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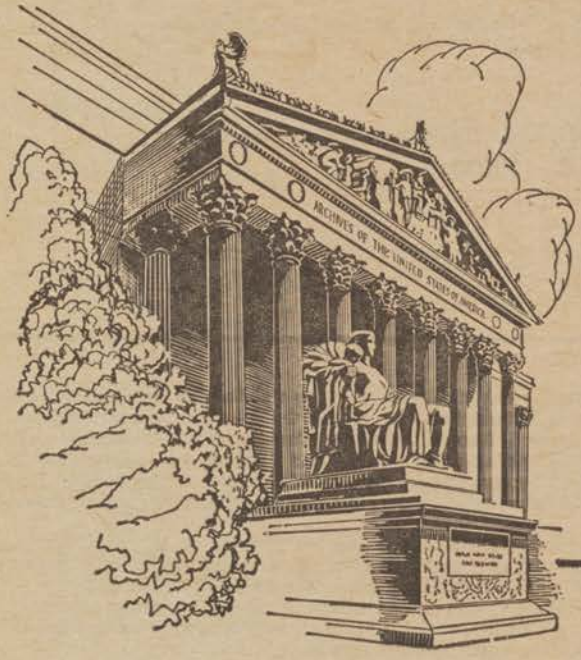

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Title 3—THE PRESIDENT

Executive Order 11557

ENLARGING THE MEMBERSHIP OF THE PRESIDENT'S COMMISSION FOR THE OBSERVANCE OF THE TWENTY-FIFTH ANNIVERSARY OF THE UNITED NATIONS

By virtue of the authority vested in me as President of the United States, Executive Order No. 11546 of July 9, 1970, entitled "Establishing the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations," is hereby amended by substituting the following for subsection (b) of section 1:

"(b) The Commission shall be composed of not more than fifty members, as follows: (1) not more than forty-two members who shall be appointed by the President from public or private life, (2) four persons who are members of the Senate and are hereafter designated as members of the Commission by the President, and (3) four persons who are members of the House of Representatives and are hereafter designated as members of the Commission by the President. The President shall designate the Chairman and the Vice-Chairman from among the members of the Commission."

Richard Nixon

THE WHITE HOUSE,
September 10, 1970.

[F.R. Doc. 70-12244; Filed, Sept. 10, 1970; 2:51 p.m.]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Executive Office of the President

Section 213.3303 is amended to show that the positions of Special Assistant to the Director, Confidential Assistant to the Director, Confidential Assistant to the Deputy Director, and Courier, Office of Telecommunications Policy, are excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (i) is added to § 213.3303 as set out below.

§ 213.3303 Executive Office of the President.

* * * * *

(i) *Office of Telecommunications Policy.* (1) One Special Assistant to the Director.

(2) One Confidential Assistant to the Director.

(3) One Confidential Assistant to the Deputy Director.

(4) One Courier.

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

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

[F.R. Doc. 70-12219; Filed, Sept. 11, 1970; 8:52 a.m.]

PART 213—EXCEPTED SERVICE

U.S. Information Agency

Section 213.3328 is amended to show that one additional position of Secretarial Assistant to the Deputy Director is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, paragraph (a) of § 213.3328 is amended as set out below.

§ 213.3328 U.S. Information Agency.

(a) Two Secretarial Assistants to the Deputy Director.

* * * * *

(5 U.S.C. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp., p. 218)

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

[F.R. Doc. 70-12218; Filed, Sept. 11, 1970; 8:52 a.m.]

PART 531—PAY UNDER THE GENERAL SCHEDULE

Superior Qualifications Appointments

Part 531 is amended to clarify the requirement for a break in service after previous Federal employment before a superior-qualifications appointment. Section 531.203(b)(2) is amended as set out below.

§ 531.203 General provisions.

* * * * *

(b) *Superior qualifications appointments.* * * *

(2) An agency may make a superior qualifications appointment by new appointment or by reemployment except that when made by reemployment, the candidate must have a break in service of at least 90 calendar days from his last period of Federal employment or employment with the government of the District of Columbia (other than (i) employment under an appointment as an expert or consultant under section 3109 of title 5, United States Code, (ii) employment under a temporary appointment effected primarily in furtherance of a postdoctoral research program or effected as a part of a predoctoral or postdoctoral training program during which the employee receives a stipend, (iii) employment as a member of the Commissioned Corps of the Environmental Science Services Administration or the Commissioned Corps of the Public Health Service, or (iv) employment which is not both full-time employment and the principal employment of the candidate).

* * * * *

(5 U.S.C. 5333)

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

[F.R. Doc. 70-12220; Filed, Sept. 11, 1970; 8:52 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 2]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco, 1970–71 and Subsequent Marketing Years

MISCELLANEOUS AMENDMENTS

On page 10524 of the FEDERAL REGISTER of June 27, 1970, there was published a notice of proposed rule making to issue amendments to the regulations relating to farm acreage allotments, farm marketing quotas, the issuance of marketing cards, the identification of marketings of tobacco, the collection and refund of penalties, and the records and reports required of producers, warehousemen, dealers, truckers, storage firms, and Kansas City Data Processing Center for Flue-cured tobacco for the 1970–71 and subsequent marketing years. Interested persons were given 15 days after publication of such notice in which to submit written data, views, and recommendations with respect to the proposed regulations. The data, views, and recommendations which were submitted pursuant to said notice were duly considered within the limits of the Agricultural Adjustment Act of 1938, as amended.

Since farmers are in the process of marketing the 1970 crop, it is essential that these regulations be made effective at the earliest possible date. Accordingly, this document shall become effective upon the date of filing with the Director, Office of the Federal Register.

With one exception, all the proposed amendments to the regulations are adopted along with two additions. The first addition is to amend § 725.72 to authorize leases and transfers of allotments for years subsequent to 1970 and for a term of years not to exceed five, as provided by Public Law 91–284, approved June 19, 1970, which was subsequent to the date the notice was published in the FEDERAL REGISTER. The second addition amends paragraph (d) of § 725.95 to provide that as one of the conditions for not requiring payment of penalty, the failure to record or improper recording by a marketing recorder or other ASCS employee must not have been so large as to place the farm operator or another producer on the farm on notice of the failure or error. Under the regulation prior to this amendment, the placing of notice applied only to the farm operator.

The one proposed amendment which has not been adopted was to use the "actual farm yield" in lieu of the "farm yield" in computing the amount of marketing quota penalty in case of a violation as provided in § 725.95(a). Since "farm yield" is defined in the Agricultural Adjustment Act of 1938, as amended, and is readily available, it has been determined to continue the use of "farm yield" in such a computation.

The first amendment herein contains three changes in § 725.70. In paragraph (b), the requirement that the actual or facsimile signature of a member of the county committee appear on the notice of allotment and quota has been deleted. This will permit the preparation of the allotment notice in the Kansas City Data Processing Center. Also, in paragraph (b), the posting in the county office for

public information of a copy of the printout of the allotment notice data would be authorized in lieu of a copy of the allotment notice. In paragraphs (d) and (e) there is added a provision to make the erroneous notice of allotment or quota applicable if the farm operator prior to planting the tobacco has materially changed his position to enable him to produce the tobacco crop in reliance on the erroneous notice. These changes to paragraphs (d) and (e) will make the provision the same as now applicable to cotton and other commodities.

The second amendment contains the necessary amendments to § 725.72 to carry out the provisions of Public Law 91-284, approved June 19, 1970. It also means a change in paragraph (k) of § 725.72 to delete the reference to Form ASCS-375, which will no longer be used.

The third amendment adds a paragraph (h) to § 725.87 to provide for issuing a marketing card entitling the tobacco to be eligible for price support if the excess acreage on the farm does not exceed the applicable tolerance in Part 718 of this chapter (larger of 0.10 acre or 10 percent of the allotment, but not to exceed 2 acres).

The fourth amendment adds paragraph (d) to § 725.92 to establish the penalty rate applicable to marketings of 1970 crop excess tobacco.

The fifth amendment makes clear that in computing the amount of penalty for false identification or failure to account under § 725.95(a), the excess acres shall be determined as the number of acres harvested in excess of the effective farm acreage allotment. The fifth amendment also contains the amendment to paragraph (d) of § 725.95 relating to the conditions for not requiring payment of the penalty which was discussed above as the second addition to the regulations.

The sixth amendment is similar to the fifth amendment and makes clear that in computing the amount of reduction of allotment under § 725.98(h) for failure of a producer to file reports, filing false reports, falsely identifying tobacco, or failure to return marketing card, the percentage reduction shall be the percentage which the amount of tobacco in violation is of the effective farm marketing quota rather than the farm marketing quota.

The seventh amendment corrects the title of the form to be used by farm operators in certifying whether or not they have used DDT or TDE on their 1970 crops of tobacco, as stated in § 725.111, to the title on the printed form.

The amendments are as follows:

1. Section 725.70, paragraphs (b), (d), and (e) are amended to read as follows:

§ 725.70 Approval of allotments and marketing quotas and notices to farm operators.

* * * * *

(b) *Notice to farm operator.* An official notice of the effective farm acreage allotment and the effective farm marketing quota shall be mailed to the operator of each farm shown by the records of the county committee to be entitled to an allotment. The notice to the operator of the farm shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment is established. Insofar as practical, all notices shall be mailed in time to be received prior to the date of any tobacco marketing quota referendum. A copy of such notice containing thereon the date of mailing or a printout summary of such data shall be maintained for not less than 30 days in a conspicuous place in the county office and shall thereafter be kept available for public inspection in the office of the county committee. A copy of the notice of allotment and marketing quota certified as true and correct shall be furnished without charge to any person interested in the farm for which the allotment is established.

* * * * *

(d) *Allotment erroneous notice.* If the official written notice of the farm acreage allotment and marketing quota issued for any farm erroneously stated an acreage allotment larger than the correct effective farm acreage allotment, the acreage allotment shown on the erroneous notice shall be deemed to be the tobacco acreage allotment for the farm for the current marketing year only, if the county committee determines (with approval of the State executive director) that (1) the error was not so gross as to place the operator on notice thereof, and (2) that the operator, relying upon such notice and acting in good faith (i) materially changes his position to enable him to produce the allotment crop (for example obligated expenditures of funds for land preparation, additional equipment and labor) or (ii) has planted an acreage of tobacco in excess of the correct effective farm acreage allotment.

(e) *Marketing quota erroneous notice.* If the official notice of acreage allotment and marketing quota issued for a farm erroneously stated a marketing quota larger than the correct effective farm marketing quota, the marketing quota shown on the erroneous notice shall be deemed to be the marketing quota and the basis for marketing quota penalty computation for the farm for the current marketing year only, if the county committee determines (with approval of the State executive director) that (1) the error was not so gross as to place the operator on notice thereof, and (2) that the operator, relying upon such notice and acting in good faith (i) materially changed his position to enable him to produce the allotment crop (for example obligated expenditures of funds for land preparation, additional equipment and labor) or (ii) had planted tobacco on the farm and was not notified of the correct farm marketing quota prior to planting the tobacco. Undermarketings and overmarketings for farms for which the erroneous notice of marketing quota is applied shall be determined based on the correct effective farm marketing quota for the farm.

2. Section 725.72, paragraphs (a), (b), and (k), are amended to read as follows:

§ 725.72 Lease and transfer of tobacco marketing quotas.

(a) *Farms eligible.* For the 1970 and subsequent crop years, notwithstanding the provisions of §§ 725.51 through 725.71, but subject to the limitations provided in this section, the owner and operator (acting together if different persons) of any farm for which an old farm tobacco acreage allotment is established for the current year may lease and transfer all or any part of the farm marketing quota established for such farm to any other owner or operator of a farm in the same county with a current year's allotment (old or new farm) for Flue-cured tobacco for use on such farm. The allotment established for a farm as pooled allotment under Part 719 of this chapter may be leased and transferred during the 3-year life of the pooled allotment. The lease and transfer of marketing quotas shall be recognized and considered valid by the county committee subject to the conditions set forth in this section.

(b) *Lease agreement period.* Any lease for 1970 shall be made on an annual basis, and any lease for the 1971 and subsequent crops shall be made for such term of years not to exceed five as the parties thereto agree, and on such other terms and conditions, except as otherwise provided in this section, as the parties thereto agree.

* * * * *

(k) *Revised notices.* A revised notice showing the effective farm acreage allotment and effective farm marketing quota after lease and transfer shall be issued by the county committee to each of the operators of all farms involved in the lease and transfer agreement.

* * * * *

3. Section 725.87 is amended by adding paragraph (h) to read as follows:

§ 725.87 Issuance of marketing cards.

* * * * *

(h) *Farms eligible for price support when certification acreage exceeded.* Notwithstanding the provision in paragraph (d)(1) of this section, if a farm operator in a certification county certified the tobacco acreage to be within the farm allotment and a farm check discloses that such allotment has been exceeded but by not more than the applicable tolerance in Part 718 of this chapter, the marketing card issued for the farm would entitle the tobacco to price support. (The card would not bear the notation set forth in paragraph (d) of this section.)

4. Section 725.92 is amended by adding paragraph (d) to read as follows:

§ 725.92 Rate of penalty.

* * * * *

(d)(1) *Average market price.* The average market price as determined by the Crop Reporting Board for the marketing year specified was:

AVERAGE MARKET PRICE

Marketing year:	Cents per pound
1969–70	72.4

(2) *Rate of penalty per pound.* The penalty per pound upon marketings of excess tobacco subject to marketing quotas during the marketing year specified shall be:

RATE OF PENALTY

Marketing year:	Cents per pound
1970–71	54

5. Section 725.95, paragraphs (a) and (d), are amended to read as follows:

§ 725.95 Producers penalties; false identifications; failure to account; canceled allotments; overmarketing proportionate share.

(a) *Penalties for false identification or failure to account.* If any producer falsely identifies or fails to account for the disposition of any tobacco produced on a farm, penalty at the full rate shall be due on the larger of: (1) The actual marketings above 110 percent of the effective farm marketing quota, or (2) the amount of tobacco equal to 25 percent of the effective farm marketing quota plus the amount determined by multiplying the farm yield times the number of acres harvested in excess of the effective farm acreage allotment.

* * * * *

(d) *Penalties not to be assessed.* If the farm operator or another producer on the farm markets a quantity of tobacco above 110 percent of the effective marketing quota for the farm and such overage is found to have been caused by the failure to record, or improper recording of, tobacco poundage data on the marketing card, that amount of the penalty as was due to such failure to record or improper recording will not be required to be paid by the farm operator or other producer if: (1) For amounts of $10 or less the county committee, with the approval of the State committee, and (2) for amounts above $10 the county committee, with the approval of the State committee, and the Deputy Administrator, determines that each of the following conditions is applicable: (i) The failure to record or incorrect recording resulted from action or inaction of a marketing recorder or another ASCS employee, (ii) such failure or error was not so large as to place the farm operator or another producer on the farm on notice of the failure or error, and (iii) the producer relied in good faith on the erroneous entries on the card resulting from such failure or error. Overmarketings for a farm for which the marketing penalty will not be required to be paid pursuant to the provisions of this paragraph (d) shall be determined based upon the correct effective farm marketing quota and correct actual marketings of tobacco from the farm.

6. Section 725.98, paragraph (h) is amended to read as follows:

§ 725.98 Producers' records and reports.

* * * * *

(h) *Amount of allotment reduction.* The amount of reduction in the allotment for the current year for a violation described in paragraph (a), (e), (f), or (g) of this section shall be that percentage which the amount of tobacco involved in the violation is of the respective effective farm marketing quota for the farm for the year in which the violation occurred. Such percentage shall then be applied after application of the national factor to the preliminary allotment, but before adjusting for over or undermarketings. Where the amount of tobacco involved in the violation(s) equals or exceeds the amount of the farm marketing quota, the amount of reduction shall be 100 percent and no deduction will be made in subsequent years for the violation(s). The quantity of tobacco in violation shall be the amount of tobacco as determined by the county committee. If the actual quantity of tobacco is known, such quantity shall be determined by the county committee to be the amount of tobacco involved in the violation. If the actual quantity of tobacco is not known, the county committee shall determine the quantity in violation in the following manner: The yield per acre and the total production of tobacco on the farm shall be determined by taking into consideration the condition of the crop during production, if known, and the actual yield per acre of tobacco on other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar: *Provided*, That the determination of the total production of tobacco on the farm shall not exceed the harvested acreage of tobacco on the farm multiplied by the average actual yield on farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar. The yield per acre as so determined by the county committee shall be deemed to be the actual production per acre. Where the actual quantity of tobacco produced on acreage not included in a report of acreage is not known, such quantity shall be determined by the county committee to be the quantity resulting from multiplying the yield per acre for the farm determined as aforesaid, by the acreage not shown on a report of acreage. Where the amount of tobacco produced on or marketed from a farm is not known, such quantities shall be determined by the county committee to be the quantity of tobacco remaining after deducting from the total production on the farm as determined aforesaid, the quantity of tobacco for which proof of production and marketing has been furnished. The acreage reductions required under this section shall be in addition to any other adjustments made under these regulations and any amendments thereto later issued.

* * * * *

7. Section 725.111(b) is amended to read as follows:

§ 725.111 Determination of use of DDT and TDE.

* * * * *

(b) *Producer's report.* For each farm on which Flue-cured tobacco is produced, the farm operator or any producer on the farm shall for each year, beginning with the 1970 crop, file with the county office a report on MQ–38, Certification of DDT or TDE used on Tobacco, showing whether or not DDT or TDE was used on the tobacco in the field or after being harvested.

* * * * *

(Secs. 301, 313, 314, 316, 317, 362, 372–375, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 79 Stat. 118, as amended, 79 Stat. 66, 52 Stat. 62, as amended, 52 Stat. 65, as amended, 66, as amended; 7 U.S.C. 1301, 1313, 1314, 1314b, 1314c, 1362, 1372–1375)

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

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

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

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 70–12201; Filed, Sept. 11, 1970; 8:51 a.m.]

SUBCHAPTER C—SPECIAL PROGRAMS

PART 777 — PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

Interpretation

The following interpretation is issued of 7 CFR 777.3(u) (§ 777.3(u) of the Republication of the Processor Wheat Marketing Certificate Regulations (33 F.R. 14676, as amended)).

The question has been raised by a processor who produces flour second clears whether clears produced from a blend of wheat grown in the United States and wheat grown outside the United States would be eligible for refund of certificate costs.

The definition of flour second clears (§ 777.3(u)) excludes flour clears produced from wheat grown outside the United States. This definition states in part the following:

"(u) 'Flour second clears,' means a coproduct of patent flours (including Durum patent flour) which is produced in a 72 percent extraction rate type of milling operation in the United States from wheat produced in the United States and which meets the requirements of this paragraph." * * *

Under this definition, in the case of clears produced from a blend of domestic and imported wheat, the portion of the clears attributable to domestic wheat contained in the blend may qualify as flour second clears eligible for a refund if it otherwise meets the requisite provisions of the regulations. The portion of the clears attributable to the imported wheat contained in the blend cannot qualify for a refund since it was not processed from wheat produced in the United States.

Section 777.18(c) of the regulations provides with certain exceptions that if a processor blends flour second clears with nonqualifying clears the entire blended quantity shall be ineligible for a refund. This section is inapplicable to the instant case since it relates only to the blending of clears obtained in the processing operation and not to the blending of wheat which occurs prior to processing.

If a processor who has produced clears from a blend of domestic and imported wheat wishes to make eligible for a certificate refund the quantity of flour second clears obtained from a blend of domestic and imported wheat he must provide a certification on Form CCC–165 for such eligible flour second clears as required in § 777.18(b). The quantity for which the certification is provided shall be determined by multiplying the percentage of the domestic wheat in the blend from which the clears were produced by the total clears obtained in the processing operation which meets the definition of flour second clears including the clears which meet the definition except as to the origin of wheat from which they were produced. For example, if a blended lot of wheat contains 90 percent domestic and 10 percent imported wheat from which are produced a total of 800 cwt. of clears which are sold to an industrial user and which meet the definition of flour second clears (including the clears which meet the definition except as to the origin of wheat from which produced), the processor may provide a certification on the form for 720 cwt. (i.e., 90 percent of the total of 800 cwt.). The processor must also show on the bottom of the form the quantity of domestic and imported wheat contained in the blend from which the clears were produced and the total clears produced from the blend which are delivered with the Form CCC–165 and which meet the requirements of the definition of flour second clears (except as to the origin of the wheat from which the clears were produced).

Section 777.18(d) specifies the records necessary to support each Form CCC–165 issued. This section states in part as follows:

"(d) *Records.* The processor shall retain a copy of all Forms CCC–165 which he issues. Each Form CCC–165 shall be identified to its respective invoice number and quantity invoiced. To support the certifications, the processor must retain laboratory reports and mill records which identify production runs by date of processing, lot number, type of wheat processed, and which can be identified to the flour second clears covered by an invoice." * * *

Accordingly, when blended wheat is processed, the processor must identify the Forms CCC–165 as required above and show in his records the types of wheat contained in the blend, including, if applicable, the quantities or percentages of imported wheat.

If sales are made to distributors, the distributor shall issue Forms CCC–165–1 Distributor Certification, Flour Second Clears, in the same manner as stated above for the processor.

The industrial users are cautioned to show as flour second clears received, on item 2B of the claim forms (Forms CCC–161 or 161–1, Industrial Users Production Report and Claim for Refund) only that quantity covered by the certification on Form CCC–165 or 165–1. (See paragraph (2)(B) of appendices IV and V.)

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

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 70–12202; Filed, Sept. 11, 1970; 8:51 a.m.]

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

PART 932—OLIVES GROWN IN CALIFORNIA

Subpart—Rules and Regulations

MISCELLANEOUS AMENDMENTS

Notices were published in the FEDERAL REGISTER issues of August 8 and October 2, 1969, and July 24, 1970 (34 F.R. 12891, 15339, and 35 F.R. 11927), that the Department was giving consideration to a proposed amendment of the rules and regulations (Subpart—Rules and Regulations, 7 CFR 932.108–932.161) currently in effect pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), regulating the handling of olives grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Amendment was proposed by the Olive Administrative Committee, established pursuant to the amended marketing agreement and order as the agency to administer the provisions thereof.

During the period provided by the final notice for the submission of written data, views, or arguments pertaining to the proposal, certain views, arguments, and proposed minor revisions were submitted by C. C. Graber Company of Ontario, Calif., through its attorneys, Nichols, Stead, Boileau & Lamb. The material submitted has been reviewed by this Department and its conclusions are hereby reflected in this amendment of the rules and regulations.

The first proposed revision involves paragraph (a)(1) of the new § 932.109 *Canned ripe olives of the tree-ripened type* and suggests inclusion therein of the phrase "at the time of picking" immediately following the word "black". The respondent stated that inclusion of the phrase would eliminate the possibility of artificially creating, within the olives, a color that would meet the color requirement set forth in the section and consumers would be assured of being provided with true "tree-ripened" olives. The suggested revision would have the impracticable effect of requiring that olives be inspected at the various times and location of harvest (picking). Because of the aforementioned impracticality, and in order to accomplish the stated objectives, the phrase "a lot of natural condition olives" is hereinafter inserted following the word "from". In view of the fact that olives are in natural condition (as defined in the order) at the time of picking, inclusion of the aforementioned phrase will assure that the olives are delivered in natural condition which is the intent of the published proposal.

The second proposed revision involves paragraph (a)(2) of the same section (§ 932.109) and suggests substitution therein of the words "by lot" in lieu of the words "by count". The respondent stated that "lot" is defined in the marketing order and the words "by count" create an ambiguity when read in conjunction with § 932.51(b) and would unnecessarily complicate the inspection process without any attendant benefits. As published in the notice, paragraph (a)(2) provides a 10 percent tolerance, by count for "off-color" olives as defined therein. In view of the fact that "count" is ascertained, by the Inspection Service, through inspection of samples drawn from each lot of olives, the result is ultimately the same as that which would accrue from the proposed revision which is hereby denied. However, in order to prevent possible misinterpretation of paragraph (a)(2), the words "a lot of" are included in the phrase that is being inserted in paragraph (a) as described heretofore. Thus it will be clear that the words "by count" refer to olives in the previously mentioned "lot of natural condition olives".

The final suggestion was to delete the word "intended" from the proposed paragraph (e)(1) of extant § 932.152 *Outgoing regulations.* It was pointed out that under the proposed language a handler could, subsequent to receiving olives for other purposes, change his intent and process and can the olives as tree-ripened type of olives without complying with the provisions of the section. In order to eliminate any question about handlers' intent as it might affect the ultimate use of "tree-ripened" olives, paragraph (e) is hereinafter revised. In particular, the new provisions contain a specific reference to § 932.51(b) and certain stipulations set forth therein pertaining to "natural condition olives solely for use in the production of * * * canned ripe olives of the tree-ripened type".

After consideration of all relevant matter presented, including that in the notices, the recommendations, considerations, and information submitted with respect thereto, and other available information, it is hereby found that amendment, as hereinafter set forth, of said rules and regulations is in accordance with said amended marketing agreement and order and will tend to effectuate the declared policy of the act in that it will facilitate more efficient handling of olives and contribute to more effective operations under said marketing agreement and order.

Therefore, said rules and regulations (Subpart—Rules and Regulations, 7 CFR 932.109–932.161) are hereby amended as follows:

1. A new § 932.109 *Canned ripe olives of the tree-ripened type* is added to read as follows:

§ 932.109 Canned ripe olives of the tree-ripened type.

(a) "Canned ripe olives of the tree-ripened type" means packaged olives, not oxidized in processing, that are prepared from a lot of natural condition olives of advanced maturity which, at the time of delivery to the handler:

(1) Range in color from pinkish red, with some greenish cast, to black; and

(2) Have not more than 10 percent, by count, of "off-color" olives ("off-color" means those olives whose greenish cast covers more than 50 percent of the surface of the individual olives).

(b) The provisions of this section shall be applicable only during the crop year ending August 31, 1971.

2. The provisions of § 932.152 *Outgoing regulations* are amended by adding a new paragraph (e) to read as follows:

§ 932.152 Outgoing regulations.

* * * * *

(e) *Examination of certain olives received for use in the production of canned ripe olives of the tree-ripened type.* (1) Pursuant to § 932.51(b), whenever a handler receives a lot of natural condition olives solely for use in the production of canned ripe olives of the tree-ripened type, he shall, at the time of receipt, notify the committee or the Inspection Service of the lot so received which shall then be subject to examination by the committee or by the Inspection Service, if so designated by the committee, to assure that the olives in such lot comply with the specifications set forth in § 932.109. Each such handler shall identify all such lots of natural condition olives and keep them separate and apart from other olives received. Such identification and separation shall be maintained throughout the processing and production of such olives as canned ripe olives of the tree-ripened type.

(2) The provisions of this paragraph shall be applicable only during the crop year ending August 31, 1971.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give further notice and engage in further public rule making procedure, and good cause exists for making this amendment effective at the time hereinafter set forth and for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) seasonal handling of California olives will begin on or about September 14, 1970, and to be of maximum benefit the provisions of this amendment should become effective as soon as possible to afford handlers more efficiency in their operations, (2) the effective period, as specified in the notice, is for the crop year ending August 31, 1971, and it implied the effective date of September 14, 1970, hereinafter set forth, to which no exceptions were submitted, (3) the effective date hereof will not require of handlers any preparation that cannot be completed prior thereto, and (4) amendment was recommended by the Olive Administrative Committee in an open meeting at which all interested persons were afforded an opportunity to submit their views.

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

Dated, September 9, 1970, to become effective September 14, 1970.

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

[F.R. Doc. 70–12198; Filed, Sept. 11, 1970; 8:51 a.m.]

PART 932—OLIVES GROWN IN CALIFORNIA

Subpart—Rules and Regulations

SIZES OF PROCESSED OLIVES

Correction

In F.R. Doc. 70–11582 appearing at page 13877, in the issue of Wednesday, September 2, 1970, the fraction appearing in the third, fourth and seventh lines of § 932.153(a)(2) reading "one one-hundred-and-fiftieth" should read "one one-hundred-and-fifth".

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 70–WE–16–AD; Amdt. 39–1078]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 747–100 Series Airplanes

Amendment 39–992 (31 F.R. 13697), AD 70–11–1, requires inspection of wing trailing edge aft flap support arms on Boeing Model 747–100 series airplanes. AD 70–11–1 included a note to indicate that the AD would be revised to provide for terminating action.

After issuing Amendment 39–992, the Agency determined that a suitable replacement part has been developed. Therefore, the AD is being amended to provide terminating action.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–992 (31 F.R. 17466), AD 70–11–1, is amended as follows:

1. Delete the note.

2. Add a new paragraph (d) to read:

(d) Repetitive inspections may be discontinued upon replacement of the existing aft flap support arm assemblies with new, improved support arm assemblies per Boeing Service Bulletin No. 27–7024, revision 2, or later FAA-approved revision. Replacement of an existing support arm assembly with the new improved support arm assembly eliminates inspection requirement at that location only.

This amendment becomes effective September 15, 1970.

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

Issued in Los Angeles, Calif., on September 3, 1970.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[F.R. Doc. 70–12162; Filed, Sept. 11, 1970; 8:48 a.m.]

[Airworthiness Docket No. 70–WE–31–AD; Amdt. 39–1079]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC–8 Series Airplanes

Pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), an airworthiness directive was adopted on August 21, 1970, and made effective immediately as to all known U.S. operators of McDonnell Douglas Model DC–8 Series airplanes. The directive requires deactivation of the auxiliary engine starting system high pressure air storage system in accordance with McDonnell Douglas All Operator Telegraphic Maintenance Campaign No. C1–SVC–DC8–COM–21 and/or Supplement C1–SVC–DC8–COM–22.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of McDonnell Douglas Model DC–8 Series airplanes by individual telegrams dated August 21, 1970. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective to all persons.

Pursuant to the authority of the Federal Aviation Act of 1958, delegated to me by the Administrator, the following airworthiness directive applicable to operators of McDonnell Douglas Model DC–8 Series airplanes equipped with the high pressure air auxiliary engine start system is effective immediately upon receipt of this telegram because of cracks and explosive failures of the high pressure air storage chamber in the MLG shock strut cylinder. Applies to all McDonnell Douglas Model DC–8 airplanes equipped with the high pressure air auxiliary engine starting system. Within the next 50 hours' time in service after receipt of this telegram, unless already accomplished, deactivate the high pressure air storage system in the auxiliary engine starting system in accordance with McDonnell Douglas A11 Operators Telegraphic Maintenance Campaign No. C1–SVC–DC8–COM–21, dated August 13, 1970, and/or Supplement C1–SVC–DC8–COM–22, dated August 14, 1970, or an equivalent procedure approved by the Chief, Aircraft Engineering Division. An amendment of this AD is being developed to prescribe inspections and/or rework which will permit air storage system to be reactivated. Pass this telegraphic AD to leasees or recent purchasers of your affected DC–8 airplanes.

This amendment is effective September 15, 1970, and was effective upon receipt for all recipients of the telegram dated August 21, 1970, which contained this amendment.

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

Issued in Los Angeles, Calif., on September 2, 1970.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[F.R. Doc. 70-12163; Filed, Sept. 11, 1970; 8:48 a.m.]

[Airspace Docket No. 69-SO-105]

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

Designation of Transition Area

On October 9, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 15659), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Swainsboro, Ga., transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable.

