper and in those instances where applicable, conform with the statutory time requirement. Any additional time needs may be sought on individual basis, and there are sufficient rule provisions to accommodate emergency situations. Motorola and NARS request deletion of "on secondary basis" identification in § 21.-501. In view of the specific allocation of the frequencies it would be inefficient to permit the use of these frequencies on a coequal basis. Finally, Hawaiian's request to amend § 21.808(a)(7), is likewise unjustified. We believe it altogether reasonable that an applicant explain why a service which will not be terminated before the end of 6 months had not in the first instance been started on a regular basis.

10. In view of the foregoing, the Commission concludes that adoption of the rule changes as contained in Appendix A below, would be in the public interest. Authority for the rules adopted is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

11. *Accordingly, it is ordered*, That effective July 31, 1970, Part 21 of the Commission's rules and regulations is amended as set forth in Appendix A below.

12. *It is further ordered*, That the various requests contained in the pleadings and comments listed in Appendix B, to the extent that they may not have been granted herein, are otherwise denied.

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

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

Adopted: June 17, 1970.

Released: June 23, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[5]
[SEAL] BEN F. WAPLE,
Secretary.

APPENDIX A

I. Subpart A of Part 21 is amended as follows:

1. Section 21.1 is amended by the addition of the following definition in appropriate alphabetical sequence:

§ 21.1 Definitions.

* * * * *

Drop point. A term used in the point-to-point microwave radio service to designate a terminal point where service is rendered to a subscriber.

* * * * *

II. Subpart B of Part 21 is revised to read as follows:

Subpart B—Applications and Licenses

GENERAL

Sec.
21.10 Eligibility for station license.

GENERAL FILING REQUIREMENTS

21.11 Station authorization required.
21.12 Formal and informal applications.
21.13 Place of filing applications, fees, and number of copies.
21.14 Forms to be used.
21.15 Content of applications.
21.16 Who may sign applications.
21.17 Additional statements.
21.18 [Reserved]
21.19 [Reserved]
21.20 Defective applications.
21.21 Inconsistent or conflicting applications.
21.22 Repetitious applications.
21.23 Amendment of applications.
21.24 Form of amendments to applications.
21.25 Application for temporary authorizations.

PROCESSING OF APPLICATIONS

21.26 Receipt of application.
21.27 Processing of applications.
21.28 Dismissal and return of applications.
21.29 Partial grants.
21.30 Grants without hearing.
21.31 Conditional grants.
21.32 Transfer and assignment of station authorization.
21.33 Period of construction.
21.34 Forfeiture of station authorizations.
21.35 License period.

AUTHORITY: The provisions of this Subpart B issued under secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Subpart B—Applications and Licenses

GENERAL

§ 21.10 Eligibility for station license.

A station license may not be granted to or held by:

(a) Any alien or the representative of any alien.

(b) Any foreign government or the representative thereof.

(c) Any corporation organized under the laws of any foreign government.

(d) Any corporation of which any officer or director is an alien.

(e) Any corporation of which more than one-fifth of the capital stock is owned of record or voted by: aliens or their representatives; a foreign government or representatives thereof; or any corporation organized under the laws of a foreign country.

(f) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

(g) Any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens or their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign government, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

GENERAL FILING REQUIREMENTS

§ 21.11 Station authorization required.

No radio transmitter shall be operated in the Domestic Public Radio Services except under and in accordance with a station authorization granted by the Federal Communications Commission.

§ 21.12 Formal and informal applications.

(a) *Formal applications.* To assure that necessary information is supplied in a consistent manner by all persons, standard forms are prescribed for use in connection with the majority of applications and reports submitted for Commission consideration. Standard numbered forms applicable to the Domestic Public Radio Services (Other Than Maritime Mobile) are discussed within this subpart and may be obtained from the Secretary, Federal Communications Commission, Washington, D.C. 20554, or from any of the Commission's engineering field offices, the addresses of which are listed in § 0.121 of this chapter.

(b) *Informal applications.* An application not submitted on a standard form prescribed by the Commission is an informal application, and will be accepted only in those cases where standard forms are not applicable. Each informal application shall be submitted in duplicate, normally in letter form in the manner prescribed in §§ 21.14 (a), (b), (c), (d) and 21.16. Each application shall be clear and complete within itself as to the facts presented and the action desired.

§ 21.13 Place of filing applications, fees, and number of copies.

(a) Every application for a radio station authorization, except applications for stations located in Alaska, and all correspondence relating thereto, shall be submitted to the Commission's office at

[5] Commissioner Cox absent.

Washington, D.C. 20554. Each application shall be accompanied by the fee prescribed in subpart G of Part 1 of this chapter.

(b) Applications for authorizations under this part for stations in Alaska shall be submitted to the Federal Communications Commission, Radio District No. 14, Room 802, Federal Office Building, Seattle, Wash. 98104, attention of the Engineer-in-Charge. Each such application shall be accompanied by the applicable nonrefundable fee set forth in paragraph (b) of this section.

(c) Unless otherwise specified in a particular case, or for a particular form, each application, including exhibits and attachments thereto, shall be filed in duplicate.

(d) Each application, including exhibits and attachments thereto, for station authorization in Alaska shall be filed with one copy more than the number of copies indicated in this part for stations located elsewhere.

§ 21.14 Forms to be used.

(a) *Application for construction permit for base, auxiliary test and fixed stations.* A separate application for construction permit shall be submitted for each base, each auxiliary test, and each fixed station on FCC Form 401: *Provided, however,* That in the case of fixed stations to be installed at temporary locations, as set forth hereinafter in the applicable subparts of these rules, where the equipment utilized is of such design as to comprise a packaged unit which is ready for installation and use with only nominal construction, request may be made for waiver of the construction permit and for the immediate issuance of a license: *And provided further,* That an application for an auxiliary test station may be combined with that of the base station with which such auxiliary facility is to be associated when both are at the same location. Such applications shall be accompanied by the supplementary information set forth in § 21.15 as may be appropriate.

(b) *Application for license for mobile stations.* No construction permit is required for mobile stations. A separate application on FCC Form 401 shall be submitted for a license for the maximum number of mobile units expected to be placed in operation within the ensuing license period: *Provided, however,* In the Domestic Public Land Mobile Radio Service, an application for license for land mobile or airborne units to be licensed in the name of the base station licensee may be combined on the same application form with an application for the base station with which the land mobile units will be associated. In the preparation of such blanket applications, care should be exercised that data furnished therein in all particulars is clearly differentiated between the land mobile, airborne and base station installations. In any event, the mobile station license will be issued simultaneously with the issuance of the related base station license in the case of applications in the Domestic Public Land Mobile Radio Service. Applications for land mobile or airborne station in the Domestic Public Land Mobile Radio Service, which are submitted by the persons who proposed to become subscribers to a common carrier service for public correspondence, shall be accompanied by the supplementary showing set forth in § 21.15(i).

(c) *Application for modification of construction permit.* Under circumstances requiring deviation from the terms of a construction permit, before such deviations are begun, application for modification of construction permit shall be submitted on FCC Form 401. No changes shall be effected until authorized by the Commission through issuance of an appropriate modified construction permit.

(d) *Application for extension of expiration date of construction permit.* Application for extension of time within which to complete construction of a station shall be filed on FCC Form 701 at least 30 days prior to the expiration date of such permit, if the facts supporting such application for extension are known to applicant in time to permit such filing. In other cases, such applications will be accepted upon a showing, satisfactory to the Commission, of sufficient reasons for filing within less than 30 days prior to the expiration date. Such applications will be granted upon a specific and detailed showing that the failure to complete was due to causes not under the control of the grantee, or upon a specific and detailed showing of other matters sufficient to justify the extension (see also § 21.34(a)).

(e) *Application for station license.* Upon completion of construction or installation of a station in exact accordance with the terms and conditions set forth in the construction permit and upon satisfactory completion of equipment tests in accordance with § 21.212 (a), an application for license to operate the station should be filed on FCC Form 403 prior to the expiration date of the construction permit (see also § 21.34 (a)).

(f) *Renewal of station license.* Unless otherwise directed or permitted by the Commission, each application for renewal of license other than special temporary authorizations shall be submitted on FCC Form 405 not less than 30 days nor more than 60 days prior to the expiration date of the license sought to be renewed. Expiring developmental authorizations may be renewed only upon a factual showing of need beyond the expiration date of the authorization sought to be renewed. A blanket application may be submitted for renewal of a group of station licenses in the same service in those cases where the renewal requested is in exact accordance with the terms of the previous authorizations. The individual stations covered by such application shall be clearly identified therein, and sufficient copies of such blanket application shall be filed so as to provide at least two copies thereof for each station affected. Special temporary authorizations may be extended upon informal written requests. (See §§ 21.405 (b) and 21.511.)

(g) *Application for modification of station license.* An application for modification of any station license in these services may be filed at any time during the term of that license. Application for modification of a station license shall be made on FCC Form 403 and shall be submitted in duplicate not less than 60 days prior to the date contemplated for such modification, unless otherwise permitted.

(h) *Application for consent to assignment, or transfer of control of corporation holding radio station construction permit or license.* (1) An application on FCC Form 702 or FCC Form 704, as the circumstances require, shall be submitted to the Commission when a construction permit or license, or the control of a corporation holding such permit or license, is to be transferred as a result of a voluntary act (contract or other agreement) or an involuntary act (death or legal disability) of the grantee of a permit or station license, or by involuntary assignment of the physical property of the station pursuant to a court decree in bankruptcy proceedings, or other court order, or by operation of law in any other manner. Applications filed on FCC Form 702 or FCC Form 704 shall be accompanied by a factual showing by the assignee of his legal, financial, technical and other qualifications to be the licensee of the radio facilities described in such application. Upon completion of an approved transfer, written notification thereof shall be filed with the Commission.

(2) In the Point-to-Point Microwave Service, authorization for assignment from one operating company to another of only a part or portions of the facilities (transmitters) authorized under an existing construction permit or license (as distinguished from an assignment of the facilities in their entirety), shall be granted upon an application by the assignee on FCC Form 401 or 403, as the situation requires, and by the assignor on FCC Form 403 for deletion of the assigned facilities, indicating concurrence in the request. Where the assigned facilities are to be incorporated into an existing license, the assignee shall only file an FCC Form 403; where a new station is to be established, FCC Forms 401 and 403 shall be submitted complete with a factual showing by the assignee of his legal, financial, technical and other qualifications to be a licensee of the radio facilities described in the application. The assignment shall be completed within 60 days from the date of authorization.

(i) *Application for authority to operate mobile units of Canadian registry in the United States.* Applications for authority to operate mobile units of Canadian registry within the United States shall be made upon FCC Form 410 which shall be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Forms may be obtained from the FCC Secretary or from the Director, Telecommunications and Electronics Branch, Department of Transport, Ottawa, Ontario, Canada.

(j) *Applications for authority to operate mobile units in Canada.* Applications for authority to operate mobile units, which have been licensed in this service by the Commission, shall be made upon proper form and be filed with the Director, Telecommunications and Electronics Branch, Department of Transport, Ottawa, Ontario, Canada, from whom the application forms are obtainable.

§ 21.15 Content of applications.

(a) Each application, unless otherwise authorized, shall be specific with regard to frequency or frequencies, transmitter power, hours of operation, equipment, antenna height, antenna gain and orientation, effective radiated power, points or areas of communication, location of the station (an application for authority to operate at temporary locations shall specify the general geographic area within which the operation will be confined), full and complete disclosures with regard to the real party or parties in interest, and shall set forth all matters and things required to be disclosed or answered by the application forms and the Commission's rules. For stations in the Point-to-Point Microwave and Local Television Transmission Services the requirement for effective radiated power shall be met by including in the application the transmitter output power, antenna gain, and antenna radiation pattern.

(b) Each application for construction permit for new or additional radio facilities shall be accompanied by a showing of the applicant's legal, financial, technical and other qualifications to be a licensee in the Domestic Public Radio Services except that:

(1) When simultaneous request is made for a multiplicity of radio stations by a single applicant, a single showing of legal, financial, technical and other qualifications may be made and incorporated by reference in the related applications.

(2) When any qualifications have once been established for an applicant, reference may be made thereto by specific identification and a statement indicating, if appropriate, that there has been no change in the reference facts or circumstances. If any material change has occurred, full disclosure thereof shall be made.

(c) Except in cases where such information is already on file with the Commission, applications in these services shall include a single copy of:

(1) The partnership agreement properly certified by each of the partners, if the applicant is a partnership.

(2) The acts or articles of incorporation (or charter) including any amendments thereto, certified by an officer of the corporation, if the applicant is a corporation. If it does not clearly appear on the charter that the corporation is authorized to operate as a communications common carrier, a statement of qualified legal counsel shall be furnished.

(3) The articles of association, including any amendments thereto, certified by an appropriate officer of the organization, if the applicant is an unincorporated association.

(4) Where required by applicable local law, a certified copy of the franchise or other authorization issued by appropriate regulatory authorities. If no such local requirement exists, a statement to that effect should be included in the application.

(5) Any agreement affecting applicant's ability to own, operate, use, or control the station facilities; and in the Rural Radio and Point-to-Point Microwave Radio Service, any lease arrangements at the receiving sites.

(d) In establishing financial qualifications, a copy of the applicant's current balance sheet (within 90 days of the date of the application) should be furnished. If a loan or other credit arrangement is to be consummated to finance the establishment and operation of the proposed facilities, full particulars relative thereto should be disclosed, including the identity of the creditor. Financing arrangements providing for a chattel mortgage of any transmitter or other equipment essential to the rendition of uninterrupted service to the public shall include provision for a minimum of 10 days prior written notification to the licensee or permittee, and to the Commission, before any such equipment may be repossessed under default provisions.

(e) In establishing technical qualifications, a showing should be made of the arrangements to ensure the rendition of good public communication service, including maintenance and repair facilities, number and description of technical personnel.

(f) Each application for construction permit for a radio station situated at a specified fixed location which involves new antenna construction or modification of an existing antenna structure, shall be accompanied by a properly executed FCC Form 714 and a sketch of the antenna structure prepared pursuant to paragraph (g) of this section. (Complete information as to rules concerning the construction, marking and lighting of antenna structure is contained in Part 17 of this chapter. See also § 21.111 for requirement for additional material in certain cases.)

(g) Each application for construction permit for a radio station situated at a specified fixed location which involves new antenna construction or modification of existing antenna construction shall be accompanied by a sketch showing the details of the proposed antenna installation, including its relationship to any existing antenna on the same supporting structure; its height above ground; the ground elevation in feet above mean sea level at the site of such structure; the height or length of the antenna installed upon such structure; and the overall height of the aggregate installation. The sketch shall be furnished in the same number of copies as required for the application form to which it pertains and, in addition, one extra copy shall be furnished in cases where FCC Form 714 and a copy of an antenna sketch is required. (See §§ 21.15 (f) and 21.111.)

(h) In cases where an applicant, permittee or licensee desires to establish a receiving antenna or a passive reflector to be associated with the facilities for which authorization is required by this part of the rules, a copy of FCC Form 714 together with a sketch of the proposed antenna structure prepared pursuant to paragraph (g) of this section, shall be submitted for the receiving antenna or passive reflector, and approval thereof shall be obtained from the Commission prior to its construction. In the microwave and rural radio services, no replacement or modification of such receiving antenna, passive repeater, or supporting structure may be made without prior authority if it will change the height, directivity, or gain of the antenna system or overall height of the antenna structure above ground, except as provided in § 21.109(b) with respect to the replacement or change of antennas or antenna structures.

(i) An application for land or airborne mobile units to be licensed in the name of a person who is not the licensee of the base station with which the mobile units will be associated in the Domestic Public Land Mobile Radio Service shall be accompanied by the information indicated in paragraph (b) of this section together with an affirmation showing that:

(1) The mobile units for which authorization is sought are for the applicant's own use; and

(2) Definite arrangements have been made for the requested number of mobile units to obtain communication service, upon the frequencies requested, through the base stations specifically identified in the application; and

(3) Specific arrangements, the details of which should be set forth, have been made for installation, technical service and maintenance of the mobile units by licensed first or second class radio operators.

(4) The mobile units will be operated primarily in the area and/or areas through the base stations specifically identified in the application and more particularly detailed in subparagraph (2) of this paragraph.

(j) Each application for construction permit for radio facilities which are to be used in rendering communication service for hire, if filed by an applicant not engaged in providing public wire line communication service, shall be accompanied by a statement showing the extent to which the applicant intends actively to participate in the day-to-day operation of the proposed facilities. In the event the applicant does not intend actively to participate in the day-to-day management and operation, he should state his reasons therefor and fully disclose the details of the proposed operations, including a showing of how control thereof will be retained by the applicant.

(k) Each application for construction permit for a developmental authorization shall be accompanied by pertinent

supplemental information as required by § 21.405 in addition to such information as may be specifically required by this section.

(l) Each application for construction permit for a base station in the Domestic Public Land Mobile Radio Service which proposes to establish a new communication facility or make changes in the area of coverage of a station already authorized shall be accompanied by technical engineering information with respect to:

(1) Type of antenna polarization used.

(2) Type of antenna used, including type number and manufacturer thereof.

(3) Antenna power gain expressed in decibels.

(4) Antenna radiation pattern (on letter size polar coordinate paper) showing the antenna power gain distribution in the horizontal plane expressed in decibels.

(5) Orientation of directional antenna array, expressed in degrees of azimuth, with respect to true north.

(6) Antenna height above average terrain for each of the eight radials specified in subparagraph (8)(ii) of this paragraph. (See also § 21.115.)

(7) Antenna transmission line type, length and radio frequency power transmission losses, together with a description and power loss of all other devices in addition to the transmission line, between the output of the transmitter and the antenna radiating system expressed in decibels.

(8) Topographic maps (see also § 21.116) showing thereon:

(i) Exact station location.

(ii) Location of radials used in determining elevation of average terrain.

(9) Effective radiated power for all eight radials specified in subparagraph (8)(ii) of this paragraph.

(m) In the Rural Radio Service and the Point-to-Point Microwave Radio Service, each application for initial installation of a radio station, or for installation of additional transmitters, or for authority to communicate with new points, shall be accompanied by the showing required by §§ 21.608 and 21.706, respectively.

(n) Each application requesting authority to establish operations on frequencies in the 72–76 Mc/s band shall be accompanied by:

(1) A showing that the applicant agrees to eliminate any harmful interference which may be caused by his operation to television reception on either Channel 4 or 5, and if said interference cannot be eliminated within 90 days of the time the matter is first brought to his attention by the Commission, operation of the interfering fixed station will be immediately discontinued.

(2) In cases where it is proposed to locate a 72–76 Mc/s fixed station less than 80, but more than 10, miles from the site of a television transmitter operating on either Channel 4 or 5, or from the post office of a community in which such channels are assigned but not in operation, a showing shall be made as to the number of family dwelling units (as defined by the U.S. Bureau of Census) located within a circle centered at the location of the proposed fixed station (family dwelling units 70 or more miles distant from the television station antenna site are not to be counted) the radius of which shall be determined by use of the charts entitled, "Chart for Determining Radius From Fixed Station in 72–76 Mc/s Band to Interference Contour Along Which 10 Percent of Service From Adjacent Channel Television Station Would Be Destroyed" (Charts for television channels 4 and 5 are set forth in § 21.103).

(3) In cases where more than 100 family dwelling units are contained within the circle (determined according to subparagraph (2) of this paragraph), the number of dwelling units therein shall be stated and a factual showing made that:

(i) The proposed site is the only suitable location.

(ii) It is not feasible, technically or otherwise, to use other available frequencies.

(iii) The applicant has a definite plan, which should be disclosed, to control any interference that might develop to television reception from his operations.

(iv) The applicant is financially able and agrees to make such adjustments in the television receivers affected as may be necessary to eliminate interference caused by his operations.

(o) In order to minimize possible harmful interference at the National Radio Astronomy Observatory site located at Green Bank, Pocahontas County, W. Va., and at the Naval Radio Research Observatory site at Sugar Grove, Pendleton County, W. Va., any applicant for a station authorization other than mobile, temporary base, or temporary fixed seeking a station license for a new station, a construction permit to construct a new station or to modify an existing station license in a manner which would change either the frequency, power, antenna height or directivity, or location of such a station within the area bounded by 39°15′ N. on the north, 78°30′ W. on the east, 37°30′ N. on the south, and 80°30′ W. on the west shall at the time of filing such application with the Commission, simultaneously notify the Director, National Radio Astronomy Observatory, Post Office Box No. 2, Green Bank, W. Va. 24944, in writing, of the technical particulars of the proposed station. Such notification shall include the geographical coordinates of the antenna, antenna height, antenna directivity if any, proposed frequency, type of emission, and power. In addition, the applicant shall indicate in his application to the Commission the date notification was made to the Observatory. After receipt of such applications, the Commission will allow a period of twenty (20) days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the 20-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

(p) Applicants proposing to construct or modify a radio station on a site located on land under the jurisdiction of the U.S. Forest Service, U.S. Department of Agriculture, or the Bureau of Land Management, U.S. Department of the Interior, must supply the information and follow the procedure prescribed by § 1.70 of this chapter.

(q) Each application for construction permit for a station in the rural radio or point-to-point microwave services which proposes to establish a new communication facility or make changes in the location of a station already authorized shall be accompanied by a topographic map (a U.S. Geological Survey Quadrangle or map of comparable detail and accuracy) with the exact location of the proposed station plotted and identified thereon. This map should not be cropped so as to delete pertinent border information and must be submitted in the same number of copies as the application it accompanies.

§ 21.16 Who may sign applications.

(a) Except as provided in paragraph (b) of this section, applications, amendments thereto, and related statements of fact required by the Commission shall be personally signed by the applicant, if the applicant is an individual; by one of the partners, if the application is a partnership; by an officer or duly authorized employee, if the applicant is a corporation; or by a member who is an officer, if the applicant is an unincorporated association. Applications, amendments, and related statements of fact filed on behalf of eligible government entities, such as states and territories of the United States and political subdivisions thereof, the District of Columbia, and units of local government, including incorporated municipalities, shall be signed by such duly elected or appointed officials as may be competent to do so under the laws of the applicable jurisdiction.

(b) Applications, amendments thereto, and related statements of fact required by the Commission may be signed by the applicant's attorney in case of the applicant's physical disability, or in case the applicant does not reside in any of the contiguous 48 States of the United States or in the District of Columbia. The attorney shall in that event separately set forth the reason why the application is not signed by the applicant. In addition, if any matter is stated on the basis of the attorney's belief only (rather than his knowledge), he shall separately set forth his reasons for believing that such statements are true.

(c) Only the original of applications, amendments, or related statements of fact need be signed; copies may be conformed.

(d) Applications, amendments, and related statements of fact need not be signed under oath. Willful false statements made therein, however, are punishable by fine and imprisonment, United States Code, title 18, section 1001, and by appropriate administrative sanctions, including revocation of station license pursuant to section 312(a)(1) of the

Communications Act of 1934, as amended.

§ 21.17 Additional statements.

The Commission may require an applicant or grantee to submit such documents and signed written statements of fact, as in its judgment may be necessary.

§ 21.18 [Reserved]

§ 21.19 [Reserved]

§ 21.20 Defective applications.

(a) Applications which are defective with respect to completeness of answers to questions, execution or other matters of a formal character will not be accepted for filing by the Commission, unless the Commission shall otherwise permit, and will be returned to the applicant with a brief statement as to the omissions.

(b) Applications which are not in accordance with the Commission's rules, regulations, or other requirements will be considered defective and subject to return pursuant to paragraph (a) of this section unless accompanied by a request of the applicant for a waiver of, or an exception to, any rule, regulation, or requirement with which the application is in conflict. Such request shall show the nature of the waiver or exception desired and set forth the reasons in support thereof.

(c) If an applicant is requested by the Commission to file any documents or information not specifically required in the prescribed application form, a failure to comply with such request will constitute a defect in the application.

§ 21.21 Inconsistent or conflicting applications.

While an application is pending and undecided, no subsequent inconsistent or conflicting application may be filed by the same applicant, his successor or assignee, or on behalf or for the benefit of the same applicant, his successor or assignee.

§ 21.22 Repetitious applications.

(a) Where an applicant has been afforded an opportunity for a hearing with respect to a particular application for a new station, or for an extension or enlargement of a service or facilities, and the Commission has, after hearing or default, denied the application or dismissed it with prejudice, the Commission will not consider a like application involving service of the same kind to the same area by the same applicant, or by his successor or assignee, or on behalf of or for the benefit of the original parties in interest, until after the lapse of 12 months from the effective date of the Commission's order. The Commission may, for good cause shown, waive the requirements of this section.

(b) Where an appeal has been taken from the action of the Commission denying a particular application, another application for the same class of station and for the same area, in whole or in part, filed by the same applicant or by his successor or assignee, or on behalf or for the benefit of the original parties in interest, will not be considered until the final disposition of such appeal.

§ 21.23 Amendment of applications.

(a) Any application may be amended as a matter of right prior to the designation of such application for hearing by filing the appropriate number of copies of the amendments. If a petition to deny has been filed or if the Commission has published a notice that the application appears to be mutually exclusive with another application, the amendment shall be served on the petitioner and on any such mutually exclusive applicant unless waiver of this requirement is granted in accordance with § 0.291(k) of this chapter.

(b) Requests to amend an application after it has been designated for hearing will be considered only upon written petition properly served upon the parties of record, and will be granted only for good cause shown.

(c) An application amended by a major amendment thereto (as e.g., any amendment which will change or add a frequency; or improve the operating characteristics of an existing or proposed station; or enlarge the service contour or significantly change the location or points of communication of an existing or proposed station; or which will materially alter the nature of an existing or proposed service) is subject to the provisions of § 21.27.

(d) Amendments, other than major amendments within the meaning of paragraph (c) of this section, will be considered on a case-by-case basis and, if found to materially alter an existing or proposed station, will be deemed to be a major change and will thereafter be listed in a public notice and subject to the provisions of § 21.27.

§ 21.24 Form of amendments to applications.

Any amendment to an application shall be signed, and submitted in the same manner, and with the same number of copies, as was the original application: *Provided, however*, That amendments may be made in letter form, complying in all other respects with this rule. The Commission may, upon its own motion or upon the motion of any party to a proceeding, order the applicant to amend his application so as to make the same more definite and certain.

§ 21.25 Application for temporary authorizations.

(a) In circumstances requiring immediate or temporary use of facilities, request may be made for special temporary authority to install and/or operate new or modified equipment. Any such request may be submitted as an informal application in the manner set forth in § 21.12 and must contain full particulars as to the proposed operation including all facts sufficient to justify the temporary authority sought and the public interest therein. No such request will be considered unless the request is received by the Commission at least 10 days prior to the date of proposed construction or operation or, where an extension is sought, expiration date of the existing temporary authorization. A request received within less than 10 days may be accepted upon due showing of sufficient reasons for the delay in submitting such request.

(b) Special temporary authorizations may be granted without regard to the 30-day public notice requirement of § 21.27(c) when:

(1) The authorization is for a period not to exceed 30 days and no application for regular application is contemplated to be filed;

(2) The authorization is for a period not to exceed 60 days pending the filing of an application for such regular operation;

(3) The authorization is to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as previously authorized; or

(4) The authorization is made upon a finding that there are extraordinary circumstances requiring emergency operation in the public interest and that delay in the institution of such service would seriously prejudice the public interest.

(c) No special temporary authorization, except as provided for in paragraph (d) of this section, will be granted for a period to exceed 90 days or be extended for more than one additional period not to exceed 90 days.

(d) In cases of emergency found by the Commission, involving danger to life or property or due to damage of equipment, or during a national emergency proclaimed by the President or declared by the Congress or during the continuance of any war in which the United States is engaged and when such action is necessary for the national defense or safety or otherwise in furtherance of the war effort, or in cases of emergency where the Commission finds that it would not be feasible to secure renewal applications from existing licensees or otherwise to follow normal licensing procedure, the Commission will grant construction permits and station licenses, or modifications or renewals thereof, during the emergency found by the Commission or during the continuance of any such national emergency or war, as special temporary licenses, only for the period of emergency of war requiring such action, without the filing of formal applications.

PROCESSING OF APPLICATIONS

§ 21.26 Receipt of application.

(a) Applications received for filing are given a file number. The assignment of a file number to an application is merely for administrative convenience and does not indicate the acceptance of the application for filing and processing. Such assignment of a file number will not preclude the subsequent return or dismissal of the application if it is found to be not in accordance with the Commission's rules.

(b) Acceptance of an application for filing merely means that it has been the subject of a preliminary review as to completeness. Such acceptance will not preclude the subsequent return or dismissal of the application if it is found

to be defective or not in accordance with the Commission's rules. (See § 21.13 for additional information concerning filing of applications.)

(c) At regular intervals the Commission will issue a public notice listing applications and major amendments thereto which have been accepted for filing.

§ 21.27 Processing of applications.

(a) All applications for instruments of authorization covered by this part and major application amendments (as indicated in § 21.23) are subject to the provisions of this section, except applications for:

(1) A minor change in the facilities of an authorized station, as indicated in § 21.23;

(2) Consent to an involuntary assignment or transfer under section 310(b) of the Communications Act or to an assignment or transfer thereunder which does not involve a substantial change in ownership or control;

(3) A license under section 319(c) of the Communications Act or, pending application for or grant of such license, any special or temporary authorization to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as would be authorized by such license;

(4) Extension of time to complete construction of authorized facilities;

(5) An authorization of facilities for remote pickups, studio links and similar facilities for use in the operation of a broadcast station;

(6) A temporary authorization pursuant to § 21.25(b).

(7) An authorization under any of the proviso clauses of section 308(a) of the Communications Act.

(b) No application acceptable for filing and subject to the provisions of this section shall be granted by the Commission earlier than 30 days following issuance of public notice by the Commission of the acceptance for filing of such application or of any major amendment thereof.