Subsequent to publication of the notice, the geographic coordinate (lat. 32°36'30" N., long. 82°22'15" W.) for Emanuel County Airport was obtained from Coast and Geodetic Survey. It is necessary to alter the description by inserting the geographic coordinate for the airport. Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary and action is taken herein to alter the description accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 12, 1970, as hereinafter set forth.

In § 71.181 (34 F.R. 2134), the following transition area is added:

SWAINSBORO, GA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Emanuel County Airport (lat. 32°36'30" N., long. 82°22'15" W.); within 3 miles each side of Swainsboro TVOR (lat. 32°36'24" N., long. 82°22'10" W.) 315° radial, extending from the 6.5-mile radius area to 8.5 miles northwest of the TVOR.

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

Issued in East Point, Ga., on September 2, 1970.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 70-12164; Filed, Sept. 11, 1970; 8:48 a.m.]

[Airspace Docket No. 69-PC-6]

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

Alteration of Transition Area

On August 6, 1970, F.R. Doc. 70-10194 was published in the FEDERAL REGISTER (35 F.R. 12533). This document, in part, altered the Honolulu, Hawaii, transition area effective 0901 G.m.t., October 15, 1970. The last phrase in the description of the Honolulu transition area is in error. Corrective action is taken herein.

Since this amendment is minor and editorial in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, F.R. Doc. 70-10194 is amended, effective upon publication in the FEDERAL REGISTER, as hereinafter set forth.

In § 71.181 (35 F.R. 2134, 12533) the phrase "extending from 13 miles southwest of the VORTAC;" is deleted and the phrase "extending from 13 miles to 14 miles southwest of the VORTAC;" is substituted therefor.

(Secs. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348, 1510; Executive Order 10854, 24 F.R. 9565; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on September 4, 1970.

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

[F.R. Doc. 70-12166; Filed, Sept. 11, 1970; 8:48 a.m.]

[Airspace Docket No. 70-SO-47]

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

Alteration of Transition Area

On August 18, 1970, F.R. Doc. 70-10779 was published in the FEDERAL REGISTER (35 F.R. 13117), amending Part 71 of the Federal Aviation Regulations by designating the Clinton, N.C., transition area.

In the amendment, a transition area extension is predicated on the 244° bearing from Clinton RBN. Subsequent to publication of the rule, Coast and Geodetic Survey refined the final approach bearing from the Clinton RBN to 247°. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, F.R. Doc. 70-10779 is amended as follows:

In line five of the Clinton, N.C., transition area description "* * * 244° bearing * * *" is deleted and "* * * 247° bearing * * *" is substituted therefor.

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

Issued in East Point, Ga., on September 2, 1970.

GORDON A. WILLIAMS, Jr.,
Acting Director, Southern Region.

[F.R. Doc. 70-12165; Filed, Sept. 11, 1970; 8:48 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-644; Amdt. 1]

PART 213—TERMS, CONDITIONS AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS

Airport Authorization Procedures

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of September 1970.

By Regulation ER-624, adopted April 23, 1970, effective June 4, 1970, 35 F.R. 8880, the Board enacted new Part 213, Terms, Conditions and Limitations of Foreign Air Carrier Permits, which contains, inter alia, provisions relating to airport authorizations applicable to holders of foreign air carrier permits. Prior to the enactment of Part 213, the provisions of Part 203 (Terms, Conditions and Limitations of Certificates of Public Convenience and Necessity; Foreign Air Transportation) were expressly made applicable to permits of foreign air carriers in the orders authorizing the issuance of such permits. In enacting Part 213 it was intended to restate certain provisions of Part 203 and make them applicable to foreign air carriers in a separate regulation. However, it now appears that there are certain inconsistencies between the airport authorization procedures in Parts 203 and 213, resulting from the failure to reflect recent Part 203 amendments in Part 213. The purpose of this amendment is to correct such inconsistencies[1] and to make the airport authorization provisions of Part 213 conform, as nearly as practicable, to those in Part 203.

Since this regulation merely restates the airport authorization and cancellation procedures applicable to foreign air carriers prior to the adoption of new Part 213 and corrects inconsistencies between Parts 213 and 203 so as to make the airport authorization provisions of Part 213 conform to those in Part 203, the Board finds that notice and public procedure hereon are unnecessary and the regulation shall become effective 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, the Board hereby amends Part 213 of the economic regulations (14 CFR Part 213), effective October 15, 1970, to read as follows:

1. Amend § 213.4 to read as follows:

§ 213.4 Airport authorization.

(a) *Airport notice.* An airport notice is required to be filed with the Board if the holder of a permit desires to serve regularly a point in the United States, its territories or possessions named in such permit, through an airport not then regularly used or authorized to be used by the holder to serve such point. Such application shall conform in all respects to

[1] The principal changes are to: (1) Provide a recommended format of airport notice; (2) include provisions for automatic revocation of airport authorization for nonuse; and (3) require service on the Federal Aviation Administration.

the procedure set forth in paragraphs (b) and (c) of this section and § 213.5. When an airport notice is required hereunder, the permit holder shall file it with the Board at least 30 days prior to the proposed date of inauguration of the use of the airport. Such notice shall be conspicuously entitled "Airport Notice—Foreign Air Transportation"; shall, as a minimum amount of information, describe such airport by name and, if it is not an airport already being used by an air carrier subject to the provisions of Part 203 of this chapter or a foreign air carrier subject to the provisions of this part, state its location; shall state the date of intended inauguration of service and whether a waiver of the 30-day notice provision is requested; and shall contain a notice to the persons served that they may, within 15 days of the date the notice was filed, file and serve memoranda in support of, or in opposition to, the notice. A recommended format of the airport notice is set forth in Appendix B to this part. The use of such airport may be inaugurated 30 days after the filing of such notice, unless the Board notifies the holder within said 30-day period that it appears to the Board that such use may adversely affect the public interest, in which event such use shall not thereafter be inaugurated (except as may be expressly permitted by such notification from the Board) unless and until the Board finds, upon application filed by the holder, pursuant to paragraph (b) of this section, that the public interest would not be adversely affected by such use. The Board may permit the use of an airport at any time after the filing of the airport notice whenever the circumstances warrant such action. In no event shall the provisions of this section be construed as authorizing a foreign air carrier to receive at one airport and discharge at any other airport serving the same point passengers or property moving locally between the two airports, or passengers or property moving as part of a through journey to or from some other point which such carrier receives from, or transfers to, another carrier at one of the two airports. This prohibition does not apply to the carriage between airports of through traffic which the foreign air carrier performing the interairport service receives from or transfers to, one of its own flights.

(b) *Application for permission to use an airport.* Following notification by the Board that the use of an airport proposed in an airport notice filed pursuant to paragraph (a) of this section may adversely affect the public interest, the foreign air carrier may file an application for permission to use such airport. An application filed pursuant to this paragraph shall be conspicuously entitled "Application for Permission to Use the ---------- Airport for Serving ---------- ----------" and shall set forth the information required in the airport notice as well as any other facts relied upon to establish that the proposed airport use is in the public interest, a statement of economic data or other matters which it is desired that the Board officially notice, and shall contain a notice to the persons served that they may, within 20 days of the date the application was filed, file and serve memoranda in support of, or in opposition to, the application.

(b–1) *Automatic revocation.* (1) Where a permit holder has been authorized to serve a point located in the United States regularly through two or more airports, failure to provide regularly scheduled foreign air transportation through one of those airports for 60 days shall automatically revoke any authorization to regularly use that airport. Regular service through the airport may be resumed only upon compliance with and pursuant to the procedures set forth in paragraph (a) of this section: *Provided, however,* That the following shall not be included in the 60-day period: (i) Nonuse of an airport for any period in which regularly scheduled service is offered through the airport on a flag-stop basis; and (ii) periods during which a carrier has failed to regularly use an airport as a result of any of the conditions listed in § 205.8(a) of this chapter.

(2) A carrier's suspension of service to a point located in the United States for 1 year, pursuant to a provision in its permit or pursuant to Board order, shall revoke any authorization to use an airport to serve that point. Regular service through the airport may be resumed only upon compliance with and pursuant to the procedures set forth in paragraph (a) of this section.

(3) Within 30 days after the day a carrier's airport authorization is automatically revoked by the terms of this section, the carrier shall file with the Board a notice conspicuously entitled, "Termination of Service Notice," setting forth, as a minimum amount of information, the name of the airport and date of cessation of regular service. A recommended format of the Termination of Service Notice is set forth in Appendix C to this part.

(c) *Persons to be served.* A copy of each airport notice or application for permission to use an airport, filed with the Board pursuant to this part by a permit holder, shall be served upon such persons as the Board may designate in a particular case, and shall be served upon the following persons in all cases:

(1) The Posmaster General, marked for attention of Deputy Assistant Postmaster General for Logistics, Bureau of Operations, if the holder's permit authorizes the transportation of mail;

(2) The Secretary of State, marked for attention of Director, Office of Aviation, Bureau of Economic Affairs;

(3) The Secretary of the Treasury, marked for attention of Commissioner of Customs, Bureau of Customs;

(4) Each scheduled foreign air carrier or scheduled air carrier which regularly renders service to or from the point intended to be served through the proposed airport; and

(5) The Federal Aviation Administration, marked for attention of Director of Airport Services.

2. Amend § 213.5 (b) and (c) to read as follows:

§ 213.5 Filing of schedules and applications for approval of schedules; filing and service of airport notices and applications for permission to use an airport; procedure thereon.

* * * * *

(b) *Pleadings by interested persons.* Any interested person may file and serve upon the foreign air carrier a memorandum in opposition to, or in support of, schedules, airport notice or application for permission to use an airport or for approval of schedules within 15 days of the filing of the airport notice, within 20 days of the filing of the application for permission to use an airport, or within 10 days of the filing of schedules or applications for approval of schedules. In the case of an airport notice or application for permission to use an airport, memoranda in support of or in opposition thereto shall also be served on the persons described in § 213.4(c). All memoranda shall set forth in detail the reasons for the position therein taken, with a statement of economic data and other matters which it is desired that the Board shall officially notice, and affidavits stating such other facts as are relied upon. Memoranda filed pursuant to this paragraph shall contain a certificate of service in the form prescribed by paragraph (a) of this section. An executed original and three copies in the case of schedules or airport notices, 19 copies in the case of applications for permission to use an airport or approval of schedules, shall be filed with the Docket Section of the Board. Unless ordered by the Board upon application or upon its own motion, further pleadings will not be entertained.

(c) *Determination and petitions for reconsideration.* The Board may make its determination upon the application and other pleadings or, in its discretion, after hearing. Interested persons seeking reconsideration of the Board's determination on an application for permission to use an airport or approval of schedules may file a petition pursuant to Rule 37 of Part 302 of this chapter within 10 days of Board action. Any interested person may file an answer in opposition to, or in support of, the petition within 10 days after it is filed. An executed original and 19 copies of such petition for reconsideration or memorandum shall be filed with the Docket Section. Petitions for reconsideration of the Board's determination on an application for permission to use an airport and answers thereto shall be served upon the relevant persons described in § 213.4(c), the foreign air carrier, and any other persons who have filed pleadings in the proceeding. All petitions for reconsideration shall contain a certificate of service in the form prescribed by paragraph (a) of this section. Unless ordered by the Board upon application or upon its own motion, further pleadings will not be entertained.

3. Add the following Appendix B to Part 213:

APPENDIX B

RECOMMENDED AIRPORT NOTICE—FOREIGN AIR TRANSPORTATION

Date _____

To: Director, Bureau of Operating Rights, Civil Aeronautics Board, Washington, D.C. 20428.

Re: Airport notice filed pursuant to Part 213 of economic regulations.

DEAR SIR: Transmitted herewith are an original and three copies of this notice to advise that _____ (foreign air carrier) intends to inaugurate service to the following points through the following airports:

Point _____.

Airport _____.

Service to be inaugurated on or after _____.

Give exact longitude and latitude of the airport to be served (applicable only if airport is not already being used by an air carrier pursuant to Part 203 (14 CFR Part 203) or by a foreign air carrier pursuant to this part) _____

Indicate whether waiver of 30-day provision is requested _____

Notice: The regulations of the Civil Aeronautics Board provide that memoranda in support of or in opposition to this airport notice may be filed with the addressee above within 15 days of the date of filing hereof. Such memoranda shall be served on the applicant carrier and the persons on whom this notice has been served.

_____
(Signature)

_____
(Title)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served (state manner of service) copies of this airport notice on the Postmaster General marked for the attention of the Deputy Assistant Postmaster General for Logistics, Bureau of Operations (if the holder's permit authorizes the transportation of mail); the Secretary of State, marked for the attention of Director, Office of Aviation, Bureau of Economic Affairs; the Secretary of the Treasury, marked for attention of Commissioner of Customs, Bureau of Customs; the Federal Aviation Administration, for the attention of the Director, Airport Services; and the following scheduled foreign air carriers and scheduled air carriers: _____ (name and address).

_____
(Signature)

_____
(Title)

4. Add the following Appendix C to Part 213:

APPENDIX C

RECOMMENDED TERMINATION OF SERVICE NOTICE—FOREIGN AIR TRANSPORTATION

To: Director, Bureau of Operating Rights, Civil Aeronautics Board, Washington, D.C. 20428.

Re: Termination of Service Notice filed pursuant to Part 213 of economic regulations.

DEAR SIR: Transmitted herewith are an original and three copies of this notice to advise that _____ (foreign air carrier) will cease to provide service on _____ (date) to the following points through the following airports:

Point _____.

Airport _____.

_____
(Signature)

_____
(Title)

(Secs. 204(a), 402, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-12187; Filed, Sept. 11, 1970; 8:50 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Piedmont National Wildlife Refuge, Ga.

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

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

GEORGIA

PIEDMONT NATIONAL WILDLIFE REFUGE

Public hunting of bobwhite quail on the Piedmont National Wildlife Refuge, Ga., is permitted only on the area designated by signs as open to hunting. The open area, comprising approximately 32,000 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations covering the hunting of bobwhite quail subject to the following special conditions:

(1) Species permitted to be taken: Bobwhite quail only.

(2) Open season: December 5, 1970, through February 6, 1971, on Saturdays and Tuesdays only. Hunters are permitted on areas open to quail hunting from 30 minutes before sunrise until 30 minutes after sunset on the above cited hunting days.

(3) No vehicular or horseback travel except on State and County roads.

(4) Hunters under 18 years old must be under the immediate supervision of an adult.

(5) Camping and fires are prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through February 6, 1970.

C. EDWARD CARLSON,
Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 2, 1970.

[F.R. Doc. 70-12149; Filed, Sept. 11, 1970; 8:47 a.m.]

Title 32—NATIONAL DEFENSE

Chapter V—Department of the Army

SUBCHAPTER A—AID OF CIVIL AUTHORITIES AND PUBLIC RELATIONS

PART 518—AVAILABILITY OF INFORMATION

Release of Information and Records From Army Files

Section 518.9-1 is added as follows:

§ 518.9-1 Tort claims.

(a) Each request from a claimant or his attorney for a record, including those listed in § 518.7, which relates to a pending administrative tort claim that has been filed against the Army will be referred to the claims approving or settlement authority with monetary jurisdiction over the pending claim (AR 27-20). If the request concerns an incident in which a claim is pending but in which a larger potential claim exists that has not yet been filed, the authority with monetary jurisdiction over the potential claim will receive the request.

(b) If no administrative tort claim has been filed and the request is made by a potential claimant or his attorney under circumstances clearly indicating that he desires to obtain a record for use in connection with the filing of such a claim, the request will be referred to the authority named in paragraph (a) of this section who, where subordinate, will in turn communicate in writing or by telephone the substance of the request and the contents of the record to Chief, U.S. Army Claims Service, Fort Holabird, Md. 21219 (AUTOVON 231-1546, X4222 or 6220).

(c) Officials listed in § 518.11(a) (1) through (4) who receive such requests will refer them directly to Chief, U.S. Army Claim Service.

(d) The authority in paragraph (a) of this section will process the request in accordance with this part and paragraph 1-6, AR 27-20.

[Change No. 4, July 29, 1970, to AR 345-20, June 30, 1967] (Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012)

For the Adjutant General.

DONALD L. GEER,
Colonel, AGC,
Executive Officer, TAGO.

[F.R. Doc. 70-12134; Filed, Sept. 11, 1970; 8:45 a.m.]

SUBCHAPTER E—ORGANIZED RESERVES

PART 564—NATIONAL GUARD REGULATIONS

Enlisted Men

1. The table of contents for Part 564 concerning enlisted men is revised as follows:

ENLISTED MEN

Sec.
564.14 General.
564.15 Qualification for enlistment, reenlistment, or extension of enlistment.
564.16 Periods of enlistment and grades.
564.18 Discharge and separation.

2. Sections 564.14, 564.15, and 564.16 are revised, as follows:

ENLISTED MEN

§ 564.14 General.

(a) *Purpose.* This section and §§ 564.15 and 564.16 prescribes the eligibility requirements and procedures for enlistment, reenlistment, and extension of enlistments of individuals in the Army National Guard.

(b) *Policy.* (1) Recruitment, enlistment and extension of enlistment are responsibilities of the several states, Commonwealth of Puerto Rico and the District of Columbia. The discharge of this responsibility will require active recruitment of qualified individuals of all races, creeds, and ethnic groups toward the end that all units will generally reflect the character of the population in the unit's recruiting area.

(2) The earliest applicant who meets the minimum qualifications for a vacancy within the priorities indicated below will be accepted for enlistment. The State Adjutant General is authorized to grant an exception to this policy when, in his best judgment, an individual's prior active or reserve military service or significant civilian experience in occupational skill concerned is considered to warrant the exception. This authority may not be further delegated. Priorities are as follows:

(i) *Priority 1.* Immediate reenlistment (extension to fill own vacancy).

(ii) *Priority 2.* Members of the reserve components whose failure to gain unit membership would result in involuntary order to active duty.

(iii) *Priority 3.* Mandatory or voluntary assignment of members of units reorganized, inactivated or relocated.

(iv) *Priority 4.* Members of the Individual Ready Reserve.

(v) *Priority 5.* Prior service applicants.

(vi) *Priority 6.* Nonprior service applicants who are—

(*a*) Age 19 and under and have not undergone random selection for induction.

(*b*) Over age 26 and whose 26th birthday was prior to January 1, 1970.

(vii) *Priority 7.* Nonprior service applicants who are age 19 or over and have undergone random selection for induction.

(3) Enlistments will be accomplished only to fill authorized vacancies in the active Army National Guard except as indicated in § 564.16(e) and in AR 135–91.

(4) Enlistment, reenlistment, and extension of enlistment are subject to any additional requirements imposed by State law, including residence.

(5) The date of enlistment is the date upon which the oath of enlistment is administered. An enlistment will not be antedated or postdated under any circumstances.

(c) *Definitions.* The following definitions are applicable in this section and §§ 564.15 and 564.16:

(1) *Enlistment.* (i) Initial entry into the active Army National Guard of individual without prior military service, or

(ii) Initial entry into the active or inactive Army National Guard of an individual with prior military service but without prior National Guard service.

(2) *Reenlistment.* The reentry into the active Army National Guard of any individual having prior National Guard service.

(3) *Extension of enlistment.* Continuation of active Army National Guard status without a break in service.

(d) *Federal recognition status.* (1) A person enlisting in a federally recognized unit of the Army National Guard acquires a federally recognized status on the date on which he takes and subscribes to the oath of enlistment.

(2) A person enlisting in an Army National Guard unit not federally recognized, acquires a federally recognized status on the date his unit is federally recognized. However, the period of enlistment of the person commences on the date he takes and subscribes to the oath of enlistment.

(e) *Army National Guard of the United States*—(1) *General.* The Army National Guard of the United States is a reserve component of the U.S. Army and consists of all federally recognized units and organizations of the Army National Guard and of members who, in addition are Reserves of the Army in the same grade in which they are federally recognized.

(2) *Membership.* Membership in the Army National Guard of the United States is acquired by virtue of—

(i) Enlistment in the Army National Guard, and

(ii) Enlistment as a Reserve of the Army in the same grade.

(3) *Ready Reserve.* Members of the Army National Guard of the United States, including the Inactive Army National Guard, remain members of the Ready Reserve throughout their period of service as provided by AR 135–90.

§ 564.15 Qualification for enlistment, reenlistment, or extension of enlistment.

(a) *Citizenship.* An applicant who is otherwise qualified may be enlisted if he is—

(1) A citizen of the United States, or

(2) Has been lawfully admitted to the United States for permanent residence under the applicable provisions of chapter 12 of title 8, United States Code. An alien must present Alien Registration Card (Immigration and Naturalization Form I–151) or documentary evidence issued by the U.S. Immigration and Naturalization Service attesting that subject has been admitted to the United States for permanent residence. This form will not be reproduced.

(b) *Age*—(1) *Individuals without prior service—17 to 35 years.* The written consent of the parents or legal guardian is required for individuals under 18 years of age.

(2) *Individuals with prior service.* (i) Under 45 years of age may be enlisted, or reenlisted, if they have had service in Armed Forces of the United States, including the reserve components thereof, equal or exceeding that shown in following table:

Age:	*Service required*
36 and under 38	1 year.
38 and under 41	2 years.
41 and over	2 years plus the number of years applicant is over age 40.

(ii) If 45 years of age or over may be enlisted provided they meet the total service requirements listed in subdivision (i) of this subparagraph, and in addition have had service in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps.

(iii) If 45 years of age or over may be reenlisted provided they meet the total service requirements listed in subdivision (i) of this subparagraph.

(iv) No enlistment or reenlistment may be accepted under subdivision (ii) or (iii) of this subparagraph, for a term extending beyond the individual's 60th birthday, except with the prior written approval of the Chief, National Guard Bureau, an individual may be enlisted for a term expiring after his 60th and before his 64th birthday.

(3) *Exceptions.* (i) Applicants who have been awarded the Silver Star or a higher decoration may be—

(*a*) Enlisted if under 45. If 45 years of age or over must have had prior service with the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, and

(*b*) Reenlisted, if under 60 years of of age.

(ii) Applicants who have reached their 36th and have not reached their 45th birthday at time of application for enlistment may be accepted for enlistment and service in onsite missile units of the Army National Guard. Such individuals are limited in assignment to such units and for service only within their immediate area; i.e., CONUS, Alaska, Hawaii, or Commonwealth of Puerto Rico.

(iii) Applicants who have reached their 45th and have not reached their 55th birthday at time of application may be—

(*a*) Enlisted for service in onsite missile units, provided they have served at

least 1 year in the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps. The same assignment limitations indicated in subdivision (ii) of this subparagraph, are applicable.

(b) Reenlisted for service in onsite missile units, provided they have served at least 1 year in an Armed Force of the United States, including any reserve component thereof. The same assignment limitations indicated in subdivision (ii) of this subparagraph, are applicable.

(4) *Special skills.* Applicants who possess technical skills required by the Army National Guard who have reached their 36th and have not reached their 45th birthday, may, when specifically authorized by the Adjutant General of the State, Commonwealth of Puerto Rico, or the District of Columbia, be accepted for enlistment and service in State Headquarters and Headquarters Detachment. A person in this category will not be transferred to another unit unless he fulfills the age criteria for enlistment therein and is qualified for general service.

(c) *Mental requirements.* Except for individuals enlisting in the Alaska Scout Battalions, the minimum mental requirements are—

(1) *Applicants without prior service in any of the Armed Forces.* As prescribed by paragraph 29, NGR 25–1, the AFQT and AQB will be administered to all applicants prior to enlistment. The minimum acceptable scores for consideration of enlistment are as follows:

Minimum AFQT	High school	AQB
31	N/A	90.[1]
10–30	Graduate	90.[1]
16–30	Nongraduate	90.[1]
10–15	Nongraduate	2 scores of 90.[1]

[1] A minimum AQB score of 90 or higher if required by the MOS concerned must be obtained in the aptitude area of the MOS for which enlisted.

(2) *Applicants with prior service or for reenlistment.* Applicants must have attained an AFQT score of 21 or higher. In cases where no record of previously made test scores are available, readministration of the AFQT will be accomplished.

(3) *Applicants for the Alaska Scout Battalions.* Applicants are exempt from the requirements prescribed in subparagraphs (1) and (2) of this paragraph.

(d) *Medical requirements.* See NGR 27.

(e) *Moral requirements.* Each applicant must be of good character and reputation. An applicant may be required to furnish evidence of good character. For the applicant with prior service, Report of Separation from the Armed Forces of the United States (DD Form 214) or other similar document will be presented to the enlisting officer for verification.

(f) *Dependents.* Individuals with prior service may be enlisted or reenlisted with four or more dependents provided they are enlisted or reenlisted in grade E–4 or higher in accordance with § 564.16(d). This grade restriction does not apply to enlistment of members of USAR and members of the ARNG of another State, without a break in service, or to extension of enlistments or reenlistments. Prior to enlistment or reenlistment of personnel with four or more dependents they must voluntarily execute agreement prescribed in paragraph 6, NGR 26–1.

(g) *Training agreements.* (1) Individuals without prior military service must agree as a condition of enlistment to enter on active duty for training in a Federal status. Each individual is required to execute an agreement, in quadruplicate, using NGB Form 21B or NGB Form 21D, as appropriate. Individuals participating in Non-ROTC College OCS Program must also execute NGB Form 21E. Individuals enlisting without requirement to participate in active duty for training must execute NGB Form 21D with the form properly modified.

(2) An individual with a remaining reserve obligation may be enlisted to fill an existing vacancy in an MOS other than that for which he is trained but for which he is eligible under enlistment standards, provided he agrees to perform the additional active duty for training in a Federal status that may be necessary to become qualified in the MOS concerned. Additional active duty for training will be required when such training is a prerequisite for award of the MOS concerned, as specified in AR 611–201, or in other cases where the unit commander determines that the unit does not have the capability to provide adequate and timely OJT leading to award of the new MOS. A member accepted on the basis of performing additional ACDUTRA will sign an amendment to his current Enlistment Agreement (ARNG), or Acknowledgment of Understanding of Service Requirements (USAR), as appropriate.

(h) *Applicants with records of conviction by civil court.* The following classes of personnel are ineligible for enlistment, reenlistment, or extension unless a waiver is granted by the State Adjutant General:

(1) Persons who have been convicted by a civil court for other than the commission of a felony and those who have been adjudicated juvenile delinquents by a civil court. (Those with less than six traffic offenses during a 1 year period may be enlisted without waiver.) See chapter II, to AR 601–210 for guide list of typical offenses other than felonies for which the State Adjutant General may grant waivers.

(2) Persons who, subsequent to date of last discharge, have been convicted by a civil court for other than the commission of a felony and those who have been adjudicated a juvenile delinquent by a civil court. (Those with less than six traffic offenses during a 1 year period may be enlisted without waiver.) See appendix to AR 601–210 for guide list of typical offenses other than felonies for which the State Adjutant General may grant waivers.

(3) Persons under civil restraint when the restraint consists solely of "unconditional suspended sentence" or "unsupervised unconditional probation". Waivers will not be granted for persons under any other type of civil restraint.

(i) *Persons ineligible for enlistment, reenlistment, or extension unless waiver is granted.* The following classes of personnel are ineligible for enlistment, reenlistment, or extension unless waiver is granted by the Chief, National Guard Bureau under unusual circumstances and where military considerations are paramount.

(1) *Applicant having time lost.* A person who has been discharged from active Federal service, whose total time lost under 10 U.S.C. 972 in an Armed Force, was 60 days or more during his last period of enlistment or period of active duty.

(2) *Physically substandard applicants.* Applicants previously rejected for enlistment in any component or who have served in any of the Armed Forces and who fail to meet the prescribed physical standards, and those last separated by reason of physical disability regardless of whether or not they meet the prescribed medical standards. This includes personnel whose report of separation is governed by regulations identified under AR 601–210.

(3) *Applicants classified I–Y or IV–F.* Applicants classified I–Y or IV–F by Selective Service.

(4) *Applicants last separated under certain conditions.* Applicants last discharged by reason of any of the following regulations or conditions.

(i) Applicants last discharged from the Army under AR 615–366 or AR 635–206, paragraph 4 *a*, *b*, or 6, AR 615–367; AR 615–368 or AR C35–208; AR 615–369 or AR 635–209, AR 635–212, and applicants last discharged by similar authority from the other services.

(ii) Applicants whose DD Form 214 (Report of Separation from the Armed Forces of the United States) or similar document includes the following "EM does not meet prescribed requirements for retention;" "Adjudged a Youthful Offender" or "AFR 39–14," letter AFPMP–4h, Mar. 20, 1950, subject; "Discharge of Physically Disqualified Airmen for Convenience of the Government;" "Paragraph 11, SR 615–105–1, applies", or "Paragraph 9, or 20, AR 615–120" or "Paragraph 9, AR 601–210, applies."

(iii) Former commissioned officers or warrant officers last separated from any of the Armed Forces, whether as a direct result of trial by courts-martial, reclassification, or elimination proceedings or by resignation in lieu thereof, and former officers and warrant officers last separated under AR 605–200, AR 605–275, AR 635–100, or AR 635–120.

(5) *Age and service requirements.* Applicants who fail to meet age and service requirements of paragraph (b) of this section.

(j) *Classes ineligible for enlistment, reenlistment, or extension—no waivers granted*—(1) *Persons convicted of felonies.* Persons convicted of felonies are ineligible except that for prior servicemen only those felonies committed subsequent to their last period of honorable active service are disqualifying.

(2) *Applicants against whom criminal charges are pending.* Persons who have

criminal charges filed and pending against them.

(3) *Parolees.* Persons on parole, probation, or under a suspended sentence of any civil court.

(4) *Discharged under other than honorable conditions.* Applicants last discharged from the Armed Forces of the United States, including the reserve components thereof, under other than honorable conditions.

(5) *Insane or intoxicated.* Persons who are habitually intoxicated, or, who are insane, drug addicts, not of good character and temperate habits, or, who have a record of behavior disorders.

(6) *Claim of prior honorable service.* Applicants unable to substantiate prior service (DD Form 214, or similar document).

(7) *Persons who have received severance pay.* Persons whose last report of separation shows that severance pay was received.

(8) *Deserters.* Deserters from any of the Armed Forces of the United States.

(9) *Aliens.* Aliens except as provided in paragraph (a) (2) of this section.

(10) *Minors.* Applicants under 17.

(11) *Persons receiving disability pension or compensation.* Persons who draw a disability pension, disability allowance, or disability compensation from the Government of the United States unless waived in accordance with paragraph (l) of this section.

(12) *Persons receiving retirement pay.* Persons who draw retirement pay from the Government of the United States where retirement has been made on account of physical disability, service or age, including regular enlisted members of the Army who have been retired after 20 years of service (10 U.S.C. 3914).

(13) *Persons with military status.* Members of the armed forces of the United States. (See paragraph (k) (1) of this section.)

(14) *Members of NROTC, Advance Course AFROTC or Senior Division, ROTC.* Persons who are bona fide members of Navy ROTC, advance Air Force ROTC, or Senior Division, ROTC.

(15) *Applicants who are disloyal or subversive or who refuse to sign loyalty certificates.* Applicants who admit participation or whose available records show that they have at any time engaged in disloyal or subversive activities, applicants who refuse to sign the Armed Forces Security Questionnaire (DD Form 98), and applicants who sign the certificate and claim Federal constitutional privileges under the Fifth Amendment or Article 31, Uniform Code of Military Justice (10 U.S.C. 831).

(16) *Conscientious objectors.* A person who is a conscientious objector. If an individual has been a conscientious objector, he will be required to furnish an affidavit which will express his abandonment of such beliefs and principles so far as they pertain to his willingness to bear arms and to give full and unqualified military service to the United States. An affidavit will be prepared in quadruplicate and copy attached to each copy of the enlistment record.

(17) *Persons with dependents.* Persons with four or more dependents, except as provided in paragraph (f) of this section.

(18) *Persons previously discharged for dependency or hardship.* A person who was previously discharged from any of the Armed Forces of the United States for hardship or dependency may not be accepted for enlistment (or reenlistment) unless it has been determined by investigation, conducted by the enlisting officer, that the reasons for which discharged no longer exist. A copy of the applicant's affidavit giving reasons for discharge, how they have been overcome, and that he will be available and not request discharge for similar reason in the event of an emergency, will be attached to each copy of the enlistment record.

(19) *Cadets.* Cadets. U.S. Military Academy; Midshipmen, U.S. Naval Academy; Cadets, U.S. Coast Guard Academy; Aviation Cadets, U.S. Air Force; and Cadets, U.S. Air Force Academy.

(20) *Selective Service registrants.* Selective Service registrants who have received orders from their local board to report for induction.

(21) *Types of separation.* Applicants separated from their last period of active service in any of the Armed Forces under any of the regulations and/or conditions prescribed in AR 601–210, except as provided in paragraph (i) (4) and (5) of this section.

(22) *Maximum age or service.* Officers removed from active status by reason of having attained maximum age or service.

(k) *Enlistment of members of reserve components of other Armed Forces.* (1) Members of the Army Reserve and members of the other reserve components of the Armed Forces may be enlisted in the Army National Guard provided, prior to enlistment, a conditional release is obtained from the unit or activity responsible for administering such personnel.

(2) Upon release from active duty in the U.S. Army, Ready Reserve obligors may be enlisted in the Army National Guard within 60 days from date of such release. The State Adjutant General will be notified of the availability of such personnel by the receipt of DA Form 2376 which is furnished by the commander of the transfer or separation point.

(3) Upon enlistment or reenlistment of the applicant, the State Adjutant General will notify the losing component by letter which will include date, unit, and place of enlistment.

(l) *Enlistment of individuals receiving benefits.* (1) Applicants for enlistment who are entitled to a disability pension, or disability compensation from the Government of the United States by virtue of prior military service, except as indicated below, are eligible for enlistment and reenlistment in the Army National Guard provided—

(i) They are qualified in all respects.

(ii) They waive, for the remainder of the current fiscal year and upon commencement of each fiscal year thereafter, either that portion of their benefits for the days for which they receive Federal pay and allowances for service as members of the Army National Guard, or their Army National Guard pay and allowances.

(2) The above provisions do not authorize the enlistment of individuals retired for physical disability, age, and enlisted men retired under 10 U.S.C. 3914.

(3) Procedures for waiving dual payment are contained in NGR 58.

(m) *Persons whose enlistment requires special authority prior to enlistment*—(1) *Exempted classes.* The following persons will be enlisted or reenlisted only upon written request signed by the applicant prior to enlistment in which he specifically states he desires to waive his exemption from militia duty (10 U.S.C. 312).

(i) Officers, judicial and executive, of the United States and of the several States, Commonwealth of Puerto Rico, and the Canal Zone.

(ii) Customhouse clerks.

(iii) Persons employed by the United States in the transmission of the mail.

(iv) Workmen employed in armories, arsenals, and naval shipyards of the United States.

(v) Pilots on navigable waters.

(vi) Mariners in the sea service of a citizen of or a merchant in the United States.

(2) *U.S. civilian officers and employees.* A civilian official or employee of the United States or of the District of Columbia, including persons listed in subparagraph (1) (i) through (iv) of this paragraph, will not be enlisted or reenlisted in the Army National Guard without the written consent of the local head of the Department or service in which he is employed. Such consent will be obtained prior to enlistment or reenlistment.

(3) Provisions of subparagraphs (1) and (2) of this paragraph do not apply to National Guard technicians.

(n) *Waivers.* (1) Requests for waivers may be submitted by the unit commander concerned through the State Adjutant General to the Chief, National Guard Bureau. Each request will be submitted in letter form and will include a statement by the unit commander which indicates the proposed assignment of the applicant and his value to the service. Each commander who is required to indorse the request for waiver will include in the indorsement his recommendation with respect to the applicant. Each request for waiver will be supported by the following:

(i) One copy of DD Form 4 (Enlistment contract) completed except for items 1, 6, 58, and information of enlistment.

(ii) One copy of SF 88 (Report of Medical Examination).

(iii) One copy of SF 89 (Report of Medical History).

(2) In addition, to the above, the following specific requirements for particular disqualifying factors:

(i) For failure to meet medical standards, sufficient medical data is required by NGR 27.

(ii) For disqualifications listed in paragraph (h) of this section.

(*a*) Statement by the applicant of the offense committed and results thereof.

(*b*) Statement from civil authorities as to the offense committed with results of adjudication, to include nature of restraint with dates.

(*c*) Statements from at least three reputable citizens who have known the applicant for more than a year, commenting specifically relative to his character, personal habits, reputation, and record of employment.

§ 564.16 Periods of enlistment and grades.

(a) *Period of enlistment.* Periods of enlistment in the Army National Guard are prescribed below.

(1) *Without prior military service.* A person without prior military serivce will be enlisted for 6 years.

(2) *Prior service.* (i) A person with prior service and without a military service obligation may be enlisted for any period but not less than 1 year and not to exceed age 60, unless specifically authorized by the Chief, National Guard Bureau.

(ii) A person with prior service and with a remaining military service obligation will be required to enlist for a period sufficient to cover the remainder of his existing service obligation and is subject to the limitations contained in subdivision (i) of this subparagraph.

(b) *Periods of reenlistments.* Reenlistments will be accomplished only when an individual has had a break in Army National Guard service, when discharged from the Army National Guard of another State without a break in service, or when a member of the Air National Guard is reenlisted in the Army National Guard. Periods of reenlistment will be as prescribed in paragraph (a)(2) of this section, as appropriate.

(c) *Voluntary extension of enlistment.* (1) An enlistment or reenlistment will be extended whenever an individual desires to continue in his Army National Guard status without a break in service. Extension may be for any period but not less than 1 year and not to exceed age 60, unless specifically authorized by the Chief, National Guard Bureau. There is no limitation on the number of extensions except as indicated above. Extension to serve beyond age 60 will be limited to those authorized in subparagraphs (2) and (3) of this paragraph, if otherwise qualified.

(2) An individual who is not qualified for retirement under chapter 67 of title 10, United States Code (Title III retirement) upon reaching age 60 but who could qualify prior to attaining age 64, may, subject to the approval of the Chief, National Guard Bureau, be extended for a period equal to the remaining period required for qualification.

(3) An individual who is or is not qualified for retirement under chapter 67 of title 10, United States Code (Title III retirement) at age 60 may, subject to the approval of the Chief, National Guard Bureau, be extended for a period not to exceed 2 years but not to exceed age 64, for the purpose of qualifying for retirement under the provisions of Public Law 90-486 (82 Stat. 755).

(d) *Grades.* Enlistment will be in grade E-1 except as provided for grades E-2 through E-7. (See also § 564.14(3).)

(1) Applicants with at least 4 months active service in any of the Armed Forces, if not eligible to enlist in a higher grade, will be enlisted in grade E-2.

(2) Former enlisted personnel of the Armed Forces and reserve components thereof may be enlisted in pay grade held at time of relief from active duty or last discharge.

(3) Persons enlisting in the Army National Guard who are members of the Army Reserve may be enlisted in the grade held as a member of the Reserve of the Army.

(4) Applicants successfully completing the following number of years of training in the academy of one of the Armed Forces of the United States or in the ROTC program are authorized the following scale of grade eligibilty. The termination of such training must have been under honorable conditions.

Military, Naval, Air Force, or Coast Guard Academy	Senior division ROTC (college level)	Military school division ROTC (military secondary schools and junior college)	Junior division ROTC or NDCC (high school)	Grades
1 year	1 year	2 years	2 years	Pvt. (E-2).
2 years	2 years	4 years	3 years	Pvt. (E-3).
3 years or more	3 or 4 years	5 years or more		Corporal or Spec. 4 (E-4).

(5) Applicants possessing a technical or administrative skill needed by a unit may be enlisted in a grade higher than E-1 upon approval of the State adjutant general as outlined below:

(i) Individuals without prior military service in a grade not to exceed highest grade authorized for the MOS as shown in AR 611-201 or the grade of the TOE or TDA unit assignment of the enlistee provided the applicant—

(*a*) Is enlisted for an appropriate vacancy (skill, MOS and grade) in a unit.

(*b*) Agrees in writing to such assignment and training.

(ii) Enlistments for supervisory positions will be made only when the applicant is performing comparable supervising functions in civilian life.

(iii) Individuals with prior military service may be enlisted in a grade higher than that held upon discharge or relief from active duty if the skill now possessed by them and needed by the unit merits such higher grade.

(iv) The unit commander will interview each applicant and forward his recommendation as to grade through channels to the State adjutant general.

(v) Authority to approve grade for enlistment may not be delegated below the State adjutant general.

(6) Individuals enlisted will be permitted to retain Army ratings such as parachutist, combat infantryman, and similar technical designation previously awarded. Appropriate notation will be made on their records to reflect such actions.

(e) *Exceptions to grade vacancy for Ready Reserve obligors.* A person with a Ready Reserve obligation may be enlisted up to and including grade E-5 in excess of TOE grade, provided enlisted strength authorized by unit TOE will not be exceeded. Such individuals may be transferred to another unit within the same State under the same conditions.

[NGR 25-1, July 10, 1970] (Sec. 110, 70A Stat. 600; 32 U.S.C. 110)

For the Adjutant General.

DONALD L. GEER,
Colonel, AGC, Executive Officer.

[F.R. Doc. 70-12132; Filed, Sept. 11, 1970; 8:45 a.m.]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter I—Bureau of the Census, Department of Commerce

PART 30—FOREIGN TRADE STATISTICS

Elimination of Shipper's Export Declaration Requirements for Certain NASA Shipments

Notice is hereby given that pursuant to the authority contained in title 13, United States Code, section 302, the Foreign Trade Statistics Regulations (15 CFR Part 30) are amended as set forth below. In accordance with administrative procedure, title 5 United States Code, section 553, notice and hearing on the amendment and postponement of the effective date thereof are unnecessary because (1) the amendment is a change in substantive rules which grants or recognizes exemptions or relieves restrictions, and (2) is an interpretive rule and statement of policy.

Effective date. This amendment to the Foreign Trade Statistics Regulations is effective on the date of publication in the FEDERAL REGISTER.

§ 30.37 [Amended]

1. Section 30.37(a)(1) is deleted in its entirety.

2. A new paragraph (k) is hereby added to § 30.55 to read as follows:

§ 30.55 Miscellaneous exemptions.

(k) Shipments for use in connection with NASA tracking systems under Office of Export Control Project License DL-5355-S.

GEORGE H. BROWN,
Director, Bureau of the Census.

I concur: August 17, 1970.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-12131; Filed, Sept. 11, 1970; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1782]

PART 13—PROHIBITED TRADE PRACTICES

Morris Beckerman and Morris Beckerman Woolen Co.

Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulator and statutory requirements:* 13.1852-80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68) [Cease and desist order, Morris Beckerman et al., New York, N.Y., Docket C-1782, Aug. 13, 1970]

In the Matter of Morris Beckerman, an Individual Trading as Morris Beckerman Woolen Co.

Consent order requiring a New York City individual trading as a wool wholesaler to cease and desist from misbranding his woolen products.

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

It is ordered, That respondent Morris Beckerman, individually and trading as Morris Beckerman Woolen Co. or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

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

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

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

Issued: August 13, 1970.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 70-12139; Filed, Sept. 11, 1970; 8:46 a.m.]

[Docket No. C-1780]

PART 13—PROHIBITED TRADE PRACTICES

Kadima, Inc., and Samuel Baruch

Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-80 Textile Fiber Products Identification Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-80 Textile Fiber Products Identification Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845-70 Textile Fiber Products Identification Act; § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717; 15 U.S.C. 45, 70) [Cease and desist order, Kadima, Inc., et al., Pinellas Park, Fla., Docket C-1780, Aug. 13, 1970]

In the Matter of Kadima, Inc., a Corporation, and Samuel Baruch, Individually and as an Officer of Said Corporation

Consent order requiring a Pinellas Park, Fla., manufacturer of boys' wear to cease violating the Textile Fiber Products Identification Act by misbranding its textile fiber products.

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

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

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

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

3. Failing to separately set forth the required information as to fiber content on the required label in such a manner as to separately show the fiber content of the separate sections of textile fiber products containing two or more sections where such form of marking is necessary to avoid deception.

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

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

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

Issued: August 13, 1970.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 70-12137; Filed, Sept. 11, 1970; 8:46 a.m.]

[Docket No. 8806]

PART 13—PROHIBITED TRADE PRACTICES

M. Reiner & Sons, Inc., et al.

Subpart—Furnishing false guaranties: § 13.1053 *Furnishing false guaranties:* 13.1053-35 Fur Products Labeling Act. Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108-45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-30 Fur Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-30 Fur Products Labeling Act.

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

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, M. Reiner & Sons, Inc., et al., New York, N.Y., Docket No. 8806, June 24, 1970]

In the Matter of M. Reiner & Sons, Inc., a Corporation, and Jack J. Reiner and Seymour Reiner, Individually and as Officers of said Corporation

Order requiring a New York City manufacturing furrier to cease misbranding, falsely invoicing and deceptively guaranteeing its fur products.

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

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

A. Misbranding fur products by:

1. Representing directly or by implication, on labels that the fur contained in any fur product is natural when the fur contained therein is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

2. Failing to affix labels to fur products showing in words and in figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Falsely or deceptively invoicing fur products by:

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

2. Representing, directly or by implication, on invoices that the fur contained in the fur products is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

It is further ordered, That respondents M. Reiner & Sons, Inc., a corporation, and its officers, and Jack J. Reiner and Seymour Reiner, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from furnishing a false guaranty that any fur product is not misbranded, falsely invoiced or falsely advertised when the respondents have reason to believe that such fur product may be introduced, sold, transported, or distributed in commerce.

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

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

By "Order Adopting Initial Decision" further order is as follows:

It is ordered, That the initial decision of the hearing examiner be, and it hereby is, adopted as the decision of the Commission.

Issued: June 24, 1970.

By the Commission.

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

[F.R. Doc. 70-12140; Filed, Sept. 11, 1970; 8:46 a.m.]

[Docket No. C-1781]

PART 13—PROHIBITED TRADE PRACTICES

Miss Holiday Originals, Inc., and Marvin Cohen

Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2–5, 54 Stat. 1128–1130; 15 U.S.C. 45, 68) [Cease and desist order, Miss Holiday Originals, Inc., et al., New York, N.Y., Docket C–1781, Aug. 13, 1970]

In the Matter of Miss Holiday Originals, Inc., a Corporation, and Marvin Cohen, Individually and as an Officer of Said Corporation

Consent order requiring a New York City manufacturer of women's and misses' apparel to cease and desist from misbranding its wool products.

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

It is ordered, That respondents Miss Holiday Originals, Inc., a corporation, and its officers, and Marvin Cohen, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivering for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from:

A. Misbranding such products by:

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

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

3. Failing to affix labels to samples, swatches or specimens of wool products used to promote or effect the sale of wool products, showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(a)(2) of the Wool Products Labeling Act of 1939.

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

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

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

Issued: August 13, 1970.

By the Commission.

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

[F.R. Doc. 70-12138; Filed, Sept. 11, 1970; 8:46 a.m.]

[Docket No. C-1779]

PART 13—PROHIBITED TRADE PRACTICES

Nat Abrams Furs, Inc., and Nat Abrams

Subpart—Invoicing products falsely: § 13.1108 *Invoicing products falsely:* 13.1108–45 Fur Products Labeling Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–30 Fur Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–30 Fur Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and*

statutory requirements: 13.1852–35 Fur Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, sec. 8, 65 Stat. 179; 15 U.S.C. 45, 69f) [Cease and desist order, Nat Abrams Furs, Inc., et al., New York, N.Y., Docket C–1779, Aug. 13, 1970]

In the Matter of Nat Abrams Furs, Inc., a Corporation, and Nat Abrams, Individually and as an Officer of Said Corporation

Consent order requiring a New York City manufacturer of fur products to cease misbranding and falsely or deceptively invoicing its furs.

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

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

A. Misbranding fur products by:

1. Representing, directly or by implication, on labels that the fur contained in any fur product is natural when the fur contained therein is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

2. Failing to affix labels to fur products showing in words and figures plainly legible all of the information required to be disclosed by each of the subsections of section 4(2) of the Fur Products Labeling Act.

B. Falsely or deceptively invoicing fur products by:

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

2. Representing, directly or by implication, on invoices that the fur contained in the fur products is natural when such fur is pointed, bleached, dyed, tip-dyed, or otherwise artificially colored.

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

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

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

Issued: August 13, 1970.

By the Commission.

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

[F.R. Doc. 70–12136; Filed, Sept. 11, 1970; 8:46 a.m.]

[Docket No. C–1773]

PART 13—PROHIBITED TRADE PRACTICES

Pickfair Place, Ltd., et al.

Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185–90 Wool Products Labeling Act; § 13.1212 *Formal regulatory and statutory requirements:* 13.1212–90 Wool Products Labeling Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–80 Wool Products Labeling Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2–5, 54 Stat. 1128–1130; 15 U.S.C. 45, 68) [Cease and desist order, Pickfair Place, Ltd., et al., New York, N.Y., Docket C–1773, July 24, 1970]

In the Matter of Pickfair Place, Ltd., a Corporation, and Ben Glustrom, Milton Karol, and Edward Schlossberg, Individually and as Officers of Said Corporation

Consent order requiring a New York City manufacturer and seller of women's apparel to cease misbranding it wool products.

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

It is ordered, That respondents Pickfair Place, Ltd., a corporation, and its officers, and Ben Glustrom, Milton Karol, and Edward Schlossberg, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wood Products Labeling Act of 1939, do forthwith cease and desist from:

Misbranding such products by:

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

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

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

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

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

Issued: July 24, 1970.

By the Commission.

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

[F.R. Doc. 70–12135; Filed, Sept. 11, 1970; 8:46 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

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

Diethylstilbestrol

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (9525V) filed by Elanco Products Co., a division of Eli Lilly & Co., Indianapolis, Ind. 46206, proposing the safe and effective use of diethylstilbestrol in cattle feed at a range of from 5 to 20 milligrams per head per day under specified conditions. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), the following new section is added to Part 135e:

§ 135e.18 Diethylstilbestrol.

(a) *Chemical name.* 3,4-Bis(*p*-hydroxyphenyl)-3-hexene.

(b) *Specifications.* Complies with U.S.P. XVII.

(c) *Approvals.* Premix levels of 2 grams of diethylstilbestrol per pound (0.44%) and 10 grams of diethylstilbestrol per pound (2.2%) granted to Elanco Products Co., a division of Eli Lilly & Co., Indianapolis, Ind., 46206.

(d) *Assay limits.* Finished feed containing below 0.00022 percent diethylstilbestrol must have not less than 80

percent nor more than 120 percent of labeled amount. Finished feed containing over 0.00022 percent diethylstilbestrol must have not less than 85 percent nor more than 115 percent of labeled amount.

(e) *Special considerations.* Maximum level of diethylstilbestrol permitted in concentrate for cattle is 0.0044 percent.

(f) *Related tolerances.* See § 121.1118 of this chapter.

(g) *Conditions of use.* It is used as follows:

Amount	Limitations	Indications for use
5-20 mg. per head per day.	For beef cattle; in dry feed at 5-20 mg. per head is not less than 1 pound of feed; withdraw 48 hours before slaughter; do not feed to breeding or dairy animals; feed not more than 10 mg. per head per day to animals under 750 pounds body weight.	Fattening of beef cattle.

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

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

Dated: August 28, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12146; Filed, Sept. 11, 1970; 8:46 a.m.]

TRIACETYLOLEANDOMYCIN, TETRACYCLINE, OXYTETRACYCLINE, OR PENICILLIN IN COMBINATION WITH ANTIHISTAMINES AND/OR ANALGESICS AND/OR DECONGESTANTS FOR ORAL USE

In the FEDERAL REGISTER of September 12, 1969 (34 F.R. 14362), the Commissioner of Food and Drugs announced (DESI 11-587) the conclusions of the Food and Drugs Administration following evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, regarding the following preparations:

1a. Tain Tablets containing triacetyloleandomycin equivalent to 125 milligrams oleandomycin, 12.5 milligrams phenylpropanolamine hydrochloride, 6.25 milligrams pheniramine maleate, 6.25 milligrams pyrilamine maleate and carbaspirin calcium equivalent to 300 milligrams aspirin per tablet; and

b. Tain Oral Suspension containing triacetyloleandomycin equivalent to 125 milligrams oleandomycin, 12.5 milligrams phenylpropanolamine hydrochloride, 6.25 milligrams pheniramine maleate, 6.25 milligrams pyrilamine maleate, and 150 milligrams acetaminophen per 5 milliliters; both marketed by Dorsey Laboratories, Division of Wander Co., Northeast U.S. 6 and Interstate 80, Lincoln, Nebr. 68501.

2. Novahistine with Penicillin Capsules containing 200,000 units potassium penicillin G, 12.5 milligrams pheniramine maleate, and 10 milligrams phenylephrine hydrochloride per capsule; marketed by Pitman-Moore, Division of Dow Chemical Co., Post Office Box 1656, Indianapolis, Ind. 46206.

3a. Achrocidin Compound Syrup containing tetracycline equivalent to 125 milligrams tetracycline hydrochloride, 120 milligrams phenacetin, 150 milligrams salicylamide, 25 milligrams ascorbic acid, and 15 milligrams pyrilamine maleate per 5 milliliters; and

b. Achrocidin Compound Tablets containing 125 milligrams tetracycline hydrochloride, 120 milligrams phenacetin, 30 milligrams caffeine, 150 milligrams salicylamide, and 25 milligrams chlorothen citrate per tablet; both marketed by Lederle Laboratories, Division of American Cyanamid Co., Post Office Box 500, Pearl River, N.Y. 10965.

4a. Tao-AC Capsules containing triacetyloleandomycin equivalent to 125 milligrams oleandomycin, 120 milligrams phenacetin, 30 milligrams caffeine, and 150 milligrams salicylamide per capsule; and

b. Tao-AC Capsules containing triacetyloleandomycin equivalent to 125 milligrams oleandomycin, 120 milligrams phenacetin, 30 milligrams caffeine, 150 milligrams salicylamide, and 15 milligrams buclizine hydrochloride per capsule; and

c. Tetracydin Capsules containing 125 milligrams tetracycline hydrochloride, 120 milligrams phenacetin, 30 milligrams caffeine, and 150 milligrams salicylamide per capsule; all three marketed by J. B. Roerig, Division Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017.

5a. Tetrex-APC with Bristamin Capsules containing tetracycline phosphate complex equivalent to 125 milligrams tetracycline hydrochloride, 25 milligrams phenyltoloxamine citrate, 150 milligrams aspirin, 120 milligrams phenacetin, and 30 milligrams caffeine per capsule; and

b. Tetrex-AP Syrup containing tetracycline equivalent to 125 milligrams tetracycline hydrochloride, 120 milligrams acetaminophen, and 12.5 milligrams phenyltoloxamine citrate per 5 milliliters; both marketed by Bristol Laboratories, Inc., Division of Bristol-Myers Co., Post Office Box 657, Syracuse, N.Y. 13201.

6. V-Kor Tablets containing potassium phenoxymethyl penicillin equivalent to 62.5 milligrams phenoxymethyl penicillin; pyrrobutamine, as the naphthalene disulfonate, 7.5 milligrams; methapyrilene hydrochloride, as the hydroxybenzoyl benzoate, 12.5 milligrams; cyclopentamine hydrochloride, as the hydroxybenzoyl benzoate, 6.25 milligrams; aspirin 114 milligrams; phenacetin 80 milligrams; and caffeine 16 milligrams; by Eli Lilly & Co., Box 618, Indianapolis, Ind. 42605.

7. Pen-Vee-Cidin Capsules containing phenoxymethyl penicillin 62.5 milligrams, salicylamide 194 milligrams, promethazine hydrochloride 6.25 milligrams, phenacetin 130 milligrams, and mephentermine sulfate 3 milligrams; by Wyeth Laboratories, Post Office Box 8299, Philadelphia, Pa. 19101.

8a. Syndecon Tablets containing potassium phenethicillin equivalent to 62.5 milligrams phenethicillin, phenylephrine hydrochloride 2.5 milligrams, phenylpropanolamine hydrochloride 10 milligrams, phenyltoloxamine citrate 3.75 milligrams, chlorpheniramine maleate 1.25 milligrams, and acetaminophen 120 milligrams; and

b. Syndecon for Oral Solution containing in 5 milliliters potassium phenethicillin equivalent to 62.5 milligrams phenethicillin, phenylephrine hydrochloride 2.5 milligrams, phenylpropanolamine hydrochloride 10 milligrams, phenyltoloxamine citrate 3.75 milligrams, chlorpheniramine maleate 1.25 milligrams, and acetaminophen 120 milligrams; both drugs marketed by Bristol Laboratories, Division Bristol-Myers Co., Thompson Road, Post Office Box 657, Syracuse, N.Y. 13201.

The following preparation, not reviewed by the Academy, was not included in the announcement but is affected by this order: Terracydin Capsules containing oxytetracycline hydrochloride equivalent to 125 milligrams oxytetracycline, 120 milligrams phenacetin, 150 milligrams salicylamide, and 30 milligrams caffeine; marketed by Pfizer Laboratories, Division of Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017.

Notice was given: (1) That the Food and Drug Administration regards these drugs as ineffective or ineffective as fixed combinations for their claimed indications—for the prophylaxis or control of infections caused by susceptible organisms, when combined with ingredients offered for symptomatic relief for their analgesic, antipyretic, mild cerebral and respiratory stimulant, or antihistamine activity; and (2) that the Commissioner of Food and Drugs intends to initiate proceedings to amend the antibiotic drug regulations to delete provisions for certification of the above-listed antibiotic combinations and any other drug containing penicillin, triacetyloleandomycin, or tetracycline (or derivative) in combination with an analgesic, antihistamine, and/or decongestant and intended for oral use in man.

Interested persons who may be adversely affected by removal of these drugs from the market were invited to submit, within 30 days after FEDERAL REGISTER publication of the notice, any pertinent data bearing on the proposal. Lederle Laboratories and Bristol Laboratories submitted responses to the announcement which have been reviewed and found not to provide substantial evidence of effectiveness of such combination drugs.

The conditions for certification of the above-listed products are described in §§ 146a.17, 146a.18, 146a.27, 146a.99, 146a.107, 146c.204, 146c.207, 146c.217, 148m.4, 148m.6, and 148m.7. In addition, §§ 146a.

51, 146a.92, 146a.106, 146c.205, and 148n.4 provide for certification of other drugs for oral use in man containing antibiotics in combination with antihistamines, analgesics, and/or decongestants. These drugs were not evaluated by the Academy; however, the Food and Drug Administration has reviewed available information and finds there is a lack of substantial evidence that these drugs will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Accordingly, the Commissioner concludes (1) that the antibiotic drug regulations should be amended as follows to delete provisions for certification of the subject drugs for human use and (2) that all outstanding certificates heretofore issued for such combination drugs should be revoked.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 146a, 146c, 148m, and 148n are amended as follows and certificates previously issued for such drugs for human use under these regulations are revoked:

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

1. Section 146a.17 *Phenethicillin potassium (potassium α-phenoxyethyl penicillin) tablets* is amended:

a. In paragraph (a) by deleting from the first sentence "and with or without one or more suitable analgesic substances, antihistaminics, and vasoconstrictors."

b. By deleting paragraph (c) (2).

2. Section 146a.18 *Phenethicillin potassium (potassium α-phenoxyethyl penicillin) for oral solution* is amended:

a. In paragraph (a) by deleting from the first sentence "and with or without one or more suitable analgesic substances, antihistaminics, and vasoconstrictors."

b. By deleting paragraph (c) (2).

3. In § 146a.27 *Penicillin tablets,* paragraph (a) is amended by deleting from the first sentence "with or without one or more suitable sympathomimetic agents, analgesic substances, antihistaminics, and caffeine and".

4. In § 146a.51 *Buffered penicillin powder, penicillin powder with buffered aqueous diluent,* paragraph (a) is amended by deleting from the first sentence "sodium salicylate and a suitable antihistaminic agent,".

5. In § 146a.99 *Capsules crystalline penicillin G (capsules crystalline penicillin G potassium, capsules crystalline penicillin G sodium),* paragraph (a) is amended by deleting from the first sentence "and with or without one or more suitable antihistaminics and vasoconstrictors,".

PART 146c — CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS

6. Section 146c.204 *Chlortetracycline hydrochloride capsules; tetracycline hydrochloride capsules; tetracycline capsules; tetracycline phosphate complex capsules* is amended:

a. In paragraph (a) by deleting from the first sentence "analgesic substances, antihistaminics,".

b. In paragraph (c) (1) (i) (*d*) by deleting "or if it contains one or more antihistaminics, or caffeine,".

c. By deleting paragraph (c) (1) (ii).

7. Section 146c.205 *Chlortetracycline powder (chlortetracycline hydrochloride powder); tetracycline hydrochloride powder; tetracycline powder* is amended:

a. In paragraph (a) by deleting from the first sentence "with or without one or more suitable analgesic substances and antihistaminics,".

b. In paragraph (c) (1) (i) by deleting "analgesic substances, or antihistaminics,".

8. In § 146c.217 *Chlortetracycline calcium syrup (chlortetracycline calcium oral drops); tetracycline syrup (tetracycline oral drops); tetracycline magnesium syrup (tetracycline magnesium oral drops),* paragraph (a) is amended by deleting from the first sentence "analgesic substances, antihistaminics, caffeine,".

PART 148m—OLEANDOMYCIN

9. Section 148m.4 is amended:

a. By changing the section heading to read *"Triacetyloleandomycin capsules."*

b. In paragraph (a) (1) by deleting the third sentence "The following other drugs may be combined with triacetyloleandomycin, in the indicated amounts, per capsule: 125 milligrams of triacetyloleandomycin, 120 milligrams of acetophenetidin, 30 milligrams of caffeine, and 150 milligrams of buclizine hydrochloride."

10. Section 148m.6 *Triacetyloleandomycin-phenylpropanolamine hydrochloride-pheniramine maleate-pyrilamine maleate-calcium acetylsalicylate carbamide tablets* is revoked.

11. Section 148m.7 is amended by revising the section heading and paragraph (a) (1) to read as follows:

§ 148m.7 Triacetyloleandomycin oral suspension.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Triacetyloleandomycin oral suspension is triacetyloleandomycin and one or more suitable buffers, dispersants, flavorings, colorings, and preservatives, suspended in a suitable and harmless vehicle. Each milliliter contains 25 milligrams of triacetyloleandomycin. Its pH is not less than 5.0 and not more than 8.0. The triacetyloleandomycin used conforms to the standards prescribed by § 148m.2(a) (1). Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

PART 148n—OXYTETRACYCLINE

12. In § 148n.4 *Oxytetracycline capsules; oxytetracycline hydrochloride capsules,* paragraph (a) (1) is amended by deleting from the first sentence "with or without one or more suitable analgesics and antihistamines, and".