(c) Any party in interest may file with the Commission a petition to deny any application (whether as originally filed or as amended) to which paragraph (a) of this section applies, no later than 30 days after issuance of a public notice of the acceptance for filing of any such application or major amendment thereto. The petitioner shall serve a copy of such petition on the applicant no later than the date of filing thereof with the Commission. The petition shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with § 21.30). Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof. The applicant may file an opposition to any petition to deny, and the petitioner may file a reply to such opposition (see § 1.45 of this chapter) and allegations of fact or denials thereof shall similarly be supported by affidavit. Unless the foregoing time limitations are waived by the Commission based on good cause shown, any petition not filed within the specified time will be deemed to be an informal objection in accordance with § 21.30(c).

(d) [Reserved]

(e) If the Commission finds, on the basis of the application, the pleadings filed, or other matters which it may officially notice, that there are no substantial and material questions of fact and that a grant of the application would be consistent with § 21.30(a), it shall make the grant, deny the petition, and issue a concise statement of the reasons for denying the petition, which statement shall dispose of all substantial issues raised by the petition. If a substantial and material question of fact is presented, or if the Commission, for any reason, is unable to find that grant of the application would be consistent with § 21.30(a), the Commission shall proceed as provided in paragraph (f) of this § 21.27.

(f) If, in the case of any application to which § 21.30(a) applies, a substantial and material question of fact is presented, or the Commission, for any reason, is unable to make the finding specified in that section, it shall formally designate the application for hearing on the grounds or reasons then obtaining and shall forthwith notify the applicant and all other known parties in interest of such action and the grounds and reasons therefor, specifying with particularity the matters and things in issue, but not including issues or requirements phrased generally. Before an application may be considered to be mutually exclusive with the application or applications so designated for hearing, the filing of the later application must be consistent with § 21.30(b). When the Commission has so designated an application for hearing, any party in interest who is not notified by the Commission of such action, may acquire the status of a party to the proceeding thereon by filing a petition for intervention, showing the basis of his interest, at any time not more than 30 days after the publication in the FEDERAL REGISTER of the hearing issues or any substantial amendment thereto. Any hearing subsequently held upon such application shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate. The burden of proceeding with the introduction of evidence and the burden of proof shall be upon the applicant, except that, with respect to any issue presented by a petition to deny or a petition to enlarge the issues, such burdens shall be as determined by the Commission.

§ 21.28 Dismissal and return of applications.

(a) Any application may be dismissed without prejudice as a matter of right prior to the designation of such application for hearing.

(b) Requests to dismiss an application without prejudice after it has been designated for hearing will be considered only before public notice of the issuance of a proposed decision proposing denial of the application, upon written petition properly served upon all parties of record, and will be granted only for good cause shown. Such petition must be accompanied by the affidavit of a person with knowledge of the facts as to whether or not consideration has been promised to or received by the petitioner, directly or indirectly, in connection with the filing of such petition.

(c) An applicant not desiring to prosecute his application may request the dismissal of same without prejudice. A request of an applicant for the return of an application which has been accepted for filing will be considered as a request to dismiss the same without prejudice. Where an applicant fails to respond to official correspondence or request for additional material, the application will be dismissed without prejudice.

(d) Any mutually exclusive application filed after the date prescribed in § 21.30(b) will be returned without prejudice and will be eligible for refiling only after a final decision is rendered by the Commission with respect to the prior application or applications or after such application or applications are dismissed or removed from the hearing docket.

§ 21.29 Partial grants.

Where the Commission, without a hearing, grants any application in part, or with any privileges, terms, or conditions other than those requested, or subject to any interference that may result to the station if a designated application or applications are subsequently granted, the applicant will be informed of the reasons for such action and the action of the Commission shall be considered as a grant of such application unless the applicant shall, within 20 days from the date on which public announcement of such grant is made, or from its effective date if a later date is specified, return the instrument of authorization and file with the Commission a written statement rejecting the grant as made and setting forth the reasons why the application should be granted as originally requested. Upon receipt of such statement, the Commission will vacate its original action upon the application and reconsider the same. Upon such reconsideration, it will either grant or set the application for hearing in the same manner as other applications are set for hearing.

§ 21.30 Grants without hearing.

(a) Where an application for radio facilities is proper on its face and, where it appears from an examination of the application, supporting data, and such other matters as the Commission may officially notice, that (1) the applicant is legally, technically, financially and otherwise qualified; (2) a grant of the application would not cause harmful interference to an existing station or stations for which a construction permit is outstanding within its service area; (3) a grant of the application would not preclude the grant of any pending applications; and (4) a grant of the application would serve the public interest, convenience or necessity, the Commission will grant the application without a hearing.

(b) In making its determinations pursuant to the provisions of paragraph (a) of this section, the Commission will not consider any other application, or any other application amended so as to constitute a major change therein (as defined in § 21.23), as being mutually exclusive with the application or applications under consideration unless such other application was substantially complete and tendered for filing by whichever date is earlier: (1) The close of business 1 business day preceding the day on which the Commission takes action with respect to the application under consideration; or (2) within 60 days after the date of the public notice listing the first prior application (with which the subsequent application is in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will, for the purposes of this section, be considered to be a newly filed application. Where major changes which do not relate to the mutually exclusive aspect of a proceeding are warranted, or in the case of multiple mutually exclusive issues where the warranted major changes serve to resolve one or more of the issues but do not relate to the mutually exclusive aspect of the proceeding, such changes or amendments will not serve to alter the existing mutually exclusive status so long as new conflicts are not created. An application filed after the appointed date as specified herein will be subject to disposal in accordance with the provisions of § 21.28. As an exception, however, in dealing with the frequency bands 3700–4200 and 5925–6425 Mc/s, which are shared on a coequal, primary basis by the Point-to-Point Microwave Radio Service under this part and the Communication Satellite Service under Part 25 of this chapter, the Commission may consider planned future expansion of existing communication-satellite earth stations as being mutually exclusive with the application under consideration if brought to the attention of the Commission by the close of business 1 business day preceding the day on which the Commission takes action with respect to the application under consideration. To qualify for such mutual consideration the earth station must lie within coordination distance of the site of the point-to-point station in question and the earth station licensee must be able to document his planned expansion to the satisfaction of the Commission. Reciprocal treatment shall be afforded stations in the Point-to-Point Microwave Service in Part 25 of this chapter.

(c) Before Commission action on any application for an instrument of authorization, other than a license pursuant to a construction permit, any person may file informal objections to a grant thereof. Such objections shall be signed by the objector. The limitation on pleadings provided in § 1.45 of this chapter shall not be applicable to any objections filed pursuant to this section. Such informal objections will be considered by the Commission but will not be accorded the formal status of petitions as set forth in § 21.27.

(d) If a petition to deny the application has been filed in accordance with § 21.27, and the Commission makes the grant in accordance with paragraph (a) of this section, the Commission will deny the petition and issue a concise statement setting forth the reasons for denial and disposing of all substantial issues raised by the petition.

§ 21.31 Conditional grants.

Where a grant of the application would preclude the grant of an application or applications mutually exclusive with it, the Commission may, if public interest will be served thereby, make a conditional grant of one or more of such mutually exclusive applications and designate all of the mutually exclusive applications for hearing. Such conditional grant will be made upon the express condition that it is subject to being withdrawn if, at the hearing, it is shown that public interest will be better served by a grant of one of the other applications. Such conditional grants will be issued only where it appears:

(a) That some or all of the applications were not filed in good faith but were filed for the purpose of delaying or hindering the grant of another application; or

(b) That public interest requires the prompt establishment of radio service in a particular community or area; or

(c) The grant of one or more applications would be in the public interest and that a delay in making a grant to any applicant until after the conclusion of a hearing on all applications might jeopardize the rights of the United States under the provisions of an international agreement to the use of the frequency in question; or

(d) That a grant of one application would be in the public interest in that it appears from an examination of the remaining applications that they cannot be granted because they are in violation of provisions of the Communications Act, or of other statutes, or of the provisions of this chapter.

§ 21.32 Transfer and assignment of station authorization.

A station authorization, the frequencies authorized to be used by the grantee of such authorization, and the rights therein granted by such authorization shall not be transferred, assigned, or disposed of in whole or in part, in any manner, voluntary or involuntary, directly or indirectly, or by transfer of control of any corporation holding such authorization, to any person, except upon application to the Commission and upon finding by the Commission that the public interest, convenience and necessity will be served thereby. Requests for authority of the type referred to herein shall be submitted on the forms prescribed by § 21.14(h) and shall be accompanied by the further showing required by § 21.14(h).

§ 21.33 Period of construction.

(a) Except for stations in the Point-to-Point Microwave Radio Service, and except as may be limited by § 21.35(b), each construction permit for a radio station in the Domestic Public Radio Services will specify the date of grant as the earliest date of commencement of construction, and a maximum of 8 months from the date of grant as the time within which construction will be completed and the station ready for operation, unless otherwise determined by the Commission upon proper showing in any particular case (see §§ 21.14(d) and 21.34(a)).

(b) For stations in the Point-to-Point Microwave Radio Service, and except as may be limited by § 21.35(b), the construction permit issued by the Commission will specify the date of grant as the earliest date of commencement of construction and a maximum of 18 months thereafter as the time within which construction shall be completed and the station be ready for operation, unless otherwise determined by the Commission upon proper showing in any particular case.

§ 21.34 Forfeiture of station authorizations.

(a) A construction permit shall be automatically forfeited if construction has not been commenced within the time specified therein or if the station is not ready for operation within the term of the construction permit, or within such additional time as the Commission may have allowed upon a proper showing, upon FCC Form 701 filed prior to the date sought to be extended, that failure to commence or complete construction was due to causes not under the control of the permittee (see §§ 21.14(d) and 21.33).

(b) A license or special temporary authorizaton shall be automatically forfeited upon the expiration date specified therein unless prior thereto an application for renewal of such license or authorization shall have been filed with the Commission (see § 21.14(f)).

§ 21.35 License period.

(a) Licenses for stations in the Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services will be issued for a period not to exceed 5 years; in the case of common carrier Television STL and Television Pickup stations to which are assigned frequencies allocated to the broadcast services, the authorization to use such frequencies shall, in any event, terminate simultaneously with the expiration of the authorization for the broadcast station to which such service is rendered; except that licenses for developmental stations will be issued for a period not to exceed 1 year. The expiration date of licenses of miscellaneous common carriers in the Domestic Public Land Mobile Radio Service shall be the first day of April in the year of expiration; the expiration date of licenses of telephone company common carriers in the Domestic Public Land Mobile Radio Service shall be the first day of July in the year of expiration; except, however, that the expiration date of the licenses of miscellaneous common carriers and telephone company common

carriers in the Domestic Public Land Mobile Radio Service authorized pursuant to § 21.521 shall be the first day of September in the year of expiration; the expiration date of licenses in the Rural Radio Service shall be the first day of November in the year of expiration; the expiration date of licenses in the Point-to-Point Microwave Radio and Local Television Transmission Services shall be the first day of February in the year of expiration; and the expiration date of developmental licenses shall be 1 year from the date of grant thereof. When a license is granted subsequent to the last renewal date of the class of license involved, the license shall be issued only for the unexpired period of the current license term of such class.

(b) The Commission reserves the right to grant or renew station licenses in these services for a shorter period of time than that generally prescribed for such stations if, in its judgment, public interest, convenience, or necessity would be served by such action.

(c) Upon the expiration or termination of any station license, any related construction permit, which bears a later expiration date, shall be automatically terminated concurrently with the related station license, unless it shall have been determined by the Commission that the public interest, convenience or necessity would be served by continuing in effect said construction permit.

III. Subpart C of Part 21 is amended as follows:

1. Section 21.108(d) is amended by changing the final period to a comma and adding the following:

§ 21.108 Directional antennas.

* * * * *

(d) * * *, and in the center of the major lobe of radiation from the passive reflector directed toward the receiving station with which it communicates.

2. In § 21.109, the headnote and paragraph (b) are amended to read:

§ 21.109 Antenna, tower, and transmitting systems changes.

* * * * *

(b) No replacement or change of antenna or antenna structure shall be effected, except as noted below, without prior authorization from the Commission if after such replacement or change, there would be an increase in the gain of the antenna in any direction or increase in the overall structure height: *Provided, however*, That changes may be made without prior authorization from the Commission where: The power gain in any direction is not decreased by more than 1.5 db below that specified in the application for which authorization was issued; antenna height changes or corrections do not vary more than 2 feet from the height authorized and do not increase the overall structure height; or antenna directivity changes do not vary more than 1° from the values authorized. Within 30 days after making any changes not requiring prior authorization the licensee shall report the same to the Commission and to the engineer in charge of its district with complete technical details including a computation of the effective radiated power and all other pertinent information together with the certification of the person responsible for preparing the information (c.f. §§ 21.121(c) and 21.15(g)).

3. Section 21.110(d) is amended by the addition of the following sentence:

§ 21.110 Antenna polarization.

* * * * *

(d) * * * No change in polarization shall be made without prior authorization from the Commission.

4. Section 21.111 is amended by changing the reference at the end to read:

§ 21.111 Simultaneous use of common antenna structure.

* * * (see §§ 21.15(f) and 21.109(b)).

5. Section 21.113 is amended by the addition of the following sentence:

§ 21.113 Description of station location.

* * * In the point-to-point services authorized under this part, the antenna site at each terminal receiving location shall be described in the same manner.

6. Section 21.114 is revised to read:

§ 21.114 Temporary fixed antenna height restrictions.

The overall antenna structure heights employed by mobile stations in the Local Television Transmission Service and by stations authorized to operate at temporary fixed locations shall not exceed the height criteria set forth in § 17.7 of this chapter, unless, in each instance, authorization for use of a specific maximum antenna height (above ground and above mean sea level) for each location has been obtained from the Commission prior to erection of the antenna. Requests for such authorization shall show the inclusive dates of the proposed operation. (Complete information as to rules concerning the construction, marking and lighting of antenna structures is contained in Part 17 of this chapter.)

§ 21.116 [Amended]

7. In the fifth sentence of § 21.116 the word "radically" is changed to "radially".

8. In § 21.118, paragraph (d) is amended to read:

§ 21.118 Transmitter construction and installation.

* * * * *

(d) Each station in these services, which is required to have a person on duty and in charge of the station's operations during the normal rendition of service, shall be provided with at least one control point (see § 21.205). Where a control point is authorized within the boundary of a city, borough, town, or community, and the dispatching is handled by the licensee's own employees or by a telephone answering service pursuant to a dispatch agreement, the licensee of a station may move the installation of such control point without prior authorization within the boundary of such city, borough, town or community: *Provided*, That the licensee promptly notify the Commission and the engineer in charge of the radio district in which the station is located of such change and indicate the change on the next application for renewal of license or in the next application for modification of license, whichever is filed first. Prior authorization, by first securing a modification of the license, must be obtained when a licensee desires to move the installation of any control point beyond the boundary of the city, borough, town, or community where the control point is authorized or when dispatching is being performed by persons other than the employees of the licensee or by a telephone answering service: *Provided, however*, That the telephone answering service and the dispatching agreement have not been changed in any respect.

* * * * *

9. In § 21.121, a new paragraph (d) is added to read:

§ 21.121 Replacement of equipment.

* * * * *

(d) The permittee or licensee of a station in this service may replace or change equipment, other than that specified in §§ 21.109(a) and 21.121(a), including the transmission line and other devices between the transmitter and antenna if, after such change or addition the effective radiated power of the station in any direction is not decreased by more than 1.5 db below that specified in the application for which authorization was issued. Prior authorization from the Commission is required if, after such changes the effective radiated power in any direction would be increased. Within 30 days after making any changes not requiring prior authorization, the permittee or licensee shall report the same to the Commission and to the Engineer in Charge of its district with complete technical details including a computation of the effective radiated power and all other pertinent information together with the certification of the person responsible for preparing the information. (Cf. §§ 21.121(c) and 21.15).

IV. Subpart D of Part 21 is amended as follows:

1. In § 21.201, paragraph (a) is amended to read:

§ 21.201 Posting of station authorizations.

(a) The station permit, license or other authorization shall be posted at the authorized control point of the station, or, if none, at the station location. A photocopy may be posted in lieu of the original authorization if it is certified as to authenticity by an officer or duly authorized employee of the licensee or permittee and if it is annotated with the location of the original. If not posted at the station or a control point, the original authorization shall be posted at the licensee's alarm center or maintenance facility responsible for the station. (See also § 1.62 of this chapter.)

* * * * *

2. The text of § 21.204 preceding the note is amended to read:

§ 21.204 FCC publication required for reference.

For reference purposes, the permittee or licensee of radio facilities in the Domestic Public Radio Services shall maintain and have available at the principal control point, or alarm center, or at the transmitter location, or maintenance center for the station, a current copy of this Part 21 (available at the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402).

* * * * *

3. In § 21.205, paragraphs (d), (j), and (l) are amended to read:

§ 21.205 Operator requirements.

* * * * *

(d) In all cases, except where manual radiotelegraph keying is employed, the person responsible for the technical installation, servicing and maintenance of a radio station in these services shall hold a first- or second-class commercial radiotelephone or radiotelegraph license issued by the Commission.

* * * * *

(j) TV pickup stations, microwave auxiliary stations, and developmental stations shall be operated during the course of normal rendition of service under the effective operational control of a person holding a first- or second-class commercial radiotelephone or radiotelegraph operator license issued by the Commission.

* * * * *

(l) Except under the circumstances specified in paragraphs (g) through (j) of this section, during the course of normal rendition of service, no person is required to be in attendance at a station installed at a specified fixed location provided (1) licensed radio personnel responsible for the maintenance of the radio station are continuously available on call at a location which will assure expeditious performance of such technical servicing and maintenance as may be necessary, and (2) the quality of transmission over such station is subject to the supervision of the licensee's responsible operating personnel for the radio system with which the unattended station is directly associated.

* * * * *

4. Section 21.206 is revised to read:

§ 21.206 Inspection and maintenance of antenna structure marking and lighting, and associated control equipment.

The licensee of any radio station which has an antenna structure required to be painted and illuminated pursuant to the provisions of section 303(q) of the Communications Act of 1934, as amended, and Part 17 of this chapter, shall perform the inspection and maintain the tower marking and lighting, and associated control equipment, in accordance with the requirements set forth in Part 17 of this chapter.

5. In § 21.208, paragraph (f) is amended to read:

§ 21.208 Station records.

* * * * *

(f) For each station whose antenna structure is required to be illuminated, appropriate entries shall be made in the station's technical log in conformity with the requirements of Part 17 of this chapter.

* * * * *

6. In § 21.212, paragraph (f) is added to read:

§ 21.212 Equipment, service and maintenance tests.

* * * * *

(f) Where a facility is to be constructed and operated pursuant to a temporary authorization, the Commission and the engineer in charge of the district in which the facility is located shall be notified upon commencement of operation.

7. In § 21.213, the last sentence of paragraph (a) is amended and paragraph (b)(4) is deleted and the word "Reserved" inserted to read:

§ 21.213 Station identification.

(a) * * * In any such case, the identifying call sign shall be transmitted immediately following the conclusion of the message, radiophoto or program: *Provided*, That the requirement for transmission of station identification is waived for fixed stations employing continuous radiation with multichannel or video transmission and for the exclusive channel common to all base stations which are specifically authorized to communicate with airborne stations in the Domestic Public Land Mobile Radio Service.

(b) * * *

(4) [Reserved]

* * * * *

V. Subpart E of Part 21 is amended as follows:

1. Section 21.302 is revised to read:

§ 21.302 Answers to notices of violation.

Any person receiving official notice of a violation of the terms of the Communications Act of 1934, as amended, any other Federal statute or executive order pertaining to radio or wire communications or any international radio or wire communications treaty or convention, or regulations annexed thereto to which the United States is a party, or the rules and regulations of the Federal Communications Commission, shall, within 10 days from such receipt, send a written answer to the office of the Commission originating the official notice. If an answer cannot be sent or an acknowledgment made within such 10-day period by reason of illness or other unavoidable circumstances, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay. The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. If the notice relates to some violation that may be due to the physical or electrical characteristics of transmitting apparatus, the answer shall state fully what steps have been taken to prevent future violations, and, if any new apparatus is to be installed, the date such apparatus was ordered, the name of the manufacturer, and promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given or, if a file number has not been assigned by the Commission, such identification as will permit ready reference thereto. If the notice of violation relates to inadequate maintenance resulting in improper operation of the transmitter, the name and license number of the operator performing the maintenance shall be given. If the notice of violation relates to some lack of attention to, or improper operation of, the transmitter by other employees, the reply shall set forth the steps taken to prevent a recurrence of such lack of attention or improper operation.

2. In § 21.305, the headnote is amended to read:

§ 21.305 Reports required concerning amendments to charters and partnership agreements.

* * * * *

3. In § 21.306, the second sentence is amended to commence as follows:

§ 21.306 Requirement that permittees and licensees respond to official communications.

* * * Failure to do so * * *

VI. Subpart F is amended as follows:

1. In § 21.401, paragraph (b) is redesignated paragraph (c) and a new paragraph (b) is added to read:

§ 21.401 Scope of service.

* * * * *

(b) In the Point-to-Point Microwave and Local Television Services, the testing of existing or authorized antennas, wave guides or transmission paths; or

* * * * *

VII. Subpart G is amended as follows:

1. In § 21.501, the introductory texts of paragraphs (a), (b), and (c), and the table and footnote of paragraph (f) are amended to read:

§ 21.501 Frequencies.

* * * * *

(a) For assignment, in accordance with the zone allocation plan, to stations of communication common carriers which are also in the business of affording public landline message telephone service, for general and dispatch communications (provided that signaling communications may also be furnished on a secondary basis by any facility rendering such general or dispatch service). The frequencies specified may be used in adjoining zones within moderate distances of the respective zone boundaries to permit continuous service to mobile units transiting such zone boundaries.

* * * * *

(b) For assignment, to stations of communication common carriers engaged also in the business of affording

public landline message telephone service, for general and dispatch communications (provided that signaling communications may also be furnished on a secondary basis by any facility rendering such general or dispatch service):

* * * * *

(c) For assignment to stations of communication common carriers not also engaged in the business of providing a public landline message telephone service for general and dispatch communications (provided that signaling communications may also be furnished on a secondary basis by any facility rendering such general or dispatch service):

* * * * *

(f) * * *

72–76 Mc/s Band [1]

Mc/s	*Mc/s*	*Mc/s*	*Mc/s*
72.02	72.42	72.82	75.62
72.04		72.84	75.64
72.06	72.46	72.86	75.66
72.08		72.88	75.68
72.10	72.50	72.90	75.70
72.12		72.92	75.72
72.14	72.54	72.94	75.74
72.16		72.96	75.76
72.18	72.58	72.98	75.78
72.20		75.42	75.80
72.22	72.62		75.82
72.24	72.64	75.46	75.84
72.26	72.66		75.86
72.28	72.68	75.50	75.88
72.30	72.70		75.90
72.32	72.72	75.54	75.92
72.34	72.74		75.94
72.36	72.76	75.58	75.96
72.38	72.78		75.98
72.40	72.80		

[1] Assignments made to stations on frequencies in this band are subject to the condition that no harmful interference will be caused to operational fixed stations or reception of television stations on channels 4 or 5. (See § 21.103.) Existing stations authorized in the 73 to 74.6 Mc/s band as of Dec. 1, 1961, may continue to operate, are not required to afford protection to the radio astronomy service, and must comply with the following technical specifications:

Frequency Tolerance: .005 percent.
Frequency Deviation: ±15 kc/s.
Authorized Bandwidth: 40 kc/s.
Modulation Limiter: Required of transmitter authorized or installed after July 1, 1950.
Audio Low Pass Filter: Not required.

* * * * *

2. In § 21.507(b), the table is amended by adding footnote 2 to the 50–150 Mc/s band at F3 in front of the bandwidth 40 kc/s and the deviation 15 kc/s. New footnote 2 reads as follows:

§ 21.507 Bandwidth and emission limitations.

* * * * *

(b) * * *

[2] In the frequency bands 72.0–73.0 and 75.4–76.0 Mc/s, radio facilities using frequency modulated or phase modulated emission will be authorized with maximum bandwidth of 20 kc/s and maximum frequency deviation of 5 kc/s. Radio facilities which were authorized for operation on December 1, 1961, in the frequency band 73.0–74.6 Mc/s may continue to be authorized without change and with bandwidth of 40 kc/s and frequency deviation of 15 kc/s. New or modified facilities in the frequency band 73.0–74.6 Mc/s will not be authorized.

* * * * *

3. In § 21.516, the headnote, the introductory text, the introductory text of paragraph (b) are amended, and new subparagraphs (4) and (5) are added to paragraph (b) to read:

§ 21.516 Additional showing required with application for assignment of additional channel or channels.

An application requesting the assignment of an additional channel or channels at an existing Domestic Public Land Mobile radio station (other than control, dispatch or repeater), in addition to the information required by other sections of the rules, shall include a showing of the following:

* * * * *

(b) Data showing the actual traffic loading on each channel assignment of the present radio systems during the busiest 12-hour periods on 3 days (within a 7-day period) having normal message traffic not more than 60 days prior to the date of filing. This information should be reported separately for each of the 3 days selected, which should be identified by dates, and should disclose the following:

* * * * *

(4) For systems that provide one-way signaling as a primary service, (i) the number of mobile receivers in operation during the study period, (ii) the number of calls held, (iii) the total holding time; or for systems that do not provide message relay service, (iv) the total number of minutes the channel is utilized for transmission between the base station and the mobile receiver during each hour.

(5) Such other additional information which may more accurately reflect channel loading, and any further information which may be applicable and pertinent to the application.

4. In § 21.520(a), subparagraphs (3) and (5) are amended to read:

§ 21.520 Notification of operation of dispatch station without specific authorization.

(a) * * *

(3) The name of the manufacturer, type number and rated power output of transmitter to be installed.

* * * * *

(5) The overall height of the transmitting antenna structure in feet above ground and above mean sea level.

* * * * *

VIII. Subpart H is amended as follows:

1. In § 21.604(a), the table is amended by adding footnote 2 to the 50–150 Mc/s band at F3 and F4 in front of the bandwidths 40 kc/s and deviations 15 kc/s. New footnote 2 reads as follows:

§ 21.604 Emission limitations.

(a) * * *

[2] In the frequency bands 72.0–73.0 and 75.4–76.0 Mc/s, radio facilities using frequency modulated or phase modulated emission will be authorized with maximum bandwidth of 20 kc/s and maximum frequency deviation of 5 kc/s. Radio facilities which were authorized for operation on December 1, 1961, in the frequency band 73.0–74.6 Mc/s may continue to be authorized without change and with bandwidth of 40 kc/s and frequency deviation of 15 kc/s. New or modified facilities in the frequency band 73.0–74.6 Mc/s will not be authorized.

* * * * *

2. In § 21.610(a), subparagraphs (1) and (4) are amended to read:

§ 21.610 Rural subscriber, interoffice, and central office stations at temporary fixed locations.

(a) * * *

(1) When a fixed station is to remain at a single location for less than 6 months and the location is considered to be temporary, services which are initially known to be for longer than 6 months' duration shall not be provided under a temporary fixed authorization but rendered pursuant to a regular license.

* * * * *

(4) The antenna structure height employed at any location shall not exceed the criteria set forth in § 17.7 of this chapter unless, in each instance, authorization for use of a specific maximum antenna structure height has been obtained from the Commission prior to erection of the antenna. Requests for such authorization shall be accompanied by FCC Form 714 and a sketch of the proposed antenna structure.

* * * * *

3. In § 21.611, the present paragraph (b) is redesignated (c) and a new paragraph (b) is added to read:

§ 21.611 Notification of station operation at temporary locations.

* * * * *

(b) Less than 2 days advance notice may be given when circumstances require shorter notice provided such notice is promptly given and the reasons in support of such shorter notice are stated.

* * * * *

IX. Subpart I is amended as follows:

1. § 21.701, paragraph (d) is amended and paragraph (g) is deleted and the word "Reserved" inserted to read:

§ 21.701 Frequencies.

* * * * *

(d) The following frequencies are allocated for assignment to control stations in this service on a shared with other radio services; upon a satisfactory showing that it is impracticable to use wire lines:

72–76 Mc/s Band[1]

Mc/s	Mc/s	Mc/s	Mc/s
72.02	72.42	72.82	75.62
72.04		72.84	75.64
72.06	72.46	72.86	75.66
72.08		72.88	75.68
72.10	72.50	72.90	75.70
72.12		72.92	75.72
72.14	72.54	72.94	75.74
72.16		72.96	75.76
72.18	72.58	72.98	75.78
72.20		75.42	75.80
72.22	72.62		75.82
72.24	72.64	75.46	75.84
72.26	72.66		75.86
72.28	72.68	75.50	75.88
72.30	72.70		75.90
72.32	72.72	75.54	75.92
72.34	72.74		75.94
72.36	72.76	75.58	75.96
72.38	72.78		75.98
72.40	72.80		

[1] Assignments made to stations on frequencies in this band are subject to the condition that no harmful interference will be caused to operational fixed stations or reception of television stations on channels 4 or 5 (See § 21.103).

* * * * *

(g) [Reserved]

* * * * *

2. In § 21.703(e), the table is amended by adding footnote 2 to the 50–150 Mc/s band at F3 in front of the bandwidth 40 kc/s and the deviation 15 kc/s. New footnote 2 reads as follows:

§ 21.703 Bandwidth and emission limitations.

* * * * *

(e) * * *

[2] In the frequency bands 72.0–73.0 and 75.4–76.0 Mc/s, radio facilities using frequency modulated or phase modulated emission will be authorized with maximum bandwidth of 20 kc/s and maximum frequency deviation of 5 kc/s. Radio facilities which were authorized for operation on Dec. 1, 1961, in the frequency band 73.0–74.6 Mc/s may continue to be authorized without change and with bandwidth of 40 kc/s and frequency deviation of 15 kc/s. New or modified facilities in the frequency band 73.0–74.6 Mc/s will not be authorized.

* * * * *

3. In § 21.705, the following sentence is added to read:

§ 21.705 Permissible communications.

* * * In authorizations classed as fixed video, the services permissible are limited to the carriage of video signals and their associated audio signals unless otherwise conditioned.

4. In § 21.707(a), subparagraphs (1) and (4) are amended to read:

§ 21.707 Stations at temporary fixed locations.