Any person who will be adversely affected by the removal of any such drug from the market may file objections to this order, request a hearing, and show reasonable grounds for the hearing. The statement of reasonable grounds and request for a hearing shall be submitted in writing within 30 days after publication hereof in the FEDERAL REGISTER, shall state the reasons why the antibiotic drug regulations should not be so amended, and shall include a well-organized and full-factual analysis of the clinical and other investigational data the objector is prepared to prove in support of his objections.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data incorporated into or referred to by the objections and from the factual analysis in the request for a hearing that no genuine issue of fact precludes the action taken by this order, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and justified by the objections, the issues will be defined and a hearing examiner named to conduct the hearing. The provisions of Subpart F of 21 CFR Part 2 shall apply to such hearing, except as modified by 21 CFR 146.1(f), and to judicial review in accord with section 701 (f) and (g) of the Federal Food, Drug, and Cosmetic Act (35 F.R. 7250; May 8, 1970).

Objections and requests for a hearing should be filed (preferably in quintuplicate) with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–62, 5600 Fishers Lane, Rockville, Md. 20852.

Effective date. This order shall become effective 40 days after its date of publication in the FEDERAL REGISTER. If objections are filed, the effective date will be extended for such period of time as necessary to rule thereon. In so ruling, the Commissioner will specify another effective date and how the outstanding stocks of the affected drugs are to be handled.

(Secs. 502, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357)

Dated: August 26, 1970.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[F.R. Doc. 70–12148; Filed, Sept. 11, 1970; 8:47 a.m.]

Title 25—INDIANS

Chapter I—Bureau of Indian Affairs, Department of the Interior

SUBCHAPTER F—ENROLLMENT

PART 41—PREPARATION OF ROLLS OF INDIANS

Requirements for Enrollment and Deadline for Filing Applications

SEPTEMBER 4, 1970.

This notice is published in the exercise of rule-making authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2.

Pursuant to the authority vested in the Secretary of the Interior by sections 161, 463, and 465 of the Revised Statutes (5 U.S.C. 301; 25 U.S.C. 2 and 9), and section 7 of the Act of July 31, 1970 (84 Stat. 1147), Part 41, Subchapter F, Chapter I, of Title 25 of the Code of Federal Regulations is amended by the revision of §§ 41.3 and 41.8. The revision of § 41.3 is made incident to the preparation of a roll of persons entitled to share in funds appropriated to pay a judgment in favor of the Confederated Tribes of Weas, Piankashaws, Peorias, and Kaskaskias, merged under the Treaty of May 30, 1854, as authorized by the Act of July 31, 1970 (84 Stat. 688). Since this revision imposes a deadline for filing enrollment applications, advance notice and public procedure thereon would be contrary to the public interest. They are, therefore, dispensed with under the exception provided in section (d) (3) of 5 U.S.C. 553 (Supp. V, 1965–69). Accordingly, the amendments will become effective upon publication in the FEDERAL REGISTER.

Section 41.3 is amended by adding a new paragraph designated (m) to establish requirements for enrollment and a deadline for filing applications. As amended, § 41.3 reads as follows:

§ 41.3 Qualifications for enrollment and the deadline for filing applications.

* * * * *

(m) Wea, Piankashaw, Peoria, and Kaskaskia Indians: (1) All persons who meet the following requirements shall be entitled to be enrolled to share in the distribution of judgment funds awarded the Confederated Tribes of Weas, Piankashaws, Peorias, and Kaskaskias, merged under the Treaty of May 30, 1854, in Indian Claims Commission Dockets Numbered 314, amended, 314E and 65:

(i) They were born on or prior to and living on July 31, 1970.

(ii) Their names or the name of a lineal ancestor from whom they claim eligibility appears on (*a*) the final roll of the Peoria Tribe of Indians of Oklahoma, pursuant to the Act of August 2, 1956 (70 Stat. 937), or (*b*) the January 1, 1937, census of the Peoria Tribe, or (*c*) the 1920 census of the Peoria Tribe, or (*d*) the Indian or Citizen Class lists pursuant to the Treaty of February 23, 1867 (15 Stat. 520), or (*e*) the Schedule of Persons or Families composing the United Tribes of Weas, Piankashaws, Peorias, and Kaskaskias, annexed to the Treaty of May 30, 1854.

(2) Applications for enrollment must be filed with the Area Director, Bureau of Indian Affairs, Federal Building, Muskogee, Okla. 74401, and must be postmarked no later than April 30, 1971.

Paragraph (a) of § 41.8 is revised to clarify who shall be notified of the Director's determination as to an applicant's eligibility by substituting the phrase "person who filed the application" for the phrase "applicant or sponsor." As revised, § 41.8(a) reads as follows:

§ 41.8 Action by the Director.

(a) The Director shall consider each application and, when applicable, the tribal recommendation thereon. Upon determination as to the eligibility of an applicant, the Director shall notify the person who filed the application in writing of his decision. If such determination is favorable, the name of the applicant shall be placed on the roll. If the decision is adverse, the person who filed the application shall be notified of such decision by certified mail, to be received by addressee only, return receipt requested, together with a full explanation of the reasons therefor and of his right of appeal to the Secretary. (If correspondence is sent outside of the States of the United States, it may be necessary to use registered mail.) If an individual files applications on behalf of more than one person, one notice of eligibility or rejection may be addressed to the person who filed the applications. However, said notice must list the name of each person involved.

* * * * *

HAROLD D. COX,
Acting Commissioner.

[F.R. Doc. 70-12204; Filed, Sept. 11, 1970; 8:51 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO AND OTHER EXCISE TAXES

[T.D. 7058]

PART 211—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

PART 213—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Miscellaneous Amendments

On March 12, 1970, a notice of proposed rule making to amend 26 CFR Part 211, Distribution and Use of Denatured Alcohol and Rum, and 26 CFR Part 213, Distribution and Use of Tax-Free Alcohol, was published in the FEDERAL REGISTER (35 F.R. 4404). In accordance with the notice, interested persons were afforded an opportunity to submit written comments or suggestions pertaining thereto. No comments or suggestions were received within the 30-day period prescribed in the notice. The regulations as so published are hereby adopted, subject to the clarifying and liberalizing changes set forth below:

1. Paragraph A2 is amended by deleting "5 gallons" and inserting "7 gallons" in paragraph (b) of the first sentence of § 211.42a.

2. Paragraph A4 is changed to include in § 211.44 provision for the assistant regional commissioner to waive certain information respecting applications for limited industrial use permits.

3. Paragraph A10 is changed by deleting "10 gallons" and inserting "12 gallons" in the first sentence of § 211.72.

4. Paragraph A13 is changed by deleting "10 gallons" and inserting "12 gallons" in paragraph (b) (1) and by deleting "5 gallons" and inserting "7 gallons" in paragraph (b) (2) of § 211.161.

5. Paragraph A16 is amended to make it clear in § 211.163a that a permittee shall file an application for an amended limited withdrawal permit when he changes his supplier.

6. Paragraph A19 is changed by deleting "10 gallons" and inserting "12 gallons", and by deleting "5 gallons" and inserting "7 gallons" in paragraph (b) of § 211.167.

7. Paragraph B2 is changed by deleting "10 proof gallons" and inserting "14 proof gallons" in paragraph (b) of § 213.41a.

8. Paragraph B5 is changed to include in § 213.43 provision for the assistant regional commissioner to waive certain information respecting applications for limited industrial use permits.

9. Paragraph B11 is changed by deleting "20 proof gallons" and inserting "24 proof gallons" in the first sentence of § 213.71.

10. Paragraph B12 is changed by deleting "20 proof gallons" and inserting "24 proof gallons" in paragraph (b) (1) and by deleting "10 proof gallons" and inserting "14 proof gallons" in paragraph (b) (2) of § 213.109.

11. Paragraph B15 is changed to make it clear in § 213.111a that a permittee shall file an application for an amended limited withdrawal permit when he changes his supplier.

12. Paragraph B18 is changed by deleting "20 proof gallons" and inserting "24 proof gallons", and by deleting "10 proof gallons" and inserting "14 proof gallons" in paragraph (b) of § 213.115.

This Treasury decision shall become effective on the first day of the first month which begins not less than 30 days after the date of its publication in the FEDERAL REGISTER.

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

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

Approved: September 4, 1970.

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

In order to (1) simplify the requirements now placed on States desiring to use specially denatured spirts or tax-free alcohol; (2) simplify the requirements now placed on others desiring to use not more than 60 gallons of specially denatured spirits or not more than 120 proof gallons of tax-free alcohol within a 12-month period; (3) extend the conditions under which certain qualification requirements may be waived; (4) liberalize the requirements relating to bonds; (5) eliminate the filing of a formula covering the use of specially denatured alcohol for certain laboratory purposes or for mechanical purposes; and (6) make other conforming and editorial changes, the regulations in 26 CFR Part 211, and in 26 CFR Part 213 are amended as follows:

PARAGRAPH A. 26 CFR Part 211 is amended as follows:

1. Section 211.42 is amended by revising the heading and by adding a new sentence immediately following the first sentence. As amended, § 211.42 reads as follows:

§ 211.42 Application, Form 1479, for permit to use or recover.

Every person desiring to use specially denatured alcohol or specially denatured rum, or both, and every person desiring to recover denatured alcohol, specially denatured rum, or articles shall, before commencing business, make application for and obtain an industrial use permit, Form 1481. Except as provided in § 211.42a, application for an industrial use permit shall be on Form 1479. Such application, and necessary supporting documents as required by this subpart for such permit, shall be filed with the assistant regional commissioner. All data, written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof. Such application shall be accompanied by evidence which will establish the authority of the officer or other person who executes the application to execute the same and, where applicable, by the application for a withdrawal permit, Form 1485, required by § 211.161.

(72 Stat. 1370; 26 U.S.C. 5271)

2. A new section, § 211.42a, to prescribe the conditions for filing applications for limited industrial use and withdrawal permits, is inserted immediately following § 211.42 to read as follows:

§ 211.42a Application, Form 4326, for limited industrial use and withdrawal permits.

Any person desiring to use not more than 60 gallons of specially denatured alcohol and/or specially denatured rum during a calendar year may file application, Form 4326, for a limited industrial use permit and a limited withdrawal permit if (a) all such specially denatured spirits will be obtained from one supplier; (b) the maximum quantity of specially denatured spirits to be on hand, in transit, and unaccounted for at any one time will not exceed 7 gallons; and (c) specially denatured spirits or articles will not be recovered. A State or political subdivision thereof, and the District of Columbia, may file application on Form 4326, for a limited industrial use permit and limited withdrawal permit, regardless of the quantity to be procured or on hand: *Provided*, That no specially denatured spirits or articles are to be recovered, and all specially denatured spirits will be obtained from one supplier. The application, and necessary supporting documents as required by this subpart, shall be filed with the assistant regional commissioner. All data, written statements, affidavits, and other documents in support of the application shall be deemed to be a part thereof. Such application shall be accompanied by evidence which will establish the authority of the officer or other person who executes the application to execute the same.

(72 Stat. 1370; 26 U.S.C. 5271)

3. A new section, § 211.43a, providing details for the application for limited permits, is added immediately following § 211.43 to read as follows:

§ 211.43a Data for application, Form 4326.

Each application on Form 4326 shall include the following information:

(a) Serial number and purpose for which filed.

(b) Name and business address of applicant.

(c) Location of the user's premises, if different from the business address.

(d) Type of business organization.

(e) Trade names (see § 211.52).

(f) Maximum quantity of specially denatured alcohol and/or specially denatured rum to be on hand, in transit, and unaccounted for at any one time.

(g) Maximum quantity of specially denatured alcohol and/or specially denatured rum to be withdrawn during a calendar year.

(h) Statement of the intended use of the specially denatured spirits.

(i) Specially denatured alcohol and/or specially denatured rum formula numbers.

(j) Name and address of the distilled spirits plant or bonded dealer from whom the specially denatured spirits will be procured.

(k) List of the offices, the incumbents of which are authorized by the articles of incorporation, bylaws, or the board of directors to act on behalf of the applicant or to sign his name.

(l) On specific request of the assistant regional commissioner, furnish a statement of the persons interested in the business, supported by any of the information listed in § 211.53; or such other information as may be necessary for the assistant regional commissioner to determine whether the applicant is entitled to the permit.

Where any of the information required by paragraphs (e) and (k) of this section is on file with the assistant regional commissioner, the applicant may, by incorporation by reference thereto, state that such information is made a part of the application.

(72 Stat. 1370; 26 U.S.C. 5271)

4. Section 211.44 is amended to extend the waiver of certain detailed application and supporting data to users withdrawing not more than 120 gallons per year as compared to present limitations of 60 gallons. As amended, § 211.44 reads as follows:

§ 211.44 Exceptions to application requirements.

The assistant regional commissioner may, in his discretion, waive detailed application and supporting data requirements, other than the requirements of paragraphs (a), (b), (c), and (e) of § 211.43, and of paragraph (f) of such section as it relates to recovery, in the case of applications, Form 1479, filed by States or political subdivisions thereof or the District of Columbia; and in the case of applications, Form 1479, filed by other applicants, if the quantity of specially denatured spirits to be obtained by them does not exceed 120 gallons per year. The assistant regional commissioner may, in his discretion, waive detailed application and supporting data requirements, other than the requirements of paragraphs (a), (b), (c), and (f) through (j) of § 211.43a, in the case of applications on Form 4326. The waiver of the requirements for the submission of detailed application and supporting data shall terminate when a permittee, other than a State or a political subdivision thereof or the District of Columbia, files an application, Form 1485, for an increase in the quantity of specially denatured spirits to an amount in excess of 120 gallons per year; in such case the permittee shall furnish information in respect of the previously waived items, as provided in § 211.55.

5. Section 211.48 is amended to include coverage of applications for limited permits. As amended, § 211.48 reads as follows:

§ 211.48 Disapproval of application.

If, on examination of an application on Form 1474 or 1479, for an industrial use permit, or of an application on Form 4326 for a limited industrial use permit and a limited withdrawal permit (or on basis of an inquiry or investigation with respect thereto), the assistant regional commissioner has reason to believe that—

(a) The applicant is not authorized by law and regulations issued pursuant thereto to withdraw or use specially denatured alcohol or specially denatured rum free of tax; or

(b) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder, and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with Chapter 51, I.R.C., or regulations issued thereunder; or

(c) The applicant has failed to disclose any material information required, or has made any false statement as to any material fact, in connection with his application; or

(d) The premises on which the applicant proposes to conduct the business are not adequate to protect the revenue;

the assistant regional commissioner may institute proceedings for the disapproval of the application in accordance with the procedures set forth in Part 200 of this chapter.

(72 Stat. 1370; 26 U.S.C. 5271)

6. Section 211.52 is amended to include reference to new Form 4326. As amended, § 211.52 reads as follows:

§ 211.52 Trade names.

Where a trade name is to be used by an applicant or permittee, he shall list such trade name on Form 1474, Form 1479, or Form 4326, and the offices where such name is registered, supported by copies of any certificate or other document filed or issued in respect of such name. Operations shall not be conducted under a trade name until the permittee is in possession of an industrial use permit on Form 1476 or Form 1481 covering the use of such name.

7. Section 211.54 is amended to include, in the parenthetical statement, a reference to § 211.43a. As amended, § 211.54 reads as follows:

§ 211.54 Powers of attorney.

An applicant or permittee shall execute and file with the assistant regional commissioner a Form 1534, in accordance with the instructions on the form, for every person authorized to sign or to act on his behalf. (Not required for persons whose authority is furnished in accordance with § 211.43 or § 211.43a.)

8. Section 211.55 is amended to include provisions relating to changes affecting limited industrial use permits and limited withdrawal permits. As amended, § 211.55 reads as follows:

§ 211.55 Changes affecting applications and permits.

(a) *General.* When there is a change relating to any of the information contained in, or considered as a part of, the application on Form 1474 or Form 1479 for an industrial use permit, or Form 4326 for a limited industrial use permit and a limited withdrawal permit, the permittee shall, within 30 days (except as otherwise provided in this subpart, and in § 211.163a as to changes affecting limited withdrawal permits), file with the assistant regional commissioner a written notice, in duplicate, of such change. Similarly, when any waiver under § 211.44 is terminated, the permittee shall file such a written notice furnishing current information as to the items previously waived. When the terms of an industrial use permit are affected by the change, and the permittee has not filed an application for an amended permit, the assistant regional commissioner shall require the permittee to file an application on Form 1474, Form 1479, or Form 4326, as the case may be, for an amended industrial use permit. Items which remain unchanged shall be marked "No change since Form 1474 (or Form 1479 or Form 4326), Serial No. _____." Where a permittee holds a limited industrial use permit and a limited withdrawal permit, and there is a change which would disqualify him for such limited permits under § 211.42a, the permittee shall immediately file application, Form 1479, for an industrial use permit. He shall also file application for a withdrawal permit as provided in § 211.163a.

(b) *Changes in officers, directors, and stockholders.* In case of a change in the officers or directors listed under the provisions of § 211.53(a)(2), the notice required by paragraph (a) of this section shall be supported by a certified list, in duplicate, reflecting such change: *Provided,* That if the permittee shows to the satisfaction of the assistant regional commissioner that the holders of certain corporate offices, as listed on the original application, have no responsibilites in connection with operations under this part, the assistant regional commissioner may waive the requirement for the giving of the notice required by paragraph (a) of this section to cover changes in the holders of such corporate offices. Notices of changes in the list of stockholders furnished under the provisions of § 211.53(c)(1), may, in lieu of being submitted within 30 days as required by paragraph (a) of this section, be submitted annually by the permittee, except where the sale or transfer of capital stock results in a change in ownership or control which is required to be reported under § 211.56. Such annual notice of changes shall be submitted by July 10 of each year unless the permittee has filed a request with the assistant regional commissioner for permission to submit such annual notice at some other time, and the assistant regional commissioner has approved such request. The provisions of this paragraph shall apply in the case of changes in officers, directors, and stockholders of permittees operating under limited industrial use permits if the names of such persons were furnished in connection with a prior application on Form 4326 under the provisions of § 211.43a(1).

(72 Stat. 1370; 26 U.S.C. 5271)

9. Sections 211.57, 211.58, 211.59, and 211.60 are amended to include reference to Form 4326. As amended, §§ 211.57, 211.58, 211.59, and 211.60 read as follows:

§ 211.57 Change in name of permittee.

Where there is to be a change in the individual, firm, or corporate name, the permittee shall file application on Form 1474, Form 1479, or Form 4326, as the case may be, to amend his industrial use permit. Operations may not be conducted under the new name prior to issuance of the amended permit.

§ 211.58 Change in trade name.

Where there is to be a change in, or addition of, a trade name, the permittee shall file application on Form 1474, Form 1479, or Form 4326, as the case may be, to amend his industrial use permit. A new bond or consent of surety will not be required. Operations may not be conducted under the trade name prior to issuance of the amended permit.

§ 211.59 Change in location.

When a permittee intends to move to a new location within the same region, he shall file application on Form 1474, Form 1479, or Form 4326, as the case may be, for an amended industrial use permit and, except in the case of a user not required to file bond, furnish a consent of surety on Form 1533, or a new bond to cover the new location. Business may not be commenced at the location prior to issuance of the amended permit.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 211.60 Adoption of documents by a fiduciary.

If the business is to be operated by a fiduciary, such fiduciary may, in lieu of qualifying as a new proprietor, file an application on Form 1474, Form 1479, or Form 4326, as the case may be, to amend his predecessor's industrial use permit, furnish a consent of surety on Form 1533 extending the terms of the predecessor's bond, if any, and adopt the formulas and processes of the predecessor. The effective date of the qualifying documents filed by a fiduciary shall coincide with the effective date of the court order or the date specified therein for him to assume control. If the fiduciary was not appointed by the court, the date of his assuming control shall coincide with the effective date of the qualifying documents filed by him.

10. Section 211.72 is amended to raise the maximum quantity of specially denatured spirits authorized to be withdrawn, or to be on hand, in transit, and unaccounted for at one time, without the filing of a bond, and to add a new sentence immediately following the last sentence. As amended, § 211.72 reads as follows:

§ 211.72 User's bond, Form 1480.

Every person filing an application on Form 1479 shall, before issuance of the industrial use permit, file bond, Form 1480, with the assistant regional commissioner, except that no bond will be required where the application is filed by a State, or any political subdivision thereof, or the District of Columbia, or where the quantity of specially denatured alcohol and specially denatured rum authorized to be withdrawn does not exceed 120 gallons per annum and the quantity which may be on hand, in transit, and unaccounted for at any one time does not exceed 12 gallons. The penal sum of the bond shall be computed on each gallon of specially denatured alcohol or rum, including recovered or restored denatured alcohol or specially denatured rum or recovered articles in the form of denatured spirits, authorized to be on hand, in transit to the premises of the user, and unaccounted for at any one time, at double the rate prescribed by law as the internal revenue tax on a proof gallon of distilled spirits: *Provided,* That the penal sums of bonds covering specially denatured alcohol Formulas No. 18 and No. 19 shall be computed on each gallon at the rate prescribed by law as the tax on a proof gallon of distilled spirits. The penal sum of any such bond (or the total of the penal sums where original and strengthening bonds are filed) shall not exceed $100,000 or be less than $500. No

bond is required where application is filed on Form 4326, as provided in § 211.42a.

(72 Stat. 1372; 26 U.S.C. 5272)

11. In § 211.101, paragraph (a) is amended to exclude from the provisions thereof persons desiring to use specially denatured spirits for laboratory and mechanical purposes. As amended, paragraph (a) reads as follows:

§ 211.101 General.

(a) *Form 1479–A.* Every person desiring to use specially denatured spirits for other than laboratory or mechanical purposes, as provided in § 211.169, or to recover denatured spirits or articles, shall, except where previously approved formulas are adopted or as provided in § 211.102, submit on Form 1479–A, directly to the Director, a description of each process or formula; a separate Form 1479–A shall be used for each such formula or process. In the case of articles to be manufactured with specially denatured spirits, quantitative formulas and processes shall be given. The preparation of Form 1479–A shall be in accordance with the headings and the instructions thereon.

* * * * *

(72 Stat. 1369, 1372; 26 U.S.C. 5241, 5273)

12. Sections 211.137 and 211.146 are amended to include reference to Form 4327. As amended, §§ 211.137 and 211.146 read as follows:

§ 211.137 Shipment for account of bonded dealer.

A bonded dealer may order specially denatured spirits shipped directly from a denaturer or another bonded dealer to his customers (bonded dealer or user), if he obtains a consent of surety, Form 1533, extending the terms of his bond, Form 1475, to cover the transportation of the specially denatured spirits from the consignor's premises to the consignee's premises. The bonded dealer's withdrawal permit, Form 1477, and the consignee's withdrawal permit, Form 1477, Form 1485, or Form 4327, as the case may be, shall be forwarded to the person actually making the shipment of specially denatured spirits.

(72 Stat. 1370; 26 U.S.C. 5271)

§ 211.146 General.

A bonded dealer may, pursuant to withdrawal permit on Form 1485, Form 4327, or Form 1477, as the case may be, dispose of specially denatured spirits to manufacturers using such spirits and to other bonded dealers. Samples of specially denatured spirits may be dispensed to persons as provided in § 211.281. Specially denatured spirits shall not be shipped to a manufacturer or a bonded dealer until the shipping bonded dealer receives the withdrawal permit, Form 1485, Form 4327, or Form 1477, issued to the consignee. Bonded dealers shall not ship specially denatured spirits in excess of the quantities set forth in such withdrawal permit.

13. Section 211.161 is amended by adding in paragraph (a) requirements relating to Form 4326 and to formulas used exclusively for laboratory or mechanical purposes; by adding in paragraph (b) instructions relating to limited permits and to limitations on withdrawals; and by adding clarifying language in paragraph (c). As amended, § 211.161 reads as follows:

§ 211.161 Application for withdrawal permit.

(a) *Application.* To procure specially denatured spirits, a user shall, unless application is filed on Form 4326 as provided in § 211.42a, file with the assistant regional commissioner an application on Form 1485 for a withdrawal permit. He shall specify in his application—

(1) The period to be covered by the withdrawal permit.

(2) The formula numbers of the denatured spirits to be withdrawn, listing only those formulas covered by Form 1479–A and formulas which will be used exclusively for laboratory or mechanical purposes as provided in § 211.169.

(3) The estimated average quantity, in gallons, of denatured spirits of each formula that will be required in 1 month. (The applicant shall specify the quantities and the formulas in accordance with his bona fide business needs.) Where application is filed on Form 1485, a user may, if he so desires, file more than one application and receive more than one withdrawal permit; however, in such case he shall allot among the several applications the total to be withdrawn.

(b) *Limitations on withdrawals.* A user holding a permit on Form 1485 may, except as otherwise provided in this section, during any month and as to each formula specified, withdraw not more than twice the number of gallons specified under paragraph (a)(3) of this section, or 55 gallons (one drum), whichever is the larger: *Provided,* That, as to any one such formula, the total quantity withdrawn under the permit shall not exceed the number of gallons specified under paragraph (a)(3) of this section multiplied by the number of months (considering any fraction of a month as a month) in the period of withdrawal covered by the permit. Notwithstanding the provisions of this paragraph:

(1) A user holding a withdrawal permit on Form 1485 authorizing withdrawals of not more than 120 gallons during a 12-month period, without bond, may not withdraw at one time a quantity which would result in there being more than 12 gallons on hand, in transit, and unaccounted for.

(2) A user, other than a State or political subdivision thereof or the District of Columbia, holding a withdrawal permit on Form 4327 may not withdraw at one time a quantity which would result in there being more than 7 gallons on hand, in transit, and unaccounted for.

(3) A user who has filed bond, and a State, political subdivision thereof, or the District of Columbia, may not withdraw at one time a quantity which would result in there being on hand, in transit, and unaccounted for a quantity in excess of that stated in the application for permit under § 211.43 or § 211.43a, as applicable.

(c) *Exceptions to limitations.* If, because of the seasonal nature of the user's business or for other valid reasons, the limitations contained in paragraph (b) of this section adversely affect the user's operations, he may in his application request a larger withdrawal as to one or more formulas during a calendar month, still subject to the limitations in paragraph (b) of this section on withdrawals during the period covered by the permit and on the quantity which may be on hand, in transit, and unaccounted for at any one time. In such case he shall furnish with his application sufficient information to enable the assistant regional commissioner to judge the merits of the request. Such larger withdrawals may, if the user so requests in his application, be authorized on the basis of an aggregate quantity of a combination of two or more formulas; in such case the user's request shall be specific as to the aggregate quantity and the formulas involved.

(72 Stat. 1370; 26 U.S.C. 5271)

14. Section 211.162 is amended to include provisions relating to limited withdrawal permits. As amended, § 211.162 reads as follows:

§ 211.162 Issuance and duration of withdrawal permit.

If the application submitted in accordance with § 211.161 is approved, the assistant regional commissioner shall issue withdrawal permit on Form 1485 and shall forward the original to the permittee. If the application submitted in accordance with § 211.42a is approved, the assistant regional commissioner shall issue a limited withdrawal permit on Form 4327, and shall forward it to the permittee. Withdrawal permits on Form 1485 shall terminate on October 31 of each year: *Provided,* That a permit issued on or after May 1 of any year shall remain in effect through October 31 of the following year. Limited withdrawal permits on Form 4327 shall remain in effect until canceled as provided in § 211.165.

(72 Stat. 1370; 26 U.S.C. 5271)

15. The heading of § 211.163 is amended, for clarification, to read as follows:

§ 211.163 Application for and renewal of withdrawal permit, Form 1485.

* * * * *

16. A new section, § 211.163a, relating to changes affecting limited withdrawal permits, is added immediately following § 211.163, to read as follows:

§ 211.163a Changes affecting limited withdrawal permits.

Where a permittee holds a limited withdrawal permit and there is a change in operations which makes him no longer eligible to withdraw specially denatured spirits under such withdrawal permit (as provided in § 211.55), the permittee shall file application on Form 1485 for a withdrawal permit, in the

manner provided in § 211.161. Where there is a change affecting information shown on the limited withdrawal permit, including a change in supplier, but which does not disqualify the permittee for withdrawals under a limited permit, application for an amended limited withdrawal permit shall be filed on Form 4326.

17. Section 211.165 is amended to include provisions for the cancellation of a limited withdrawal permit. As amended, § 211.165 reads as follows:

§ 211.165 Cancellation of withdrawal permit.

Should an industrial use permit on Form 1481 be terminated or surrendered or should the withdrawal permit on Form 1485 or the limited withdrawal permit on Form 4327, issued to the user be revoked, the withdrawal permit shall be returned immediately to the assistant regional commissioner for cancellation. Where a permittee holds a limited withdrawal permit on Form 4327 and is required to file application on Form 1485 for a new permit, the limited withdrawal permit shall be forwarded to the assistant regional commissioner for cancellation.

(72 Stat. 1370; 26 U.S.C. 5271)

18. Section 211.166 is amended by adding a new sentence immediately following the last sentence. As amended, § 211.166 reads as follows:

§ 211.166 Withdrawals under permit.

When the user desires to procure specially denatured alcohol or specially denatured rum, he shall forward the withdrawal permit to the denaturer or bonded dealer from whom he will procure the specially denatured alcohol or specially denatured rum. Shipments shall not be made by the consignor until he is in possession of a valid withdrawal permit, nor shall shipments exceed the quantity authorized by such permit. On shipment, the denaturer or bonded dealer shall enter the transaction on the permit and return it to the user, unless he has been authorized to retain it for the purpose of making future shipments. In the case of limited withdrawal permits, Form 4327, when space for entries on the form is no longer available, separate sheets, as needed, shall be attached to and made a part of the form, and entries covering each shipment shall be made thereon in the same manner as on the form.

19. Section 211.167 is amended by adding requirements relating to withdrawals by a user not required to file bond, and by making clarifying changes; and by subdividing the section into three paragraphs. As amended, § 211.167 reads as follows:

§ 211.167 Regulation of withdrawals.

(a) *Withdrawals covered by bond.* Withdrawals by a user required to file bond shall not exceed the quantity authoried by his permit on Form 1485 and shall be so regulated by him that he will not have on hand, in transit, and unaccounted for at any one time more than the quantity of specially denatured spirits, including the quantity of recovered or restored denatured alcohol or specially denatured rum, and recovered or restored articles (which are in the form of denatured spirits) shown in his application on Form 1479 for an industrial use permit.

(b) *Withdrawals not covered by bond.* Withdrawals by a user, not required to file bond, under withdrawal permit on Form 1485 shall not exceed the quantity authorized by his permit and shall be so regulated by him that he will not have more than 12 gallons on hand, in transit, and unaccounted for at any one time. Withdrawals by a user under a limited withdrawal permit on Form 4327 shall not exceed the quantity authorized by his permit and shall be so regulated by him that he will not have more than 7 gallons on hand, in transit, and unaccounted for at any one time: *Provided*, That, in the case of a State or political subdivision thereof, or the District of Columbia, the quantity which may be on hand, in transit, and unaccounted for at any one time shall not exceed the quantity shown in the application on Form 4326.

(c) *Spirits unaccounted for.* For purposes of this section, specially denatured spirits, recovered or restored denatured alcohol or specially denatured rum, and recovered or restored articles (which are in the form of denatured spirits) shall be deemed to be unaccounted for if lost under circumstances where a claim for allowance is required by this part and has not been allowed or if used or disposed of otherwise than as provided in this part.

20. Section 211.169 is amended to provide for the use of specially denatured alcohol formulas for certain laboratory purposes and for mechanical purposes, without the filing of Form 1479–A. As amended, § 211.169 reads as follows:

§ 211.169 General.

Uses of specially denatured spirits shall be as authorized under Part 212 of this chapter. Specially denatured spirits shall not be used until Form 1479–A showing the intended use, process, formula, or article has been approved, as required by Subpart G of this part: *Provided*, That Form 1479–A will not be required to cover the use of specially denatured alcohol Formulas No. 3–A and No. 30, by a permittee on his permit premises, exclusively for laboratory purposes not involving the development of a product and for mechanical purposes, if the quantity to be so used during a 12-month period will not exceed 60 gallons. Specially denatured spirits shall not be used in the manufacture of medicinal preparations or flavoring extracts for internal human use where any of the spirits remain in the finished product. Liquid products containing specially denatured spirits shall be unfit for beverage or internal human use. The essential oils and chemicals used in their manufacture shall make the finished products conform to the samples and formulas for such products submitted by the applicant with Form 1479–A and approved by the Director or, in the case of rubbing alcohol, by the assistant regional commissioner. Whenever the assistant regional commissioner has reason to believe that the spirits in any articles are being reclaimed or diverted to beverage or internal human use, the permittee shall be directed to appear on a day named and show cause why the authorized formula and article should not be so changed and modified as to prevent such reclamation or diversion. In the event the permittee should fail to appear, or appearing should fail to prove to the satisfaction of the assistant regional commissioner that the spirits in the authorized article are not reclaimable and are not being diverted to beverage or internal human use, he shall, at the direction of the assistant regional commissioner, discontinue the use of the formula until it has been modified and again approved.

(72 Stat. 1372; 26 U.S.C. 5273)

21. In § 211.265, paragraph (b) is amended by deleting from the last sentence the words "Form 1485" and by inserting in lieu thereof the words "the withdrawal permit." As amended, the last sentence in § 211.265 (b) reads as follows:

§ 211.265 Records of users of specially denatured spirits.

* * * * *

(b) *Persons manufacturing other articles.* * * *

Where the estimated average monthly requirement of specially denatured spirits as stated on the withdrawal permit does not exceed 25 gallons, the records required by this paragraph (b) need not be maintained.

* * * * *

(72 Stat. 1373; 26 U.S.C. 5275)

PAR. B. 26 CFR Part 213 is amended as follows:

1. Section 213.41 is amended by adding a new sentence immediately following the first sentence and by making other clarifying changes. As amended, § 213.41 reads as follows:

§ 213.41 Application for industrial use permit.

Every person desiring to use tax-free alcohol shall, before commencing such use, make application for and obtain an industrial use permit, Form 1447. Except as provided in § 213.41a, application for an industrial use permit shall be on Form 2600. Such application, and necessary supporting documents, as required by this subpart, shall be filed with the assistant regional commissioner. All data, written statements, affidavits, and other documents submitted in support of the application shall be deemed to be a part thereof. A State, political subdivision thereof, or the District of Columbia, may specify in its application that it desires a single permit authorizing the use of tax-free alcohol in a number of institutions under its control; such applications shall

clearly show, on Form 2600 or an attachment thereto, the method of storing, distributing, and accounting for the alcohol to be withdrawn under the permit. Applications filed as provided in this section shall be accompanied by evidence which will establish the authority of the officer or other person who executes the application to execute the same and, where applicable, by the application for a withdrawal permit, Form 1450, required by § 213.109.

(72 Stat. 1370; 26 U.S.C. 5271)

2. A new section, § 213.41a, to prescribe the conditions for filing applications for limited industrial use and withdrawal permits, is inserted immediately following § 213.41, to read as follows:

§ 213.41a Application, Form 4326, for limited industrial use and withdrawal permits.

Any person desiring to use not more than 120 proof gallons of tax-free alcohol during a calendar year may file application, Form 4326, for a limited industrial use permit and a limited withdrawal permit if (a) all such tax-free alcohol will be obtained from one supplier; (b) the maximum quantity of tax-free alcohol to be on hand, in transit, and unaccounted for at any one time will not exceed 14 proof gallons; and (c) tax-free alcohol will not be recovered. A State or political subdivision thereof, and the District of Columbia, may file application on Form 4326, for a limited industrial use permit and a limited withdrawal permit, regardless of the quantity to be procured or on hand: *Provided,* That no alcohol is to be recovered, and all tax-free alcohol will be obtained from one supplier. A State, political subdivision, or the District of Columbia, may specify in its application that it desires a single permit authorizing the use of tax-free alcohol in a number of institutions under its control; such application shall clearly show, on Form 4326 or an attachment thereto, the method of storing, distributing and accounting for the alcohol to be withdrawn under the limited permit. Applications filed as provided in this section shall be accompanied by evidence which will establish the authority of the officer or other person who executes the application to execute the same.

(72 Stat. 1370; 26 U.S.C. 5271)

3. The heading of § 213.42 is amended, for clarification, to read as follows:

§ 213.42 Data for application, Form 2600.

* * * * *

4. A new § 213.42a, relating to data for application for limited permits, is added immediately following § 213.42 to read as follows:

§ 213.42a Data for application, Form 4326.

Each application on Form 4326 shall include the following information:

(a) Serial number and purpose for which filed.

(b) Name and principal business address of applicant.

(c) Location (or locations) where tax-free alcohol is to be used, if different from the business address.

(d) Type of business organization.

(e) Trade names (see § 213.51).

(f) Statement showing the specific manner in which, or purpose for which, tax-free alcohol will be used.

(g) Maximum quantity, in proof gallons, of tax-free alcohol which will be on hand, in transit, and unaccounted for at any one time.

(h) Maximum quantity, in proof gallons, of tax-free alcohol to be withdrawn during a calendar year.

(i) Name and address of the distilled spirits plant from which the tax-free alcohol will be withdrawn.

(j) List of the offices, the incumbents of which are authorized by the articles of incorporation, the bylaws, or the board of directors to act on behalf of the applicant or to sign his name.

(k) On specific request of the assistant regional commissioner, furnish a statement of the persons interested in the business, supported by any of the information listed in § 213.52; or such other information as may be necessary for the assistant regional commissioner to determine whether the applicant is entitled to the permit.

Where any of the information required by paragraphs (e) and (j) of this section is on file with the assistant regional commissioner, the applicant may, by incorporation by reference thereto, state that such information is made a part of the application.

(72 Stat. 1370; 26 U.S.C. 5271)

5. Section 213.43 is amended to extend the waiver of certain detailed application and supporting data to permittees withdrawing not more than 240 proof gallons of tax-free alcohol per year as compared to present limitations of 120 gallons. As amended, § 213.43 reads as follows:

§ 213.43 Exceptions to application requirements.

The assistant regional commissioner may, in his discretion, waive detailed application and supporting data requirements, other than the requirements of paragraphs (a), (b), (c), and (e) of § 213.42, and of paragraph (f) of such section as it relates to recovery, in the case of applications, Form 2600, filed by States or political subdivisions thereof or the District of Columbia; and in the case of applications, Form 2600, filed by other applicants, if the quantity of tax-free alcohol to be obtained by them does not exceed 240 proof gallons per year. The assistant regional commissioner may, in his discretion, waive detailed application and supporting data requirements, other than the requirements of paragraphs (a), (b), (c), and (f) through (j) of § 213.42a, in the case of applications on Form 4326. The waiver of the requirements for the submission of detailed application and supporting data shall terminate when a permittee, other than a State or a political subdivision thereof or the District of Columbia, files an application, Form 1450, for an increase in the quantity of tax-free alcohol to an amount in excess of 240 proof gallons per year; in such case the permittee shall furnish information in respect of the previously-waived items, as provided in § 213.54.

(72 Stat. 1370; 26 U.S.C. 5271)

6. Section 213.47 is amended to include coverage of applications for limited permits. As amended, § 213.47 reads as follows:

§ 213.47 Disapproval of application.

If, on examination of an application, Form 2600, for an industrial use permit, or of an application on Form 4326 for a limited industrial use permit and a limited withdrawal permit (or on basis of an inquiry or investigation with respect thereto), the assistant regional commissioner has reason to believe that—

(a) The applicant is not authorized by law and regulations issued pursuant thereto to withdraw or use alcohol free of tax; or

(b) The applicant (including, in the case of a corporation, any officer, director, or principal stockholder, and, in the case of a partnership, a partner) is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with Chapter 51, I.R.C., or regulations issued thereunder; or

(c) The applicant has failed to disclose any material information required, or has made any false statement as to any material fact, in connection with his application; or

(d) The premises on which the applicant proposes to conduct the business are not adequate to protect the revenue;

the assistant regional commissioner may institute proceedings for the disapproval of the application in accordance with the procedures set forth in Part 200 of this chapter.

(72 Stat. 1370; 26 U.S.C. 5271)

7. Section 213.51 is amended to include reference to Form 4326. As amended, § 213.51 reads as follows:

§ 213.51 Trade names.

Where a trade name is to be used by an applicant or permittee, he shall list such trade name on Form 2600 or Form 4326, as the case may be, and the offices where such name is registered, supported by copies of any certificate or other document filed or issued in respect of such name. Operations shall not be conducted under a trade name until the permittee is in possession of an industrial use permit, Form 1447, covering the use of such name.

8. Section 213.53 is amended to include, in the parenthetical statement, a reference to § 213.42a(j). As amended, § 213.53 reads as follows:

§ 213.53 Powers of attorney.

An applicant or permittee shall execute and file with the assistant regional commissioner a Form 1534, in accordance with the instructions on the form, for

every person authorized to sign or to act on his behalf. (Not required for persons whose authority is furnished in accordance with § 213.42(h) or § 213.42a(j).)

9. Section 213.54 is amended to include provisions relating to changes affecting limited industrial use permit and limited withdrawal permit, and to require the annual notice to be filed by January 10, in lieu of July 10. As amended, § 213.54 reads as follows:

§ 213.54 Changes affecting applications and permits.

(a) *General.* When there is a change relating to any of the information contained in, or considered as part of, the application on Form 2600 for an industrial use permit, or Form 4326 for a limited industrial use permit and a limited withdrawal permit, the permittee shall, within 30 days (except as otherwise provided in this subpart, and in § 213.111a as to changes affecting limited withdrawal permits), file with the assistant regional commissioner a written notice, in duplicate, of such change. Similarly, when any waiver under § 213.43 is terminated the permittee shall file such a written notice furnishing current information as to the items previously waived. When the terms of an industrial use permit are affected by the change, and the permittee has not filed an application for an amended permit, the assistant regional commissioner shall require the permittee to file an application on Form 2600 or Form 4326, as the case may be, for an amended industrial use permit. Items which remain unchanged shall be marked "No change since Form 2600 (or Form 4326) Serial No. _____." Where a permittee holds a limited industrial use permit and a limited withdrawal permit, and there is a change which would disqualify him for such limited permits under § 213.41a, the permittee shall immediately file application, Form 2600, for an industrial use permit. He shall also file application for a withdrawal permit as provided in § 213.111a.

(b) *Changes in officers, directors, and stockholders.* In case of a change in the officers or directors listed under the provisions of § 213.52(a)(2), the notice required by paragraph (a) of this section shall be supported by a certified list, in duplicate, reflecting such change: *Provided,* That if the permittee shows to the satisfaction of the assistant regional commissioner that the holders of certain corporate offices, as listed on the original application, have no responsibilities in connection with operations under this part, the assistant regional commissioner may waive the requirement for the giving of the notice required by paragraph (a) of this section to cover changes in the holders of such corporate offices. Notices of changes in the list of stockholders furnished under the provision of § 213.52(c)(1), may, in lieu of being submitted within 30 days as required by paragraph (a) of this section, be submitted annually by the permittee, except where the sale or transfer of capital stock results in a change in ownership or control which is required to be reported under § 213.55. Such annual notice of changes shall be submitted by January 10 of each year unless the permittee has filed a reque t with the assistant regional commissioner for permission to submit such annual notice at some other time, and the assistant regional commissioner has approved such request. The provisions of this paragraph shall apply in the case of changes in officers, directors, and stockholders of permittees operating under limited industrial use permits if the names of such persons were furnished in connection with a prior application on Form 4326 under the provisions of § 213.42a(k).

(72 Stat. 1370; 26 U.S.C. 5271)

10. Sections 213.56, 213.59, 213.60, and 213.61 are amended to include reference to Form 4326. As amended, §§ 213.56, 213.59, 213.60, and 213.61 read as follows:

§ 213.56 Adoption of documents by a fiduciary.

If the business is to be operated by a fiduciary, such fiduciary may, in lieu of qualifying as a new proprietor, file an application on Form 2600 or Form 4326, as the case may be, to amend his predecessor's industrial use permit and furnish a consent of surety on Form 1533 extending the terms of the predecessor's bond, if any. The effective date of the qualifying documents filed by a fiduciary shall coincide with the effective date of the court order or the date specified therein for him to assume control. If the fiduciary was not appointed by the court, the date of his assuming control shall coincide with the effective date of the qualifying documents filed by him.

§ 213.59 Change in name of permittee.

Where there is to be a change in the individual, firm, or corporate name, the permittee shall file application on Form 2600 or Form 4326, as the case may be, to amend his industrial use permit. Operations may not be conducted under the new name prior to issuance of the amended permit.

§ 213.60 Change in trade name.

Where there is to be a change in, or addition of, a trade name, the permittee shall file application on Form 2600 or Form 4326, as the case may be, to amend his industrial use permit. A new bond or consent of surety will not be required. Operations may not be conducted under the trade name prior to issuance of the amended permit.

§ 213.61 Change in location.

When a permittee intends to move to a new location within the same region, he shall file application on Form 2600 or Form 4326, as the case may be, for an amended industrial use permit and, if a bond on Form 1448 had been given, furnish a consent of surety, Form 1533, or a new bond to cover the new location. Tax-free alcohol may not be stored or used at the new location prior to issuance of the amended permit.

(72 Stat. 1370; 26 U.S.C. 5271)

11. Section 213.71 is amended to raise the maximum quantity of tax-free alcohol authorized to be withdrawn, or to be on hand, in transit, and unaccounted for at one time, without the filing of a bond, and to add a new sentence immediately following the last sentence. As amended, § 213.71 reads as follows:

§ 213.71 Bond, Form 1448.

Every person filing an application, Form 2600, shall, before issuance of the industrial use permit, file bond, Form 1448, with the assistant regional commissioner, except that no bond will be required where the application is filed by a State, any political subdivision thereof, or the District of Columbia, or where the quantity of tax-free alcohol authorized to be withdrawn does not exceed 240 proof gallons per annum and the quantity which may be on hand, in transit, and unaccounted for at any one time will not exceed 24 proof gallons. The penal sum of the bond on Form 1448 shall be computed on each proof gallon of tax-free alcohol, including recovered and restored tax-free alcohol, authorized to be on hand, in transit to the permittee, and unaccounted for at any one time, at the rate prescribed by law as the internal revenue tax on distilled spirits: *Provided,* That the penal sum of any bond (or the total of the penal sums where original and strengthening bonds are filed) shall not exceed $100,000 nor be less than $500. No bond is required where application is filed on Form 4326, as provided in § 213.41a.

(72 Stat. 1314, 1372; 26 U.S.C. 5001, 5272)

12. Section 213.109 is amended by making clarifying changes in paragraph (a), dividing paragraph (b) into two paragraphs, adding provisions for withdrawals under limited withdrawal permits, and making clarifying and conforming changes. As amended, § 213.109 reads as follows:

§ 213.109 Application for withdrawal permit.

(a) *Application.* Except as provided in Subpart I of this part and in § 213.41a, every person desiring to procure tax-free alcohol shall file with the assistant regional commissioner an application on Form 1450 for a withdrawal permit. He shall specify in his application the period to be covered by the withdrawal permit and the estimated average quantity, in proof gallons, of tax-free alcohol that will be required in 1 month. The quantity specified shall be in accordance with the applicant's bona fide needs. Where application is filed on Form 1450, the applicant may, if he so desires, file more than one application and receive more than one withdrawal permit; however, in such case he shall allot among the several applications the total to be withdrawn.

(b) *Limitation on withdrawals.* A user holding a permit on Form 1450 may, except as otherwise provided in this section, during any month, withdraw not more than twice the number of proof gallons specified under paragraph (a) of this section, or 55 wine gallons (one drum), whichever is the larger: *Provided,*

That the total quantity withdrawn during the period of withdrawal specified under paragraph (a) of this section shall not exceed the number of proof gallons specified under paragraph (a) of this section multiplied by the number of months (considering any fraction of a month as a month) in such period of withdrawal. Notwithstanding the provisions of this paragraph:

(1) A user holding a withdrawal permit on Form 1450 authorizing withdrawals of not more than 240 proof gallons during a 12-month period, without bond, may not withdraw at one time a quantity which would result in there being more than 24 proof gallons on hand, in transit, and unaccounted for.

(2) A user, other than a State or political subdivision thereof or the District of Columbia, holding a limited withdrawal permit on Form 4327 may not withdraw at one time a quantity which would result in there being more than 14 proof gallons on hand, in transit, and unaccounted for.

(3) A user who has filed bond, and a State, political subdivision thereof, or the District of Columbia, may not withdraw at one time a quantity which would result in there being on hand, in transit, and unaccounted for a quantity in excess of that stated in the application for permit under § 213.41 or § 213.41a, as applicable.

(c) *Exceptions to limitations.* If, because of the seasonal nature of usage or for other valid reasons, the limitations contained in paragraph (b) of this section adversely affect the permittee's operations, he may request a larger withdrawal during a calendar month, still subject to the limitations in paragraph (b) of this section on total withdrawals during the period of the permit and on the quantity which may be on hand, in transit, and unaccounted for at any one time. In such case he shall furnish with his application sufficient information to enable the assistant regional commissioner to judge the merits of the request.

(72 Stat. 1370; 26 U.S.C. 5271)

13. Section 213.110 is amended to include provisions relating to limited withdrawal permits. As amended, § 213.110 reads as follows:

§ 213.110 Issuance and duration of withdrawal permit.

If the application submitted in accordance with § 213.109 is approved, the assistant regional commissioner shall issue a withdrawal permit on Form 1450 and shall forward the original to the permittee. If the application submitted in accordance with § 213.41a is approved, the assistant regional commissioner shall issue a limited withdrawal permit on Form 4327, and shall forward it to the permittee. Withdrawal permits on Form 1450 shall terminate on April 30 of each year: *Provided*, That a permit issued less than six months before April 30 of any year shall remain in effect through April 30 of the following year. Limited withdrawal permits on Form 4327 shall remain in effect until canceled as provided in § 213.113.

(72 Stat. 1370; 26 U.S.C. 5271)

14. The heading of § 213.111 is amended, for clarification, to read as follows:

§ 213.111 Application for renewal of withdrawal permit, Form 1450.

* * * * *

15. New § 213.111a, relating to changes affecting limited withdrawal permits, is added immediately following § 213.111, to read as follows:

§ 213.111a Changes affecting limited withdrawal permits.

Where a permittee holds a limited withdrawal permit and there is a change in operations which makes him no longer eligible to withdraw alcohol free of tax under such withdrawal permit (as provided in § 213.54), the permittee shall file an application on Form 1450 for a withdrawal permit, in the manner provided in § 213.109. Where there is a change affecting information shown on the limited withdrawal permit, including a change in supplier, but which does not disqualify the permittee for withdrawals under a limited permit, application for an amended limited withdrawal permit shall be filed on Form 4326.

16. Section 213.113 is amended to include provisions for the cancellation of a limited withdrawal permit. As amended, § 213.113 reads as follows:

§ 213.113 Cancellation of withdrawal permit.

Should an industrial use permit on Form 1447 be terminated or surrendered, or should the withdrawal permit on Form 1450 or the limited withdrawal permit on Form 4327, issued to the permittee be revoked, the withdrawal permit shall be returned immediately to the assistant regional commissioner for cancellation. Where a permittee holds a limited withdrawal permit on Form 4327 and is required to file application on Form 1450 for a new permit, the limited withdrawal permit shall be forwarded to the assistant regional commissioner for cancellation.

(72 Stat. 1370; 26 U.S.C. 5271)

17. Section 213.114 is amended by adding a new sentence immediately following the last sentence. As amended, § 213.114 reads as follows:

§ 213.114 Withdrawals under permit.

When the permittee desires to procure tax-free alcohol, he shall forward the withdrawal permit to the proprietor of the distilled spirits plant from whom he will procure such alcohol. Shipments shall not be made by the proprietor of a distilled spirits plant until he is in possession of a valid withdrawal permit, nor shall shipments exceed the quantity authorized by such permit. On shipment, the consigner shall enter the transaction on the withdrawal permit and return it to the permittee, unless he has been authorized to retain it for the purpose of making future shipments. In the case of limited withdrawal permits, Form 4327, when space for entries on the form is no longer available, separate sheets, as needed, shall be attached to and made a part of the form, and entries covering each shipment shall be made thereon in the same manner as on the form.

(72 Stat. 1370; 26 U.S.C. 5271)

18. Section 213.115 is amended by adding requirements relating to withdrawals by a user not required to file bond, and by making clarifying changes. As amended, § 213.115 reads as follows:

§ 213.115 Regulation of withdrawals.

(a) *Withdrawals covered by bond.* A permittee required to file bond shall so regulate his withdrawals that he will not have on hand, in transit, and unaccounted for at any one time more than the quantity of tax-free alcohol shown in his application on Form 2600 for an industrial use permit. Recovered alcohol and alcohol received under § 213.117 shall be taken into account in determining the quantity of alcohol on hand.

(b) *Withdrawals not covered by bond.* Withdrawals by a user not required to file bond, under withdrawal permit on Form 1450, shall not exceed the quantity authorized by his permit and shall be so regulated by him that he will not have more than 24 proof gallons on hand, in transit, and unaccounted for at any one time. Withdrawals by a user under a limited withdrawal permit on Form 4327 shall not exceed the quantity authorized by his permit and shall be so regulated by him that he will not have more than 14 proof gallons on hand, in transit, and unaccounted for at any one time: *Provided*, That, in the case of a State or political subdivision thereof, or the District of Columbia, the quantity which may be on hand, in transit, and unaccounted for at any one time shall not exceed the quantity shown in the application on Form 4326.

(c) *Alcohol unaccounted for.* For purposes of this section, tax-free alcohol and recovered alcohol shall be deemed to be unaccounted for if lost under circumstances where a claim for allowance is required by this part and such claim has not been allowed, or if used or disposed of otherwise than as provided in this part.

19. Section 213.117 is amended to delete reference to Form 1450. As amended, § 213.117 reads as follows:

§ 213.117 Alcohol received from General Services Administration.

Any eleemosynary institution holding an industrial use permit, Form 1447, and receiving alcohol from General Services Administration under the provisions of section 5688(a)(2)(B), I.R.C., shall include any quantity of alcohol so received in computing the quantity of tax-free alcohol that may be procured under its withdrawal permit during the calendar month. Such alcohol shall, on receipt, be placed in the storage facilities prescribed

in § 213.91 and kept there under lock until withdrawn for use.

[F.R. Doc. 70-12168; Filed, Sept. 11, 1970; 8:48 a.m.]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-50; Amdt. 173-35]

PART 173—SHIPPERS

Extension of Retest Period for Certain Safety Relief Valves

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to extend the retest period for safety relief valves of the spring-loaded type on specifications 106A and 110AW type tanks used exclusively in the service of fluorinated hydrocarbons and mixtures thereof which are free from corroding components.

On May 29, 1970, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket No. HM-50; Notice No. 70-11 (35 F.R. 8450) which proposed the amendment to permit such valves to be retested every 5 years in place of the present 2-year interval.

Interested persons were invited to give their views on this proposal. The one comment received supported the proposal.

Accordingly, 49 CFR Part 173 is amended as follows:

In § 173.31 paragraph (d)(8) Retest Table 2 is amended by inserting reference to footnote e in subcolumn headed "Safety relief devices," and by adding footnote e as follows:

§ 173.31 Qualification, maintenance, and use of tank cars.

* * * * * * *

(d) * * *

(8) * * *

RETEST TABLE 2

Specification	Retest interval—years		Retest pressure—p.s.i.		Safety relief valve pressure—p.s.i.	
	Tank	Safety relief devices[e]	Tank hydrostatic expansion [d]	Tank air test	Start-to-discharge	Vapor tight
*	*	*	*	*	*	*
*	*	*	*	*	*	*

[e] Safety relief valves of the spring-loaded type on tanks used exclusively for fluorinated hydrocarbons and mixtures thereof which are free from corroding components may be retested every 5 years.

* * * * * * *

This amendment is effective December 31, 1970. However, compliance with the regulations as amended herein authorized immediately.

(Secs. 831-835, Title 18, United States Code; sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on September 9, 1970.

T. R. SARGENT,
Vice Admiral, U.S. Coast Guard, Acting Commandant.

HAROLD C. HEISS,
Acting Administrator, Federal Railroad Administration.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety, Federal Highway Administration.

[F.R. Doc. 70-12171; Filed, Sept. 11, 1970; 8:49 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Children of Divorced or Separated Parents

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under section 152 of the Internal Revenue Code of 1954 to the Act of August 31, 1967 (Public Law 90–78, 81 Stat. 191), such regulations are amended as follows:

PARAGRAPH 1. Section 1.152 is amended by revising so much of subsection (a) of section 152 as precedes paragraph (1), by adding at the end of section 152 a new subsection (e), and by revising the historical note. The revised and added provisions read as follows:

§ 1.152 Statutory provisions; dependent defined.

SEC. 152. *Dependent defined*—(a) *General definition.* For purposes of this subtitle, the term "dependent" means any of the following individuals over half of whose support, for the calendar year in which the taxable year of the taxpayer begins, was received from the taxpayer (or is treated under subsection (c) or (e) as received from the taxpayer):

* * * * *

(e) *Support test in case of child of divorced parents, etc.*—(1) *General rule.*—If—

(A) A child (as defined in section 151(e)(3)) receives over half of his support during the calendar year from his parents who are divorced or legally separated under a decree of divorce or separate maintenance, or who are separated under a written separation agreement, and

(B) Such child is in the custody of one or both of his parents for more than one-half of the calendar year,

Such child shall be treated, for purposes of subsection (a), as receiving over half of his support during the calendar year from the parent having custody for a greater portion of the calendar year unless he is treated, under the provisions of paragraph (2), as having received over half of his support for such year from the other parent (referred to in this subsection as the parent not having custody).

(2) *Special rule.* The child of parents described in paragraph (1) shall be treated as having received over half of his support during the calendar year from the parent not having custody if—

(A) (i) The decree of divorce or of separate maintenance, or a written agreement between the parents applicable to the taxable year beginning in such calendar year, provides that the parent not having custody shall be entitled to any deduction allowable under section 151 for such child, and

(ii) Such parent not having custody provides at least $600 for the support of such child during the calendar year, or

(B) (i) The parent not having custody provides $1,200 or more for the support of such child (or if there is more than one such child, $1,200 or more for all of such children) for the calendar year, and

(ii) The parent having custody of such child does not clearly establish that he provided more for the support of such child during the calendar year than the parent not having custody.

For purposes of this paragraph, amounts expended for the support of a child or children shall be treated as received from the parent not having custody to the extent that such parent provided amounts for such support.

(3) *Itemized statement required.* If a taxpayer claims that paragraph (2)(B) applies with respect to a child for a calendar year and the other parent claims that paragraph (2)(B)(i) is not satisfied or claims to have provided more for the support of such child during such calendar year than the taxpayer, each parent shall be entitled to receive, under regulations to be prescribed by the Secretary or his delegate, an itemized statement of the expenditures upon which the other parent's claim of support is based.

(4) *Exception for multiple-support agreement.* The provisions of this subsection shall not apply in any case where over half of the support of the child is treated as having been received from a taxpayer under the provisions of subsection (c).

(5) *Regulations.* The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

[Sec. 152 as amended by sec. 2, Act of Aug. 9, 1955 (Public Law 333, 84th Cong., 69 Stat. 626); sec. 4, Technical Amendments Act of 1958 (72 Stat. 1607); sec. 1, Act of Sept. 23, 1959 (Public Law 86–376, 73 Stat. 699); sec. 1, Act of Aug. 31, 1967 (Public Law 90–78, 81 Stat. 191)]

PAR. 2. The following new section is inserted after § 1.152–3:

§ 1.152–4 Support test in case of child of divorced or separated parents.

(a) *Applicability.* For taxable years beginning after December 31, 1966, the provisions of section 152(e) and this section relate to a determination of which of separated parents (including parents who are divorced or legally separated under a decree of divorce or separate maintenance, or separated under a written separation agreement) is to be treated for purposes of section 152(a) and § 1.152–1 as having provided more than half of the support of a child, as defined in section 151(e)(3) and § 1.151–3(a). For section 152(e) and this section to apply either parent or both parents combined must provide more than one-half of the child's total support, within the meaning of § 1.152–1(a)(2)(i) during the calendar year in which the taxable year of the parent who is claiming the child as a dependent begins; and such child must be in the custody of one or both of his parents for more than one-half of the calendar year. Thus, section 152(e) and this section do not apply if a person other than the parents provides one-half or more for the support of such child during the calendar year or has custody of the child for one-half or more of the calendar year. In addition, section 152(e) and this section do not apply in any case where over half of the support of the child is treated as having been received from a taxpayer pursuant to a multiple support agreement under the provisions of section 152(c) and § 1.152–3. Nor does section 152(e) and this section apply to a period for which a joint return signed by both parents is filed.

(b) *Custody.* "Custody," for purposes of this section, will be determined by the terms of the most recent decree of divorce or separate maintenance, or subsequent custody decree, or, if none, a written separation agreement. In the event of so-called "split" custody, or if neither a decree or agreement establishes who has custody, or if the validity or continuing effect of such decree or agreement is uncertain by reason of proceedings pending on the last day of the calendar year, "custody" will be deemed to be with the parent who, as between both parents, has the physical custody of the child for the greater portion of the calendar year.

(c) *General rule.* For purposes of section 152(a) and § 1.152–1, a child shall be treated as receiving over half of his support during the calendar year from the parent (hereinafter referred to as the "custodial parent") having custody

within the meaning of paragraph (b) of this section for a greater portion of the calendar year unless the exceptions of paragraph (d) of this section apply. If the parents of such a child are divorced or separated for only a portion of a calendar year after having had joint custody of the child for the prior portion of the year, the parent who has custody for the greater portion of the remainder of the year after divorce or separation shall be treated as having custody for a greater portion of the calendar year. Except as provided in section 152(e)(2)(A) and paragraph (d)(2) of this section (relating to decree or agreement) parents who are unable to enter into a multiple support agreement under section 152(c) cannot enter into an agreement as to which parent is entitled to claim a child as a dependent. Therefore, in general, the custodial parent shall be allowed as a deduction the exemption for the dependent child, if the requirements of section 151 (e) are met.