(a) * * *

(1) When a fixed station is to remain at a single location for less than 6 months, the location is considered to be temporary. Services which are initially known to be of longer than 6 months' duration shall not be provided under a temporary fixed authorization but rendered pursuant to a regular license.

* * * * *

(4) The antenna structure height employed at any location shall not exceed the criteria set forth in § 17.7 of this chapter unless, in each instance, authorization for use of a specific maximum antenna structure height for each location has been obtained from the Commission prior to erection of the antenna. See § 21.114.

* * * * *

5. In § 21.708, the introductory text, subparagraphs (1) and (2) are amended, and (8) added in paragraph (a): and paragraph (b) is amended to read:

§ 21.708 Notification of station operation at temporary fixed locations.

(a) The licensee of stations which are authorized pursuant to the provisions of § 21.707 shall notify the Commission, and its engineer in charge of the radio district wherein operation is to be conducted, at least 5 days prior to installation of the facilities, stating:

(1) The call sign, manufacturer's name, type or model number, output power and specific location of the transmitter(s).

(2) The maintenance location for the transmitter.

* * * * *

(8) Where the notification contemplates initially a service which is to be rendered for a period longer than 90 days, the notification shall contain a showing as to why application should not be made for regular authorization.

(b) Less than 5 days advance notice may be given when circumstances require shorter notice provided such notice is promptly given and the reasons in support of such shorter notice are stated.

* * * * *

X. Subpart J is amended as follows:

1. In § 21.807(a), subparagraphs (1) and (4) are amended to read:

§ 21.807 Stations at temporary fixed locations.

(a) * * *

(1) When a fixed station is to remain at a single location for less than 6 months, the location is considered to be temporary. Services which are initially known to be of longer than 6 months' duration shall not be provided under a temporary fixed authorization but rendered pursuant to a regular license.

* * * * *

(4) The antenna structure height employed at any location shall not exceed the criteria set forth in § 17.7 of this chapter unless, in each instance, authorization for use of a specific maximum antenna structure height for each location has been obtained from the Commission prior to erection of the antenna. See § 21.114.

* * * * *

2. In § 21.808(a), the introductory text, subparagraphs (1) and (2) are amended and new subparagraph (7) is added to read:

§ 21.808 Notification of station operation at temporary locations.

(a) The licensee of stations which are authorized pursuant to the provisions of § 21.807 shall notify the Commission, and its engineer in charge of the radio district wherein operation is to be conducted, of each period of operation at least 5 days prior to installation of the facilities. This notification shall include:

(1) The call sign, manufacturer's name, type or model number, output power and specific location of the transmitter(s).

(2) The maintenance location for the transmitter.

* * * * *

(7) Where the notification contemplates initially a service which is to be rendered for a period longer than 90 days, the notification shall contain a showing as to why application should not be made for regular authorization.

* * * * *

APPENDIX B

Comments were filed by:

All City Telephone Answering Service.
Allen C. Moore, doing business as Moores Service.
American Telephone & Telegraph Co.
Am-Tex Dispatch Service.
Ans-A-Phone Communications, Inc.
Answerphone, Inc.
Auto-Phone Co.
Autophone of San Antonio.
Business and Professional Men's Exchange, Inc.
Business Communications, Inc.
Cahill Answering Services, Inc.
Caprock Communications, Inc., doing business as Caprock Radio Dispatch.
Communications Industries, Inc.
Credit Bureau of Decatur, Inc.
Dakota Radio Paging, Inc.
General Communications, Inc.
General Communications Service, Inc.
GT&E Service Corp.
Hawaiian Telephone Co.
Imperial Communications Corp.
Joseph Giorgianni.
Kankakee Telephone Answering Service, Inc.
KSJ 267.
Lett Electronics.
Mahaffey Message Relay.
Margaret Walsh.
Mobile Radio Dispatch Service, Inc.
Morris Communications, Inc.
Motorola Communications and Electronics, Inc.
National Association of Radiotelephone Systems.
Page-A-Fone Corp.
Paging Montgomery, Inc.
Philadelphia Mobile Telephone Co. and The Mobile Telephone Co.
Radio Page of Michiana, Inc.
Radio Paging Service.
Ranch Radio, Inc.
RCC of Virginia, Inc.
R. L. Mohr, doing business as Advanced Electronics.
R. L. Mohr, doing business as Radiocall.
R. O. Deaderick Co.
Susquehanna Mobile Communications, Inc.
U.S. Independent Telephone Association.

[F.R. Doc. 70-8091; Filed, June 25, 1970; 8:46 a.m.]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

PART 1000—THE COMMISSION

PART 1100—GENERAL RULES OF PRACTICE

Establishment of Tariff Rules Board

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 10th day of June 1970.

It appearing, that under the provisions of section 17 of the Interstate Commerce Act, as amended (49 U.S.C. 17), the Commission has created a new board to be called the Tariff Rules Board which will have initial jurisdiction over the promulgation or prescription of regulations governing the form and manner in which tariffs or schedules required to be filed are to be published, filed, and posted, and in order to give effect to the creation of the Tariff Rules Board, certain provisions of Chapter X of Title 49 of the Code of Federal Regulations will require amendment:

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

1. Appendix I to Subpart B of Part 1000 under the "Bureau of Traffic" is amended as follows:

APPENDIX I—LIST OF EMPLOYEES REQUIRED TO SUBMIT ICC FORM NO. 1164

* * * * *

BUREAU OF TRAFFIC

* * * * *

8. Chairman and Members, The Tariff Rules Board.

2. In § 1100.225 of Subchapter B of Part 1100, the section heading, paragraph (a), and paragraph (b)(1) are amended by adding thereto "Tariff Rules Board".

It is further ordered, That these amendments shall become effective July 1, 1970.

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

(Secs. 12, 17, 24 Stat. 383, as amended, 385, as amended, secs. 204, 205, 49 Stat. 546, as amended, 548 as amended; secs. 304, 316, 54 Stat. 933, 946; secs. 403, 417, 56 Stat. 285, 297, 49 U.S.C. 12, 17, 304, 305, 904, 916, 1003, 1017)

By the Commission.

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

[F.R. Doc. 70-8113; Filed, June 25, 1970; 8:48 a.m.]

[S.O. 1044]

PART 1033—CAR SERVICE

Chicago and North Western Railway Co. Authorized To Operate Over Tracks of Burlington Northern, Inc.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 22d day of June 1970.

It appearing that the Chicago and North Western Railway Co. and the Burlington Northern, Inc., are parties to a trackage rights application to permit the Chicago and North Western Railway Co. to operate over tracks of the Burlington Northern, Inc., between Farmington and Norris, Ill.; that there is an urgent demand from an industry at Norris to ship coal to a public utility located on the Chicago and North Western Railway Co.; that the public utility is critically short of coal for electric generation; that the Commission is of the opinion that operation of the Chicago and North Western Railway Co. over tracks of the Burlington Northern, Inc., is necessary in the interest of the public and the commerce of the people pending approval of the application in Finance Docket No. 26227; that notice and public procedure herein are impractical 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:

§ 1033.1044 Service Order No. 1044.

(a) *Chicago and North Western Railway Co. authorized to operate over tracks of the Burlington Northern, Inc.* The Chicago and North Western Railway Co. be, and it is hereby, authorized to operate over tracks of the Burlington Northern, Inc., between Farmington and Norris, Ill.

(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 23, 1970.

(d) *Expiration date*. The provisions of this order shall expire at 11:59 p.m., July 24, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applies sec. 1(10-17), 15 (4), and 17(2), 40 Stat. 101, as amended 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17 (2))

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

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

[F.R. Doc. 70-8114; Filed, June 25, 1970; 8:48 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 10—MIGRATORY BIRDS

Hunting Seasons for Puerto Rico and the Virgin Islands, 1970–71

There was published in the FEDERAL REGISTER of May 27, 1970, beginning on page 8285 (35 F.R. 8285) a notice of proposed rule making to issue regulations governing the hunting of doves, pigeons, ducks, coots, gallinules, and Wilson's snipe in Puerto Rico; and for doves in the Virgin Islands. The taking of the designated species of migratory game birds is presently prohibited.

All interested persons were invited to submit written comments, suggestions, or objections to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. After consideration of comments and since these amendments benefit the public by relieving existing restrictions, they shall become effective uppon publication in the FEDERAL REGISTER.

Accordingly, Title 50, Chapter I, Subchapter B, Part 10, § 10.52, Code of Federal Regulations is revised to read:

§ 10.52 Migratory game bird hunting seasons for Puerto Rico and the Virgin Islands.

Subject to the applicable provisions of the preceding sections of this part, the open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) *Puerto Rico*.

	Doves [1]	Pigeons [1]
Open season dates [2]	July 18 to Sept. 25, 1970 inclusive.	
Daily bag limit [3]	15 singly or in the aggregate of all permitted species.	8 singly or in the aggregate of all permitted species.
Possession limit [3]	23 doves and pigeons, singly or in the aggregate of all permitted species.	
Shooting hours	One-half hour before sunrise to sunset daily.	

[1] Only the following species of doves and pigeons may be hunted during the open season: Zenaida dove (Tórtola cardosantera); White-winged dove (Tórtola aliblanca o cubanita); Mourning dove (Tórtola rabilarga o rabiche); Scaly-naped pigeon (Paloma turca o torcaz); White-crowned pigeon (Paloma cabeciblanca).

[2] No open season is prescribed for doves and pigeons of any species on Culebra Island or in the Municipality of Cidra, said Municipality being composed of the following Wards: Bayamon, Arenas, Monte Llano, Sud, Beatriz, Ceiba, Rio Abajo, Rincon, Toita, Honduras, Rabanel, and Salto.

[3] On Mona Island the daily bag and possession limit on doves and pigeons is 15 singly or in the aggregate of all permitted species.

(b) *Puerto Rico.*

	Ducks	Coots	Gallinules	Common snipe (Wilson's)
Daily bag limit	4	6	8	8
Possession limit	8	12	16	16
Open season dates [1,2,3]	Dec. 2, 1970 to Jan. 30, 1971, inclusive.			
Shooting hours	One-half hour before sunrise until sunset daily.			

[1] Check Commonwealth regulations for additional restrictions.

[2] No open season for waterfowl is prescribed for Culebra Island.

[3] The season on Bahama pintail is closed by Commonwealth law.

(c) *Virgin Islands.*

	Zenaida doves
Daily bag limit.	10 Zenaida doves.
Possession limit.	Do.
Open season dates. [1 2]	August 1 to October 9, 1970, inclusive.
Shooting hours.	One-half hour before sunrise until sunset daily.

[1] The season is closed on all species of game birds in the Virgin Islands except Zenaida doves.

[2] See Territorial regulations for any additional restrictions.

Local names for game birds: *Zenaida dove* (Zenaida aurita) Mountain dove; *Bridled Quail Dove* (Geotrygon mystacea)—Perdiz, Barbara dove (Protected). *Ground dove* (Columbigallina passerina nigrirostris)—Stone dove, Tabacco dove, Rola, Tortolita (Protected).

(40 Stat. 755; 16 U.S.C. 703 et seq.)

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

JUNE 23, 1970.

[F.R. Doc. 70-8115; Filed, June 25, 1970; 8:48 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 46—NUT PRODUCTS

Packaged Nuts; Order Establishing Standards of Identity and Fill of Container

In the matter of establishing definitions and standard of identity for mixed nuts without peanuts (§ 46.51), mixed nuts (§ 46.52), and peanuts with mixed nuts (§ 46.53) and a standard of fill of container for shelled nuts in rigid containers (§ 46.54):

A notice of proposed rule making in the above-identified matter was published in the FEDERAL REGISTER of September 4, 1968 (33 F.R. 12383), based on a proposal by the Commissioner of Food and Drugs.

In response thereto, approximately 50 comments were received. Five favored the standards as proposed. Adverse comments were received from the Peanut Butter Manufacturers Association, the Peanut and Nut Salters' Association, other associations, various State and city government officials, manufacturers and members of industry, and members of Congress.

Among the adverse comments were exceptions to: (1) The minimum number of the kinds of tree nuts to be required; (2) the proposed maximum percentage of peanuts; (3) specifying the optional nonnut ingredients that may be used; and (4) the minimum volume of nuts required by the proposed standard of fill.

One question raised concerned the applicability of the proposed standards to such foods as sugar-coated and chocolate-coated nuts normally classified as confections. In the opinion of the Commissioner such confections are not the products for which these standards were proposed, and therefore the packaged nuts standards set forth below are not intended to apply to foods such as sugar-coated or chocolate-coated nuts.

Information also available to the Commissioner included: Thirty-two comments from consumers and one from a manufacturer that had been written to the writer of a syndicated news column and subsequently given to the Food and Drug Administration regarding the general subject of mixed nuts; and "A Study of Consumer Concepts and Expectations Concerning Selected Food Products and Their Associated Label Declarations," a consumer survey conducted under contract for the Food and Drug Administration. The consumer comments and the survey indicate that consumer confusion and dissatisfaction exist regarding the ratio of mixed nuts to peanuts for some of the products labeled "mixed nuts" and the lack of informative labeling on the product to enable consumers to make knowledgeable purchases of the products.

The Commissioner has given full consideration to the comments submitted in response to the proposal and concludes that the exceptions taken to the four proposed provisions listed above are reasonable and the following order reflects that fact. In the case of the minimum volume of nuts to be required by the standard of fill of container, information indicates that because of the variations in size, shape, and density of the tree nuts involved, due to seasonal, geographic, and climatic conditions, and with containers filled by high-speed equipment to the maximum amount attainable under good manufacturing practice, a requirement of not less than 85 percent of the container volume when tested by the method specified in paragraph (b) of the standard, rather than 90 percent as originally proposed, is appropriate. The 85-percent requirement does not mean that the container of nuts is filled only to that amount, but instead means that a container substantially full at the time of packing will meet the requirement when analyzed at a later time.

The Commissioner recognizes that the term "mixed nuts" has been used for over 20 years to designate a product containing a mixture of shelled nuts composed of a variety of tree nuts with or without peanuts. Consumers complain, however, about the lack of informative labeling that would permit them to distinguish and make value comparisons between mixtures containing only tree nuts, mixtures containing a predominance of tree nuts over peanuts, and mixtures containing a predominance, ranging from slight to large, of peanuts over tree nuts.

Consumers indicate they want regulations to control the use of an unreasonable excess of peanuts as a substitute for more expensive nuts and to control the minimum volume of nuts in the container. On this basis the Commissioner concludes that it is reasonable and practicable: (1) To adopt the name "mixed nuts" for the food described below (§ 46.51) that contains a mixture of a variety of tree nuts with or without peanuts; (2) to require label declaration of the nut ingredients used in order of predominance; (3) to require in juxtaposition with the name, an informative quantitative statement of the approximate percentage by weight of a particular nut ingredient present when the percentage by weight of such nut ingredient exceeds the combined weight of the other nut ingredients; and (4) to limit the quantity of any single nut ingredient permitted to not more than 80 percent by weight of the finished food.

In consideration of the comments received and other relevant information, the Commissioner concludes that it will promote honesty and fair dealing in the interest of consumers to establish the definition and standard of identity and the standard of fill of container set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered,* That the following two new sections be added to Part 46:

§ 46.51 Mixed nuts; identity; label statement of optional ingredients.

(a) Mixed nuts is the food consisting of a mixture of four or more of the optional shelled tree nut ingredients, with or without one or more of the optional shelled peanut ingredients, of the kinds prescribed by paragraph (b) of this section; except that when 2 ounces or less of the food is packed in transparent containers, three or more of the optional tree nut ingredients shall be present. Each such kind of nut ingredient when used shall be present in a quantity not less than 2 percent and not more than 80 percent by weight of the finished food. For purposes of this section, each kind of tree nut and peanut is an optional ingredient that may be prepared by any suitable method in accordance with good manufacturing practice. The finished food may contain one or more of the optional nonnut ingredients provided for in paragraph (c) of this section.

(b) The optional shelled nut ingredients referred to in paragraph (a) of this section are:

(1) Almonds, black walnuts, Brazil nuts, cashews, English walnuts, filberts, pecans, and other suitable kinds of tree nuts.

(2) Peanuts of the Spanish, Valencia, Virginia, or similar varieties, or any combination of two or more such varieties.

(c) The optional nonnut ingredients referred to in paragraph (a) of this section consist of suitable substances that are not food additives as defined in section 201(s) of the Federal Food, Drug, and Cosmetic Act; or if they are food additives as so defined, they are used in conformity with regulations established pursuant to section 409 of the act. Nonnut ingredients that perform a useful function are regarded as suitable, except that color additives are not suitable ingredients of the food.

(d) The name of the food is "mixed nuts." If the percentage of a single nut ingredient by weight of the finished food exceeds 50 percent but not 60 percent, the statement "contains up to 60% ____________" or "contains 60% ____________" or "60% ____________" shall immediately follow the name "mixed nuts" and shall appear on the same background, be of the same color, and be in letters not less than one-half the height of the largest letter in the words "mixed nuts." The blank is to be filled in with the appropriate name of the predominant nut ingredient; for example, "contains up to 60% pecans" or "contains up to 60% Spanish peanuts." The numbers "70" or "80" shall be substituted for the number "60" when the percentage of the predominant nut ingredient exceeds 60 but not 70, or exceeds 70 but not 80, respectively. Compliance with the requirements for percentage of nut ingredients of this section and the fill of container requirement of § 46.52 will be determined by the following procedure:

(1) Take at random from a lot, in the case of containers bearing a weight declaration of 16 ounces or less, at least 24 containers, and for containers bearing a weight declaration of more than 16 ounces, enough containers to provide a total quantity of at least 24 pounds of nuts.

(2) If compliance with § 46.52 is to be determined, first follow the procedure set forth therein.

(3) Determine the percent by weight of each nut ingredient present in each container separately. Calculate the average percentage of each nut ingredient present. If the average percent found for each nut ingredient present is 2 percent or more and none of the individual nut ingredients exceeds 80 percent by weight of the finished food, the lot will be deemed to be in compliance with the percentage requirements of paragraph (a) of this section. If the average percent found for a single nut ingredient exceeds 50 percent by weight of the finished food and the average percent found is within the range indicated by the number declared on the label in accordance with this paragraph, the lot will be deemed to be in compliance with the labeling requirements of this paragraph.

(e) Optional nut ingredients and optional nonnut ingredients used in the food, as provided for in paragraphs (b) and (c) of this section, shall be declared on the label by their common names in the order of decreasing predominance by weight except that:

(1) If the Spanish variety of peanuts is used, it shall be declared as "Spanish peanuts." Other varieties of peanuts shall be declared as "peanuts," or alternatively "____________ peanuts," the blank being filled in with the varietal name of the peanuts used.

(2) If the peanut ingredient or ingredients as provided for in paragraph (b)(1) of this section are unblanched, the label shall show that fact by such statement as "peanuts unblanched," "peanuts skins on," or words of similar import, unless the vignette clearly depicts peanuts with skins on.

(3) Vegetable oils used shall be declared by the words "vegetable oil" or "hydrogenated vegetable oil," or alternatively "____________ oil" or "hydrogenated ____________ oil," as the case may be, the blank being filled in with the name or names of the vegetable source(s) of the oil. For the purposes of this section, hydrogenated vegetable oil shall be considered to include partially hydrogenated vegetable oil.

(4) When antioxidant preservatives are used in the finished food, the label shall bear the statement "____________ added as a preservative" or "____________ added to inhibit rancidity," the blank being filled in with the name or names of the preservative(s) used.

(f) The words and statements specified in paragraph (e) of this section showing the optional ingredients present shall be listed on the principal display panel or panels or any appropriate information panel without obscuring design, vignettes, or crowding. The declaration shall appear in conspicuous and easily legible letters of boldface print or type the size of which shall be not less than one-half of that required by Part 1 of this chapter for the statement of net quantity of contents appearing on the label, but in no case less than one-sixteenth of an inch in height. The entire ingredient statement shall appear on at least one panel of the label and in lines generally parallel to the base on which the container rests as it is designed to be displayed. If the label bears any pictorial representation of the mixture of nuts, it shall depict the relative proportions of the nut ingredients of the food. If the label bears a pictorial representation of only one of each nut ingredient present, the nuts shall be depicted in the order of decreasing predominance by weight. A factual statement that the food does not contain a particular nut ingredient or ingredients may be shown on the label if the statement is not misleading and does not result in an insufficiency of label space for the proper declaration of information required by or under authority of the act to appear on the label.

§ 46.52 Shelled nuts in rigid or semirigid containers; fill of containers; label statement of substandard fill.

(a) The standard of fill for shelled nuts in rigid or semirigid containers is a fill such that the average volume of nuts, from the number of containers specified in § 46.51(d)(1), is not less than 85 percent of the container volume as determined by the method in paragraph (b) of this section.

(b) The method for determining the percent of fill is as follows:

(1) For the shelled nuts in each container, determine the loose volume, the settled volume, and the average volume in cubic centimeters. For the purposes of this subparagraph, consider volume in milliliters to be numerically equal to volume in cubic centimeters. Open the container and pour the nuts loosely into a vertical graduated cylinder (do not tilt) of appropriate size fitted with a funnel which has been modified, if necessary, to provide a minimum opening of 1½-inch diameter. (If the loose volume of the nuts is less than 500 milliliters, use a 500-milliliter cylinder with an inside diameter of approximately 1⅞ inches; but if the loose volume is 500 milliliters or more, use a 1,000-milliliter cylinder with an inside diameter of approximately 2¼ inches.) Without shaking the cylinder, estimate the location of a horizontal plane representing the average height of the product, read the volume of the nuts, and record as the loose volume. Raise the cylinder 2 inches and allow it a free vertical drop onto a level, firm, but resilient surface (do not tamp) for a total of 5 times and observe the volume as above. Repeat in successive five-drop increments until the nuts have so settled that the volume decreases less than 2 percent in the last five-drop increment. Read the last volume in the manner described above and record as the settled volume. The arithmetical average of the loose volume and the settled volume equals the average volume of nuts.

(2) Classify the container by shape and determine its volume in cubic centimeters according to one of the following methods as appropriate:

(i) For containers of irregular shape, including glass jars, follow the general method for water capacity of containers as prescribed in § 10.6(a) of this chapter and determine the container volume, considering the water capacity in grams to be numerically equivalent to volume in cubic centimeters, or the water capacity in ounces (avoirdupois) to be equivalent to 28.35 cubic centimeters per ounce.

(ii) For box-shaped containers (that is, with opposite sides parallel), measure the inside height, width, and depth and calculate the volume as the product of these three dimensions.

(iii) For cylindrical containers, calculate the container volume in cubic centimeters as 12.87 times the product of the height times the diameter squared, both measured in inches; or as 0.7854 times the product of the height times the diameter squared, when measured in centimeters. For containers that do not have indented ends, take the inside diameter and height as the dimensions. For containers with indented ends (that is, metal cans with ends attached by double seams), consider the height to be the outside height at the double seam minus three-eighths inch and the diameter to be the outside diameter at the double seam minus one-eighth inch.

(3) Calculate the percent fill of the container as follows: Divide the average volume of nuts found according to subparagraph (1) of this paragraph by the appropriate container volume found according to subparagraph (2) of this paragraph and multiply by 100. The result shall be considered to be the percent fill of the container.

(c) If shelled nuts fall below the standard of fill of container prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form therein specified.

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

Effective date. This order shall become effective 120 days after its date of publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: June 12, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70-8078; Filed, June 25, 1970; 8:45 a.m.]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Fireworks Devices; Confirmation of Effective Date of Order Regarding Classification as Banned Hazardous Substances and Revocation of Exemption; Ruling on Objection

In the matter of classifying certain fireworks devices as "banned hazardous substances" within the meaning of section 2(q)(1)(B) of the Federal Hazardous Substances Act:

An order in the above-identified matter was published in the FEDERAL REGISTER of May 13, 1970 (35 F.R. 7415), to become effective 45 days thereafter.

In response, an objection requesting a hearing was received from the National Society for the Prevention of Blindness, Inc., 79 Madison Avenue, New York, N.Y. 10016, stating (1) that the regulation is too narrow in that it does not ban all fireworks, (2) that the labeling of all fireworks is not adequate to protect purchasers, and (3) that the 3-year recordkeeping requirement should be changed to a 10-year requirement.

The objector is not opposed to the order as written, but rather is requesting that the scope of the order be expanded. The objector's request for a hearing is denied, but the objection of the National Society for the Prevention of Blindness is treated as a petition to ban all fireworks (except for those intended for bona fide crop protection purposes and conspicuously so labeled) and to expand the recordkeeping requirements of the regulation, pursuant to 15 U.S.C. 1261(q)(2) and 21 U.S.C. 371(e).

Granting the objector's request for a hearing would stay the effective date of the order, hindering the efficient enforcement of the act during the forthcoming Fourth-of-July season. Accordingly, the Commissioner concludes that it is in the public interest to deny the objections and confirm the effective date of the order.

Therefore, pursuant to provisions of the Federal Hazardous Substances Act (sec. 2(q)(1)(B), 74 Stat. 372, 80 Stat. 1304-5; 15 U.S.C. 1261) and of the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 52 Stat. 1055, as amended; 21 U.S.C. 371(e)), and under authority delegated to the Commissioner (21 CFR 2.120), notice is given the subject order adding to § 191.9(a) a new subparagraph (3) and revoking § 191.65(a)(3) shall become effective June 27, 1970.

Dated: June 25, 1970.

JAMES D. GRANT,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 70-8265; Filed, June 25, 1970; 12:11 p.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1098]

[Docket No. AO 184–A29]

MILK IN NASHVILLE, TENN., MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Nashville, Tenn., marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 10th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and opportunity to file exceptions thereto are issued 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).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Nashville, Tenn., on May 6, 1970, pursuant to notice thereof which was issued April 17, 1970 (35 F.R. 6434).

The material issues on the record of the hearing relate to:

1. Diversion of milk between pool plants and other order plants;

2. Partial payments to producers who ship to a handler less than 20 days during the month;

3. Plants meeting the pooling requirements of more than one order; and

4. The status of base-holding producers who become producers under another order during a portion of a base-paying month.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. The order should be amended to provide for the diversion of milk under certain circumstances between Nashville pool plants and plants regulated by other orders.

With the declining number of nearby nonpool manufacturing plants, the disposal of the reserve supply of the market poses a problem at times, particularly during the months of flush production. At the present time, the terms of the Nashville order do not permit the diversion of producer milk to plants which are regulated under another order without loss of pooling on such milk under the Nashville order. This prohibition was suspended for the months of March, April and May 1970 by an order of the Assistant Secretary issued on February 27, 1970. Neither does the Nashville order permit milk to be diverted to Nashville pool plants from other marketing orders without being subject to pooling in Nashville.

The principal cooperative association in the Nashville market operates a manufacturing plant at Lewisburg, Tenn., which is the major outlet for the reserve supply of the market. This plant also handles some of the reserve supplies of other nearby markets where the cooperative association operates. This plant has receiving facilities which have recently been approved for the shipment of milk for fluid purposes. At the present time, it has not met the pooling requirements of a supply plant under any order.

The plant could readily become a pool supply plant under either the Nashville order or one of the adjoining orders such as the Mississippi order, however. If this plant were to become subject to full regulation under the Mississippi order, milk of Nashville producers could no longer be received at such plant as diverted milk, but would become producer milk under the latter order. This, in effect, would shift to the other pool some of the milk of the Nashville market not needed for Class I use there.

Similarly, if the plant were to become subject to full regulation under the Nashville order, milk diverted to such plant from Mississippi, or any other order, would become producer milk under the Nashville order, and the Nashville market would assume a portion of the burden of the excess supplies which have been associated with the other market.

The cooperative association also operates a manufacturing plant at Louisville, Ky., which is a fully regulated plant under the Louisville-Lexington-Evansville order.

The supply area of the Nashville market embraces a substantial area in Kentucky as well as in Tennessee. Many of the producers in the Kentucky portion of the marketing area are located much closer to the Louisville plant than to the Lewisburg plant. Hence, it would be more efficient for the cooperative association to be able to divert milk of Kentucky producers to the Louisville plant.

The cooperative association also operates a manufacturing plant at Chattanooga, Tenn., which is a pool plant under the Chattanooga order. It is possible that at times it would be in the interest of orderly marketing to divert milk from the Nashville market to the Chattanooga plant.

Accordingly, the order should be amended to permit a dairy farmer to retain his producer status under the Nashville order, and his milk to continue to be producer milk, when such milk is diverted to a plant subject to regulation under another order for Class II use. To insure that such diversion privilege is used only to accommodate the orderly disposal of the excess supplies of the market, it is provided that a producer whose milk is so diverted shall retain his producer status only if the handler who diverts such milk, and the operator of the other order plant at which it is received, both report to the market administrator of their respective orders that such milk was diverted for Class II (or an equivalent classification) use only, and request such classification in the reports of receipts and utilization filed with the respective market administrators.

Similarly, the order should be amended to permit milk to be diverted for manufacturing use to Nashville pool plants from plants subject to other orders. As in the case of diversions from Nashville pool plants to pool plants under other orders, this should be permitted only if the operators of both plants, in the reports of receipts and utilization to their respective market administrators, report such milk as utilized in Class II and request a Class II utilization therefor.

These amendments will facilitate the handling of the reserve supplies of markets in the region without burdening one market with the reserve milk regularly associated with another.

A witness for proponents testified that, if milk which is diverted to a pool plant under another order as Class II milk is actually utilized in Class I, and such use is determined prior to the computation of the pool, the milk so assigned to Class I should not be considered producer milk under the Nashville order, but should be considered producer milk in the market of receipt. It was proposed that the diverting handler designate the producers whose milk would become producer milk under the other order.

While this proposal has some merit, it could result in a conflict between the Nashville order and other orders to which the milk might be diverted, since no other order contains a similar provision at this time. Also, because of the

short time intervening between the filing of the reports and the computation of the pool, it is unlikely that such information would be available to the market administrator in all instances. Therefore, such proposal is not adopted at this time.

The transfer provisions should also be amended to accommodate the above noted changes with respect to diverted milk. Specifically, the order should provide that when milk is moved to an other order plant, the classification shall be in the class to which allocated as a fluid milk product under the other order, but that, if the operators of both the transferor and transferee plants so request in the reports of receipt and utilization filed with their respective market administrators, diverted milk should be classified as Class II to the extent of the Class II (or the comparable utilization provided under such other order) available in the transferee plant for such assignment pursuant to the allocation provisions of the order to which the transferee plant is subject.