(d) *Exceptions*—(1) *In general.* Notwithstanding paragraph (c) of this section, a child shall be treated as receiving over half of his support during the calendar year from the parent who is not the custodial parent (hereinafter referred to as the "noncustodial parent") if the conditions of subparagraph (2) or (3) of this paragraph are met.

(2) *Decree or agreement.* A noncustodial parent who provides at least $600 for the support of a child during the calendar year shall be treated as having provided more than half the support of the child if the decree of divorce or of separate maintenance, or a written agreement between the parents applicable to the taxable year of the noncustodial parent beginning in such calendar year, provides that the noncustodial parent shall be entitled to any deduction allowable under section 151 as an exemption for the dependent child. In order for this subparagraph to apply, the noncustodial parent must provide at least $600 for the support of each child he claims as a dependent. Arrearages paid in a year subsequent to such calendar year shall not be treated as paid during that calendar year or in the year of payment. For purposes of this subparagraph any amount paid for child support shall not be treated as an arrearage payment but shall be treated as a payment made during the year of payment to the extent of any unpaid liability (determined without regard to such payment) with respect to child support for the taxable year of payment. Similarly, payments made prior to the calendar year (whether or not made in the form of a lump sum payment in settlement of the parent's liability for support) shall not be treated as made during the calendar year. However, payments made during the calendar year from, for example, amounts set aside in trust by a parent in a prior year, shall be treated as provided by such parent during the calendar year. For taxable years beginning after December 31, 1970, in the case of a written agreement between the parents which allocates the deduction to the noncustodial parent, the noncustodial parent must attach to his return (or amended return) a copy of the agreement which is applicable to the calendar year in which the taxable year of the noncustodial parent begins.

(3) *Actual support.* A noncustodial parent who provides $1,200 or more support for the child (or if there is more than one child for which he claims an exemption, $1,200 or more for the combined support for all of such children) shall be treated as having provided more than half the support for the child (or children) notwithstanding any provision to the contrary contained in a decree of divorce or separation or in a written agreement, unless the custodial parent clearly establishes that the custodial parent provided, in fact, more for the support of the child during the calendar year than the noncustodial parent. Under section 152(e)(2)(B) and this subparagraph, if the noncustodial parent establishes that he has provided $1,200 or more for the support of the child, then the custodial parent has the burden of establishing by clear and convincing evidence that the custodial parent has provided more for the support of the child than has been established by the noncustodial parent in order to be treated as having provided over half of the support of the child. See paragraph (e) of this section with regard to notification and submission of itemized statements.

(4) *Amount of support.* For purposes of this paragraph, amounts expended for the support of a child shall be treated as received from the noncustodial parent to the extent that the noncustodial parent provided amounts for the support of the child, whether or not such amounts provided by the noncustodial parent are actually expended for child support. Therefore, for example, if only the parents have provided support for the child during a calendar year, only the excess of the total amount expended for the support of the child over the amount so provided by the noncustodial parent shall be treated as provided by the custodial parent for the support of the child.

(e) *Itemized statement*—(1) *Exchange.* (i) If a parent intends to claim for a taxable year a child as a dependent or a parent is uncertain whether he is entitled to claim a child and desires either to determine whether the second parent intends to or has claimed the same child as a dependent, or if the first parent desires to receive an itemized statement as provided in subparagraph (3) of this paragraph from the second parent, the first parent is entitled to receive such information from the second parent in writing upon request provided he both notifies the second parent of his intention (or possible intention) to so claim the child and sends the second parent a copy of such an itemized statement upon which the first parent's claim is based. A failure to make such a request shall not affect the right of the first parent to claim the child as a dependent. However, if the first parent makes such a request, and the second parent does not respond within a reasonable time, and it is determined that the first parent is not entitled to claim the child as a dependent, the inability of the first parent to obtain information will be taken into account in determining whether the addition to tax under section 6653, relating to failure to pay tax, is applicable.

(ii) Upon receipt of such a request accompanied by an itemized statement, if the second parent intends to claim (with respect to the calendar year in which such taxable year of the first parent begins) or has claimed the same child as a dependent, the second parent shall so inform the first parent, and if so requested shall send him a copy of the itemized statement upon which the second parent's claim is based. A notification under this subparagraph that the parent is claiming or is not claiming the child as a dependent shall not affect the rights of the parent making such notification and does not constitute a waiver.

(2) *Attachment to return.* For taxable years beginning after December 31, 1970, if a parent intends to claim a child as a dependent and, prior to the filing of his return or the time prescribed by law for filing the return (determined without regard to any extension thereof), whichever is later, such parent makes or receives a request under the procedures provided under paragraph (e)(1) of this section, then unless he is reasonably certain that the other parent will not claim the child as a dependent, such parent must attach to his return (or if the return is already filed, to a corrected or amended return) a copy of the itemized statement upon which such parent's claim is based, as provided in subparagraph (3) of this paragraph, together with a copy of the other parent's itemized statement, if available, at the time the return is filed. Failure to attach an itemized statement to the extent required by this subparagraph will be taken into account in determining whether the addition to tax under section 6653, relating to failure to pay tax, is applicable in the event it is determined that the parent is not entitled to claim the child as a dependent.

(3) *Contents.* The itemized statement referred to in subparagraphs (1) and (2) of this paragraph shall include—

(i) The name of the child (or children) being claimed as a dependent as well as the name of both parents and, if known, the address and social security number of both parents;

(ii) If known, the number of months the dependent child (or children) lived during the calendar year in the home of each parent or person other than the parents;

(iii) If known, income for the taxable year of each dependent child;

(iv) If known, the total amount of support furnished the child (or children) (including amounts furnished by persons other than the parents);

(v) A list of amounts expended during the calendar year for the child (or children) made by the parent making the statement and itemized to show the

amounts expended for medical and dental care, food, shelter, clothing, education, recreation, and transportation;

(vi) Amounts actually paid by the parent making the statement during the calendar year for the support of the child (or children) pursuant to a decree of divorce or separate maintenance, or a written separation agreement; and

(vii) Other amounts paid or expended by the parent making the statement during the calendar year, for the support of the child (or children).

(4) *Requirement by Officer.* Notwithstanding subparagraph (1), (2), or (3) of this paragraph, an internal revenue officer may require the submission of an itemized statement from either parent and may make it available to the other parent. Such itemized statement shall contain the information requested by the internal revenue officer and shall be filed within such reasonable time as may be designated by him. If the required statement is not furnished pursuant to the instructions of the internal revenue officer, the claim of support of the parent failing to comply with such requirement may be disallowed by the Internal Revenue Service.

(f) *Illustration of principles.* The application of the provisions of this section may be illustrated by the following examples:

Example (1). A, a child of B and C, who were divorced June 1, 1970, received $1,000 for support during the calendar year 1970, of which $400 was provided by B and $300 was provided by C. No multiple support agreement was entered into. Prior to the divorce B and C jointly had custody of A, and for the remainder of 1970, B had custody of A for the months of October through December, while C had custody of A for the months of June through September. Since C had custody for 4 of the 7 months following the divorce, C is the custodial parent for 1970 and is treated as having provided over half of the support for A during 1970.

Example (2). Assume the same facts as in example (1) and that for the calendar year 1971, of $1,000 support expended for A during 1971, $400 was provided by B and $300 was provided by C. Furthermore, assume that in addition to having custody of A for the months of October through December 1971, B had custody for the first 5 months of 1971. Since B had custody of A for a total of 8 months in 1971, B is the custodial parent for 1971 and is treated as having provided over half of the support for A during 1971.

Example (3). D received all of his support, $1,000, during the calendar year 1970, from his parents E and F, who are separated under a written separation agreement. F had custody of D for the entire year of 1970, but under the agreement E was to provide $600 for the support of D during 1970, and E is entitled to any deduction allowable under section 151 for the years 1970 and 1971. E, in fact, provides only $550 for the support of D during 1970, but makes up the arrearage of $50 early in 1971. Nevertheless, F is treated as having provided over half of the support for D during 1970.

Example (4). Assume the same facts as in example (3) and that F had custody of D for the entire year 1971, and of $2,350 expended for the support of D during 1971, E provided $650 while F provided $1,700. Since under the written separation agreement E is entitled to any deduction allowable under section 151 for D for the year 1971 and E provided at least $600 for the support of D, E is treated as having provided over half of the support of D, for 1971.

Example (5). G and H are legally separated under a decree of separate maintenance. G has custody of I, the child of G and H, for the entire year, and G and H enter into a written agreement that G is entitled to any deduction allowable under section 151 for I for the calendar year 1970. However, during 1970, of the $2,000 provided for the support of I, H provided $1,300 while G provided only $700. H has provided more than $1,200 for the support of I, and G cannot establish that G provided more for the support of I, than did H. Therefore, notwithstanding the agreement, since H does not have custody of I, H is treated as having provided over half of the support for I for 1970.

Example (6). J and K, the children of L and M, who are divorced, received a total of $3,400 for the support of both during the calendar year 1970 from their parents. L, who has custody of J and K for the entire year 1970, provided $1,800 for the support of both, while M, the noncustodial parent, provided $1,600 for such support. Under the decree of divorce, M is entitled to any deduction allowable under section 151 for such children. Since M has provided at least $600 for the support of each child, M is treated as having provided over half the support for J and K for 1970. Furthermore, as J and K are determined under section 152(e) and § 1.152-4 to be dependents of M for purposes of section 151(e), they are also considered to be dependents of M with respect to other provisions of the Code that are dependent upon such a determination for their operation. (For example, section 213.)

[F.R. Doc. 70-12169; Filed, Sept. 11, 1970; 8:48 a.m.]

[26 CFR Part 1]

INCOME TAX

Investment Credit Provisions

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 38(b) (76 Stat. 963; 26 U.S.C. 38(b)) and 7805 (68A Stat. 917; 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

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

Section 1.47-3(f) of the Income Tax Regulations (26 CFR Part 1), relating to the investment credit, is amended by adding a new subdivision (iii) to subparagraph (1) and by adding a new subparagraph (7). These added provisions read as follows:

§ 1.47-3 Exceptions to application of § 1.47-1.

* * * * *

(f) *Mere change in form of conducting a trade or business*—(1) *General rule.* * * *

(iii) In a case where an estate or trust is the transferor of section 38 property and all or part of the basis (or cost) of such property has been apportioned to such estate or trust under § 1.48-6, subdivision (i) of this subparagraph shall apply with respect to the share so apportioned only if the transferee and each of the beneficiaries of such estate or trust execute the agreement specified in subparagraph (7) of this paragraph.

* * * * *

(7) *Agreement of transferee and beneficiaries.* (i) The agreement referred to in subparagraph (1)(iii) of this paragraph shall be signed by the transferee and each of the beneficiaries, and shall recite that in the event any section 38 property described in subparagraph (1)(i) of this paragraph, all or part of the basis (or cost) of which was apportioned to the estate or trust under § 1.48-6, is later disposed of by (or ceases to be section 38 property with respect to) the transferee, each such signer agrees (*a*) to notify the district director of such disposition or cessation, and (*b*) to be jointly and severally liable to pay to the district director an amount equal to the increase in tax provided by section 47. The amount of such increase shall be determined with respect to the share of the basis (or cost) of such property apportioned to the estate or trust under § 1.48-6 and as if such property had ceased to be section 38 property as of the date of disposition by the estate or trust, except that the actual useful life (within the meaning of paragraph (a) of § 1.47-1) of the property shall be considered to have ended on the date of the actual disposition by, or cessation in the hands of, the transferee.

(ii) The agreement shall set forth the name, address, and taxpayer account number of each party and the internal revenue district in which is located the principal place of business or legal residence of each such party. The agreement may be signed on behalf of the transferee by any person who is duly authorized. The agreement shall be filed with the district director for the internal revenue district in which is located the principal place of business of the estate or trust and shall be filed on or before the due date (including extensions of

time) of the estate's or trust's income tax return for the taxable year which includes the date of disposition. However, if the due date (including extensions of time) of such income tax return is on or before September 1, 1970, the agreement may be filed on or before December 31, 1970. For purposes of the two preceding sentences, the district director may, if good cause is shown, permit the agreement to be filed on a later date.

* * * * *

[F.R. Doc. 70-12172; Filed, Sept. 11, 1970; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1062]

MILK IN ST. LOUIS-OZARKS MARKETING AREA

Notice of Proposed Suspension of Certain Provision of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of a certain provision of the order regulating the handling of milk in the St. Louis-Ozarks marketing area is being considered for the period beginning September 1, 1970, until action may be taken on the basis of a hearing record.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 5 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be 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 provision proposed to be suspended is as follows: In § 1062.53(d), the words "less 27 cents".

Statement of consideration. The proposed suspension would remove the 27-cent location credit on Class I milk at supply plants located in the Missouri counties of Barry, Christian, Douglas, Green, Howell, Laclede, Lawrence, Ozark, Stone, Taney, Webster, Wright, and Texas, thereby increasing the Class I price at such plants by 27 cents.

The suspension was requested by Mid-America Dairymen, Inc. The cooperative states that the supply plant location adjustment is now creating an incentive for distributing plants located in the same area who do not receive the location credit to seek milk from supply plants rather than purchase directly from producers.

Signed at Washington, D.C., on September 9, 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 70-12200; Filed, Sept. 11, 1970; 8:51 a.m.]

[7 CFR Part 1063]

MILK IN QUAD CITIES-DUBUQUE MARKETING AREA

Notice of Proposed Suspension of Certain Provisions of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Quad Cities-Dubuque marketing area is being considered for the months of September and October 1970.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be 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 provisions proposed to be suspended are as follows: In § 1063.52 subparagraph (2) of paragraph (a).

The proposed suspension would make inoperative the provisions that adjust the Class I and uniform prices at a plant located outside the marketing area and 70 miles or more from the nearer of Rock Island, Ill., or West Liberty, Iowa.

The suspension action is requested by Mid-America Dairymen, Inc., to avoid the possibility of such provision reducing the prices at a pool plant located in the Des Moines, Iowa, Federal order marketing area. The association points out that on September 1, 1970, the Borden Company discontinued bottling operations at its Rock Island, Ill., plant which had been regulated under the Quad Cities-Dubuque order. Its fluid milk accounts in this market are now being served from the company's plant located in Des Moines, Iowa. The association claims that this is likely to result in the Des Moines plant being regulated under the Quad Cities-Dubuque order rather than the Des Moines order.

The Class I price under the Des Moines order is 15 cents higher than the Quad Cities-Dubuque Class I price. The location adjustment provision would reduce the Quad Cities-Dubuque Class I price 19 cents at a plant located in Des Moines. This, the association states, would result in inequity in pricing between competing handlers located in the Des Moines area if one such handler's plant located there is regulated under the Quad Cities-Dubuque order.

Signed at Washington, D.C., on September 9, 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 70-12199; Filed, Sept. 11, 1970; 8:51 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 81]

CERTAIN AIR QUALITY CONTROL REGIONS

Notice of Proposed Designation of Interstate Air Quality Control Regions; Notice of Consultation With Appropriate State and Local Authorities

Pursuant to authority delegated by the Secretary and redelegated to the Commissioner of the National Air Pollution Control Administration (33 F.R. 9909), notice is hereby given of a proposal to designate Interstate Air Quality Control Regions as set forth in the following new §§ 81.98-81.103 inclusive which would be added to Part 81 of Title 42, Code of Federal Regulations. It is proposed to make such designations effective upon republication.

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

Interested authorities of the States of Arizona, Idaho, Illinois, Iowa, New Mexico, Washington, and Wisconsin and appropriate local authorities, both within and without the proposed regions, who are affected by or interested in the proposed designations, are hereby given notice of an opportunity to consult with representatives of the Secretary concerning such designations. The schedule for such consultations is as follows:

Burlington-Koekuk Interstate Air Quality Control Region, September 29, 1970, 11 a.m., Room B-17, Federal Building, Fourth and Perry Streets, Davenport, Iowa.

Copper County Interstate Air Quality Control Region, September 22, 1970, 10 a.m., Fine Arts Auditorium, Western New Mexico University, Silver City, N. Mex.

Lewiston (Idaho)—Clarkston (Washington) Interstate Air Quality Control Region, September 24, 1970, 2 p.m., City Council Chambers, City Hall, 221 North Wall, Spokane, Wash.

Metropolitan Dubuque Interstate Air Quality Control Region, September 29, 1970, 2 p.m., Room B-17, Federal Building, Fourth and Perry Streets, Davenport, Iowa.

Metropolitan Quad Cities Interstate Air Quality Control Region, September 29, 1970, 9 a.m., Room B–17, Federal Building, Fourth and Perry Streets, Davenport, Iowa.
Spokane (Washington)—Coeur d'Alene (Idaho) Interstate Air Quality Control Region, September 24, 1970, 10 a.m., City Council Chambers, City Hall, 221 North Wall, Spokane, Wash.

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

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

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

§ 81.98 Burlington-Keokuk Interstate Air Quality Control Region.

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

In the State of Illinois:

Hancock County. Henderson County.

In the State of Iowa:

Des Moines County. Lee County.

§ 81.99 Copper Country Interstate Air Quality Control Region.

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

In the State of Arizona:

Cochise County. Greenlee County.
Graham County.

In the State of New Mexico:

Grant County. Hidalgo County.

§ 81.100 Lewiston (Idaho)—Clarkston (Washington) Interstate Air Quality Control Region.

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

In the State of Idaho:

Latah County. Nez Perce County.

In the State of Washington:

Asotin County. Whitman County.

§ 81.101 Metropolitan Dubuque Interstate Air Quality Control Region.

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

In the State of Illinois:

Jo Daviess County.

In the State of Iowa:

Clayton County. Jackson County.
Dubuque County.

In the State of Wisconsin:

Grant County.

§ 81.102 Metropolitan Quad Cities Interstate Air Quality Control Region.

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

In the State of Illinois:

Carroll County. Rock Island County.
Henry County. Whiteside County.
Mercer County.

In the State of Iowa:

Clinton County. Muscatine County.
Louisa County. Scott County.

§ 81.103 Spokane (Washington)—Coeur d'Alene (Idaho) Interstate Air Quality Control Region.

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

In the State of Washington:

Spokane County.

In the State of Idaho:

Benewah County. Shoshone County.
Kootenai County.

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

Dated: August 28, 1970.

JOHN H. LUDWIG,
Acting Commissioner, National Air Pollution Control Administration.

[F.R. Doc. 70–12089; Filed, Sept. 11, 1970; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGFR 70–114]

BLOCK ISLAND SOUND, N.Y.

Anchorage Grounds

1. Notice is hereby given that the Chief, Office of Operations, U.S. Coast Guard Headquarters, under authority of section 1, 63 Stat. 503 (14 U.S.C. 91), section 7, 38 Stat. 1053 (33 U.S.C. 471), section 6(g)(1)(A) of the Department of Transportation Act (80 Stat. 937, 49 U.S.C. 1655(g)(1)(A)), 49 CFR 1.46 (b) and (c)(1) (35 F.R. 4959), and 33 CFR 1.05–1(c)(1) (35 F.R. 8279), is considering the addition of § 110.150 to Part 110 Subpart B of Title 33, Code of Federal Regulations.

2. The proposed new section would establish, describe and promulgate regulations for a Submarine Anchorage Ground in Block Island Sound approximately 3 miles east-northeast of Gardiners Island. This anchorage ground is for use of U.S. Navy submarines. When a U.S. Navy submarine is anchored in this anchorage ground, no other vessel or person may enter or remain therein.

3. It is proposed to amend Part 110 by adding § 110.150 to read as follows:

§ 110.150 Block Island Sound, N.Y.

(a) *The anchorage grounds.* A 1-by-3-mile rectangular area approximately 3 miles east-northeast of Gardiners Island with the following coordinates: latitude 41°05′42″ N., longitude 71°59′52″ W.; latitude 41°08′32″ N., longitude 72°01′37″ W.; latitude 41°07′52″ N., longitude 72°02′34″ W.; latitude 41°06′23″ N., longitude 71°58′53″ W.

(b) *The regulations.* The anchorage ground is to be used by U.S. Navy submarines. When a U.S. Navy submarine is anchored in this anchorage ground, no other vessel or person may enter or remain therein.

4. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before October 15, 1970. All submissions should be made in writing to the Commander, Third Coast Guard District, Governors Island, New York, N.Y. 10004.

5. To expedite the handling of submissions regarding this proposal, it is requested that each be submitted in triplicate and state the subject to which it is directed; the specific wording recommended; the reason for the recommended change; and the name, address and firm or organization, if any, of the person making the submission.

6. Each communication received within the time specified will be fully considered and evaluated before final action is taken on the proposal in this document. This proposal may be changed in light of the comments received. Copies of all written communications received

will be available for examination by interested persons at the office of the Commander, Third Coast Guard District, Governors Island, New York, N.Y. 10004.

7. After all interested persons have expressed their views, the Commander, Third Coast Guard District will forward the record, including the original of all written submissions, and his recommendations with respect to the proposals and submissions received to the Commandant (OLE), U.S. Coast Guard, Washington, D.C. 20591. The Commandant will thereafter make a final determination with respect to this proposal.

Dated: September 8, 1970.

D. H. LUZIUS,
Captain, U.S. Coast Guard, Acting Chief, Office of Operations, by Direction of the Commandant.

[F.R. Doc. 70-12205; Filed, Sept. 11, 1970; 8:51 a.m.]

[33 CFR Part 117]

[CGFR 70-97]

DOCTORS INLET, FLA.

Drawbridge Operation

1. The Commandant, U.S. Coast Guard is considering a request by the Florida Department of Transportation to establish special operation regulations for its bridge across Doctors Inlet, Clay County, Fla. Present regulations governing this bridge require that the draw be opened promptly on signal. The proposed regulations would require that the draw be opened promptly on signal from 6 a.m. to 10 p.m. At all other times at least 4 hours' advance notice would be required. Twin fixed bridges are presently being constructed across Doctors Inlet near this bridge. Upon their completion this bridge will be removed. Authority for this action is set forth in section 5, 28 Stat. 362, as amended (33 U.S.C. 499), section 6(g)(2) of the Department of Transportation Act (49 U.S.C. 1655(g)(2)) and 49 CFR 1.46(c)(5).

2. Accordingly, it is proposed to add 33 CFR 117.431b to read as follows:

§ 117.431b Doctors Inlet, Fla.; Florida State Highway Department bridge on State Road 15 (U.S. 17).

(a) The draw shall be opened promptly on signal from 6 a.m. to 10 p.m. At all other times at least 4 hours advance notice is required.

(b) The owners of or agency controlling this bridge shall keep a copy of the regulations in this section conspicuously posted on both the upstream and downstream sides of the bridge in such manner that it can easily be read at any time.

3. Interested persons may participate in this proposed rule making by submitting written data, views, arguments, or comments as they may desire on or before October 16, 1970. All submissions should be made in writing to the Commander, Seventh Coast Guard District, Federal Building, 51 Southwest First Avenue, Miami, Fla. 33130.

4. It is requested that each submission state the subject to which it is directed, the specific wording recommended, the reason for any recommended change, and the name, address and firm or organization, if any, of the person making the submission.

5. Each communication received within the time specified will be fully considered and evaluated before final action is taken on the proposal in this document. This proposal may be changed in light of the comments received. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Seventh Coast Guard District.

6. After the time set for the submission of comments by the interested parties, the Commander, Seventh Coast Guard District, will forward the record, including all written submissions and his recommendations with respect to the proposals and the submissions, to the Commandant, U.S. Coast Guard, Washington, D.C. The Commandant will thereafter make a final determination with respect to these proposals.

Dated: September 4, 1970.

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

[F.R. Doc. 70-12207; Filed, Sept. 11, 1970; 8:52 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Parts 154, 157, 250]

[Docket No. R-393]

EXEMPTION OF SMALL PRODUCERS FROM REGULATION

Notice of Extension of Time

SEPTEMBER 4, 1970.

On September 2, 1970, Tennessee Gas Pipeline Co., a division of Tenneco Inc., filed a request for an extension of time to and including September 14, 1970, within which to file comments in the above-designated matter.

Upon consideration, notice is hereby given that the time is extended to and including September 14, 1970, within which any interested person may submit data, views, comments, and suggestions in writing to the notice of proposed rule making issued on July 23, 1970, in the above-designated matter.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-12176; Filed, Sept. 11, 1970; 8:49 a.m.]

Notices

DEPARTMENT OF DEFENSE

Department of the Army

ARLINGTON NATIONAL CEMETERY

Motor Vehicular Traffic

Order. Pursuant to the authority vested in me by chapter 7 of title 24, United States Code, chapter 303 of title 10, United States Code, and as Secretary of the Army, effective November 1, 1970, the following rules concerning motor vehicular traffic will prevail within the Arlington National Cemetery:

(1) No vehicles, with the exceptions listed in section (2) below, will be permitted to operate on the roads within the Arlington National Cemetery. All visitors to the Cemetery who are not entitled to vehicular access in accordance with section (2) will be required to park their vehicles in the Visitors' Center parking area.

(2) Only the following categories of vehicles visiting the Cemetery will be permitted access to the Cemetery roadways:

(a) Official Government vehicles;

(b) Vehicles carrying persons on official Cemetery business;

(c) Vehicles forming part of funeral processions for interment services within the Cemetery;

(d) Vehicles carrying persons visiting gravesites of relatives or loved ones interred within the Cemetery; and

(e) Concessionaire tour buses licensed to operate by the Superintendent of the Cemetery and the Secretary of the Interior or his representative.

(3) Appropriate permanent or temporary vehicle access passes for each of the categories listed in section (2) will be issued by the Superintendent.

THADDEUS R. BEAL,
Acting Secretary of the Army.

[F.R. Doc. 70-12133; Filed, Sept. 11, 1970; 8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[C-9815]

COLORADO

Notice of Classification of Public Lands for Multiple-Use Management

SEPTEMBER 3, 1970.

Notice of Classification appearing as F.R. Doc. 70-10904 in the issue for August 21, 1970 as pages 13396-13398 is hereby amended as follows:

In Sixth Principal Meridian, Colorado, T. 2 N., R. 86 W., "Sec. 13, N½NW¼NE¼" is deleted and the following description is substituted therefor:

Sec. 13, NW¼NW¼NE¼ and N½NE¼NW¼NE¼.

The following land is added to the Notice of Classification:

T. 3 N., R. 89 W.,
Sec. 5, lots 7 and 8;
Sec. 6, lot 10.

J. ELLIOTT HILL,
Acting State Director.

[F.R. Doc. 70-12126; Filed, Sept. 11, 1970; 8:45 a.m.]

Office of Hearings and Appeals

[Docket No. NORT 70-185]

CLINCHFIELD COAL CORP.

Petition for Modification of Interim Mandatory Safety Standard

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that Clinchfield Coal Corp. has filed a petition to modify the application of section 305(k) of the Act with respect to its Lambert Fork Mine located near Duty, Va. Section 305(k) of the Act provides:

All power wires (except trailing cables on mobile equipment, specially designed cables conducting high-voltage power to underground rectifying equipment or transformers, or bare or insulated ground and return wires) shall be supported on well-insulated insulators and shall not contact combustible material, roof, or ribs.

Petitioner proposes that said mine be excepted from the application of the requirements of section 305(k) of the Act, on the grounds that:

(1) An alternative method of achieving the purpose of such standard exists which provides at least equal protection to the miners (an outline of which alternative method is attached to and submitted with the Petition); and (2) the application of this standard will result in diminished safety to the miners.

A copy of the petition is available for inspection in the Office of Hearings and Appeals, U.S. Department of the Interior, Washington, D.C.

OFFICE OF HEARINGS AND APPEALS,
JAMES M. DAY,
Director.

SEPTEMBER 2, 1970.

[F.R. Doc. 70-12125; Filed, Sept. 11, 1970; 8:45 a.m.]

Office of the Secretary

JOHN S. ANDERSON

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of August 1, 1970.

Dated: August 1, 1970.

JOHN S. ANDERSON.

[F.R. Doc. 70-12150; Filed, Sept. 11, 1970; 8:47 a.m.]

CHARLES L. CAMPBELL

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of July 30, 1970.

Dated: July 30, 1970.

C. A. CAMPBELL.

[F.R. Doc. 70-12151; Filed, Sept. 11, 1970; 8:47 a.m.]

GLENN J. HALL

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) FMC Corp., Howmet Corp., Morrison-Knudsen Co., General Electric Co., Amalgamated Sugar Co., Idaho Power Co., First Security Bank Corp., Union Carbide Corp., Pacific Power & Light Co., Utah Power & Light Co., Union Pacific Corp., Portland GE Co., Washington Water Power Co., Montana Power Co., Westinghouse Electric Co., Puget Sound Power & Light Co., Howmedica Corp.
(3) No change.
(4) No change.

This statement is made as of July 30, 1970.

Dated: July 30, 1970.

GLENN J. HALL.

[F.R. Doc. 70-12152; Filed, Sept. 11, 1970; 8:47 a.m.]

DAVID G. JETER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 30, 1970.

Dated: July 30, 1970.

DAVID G. JETER.

[F.R. Doc. 70-12153; Filed, Sept. 11, 1970; 8:47 a.m.]

J. W. KEPNER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of August 10, 1970.

Dated: August 10, 1970.

J. W. KEPNER.

[F.R. Doc. 70-12154; Filed, Sept. 11, 1970; 8:47 a.m.]

OWEN A. LENTZ

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) Yardman, Inc., is now known as "The Leisure Group".
(3) No change.
(4) No change.

This statement is made as of August 7, 1970.

Dated: August 7, 1970.

O. A. LENTZ.

[F.R. Doc. 70-12155; Filed, Sept. 11, 1970; 8:47 a.m.]

WILTON I. MARTIN

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of August 21, 1970.

Dated: August 21, 1970.

WILTON I. MARTIN.

[F.R. Doc. 70-12156; Filed, Sept. 11, 1970; 8:47 a.m.]

ROBERT R. McLAGAN

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 28, 1970.

Dated: July 31, 1970.

R. R. MCLAGAN.

[F.R. Doc. 70-12157; Filed, Sept. 11, 1970; 8:47 a.m.]

JULIO A. NEGRONI

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of August 1970.

Dated: August 3, 1970.

JULIO A. NEGRONI.

[F.R. Doc. 70-12158; Filed, Sept. 11, 1970; 8:47 a.m.]

LEROY J. SCHULTZ

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of July 30, 1970.

Dated: July 30, 1970.

L. J. SCHULTZ.

[F.R. Doc. 70-12159; Filed, Sept. 11, 1970; 8:48 a.m.]

CHARLES W. WATSON

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) No change.
(2) No change.
(3) No change.
(4) No change.

This statement is made as of July 31, 1970.

Dated: July 31, 1970.

CHARLES W. WATSON.

[F.R. Doc. 70-12160; Filed, Sept. 11, 1970; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

OKLAHOMA

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 Oklahoma natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

OKLAHOMA

Beaver.	Jackson.
Beckham.	Kingfisher.
Blaine.	Kiowa.
Caddo.	Major.
Cimarron.	Noble.
Comanche.	Roger Mills.
Custer.	Stephens.
Grady.	Texas.
Greer.	Tillman.
Harmon.	Woodward.
Harper.	

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 8th day of September 1970.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 70-12128; Filed, Sept. 11, 1970; 8:45 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-199; NDA 12-404]

CARTER-WALLACE, INC.

Pree-Mt Tablets; Notice of Withdrawal of Approval of New-Drug Application

On July 22, 1970, there was published in the FEDERAL REGISTER (35 F.R. 11718) a notice of opportunity for hearing in which the Commissioner of Food and Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new-drug applications listed therein on the ground that new information before the Commissioner with respect to these drugs, evaluated with evidence available to him when the applications were approved, shows there is a lack of substantial evidence that the drugs will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Carter-Wallace, Inc. (formerly Wallace Pharmaceuticals), 767 Fifth Avenue, New York, N.Y. 10022, holder of new-drug application No. 12-404, has waived opportunity for a hearing on the proposed withdrawal of said new-drug application in that they have affirmatively indicated in writing their intention not to avail themselves of the opportunity for a hearing.

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505 (e), 52 Stat. 1052, as amended; 21 U.S.C. 355(e)) and under authority delegated to him (21 CFR 2.120), finds on the basis of new information before him with respect to such drug, evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, pursuant to the foregoing findings, approval of the above new-drug application, and all amendments and supplements thereto, is withdrawn effective on the date of the signature of this document.

Dated: September 3, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12143; Filed, Sept. 11, 1970; 8:46 a.m.]

[Docket No. FDC-D-234; NDA 10-721]

CHARLES PFIZER AND CO., INC.

Antivert Tablets; Notice of Opportunity for Hearing

In a notice published in the FEDERAL REGISTER of March 27, 1970 (35 F.R. 5192) (DESI 10721), J. B. Roerig and Co., Division, Charles Pfizer and Co., Inc., 235 East 42d Street, New York, N.Y. 10017, holder of new-drug application No. 10-721 for Antivert Tablets (meclizine hydrochloride and niacin), and any interested person who would be adversely affected by removal of the drug from the market, were invited to submit pertinent data bearing on the announced intention to initiate proceedings to withdraw approval of the new-drug application based on the conclusion that:

1. There is a lack of substantial evidence that the drug is effective as a fixed combination in the treatment of vertigo, Meniere's syndrome, and in conditions of apprehension and mental confusion that may arise from niacin deficiency.

2. There is a lack of substantial evidence that each component of the combination drug contributes to the total effects claimed for the drug.

There has been no submission of data in response to the announcement. Therefore, notice is hereby given to J. B. Roerig and Co., Division, Charles Pfizer and Co., Inc., and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new-drug application No. 10-721 for Antivert Tablets, and all amendments and supplements thereto, on the grounds that new information before the Commissioner with respect to such drug, evaluated together with the evidence available to him when the application was approved, shows there is a lack of substantial evidence that this drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

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

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-65, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

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

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

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

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

If such persons elect to avail themselves of the opportunity for a hearing they must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new-drug application should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written

notice of the time and place at which the hearing will commence, not more than 90 days after the expiration of such 30 days unless the hearing examiner and the person(s) requesting the hearing otherwise agree (35 F.R. 7250, May 8, 1970).

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

Dated: September 1, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12144; Filed, Sept. 11, 1970; 8:46 a.m.]

[Docket No. FDC-D-177; NDA 11-742, etc.]

NYSCO LABORATORIES, INC., AND HART LABORATORIES

Pentylenetetrazol-Containing Drugs for Human Use; Notice of Withdrawal of Approval of New-Drug Application

On May 20, 1970, there was published in the FEDERAL REGISTER (35 F.R. 7749) a notice of opportunity for hearing in which the Commissioner of Food and Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new-drug applications listed therein on the ground that there is a lack of substantial evidence that these drugs have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

The following firms, listed with their address, respective drug, and new drug application number, have waived opportunity for a hearing on the proposed withdrawal of said new-drug applications in that no response has been received.

NDA No.	Drug name	Applicant's name and address
10-508	Nicozol with Reserpine tablets.	Nysco Laboratories, Inc., 34-24 Vernon Blvd., Long Island City, N.Y. 11106.
11-347	....do....	Hart Laboratories, Station Square 1, Paoli, Pa. 19301.

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505 (e), 52 Stat. 1052, as amended; 21 U.S.C. 355(e)) and under authority delegated to him (21 CFR 2.120), finds on the basis of new information before him with respect to each of said drugs, evaluated together with the evidence available to him when each application was approved, that there is a lack of substantial evidence that each of the drugs will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, pursuant to the foregoing findings, approval of the above new-drug applications, and all amendments and supplements thereto, is withdrawn effective on the date of the signature of this document. Outstanding stocks of the affected drugs should be recalled.

Dated: September 3, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12141; Filed, Sept. 11, 1970; 8:46 a.m.]

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

PHILIPS ROXANE LABORATORIES

Pentylenetetrazol-Containing Drugs for Human Use; Notice of Withdrawal of Approval of New-Drug Application

On May 20, 1970, there was published in the FEDERAL REGISTER (35 F.R. 7749) a notice of opportunity for hearing in which the Commissioner of Food and Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new-drug applications listed therein on the ground that there is a lack of substantial evidence that these drugs have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Philips Roxane Laboratories, Division of Philips Roxane, Inc., holder of NDA No. 11-742 for Geroniazol Injection, 330 Oak Street, Columbus, Ohio 43216, filed a letter requested a hearing pursuant to the May 20, 1970, publication, but did not file any data to support such request. The Commissioner of Food and Drugs concludes there are no genuine and substantial issues of fact to justify a hearing (35 F.R. 7250; May 8, 1970).

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1052, as amended; 21 U.S.C. 355(e)) and under authority delegated to him (21 CFR 2.120), finds on the basis of new information before him with respect to such drug, evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, pursuant to the foregoing findings, approval of the above new-drug application, and all amendments and supplements thereto, is withdrawn effective on the date of the signature of this document.

Dated: September 3, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70-12142; Filed, Sept. 11, 1970; 8:46 a.m.]

[DESI 9638V]

PRODUCT CONTAINING SULFANITRAN AND OTHER DRUGS

Drugs for Veterinary Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following preparation: Polystat-3 Medicated Premix; contains 30 percent sulfanitran, 20 percent dibutyltin dilaurate, 20 percent dinitrodiphenylsulfonylethlenediamine, and 5 percent 3-nitro-4-hydroxyphenylarsonic acid; by Salsbury Laboratories, 500 Gilbert Street, Charles City, Iowa 50616.

The Academy evaluated this drug as: (1) Effective as an aid in the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix,* and *E. acervulina* in chickens and *Eimeria meleagridis, E. melegrimitis* and *E. gallopavonis* in turkeys; (2) effective as an aid in preventing hexamitiasis in turkeys; (3) probably not effective as an aid in preventing tapeworms and large roundworms in chickens and turkeys; and (4) no evaluation made of claims for use of the product as an aid in stimulating growth, increasing feed efficiency, and improving pigmentation in chickens and turkeys since the applicant did not submit data pertinent to these claims.

The Academy further stated:

1. Available data are inadequate to support efficacy of anthelmintic claims.

2. Each active ingredient in a preparation containing more than one drug must be effective, or contribute to the effectiveness of the preparation, to warrant acceptance as an active ingredient.

3. Claims for growth promotion or stimulation are disallowed, and claims for faster gains and/or feed efficiency should be stated as "may result in faster gains and/or improved feed efficiency under appropriate conditions in chickens and turkeys."

The Food and Drug Administration concurs with the Academy's findings and further concludes that the appropriate claims for stimulating growth and increasing feed efficiency should be "For increased rate of weight gain and improved feed efficiency for (under appropriate conditions of use)."

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

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

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

Each holder of a new animal drug application which became effective prior to October 10, 1962, is requested to submit updating information as needed to make the application current with regard to manufacture of the drug, including information on drug components and composition, and also including information regarding manufacturing methods, facilities, and controls, in accordance with the requirements of section 512 of the act.

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

The holder of the new animal drug application for the listed drug has been mailed a copy of the NAS–NRC report. Any other interested person may obtain a copy by writing to the Food and Drug Administration, Press Relations Staff, 200 C Street SW., Washington, D.C. 20204.

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

Dated: August 31, 1970.

SAM D. FINE,
Associate Commissioner for Compliance.

[F.R. Doc. 70–12145; Filed, Sept. 11, 1970; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50–367]

NORTHERN INDIANA PUBLIC SERVICE CO.

Notice of Receipt of Application for Construction Permit and Facility License

Northern Indiana Public Service Co., 5265 Hohman Avenue, Hammond, Ind. 46320, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, has filed an application dated August 24, 1970, for authorization to construct and operate a single-cycle, forced circulation, boiling water nuclear reactor at its Bailly Generating Station site, located in Westchester Township, Porter County, Ind. The proposed site is located on the south end of the shore of Lake Michigan, adjacent to the fossil-fueled Units 7 and 8 of the Bailly Generating Station, and is approximately 12 miles east-northeast of Gary, Ind.

The proposed nuclear reactor, designated by the applicant as Bailly Generating Station—Nuclear 1, is designed for initial operation at approximately 1,931 megawatts (thermal) with a net electrical output of approximately 657 megawatts.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the local office of Northern Indiana Public Service Co., 141 South Calumet Street, Chesterton, Ind.

Dated at Bethesda, Md., this 4th day of September 1970.

For the Atomic Energy Commission.

FRANK SCHROEDER,
Acting Director,
Division of Reactor Licensing.

[F.R. Doc. 70–12124; Filed, Sept. 11, 1970; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 70–102]

EAST PASCAGOULA RIVER, MISS.

Notice of Public Hearing on Proposed Bridges

F.R. Doc. 70–10940 appearing at page 13324 in the issue of Thursday, August 20, 1970 (35 F.R. 13324), is amended by changing the time of the commencement of the public hearing from 1 p.m., October 1, 1970, to 9:30 a.m., October 2, 1970, and the location to the Chancery Court Building, Room 202, Watts Avenue and Canty Street, Pascagoula, Miss. As stated in the original document, this hearing is to be held on the application of the Mississippi State Highway Department to construct dual bridges across East Pascagoula River, mile 7.6 on I–10 Highway.

Dated: September 9, 1970.

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

[F.R. Doc. 70–12206; Filed, Sept. 11, 1970; 8:52 a.m.]

Hazardous Materials Regulations Board

SPECIAL PERMITS ISSUED

SEPTEMBER 8, 1970.

Pursuant to Docket No. HM–1, Rule-Making Procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 F.R. 8277) 49 CFR Part 170, following is a list of new DOT Special Permits upon which Board action was completed during August 1970:

Special permit No.	Issued to—Subject	Mode or modes of transportation
6273	Shippers upon specific registration with this Board, for the shipment of fissile radioactive material, n.o.s., in the USAEC Standard UF_6 Shipping Cylinder.	Water, cargo-only aircraft, highway, and rail.
6286	Shippers upon specific registration with this Board, for the shipment of fissile radioactive material, n.o.s., in the Los Alamos Model CMB–11 Plutonium Shipping Container.	Water, passenger-carrying aircraft, cargo-only aircraft, highway, and rail.
6287	Shippers upon specific registration with this Board, for the shipment of radioactive materials, special form, in the Philips Medical Systems Type XK6000 Cobalt Shipping Container.	Cargo-only aircraft, and highway.
6288	Provost Cartage, Inc., for the transportation of fluoboric acid not over 50% strength, in rubberlined MC–311 or MC–312 cargo tanks of minimum 30 p.s.i.g. design pressure.	Highway.
6291	Shippers upon specific registration with this Board, for the shipment of Type B quantities of radioactive materials, special form, in the Isomite or Betacel series of radioisotype, thermionic batteries.	Passenger-carrying aircraft, cargo-only aircraft, and highway.
6295	Shippers upon specific registration with this Board, for the shipment of titanium sulfate solution containing not more than 45% sulfuric acid in a DOT–21P/2S, 2SL 2T, or 2U composite packaging, of not over 15 gallons capacity.	Highway and rail.
6296	Shippers upon specific registration with this Board, for the shipment of dry organic phosphate compound mixtures, n.o.s. (not over 12% concentration) in a DOT–44D paper bag constructed with a minimum basis weight of 290 pounds.	Highway and rail.
6297	Shippers upon specific registration with this Board, for the shipment of liquefied helium in a 10,500 gallon nominal capacity steel portable tank.	Highway.
6298	North American Rockwell Corporation, for one shipment of metallic sodium in aluminum containers overpacked on heavy wood skids.	Highway.
6299	Air Reduction Company, Inc., for the shipment of liquefied oxygen, liquefied nitrogen, or liquefied argon in a small mobile liquid delivery unit.	Highway.
6302	U.S. Atomic Energy Commission for a limited series of shipments of large quantities of radioactive material n.o.s. (tritiated heavy water), in DOT–5B or 42B drums, specially loaded within a rail car.	Rail.
6304	Shippers upon specific registration with this Board, for the shipment of hydrogen peroxide solution not over 16% strength, in small unvented plastic bottles within a DOT–12B fiberboard box.	Highway.
6306	Shippers upon specific registration with this Board, for the shipment of large quantities of radioactive materials n.o.s. and in special form, in the AECL Model No. F–168 C–Bar Shipping Container/Fire Shield.	Highway.
6307	Shippers upon specific registration with this Board, for the shipment of various methyl bromide formulations in an elongated 5-gallon capacity steel cannister.	Highway.
6308	Shippers upon specific registration with this Board, for the shipment of large quantities of radioactive materials, n.o.s., in the Modified "Paper-Tiger" Heavy Water Shipping Container.	Highway.
6309	Shippers upon specific registration with this Board, for the shipment of certain nonflammable fluorocarbon compressed gases in non-DOT specification steel tanks of not over 1,000-gallon water capacity.	Highway.
6310	Shippers upon specific registration with this Board, for one shipment each of non-DOT specification steel tanks containing metallic potassium fused solid.	Highway.
6311	Detroit Oxygen & Acetylene Company for the shipment of argon, nitrogen, and oxygen in DOT–3A and 3AA cylinders having a 10-year hydrostatic retest period.	Highway and rail.
6313	Middlesex Welding Supply for the shipment of argon, nitrogen, oxygen, and mixtures thereof on DOT–3A and 3AA cylinders having a 10-year hydrostatic retest period.	Highway and rail.

Special permit No.	Issued to—Subject	Mode or modes of transportation
6314	Waco Welder's Supply Company, Inc., for the shipment of argon, compressed air, helium, hydrogen, nitrogen, nitrous oxide, and oxygen in DOT-3A and 3AA cylinders having a 10-year hydrostatic retest period.	Highway and rail.
6315	Shippers upon specific registration with this Board, for the shipment of flammable liquids covered by § 173.119, except those covered by § 173.119(m), in DOT-109A300 ALW insulated tank car tanks.	Rail.
6316	Shippers upon specific registration with this Board, for the shipment of anyhdrous hydrofluoric acid in 112A400W tank car tanks designed with a weld efficiency of E = 1.0 under § 179.100-6, and fabricated from AAR Specification TC-128, Gr. B steel.	Rail.
6317	Shippers upon specific registration with this Board, for the shipment of large quantities of radioactive materials, special form, in the Lockheed Series IV Research Irradiator/Overpack.	Highway.

WILLIAM K. BYRD,
Acting Chairman,
Hazardous Materials Regulations Board.

[F.R. Doc. 70-12170; Filed, Sept. 11, 1970; 8:49 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ASSISTANT REGIONAL ADMINISTRATOR FOR EQUAL OPPORTUNITY, SAN FRANCISCO REGIONAL OFFICE

Redelegation of Authority With Respect to Fair Housing

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

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

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

3. Issue rules and regulations.

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

SEC. C. *Supersedure; continuation in effect of redelegation.* This redelegation of authority supersedes the redelegation published at 35 F.R. 1024, January 24, 1970. The redelegation of authority by the Assistant Regional Administrator for Equal Opportunity published at 35 F.R. 6158, April 15, 1970, is continued in effect as if issued under this redelegation of authority unless and until expressly modified or revoked.

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

Effective date. This redelegation of authority shall be effective as of May 4, 1970.

WARD ELLIOTT,
Acting Regional Administrator,
San Francisco Regional Office.

[F.R. Doc. 70-12197; Filed, Sept. 11, 1970; 8:51 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 22525; Order 70-9-42]

AMERICAN AIRLINES, INC., ET AL.

Order Deferring Action and Requesting Comments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of September 1970.

On August 28, 1970, American, TWA, and United filed with the Board an agreement under which the parties' available seat miles in scheduled nonstop service would be limited in 15 markets.[1] A copy of the agreement is appended to this order.[1a] The agreement is to be effective on November 1, 1970, or 30 days following the date of a Board order approving such agreement, whichever is later (although if no such Board order has issued by November 1, 1970, any party may terminate the agreement within 1 week thereafter); the agreement will terminate on September 15, 1972, unless sooner terminated as provided therein.

Because of the possible far-reaching effects of this agreement, if approved, the Board shall defer action on the agreement pending the receipt of comments thereon. Commenting persons shall address themselves, in particular, to whether the agreement should be approved or disapproved, and if approved, for what duration and under what conditions.

We note that the parties entered into the agreement without having requested or received Board approval to conduct the discussions leading thereto. As a result, no Board observer was present, and no minutes of such discussions were filed.[2] We invite comment from the parties and others on the procedure followed with respect to this agreement both as a matter of law and as a matter of policy with a view to its impact on the public interest.

An important aspect of the public interest is the effect of reductions of capacity on the communities being served. Since the agreement itself contains nothing regarding specific plans for individual communities, we request that the parties describe what assurances each will make, at least through May 1, 1971, that reductions of capacity will not result in inadequate service to the affected communities.

Accordingly, it is ordered, That:

1. Action on Agreement CAB 21965 be and it hereby is deferred;

2. Any interested person may file comments with respect to Agreement CAB 21965 on or before September 21, 1970, to which reply comments may be filed by any such person on or before October 1, 1970; [3] and

3. This order shall be served upon all U.S. certificated scheduled air carriers; each community listed in the agreement; and the Departments of Justice, Post Office, Transportation, and Defense.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-12190; Filed, Sept. 11, 1970; 8:50 a.m.]

[1] New York/Newark-Los Angeles/Ontaria; New York/Newark-San Francisco/Oakland/San Jose; Washington/Baltimore-Los Angeles/Ontario; Boston-Los Angeles/Ontario; Philadelphia-Los Angeles/Ontario; New York/Newark-Phoenix; St. Louis/Los Angeles/Ontario; Chicago-Phoenix; Chicago-Tucson; New York/Newark-San Diego; Washington/Baltimore-San Diego; Chicago-San Diego; Memphis-Los Angeles/Ontario; Washington/Baltimore-San Francisco/Oakland/San Jose; Philadelphia-San Francisco/Oakland/San Jose. Five of these markets are served by each of these carriers. The remaining 10 markets are served by two of the three carriers.

[1a] Filed as part of the original document.

[2] Cf. Aloha-Hawaiian Discussions, Order 70-7-120, July 24, 1970; United Air Lines et al., Midway Airport Discussions, Orders 70-7-123 and 70-4-40, July 27, 1970, and Apr. 8, 1970, respectively; and Application of Air Transport Association, Order 70-4-5, Apr. 2, 1970.

[3] An original and 19 copies of such comments shall be filed with the Board's Docket Section. With regard to comments there shall be attached thereto a certificate of service pursuant to our Rule 8(e) [14 CFR 302.8(e)] indicating that service was made upon each person designated in ordering paragraph 3; in the case of reply comments the certificate of service shall indicate that such persons and all persons filing comments have been served. The Board requests that comments be couched as specifically as possible, and that the use of unsupported or bare conclusory statements be avoided.

[Docket No. 22360]

CHICAGO/ATLANTA-JAMAICA SERVICE INVESTIGATION

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on September 29, 1970, at 10 a.m., e.d.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Robert L. Park.

Requests for evidence and information, proposed issues, proposed procedural dates, should be submitted to the Examiner, Bureau Counsel and those carriers whose applications were consolidated by order 70–9–30, on or before September 23, 1970.

Dated at Washington, D.C., September 9, 1970.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 70–12188; Filed, Sept. 11, 1970; 8:50 a.m.]

[Docket No. 21866; Order 70–9–49]

CONTINENTAL AIR LINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 9th day of September 1970.

By tariff revisions [1] marked to become effective September 10, 1970, Continental Air Lines, Inc. (Continental) proposes to establish a surcharge for first-class service on B–747 aircraft between Chicago and Los Angeles. The proposed surcharge of $7.41 equals 5.52 percent of the present Chicago-Los Angeles regular first-class fare. This is the only market in the continental United States in which Continental presently operates B–747 aircraft.

In support of its filing, Continental alleges that the B–747 first-class section offers a uniquely improved interior; that conventional jets have no accommodations in first-class which are effectively competitive with the B–747's private lounge; that there are precedents for applying surcharges to equipment which offer service advantages over other equipment; and that the public would continue to have a choice between B–747 service at a higher price and other first-class services. The carrier asserts that it is not proposing surcharges for its Mainland-Hawaii first-class B–747 service because of the greater spread that presently exists between first-class and coach fares. Continental believes the surcharge there would create too great a differential between first-class and coach/economy services, possibly resulting in diversion from first-class to the lower fare services. Continental estimates that the proposed surcharge would increase its mainland revenues by one-tenth of 1 percent.

No complaints have been filed.

Upon consideration of all relevant matters, the Board has determined that the proposed surcharge for first-class service on B–747 aircraft may be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be suspended. This tariff proposal is already under investigation in the various phases of the Domestic Passenger Fare Investigation, Docket 21866.

By Order 70–5–40, May 8, 1970, the Board suspended a substantially similar proposal of various carriers, and Continental has not set forth any new facts or arguments which persuade the Board that it should now depart from its earlier decision prior to completion of the general fare investigation currently in process.

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

It is ordered, That:

1. Pending hearing and decision by the Board, the reference marks "g" and "h" and their explanation on 4th Revised Page 228 and the Class F fares between Chicago and Los Angeles/Ontario bearing the references "g" and "h" appearing on 5th, 6th, and 7th Revised Pages 232 of Airline Tariff Publishers, Inc., Agent's CAB No. 136 are suspended and their use deferred to and including December 8, 1970, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board; and

2. A copy of this order will be filed with the aforesaid tariff, and be served on Continental Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[2]

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70–12192; Filed, Sept. 11, 1970; 8:50 a.m.]

[Docket No. 20291; Order 70–9–23]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority September 3, 1970.

By Order 70–8–72, dated August 18, 1970, action was deferred, with a view toward eventual approval, on certain resolutions incorporated in an agreement adopted by Traffic Conference 1 of the International Air Transport Association (IATA). The agreement establishes new specified economy-class fares between the United States and Mexico, and new excursion fares to apply between Cozumel-Miami and between Kingston-Merida/Mexico City.

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 70–8–72 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 21918, R–1 and R–2, be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70–12189; Filed, Sept. 11, 1970; 8:50 a.m.]

[Docket No. 19078; Order 70–9–44]

NORTHEAST CORRIDOR VTOL INVESTIGATION

Opinion and Order on Discretionary Review

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of September 1970.

This two-part investigation was instituted to determine whether the public convenience and necessity require, and the Board should authorize, the establishment of air service with VTOL, V/STOL, or STOL equipment between the metropolitan areas of nine cities in the Northeast Corridor (Boston, Providence, Hartford, New York, Trenton, Philadelphia, Wilmington, Baltimore, and Washington). Phase I of the investigation deals with the question of the need for and the economic and technological feasibility of this service,[1] which, under pretrial restrictions, must be operated between landing sites other than the existing conventional-aircraft airports used by certificated carriers. Its scope also includes the issue of whether service between different landing sites in the same metropolitan area should be authorized on flights serving more than one of the metropolitan areas mentioned above.[2] Carrier selection and related issues are to be considered in Phase II.

Examiner E. Robert Seaver issued his initial decision in Phase I of this case, finding that VTOL/STOL operations are both necessary and feasible in all the subject metropolitan areas except Baltimore[3] (also, he found the record inconclusive as to whether the service is necessary or feasible at Providence). The examiner determined further that the hearing in this case should be resumed as soon as practicable to consider the Phase II issues.

Petitions for discretionary review of the initial decision were filed by American Airlines, Eastern Air Lines, Trans World Airlines, jointly by de Havilland Aircraft of Canada, Pilgrim Aviation and Airlines, and Reading Aviation Service, and by the Boston parties, the Department of Transportation (DOT), and the Bureau of Operating Rights. Answers to these petitions were filed by Mohawk Airlines, Pan American World Airways, United Aircraft Corporation, and the Baltimore and Maryland parties.

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 136.

[2] Member Adams dissenting.

[1] The term "metroflight" was adopted for this service during the course of the hearing.

[2] The examiner found little in the record on this issue and postponed its consideration to Phase II.

[3] This finding was a tentative one which the examiner proposed to allow Baltimore to rebut in Phase II.

Upon consideration of the matters presented, the Board has decided to review the initial decision without further proceedings[4] for the limited purpose of commenting on certain matters raised in the petitions and of expanding the scope of Phase II in several respects. Except as modified herein, we affirm the examiner's disposition of the issues in this proceeding.[5]

In instituting this investigation, the Board observed that the demographic character of the Northeast Corridor—a heavily urbanized area with extremely large population densities—and the relatively short distances between its metropolitan centers, create an acute need for adequate transportation services while at the same time placing enormous difficulties in the path of that objective. Specifically, we expressed concern that air, terminal, and access-road congestion could result in a decline in air service by undermining one of its leading advantages: The speed with which a traveler is transported from his point of origin to his point of destination. Congestion has become even more severe in the last few years; the threat—actual and potential—that it poses to air transportation in the Corridor, and therefore to the area's flow of commerce and general economic health, has been detailed by the examiner and requires no further elaboration. Indeed, the seriousness of the problem is acknowledged by virtually all parties, as is the pressing need to alleviate the delays, frustrations and revenue losses attributable to it. We conclude that a properly implemented metroflight system will be responsive to this major public need and that such a system is both technically and economically feasible, as the examiner found. We recognize that the establishment of a comprehensive metroflight service featuring city-center-to-city-center as well as suburban operations will not be free of difficulty, since its chief components—suitable aircraft, landing sites, and navigation technology—are not yet fully developed. All these elements, however, are clearly within the ambit of existing technology, and could be available within a relatively short space of time with the active commitment of the aircraft manufacturers and governmental bodies involved. A chief obstacle to progress toward metroflight has been the cycle of inaction that has affected the participants in its development: local authorities lack incentive to develop landing sites in the absence of some assurance that appropriate VTOL/STOL aircraft will be available to use them, manufacturers are reluctant to begin active production of aircraft until they have sufficient orders, and carriers are unwilling to order equipment unless they can look forward to suitable landing sites. It is our hope that the Board's action in authorizing metroflight operations will break this impasse and serve as a catalyst for more active implementation of a viable VTOL/STOL system.

In affirming the examiner's initial decision, we do not interpret his position to be one of "doing nothing until advanced equipment and technology are ready," as DOT suggests; in any case, we do not adopt such an approach here. While fully developed city-center-to-city-center metroflight will demand—at least in the major metropolitan centers at issue—aircraft, landing sites, and navigational systems are not yet available, as we noted earlier, a more modest level of suburban and, in some cases, small city-center VTOL/STOL service is already possible with existing aircraft and facilities and can be instituted without delay. Such operations, quite apart from their intrinsic value to the traveling public, can provide useful experience and hard data for the more sophisticated metroflight system that will later evolve.[6]

The record already made also convinces us that our pretrial restriction against use as metroflight landing sites of any of the conventional-aircraft airports presently used by certificated air carriers serving points in the Northeast Corridor may be unduly restrictive, and may actually hinder the introduction of metroflight service to some communities. In excluding use of these conventional airports, we had in mind the difficult problems of air traffic control and of terminal and access congestion which would result from attempting to superimpose a high-frequency metroflight service on top of existing conventional-aircraft operations at many of these airports.[7] However, it has been pointed out that some of the conventional airports serving the Northeast Corridor communities—notably the Mercer County Airport (serving Trenton) and the Greater Wilmington Airport—are not in any degree congested, presently receive only a limited amount of certificated fixed-wing air service, and are highly accessible to their population and business centers. Under these circumstances, we conclude that it is undesirable to eliminate the lesser conventional airports as metroflight landing sites in advance of hearing.[8] We will, however, retain our ban on consideration of the largest, most intensively used conventional air-carrier airports—Logan, La Guardia, Kennedy, Newark, Philadelphia International, Friendship, Washington National, and Dulles—for metroflight service.

Several parties, including DOT and the Bureau of Operating Rights, argue that there is insufficient factual basis in the record to form any conclusion as to the need for and feasibility of metroflight. The Bureau particularly urges that additional surveys are necessary to disclose and quantify the extent of passenger demand and the availability and suitability of proposed landing sites. We cannot agree that the data and forecasts already in the record are so insufficient or inconclusive as to require the reopening of Phase I of this proceeding.[9] This case involves an experiment in a novel concept of air transportation as to which there is no historic operating data; clearly, precise predictions of traffic and economic results of the kind one might expect in the traditional route case are neither possible nor necessary here. Considering the nature of this proceeding, we find the evidence in the record more than ample to support the examiner's conclusion that metroflight is both necessary and feasible. Despite this finding, however, we appreciate that certain additional information could prove valuable in the structuring of a sound VTOL/STOL system. We will therefore open the record in Phase II to two categories of evidence dealing with issues originally assigned to Phase I. First, in light of the key importance, discussed earlier, of suitable landing sites to the success of metroflight, we urge municipal and other parties to submit more detailed data on this subject, including locations, field, and terminal design, parking facilities, access roads, cost estimates, and plans for funding. Second, DOT's study of the modal split in 18 key Northeast Corridor travel markets will be admitted into the record.

Finally, the Board has decided to consider the question of whether metroflight should be authorized between Washington and Baltimore, an issue originally excluded from this proceeding on the ground that it was in issue in the Washington/Baltimore Helicopter Service Investigation, Docket 17665. In view of the delays that have occurred in the inauguration of Washington-Baltimore helicopter service,[10] we will examine the

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[4] Pursuant to Rule 28 of the Rules of Practice, we find that further procedural steps are unnecessary and would serve no useful purpose.

[5] The initial decision is attached hereto as an appendix.

[6] We do not believe that the less sophisticated form of metroflight possible of immediate implementation will in any way prejudice public acceptance of the more sophisticated systems to come, provided safety measures are strictly observed and a reasonable degree of comfort and reliability are achieved.

[7] We also were mindful of the fact that a number of these conventional airports, because of their necessary size, are located at considerable distances from the population and business centers of the cities they serve—a circumstance unfavorable to the development of a short-range metroflight system, in which surface travel time will be a key element.

[8] We nonetheless retain discretion at the close of the case to refuse to certificate service at some or all of these airports if, based on the whole record, we conclude that the public convenience and necessity so dictates.

[9] Also, we are not persuaded by DOT's additional contention that it would be undesirable for the Board to continue with Phase II while it is conducting the Part 298 Weight Limitation Investigation, Docket 21761. The Board will remain alert to the possible interrelationship between the two proceedings and will avoid any inconsistencies in its resolution of the issues therein.

[10] Our decision certificating helicopter service in this market was issued on Nov. 18, 1968, Order 68-11-71; largely because of a judicial review proceeding, the certificate did not become effective until Dec. 8, 1969. To date, however, no operations have been conducted, and the chosen carrier has only recently obtained yet another stay of its obligation to inaugurate service. Order 70-4-45, Apr. 9, 1970; reconsideration denied, Order 70-7-118, July 24, 1970.

possibility of certificating metroflight service between these points as part of an integrated Northeast Corridor system. The parties are invited to address themselves to this question.