2. The order should be amended to permit handlers to withhold payment to the market administrator of the partial payment due producers for deliveries during the first 15 days of the month in the case of those producers who cease delivery to the handler before the 20th day of the month.

Producers frequently make assignments to creditors which are paid directly to the creditor by the handler, including payments to haulers which are usually made by the handler. In the case of a producer who ceases delivery to a handler in the early part of the month, it is quite possible that the balance of money due the producer after such assignments are honored would be less than the amount of the partial payment which the handler is required to make. Elimination of the partial payment in the case of a producer who ceases delivery after less than 20 days, will permit the handler making payment to the producer to know exactly how much money is due the producer before making the payment. This will eliminate problems for handlers in attempting to recover from producers amounts which they had been overpaid for their milk in the month in which they had ceased production.

The proponent also stated that certain producers prefer to receive payment once a month. They proposed that in the case of such producers the partial payment likewise be eliminated.

Such procedure could interfere with the uniform application of regulation to all handlers. It is possible that some handler might persuade all his producers to request payment once a month. He would thereby gain an advantage over other handlers since he would have the use of the producers' money for an additional 17 days. It is essential that the order provide a single payment procedure applicable to all handlers. Hence, this proposal is denied.

3. The order should be amended to provide that in the case of any distributing plant meeting the pooling requirements of both the Nashville order and another order, the plant normally should be subject to the order in the marketing area of which it has the greater route disposition. In order to prevent a plant from being subject to regulation under different orders every other month, if a slight change in its disposition occurs, it should be provided that a plant which has been subject to regulation under another order, but which has greater disposition in the Nashville market during the month, shall not become subject to regulation under the Nashville order until the third consecutive month in which its disposition in the Nashville market is greater than in the market in which it has been subject to regulation. This is predicated on the plant's continuing to be subject to regulation under the other order until such time as it becomes subject to regulation under the Nashville order. If the other order does not have a reciprocal provision, such plant will become subject to regulation under the Nashville order in the first month in which its disposition in the Nashville marketing area exceeds its disposition in the other marketing area.

Similarly, a plant which has been subject to regulation under the Nashville order, but which has greater disposition in another marketing area in a particular month, should not become subject to regulation under the other order until the third consecutive month in which its sales in the other marketing area exceed those in the Nashville marketing area. If the other order, however, does not have a similar provision, such plant would become subject to regulation under the other order in the first month in which its disposition in such other area exceeds its disposition in the Nashville marketing area.

The one exception would be in the case of a plant with disposition in the Nashville market exceeding its disposition in the market in which it had been previously regulated because of its sales to a governmental base or institution under a limited term contract. The order now provides that if the operator of such plant, or the cooperative association which supplies milk to such plant, makes written application to the Secretary at least 15 days prior to the end of the month in which the regulation of the plant would shift, the Secretary may exclude the disposition made under such contract in determining in which marketing area the plant has the greater volume of its disposition. This provision should be continued.

The cooperative association proposed that the exemption afforded above apply to any contract regardless of whether it is with a governmental institution. It also proposed that the Secretary be permitted to designate under which order a plant would be regulated regardless of the volume of sales in the respective marketing area, when, in his judgment, such a designation is warranted. The cooperative suggested that the Secretary should consider such matters as the difference in Class I prices between the orders, implying that the plant should be regulated in the area in which the higher Class I price prevailed. Other matters with which it felt the Secretary should be concerned in making such a determination are:

(a) Differences in the methods of distributing returns to producers under the separate orders. For example, if one order had a so called Louisville Plan and the other a base and excess plan;

(b) The amount of milk in total which was moved between the two markets by all handlers subject to regulation under both orders;

(c) The extent to which the plant's disposition in the Nashville market was greater or less than its disposition in the other marketing area; and

(d) The interest of producers involved as to which order their milk should be subject and other factors of marketing cost.

Historically, a plant has been regulated under the order in the marketing area in which it has its major disposition. Exceptions have been made in Nashville and certain other orders in the case of limited term contracts to supply military bases or institutions. Similarly, many orders have a provision, such as that adopted herein, whereby a plant would remain subject to the order under which it has been regulated until the third consecutive month in which its sales in another area are greater. This provision has afforded plants the opportunity to prepare for the shift in regulation.

To accommodate a specific situation which developed in the market, the Secretary, on March 6, 1970, issued an order suspending certain provisions of the Nashville and Paducah, Ky., milk orders (33 F.R. 4392). The effect of the suspension was to permit a plant which had been regulated under the Paducah, Ky., milk order to continue to be regulated under that order until July 31, 1970, even though its sales in the Nashville marketing area exceeded those in the Paducah, Ky., marketing area. This alleviated the hardship which otherwise might have befallen the producers supplying such plant during the months producers on the Nashville market are paid base and excess prices for their milk. The base-paying period ends July 31. On August 1, 1970, this plant will become a fully regulated plant under the Nashville order if its sales in that market still exceed those in the Paducah, Ky., market.

Handlers generally supported adoption of the provision that regulation should not change until the third consecutive month in which a plant has greater sales in another marketing area. They vigorously opposed the proposal of the cooperative association that the question of where a plant is regulated be left to the discretion of the Secretary. They also proposed a deletion of the present provision which permits the Secretary to exclude disposition made under a limited term Government contract in determining the area of regulation.

A plant operator now knows under which order his plant is to be regulated

and he can make adjustments in his route disposition to remain subject to regulation under one order or to shift his plant to regulation under another order. Under the proposal of the cooperative association, the handler might find that the cooperative association had requested the Secretary to determine that his plant was no longer subject to the order in which he had his major disposition. In such circumstances, regulation could depend on the administrative decision by the Secretary rather than on marketing circumstances which dictated the actual degree of association of the plant with a particular market as compared to some other market. The uncertainties created by such a provision, which in effect could result in multiple standards for determining pool status, would not promote orderly marketing and, therefore, would not tend to effectuate the declared policy of the Act.

In response to the arguments of the cooperative association with respect to the problems caused should a plant, subject to regulation under an order with a "Louisville" type seasonal payment plan, become subject to the Nashville order which has a base and excess plan, handlers proposed a modification of the latter plan. The order now provides that when a plant becomes a pool plant during the base-paying period, bases are computed for the producers supplying such plant on their deliveries to such plant during the base-forming period. It was the proposal of the handlers that all deliveries by such producers to plants regulated under the other order be considered in calculating the bases of producers shipping to a plant which becomes a Nashville pool plant under such circumstances.

The cooperative association in its testimony pointed out that it regularly shifts producers among plants as demand varies and that on weekends milk associated with bottling plants is frequently diverted to manufacturing plants. Thus, receipts at the plant in question during the base-making period represent only a portion of the production of the individual producers during such period. This would result in such producers receiving bases much smaller than they would receive were their entire production used in the base calculations.

Had the provision proposed by handlers been in effect at that time, the producers supplying the plant in question would have received bases computed on their total deliveries to the Paducah market rather than on their deliveries to the single plant. Thus, the shift in the plant's regulation would not have affected the producers' returns significantly.

It is concluded, therefore, that the order should be amended to provide that, in the case of a distributing plant which has been a pool plant under an other order and which becomes a pool plant during the base-paying months, the producers supplying such plant shall have bases computed on their total deliveries of milk which was pooled as producer milk under such other order during the base-forming months.

4. The order should be amended to provide that a baseholding producer who becomes a producer under another order during a portion of a base-paying month shall forfeit his base for such month.

Under the present terms of the order, it is possible for a producer to deliver to pool plants during a portion of the month an amount of milk equal to his total base milk for the month. He can then deliver milk to a plant subject to another order for the remainder of the month as a producer under the latter order. This permits the producer to receive the base price under the Nashville order for a volume of milk equal to his base and receive the uniform price as a producer under the other order for milk for which he would receive only the excess price under the Nashville order.

In effect, this would shift some of the burden of the Nashville surplus to the other market and would result in a lowering of the uniform price received by producers under the latter order.

The cooperative association is opposed to such a change but presented no testimony on the record in opposition to the proposal. In its brief, the cooperative association argued that the effect of a producer's shifting his excess milk to another order is no different from that resulting from the intermarket movement of milk in either bulk or packaged form. They stated that the effect of such intermarket transfers is to enhance the returns to producers in the transferring market and lower them to producers in the transferee market, just as a producer shifting his excess milk to another market enhances his own returns while lowering the returns to producers in the other market.

The difference between the handler acquiring Class I sales in another order market and the producer disposing of his excess milk as producer milk in another market is one of competition versus manipulation. In the former case all the producers supplying the market where the milk originates share in the increased returns from the additional Class I milk in the pool. In the latter instance, the individual producer has taken advantage of a loophole in the regulation to enhance his own returns to the detriment of other dairy farmers. The argument of the cooperative association does not afford a basis for continuing terms by which exploitation of adjoining orders could be used by producers, individually or as a group, to their own benefit at the expense of producers in the other market. The action taken is consistent in principle with the proposal made by the cooperative, and adopted herein, that milk diverted to another order market will be designated for Class II use only.

There is no evidence that any producer or group of producers has taken advantage of the opportunity which currently exists to so dispose of excess milk in surrounding markets. The order should be amended, however, to remove the possibility of abuse.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Nashville, Tenn., marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Revise § 1098.7 as follows:

§ 1098.7 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority or produces milk acceptable for fluid consumption at Federal, State, or municipal establishments within the marketing area, which milk is received

at a pool plant or diverted from the farm directly to a nonpool plant. The term shall not include such person with respect to milk received at a pool plant from an other order plant by diversion if both buyer and seller have requested Class II classification (or its equivalent) in the reports of receipts and utilization filed with the respective market administrators.

2. In § 1098.13 add a new paragraph (c) as follows:

§ 1098.13 **Producer milk.**

* * * * *

(c) Diverted from a pool plant to an other order plant if both buyer and seller have requested Class II classification or its equivalent in the reports of receipts and utilization filed with the respective market administrators.

3. Revise the introductory text of § 1098.44, the introductory text to paragraph (e) of § 1098.44 and subparagraphs (2) and (3) of paragraph (e) as follows:

§ 1098.44 **Transfers.**

Skim milk or butterfat transferred or diverted in the form of a fluid milk product shall be classified as:

* * * * *

(e) As follows, if transferred or diverted to an other order plant in excess of receipts from such plant in the same category as described is subparagraph (2) or (3) of this paragraph:

* * * * *

(2) If transferred or diverted in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

* * * * *

4. Revise § 1098.60 by adding at the end thereof the following:

§ 1098.60 **Computation of daily average base for each producer.**

* * * However, if such plant had been a pool plant as defined in an other order issued pursuant to the Act during the preceding months of September through January, the base of each such producer shall be computed pursuant to this paragraph on the basis of his total deliveries which were pooled as producer milk under such other order during the period September through January preceding the month in which the plant became a pool plant as defined in this part.

5. Revise § 1098.61 by adding a new paragraph (d) as follows:

§ 1098.61 **Base rules.**

* * * * *

(d) During any of the months of March through July, a producer who ceases to deliver his milk to a pool plant for a portion of such month, and who becomes a producer as defined in an other order issued pursuant to the Act during the remainder of such month, shall receive only the uniform price for excess milk for all milk delivered to pool plants during such month.

6. Revise § 1098.81(a) as follows:

§ 1098.81 **Payments to market administrator.**

(a) On or before the 25th day of each month each handler receiving milk from producers or from a handler pursuant to § 1098.8(c) (except for producers having made deliveries for less than 20 days during the month) shall pay to the market administrator for deposit into the producer-settlement fund an amount of money calculated by multiplying the hundredweight of producer milk received by him during the first 15 days of such month by the Class II price for the preceding month;

* * * * *

7. Revise § 1098.91 as follows:

§ 1098.91 **Handlers subject to other Federal orders.**

In the case of a handler in his capacity as operator of a plant specified in paragraphs (a), (b), and (c) of this section the provisions of this part shall not apply except as specified in paragraphs (d) and (e) of this section:

(a) A distributing plant qualified pursuant to § 1098.11(a) which meets the requirements of a fully-regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which a greater quantity of fluid milk products, except filled milk, is disposed of during the month from such plant as Class I route disposition in the marketing area regulated by the other order than as Class I route disposition in the Nashville, Tenn., marketing area: *Provided*, That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of its Class I route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order, subject to the proviso of this paragraph: *And provided further*, On the basis of a written application made either by the plant operator or by the cooperative association supplying milk to such operator's plant, at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the Class I route dispositions in the respective marketing areas to be used for purposes of this paragraph shall exclude (for a specified period of time) Class I disposition made under limited term contracts to governmental bases and institutions;

(b) A distributing plant qualified pursuant to § 1098.11(a) which meets the requirements of a fully-regulated plant pursuant to the provisions of another Federal order and from which a greater quantity of Class I milk, except filled milk, is disposed of during the month in the Nashville, Tenn., marketing area as Class I route disposition than as Class I route disposition in the other marketing area, and such other order which fully regulates the plant does not contain provision to exempt the plant from regulation, even though such plant has greater Class I route disposition in the marketing area of the Nashville, Tenn., order;

(c) Any supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant qualified as a pool plant pursuant to the proviso of § 1098.11(b) during the preceding August through January period;

(d) The operator of a plant specified in paragraph (a), (b), or (c) of this section shall, with respect to total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator; and

(e) Each handler operating a plant specified in paragraph (a) or (b) of this section, if such plant is subject to the classification and pricing provisions of another order which provides for individual handler pooling, shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk disposed of on routes in the marketing area which was allocated to Class I at such other order plant. If reconstituted skim milk in filled milk is disposed of from such plant on routes in marketing areas regulated by two or more market pool orders, the reconstituted skim milk assigned to Class I shall be prorated according to such disposition in each area.

(2) Compute the value of the quantity assigned in subparagraph (1) of this paragraph to Class I disposition in this area, at the Class I price under this part applicable at the location of the other order plant and subtract its value at the Class II price.

Signed at Washington, D.C. on June 23, 1970.

G. R. GRANGE,
Acting Deputy Administrator, Regulatory Programs.

[F.R. Doc. 70-8117; Filed, June 25, 1970; 8:48 a.m.]

DEPARTMENT OF LABOR

Bureau of Labor Standards

[29 CFR Part 1504]

SAFETY AND HEALTH REGULATIONS FOR LONGSHORING

Notice of Proposed Rule Making

Pursuant to authority in section 41 of the Longshoremen's and Harbor

Workers' Compensation Act (33 U.S.C. 941) it is proposed to amend 29 CFR Part 1504 as set forth below.

Interested persons are invited to submit written data, views, or arguments regarding the proposed amendments in duplicate to the Office of Evaluation, Bureau of Labor Standards, U.S. Department of Labor, 400 First Street NW., Washington, D.C. 20210, within 60 days following the publication of this document in the FEDERAL REGISTER. Upon consideration of all relevant matter submitted and of any other information available to him, the Secretary of Labor will issue such regulations as he may deem appropriate.

1. Section 1504.6 is proposed to be revised to read as follows:

§ 1504.6 Reference specifications, standards, and codes.

(a) Specifications, standards, and codes of agencies of the U.S. Government, to the extent specified in the text, form a part of the regulations of this part.

(b) In addition, under the authority vested in the Secretary under the Act, the specifications, standards, and codes of organizations which are not agencies of the U.S. Government, in effect on the date of the promulgation of the regulations of this part, as listed below, to the extent specified in the text, form a part of these regulations:

(1) Convention Concerning the Protection Against Accidents to Workers Loading or Unloading Ships, International Labor Organization, Convention No. 32 (Revised, 1932). Subpart B, § 1504.12(a).

(2) Underwriters' Laboratories, Incorporated, 207 East Ohio Street, Chicago, Ill. Subpart G, § 1504.69(d) and Subpart I, § 1504.92(b)(3).

(3) American National Standards Institute Safety Code for Head, Eye, and Respiratory Protection, Z2.1–1959. American National Standards Institute, 1430 Broadway, New York, N.Y. 10018. Subpart J, §§ 1504.101(a), 1504.105(a).

2. In § 1504.74, paragraph (a)(9) is proposed to be revised to read as follows:

§ 1504.74 Cranes and derricks other than vessel's gear.

(a) * * *

(9) Every crane used to load or discharge cargo into or out of a vessel shall be fitted with a load-indicating device in proper working condition. This requirement shall not apply to a crane while handling bulk commodities, commodities by means of magnet, or while used to handle or hold hoses in connection with the transfer of bulk liquids or any similar hose-handled product.

* * * * *

3. Section 1504.85 is proposed to be revised to read as follows:

§ 1504.85 Containerized cargo.

(a) On every cargo container there shall be permanently marked in pounds (1) the weight of the container when empty, (2) the maximum cargo weight that the container is intended and designed by its manufacturer to carry, and (3) the sum of these two weights.

(b)(1) No container shall be loaded aboard or discharged from any vessel by means of hoisting unless the actual gross weight of the container and its cargo has been certified by a weighing station approved by a competent governmental authority within the United States or of a national government of a foreign country, and the weighing station is not disapproved by the Bureau of Labor Standards. Before loading or discharge, the person in charge of cargo operations shall ascertain from the carrier or other knowledgeable source the actual gross weight of each container, and in such manner as to enable identification of each container as it is reached during the process of loading or discharge.

(2) A foreign or domestic weighing station will be disapproved whenever random sample weight checks by the Bureau of Labor Standards indicate a pattern of significant inaccuracies. A disapproved weighing station may be reinstated upon a showing to the Bureau of Labor Standards that the cause of the inaccuracies has been corrected.

(c) No container shall be hoisted if its certified weight exceeds the weight marked as required in paragraph (a)(3) of this section, or if it exceeds the capacity of the crane or other hoisting device used, under the conditions in which the crane or other hoisting device is used.

(d) All outbound containers shall be inspected before loading for any visible defects in structural members and fittings, which would render unsafe their handling in loading. To the extent it is practicable, inbound containers shall be similarly inspected before discharge. Any outbound container found to have such a defect shall not be loaded unless the defect is first corrected. Any inbound container found to have such a defect shall either be discharged by such special means as insure safety or shall be emptied before discharge.

(e) For the purpose of this section, the term "container" means a reusable cargo container of rigid construction and rectangular configuration, intended to contain one or more articles of cargo or bulk commodities for shipment aboard a vessel, and capable of utilization for this purpose by one or more other modes of transport without intermediate reloading. The term includes completely enclosed units, open top units, half or other fractional height units, units incorporating liquid or gas tanks, and any other variations serving the same basic purpose and fitting into the container system, demountable or with attached wheels. The term, however, does not include cylinders, drums, crates, cases, cartons, packages, sacks, unitized loads or any other of the usual forms of packaging.

4. In § 1504.101, paragraph (a) is proposed to be revised to read as follows:

§ 1504.101 Eye protection.

(a) When, because of the nature of the cargo being handled, an eye hazard from flying particles or heavy dust exists, employees shall be protected by eye protection equipment meeting the specifications prescribed by the American National Standards Institute Safety Code for Head, Eye, and Respiratory Protection, Z2.1–1959.

* * * * *

5. In § 1504.105, paragraph (a) is proposed to be revised to read as follows:

§ 1504.105 Head protection.

(a) When employees are handling cargoes of loose scrap metal, bulk ores which contain ore in a chunky form or bulk commodities of a similar nature, and when loading or discharging lift-on lift-off containerships, they shall be protected by protective hats meeting the specifications contained in the American National Standards Institute Safety Code for Head, Eye, and Respiratory Protection, Z2.1–1959.

* * * * *

(Sec. 41, 44 Stat. 1444, as amended; 33 U.S.C. 941)

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

GEORGE P. SHULTZ,
Secretary of Labor.

[F.R. Doc. 70-8097; Filed, June 25, 1970; 8:47 a.m.]

DEPARTMENT OF TRANSPORTATION

National Highway Safety Bureau

[49 CFR Part 571]

[Docket No. 70-16; Notice 1]

AIRBRAKE SYSTEMS ON TRAILERS

Proposed Motor Vehicle Safety Standard

Rule making proceedings concerning brake systems on multipurpose passenger vehicles, trucks, buses, and trailers were initiated by a notice published on October 11, 1967 (32 F.R. 14279, Docket 1–2). The notice placed particular emphasis on airbrake systems. The purpose of this notice is to propose a new motor vehicle safety standard to establish requirements for airbrake systems on trailers.

The braking system on a trailer should be capable of stopping the trailer in an emergency situation without loss of directional stability. Several requirements in the proposed standard have a direct bearing on trailer stability. A stopping capability requirement is proposed that would require both high- and low-speed stops on wet and dry pavements to be made without locking any wheel more than momentarily and without leaving a 12-foot-wide lane. A trailer's stability is also dependent on the responsiveness of its brakes and on the coordination of its brakes with the brakes of a towing vehicle. S4.2.2 proposes a brake-actuation time consonant

with the high speeds at which emergencies may be encountered. S4.2.3 proposes comparable brake release times. The actuation and release times are synchronized with the times proposed for airbrakes on trucks and buses in a companion standard.

To deal with problems of balance between a trailer's brakes and the brakes on a towing vehicle, the proposed standard specifies a relationship between brake chamber air pressure and brake retardation force in S4.2.4 identical to that proposed in the companion standard for air brakes on trucks and buses. This relationship would be determined by placing each brake and drum assembly on an inertia dynamometer. This standard would also require that a brake retain adequate stopping power despite high temperature caused by repeated decelerations on an inertia dynamometer (S4.2.5). The ability of a brake to recover after high-temperature operation also has an important bearing on vehicle safety, and the notice proposes a brake recovery requirements based on a third dynamometer test (S4.2.6). The dynamometer tests are patterned on Society of Automotive Engineers Recommended Practices J971, "Brake Rating Test Code—Commercial Vehicle Inertia Dynamometer," June 1967, and J667, "Brake Test Code—Inertia Dynamometer," June 1961.

To protect the brake system against the consequences of malfunction, the notice proposes to require several items of equipment, including valves and similar devices to protect the air reservoirs from pressure loss due to leakage in the vehicle or in a towing vehicle, and condensate drain valves. A parking-brake system is also proposed which would be actuated automatically if air pressure falls below a specified point (S4.3.3). The parking brakes would be required to hold the vehicle with a specified force (S4.3.1) by use of an independent energy source which is not subject to leakage (S4.3.2), and would have to be releasable a specified number of times (S4.3.4).

Interested persons are invited to submit written data, views, or arguments pertaining to the proposed rule. Comments on the cost of, and lead time required for, compliance are particularly invited. Comments should identify the docket number and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted.

All comments received before September 21, 1970, will be considered. All comments will be available for examination in the docket at the above address before and after the closing date for comments.

Proposed effective date: January 1, 1972.

This notice of proposed rule making is issued under the authority of sections 103, 112, and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1401, 1407, and the delegation of authority by the Secretary to the Director of the National Highway Safety Bureau at § 1.51 of this chapter.

Issued on June 18, 1970.

DOUGLAS W. TOMS,
Director,
National Highway Safety Bureau.

AIRBRAKE SYSTEMS—TRAILERS

S1. *Purpose and Scope.* This standard specifies requirements for air service brake and parking brake systems to insure safe braking performance under normal and emergency conditions.

S2. *Application.* This standard applies to trailers equipped with airbrake systems.

S3. *Definitions.*

"Airbrake system" means a system that uses air as a medium for transmitting pressure or force from the driver control to the service brake, but does not include a system that uses compressed air or vacuum only to assist the driver in applying muscular force to hydraulic or mechanical components.

"Antilockup system" means a portion of a service brake system that, through wheel-slip sensing methods, automatically controls braking torque at one or more road wheels of the vehicle during braking.

"Gross axle-weight rating" (GAWR) means the value specified by the vehicle manufacturer as the loaded weight on a single axle measured at the tire-ground interfaces.

"Gross vehicle-weight rating" (GVWR) means the value specified by the manufacturer as the loaded weight of a single vehicle.

"Curb weight" means the weight of a motor vehicle with standard equipment including the maximum capacity of fuel, oil, and coolant, and, if so equipped, air-conditioning and additional weight optional engine.

"Skid number" means the frictional resistance of a pavement measured in accordance with American Society for Testing and Materials Method E-274-65T at 40 m.p.h., omitting water delivery as specified in paragraph 7.1 of that method.

"Wet skid number" means the skid number of a wet pavement.

S4. *Requirements.* Each vehicle shall meet the following requirements under the conditions specified in S5. All test requirements shall be met without failure of any part of the brake or suspension systems.

S4.1 *Required equipment.* Each vehicle shall have the following equipment:

S4.1.1 *Reservoirs.* One or more reservoirs to which the air is delivered from the towing vehicle.

S4.1.1.1 Total reservoir capacity shall be at least eight times greater than the combined volume of all brake chambers at maximum travel of the piston or diaphragms.

S4.1.1.2 Each reservoir shall be capable of withstanding an internal hydrostatic pressure of 500 p.s.i.

S4.1.1.3 Each reservoir shall be protected against loss of air pressure due to failure or leakage in the system between the reservoir and the source of air pressure by check valves or equivalent devices whose proper functioning can be checked without disconnecting any air line or fitting.

S4.1.1.4 Each reservoir shall have a condensate drain valve that can be manually operated from the side of the vehicle. The drain valve shall close unless held open by manual effort or by an automatic drain valve device.

S4.2 *Service brakes.* The service brakes of each vehicle, shall, under the conditions of S5.1, meet the requirements of S4.2.1, S4.2.2, and S4.2.3 when tested in sequence and without adjustments other than those specified in this standard. Under the conditions of S5.2, each brake and drum assembly on a vehicle shall meet the requirements of S4.2.4, S4.2.5, and S4.2.6 when tested in sequence and without adjustments other than those specified in this standard.

S4.2.1 *Stopping capability.* With a service line air pressure of 90 p.s.i. and the vehicle at curb weight, the service brakes shall be capable of stopping the vehicle from 60 m.p.h. and from 20 m.p.h., on a surface with a skid number of 75 and a surface with a wet skid number of 30, without any part of the vehicle leaving the roadway, and without lockup of any wheel except for momentary lockup allowed by an antilockup system.

S4.2.2 *Brake actuation time.* With the trailer-service brake system connected to the test rig shown in figure 4 and with the air pressure in the test-rig reservoir and the trailer reservoirs at 100 p.s.i. each brake chamber shall have an actuation time not greater than that shown in figure 1, measured from actuation of the stop-lamp switch.

S4.2.3 *Brake release time.* With the trailer-service brake system connected to the test rig shown in figure 4, and with an initial brake chamber air pressure of 95 p.s.i., each brake chamber shall have a release time not greater than that shown in figure 2, measured from deactuation of the stop-lamp switch.

S4.2.4 *Brake retardation force.* The retardation force exerted by the brakes on each axle shall be such that the quotient

$$\frac{\text{brake retardation force}}{\text{GAWR}}$$

relative to brake chamber air pressure, shall have values not less than those shown in figure 3. Retardation force shall be determined as follows:

S4.2.4.1 After burnishing the brake pursuant to S5.2.5, retain the brake and drum assembly on the inertia dynamometer. With the surface temperature of the brake linings between 125° F. and 150° F., conduct a stop from 50 m.p.h. with brake-chamber air pressure maintained at a constant 20 p.s.i. Measure the torque exerted by the brake, and divide by the static-loaded tire radius specified by the tire manufacturer to determine the retardation force. Repeat the procedure six times, increasing the brake-chamber air pressure by 10 p.s.i. each time. After each stop, rotate the brake drum until the

surface temperature of the linings falls to between 125° F. and 150° F.

S4.2.5 *Brake power*. When mounted on an inertia dynamometer, each brake shall be capable of making 15 consecutive decelerations at a rate of at least 12 f.p.s.p.s. from 50 m.p.h. to 15 m.p.h. at equal intervals of 48 seconds, and shall be capable of decelerating to a stop from 20 m.p.h. at a rate of 14 f.s.p.s. 1 minute after the 15th deceleration. The series of decelerations shall be conducted as follows:

S4.2.5.1 With the brake linings between 150° F. and 200° F. and the drum rotating at a speed equivalent to 50 m.p.h., apply the brake and decelerate to 15 m.p.h. Upon reaching 15 m.p.h., accelerate to 50 m.p.h. and apply the brake for the second time 48 seconds after the start of the first application. Repeat the cycle until 15 decelerations have been made. The service-line air pressure shall not exceed 90 p.s.i. during any deceleration.

S4.2.5.2 One minute after the end of the last deceleration required by S4.2.5.1, and with the drum rotating at a speed of 20 m.p.h., decelerate to a stop at a rate of 14 f.p.s.p.s. The service-line air pressure shall not exceed 90 p.s.i.

S4.2.6 *Brake recovery*. Two minutes after completing the tests required by S4.2.5, the brake shall be capable of making 20 consecutive stops from 30 m.p.h. at a rate of 12 f.p.s.p.s., at equal intervals of 1 minute, measured from the start of brake application. The service-line air pressure needed to attain a rate of 12 f.p.s.p.s. shall not be less than 45 p.s.i. nor more than 75 p.s.i.

S4.3 *Parking brake system*. Each vehicle shall have a parking brake system that under the conditions of S5 meets the following requirements.

S4.3.1 *Static retardation force*. With all other brakes rendered inoperative, the static retardation force produced by the application of the parking brakes on each axle during a static drawbar pull in a forward direction shall be such that the quotient

$$\frac{\text{static retardation force}}{\text{GAWR}}$$

is between 0.28 and 0.33.

S4.3.2 *Application and holding*. The parking brakes shall be applied by an energy source that is not affected by air pressure loss in the service brake system. Once applied, the parking brakes shall be held in the applied position solely by mechanical means.

S4.3.3 *Automatic application*. The parking brake shall be automatically applied when the air pressure in all service reservoirs is between 0 p.s.i. and the automatic application pressure level. The automatic application pressure level shall be between 20 p.s.i. and 45 p.s.i.

S4.3.4 *Release after automatic application*. After automatic application, the parking brakes shall be releasable from the towing vehicle not less than four and not more than seven times. The parking brakes shall not be releasable unless they can be automatically reapplied immediately after release with the force required by S4.3.1.

S5 *Conditions*. The requirements of S4 shall be met under the following conditions. Where a range of conditions is specified, the vehicle must be capable of meeting the requirements at all points within the range.

S5.1 *Road test conditions*.

S5.1.1 Unless otherwise specified, vehicle weight is at gross vehicle weight rating, distributed proportionally to the gross axle-weight ratings.

S5.1.2 Tire inflation pressure is as specified by the vehicle manufacturer for the gross vehicle weight rating.

S5.1.3 The ambient temperature is between 32° F. and 100° F.

S5.1.4 The wind velocity is zero. However, the vehicle shall be capable of remaining within the roadway during the required tests under any wind condition up to 30 miles per hour in any direction.

S5.1.5 Stopping tests are conducted on a 12-foot wide, level roadway having a skid number of 75, unless otherwise specified. The vehicle is aligned in the center of the roadway at the beginning of a stop.

S5.1.6 Brakes are burnished before testing as follows: With the towing vehicle's transmission in the highest gear range, make 400 brake applications from 40 m.p.h. to 20 m.p.h. at 10 f.p.s.p.s. After each brake application, accelerate to 40 m.p.h. and maintain that speed until making the next application at a point 1.5 miles from the point of the previous brake application. After burnishing, adjust the brakes as recommended by the brake manufacturer.

S5.2 *Dynamometer test conditions*.

S5.2.1 The dynamometer inertia for each wheel is equivalent to the load on the wheel with the axle at rated gross axle weight.

S5.2.2 The ambient temperature is between 85° F. and 95° F.

S5.2.3 Air at ambient temperature is directed uniformly and continuously over the brake drum at a rate of 2,200 feet per minute.

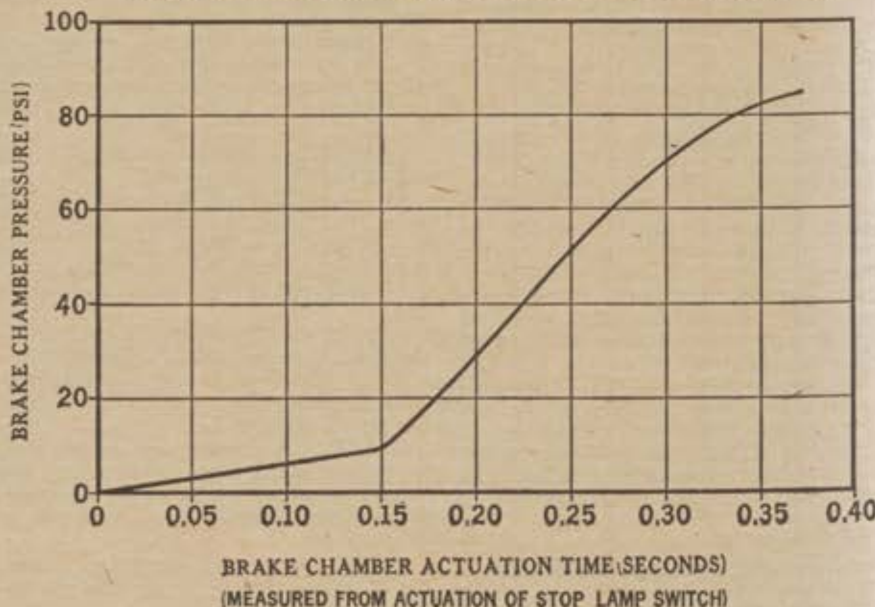
S5.2.4 The rate of brake rotation on a dynamometer corresponding to the rate of rotation on a vehicle at a given speed is calculated by assuming a tire radius equal to the static loaded radius of the tire specified by the tire manufacturer.

S5.2.5 Brakes are burnished before testing as follows: Place the brake and drum assembly on an inertia dynamometer and adjust the brake as recommended by the brake manufacturer. Make 200 stops from 40 m.p.h. at a deceleration of 10 f.p.s.p.s., maintaining a drum temperature on each stop of not less than 315° F. and not more than 385° F. Make 200 additional stops from 40 m.p.h. at a deceleration of 10 f.p.s.p.s., maintaining a drum temperature on each stop of not less than 450° F. and not more than 550° F. After burnishing, the brakes are adjusted as recommended by the brake manufacturer.

S5.2.6 The brake lining temperature is increased to a specified level by conducting one or more stops from 40 m.p.h. at a deceleration rate of 10 f.p.s.p.s. The brake lining temperature is decreased to a specified level by rotating the drum at a constant 30 m.p.h.

FIGURE 1

TRAILER BRAKE CHAMBER PRESSURE vs. ACTUATION TIME



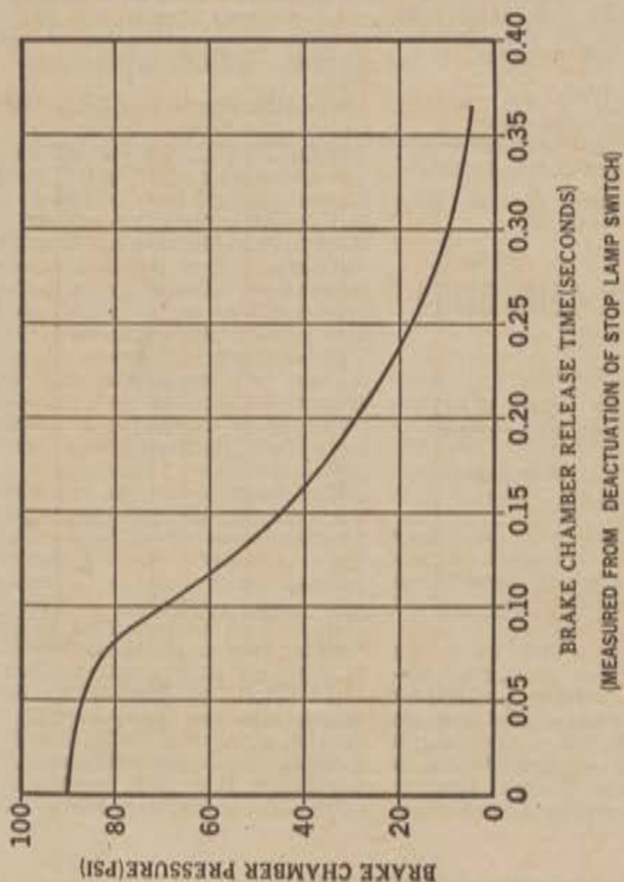


FIGURE 2
TRAILER BRAKE CHAMBER PRESSURE vs. RELEASE TIME

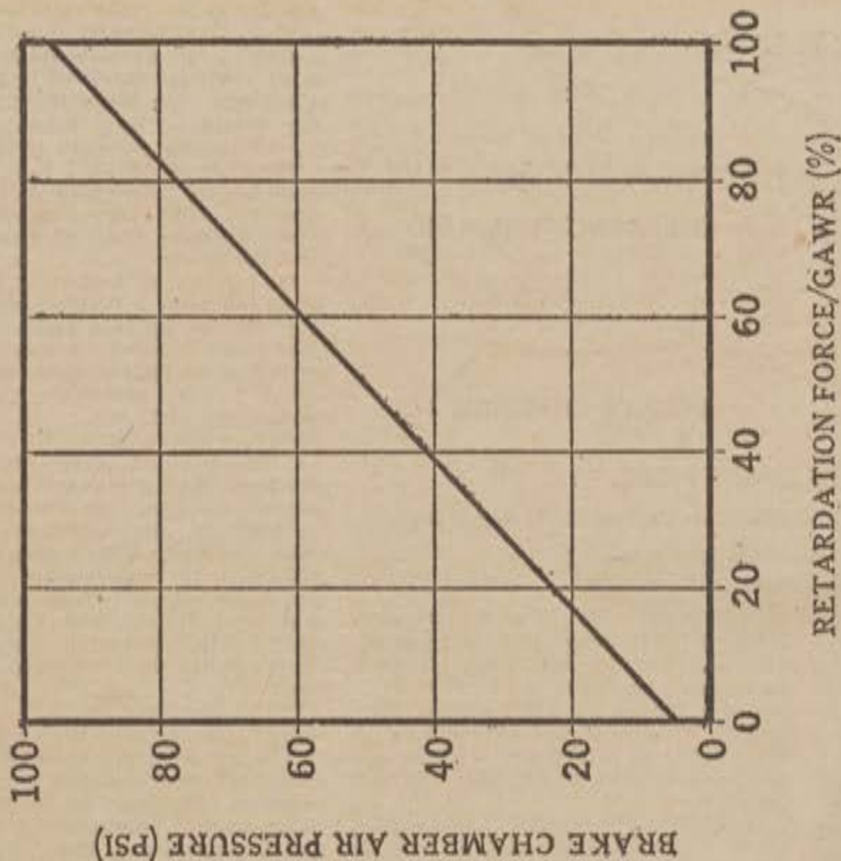
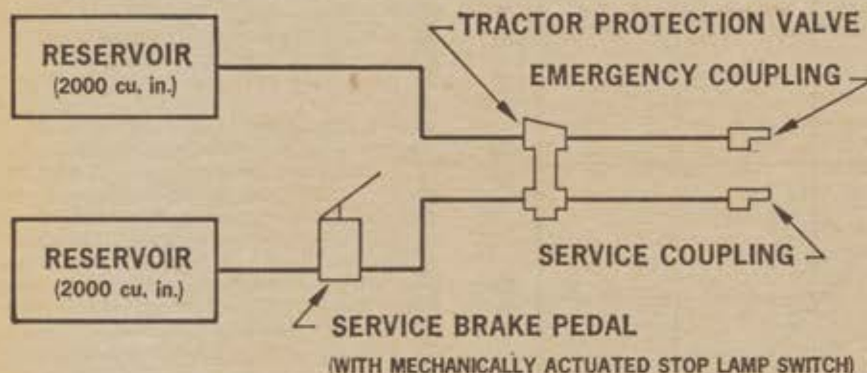


FIGURE 3
BRAKE CHAMBER PRESSURE vs. RETARDATION

FIGURE 4

TRAILER TEST RIG



[F.R. Doc. 70-7966; Filed, June 25, 1970; 8:45 a.m.]

[49 CFR Part 571]

[Docket No. 3-3; Notice 3]

FLAMMABILITY OF INTERIOR MATERIALS

Notice of Proposed Rule Making

On December 31, 1969, the Bureau issued a notice of a proposed motor vehicle safety standard (34 F.R. 20434) on Flammability of Interior Materials. Section S3.1 of the proposed standard listed the specific interior components that must conform to the performance requirements.

Another notice of a proposed safety standard on occupant crash protection was issued on May 7, 1970 (35 F.R. 7187). Compliance by manufacturers with this standard would probably entail the introduction of new elements into the interior of the vehicle, such as inflatable cushions or nets, whose flame-resistant characteristics are important for safety.

It is proposed, therefore, that section S3.1 of the proposal for a flammability standard, noted above, be amended to include these materials, so that it would read as follows:

S3.1 The portions described in S3.2 of the following components of vehicle occupant compartments shall meet the requirements of S3.3: Seat cushions, seat backs, seat belts, headlining, arm rests, door panels, front panels, rear panels, side panels, compartment shelves, head restraints, floor coverings, sun visors, curtains, shades, wheel housing covers, engine compartment covers, mattress covers, and any other interior materials, including padding, inflatable cushions, or nets, that may be contacted by an occupant in the event of a crash.

Comments are invited on this amendment to the proposal set forth at 34 F.R. 20434 (Dec. 31, 1969). They should refer to the docket and notice number and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on August 11, 1970, will be considered. Comments will be available in the docket at the above address for examination both before and after the closing date.

This notice of proposed rulemaking is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1407), and the delegation of authority by the Secretary of Transportation to the Director of the National Highway Safety Bureau, 49 CFR 1.51.

Issued on June 19, 1970.

CHARLES H. HARTMAN,
Acting Director,
National Highway Safety Bureau.

[F.R. Doc. 70-8082; Filed, June 25, 1970; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Ch. I]

[Docket No. RM-102-2]

CERTAIN TYPES OF LIGHT WATER, NUCLEAR POWER REACTORS

Consideration of Possible Statutory Finding of Practical Value

Consideration of possible statutory finding of practical value and conversion of Class 104 construction permits to Class 103 operating licenses; request for comments; notice of hearing.

Notice is hereby given that the Atomic Energy Commission has under consideration the question whether a statutory finding of practical value should be made pursuant to section 102 of the Atomic Energy Act of 1954, as amended, with respect to some type or types of light water, nuclear power reactors. Section 102 provides that whenever the Commission has made a finding in writing that any type of production or utilization facility has been sufficiently developed to be of practical value for industrial or commercial purposes, the Commission may thereafter issue licenses for such type of facility pursuant to section 103.

The Commission has thus far made the following determinations (See, "Certain Types of Light Water, Nuclear Power Reactors, Determination Regarding Statutory Finding of Practical Value," Dockets Nos. RM-102-1 and PRM-102-A, 31 F.R. 221 (Jan. 7, 1966) and "Certain Types of Light Water, Nuclear Power Reactors, Notice of Consideration of Possible Finding of Practical Value; Request for Public Comments," Docket No. RM-102-1, 29 F.R. 9458 (July 10, 1964)):

1. The type of reactor for which a statutory finding is made need not encompass all reactors of a broad category, for example, all pressurized or boiling water reactors; rather it may be circumscribed as to scope by an appropriate description which is reasonably specific as to the technical characteristics of the reactor type, for example, coolant, moderator, power level, fuel type, containment.

2. The statutory finding of "practical value," while presupposing a determination of technical feasibility, also involves economic considerations, the essential economic test being the competitiveness of the nuclear powerplant with conventional powerplants. The nuclear plant should be competitive in areas of the United States consuming a significant fraction of the Nation's electrical energy.

3. The term "developed" includes the concept of demonstration of the basic technical characteristics of the reactor type.

The Commission also considers that it has discretion to determine that a statutory finding should not be made until (1) the technical feasibility of the reactor concept and its basic technical characteristics have been adequately demonstrated, and (2) there has been sufficient demonstration of the cost of construction and operation of the type of nuclear powerplant as to provide a sound basis, with reasonable extrapolation, for a reliable estimate of the economic competitiveness of power produced in this type of plant with power that would be produced in a comparable conventional powerplant that would be constructed at the same time and place.

The Commission has considered the question whether a statutory finding of practical value should be made with respect to certain types of light water, nuclear power reactors in rulemaking proceedings conducted in 1964-65 and 1966. (See, "National Coal Policy Conference, Inc. et al., Notice of Denial of Petition for Rule Making," Docket No. PRM-102-B, 31 F.R. 16732 (Dec. 30, 1966); "National Coal Policy Conference, Inc., et al., Denial of Petition for Rule Making," Docket No. PRM 50-1, 31 F.R. 220 (Jan. 7, 1966); and "Certain Types of Light Water, Nuclear Power Reactors,

Determination Regarding Statutory Finding of Practical Value," Dockets Nos. RM-102-1 and PRM-102-A, 31 F.R. 221 (Jan. 7, 1966).) On these past occasions the Commission concluded that a section 102 statutory finding of "practical value" was not warranted at the time.

To aid the Commission in its consideration of this question, members of the public are invited to submit comments and suggestions, together with relevant data and information, with respect to the following:

a. Whether or not it is now appropriate for the Commission to make a statutory finding of practical value pursuant to section 102 of the Act with respect to some type or types of light water, nuclear power reactors.

b. A description of such type or types of reactors, if any, appropriate for inclusion in a statutory finding of practical value. The description should include such technical characteristics as the person commenting believes are appropriate.

c. The reasons supporting a proposed statutory finding as to each type described in the response to the preceding item, or the reasons for any conclusions that no statutory finding of practical value should be made, together with supporting economic, technical and other data.

d. The extent to which the technical feasibility of a reactor type and its basic technical characteristics should be demonstrated by reactor operation.

e. The extent to which the cost of construction and operation of a type of nuclear powerplant should be demonstrated by reactor construction and operation.

f. In estimating the economic competitiveness of power produced from a given type of nuclear powerplant with power that would be produced in a comparable conventional powerplant that would be constructed at the same time and place, what types of construction and operating cost data and information should be evaluated? In addition to the costs to the owner and operator of the nuclear powerplant, to what extent, if any, should consideration be given to the costs to the supplier of the nuclear plant with respect to: (a) The nuclear portion of the plant; (b) the conventional portion of the plant; and (c) the nuclear fuel?

g. With respect to each type of reactor described in the response to item b. above, in which areas of the United States would nuclear power be economically competitive with power produced from a comparable conventional powerplant? What fraction of the nation's electrical energy is consumed in each of such areas?

h. Any other comments and suggestions, together with relevant data and information, which the person commenting believes that the Commission should consider in connection with the question presented in this notice.

Notice is also given that the Atomic Energy Commission has under consideration the question whether its present regulations in 10 CFR 50.24 and 50.56 should be amended so that an operating license for a facility of the type for which a statutory practical value finding has been made would be issued under section 102 of the Act, even though the construction permit for that facility may have been issued under section 104b.

All interested persons who desire to submit written comments or suggestions should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, within 45 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments received by the Commission may be examined in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Notice is also given that a public rulemaking hearing will be held beginning on August 17, 1970, at 10 a.m. in Room P-110, U.S. Atomic Energy Commission, 7920 Norfolk Avenue, Bethesda, Md., to consider the above questions. The hearing will be conducted as a legislative type hearing without the right accorded to public participants to examine or cross-examine witnesses.

This rulemaking proceeding will be terminated if, prior to decision by the Commission herein, there is enacted into law an amendment to the Atomic Energy Act of 1954 eliminating the statutory finding of "practical value" now provided for in section 102 of the Act.

(Sec. 102, 68 Stat. 936; 42 U.S.C. 2132; sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 24th day of June 1970.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary.

[F.R. Doc. 70-8225; Filed, June 25, 1970; 9:55 a.m.]

[10 CFR Part 34]

RADIOGRAPHIC EQUIPMENT

Inspection and Maintenance Programs

The Atomic Energy Commission has noted that some of the incidents of radiation exposures in excess of the limits in 10 CFR Part 20 to individuals performing radiography under a Commission license issued pursuant to 10 CFR Part 34, "Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations," can be at least partially attributed to the licensee's failure to properly maintain his radiographic equipment.

The Commission is considering adoption of the amendments to Part 34 set forth below, which would require a holder of a radiography license to conduct a program for inspection and maintenance of his radiographic exposure devices and storage containers. It is expected that compliance with the proposed requirement will reduce the incidence of excessive radiation exposures caused by improperly maintained equipment.

Under the proposed amendments, a holder of a specific license for use of sealed sources in radiography would be required to conduct a program for the inspection and maintenance of radiographic exposure devices and storage containers and to include in his operating and emergency procedures instructions for carrying out the program.

An applicant for such license is required by the present § 34.11(c) to submit to the Commission satisfactory written operating and emergency procedures. The effect of the proposed amendments would be to require the applicant to include in those procedures instructions for inspection and maintenance of radiographic exposure devices and storage containers. An application for renewal of a license or for additional equipment, would be expected to include a program for inspection and maintenance.

It is anticipated that the licensee's or applicant's program would take into account the recommendations of the manufacturer of the equipment. However, if the licensee or applicant so elected, he could independently prepare appropriate instructions. Conformity with the instructions for inspection and maintenance would be ascertained in inspections by the Commission.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 34 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, within sixty (60) days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. A new § 34.28 is added to 10 CFR Part 34 to read as follows:

§ 34.28 Inspection and maintenance of radiographic exposure devices and storage containers.

The licensee shall conduct a program for inspection and maintenance of radiographic exposure devices and storage containers to assure proper functioning of components important to safety.

2. Section 34.32 of 10 CFR Part 34 is amended to add a new paragraph (j) to read as follows:

§ 34.32 Operating and emergency procedures.

The licensee's operating and emergency procedures shall include instructions in at least the following:

* * * * *

(j) The inspection and maintenance of radiographic exposure devices and storage containers.

(Sec. 81, 68 Stat. 935; 42 U.S.C. 2111; sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 17th day of June 1970.

For the Atomic Energy Commission.

W. B. McCool,
Secretary.

[F.R. Doc. 70-8092; Filed, June 25, 1970; 8:46 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 74, 81, 87, 89, 91, 93]

[Docket No. 14744; FCC 70-640]

EDUCATIONAL TELEVISION SERVICE

Establishment of New Class for Transmission of Instructional and Cultural Material to Multiple Receiving Locations

In the matter of amendment of Parts 2 and 74 of the Commission's rules and regulations to establish a new class of educational television service for the transmission of instructional and cultural material to multiple receiving locations on channels in the 2500-2690 MHz frequency band; amendment of Parts 81, 87, 89, 91 and 93; Docket No. 14744.

1. In its first report and order and second notice of inquiry adopted May 20, 1970, in Docket No. 18262 (FCC 70-519), the Commission reallocated the portion of the TV spectrum comprising UHF channels 70-83 from the television broadcasting service to the land mobile service. While the Commission abandoned its educational proposals for these 14 channels, it stressed its vital interest in the continued development of television services to meet the Nation's educational needs and emphasized the importance now, because of the action in Docket No. 18262, of encouraging the full development of the 2500-2690 MHz frequency band for Instructional Television Fixed Service (ITFS). The Commission thus announced its intention to initiate further rulemaking action to that end.

2. Our current proposal, therefore, is to afford educators exclusive access to 28 of the 31 television channels available in the 2500-2690 MHz band (Groups A-G, § 74.902) plus the corresponding response frequencies listed in § 74.939. Stations in the instructional television fixed service presently share the use of these channels with operational fixed and international control stations employing ITFS technical standards. We further propose that the three channels in Group H in § 74.902 and their associated response frequencies be allocated on an exclusive basis for use in operational fixed television systems of the kind now permitted in the band. However, since television transmission is not an appropriate function of international control stations and such stations are provided for adequately in other bands, they are not included in the proposed allocation. The precise rule changes proposed herein are shown below.

3. It is our intent in this action to encourage the future growth of ITFS systems by removing the uncertainty that now exists as to the future availability of channels in this band and at the same time to provide an equitable division of channels between the two services involved. In the 7 years since the present allocation was established in this same Docket (Report and Order adopted July 25, 1963, 28 F.R. 8103), the ITFS has experienced considerable growth, and as of April 30, 1970, there were 159 ITFS stations authorized throughout the country. During this same period of time, 18 operational fixed stations were authorized for video transmission in this band, and there are three additional applications pending.

4. It is not anticipated that any limitations would be imposed on existing stations in this band which do not conform to the proposed allocations. These include any ITFS assignments on Group H channels or operational fixed television assignments in Groups A-G. Also, while there has been a general freeze on the use of this band by nonvideo operational fixed and international control stations since 1963, there are some 48 such operational fixed stations scattered throughout the country and one international control station that were authorized prior to that date. It is unlikely that these point-to-point stations which employ limited powers and directional antennas and many of which are located in rural areas will ever seriously impair the use of this band for the intended services, and we see no reason why they should not be permitted to continue to use their present assignments for as long as the need exists. However, no additional frequencies will be assigned in this band for such nonvideo use.

5. Pending a decision on the proposals announced herein, and effective with the release date of this notice we will accept no applications for new video operational fixed facilities on the 28 channels in Groups A through G listed in § 74.902 of the rules. Similarly, no applications for new ITFS stations will be accepted for the three H-Group channels. Any pending applications for new facilities must be made to conform to the proposed rules. We will continue to accept applications for the modification or renewal of existing licenses and for the licensing of stations authorized prior to the release date of this document.

6. Action herein is being taken pursuant to authority contained in section 4(i) and 303 of the Communications Act of 1934, as amended.

7. Pursuant to applicable procedures set forth in § 1.414 of the Commission's rules, interested parties may file comments on or before October 30, 1970, and reply comments on or before November 20, 1970. All relevant and timely comments and reply comments will be considered before final action is taken in this proceeding. In reaching a final decision the Commission may also take into account other relevant information before it.

8. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents shall be furnished the Commission.

Adopted: June 17, 1970.

Released: June 23, 1970.

Federal Communications Commission,[1]

[SEAL] Ben F. Waple,
Secretary.

§ 2.106 [Amended]

A. In Part 2, § 2.106 would be amended by deleting the words "International Control" from column 9 of the Table of Frequency Allocations for the band 2500-2690 MHz and by amendment of footnote NG47 to read as follows:

NG47 In the band 2500-2690 MHz, the television channels 2650-2656 MHz, 2662-2668 MHz, and 2674-2680 MHz and the corresponding response frequencies 2686.9375 MHz, 2687.9375 MHz, and 2688.9375 MHz are available for assignment only to operational fixed stations which comply with the technical standards applicable to stations in the instructional television fixed service in Subpart I of Part 74 of this chapter. All other frequencies in this band are available for assignment only to stations in the instructional television fixed service. Stations presently authorized in this band which do not comply with the above provisions may continue to operate on their presently assigned frequencies and their licenses may be renewed or modified subject to no change in frequency, unless such change complies with the above provisions.

B. Section 74.902 would be amended by deleting the Group H channels listed in paragraph (a), and by amending paragraph (b) to read as follows:

§ 74.902 Frequency assignments.

* * * * *

(b) Instructional television fixed stations on channels 2650-2656, 2662-2668, and 2674-2680 Mc/s may continue to operate on presently assigned frequencies and the licenses may be renewed or modified subject to no change in frequency unless such change would comply with paragraph (a) of this section.

* * * * *

§ 74.939 [Amended]

C. Section 74.939 would be amended by deleting the Group H response frequencies in paragraph (d).

D. It is proposed to amend Parts 81, 87, 91, and 93 in substance similar to the following proposed amendment to § 89.101.

In § 89.101, the table in paragraph (h) is amended by deleting the band 2500-2690 MHz and substituting the frequencies listed below, paragraph (i) is amended by revising subparagraph (8)

[1] Commissioners Robert E. Lee and Johnson dissenting; separate statement of Commissioner H. Rex Lee filed as part of original document.

and adding a new subparagraph (18) to read as follows:

§ 89.101 Frequencies.

* * * * *

(h) * * *

Frequency band MHz	Class of station(s)	Limitations
* * *	* * *	* * *
2650-2656	Operational fixed	8
2662-2668	do	8
2674-2680	do	8
2686.9375	do	18
2687.9375	do	18
2688.9375	do	18
* * *	* * *	* * *

(i) * * *

(8) This frequency band is available only for operational fixed stations employing television transmissions. The transmitting equipment for such stations shall meet the technical standards prescribed for instructional television fixed stations contained in Part 74, Subpart I, § 74.901, et. seq. of this chapter. Operational fixed stations authorized in the band 2500–2690 MHz prior to (the effective date of this rule change) may be continued to be authorized, modified, or assigned. However, additional stations or new frequencies may be authorized only in accordance with the provision of this section.

* * * * *

(18) Response frequencies. When authorized they are to be paired respectively with the bands 2650–2656, 2662–2668, and 2674–2680 Mhz, and used in accordance with the technical standards prescribed for ITFS response stations in Part 74, Subpart I, of this chapter.

* * * * *

[F.R. Doc. 70-8060; Filed, June 25, 1970; 8:45 a.m.]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 4, 19, 111]

SECURITY OF CARGO IN UNLADING AREAS

Permit To Unlade

Theft and pilferage of merchandise between the time of unlading from the incoming vessel, vehicle, or aircraft and the release of the merchandise under a permit issued pursuant to section 448 of the Tariff Act (19 U.S.C. 1448) have become a problem of major proportions. It is essential in the public interest for the protection of the revenue to provide greater security for cargo in the unlading and storage areas and closer supervision over employees of persons or businesses authorized to handle such cargo or documents relating to such cargo. Achievement of these aims would afford incidental benefits to consignees and others concerned with the security from theft and pilferage of imported merchandise.

Accordingly, pursuant to authority contained in section 251 of the Revised Statutes (19 U.S.C. 66) and sections 448, 499, 624, 641, and 644 of the Tariff Act of 1930 (19 U.S.C. 1448, 1499, 1624, 1641, 1644) it is proposed to amend §§ 4.30, 4.38, 19.3, and 111.28 of the Customs Regulations (19 CFR 4.30, 4.38, 19.3, 111.28) as set forth in tentative form below:

1. Part 4 is amended by adding to § 4.30 new paragraphs (l), (m), and (n), as follows:

§ 4.30 Permits and special licenses for unlading and lading.

* * * * *

(l) A permit to unlade pursuant to Part 4 or 6 of this chapter shall not be granted unless the district director determines that the applicant will provide (1) sufficient space, adequately secured, for the storage immediately upon unlading of cargo whose weight-to-value ratio renders it susceptible to theft or pilferage and of packages which have been broken prior to or in the course of unlading; and (2) an adequate number of vehicles, capable of being locked or sealed, for the transportation of such cargo or packages between the point of unlading and the point of storage. A term permit to unlade shall be revoked if the district director determines subsequent to such issuance that the requirements of this paragraph have not been met.

(m) A permit to unlade pursuant to Part 4 or 6 of this chapter shall not be granted to an importing carrier, and a term permit to unlade previously granted to such a carrier shall be revoked, (1) if such carrier, within 30 days after the date of a written demand by the district director, does not furnish a list of the names, addresses and social security numbers of persons currently employed in connection with the lading, storage and delivery of imported merchandise; or (2) if, having furnished such a list, the carrier does not advise the district director of the names, addresses, and social security numbers of any new personnel employed in connection with the unlading, storage and delivery of imported merchandise within 10 days after such employment.

(n) If the district director determines that, in a port or a portion of a port, the volume of cargo handled, the incidence of theft or pilferage, or any other factor related to the protection of merchandise in Customs custody requires such measures, he shall give notice to all carriers utilizing facilities within his jurisdiction that within 30 days following such notice he shall require as a condition to the granting of a permit to unlade that any employee of such carrier engaged in the handling of imported merchandise carry and display upon request of a Customs officer an identification card, Customs Form 3873, with his photograph securely affixed thereto. The card shall also bear his signature in the space provided. Such identification card shall be issued by the district director only upon his approval of an application on Customs Form 3078 filed personally by each such employee together with two 2" x 2" color photographs of the applicant. Such approval shall be granted only if the district director determines that the application contains no misstatement of a material fact and may be denied if the applicant has been previously convicted of a felony or of a misdemeanor involving the theft or pilferage of merchandise. The fingerprints of the applicant shall be taken on Standard Form 87 at the time of the filing of the application. The identification card shall become valid when the U.S. Customs seal has been impressed thereon and the card has been properly laminated. The identification card shall be presented to the person in whose name the card is issued and shall be in his possession at all times when he is handling imported merchandise. Any person holding an identification card who obtained such a card through fraud or the misstatement of a material fact or who is convicted of a felony or convicted of a misdemeanor in connection with the theft and pilferage of merchandise may have his identification card summarily revoked by the district director.

2. Part 4 is further amended by adding to § 4.38 new paragraphs (c) and (d) as follows:

§ 4.38 Release of cargo.

* * * * *

(c) If the district director determines that, in a port or portion of a port, the volume of cargo handled, the incidence of theft or pilferage, or any other factor related to the protection of merchandise in Customs custody requires such measures, he shall require as a condition to the granting of a permit to release imported merchandise that the importer or his agent present to the carrier or his agent a fully executed pickup order in substantially the following format, in triplicate, to obtain delivery of any imported merchandise:

PICK UP ORDER

______________________ is authorized to pick up the merchandise indicated below.
Trucker Name

Validation

COD ▱ Bank Release ▱ Collect ▱

Broker Name & Authorized Signature (if applicable)

Marks & Numbers	Pcs.	Description of Goods	Entry #	Importing Carrier & AWB Number or B/L Number	Signature & Date of Receiving Carrier	Remarks

Delivered Quantities Verified ______________________
Customs Officer Badge Number

____
Date

The pickup order shall contain a duly authenticated customhouse broker's signature, unless it is presented by a person properly identified as an employee of the ultimate consignee. A Customs officer shall certify all copies of the pickup order, returning one to the importer or his agent and two to the carrier making delivery.

(d) For the purposes of paragraph (c) of this section, a permit to release merchandise shall be effective as a release from Customs custody at the time that the delivery of the merchandise covered by the pickup order into the physical possession of an importer or his agent is completed under the supervision of a Customs officer, and only to the extent of the actual delivery of merchandise described in such pickup order as verified by such Customs officer.

3. Part 19 is amended by adding to § 19.3 new paragraphs (d), (e), and (f), as follows:

§ 19.3 **Bonded warehouses; alterations; suspensions; discontinuance.**

* * * * *

(d) The bonded status of a warehouse may be discontinued if, within 30 days after the date of a written demand by the district director, the proprietor fails to submit a list of the names, addresses, and social security numbers of all persons currently employed by him in the carriage, receiving, storage or delivery of imported merchandise; or if, having furnished such a list, the proprietor fails to advise the district director of the names, addresses, and social security numbers of any new personnel employed by him in the carriage, receiving, storage or delivery of imported merchandise, within 10 days after such employment; or if 30 days have elapsed from the date the district director has invoked the provisions of paragraph (e) of this section and persons are still employed by the proprietor of the bonded warehouse in the carriage, receiving, storage or delivery of imported merchandise who have failed to obtain the identification card required by such paragraph.

(e) If the district director determines that, in a port or portion of a port, the volume of cargo handled, the incidence of theft or pilferage, or any other factor related to the protection of goods in Customs custody requires such measures, he shall give notice to the proprietors of all bonded warehouses within his jurisdiction that within 30 days following such notice he shall require any employee, or class of employees of such bonded warehouse to carry and display upon request of a Customs officer an identification card, Customs Form 3873, with a photograph securely affixed thereto. The card shall also bear his signature in the space provided. Such identification card shall be issued by the district director only upon his approval of an application on Customs Form 3078 filed personally by each such employee together with two 2" x 2" color photographs of the applicant. Such approval shall be granted only if the district director determines that the application contains no misstatement of a material fact and may be denied if the applicant has been previously convicted of a felony or of a misdemeanor involving the theft or pilferage of merchandise. The fingerprints of the applicant shall be taken on Standard Form 87 at the time of the filing of the application. The identification card shall become valid when the U.S. Customs seal has been impressed thereon and the card has been properly laminated. The identification card shall be presented to the person in whose name the card is issued and shall be in his possession at all times when he is handling imported merchandise. Any person holding an identification card who obtained such a card through fraud or the misstatement of a material fact or who is convicted of a felony or convicted of a misdemeanor in connection with the theft and pilferage of merchandise may have his identification card summarily revoked by the district director.

(f) The district director may at any time serve notice in writing upon any proprietor of a bonded warehouse to show cause why his right to continue the bonded status of his warehouse should not be summarily discontinued for failure to comply with the requirements of paragraph (d) of this section. The notice shall advise him of the allegations and shall afford him the right to respond in writing within 5 days. Thereafter, the district director shall consider the allegations and responses made by the said proprietor and issue a written decision, stating the reasons for any adverse action taken. The discontinuance of the bonded status of a warehouse under this paragraph may be appealed in writing to the Commissioner of Customs. Upon the receipt of such an appeal, the discontinuance shall be stayed until a decision is made by the Commissioner of Customs.

Part 111 is amended by revising § 111.28 to read as follows:

§ 111.28 **Responsible supervision.**

(a) Every licensed broker operating as a sole proprietor, and every licensed member of a partnership and every licensed officer of an association or corporation, which is licensed as a broker, shall exercise responsible supervision and control over the transaction of the Customs business of such sole proprietorship, partnership, association, or corporation.

(b) Within 10 days after the date of a written demand by the district director, a licensed customhouse broker shall submit a list of the names, addresses, and social security numbers of persons currently employed. Having furnished such a list, each licensed customhouse broker shall, within 10 days after the employment of any new personnel, advise the district director of the names, addresses, and social security numbers of any such employees.

(c) If the district director determines that, in a port or a portion of a port, the volume of cargo handled, the incidence of theft or pilferage, or any other factor related to the protection of merchandise in Customs custody requires such measures, he shall give notice to all brokers authorized to do business within such area that within 30 days following such notice he shall require that any employee of a licensed customhouse broker carry and display upon request by a Customs officer an identification card, Customs Form 3873, with a photograph securely affixed thereto. The card shall also bear his signature in the space provided. Such identification card shall be issued by the district director only upon his approval of an application on Customs Form 3078 filed personally by each such employee together with two 2" x 2" color photographs of the applicant. Such approval shall be granted only if the district director determines that the application contains no misstatement of a material fact and may be denied if the applicant has been previously convicted of a felony or of a misdemeanor involving the theft or pilferage of merchandise. The fingerprints of the applicant shall be taken on Standard Form 87 at the time of the filing of the application. The identification card shall become valid when the U.S. Customs seal has been impressed thereon and the card has been properly laminated. The identification card shall be presented to the person in whose name the card is issued and shall be in his possession at all times when he is handling imported merchandise. Any person holding an identification card who obtained such a card through fraud or the misstatement of a material fact or who is convicted of a felony or convicted of

a misdemeanor in connection with the theft and pilferage of merchandise may have his identification card summarily revoked by the district director.

(d) In exercising responsible supervision over its operations, a customhouse broker shall not employ a messenger firm to transport Customs entry documents if such firm has not been approved by the district director. As a condition of such approval, the district director may require that the messenger firm submit a list of the names, addresses, and social security numbers of persons employed by them designated to transport such documents, and may require such a designated messenger to carry and display upon request by a Customs officer an identification card, Customs Form 3873, with a photograph securely affixed thereto, obtained as provided for in paragraph (c) of this section and subject to revocation as provided in such paragraph.

Consideration will be given to relevant data, views, or arguments pertaining to the proposed amendments which are submitted in writing to the Commissioner of Customs, Washington, D.C. 20226. To assure consideration of such submissions they must be received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: June 22, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-8208; Filed, June 25, 1970; 8:49 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. AA-5927]

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

JUNE 18, 1970.

The Forest Service, Department of Agriculture, has filed an application, serial number AA-5927, for the withdrawal of the lands described herein from location and entry under the public mining laws. The Forest Service desires to protect the undisturbed natural condition of this area. The tract is utilized for research purposes, studying the growth and mortality of the forest, for studies of spawning pink and chum salmon, and as an untreated area in the study of aerial spraying of an insecticide. The usefulness of the area for scientific and educational purposes lies primarily in the prevailing natural condition of the land. The studies will provide an understanding of the complex relationships existing between plants and animals and their environment under natural rather than managed conditions.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501.

The Department's regulation, 43 CFR 2311.1-3(c), provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether the lands will be withdrawn as requested by the applicant agency.

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

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

The lands involved in the application are:

South Tongass National Forest;
Copper River Meridian, Alaska;
Old Tom Creek Natural Area.

Beginning on Point A on mean high water, coordinates 55°24'16" N. latitude, 132°24' W. longitude. Proceed S. 14° W., 2,370 feet to point B; thence S. 9° W., 9,500 feet to point C; thence S. 34° W., 7,640 feet to point D; thence S. 2°, W., 8,430 feet to point E; thence N. 41° W., 5,540 feet to point F; thence N. 14° W., 8,260 feet to point G; thence N. 2° W., 4,490 feet to point H; thence N. 18° W., 5,800 feet to point I; thence N. 49° E., 6,330 feet to point J; thence N. 89°20' E., 9,240 feet to the point of beginning.

Containing 4,274 acres located approximately 34 miles northwest from Ketchikan, Alaska, on the northeastern part of Prince of Wales Island.

BURTON W. SILCOCK,
State Director.

[F.R. Doc. 70-8079; Filed, June 25, 1970; 8:45 a.m.]

[Montana 12769]

MONTANA

Notice of Classification of Lands for Multiple Use Management

JUNE 18, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18), and the regulations in 43 CFR Parts 2410 and 2411, the public lands within the areas described below are hereby classified for multiple use management. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order 6910 of November 26, 1934, as amended, or within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. No adverse comments were received following publication of the notice of proposed classification (35 F.R. 5634-5635) on April 7, 1970, or at the public hearing held May 28, 1970. Discussion took place at the hearing which resulted in a review of the proposed classification. Approximately 2,353 acres have been added to the classification. The record showing the comments received and other information is on file and can be examined in the Dillon District Office, Bureau of Land Management, Dillon, Mont.

3. The public lands affected by this classification are located within the following described area and are shown on maps on file in the Dillon District Office Dillon, Mont., and on maps and records in the Land Office, Bureau of Land Management, Federal Building, Billings, Mont.

PRINCIPAL MERIDIAN MONTANA

BROADWATER COUNTY

T. 5 N., R. 1 E.,
Secs. 1 and 2;
Secs. 4, 7, 11, 17, and 18;
Secs. 30 and 31.
T. 6 N., R. 1 E.,
Secs. 1 to 17, inclusive;
Secs. 20 to 29, inclusive;
Secs. 33 to 36, inclusive.
T. 7 N., R. 1 E.,
Secs. 19 to 22, inclusive;
Secs. 25 to 35, inclusive.
T. 8 N., R. 1 E.,
Secs. 19 and 20;
Secs. 28 to 32, inclusive.
T. 6 N., R. 2 E.,
Sec. 7;
Secs. 17 to 20, inclusive;
Secs. 30 and 31.
T. 4 N., R. 1 W.,
Secs. 4 to 6, inclusive;
Secs. 8 and 9.
T. 5 N., R. 1 W.,
Secs. 3 to 25, inclusive;
Secs. 28 to 30, inclusive;
Secs. 32 and 33.
T. 6 N., R. 1 W.,
Sec. 1.
T. 7 N., R. 1 W.,
Secs. 25 and 36.

The public land in the areas described aggregate approximately 48,353 acres.

4. For a period of 30 days from the date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR 2411.2c. For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 320, Washington, D.C. 20240.

EDWIN ZAIDLICZ,
State Director.

[F.R. Doc. 70-8080; Filed, June 25, 1970; 8:45 a.m.]

Fish and Wildlife Service

[Docket No. Sub-B-38]

AMERICAN STERN TRAWLERS, INC.

Notice of Hearing

JUNE 23, 1970.

American Stern Trawlers, Inc. has applied for permission to transfer the operations of the 296 feet 10 inches length over-all fishing vessel "Seafreeze Atlantic," constructed with the aid of a fishing vessel construction-differential subsidy, from the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch) and whiting to the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch) whiting, herring, squid, and mackerel.

Notice is hereby given pursuant to the provisions of the U.S. Fishing Fleet Improvement Act (Public Law 88-498) and notice and hearing on subsidies (50 CFR Part 257) that a hearing in the above-entitled proceedings will be held on July 30, 1970, at 10 a.m., d.s.t., in Room 3356, Interior Building, 18th and C Streets NW., Washington, D.C. Any person desiring to intervene must file a petition of intervention with the Director, Bureau of Commercial Fisheries, as prescribed in 50 CFR Part 257 at least 10 days prior to the date set for the hearing. If such petition of intervention is granted, the place of the hearing may be changed to a field location. Telegraphic notice will be given to the parties in the event of such a change along with the new location.

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

[F.R. Doc. 70-8101; Filed, June 25, 1970; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

LICENSED DEALERS UNDER LABORATORY ANIMAL WELFARE ACT

List

Pursuant to § 2.127 of the regulations (9 CFR 2.127) under the Act of August 24, 1966 (80 Stat. 350; 7 U.S.C. 2131 et seq.), commonly known as the Laboratory Animal Welfare Act, notice is hereby given that, as of June 15, 1970, the following dealers were licensed under said Act and regulations as indicated below:

ALABAMA

G. R. Floyd and E. A. Marchand, partners, Route 1, Box 235D, McDonald Road, Irvington 36544.

ARKANSAS

George J. E. Holzwarth, doing business as George J. E. Holswarth Co., Post Office Box 186, Fayetteville 72701.
Pel Freez Bio-Animals, Inc., Post Office Box 68, Rogers 72756.

CALIFORNIA

The Hine Laboratories, Inc., doing business as The Lazy H. Animal Ranch, 1195 Mee Lane, Saint Helena 94574.
Henry K. Knudsen, doing business as Knudsen's Biological Supplies, 12488 South Highway 50, Lathrop 95330.
Charles V. Means, Jr., doing business as California Caviary, 10830 Prairie Avenue, Inglewood 90303.

CONNECTICUT

Joseph Bagliore, doing business as Montowese Cattery, 61 Quinnipiac Avenue, North Haven 06473.

DISTRICT OF COLUMBIA

George Mazur Enterprises, Inc., 77 Eye Street SE., Washington 20003.

FLORIDA

Dawson Research Corp., 114 West Grant Avenue, Orlando 32806.
Dale E. Langford, doing business as Suwanee Kennels, Post Office Box 115, Chiefland 32626.
Research Livestock Labs, Inc., 12934 Banyon Road, North Miami 33161.

IDAHO

Lewis-Clark Animal Shelter, Inc., Post Office Box 804, Lewiston 83501.

ILLINOIS

Oscar V. and Alice B. Calanca, partners, doing business as Calanca's Beagles, Rural Route 1, Box 175, Grayslake 60030.
Don A. Carlson, doing business as Viking Kennels, 238 Sanders Road, Deerfield 60015.
General Foods Corp., Rural Route 3, St. Anne 60964.
Kraftco Corp., 801 Waukegan Road, Glenview 60025.
Robert R. Motsinger, doing business as Motsinger Kennels, Rural Route 2, St. Joseph 61873.
Omis Corp., 338 North Menard Avenue, Chicago 60644.
Bertha Peterson, 801 Greenwood, Waukegan 60085.
Research Industries Corp., Post Office Box 97, Route 1, Monee 60449.
Thompson Research Foundation, Route 1, Box 97, Monee 60449.
Lewis N. Warren, Box 125, Pana 62557.
Wedge's Creek Research Farm, 1810 Frontage Road, Northbrook 60062.

INDIANA

Robert A. Everett, doing business as Oakdale Farm & Kennel, Route 5, Decatur 46733.
Hazleton Research Animals, Inc., Rural Route 3, Box 303A, Sheridan 46069.
Robert Metcalf, doing business as Indiana Beagles, Route 1, Box 88, Auburn 46706.
David W. Wilson, doing business as Wilson Small Animal Farm, Rural Route 3, Box 91, Vincennes 47591.
Alton S. Windsor, Sr., doing business as Windsor Biology Gardens, Box 1210, Bloomington 47401.
Harry K. Zook, doing business as Maple Hill Kennel, Route 7, Martinsville, Ind. 46151.

IOWA

Dewey Adams, 514 North Kent Street, Knoxville 50138.
Henry F. Bockenstedt, Route 1, Earlville 52041.
Earl Fox, Jr., Rural Route 3, Forest City 50436.
Coralea Hull, Rural Route 1, Weldon 50264.
Dave Irving, Route 1, Charlton 50049.
Robert R. Lauer, doing business as Lauer's Kennels, Route 1, Fredericksburg 50630.
Elmer B. Scherbring, doing business as Clearview Kennels, Route 2, Box 80, Earlville 52041.

KANSAS

Joseph Bloomer, Lebanon 66952.
Charles M. Brink, Route 2, Box 13, Paola 66071.
Omer D. Hosler, Rural Route 2, Valley Falls 66088.
National Laboratories, 1700 63d Street, Kansas City 66106.
Kenneth Phillips, Route 1, Box 96, Edgarton 66021.
Dale Sappington, doing business as Sappington Research Animal Supply, 6021 Gibbs Road, Kansas City 66106.
Theracon, Inc., Box 1493, Topeka 66601.

KENTUCKY

Walter T. Baker, Route 2, Water Valley 42085.
Earl Feeback, doing business as Bourbon County Dog Pound County Farm, Ruddles Mills Road, Route 3, Paris 40361.
Kenneth W. Higgins, Route 2 c/o Alful Winn, Greenville 42345.
William A. Newman, Beech Creek 42321.
M. E. Northcutt, doing business as Goodwill Kennels, Route 5, Cynthiana 41031.
J. W. Toombs, Route 1, Moreland 40454.

MAINE

The Jackson Laboratory, Otter Creek Road, Bar Harbor 04609.

MARYLAND

Animal Resources, Inc., Post Office Box 67, Woodsboro 21798.
Joel Thomas McGinnes, Sandy Island Road, Goldsboro 21636.
Commando K-9 Detectives, Inc., 6501 Sheriff Road, Landover 20786.
Wilber Lee Eckert, Harney Road, Taneytown 21787.
Flow Laboratories, Inc., 12601 Twinbrook Parkway, Rockville 20850.
Lab-a-la-Cat & Co., Box 69, Rural Free Delivery 2, Keymar 21757.
George W. Smith, Draper Mill Road, Goldsboro 21636.
Edgar E. Walls, Sr., Route 1, Box 57A, Centreville 21617.

MASSACHUSETTS

Country Kennels, Inc., 107 Concord Street, Holliston 01746.
John S. Czepiel, 26 Paderewski Avenue, Chicopee 01013.
Dr. Orville H. Drumm, doing business as O'Malley Animal Hospital, 100 Boylston Street, Clinton 01510.
Alvin C. Finch, doing business as Pineland Farm Kennels, 93 Leonard Street, Raynham 02767.
Vincent R. Malone, 42 Oakland Street, Medway 02053.
Northeast Primates, Inc., Route 114, North Main Street, Middleton 01949.

MICHIGAN

H-Bar B Beagles, Inc., 1982 North Farley Road, Essexville 48732.
Grant Hodgins, doing business as Hodgins Kennel, 6110 Lange Road, Howell 48843.
Laboratory Research Enterprises, Inc., 6251 South Sixth Street, Kalamazoo 49001.
Henry and Leo Lahar, partners, doing business as Old Dependable Farms, Route 1, Pinconning 48650.
Stanley E. Morell, 5722 West M-81 Road, Cass City 48726.
Edward Radzilowski, doing business as Meadowbrook Farms and Company, 10533 Gratiot, Richmond 48062.
Tri-Co Research Projects, Inc. (Harold Wu, President), 4346 North 37th Street, Galesburg 49053.
Tri-Co Research Projects, Inc. (Arthur P. Wurfel, President), 4346 North 37th Street, Galesburg 49053.
Robert J. and Roberta L. Woudenberg, partners, doing business as R and R Research Breeders, Route 2, 19256 West Kendaville Road, Howard City 49329.

MINNESOTA

Delores N. Beise, Route 4, Hastings 55033.
Melvin Beise, doing business as Beise Kennels, Route 1, Jordan 55352.
James Goebel, Janesville 56048.
Donald Hippert, Kasson 55944.
Ben M. Kruger, Hayfield 55940.
Allen W. LaFave, 402 Third Street SE., East Grand Forks 56721.
Norman L. Larson, doing business as Wayside Kennels, Route 2, Box 449, Long Lake 55336.
Elzear O'Maley, LeCanter 56057.
Nick Reiland, Mazeppa 55956.
Bill Ryan, Millville 55957.
Math L. Serger, Route 2, Watkins 55389.
M. J. Wachlin, Sargeant 55973.

MISSISSIPPI

Dr. Joe G. Martin, 125 Martin Street, Ripley 38663.
Hollie Vanlandingham, doing business as V & B Animal Shelter, Post Office Box 133, Vardaman 38878.

MISSOURI

Wanda Barnfield, doing business as Bar-Wan Rabbitry & Kennel, Route 1, Box 60, Crocker 65452.
Welton F. Gegg, Star Route 1, Box 75, Ste. Genevieve 63670.
Wilbert Gruenefeld, Route 1, Jonesburg 63351.
Elmer G. Hines, doing business as Sho-Me Kennels, Rural Route 1, Grain Valley 64029.
Woodrow W. Huffstutler, doing business as Ozark Research Supplier, Rural Route 3, Vienna 65582.
Harold Miller, Granger 63442.
Ralston Purina Co., Purina Research Farm, Gray Summit 63039.
Sho-Me Research Dogs, Inc., 608 South Fourth Street, Columbia 65201.

MONTANA

Dr. Earl M. Pruyn, 1515 Livingston, Missoula 59801.

NEBRASKA

Viola and Keith Hansen, Route 2, Box 91, Pender 68047.
Richard L. and Helen M. Hellman, partners, doing business as Hellman Kennels, Route 1, Box 407, Gretna 68028.
Keith Hindmarsh, 1816 Briarcliff, Fremont 68025.
Mrs. Sylvia Meisinger, Rural Route 1, Ashland 68003.
Don and Donna Merten, partners, Albion 68620.
Mrs. William Packer, Route 2, Wood River 68883.
Mrs. Donald Scarlett, 904 West Harrison, Albion 68620.

NEW HAMPSHIRE

Henry N. and Roger A. Bickford, partners, Goose Pond Road, Lyme Center 03769.
Joseph A. Carberry, 15 Emerson Parkway, Salem 03079.
Faunalabs, Inc., Frederick M. Dittmar, North Main Street, Star Route, Plaistow 03865.
John B. Simpson, Pike 03780.

NEW JERSEY

Affiliated Medical Enterprises, Inc., Post Office Box 57, Princeton 08540.
James J. Barton, doing business as Barton's West End Farms, Rural Delivery 1, Box 241, Oxford 07863.
Joseph Byrnes, doing business as Valley Farms, Post Office Box 585, West Paterson 07424.
Henry Christ, Rural Route 3, Box 208, Farmingdale 07727.
George Clauss, 18-19 Saddle River Road, Fair Lawn 07410.
John W. Jaeger, Post Office Box 345, Sussex 07461.
K-G Farms, Inc., 3651 Hill Road, Parsippany 07054.
New Windsor Farms, 447 Main Street, Lodi, 07644.
Price Research Laboratory, Inc., 7300 North Crescent Boulevard, Pennsauken 08110.
Ridge Laboratories, Inc., 15 Spruce Street, Basking Ridge 07920.
West Jersey Biological Supply, Inc., South Marion Avenue, Wenonah 08090.
Barbara A. Williams, doing business as Hilldale Farms, Box 728, Dutchmill Road, Franklinville 08322.

NEW YORK

Ronald M. Barlow, doing business as Barlow Research Animals, Ridge Road, Pompey 13138.
Albert G. Bean, Rural Delivery 3, Moravia 13118.
Claude Benjamin, doing business as Lake Brook Kennel, Hobart 13788.
Chordata Corp., 260 Lakeside Road, Ontario 14519.
Cornell University, doing business as Cornell Dog Farm, Sapsucker Woods Road, Ithaca 14850.
Edward G. Fabry, 267 Congers Road, New City 10956.
Food and Drug Research Laboratories, Inc., Maurice Avenue at 58th Street, Maspeth 11378.
George K. Holbert, Box 27, Sugar Loaf 10981.
Marshall Research Animals, Inc., North Rose 14516.
The Mary Imogene Bassett Hospital, Cooperstown 13326.
Arthur Nerseslan, doing business as Rock Mountain Valley Farm, Clove Valley Road, High Falls 12440.
Arthur Phillips, Rural Delivery 2, Box 386, Warwick 10990.
Robert W. Steedman, 8363 North Road, Le Roy 14482.
Donald L. Stumbo, doing business as Stumbo Farms, Reed Road, Lima 14485.
Warren H. Wilson, Rural Delivery 1, Naples 14512.

NORTH CAROLINA

Warren E. Bowes, doing business as Bowes Kennel, Route 4, Box 20, Roxboro 27573.
Jack V. Hill, doing business as Aardvark Medical Research Utilities, Route 4, Box 332, Clinton 28328.
John Dorkis Wise, doing business as Wise's Kennels, Route 2, Box 66A, Dunn 28334.

OHIO

Paul Anthony, doing business as Kiser Lake Kennels, Trestle Road, St. Paris 43072.
Hubert P. Becker, Rural Route 5, Box 548, Celina 45822.
Carrol Blue, doing business as Blue's Animal Farm, Route 1, Plain City 43064.
Romie C. Dudding, Route 1, Box 255C, Ironton 45638.
Romeo and Quintino Marchetti, partners, doing business as Roe-Quinn Kennels, 16728 Route 700, Burton 44021.
Frank H. Maxfield, doing business as Maxfield Animal Supply, 3192 Little Dry Run Road, Cincinnati 45244.
Donald E. Miller, doing business as Bomber Hill Kennels, Route 1, South Point 45680.
Graydon E. Miller, Route 1, Box 301, South Point 45680.
A. W. Sterrett, doing business as A. W. Sterrett Laboratory Animals, 2223 Savoy Avenue, Akron 44305.

OKLAHOMA

Oscar C. and Larry W. Adams, doing business as Adams Lab Animal Kennels, 614 West Arbuckle, Pauls Valley 73075.
Charles Alexander, doing business as Alexander's Kennels, Route 1, Wayne 73095.
Len Bilke, 206 I Southeast, Miami 74354.
John W. Isern, doing business as Jackson County Biological Supply Co., Route 1, Blair 73526.

OREGON

James W. Dennis, Post Office Box 237, Gaston 97119.
Robert G. Shoemake, doing business as R. G. Kennels, 17225 Southeast McLaughlin Boulevard, Milwaukee 97222.

PENNSYLVANIA

Glenn E. Blantz, doing business as Valley View Kennels, Rural Delivery 1, Annville 17003.
Buckshire Corp., 2025 Ridge Road, Perkasie 18944.
Carney Laboratory Kennels, Inc., Post Office Box 45, Bedminster 18910.
Dierolf Farms, Inc., Post Office Box 26, Boyertown 19512.
Edward B. and Nancy L. Eberts, doing business as Eberts Mountainview Kennel, Rural Delivery 3, Newville 17241.
Sam Esposito, doing business as Quaker Farm Kennels, Rural Delivery 1, Box 137A, Quakertown 18951.
Betty Free, 1339 Richland Pike, Rural Delivery 4, Qaukertown 18951.
Fletcher Funkhouser, Route 2, Jonestown 17038.
Haycock Kennels, Inc., Rural Delivery 4, Quakertown 18951.
Charles Hazzard, doing business as North Creek Breeding Colony, Rural Delivery 2, Box 371, Honey Brook 19344.
Charles A. Hockenberry, doing business as Perry Valley Kennels, Blain 17006.
Russell B. Hutton, Rural Route 1, St. Thomas 17252.
M. L. Kredovski, doing business as Lone Trail Kennels, Post Office Box 46, Friedensburg 17933.
J. Glen and Shirley L. Longenecker, partners, doing business as Pine Glen Farms, Rural Delivery 3, Columbia Cross Roads 16914.
George E. Miller, Rural Delivery 2, Palmyra 17078.
Janet Neamand, doing business as White Eagle Farms, 2015 Lower State Road, Doylestown 18901.
George F. Pierce, doing business as Pleasant View Kennel, Box 131, Rural Delivery 3, Hummelstown 17036.
Three Springs Kennels, Inc., Rural Delivery 1, Zelienople 16063.
Noah W. Wenger, Rural Delivery 3, Box 56, Manheim 17645.
Marlin U. Zartman, Rural Delivery 2, Box 3, Douglassville 19518.

RHODE ISLAND

James Leo Burke, doing business as Shangri-La Kennels, 750 Greenville Avenue, Johnston 02919.

TENNESSEE

Terrell Fisher, Route 1, Greenbrier 37073.
William L. Hargrove, Jr., West Avenue, Medina 38355.
James B. Wampler, Post Office Box 991, Cleveland 37311.

TEXAS

Baylor College of Medicine, Department of Vivarium, 1200 Moursund Avenue, Houston 77025.
Granville Dawson, Post Office Box 181, Caldwell 77836.
Dr. Lavell T. Davis, 2500 West Morton, Denison 75020.
Dr. J. L. Markham, doing business as High Plains Lab Animals, Box 7, Canyon 79015.
Carmon Nichols, doing business as C & N Kennels, 100 Elm Street, Bonham 75418.
Dr. M. G. Scroggs, 7109 Lake Worth Boulevard, Fort Worth 76135.
Dr. James E. Teague, Post Office Box 206, Dublin 76446.

UTAH

Thomas F. Imlay, doing business as Dogs for Research, 4996 South Redwood Road, Murray 84107.

VERMONT

Allen B. Clark, Box 171, Hartford 05047.
William Duby & Madeline Duffy, partners, Colchester 05446.
Rosaire Paradis, Enosburg Falls 05450.

VIRGINIA

ANTEC Corporation, Post Office Box 909, Leesburg 22075.
Gordon Barnette, Route 3, Box 42, Chase City 23924.
Tom R. Bright, Box 575, Coeburn 24230.
Sidney J. Edwards, doing business as Edwards Kennel, 4401 Greendell Road, Chesapeake 23321.
Hazleton Research Animals, Inc., Post Office Box 30, Falls Church 22046.
John W. Henry, Middletown 22645.
Leslie H. Judd, doing business as Rocky Lane Kennels, Route 1, Box 282, Edinburg 22824.
Noel E. Leach, doing business as Leach Kennels, 922 North Main Street, Chase City 23924.
Freel P. Mullins, Route 1, Box 178, Clintwood 24228.
Troy William Mullins, 15100 Compton Road, Centreville 22020.
Jack T. Musick, 2333 Shakeville Road, Bristol 24201
C. C. Porter, Route 2, Abingdon 24210.
Earl Ridgeway, Route 3, Bristol 24201.
Earl Saunders, doing business as Myers Creek Kennel and Supply Co., Route 2, Box 666, Lancaster 22503.
John F. Thompson, Rural Free Delivery 2, Box 63, Saltville 24370.

WASHINGTON

H. D. Cowan, 18015 140th Avenue SE., Renton 98055.
Robert L. and Margot F. Dry, partners, doing business as Berliner Zwinger Kennels, Route 1, Box 302, Colbert 99005.
Charles C. Kruger, D.V.M., doing business as Schaferhaus Kennels, Reg., 1043 South 140th Street, Seattle 98168.
William R. Moery, 6425 208th NE., Redmond 98052.
Mrs. Janet R. Wilcox, doing business as Jareaux Kennels, 26607 Pacific Highway South, Kent 98031.

WEST VIRGINIA

William Custer, doing business as Custer's Boarding Kennels, Dallas Pike, Triadelphia 26059.
R. H. Kester, doing business as Ro-Lyn Kennels, Route 4, Box 197-D, Martinsburg 25401.

WISCONSIN

Wayne Anderson, Route 2, Box 160, Richland Center 53581.
Fred J. Barr, doing business as Barr Beagle Kennels, Route 2, Greenwood 54437.
John W. Evans, doing business as Merry Hill Kennel, Route 1, Box 177, Sun Prairie 53590.
Walter Peuschel, 13101 North Wauwatosa Road, 76 West, Mequon 53092.
Ridglan Farms, Inc., 301 West Main Street, Mount Horeb 53572.
Leonard Tauber, Route 1, Waldo 53093.

Done at Washington, D.C., this 22d day of June 1970.

R. E. OMOHUNDRO,
Acting Director, Animal Health Division, Agricultural Research Service.

[F.R. Doc. 70-8116; Filed, June 25, 1970; 8:48 a.m.]

Office of the Secretary

CALIFORNIA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of California, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

CALIFORNIA

San Joaquin Stanislaus

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1971, except to applicants who previously received emergency or special livestock loan assistance and can qualify under established policies and procedures.

Done at Washington, D.C., this 22d day of June 1970.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 70-8084; Filed, June 25, 1970; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 70-81]

KELSO MARINE, INC.

Notice of Qualification as U.S. Citizen

1. This is to give notice that pursuant to 46 CFR 67.23-7, issued under the provisions of section 27A of the Merchant Marine Act, 1920, as amended by the Act of September 2, 1958 (46 U.S.C. 883-1), Kelso Marine, Inc., 7002 Industrial Boulevard, Galveston, Tex., incorporated under the laws of the State of Texas, did on May 26, 1970, file with the Commandant, U.S. Coast Guard, in duplicate, an oath for qualification of a corporation as a citizen of the United States following the form of oath prescribed in Form 1260.

2. The oath shows that:

(a) A majority of the officers and directors of the corporation are citizens of the United States (list of names, home addresses, and citizenship attached to the oath);

(b) Not less than 90 percent of the employees of the corporation are residents of the United States;

(c) The corporation is engaged primarily in a manufacturing or mineral industry in the United States, or in a Territory, District, or possession thereof;

(d) The aggregate book value of the vessels owned by the corporation does not exceed 10 percent of the aggregate book value of the assets of the corporation; and

(e) The corporation purchases or produces in the United States, its Territories, or possessions not less than 75 percent of the raw materials used or sold in its operations.

3. The Commandant, U.S. Coast Guard, having found this oath to be in compliance with the law and regulations, on June 17, 1970, issued to the Kelso Marine, Inc., a certificate of compliance on Form 1262, as provided in 46 CFR 67.23-7(d). The certificate and any authorization granted thereunder will expire 3 years from the date thereof unless there first occurs a change in the corporate status requiring a report under 46 CFR 67.23-7(c).

Dated: June 17, 1970.

C. R. BENDER,
Admiral, U.S. Coast Guard, Commandant.

[F.R. Doc. 70-8090; Filed, June 25, 1970; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-294]

MICHIGAN STATE UNIVERSITY

Notice of Issuance of Amendment to Facility License

The Atomic Energy Commission ("the Commission") has issued, effective as of the date of issuance, Amendment No. 1 to Facility License No. R-114 dated March 21, 1969. The license presently authorizes Michigan State University to possess, use and operate the TRIGA Mark I nuclear reactor located on its campus in East Lansing, Mich. The amendment authorizes the use of a three curie americium-beryllium startup source in addition to the previously authorized seven curie polonium-beryllium source.

By letter dated April 8, 1970, Michigan State University requested authorization to receive, possess, and use a three curie americium-beryllium startup source in connection with operation of the reactor. The Am-Be source will be doubly encapsulated in type 304 stainless steel designed to provide a 0.005 inch maximum diametrical air gap between the stainless steel and the aluminum source container presently being used. From our previous analyses of the use of this type of source and from the history of its successful use in other TRIGA reactors, we have determined that the use of the proposed americium-beryllium source and the issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public.

Within fifteen (15) days from the date of publication of the notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's Rules of Practice in 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) the licensee's application for license amendment dated

April 8, 1970, and (2) the amendment to facility license, which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies of the amendment may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 17th day of June 1970.

For the Atomic Energy Commission.

DONALD J. SKOVHOLT,
Assistant Director for Reactor Operations, Division of Reactor Licensing.

[F.R. Doc. 70-8086; Filed, June 25, 1970; 8:46 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 21568; Order 70-6-120]

AIRLIFT INTERNATIONAL, INC.

Order Tentatively Approving Control Relationships and Transfer of Certificates

Application of Airlift International, Inc., for approval under sections 401 and 801 of the Federal Aviation Act of 1958, as amended, and disclaimer of jurisdiction or approval under sections 408 and 409.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of June 1970.

By application filed October 10, 1969,[1] Airlift International, Inc. (Airlift), requests that the Board disclaim jurisdiction over or approve certain transactions relative to a plan of corporate reorganization to be undertaken by Airlift as a method of diversification into other business activities. In addition, the application requests that the Board approve the transfer of certificates of public convenience and necessity to a new operating company to be formed under the plan.

The plan of reorganization contemplates the formation by Airlift of a wholly-owned subsidiary, Airlift Corp., and the organization by Airlift Corp. of its own wholly-owned subsidiary, Airlift Air Freight Corp. (AI). Airlift, Airlift Corp., and AI will enter into a merger agreement providing for the merger of Airlift into AI, which will receive all of the properties and assets of Airlift, and assume all of its liabilities. Under the merger agreement five shares of Airlift's outstanding common stock will be exchanged for one share of the common stock of Airlift Corp. After the merger, Airlift's existing air carrier activities will be continued by AI which will change its name to Airlift International, Inc. In addition, the directors and officers of Airlift Corp. and AI will be the same or substantially the same as those of Airlift. The directors of Airlift Corp. will be directors of AI and some of the officers of both Airlift Corp. and AI will be the same individuals. The merger and reorganization are subject to the condition that an Internal Revenue Service ruling, or a satisfactory opinion of counsel, is obtained to the effect that the transaction will be accomplished on a tax-free basis.[2]

Specifically, Airlift has requested that the Board disclaim jurisdiction over or approve (1) under section 408 of the Federal Aviation Act of 1958, as amended (the Act) the merger of Airlift into AI and the acquisition of control by Airlift Corp. of the surviving corporation, AI, and (2) under section 409 of the Act, the interlocking relationships involving Airlift Corp. and AI as proposed in the plan of reorganization. The application also requests approval under section 401(h) of the transfer of Airlift's certificates of public convenience and necessity for Routes 120 and 109.[3]

On January 26, 1970, Air Line Pilots Association, International (ALPA), filed an answer[4] requesting that the Board assert jurisdiction over the Airlift reorganization and impose appropriate labor protective provisions on its order of approval to protect the work opportunities and rights of Airlift pilots.

In support of the application Airlift states that, in its view, the strength and stability of its existing air carrier operation can be increased through diversification into businesses other than air carrier activities. Applicant also states that Airlift Corp. will have no air carrier obligations and will be free to make investments which will add to the underlying strength of the air carrier operations to be conducted by AI, without subjecting those operations to the adverse influences of the other businesses in which Airlift Corp. invests. Further, Airlift represents that there will be no loss of any tax attributes now available to Airlift; that Airlift Corp., as well as AI, will assume payment and conversion obligations under the outstanding convertible rights of Airlift; that upon completion of the reorganization, the business of Airlift will be carried on by AI in substantially the same way as if the reorganization had not occurred; and that Airlift Corp. and AI will not compete with each other or engage in substantial business transactions between them, apart from Airlift Corp.'s holding AI stock and receiving dividends thereon.

We turn first to the control relationships presented by Airlift's application. With the passage of Public Law 91-62 effective August 5, 1969, Congress in amending section 408 of the Act has indicated its desire that the Board approve the acquisition of control of an air carrier by "any person." Congress indicated its concern with the financial manipulation to which air carriers might be subjected by changes in control, with the possibility that air carriers be diverted by those acquiring control from their principal function as common carriers, and with the need to closing the gap between the requirement of section 401 (h) and those of section 408(a) of the Act prior to the recent amendment of the latter section.[5] Prior to this amendment the Board has disclaimed jurisdiction over transactions involving corporate reorganizations.[6] However, subsequent to this amendment the Board has exercised jurisdiction over such transactions.[7] In any event, Airlift has submitted to the Board's jurisdiction and has requested approval of the transaction.

Having considered the present application, we have tentatively decided to approve (1) the transaction involving the merger of Airlift into AI and the acquisition of control by Airlift Corp. of AI; and (2) the transfer to AI of Airlift's certificates of public convenience and necessity.

The plan before the Board provides for the reorganization of Airlift as an operating subsidiary of a newly formed holding company. AI is to be organized as a subsidiary shell of Airlift Corp. and, upon completion of the transfer of Airlift property and assets, will be essentially the same corporation as Airlift and operate under the same name.[8] Airlift's present stockholders will become the stockholders of Airlift Corp. The same or substantially the same persons serving as officers and directors of Airlift will serve as officers and directors of Airlift Corp. and AI. We therefore have determined under the third proviso of section 408(b) that the transaction does not

[1] The application was supplemented by letter of Jan. 19, 1970.

[2] A majority of the shareholders of Airlift approved the reorganization at a meeting held on Nov. 21, 1969.

[3] In addition to Board approval, Presidential approval is required under section 801 of the Act, since Airlift's certificate for Route 109 approved by the President on Aug. 1, 1966 and issued pursuant to Board Order E-24032, temporarily authorized the air carrier to engage in overseas air transportation with respect to property and mail through July 2, 1967. The air carrier has filed a timely application for renewal which is presently pending in Docket 18060.

[4] Since ALPA's answer was filed late, it was accompanied by a motion for leave to file an unauthorized document. No objections having been received, we shall accept ALPA's late filing.

[5] Section 401(h) prohibits the transfer of an air-carrier certificate to any person unless the transfer is approved by the Board. On the other hand, prior to the enactment of Public Law 91-62, section 408(a) prohibited, unless approved by the Board, the acquisition of control of an air carrier, through stock ownership for example, only by persons within specified categories, i.e., another air carrier, a person controlling another air carrier, any other common carrier, or a person engaged in a phase of aeronautics. Such acquisitions by any other person required no prior Board approval.

[6] See, e.g., United Air Lines, Inc., Order 69-4-67, Feb. 17, 1969.

[7] The Flying Tiger Line Inc., Order 69-12-121, Dec. 29, 1969, and Order 70-6-119, May 5, 1970.

[8] By application filed Aug. 7, 1969 (Docket 21288) Airlift requested, inter alia, that the Board approve under section 408 of the Act, or exempt from the requirements thereof, Airlift's participation in the capitalization of Canadian Airlift, Ltd., by the acquisition of a stock interest therein. The matter is pending before a hearing examiner of the Board pursuant to Order 69-11-69, Nov. 17, 1969.

affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly, and does not tend to restrain competition. Furthermore, no persons disclosing a substantial interest is requesting a hearing and we tentatively conclude that the public interest does not require a hearing. While the reorganization will enable the new parent corporation to engage in diversified activities in addition to its control of the air carrier, the reorganized company will continue the air carrier activities of Airlift. In this respect we note that the application raises no new issues not heretofore presented to the Board. We therefore find that the transactions involved in the reorganization do not appear to be inconsistent with the public interest, and that the conditions of section 408 will be fulfilled; and we tentatively approve the application, based upon the current factors affecting the control by the parent corporation of the air carrier.

However, we also believe that appropriate conditions should be imposed upon our tentative approval to permit the Board to reexamine its action should changes in circumstances warrant such review. Consistent with previous Board action in similar instances [9] we shall provide in our final order for the retention of jurisdiction to reexamine our action and to impose other conditions if appropriate; require prior Board approval of any subsequent acquisitions of control by any person of Airlift Corp. while the latter company controls AI; and expressly provide for prior Board approval of acquisitions of control subject to section 408 of the Act by Airlift, AI or any of their affiliates or subsidiaries. Also, in order to protect the public against any impairment of the air carrier's certificate obligations which might arise by reason of the relationships or transactions among Airlift and its subsidiaries or affiliates, we intend to impose appropriate accounting requirements with respect to the instant reorganization; reporting requirements with respect to intercompany financial holdings; and conditions which would require prior Board approval of any intercompany transactions with or affecting AI and having an aggregate value annually of $100,000 or more.

On the other hand, the imposition of a condition regarding labor protective provisions as requested by ALPA is not warranted. ALPA has made no showing that labor dislocation, disruption, or disputes may be reasonably anticipated as a result of Airlift's corporate reorganization.

In view of the foregoing and subject to conditions discussed above, the Board tentatively concludes that it should approve under section 408 of the Act the control relationships resulting from the reorganization of Airlift. Accordingly, this order, constituting notice of such intention, will be published in the FEDERAL REGISTER and interested persons will be afforded an opportunity to comment on the Board's decision.

We turn now to the consideration of the interlocking relationships between Airlift Corp. and AI which attend Airlift's reorganization plan. The applicant requests, inter alia, that the Board disclaim jurisdiction over the relationships. For its part, the Board believes that a disclaimer would be warranted and, consistent with its previous action in similar circumstances,[10] intends to take such action in its final order.

With respect to the transfer of certificates, we believe that AI will be, for all practical purposes, the same company as Airlift with the same officers and directors, and accordingly, we tentatively conclude that approval of the transfer to AI of the certificates of public convenience and necessity presently held by Airlift is consistent with the public interest and should be approved.[11]

Accordingly, it is ordered, That:

1. Subject to the conditions hereinabove discussed, tentative approval be and it hereby is granted to (a) the merger of Airlift into Airlift Air Freight Corp.; (b) the acquisition of control by Airlift Corp. of Airlift Air Freight Corp.; and (c) the transfer of Airlift's certificates of public convenience and necessity;

2. Interested persons are afforded a period of ten (10) days within which to file comments on or request a hearing with respect to the Board's proposed action on the application in Docket 21508; [12] and

3. The Attorney General of the United States be furnished a copy of this order within 1 day of publication.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

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

[F.R. Doc. 70-8105; Filed, June 25, 1970; 8:47 a.m.]

[Docket No. 20993; Order 70-6-121]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority June 22, 1970.

By order 70-6-19, dated June 2, 1970, action was deferred, with a view toward eventual approval, on an agreement adopted by the International Air Transport Association (IATA), relating to specific commodity rates. In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 70-6-19 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 21753, R-1 and R-2, and R-4 through R-7, be and it hereby is approved: *Provided*, That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

This order will be published in the FEDERAL REGISTER.

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

[F.R. Doc. 70-8106; Filed, June 25, 1970; 8:47 a.m.]

[Docket No. 20993; Order 70-6-124]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority, June 22, 1970.

By Order 70-6-5, dated June 1, 1970, action was deferred with a view toward eventual approval, on an agreement embodied in the resolutions of the Joint Conferences of the International Air Transport Association (IATA) and adopted by the Ninth Meeting of the Joint Specific Commodity Rates Board. As it applies in air transportation, the agreement is limited to matters relating to transpacific specific commodity rates. Basically, the agreement extends for a further period of effectiveness certain specific commodity rates under current descriptions, adopted since the last meeting of the Rates Board. The agreement also names several rates to added points under existing commodity descriptions, and proposes reduced rates under a few new commodity descriptions.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period, and the tentative conclusions in Order 70-6-5 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 21753 be and it hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

This order will be published in the FEDERAL REGISTER.

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

[F.R. Doc. 70-8107; Filed, June 25, 1970; 8:47 a.m.]

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[9] See The Flying Tiger Line Inc., supra. See also, Acquisition of Air West, Inc., by Hughes Tool Co., Order 69-7-102, July 15, 1969, and Order 69-12-66, Nov. 26, 1969.

[10] The Flying Tiger Line Inc., Order 70-6-119 May 5, 1970.

[11] In its final order, the Board will approve the transfer of Airlift's existing exemption authority, and permit AI, prior to changing its name to Airlift International, Inc., to prosecute pending applications of Airlift without further action by the Board, subject to the filing by AI of an appropriate notice of the substitution in the Dockets of such proceedings.

[12] Comments so filed shall conform to the requirement of the Board's rules of practice (14 CFR Part 302) for the filing of documents. Furthermore, since an opportunity to file comments is provided for, petitions for reconsideration of this order will not be entertained.

[Docket No. 20993; Order 70-6-125]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority, June 22, 1970.

By Order 70-6-17, dated June 2, 1970, action was deferred, with a view toward eventual approval, on an agreement adopted by the Internaitonal Air Transport Association (IATA), relating to specific commodity rates. In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 70-6-17 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 21753, R-3, be and it hereby is approved, provided that approval shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication.

This order will be published in the FEDERAL REGISTER.

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

[F.R. Doc. 70-8108; Filed, June 25, 1970; 8:47 a.m.]

[Dockets Nos. 22289, 22290]

PACIFIC WESTERN AIRLINES, LTD., AND AIR CANADA

Notice of Prehearing Conference and Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended that prehearing conference on the above-entitled dockets is assigned to be held on June 30, 1970, at 10 a.m., e.d.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner James S. Keith.

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.

Dated at Washington, D.C., June 23, 1970.

[SEAL] THOMAS L. WRENN, *Chief Examiner*.

[F.R. Doc. 70-8102; Filed, June 25, 1970; 8:47 a.m.]

[Docket No. 22136]

TRANS WORLD AIRLINES, INC.

Notice of Prehearing Conference Regarding Acquisition of Sun Line Companies

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on July 2, 1970, at 10 a.m., e.d.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Ralph L. Wiser.

Information requests, statements of proposed issues, proposed procedural dates, and motions shall be filed with the examiner and the parties on or before June 29, 1970 .

Dated at Washington, D.C., June 23, 1970.

[SEAL] THOMAS L. WRENN, *Chief Examiner*.

[F.R. Doc. 70-8103; Filed, June 25, 1970; 8:47 a.m.]

[Docket No. 22230; Order 70-6-116]

HUB AIRLINES, INC.

Order To Show Cause Regarding Establishment of Service Mail Rates

Issued under delegated authority June 19, 1970.

The Postmaster General filed a notice of intent May 26, 1970, pursuant to 14 CFR Part 298, petitioning the Board to establish for Hub Airlines, Inc., final service mail rates for the transportation of priority and nonpriority mail by aircraft between Indianapolis and South Bend, Ind. He asks that the domestic multielement service mail rates for priority and nonpriority mail be established for this service.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above are fair and reasonable rates of compensation for the proposed services which the Postmaster General believes will meet postal needs in this market.

The Board finds it in the public interest to fix, determine, and establish the fair and reasonable rates of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

On and after June 5, 1970, the fair and reasonable final service mail rates to be paid to Hub Airlines, Inc., in their entirely by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith between Indianapolis and South Bend, Ind., shall be as follows:[2]

(a) For priority mail the multielement rate established by the Board in Order E-25610, August 28, 1967;

(b) For nonpriority mail the multielement rate established by the Board in Order 70-4-9, April 2, 1970.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 406 thereof, and the Board's regulations, 14 CFR Part 302, 14 CFR Part 298, and the authority duly delegated by the Board in its Organization Regulations, 14 CFR 385.14 (f):

It is ordered, That:

1. Hub Airlines, Inc., the Postmaster General, Allegheny Airlines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rates for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, as the fair and reasonable rates of compensation to be paid to Hub Airlines, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, as specified below; and

3. This order shall be served upon Hub Airlines, Inc., the Postmaster General and Allegheny Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

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

1. Further procedures related to the attached order shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed therein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

2. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed therein and fix and determine the final rate specified therein;

3. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307).

[F.R. Doc. 70-8104; Filed, June 25, 1970; 8:47 a.m.]

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[1] As this order to show cause is not a final action, it is not subject to the review provisions of Part 385 (14 CFR Part 385). These provisions for Board review will be applicable to final action taken by the staff under authority delegated in § 385.14(g).

[2] Present rates provide for terminal charges per pound of 2.34 cents at Indianapolis and 4.68 cents at South Bend plus line-haul charges per mail ton-mile of 24 cents for priority mail and 11.33 cents for nonpriority mail.

CIVIL SERVICE COMMISSION

AUTOMOTIVE MECHANIC, ST. LOUIS, MO.

Notice of Establishment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11073, the Civil Service Commission has established special minimum salary rates and rate ranges as follows:

PFS-5823-8 FOREMAN AUTOMOTIVE

PFS-5823-7 MECHANIC-IN-CHARGE

PFS-1601-7 VEHICLE MAINTENANCE ANALYST

PFS-5823-6 AUTOMOTIVE MECHANIC

Geographic coverage: Post Office Vehicle Maintenance Facility, St. Louis, Mo.
Effective date: First day of the first pay period beginning on or after June 13, 1970.

PER ANNUM RATES

Level	1	2	3	4	5	6	7	8	9	10	11	12
PFS-6	$7,785	$8,021	$8,257	$8,493	$8,729	$8,965	$9,201	$9,437	$9,673	$9,909	$10,145	$10,381
PFS-7	8,160	8,415	8,670	8,925	9,180	9,435	9,690	9,945	10,200	10,455	10,710	10,965
PFS-8	8,545	8,821	9,097	9,373	9,649	9,925	10,201	10,477	10,753	11,029	11,305	....

All new employees in the specified occupational level will be hired at the new minimum rates.

As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the rolls in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the statutory rates shall receive basic compensation at the corresponding numbered rate authorized by this notice on or after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 39 U.S.C. 3552.

Under the provisions of section 3–2b, Chapter 571, FPM, agencies may pay the travel and transportation expenses to first post of duty under 5 U.S.C. 5723 of new appointees to positions cited.

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

[F.R. Doc. 70-8152; Filed, June 25, 1970; 8:49 a.m.]

FEDERAL MARITIME COMMISSION

ALASKA STEAMSHIP CO. AND JAPAN LINE, LTD.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

John A. Flynn, Esq., Graham & James, 310 Sansome Street, San Francisco, Calif. 94104.

Agreement No. 9875 provides for a through billing arrangement covering the transportation of cargo from ports in Alaska served by the initial carrier, Alaska Steamship Co., to those in Japan served by the Japan Line, the delivering carrier, with transshipment in Seattle pursuant to the terms and conditions of the agreement.

Dated: June 22, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-8093; Filed, June 25, 1970; 8:46 a.m.]

FOSS ALASKA LINE, INC., AND JAPAN LINE, LTD.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

John A. Flynn, Esq., Graham & James, 310 Sansome Street, San Francisco, Calif. 94104.

Agreement 9874 provides for a through billing arrangement covering the transportation of cargo from ports in Alaska served by the initial carrier, Foss, to those in Japan served by Japan Line, the delivering carrier, with transshipment in Seattle pursuant to the terms and conditions of the agreement.

Dated: June 22, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-8094; Filed, June 25, 1970; 8:46 a.m.]

PRUDENTIAL-GRACE LINES, INC., AND COMPANHIA DE NAVEGACAO LLOYD BRASILEIRO

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL

Register. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Harold T. Quinn, Esq., Barrett Knapp Smith & Schapiro, 26 Broadway, New York, N.Y. 10004.

Agreement No. 9873, between Prudential-Grace Lines, Inc., and Companhia De Navegacao Lloyd Brasileiro, establishes a pooling arrangement between the parties on all cargo, including any and all government-controlled cargo (except dry and liquid cargo in bulk, refrigerated cargo, mail, cargo of non-United States of America origin transshipped at a U.S. Pacific port and cargo originating in the United States of America and transshipped via any Brazilian port to a destination port which is not a pool port as set forth in the agreement). The agreement covers the southbound trade from any port on the Pacific Coast of the United States to ports of Brazil, within the Rio de Janeiro/Porto Alegre range, both inclusive.

The parties will each maintain a minimum of 12 sailings during a 12-month pool period. The agreement also provides that each party will actively and aggressively compete for all available cargo in the trade and promote and develop to the best of their abilities the commerce between the Pacific ports of the United States of America and Brazil, in conformity with accepted commercial practices and the spirit and intent of governing Brazilian and U.S. laws; and that the parties will do everything possible through appropriate channels with their respective Governments to assure that the legal and/or administrative regulations and practices in force in the United States of America and Brazil regarding the reservation and protection of cargo to their respective merchant marines are extended equally to both parties. The agreement shall become effective upon approval and shall remain in effect for 3 years thereafter unless earlier terminated as provided therein.

Dated: June 23, 1970.

By order of the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[F.R. Doc. 70-8095; Filed, June 25, 1970; 8:46 a.m.]

UNITED STATES ATLANTIC & GULF-JAMAICA CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the Federal Register. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

H. T. Schoonebeek, Vice Chairman, United States Atlantic & Gulf-Jamaica Conference, 11 Broadway, New York, N.Y. 10004.

Agreement No. 4610-16, between the member lines of the United States Atlantic & Gulf-Jamaica Conference, modifies the basic agreement by adding a new paragraph (c) to Article 17 which provides that the failure on the part of a member line to have a sailing in this trade during any 90-day period will result in suspension of such member's voting right on all Conference matters except those which would require or cause an amendment to the agreement or the rules and regulations thereof.

Dated: June 22, 1970.

By order of the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[F.R. Doc. 70-8096; Filed, June 25, 1970; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP70-314]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Application

June 24, 1970.

Take notice that on June 23, 1970, Texas Eastern Transmission Corp. (Applicant), filed an application with the Federal Power Commission pursuant to section 7(c) of the Natural Gas Act and the rules and regulations of the Commission issued thereunder for a certificate of public convenience and necessity authorizing applicant to construct and operate approximately 36 miles of 20-inch pipeline extending from the Caillou Island field, Terrebonne Parish, La., to the Larose compressor station located on applicant's 36-inch Venice-New Roads pipeline; 6.4 miles of 14-inch pipeline from the Lake Raccourci field, Terrebonne and Lafourche Parish, La., to the proposed 20-inch pipeline, various pipelines to the existing platforms in these fields and 3,000 horsepower compression on the 20-inch pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The proposed pipelines are needed to enable applicant to purchase and receive volumes of gas from leases owned by the Louisiana Land and Exploration Corp. in the above-mentioned fields. The volumes of natural gas will become part of applicant's system gas supply and will help applicant replenish gas supplies being used to fulfill existing commitments of its customers. The estimated overall capital cost of the facilities is $23,152,000.

It appears reasonable and consistent with the public interest in this case to prescribe a shortened period for the filing of protests and petitions to intervene. Any person desiring to be heard or to make any protest with reference to said application should on or before July 7, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further

notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-8190; Filed, June 25, 1970; 8:49 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-5765]

FOUR SEASONS NURSING CENTERS OF AMERICA, INC.

Order Suspending Trading

JUNE 19, 1970.

The common stock, 50 cents par value, of Four Seasons Nursing Centers of America, Inc., being traded on the American Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange, and the Boston Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Four Seasons Nursing Centers of 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 Exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 22, 1970, through July 1, 1970, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-8098; Filed, June 25, 1970; 8:47 a.m.]

[70-4890]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Proposed Issue and Sale of Notes to Banks

JUNE 19, 1970.

Notice is hereby given that Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), 1 Woodward Avenue, Detroit, Mich. 48226, a nonutility subsidiary company of American Natural Gas Co., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6 and 7 thereof as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Michigan Wisconsin proposes to issue and sell to a group of banks, from time to time commencing in July 1970, up to an aggregate of $50 million face amount of promissory notes to be outstanding at any one time. The notes will be dated as of the date of issuance and will mature on July 30, 1971. The notes will be issued in varying amounts and at various dates as funds are required by the company. Each note will bear interest at the prime rate in effect at the First National City Bank, New York, N.Y. ("First National") on the date of issuance and will be adjusted to the prime rate in effect at First National at the beginning of each 90-day period subsequent to the date of the first borrowing. There is no commitment fee, and the notes may be prepaid at any time without penalty.

The proposed notes will be issued to the banks and in the maximum respective amounts shown below:

First National City Bank, New York, N.Y.	$10,000,000
Manufacturers Hanover Trust Co., New York, N.Y.	10,000,000
National Bank of Detroit, Mich	10,000,000
The Detroit Bank & Trust, Detroit, Mich	6,400,000
Marshall & Ilsley Bank, Milwaukee, Wis	4,000,000
Manufacturers National Bank of Detroit, Mich	3,800,000
First Wisconsin National Bank of Milwaukee, Wis	3,800,000
Marine National Exchange Bank, Milwaukee, Wis	2,000,000
	50,000,000

Michigan Wisconsin proposes to use the proceeds to finance, in part, its 1970 construction program estimated at $95 million and to provide working capital. It is anticipated that the funds required to retire the notes will be obtained from long-term financing and funds generated internally.

The application states that the fees and expenses to be incurred in connection with the proposed transactions are estimated to be $1,000, including legal fees of $500. It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than July 9, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-8099; Filed, June 25, 1970; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[License 02/02-5278]

BROAD ARROW INVESTMENT CORP.

Notice of Application for License as Minority Enterprise Small Business Investment Company

An application for a license to operate as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Broad Arrow Investment Corp. (applicant) with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA Regulations governing small business investment companies (13 CFR Part 107; 33 F.R. 326).

The officers and directors of the applicant are as follows:

Charles N. Bellm, President, Treasurer, Director, Post House Road, Morristown, N.J.
Sumner Gerard, Jr., Vice President, Director, 61 Hodge Road, Princeton, N.J.
Roger Knowles, Vice President, Director, Fort Hunter Road, Post Office Box 151, Amsterdam, N.Y.
Cecilia C. Bellm, Secretary, Post House Road, Morristown, N.J.
Ridgeway B. Espy, Jr.[1] Director, 1701 Pennsylvania Avenue NW., Washington, D.C.
Harding Associates, Sole Stockholder.

The applicant, a Delaware corporation with a place of business located on

[1] President and Director of Intermediate Credit Corp., and director of Small Business Investment Company of New York, Inc.

Route 58, Fort Hunter Road, Amsterdam, N.Y., will begin operation with $150,000 of paid-in capital consisting of 15,000 shares of common stock. All of the issued and outstanding stock will be owned by Harding Associates, a limited partnership formed under the laws of the State of New Jersey, and composed of the following partners:

Charles N. Bellm,[2] General Partner, Post House Road, Morristown, N.J.
Ionic, Inc., General Partner Post House Road, Morristown, N.J.
C. H. Coster Gerard,[2] Limited Partner, 1350 Avenue of the Americas, New York, N.Y.
Sumner Gerard, Jr.,[2] Limited Partner, 61 Hodge Road, Princeton, N.J.
Intermediate Credit Corp.,[3] Limited Partner, 1701 Pennsylvania Avenue NW., Washington, D.C.
Roger Knowles,[2] Limited Partner, Fort Hunter Road, Post Office Box 151, Amsterdam, N.Y.
Dr. Joseph Kraft,[2] Limited Partner, 766 Thackery Drive, Highland Park, Ill.
Mary K. Kraft,[2] Limited Partner, 766 Thackery Drive, Highland Park, Ill.
Webster B. Todd,[2] Limited Partner, 250 Park Avenue, New York, N.Y.

Applicant will not concentrate its investments in any particular industry. According to the company's stated investment policy, its investments will be made solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such small concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages. Special emphasis will be given to financing American Indians in Arizona and Montana and in such other states where there are Indian Reservations.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with Small Business Investment Act and the SBA Regulations.

Any interested person may, not later than 10 days from the date of publication of this notice, submit to SBA in writing, relevant comments on the proposed MESBIC. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Amsterdam, N.Y.

A. H. SINGER,
Associate Administrator for Investment.

JUNE 19, 1970.

[F.R. Doc. 70-8069; Filed, June 25, 1970; 8:46 a.m.]

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[2] Stockholders of Ionic, Inc.

[3] Principal stockholder (40.9%) of Small Business Investment Company of New York, Inc., 64 Wall Street, New York, N.Y., a licensed business investment company.

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 23, 1970.

Protests to the granting of an application must be prepared in accordance with § 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. 41980—*Sulphate of ammonia from Hopewell, Va.* Filed by O. W. South, Jr., agent (No. A6177), for and on behalf of the Seaboard Coast Line Railroad Co. Rates on sulphate of ammonia, in bags or in bulk in box cars, in carloads, minimum weight 100,000 pounds per car, subject to volume minimum weight of 250 tons of 2,000 pounds per shipment, as described in the application, from Hopewell, Va., to Charleston, S.C., and Wilmington, N.C.

Grounds for relief—Barge competition.

Tariff—Supplement 99 to Southern Freight Association, agent, tariff ICC S-762.

FSA No. 41981—*Class and commodity rates between points in Texas.* Filed by Texas-Louisiana Freight Bureau, agent (No. 640), for interested rail carriers. Rates on anhydrous ammonia, charcoal, pulpboard or fiberboard, and mustard seed, in carloads and tank carloads, as described in the application, from, to, and between points in Texas, over interstate routes through adjoining States.

Grounds for relief—Intrastate rates and maintenance of rates from and to points in other States not subject to the same competition.

Tariff—Supplement 107 to Texas-Louisiana Freight Bureau, agent, tariff ICC 998.

AGGREGATE-OF-INTERMEDIATES

FSA No. 41982—*Class and commodity rates between points in Texas.* Filed by Texas-Louisiana Freight Bureau, agent (No. 641), for interested rail carriers. Rates on methanol, nitrogen fertilizer solution, rice mill feed, anhydrous ammonia, charcoal, pulpboard or fiberboard, and mustard seed, in carloads and tank carloads, as described in the application, from, to and between points in Texas, over interstate routes through adjoining States.

Grounds for relief—Maintenance of depressed rates published to meet intrastate competition without use of such rates as factors in constructing combination rates.

Tariff—Supplement 107 to Texas-Louisiana Freight Bureau, agent, tariff ICC 998.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70-8109; Filed, June 25, 1970; 8:47 a.m.]

[S.O. 994; ICC Order 19, Amdt. 3]

LOUISVILLE AND NASHVILLE RAILROAD CO. AND BIRMINGHAM SOUTHERN RAILROAD CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 19 (Louisville and Nashville Railroad Co., Birmingham Southern Railroad Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 19 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., December 31, 1970, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., June 30, 1970, and that it 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., June 23, 1970.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 70-8112; Filed, June 25, 1970; 8:48 a.m.]

[Notice 552]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 23, 1970.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72207. By order of June 18, 1970, the Motor Carrier Board approved the transfer to Forman Motor Transfer, Inc., Burlington, Vt., of the operating rights in Certificate No. MC-41144 (Sub-No. 1) issued March 14, 1968, to Harold C. Forman and Donald L. Forman, a partnership, doing business as Forman's Motor Transfer, Burlington, Vt., authorizing the transportation of household goods as defined by the Commission, between points in Vermont, on the one hand, and, on the other, points in Connecticut, Massachusetts, Maine, New Hampshire, New Jersey, New York, and

Rhode Island. Francis E. Barrett, Jr., 536 Granite Street, Braintree, Mass. 02184, attorney for applicants.

No. MC-FC-72159. By order of June 17, 1970, the Motor Carrier Board approved the transfer to Bush Motor Express, Inc., R.F.D. 1, Box 69, Belvidere, Ill. 61008, of the operating rights in Certificate No. MC 98709 (Sub-No. 2) issued September 8, 1965, to Alice M. Bush, doing business as Bush Motor Express, R.F.D. 1, Box 63, Belvidere, Ill. 61008, authorizing the transportation of general commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Belvidere, Ill., on the one hand, and, on the other, points in the Chicago, Ill., commercial zone, as defined by the Commission, except points in Indiana; and from Belvidere, Ill., to Rockford, Ill.

No. MC-FC-72099. By order of June 17, 1970, the Motor Carrier Board approved the transfer to Adams Overland Express, Inc., Westborough, Mass., of the operating rights in Certificate No. MC 36977, issued January 6, 1954, to James W. Adams, doing business as Adams Overland Express, Westborough, Mass., authorizing the transportation of general commodities, with the usual exceptions, between Worcester, Mass., and Fitchburg, Mass., over regular routes, serving all intermediate points. Robert C. Reynolds, 5 West Main Street, Northborough, Mass. 01532, attorney for applicants.

No. MC-FC-72143. By order of June 17, 1970, the Motor Carrier Board approved the transfer to Dennis G. Moran, doing business as Moran International Moving & Storage, Canoga Park, Calif., of Certificate No. MC-63302, issued October 2, 1958, to Eugene Nichols, doing business as Associated Van Lines, San Gabriel, Calif., authorizing the transportation of Christmas trees, from Los Angeles and Los Angeles Harbor, Calif., to points within 50 miles of Los Angeles; and household goods, between points in Los Angeles, Calif.

No. MC-FC-72213. By order of June 19, 1970, the Motor Carrier Board approved the transfer to Virgil Ness, doing business as Ness Trucking, Deer Park, Wis., of the operating rights in Certificate No. MC 10890 issued May 15, 1969, to Arthur M. Butler, Amery, Wis., authorizing the transportation of general commodities, with exceptions between specified points in Wisconsin on the one hand, and, on the other, specified points in Minnesota. A. R. Fowler, 2288 University Avenue, St. Paul, Minn. 55114, representative for applicants.

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

[F.R. Doc. 70-8110; Filed, June 25, 1970; 8:47 a.m.]

ORGANIZATION MINUTES

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 10th day of June 1970.

Section 17 of the Interstate Commerce Act, as amended (49 U.S.C. 17), and other provisions of law being under consideration with the view of providing for the elimination of the assignment of work to Division 2 of initial jurisdiction over the promulgation or prescription of regulations governing the form and manner in which tariffs or schedules required to be filed are to be published, filed, and posted, which have not involved the taking of testimony at a public hearing, or the submission of evidence by opposing parties in the form of affidavits, concurrent with the creation of a Tariff Rules Board, an assignment of such duties and responsibilities to said Board; and providing further for the designation of Division 2 as an appellate division to consider applications for reconsideration of any decisions, orders, or requirements of the Tariff Rules Board, the decisions of said appellate division to be administratively final and not subject to review by the Commission:

It is ordered, That the "Organization Minutes of the Interstate Commerce Commission relating to the Organization of Divisions and Boards and Assignment of Work," issue of July 27, 1965 (30 F.R. 11189, 12559, 13302, and 31 F.R. 242, 4762, 9529, 12693, 13099, and 14025; 32 F.R. 431, 7105, 8000, 8784, 10127, 14627, and 10955; and 33 F.R. 3205, 5780, 7795, and 16543), 34 F.R. 488; 35 F.R. 4353 be further amended as follows:

1. Under the heading "Division 2—Rates, Tariffs, and Valuation Division," in item 4.3 delete paragraph (e) thereof and substitute in lieu thereof the following paragraph:

4.3(e) section 6, except paragraphs (11) and (12), relating to schedules of carriers under Part I, sections 217 and 218 relating to tariffs of common carriers and schedules of contract carriers under Part II, section 306 relating to tariffs of common carriers and schedules of contract carriers under Part III, and section 405 relating to tariffs of freight forwarders under Part IV—including, among other matters, the promulgation or prescription of forms, specifications, rules or regulations to effectuate such provisions of law, as well as applications or petitions involving the construction, interpretation, or application of such forms, specifications, rules, or regulations, except matters arising under sections 6(3), 217(c) 218(a), 306(d), 306(e), and 405(b), assigned to and determined by the Special Permission Board pursuant to item 7.9 unless certified to the Division by the Special Permission Board or recalled by the Division, and except matters arising under sections 6(6), 217(a), 306(b), and 405(b), assigned to and determined by the Tariff Rules Board pursuant to item 7.14 unless certified to the Division by the Tariff Rules Board or recalled by the Division.

2. Under the heading of "Assignment to Boards," add the following item to be designated as Item 7.14:

7.14 *Tariff Rules Board*. Section 6(6), 217(a), 306(b), and 405(b) so far as relating to the prescription of regulations concerning the form and manner in which tariffs required to be filed shall be published, filed, and posted, including the institution of rule-making proceedings under the Administrative Procedure Act, for the purpose of prescribing new or changed regulations, except matters which involved or have involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. The Board may certify to Dvisiion 2 any matter which, in the Board's judgment, should be passed upon by that Division and Division 2 may recall any matter from the Tariff Rules Board.

3. Under the heading "Rehearing and Further Proceedings," delete Item 8.5 thereof and substitute in lieu thereof the following:

8.5 Division 2 is hereby designated as an appellate division to which applications or petitions for reconsideration or review of any order, action, or requirement of the Fourth Section Board under Item 7.2, the Board of Suspension under Item 7.3, the Special Permission Board under Item 7.9, the Released Rates Board under Item 7.10, the Tariff Rules Board under Item 7.14, the Review Boards under paragraph (b) of Item 7.12, or the Accounting and Valuation Board under Item 7.13, shall be assigned or referred for consideration and action. When so acting, it shall have all authority which the Board is authorized to exercise. Decisions or orders of the appellate division shall be administratively final and not subject to review by the Commission. If a petition seeking reconsideration or review of an order, action, or requirement of a Review Board under paragraph (b) of Item 7.12 is not based on an allegation of error on the merits, in whole or in part, such petition, or supplementary authority in such proceeding, shall be determined by that Board.

It is further ordered, That these amendments shall become effective July 1, 1970.

By the Commission.

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

[F.R. Doc. 70-8111; Filed, June 25, 1970; 8:47 a.m.]

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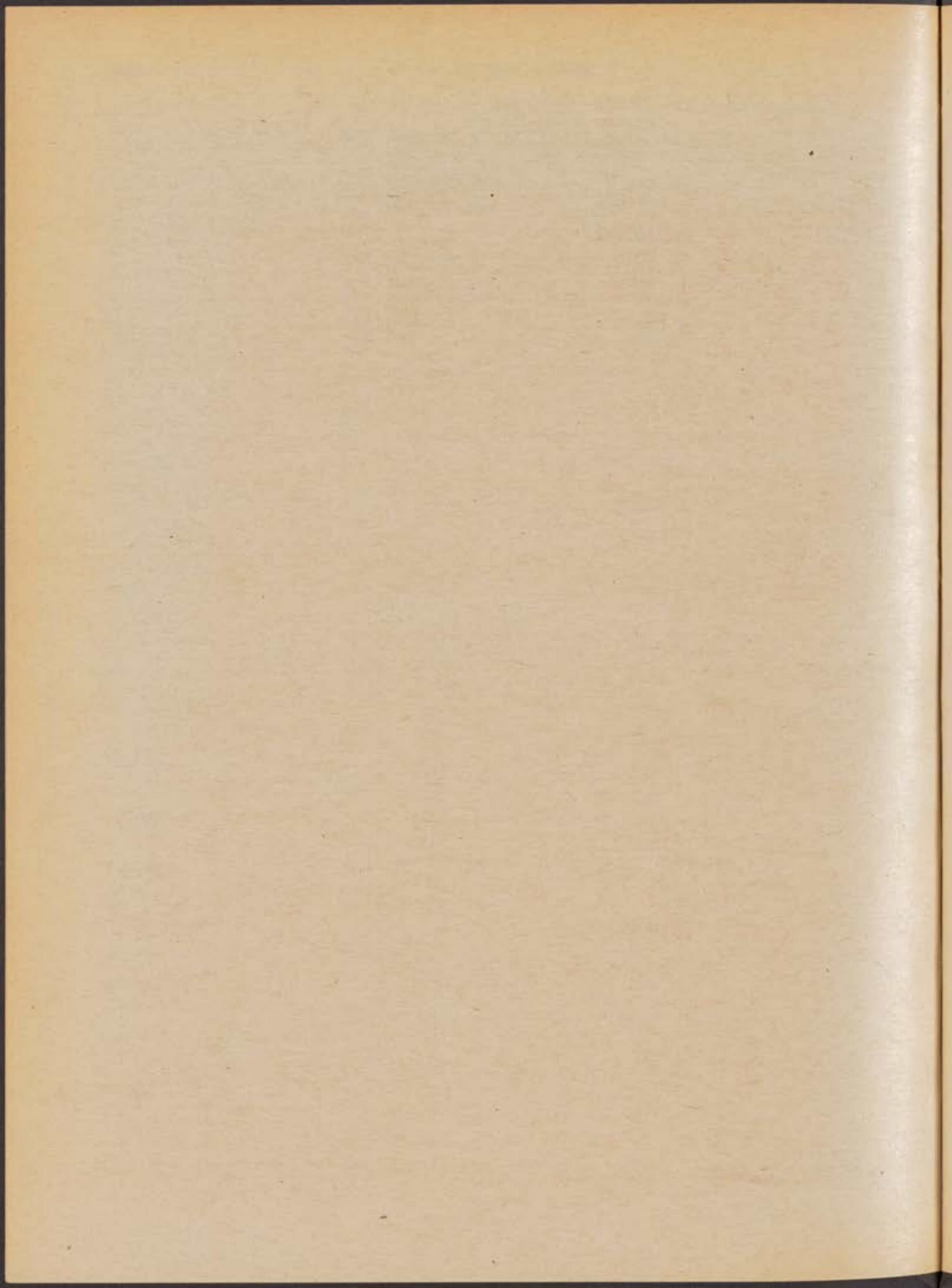

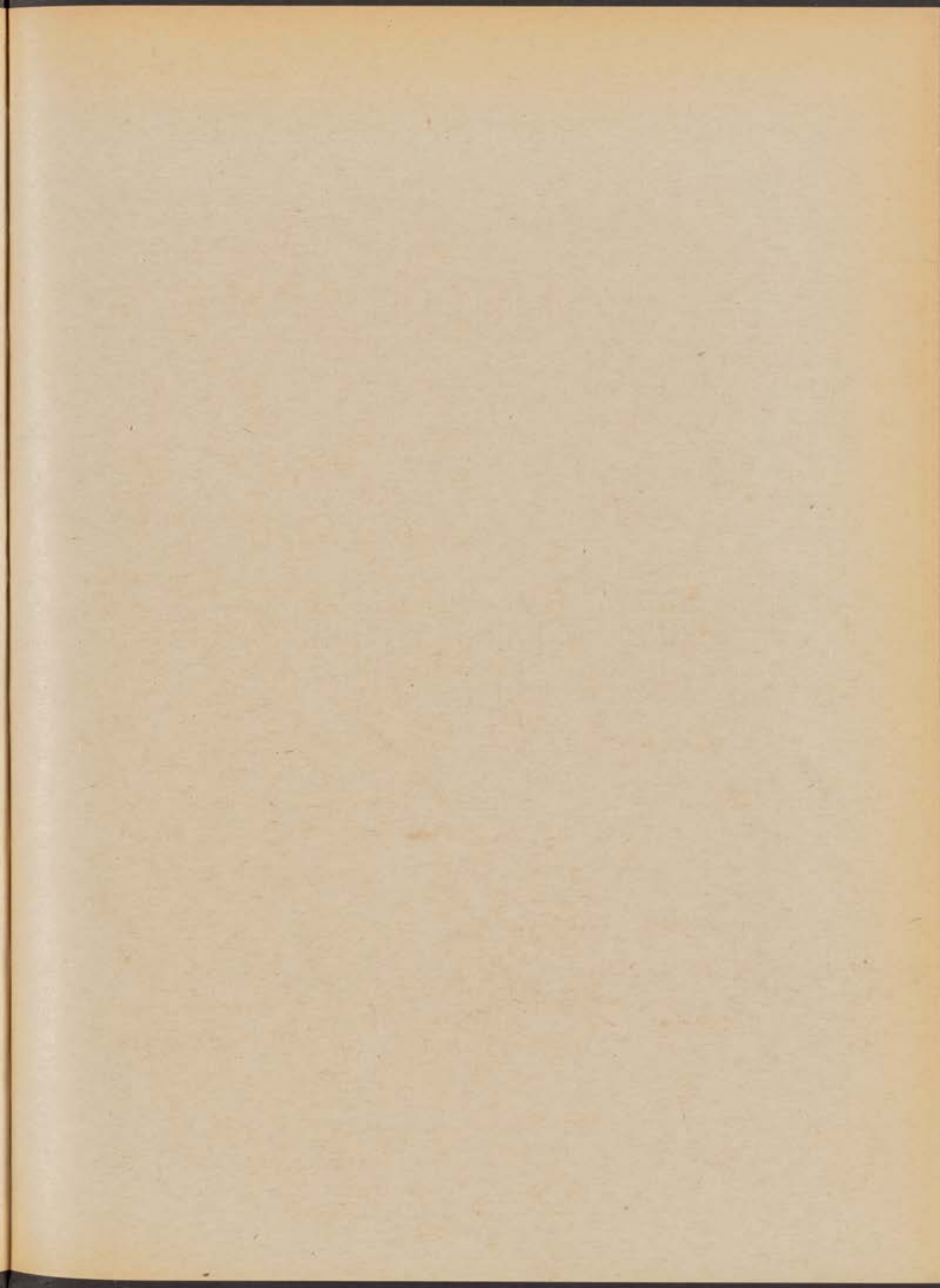

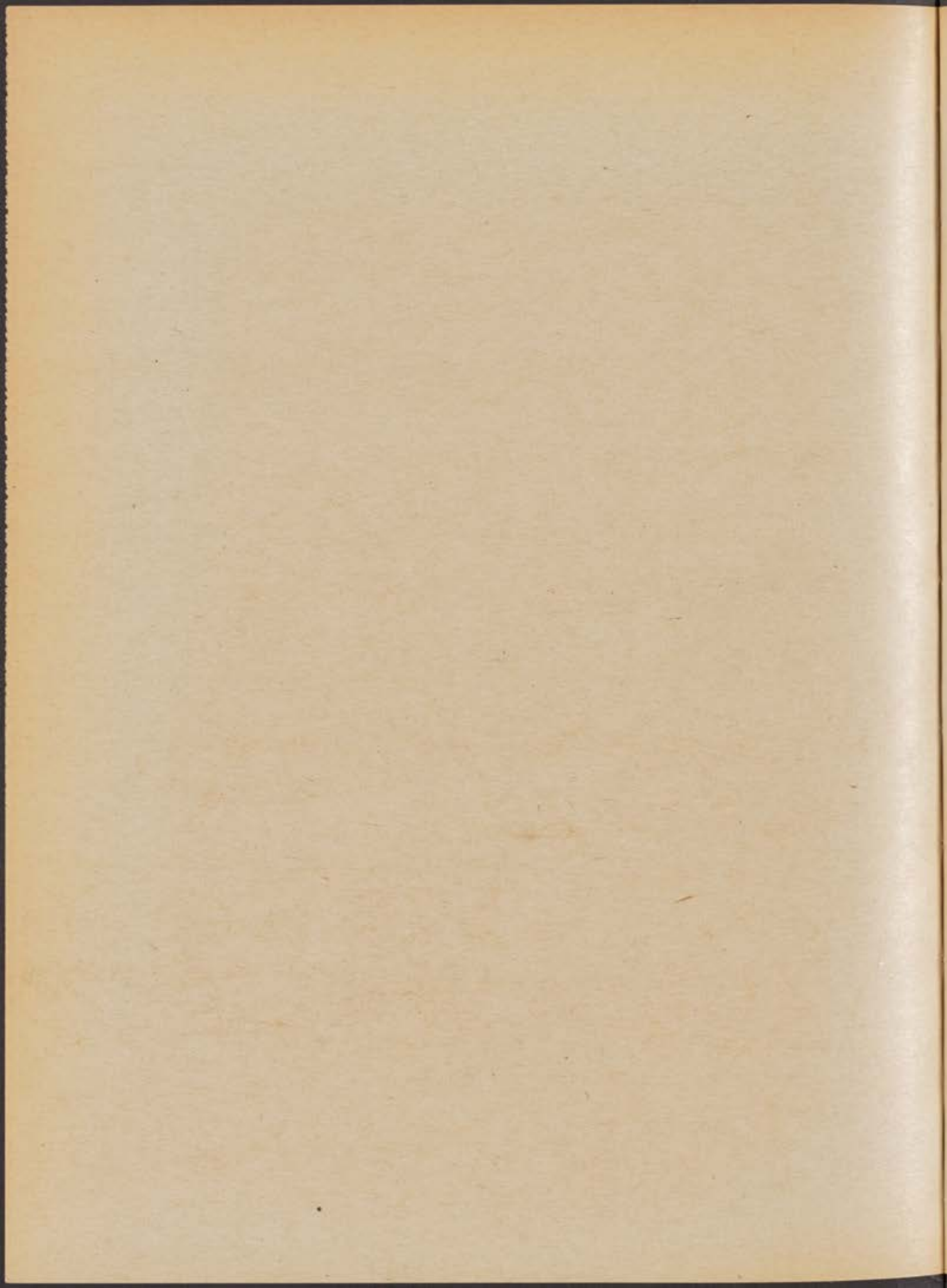

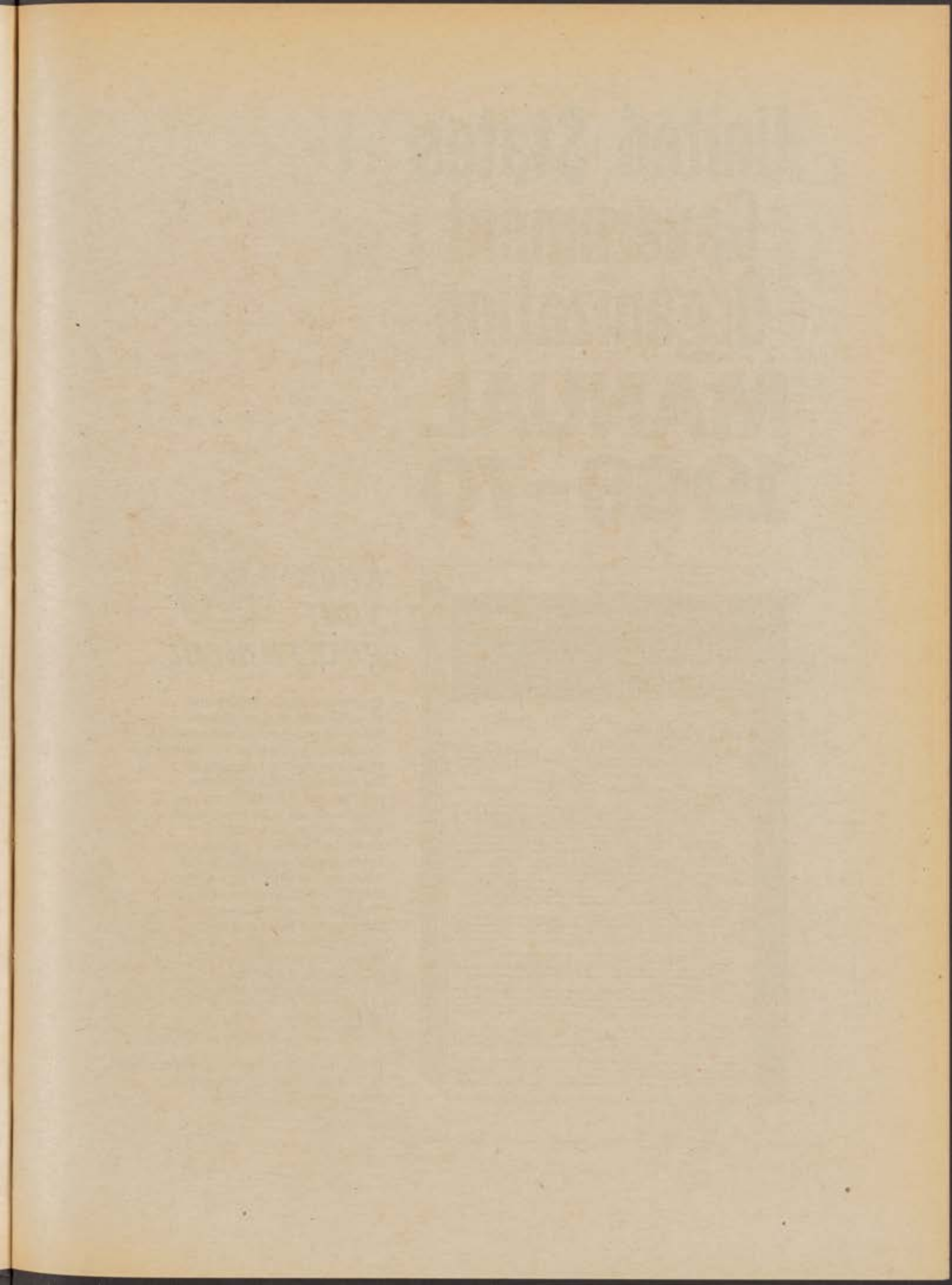

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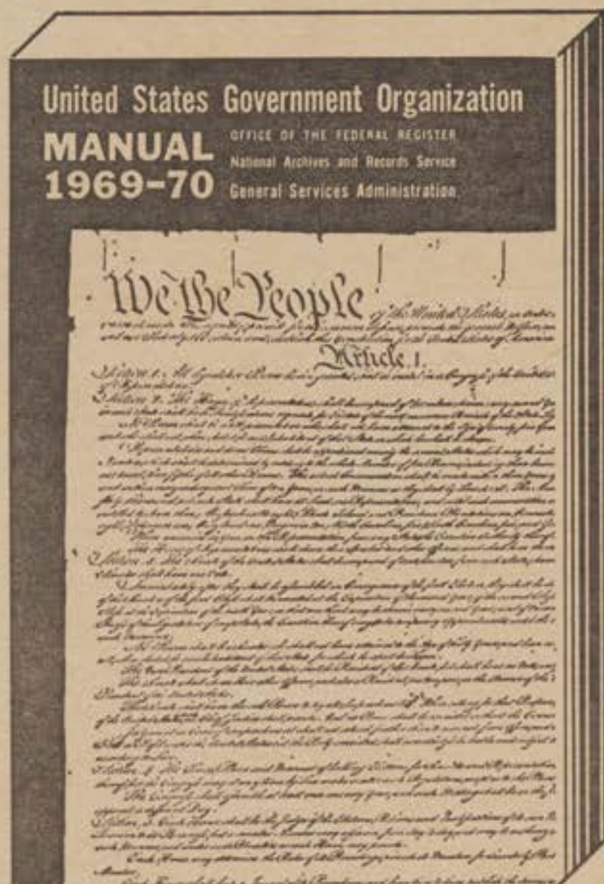

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