Accordingly, it is ordered:

1. That except to the extent indicated above, the petitions for discretionary review be and they hereby are denied;

2. That the scope of this proceeding be and it hereby is expanded to include (a) consideration of all Northeast Corridor airports other than Logan International, LaGuardia, Kennedy International, Newark, Philadelphia International, Friendship International, Washington National, and Dulles International airports as possible landing sites for the VTOL, V/STOL, or STOL operations in issue, and (b) the question of whether metroflight service should be authorized between Baltimore, Md., and Washington, D.C.

3. That, in addition to evidence relevant to the issues set for consideration in Phase II by Order E–26853 and in the examiner's initial decision, the Department of Transportation's Northeast Corridor Transportation Project Report and detailed data on the question of landing sites, including their locations, field, and terminal design, access roads, cost estimates, and plans for funding, shall be admissible as evidence in the record of Phase II of this proceeding;

4. That Phase II of this proceeding shall be set for hearing before an examiner of the Board at a time and place to be hereafter designated;

5. That additional or amended applications for authority to provide all or any part of the services under investigation herein may be filed within 30 days after the date of issuance of this order. All such applications that are timely filed shall be consolidated for hearing in this proceeding to the extent that they request authorizations within its scope.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70–12191; Filed, Sept. 11, 1970; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License 621]

INTER-NATIONS FORWARDING CO.

Order of Revocation

On June 30, 1970, The St. Paul Fire and Marine Insurance Co. notified the Commission that the Independent Ocean Freight Forwarder Surety Bond No. 400CH8434, underwritten in behalf of Inter-Nations Forwarding Co., would be canceled effective August 4, 1970.

Inter-Nations Forwarding Co. was notified that unless a new surety bond was submitted to the Commission its Independent Ocean Freight Forwarder License No. 621 would be revoked effective August 4, 1970.

Inter-Nations Forwarding Co. has failed to submit a valid surety bond.

It is ordered, That the Independent Ocean Freight Forwarder License No. 621 is revoked effective August 4, 1970; and

It is further ordered, That the Independent Ocean Freight Forwarder License No. 621 be returned to the Commission for cancellation.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the licensee at 268 West Street, New York, N.Y. 10013.

JOHN F. GILSON,
Deputy Director,
Bureau of Domestic Regulation.

[F.R. Doc. 70–12173; Filed, Sept. 11, 1970; 8:49 a.m.]

SOUTH AFRICAN MARINE CORP., LTD., AND DURBAN LINES (PTY), 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:

Seymour H. Kligler, Esquire, Herman Goldman, Equitable Building, 120 Broadway, New York, N.Y. 10005.

Agreement No. 9894, between South African Marine Corp., Ltd., and Durban Lines (Pty), Ltd., establishes a through billing arrangement for the movement of general cargo between ports in Mauritius, Reunion, Malagasy Republic (Madagascar), Mozambique, Comoro Islands, Seychelles, on the one hand, and, U.S. Atlantic and Gulf ports, on the other hand, with transshipment at ports in the Republic of South Africa in accordance with the terms and conditions set forth in the agreement.

Dated: September 9, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70–12175; Filed, Sept. 11, 1970; 8:49 a.m.]

[Independent Ocean Freight Forwarder License 869]

UNION STORAGE CO., INC.

Order of Revocation

On July 22, 1970, The Aetna Casualty and Surety Co. notified the Commission that the Independent Ocean Freight Forwarder Surety Bond No. 53 S 45456, underwritten in behalf of Union Storage Co., Inc., would be canceled effective August 25, 1970.

Union Storage Co., Inc., was notified that unless a new surety bond was submitted to the Commission its Independent Ocean Freight Forwarder License No. 869 would be revoked effective August 25, 1970.

Union Storage Co., Inc., failed to submit a valid surety bond.

It is ordered, That the Independent Ocean Freight Forwarder License No. 869 is revoked effective August 25, 1970.

It is further ordered, That the Independent Ocean Freight Forwarder License No. 869 be returned to the Commission for cancellation.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the licensee.

JOHN F. GILSON,
Deputy Director,
Bureau of Domestic Regulation.

[F.R. Doc. 70–12174; Filed, Sept. 11, 1970; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G–2681, etc.]

B. M. BRITAIN ET AL.

Findings and Order

AUGUST 31, 1970.

Findings and order after statutory hearing issuing certificates of public convenience and necessity, reinstating certificate, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, substituting respondent, making successors co-respondents, redesignating proceedings, making rate change effective, requiring filing of agreements and undertakings, and accepting related rate schedules and supplements for filing.

Each of the applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce or for permission and approval to abandon service or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions, as supplemented and amended.

Applicants have filed related FPC gas rate schedules or supplements thereto and propose to initiate or abandon natural gas service in interstate commerce as indicated in the tabulation herein. All sales certificated herein are at rates either equal to or below the ceiling prices established by the Commission's statement of general policy No. 61–1, as amended, or involve sales for which permanent certificates have been previously issued; except that sales from areas for which area rates have been determined are authorized to be made at or below the applicable area base rates adjusted for quality of the gas, and under the conditions prescribed in the orders determining said rates.

Cities Service Oil Co. (Operator) et al., applicant in Docket No. G–12149, proposes to continue in part pursuant to its FPC Gas Rate Schedule No. 99 the sale of natural gas heretofore authorized in Docket No. G–19516 to be made pursuant to Mobil Oil Corp. FPC Gas Rate Schedule No. 129. The presently effective rate under the latter rate schedule is in effect subject to refund in Docket No. RI68–569. Therefore, applicant will be made a co-respondent in said proceeding and said proceeding will be redesignated accordingly. Applicant has heretofore filed a general undertaking to assure the refund of amounts collected in excess of amounts determined to be just and reasonable in proceedings under section 4(e) of the Natural Gas Act.

The Atascosa Petroleum Co. (Operator) et al., applicant in Docket No. G–15271, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to Signal Oil & Gas Co. (Operator) et al., FPC Gas Rate Schedule No. 7. Said rate schedule will be redesignated as that of applicant. The presently effective rate under Signal's rate schedule is in effect subject to refund in Docket No. RI70–178 and a prior increased rate was collected for a locked-in period subject to refund in Docket No. RI69–632. Therefore, applicant will be made a co-respondent in said proceedings; said proceedings will be redesignated accordingly; and applicant will be required to file agreements and undertakings to assure the refunds of any amounts collected by it in excess of the amounts determined to be just and reasonable in said proceedings.

Schimmel Oil Co. (Operator) et al., applicant in Docket No. CI66–1123, proposes to continue the sale of natural gas heretofore authorized in said docket to be made pursuant to Rodney DeLange (Operator) et al., FPC Gas Rate Schedule No. 3. There is a change in operator with no change in working interest. Said rate schedule will be redesignated as that of applicant. The presently effective rate under DeLange's rate schedule is in effect subject to refund in Docket No. RI70–745. On October 1, 1969, DeLange filed with the Commission a notice of change in rate under his FPC Gas Rate Schedule No. 3. By order issued October 31, 1969, in Docket No. RI70–350 et al., the Commission suspended the proposed change in Docket No. RI70–353 until April 1, 1970, and thereafter until made effective. The notice of change was designated as Supplement No. 2 to the rate schedule. On March 19, 1970, the Estate of Rodney DeLange filed a motion to make the change in rate effective subject to refund. Therefore, applicant will be substituted in lieu of Rodney DeLange (Operator) et al., as respondent in the proceedings pending in Dockets Nos. RI70–353 and RI70–745; said proceedings will be redesignated accordingly; and the change in rate suspended in Docket No. RI70–353 will be made effective subject to refund.

Texas Oil & Gas Corp. (Operator) et al., applicant in Docket No. CI70–1091, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. CI64–69 to be made pursuant to Shell Oil Co. (Operator) et al., FPC Gas Rate Schedule No. 291. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of applicant. The presently effective rate under said rate schedule is in effect subject to refund in Docket No. RI69–138 and applicant requests to be made a co-respondent in said proceeding. Therefore, applicant will be made a co-respondent and said proceeding will be redesignated accordingly. Applicant has heretofore filed a general undertaking to assure the refund of amounts collected in excess of amounts determined to be just and reasonable in proceedings under section 4(e) of the Natural Gas Act.

Aztec Oil & Gas Co., applicant in Docket No. CI70–1099, proposes to continue in part the sale of natural gas heretofore authorized in Docket No. G–17206 to be made pursuant to El Paso Products Co. FPC Gas Rate Schedule No. 8. The contract comprising said rate schedule will also be accepted for filing as a rate schedule of applicant. The presently effective rate under El Paso's rate schedule is in effect subject to refund in Docket No. RI64–460. Therefore, applicant will be made a co-respondent in said proceeding and said proceeding will be redesignated accordingly. Applicant has heretofore filed a general undertaking to assure the refund of amounts collected in excess of amounts determined to be just and reasonable in proceedings under section 4(e) of the Natural Gas Act.

The Commission's staff has reviewed each application and recommends each action ordered as consistent with all substantive Commission policies as required by the public convenience and necessity.

After due notice by publication in the FEDERAL REGISTER, no petitions to intervene, notices of intervention or protests to the granting of the applications have been filed.

At a hearing held on August 27, 1970, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions, as supplemented and amended, and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificate heretofore issued in Docket No. CI60–540 and subsequently terminated should be reinstated.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in various dockets involved herein should be amended as hereinafter ordered and conditioned.

(7) The sales of natural gas proposed to be abandoned as hereinbefore described and as more fully described in the applications and in the tabulation herein are subject to the requirements of subsection (b) of section 7 of the Natural Gas Act.

(8) The abandonments proposed by applicants herein are permitted by the public convenience and necessity and should be approved as hereinafter ordered.

(9) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to applicants relating to the abandonments hereinafter permitted and approved should be terminated or that the orders issuing said certificates should be amended by deleting therefrom authorizations to sell natural gas from the subject acreage.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Cities Service Oil Co. (Operator) et al., should be made a co-respondent in the proceeding pending in Docket No. RI68–569 and that said proceeding should be redesignated accordingly.

(11) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that The Atascosa Petroleum Co. (Operator) et al., should be made a co-respondent in the proceedings pending in Dockets Nos. RI69–632 and RI70–178; that said proceedings should be redesignated accordingly; and that Atascosa should be required to file agreements and undertakings.

(12) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Schimmel Oil Co. (Operator) et al., should be substituted in lieu of Rodney DeLange (Operator) et al., as respondent in the proceedings pending in Dockets Nos. RI70–353 and RI70–745; that said proceedings should be redesignated accordingly; and that the proposed change in rate suspended in Docket No. RI70–353 should be made effective subject to refund.

(13) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Texas Oil & Gas Corp. (Operator) et al., should be made a co-respondent in the proceeding pending in Docket No. RI69–138 and that said proceeding should be redesignated accordingly.

(14) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Aztec Oil & Gas Co. should be made a co-respondent in the proceeding pending in Docket No. RI64–460 and that said proceeding should be redesignated accordingly.

(15) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

The Commission orders:

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the contracts, particularly as to the cessation of service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The certificates issued herein and the amended certificates are subject to the following conditions:

(a) The initial rate for the sale authorized in Docket No. CI61–1430 shall be the applicable area base rate prescribed in Opinion No. 468, as modified by Opinion No. 468–A, as adjusted for quality of gas, or the contract rate, whichever is lower. If the quality of the gas delivered by applicant deviates at any time from the quality standards set forth in Opinion No. 468, as modified by Opinion No. 468–A, so as to require a downward adjustment of the existing rate, a notice of change in rate shall be filed pursuant to section 4 of the Natural Gas Act: *Provided, however,* That adjustments reflecting changes in B.t.u. content of the gas shall be computed by the applicable formula and charged without the filing of a notice of change in rate.

(b) The rate for the sale authorized in Docket No. CI61–949 shall be 15 cents per Mcf at 14.65 p.s.i.a. including tax reimbursement.

(c) The initial rate for the sale authorized in Docket No. CI70–1003 shall be 18.75 cents per Mcf at 15.025 p.s.i.a. including tax reimbursement and subject to B.t.u. adjustment.

(d) Applicant in Docket No. CI70–1003 shall not require buyer to take-or-pay for an annual quantity of gas which is in excess of an average of 1 Mcf per day for each 7,300 Mcf of determined gas reserves or the specified contract quantity, whichever is the lesser amount.

(e) The initial rate for the sale authorized in Docket No. CI70–1039 shall be 17 cents per Mcf at 14.65 p.s.i.a. subject to B.t.u. adjustment.

(f) Applicant in Docket No. CI70–1039 shall not require buyer to take-or-pay for an annual quantity of gas well gas during the first 2 contract years which is in excess of an average of 1 Mcf per day for each 3,650 Mcf of determined gas well gas reserves and 1 Mcf per day for each 7,300 Mcf of determined gas reserves thereafter or the specified contract quantities, whichever is the lesser amount.

(g) The initial rate for the sale authorized in Docket No. CI70–1134 shall be 16 cents per Mcf at 14.65 p.s.i.a. Within 30 days from the date of this order Applicant shall file three copies of a revised billing statement as required by the regulations under the Natural Gas Act.

(h) The initial rate for the sale authorized in Docket No. CI70–1048 shall be 17 cents per Mcf at 14.65 p.s.i.a. including tax reimbursement and subject to B.t.u. adjustment. The provision contained in the subject contract providing for a rate increase to an applicable area rate or area settlement rate will only be applicable upon Commission approval of a just and reasonable rate or settlement rate in an applicable area rate proceeding.

(i) Issuance of the certificates in Dockets Nos. CI70–1039 and CI70–1048 shall not be construed as constituting approval of the advance payment provisions of the contracts (Article II) and (section 1 of Article III), respectively, and any such payments shall be subject to future orders of the Commission concerning the propriety of such payments.

(j) The certificates issued in Dockets Nos. CI70–1039 and CI70–1048 are conditioned upon any determination which may be made in the proceeding pending in Docket No. R–338 with respect to the transportation of liquefiable hydrocarbons.

(E) Within 45 days from the date of this order applicant in Docket No. CI70–1115 shall file a rate schedule quality statement in the form prescribed in Opinion No. 468–A.

(F) The orders issuing certificates in Dockets Nos. G–7004, G–12149, CI61–949, CI61–1430, CI63–234, CI68–528, CI68–1450, and CI70–873 are amended by adding thereto or deleting therefrom authorization to sell natural gas as described in the tabulation herein.

(G) The order issuing a certificate in Docket No. G–4366 is amended to include the interest of the nonoperator as described in the tabulation herein.

(H) The orders issuing certificates in the following dockets are amended to reflect the deletion of acreage where new certificates are issued herein or existing certificates are amended herein to authorize service from the subject acreage:

Amend to delete acreage	*New certificate and/or amendment to add acreage*
G–4579	CI68–528
G–17206	CI70–1099
G–19516	G–12149
CI61–954	CI70–1140
CI64–69	CI70–1091
CI65–916	CI70–1115
CI66–183	CI70–1142

(I) The certificate of public convenience and necessity heretofore issued in Docket No. CI60–540 is reinstated and designated as that of Beaver Mesa Exploration Co.

(J) The temporary certificate heretofore issued in Docket No. CI66–1123 is amended to reflect the change in operator as described in the tabulation herein.

(K) The orders issuing certificates in Dockets Nos. G–2681, G–4159, G–5515, G–15271, G–17983, CI62–1285, CI64–402, CI64–822, CI66–595, and CI67–480 are amended to reflect the successors in interest as certificate holders.

(L) Permission for and approval of the abandonment of service by applicants, as hereinbefore described, all as more fully described in the applications and in the tabulation herein are granted.

(M) Permission for and approval of the abandonment in Docket No. CI70–1043 shall not be construed to relieve applicant of any refund obligations in the rate proceedings pending in Dockets Nos. RI63–481 and RI66–163.

(N) Permission for and approval of the abandonments in Dockets Nos. CI70–1109, CI70–1132, CI70–1133, and CI71–1 shall not be construed to relieve applicants of any refund obligations in the rate proceedings pending in Dockets Nos. G–20071, RI65–399, RI65–453, and RI69–520, respectively.

(O) Permission for and approval of the abandonment of service by applicant in Docket No. G–18212 are granted and the certificate heretofore issued in said docket is terminated. Applicant is not relieved of any refunds ordered in Opinion No. 478.

(P) Permission for and approval of the abandonment of service by applicant in Docket No. CI68–914 are granted and the temporary certificate heretofore issued in said docket is terminated. Applicant is not relieved of any refunds that may be ordered in the proceeding in Docket No. CI68–914.

(Q) The certificates heretofore issued in Dockets Nos. G–6021, G–12483, G–18373, G–18578, CI66–328, CI70–10, and CI70–60 are terminated.

(R) Cities Service Oil Co. (Operator) et al., is made a co-respondent in the proceeding pending in Docket No. RI68–569 and said poceeding is redesignated accordingly. Cities Service shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(S) The Atascosa Petroleum Co. (Operator) et al., is made a co-respondent in the proceedings pending in Dockets Nos. RI69–632 and RI70–178 and said proceedings are redesignated accordingly. Atascosa shall charge and collect pursuant to its FPC Gas Rate Schedule No. 1 the rate of 15.05625 cents per Mcf at 14.65 p.s.i.a., subject to refund in Docket No. RI69–632, for sales from January 1, 1970, through February 6, 1970, and the rate of 16.06 cents per Mcf at 14.65 p.s.i.a., subject to refund in Docket No. RI70–178, for sales from February 7, 1970. Atascosa shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(T) Within 30 days from the date of this order, The Atascosa Petroleum Co. (Operator) et al., shall execute, in the form set out below, and shall file with the Secretary of the Commission acceptable agreements and undertakings in Dockets Nos. RI69–632 and RI70–178 to assure the refunds of any amounts collected by it, together with interest at the rate of 7 percent per annum, in excess of the amounts determined to be just and reasonable in said proceedings. Unless notified to the contrary by the Secretary of the Commission within 30 days from the date of submission, such agreements and undertakings shall be deemed to have been accepted for filing. The agreements and undertakings shall remain in full force and effect until discharged by the Commission.

(U) Schimmel Oil Co. (Operator) et al., is substituted in lieu of Rodney DeLange (Operator) et al., as respondent in the proceedings pending in Dockets Nos. RI70–353 and RI70–745 and said proceedings are redesignated accordingly. The rates, charges, and classifications set forth in Supplement No. 2 to Schimmel Oil Co. (Operator) et al., FPC Gas Rate Schedule No. 2 (formerly Rodney DeLange (Operator) et al., FPC Gas Rate Schedule No. 3) shall be effective subject to refund as of March 19, 1970. Schimmel shall charge and collect the rate of 16.06 cents per Mcf at 14.65 p.s.i.a., subject to refund in Docket No. RI70–745, for sales from March 1, 1970, through March 18, 1970, and the rate of 17 cents per Mcf at 14.65 p.s.i.a., subject to refund in Docket No. RI70–353, for sales from March 19, 1970. Schimmel shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(V) Texas Oil & Gas Corp. (Operator) et al., is made a co-respondent in the proceeding pending in Docket No. RI69–138 and said proceeding is redesignated accordingly. Texas Oil & Gas Corp. shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(W) Aztec Oil & Gas Co. is made a co-respondent in the proceeding pending in Docket No. RI64–460 and said proceeding is redesignated accordingly. Aztec shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(X) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as described in the tabulation herein.

By the Commission.

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

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
G–2681 F 6–29–70	B. M. Britain et al. (successor to B. M. Britain & C. E. Weymouth).[1]	Panhandle Eastern Pipe Line Co., West Panhandle Field, Moore and Potter Counties, Tex.	Assignment 6–1–60[2]	1	9
			Effective date: 6–1–60		
G–4159 E 6–15–70	David A. Wilson (successor to Gulf Oil Corp. (Operator) et al.).	Arkansas Louisiana Gas Co., North Lansing Field, Harrison County, Tex.	Gulf Oil Corp. (Operator) et al., FPC GRS No. 112.	2	
			Supplements Nos. 1–15	2	1–15
			Notice of succession 6–12–70		
			Assignment 12–19–69[3]	2	16
			Assignment 2–13–70[3]	2	17
			Assignment 3–18–70[3]	2	18
			Assignment 3–19–70[3]	2	19
			Assignment 3–20–70[3]	2	20
			Assignment 4–1–70[3]	2	21
			Assignment 5–4–70[3]	2	22
			Assignment 5–6–70[3]	2	23
			Effective date: 4–1–70		
			Assignment 5–11–70[3]	2	24
			Effective date: 5–1–70		
G–4366 6–19–70[4]	Hunt Oil Co. (Operator) et al.	United Gas Pipe Line Co., Cotton Valley Field, Webster Parish, La.	(5)		
G–5515 E 6–19–70	C. Blair Swentzel (successor to G. W. Hill, Administrator, Estate of Edmond Tate).	Consolidated Gas Supply Corp., Grant District, Doddridge County, W. Va.	Edmond Tate, FPC GRS No. 2.	1	
			Supplements Nos. 1–2	1	1–2
			Notice of succession 6–17–70		
			Assignment 4–21–70	1	3
			Effective date: Date of transfer of properties.		
G–7004 D 5–8–70	Pennzoil United, Inc.	Consolidated Gas Supply Corp., Poca District, Kanawha County, W. Va.	Supplemental agreement 11–11–68.[6]	10	17
			Supplemental agreement 8–5–69.[6]	10	18
			Supplemental agreement 8–5–69.[6]	10	19
			Supplemental agreement 8–5–69.[6]	10	20
			Supplemental agreement 8–19–69.[6]	10	21
			Supplemental agreement 10–27–69.[6]	10	22
			Supplemental agreement 12–1–69.[7]	10	23
G–8246 B 7–1–55[8]	Appell Drilling Co.	The Altex Corp., Tom Graham West Field, Jim Wells County, Tex.	(?) (9)		

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

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
G-12149 ..... (G-19516) C 6-25-70	Cities Service Oil Co. (Operator) et al. (successor to Mobil Oil Corp.).	Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Mocane Field, Beaver County, Okla.	Assignment 3-17-70.[10]	99	11
			Supplemental agreement 5-27-70.[11]	99	12
			Effective date: 1-1-70		
G-15271 ..... E 4-30-70	The Atascosa Petroleum Co. (Operator) et al. (successor to Signal Oil & Gas Co. (Operator) et al.).	El Paso Natural Gas Co., South Andrews Area, Andrews County, Tex.	Signal Oil & Gas Co. (Operator) et al., FPC GRS No. 7.	1	.....
			Supplements Nos. 1-9	1	1-9
			Notice of succession (Undated).		
			Assignment 12-23-69	1	10
			Effective date: 1-1-70		
G-17983 ..... E 6-30-70	Rimco Royalty Co. (successor to Shiprock Industries, Inc.).	El Paso Natural Gas Co., Bisti Field, San Juan County, N. Mex.	Shiprock Industries, Inc., FPC GRS No. 1.	1	.....
			Supplements No. 1	1	1
			Notice of succession 6-25-70		
			Assignment 4-21-69 [12]	1	2
			Effective date: 5-1-69		
G-18212 ..... B 6-15-64	Susanoil, Inc	Florida Gas Transmission Co., Sharyland Field, Hidalgo County, Tex.	Notice of cancellation 6-9-64.[7] [12]	1	2
CI60-540 ..... E 5-25-70 [14]	Beaver Mesa Exploration Co. (successor to Cabeen Exploration Corp.).	Cities Service Oil [14a] Co., Dipper Gap Field, Logan County, Colo.	Contract 2-25-60 [14b]	1	.....
			Assignment 4-14-69 [14c] [15]	1	1
			Assignment 1-5-70 [14d] [15]	1	2
			Effective date: 1-1-69		
CI61-949 ..... C 6-25-70	Atlantic Richfield Co. (Operator) et al.[16]	Lone Star Gas Co., East Durant Field, Bryan County, Okla.	Amendment 12-4-69 [17]	444	7
CI61-1430 ..... C 6-5-70	Shell Oil Co. (Operator) et al.	El Paso Natural Gas Co., Brown Bassett Field, Terrell County, Tex.	Supplemental agreement 5-8-70.[17]	249	10
CI62-1285 ..... E 6-4-70	White Shield Oil & Gas Corp. (successor to Marvin E. Wilhite et al.).	Cumberland & Allegheny Gas Co., Union District, Barbour and Upshur Counties, W. Va.	Marvin E. Wilhite et al., FPC GRS No. 12.	29	.....
			Supplements Nos. 1-2	29	1-2
			Notice of succession 5-11-70		
			Assignment 6-13-69	29	3
			Effective date: 6-13-69		
CI63-234 ..... D 6-23-70	Mobil Oil Corp. (Operator) et al.	Arkansas Louisiana Gas Co., Red Oak Area, Latimer et al., Counties, Okla.	Notice of cancellation 6-22-70.[7] [18]	333	41
CI64-402 ..... E 6-18-70	Et Al, Inc. (Operator) et al. (successor to Bill Ferguson, d.b.a. Ferguson Oil Co. (Operator) et al.).	Panhandle Eastern Pipe Line Co., Freemyer Field, Kingman County, Kans.	Bill Ferguson, d.b.a. Ferguson Oil Co. (Operator) et al., FPC GRS No. 6.	1	.....
			Supplements Nos. 1-3	1	1-3
			Notice of succession 6-16-70.		
			Assignment 10-20-69	1	4
CI64-822 ..... E 6-29-70	PetroDynamics, Inc. (Operator) et al. (successor to James F. Smith).	Kansas-Nebraska Natural Gas Co., Inc., Southeast Dombey Field, Beaver County, Okla.	James F. Smith, FPC GRS No. 23	27	.....
			Supplement No. 1	27	1
			Notice of succession 6-25-70		
			Effective date: 7-2-68		
CI66-505 ..... E 6-25-70	Rome Daugherty, d.b.a. Daugherty Oil Co. (successor to Sydney Spofforth).	Equitable Gas Co., acreage in Braxton County, W. Va.	Sydney Spofforth, FPC GRS No. 5.	1	.....
			Supplements Nos. 1-2	1	1-2
			Notice of succession 6-23-70		
			Assignment 6-12-70	1	3
			Assignment 6-12-70	1	4
			Assignment 6-12-70	1	5
			Effective date: 6-12-70		
CI66-1123 ..... E 4-6-70 [19]	Schimmel Oil Co. (Operator) et al. (successor to Rodney DeLange (Operator) et al.).	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Aite Hunde Field, Zapata County, Tex.	Rodney Del ange (Operator) et al., FPC GRS No. 3.	2	.....
			Supplements Nos. 1-3	2	1-3
			Notice of change in operator 1-23-70.	2	4
			Effective date: 3-1-70		
CI67-480 ..... E 6-29-70	William H. Smith et al. (successor to Priddie Oil & Gas Co.).	United Fuel Gas Co., Big Injun Field, Stonewall District, Wayne County, W. Va.	Priddie Oil & Gas Co., FPC GRS No. 1.	1	.....
			Supplement No. 1	1	1
			Notice of succession 6-25-70		
			Assignment 3-31-70.	1	2
			Effective date: 3-31-70		

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted		
			Description and date of document	No.	Supp.
CI67-785 ..... A 12-15-66	Twosome Oil Co., et al.	Cumberland Natural Gas Co., Inc., Oak Hill West Field, Hopkins County, Ky.	Contract 4-5-65 [20]	1	.....
			Amendment 12-7-66 [17] [21]	1	1
CI68-528 ..... (G-4579) C 6-29-70	Donald W. Jackson	Northern Natural Gas Co., acreage in Texas County, Okla.	Assignment 6-1-70 [22]	1	2
			Effective date: 6-1-70		
CI68-914 ..... B 6-23-70 [23]	Pennzoil Producing Co..	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Southwest Lake Arthur Field, Cameron Parish, La.	Notice of cancellation 6-18-70.[7] [13]	266	4
CI68-1450 ..... C 6-18-70	Pennzoil United, Inc ...	United Fuel Gas Co., Union District, Kanawha County, W. Va.	Supplemental agreement 6-5-68. [17] [20]	20	1
CI70-873 ..... C 6-10-70	El Paso Oil & Gas Co., (Operator) et al.	Arkansas Louisiana Gas Co., North Enid Area, Garfield County, Okla.	Amendment 4-20-70 [17]	1	2
CI70-1003 ..... A 5-11-70	White Shield Oil & Gas Corp. (Operator) et al.	Texas Eastern Transmission Corp., Grand Cane Field, De Soto Parish, La.	Contract 4-9-70	20	.....
			Compliance 6-9-70 [17] [25]		
CI70-1039 ..... A 5-25-70	Cleary Petroleum Corp. (Operator) et al.	Panhandle Eastern Pipe Line Co., East May Field, Ellis and Harper Counties, Okla.	Contract 4-24-70	33	.....
			Compliance 7-15-70 [17] [26]	33	1
CI70-1043 ..... (G-12483) B 5-25-70	Pan American Petroleum Corp.	El Paso Natural Gas Co., Basin Dakota and Blanco-Mesa Verde Fields (Allison Unit) Archuleta and La Plata Counties, Colo., and San Juan County, N. Mex.	Notice of cancellation 5-31-68.[7] [27]	201	7
CI70-1048 ..... A 6-1-70	Harold D. Courson	Transwestern Pipeline Co., Parnell Field, Ochiltree County, Tex.	Contract 5-12-70	3	.....
			Compliance 7-15-70 [17] [28]	3	1
CI70-1091 ..... (CI64-69) F 6-9-70	Texas Oil & Gas Corp. (Operator) et al. (successor to Shell Oil Co. (Operator) et al.).	Panhandle Eastern Pipe Line Co., Avard Field, Woods County, Okla.	Contract 10-4-62 [29]	62	.....
			Amendment 2-1-63	62	1
			Amendment 4-15-63	62	2
			Assignment 11-13-67 [30]	62	3
			Assignment 8-11-69 [17] [31]	62	4
CI70-1099 ..... (G-17206) F 11-3-69 [32]	Aztec Oil & Gas Co. (successor to El Paso Products Co.).	El Paso Natural Gas Co., Basin Dakota Field, San Juan County, N. Mex.	Contract 1-2-59 [33]	33	.....
			Assignment 10-23-69 [34]	33	1
			Assignment 10-23-69 [34]	33	2
			Effective date: 11-1-69		
CI70-1109 ..... (G-18578) B 6-18-70	H. L. Hunt et al	Transcontinental Gas Pipe Line Corp., Bear Field, Beauregard Parish, La.	Notice of cancellation 6-16-70.[7] [13]	25	7
CI70-1110 ..... (CI66-328) B 6-18-70	Carlon Oil Co	United Gas Pipe Line Co., Red Branch Field, Trinity County, Tex.	Notice of cancellation 6-3-70.[7] [35]	1	2
CI70-1114 ..... A 6-18-70 B 6-18-70 [24]	Tenneco Oil Co	United Gas Pipe Line Co., Bethany Field, Panola County, Tex.	Contract 6-12-70	261	.....
CI70-1115 ..... (CI65-916) F 6-4-70	Delta Drilling Co. (Operator) et al. (successor to Amerada Hess Corp.).	Northern Natural Gas Co., Ozona Area, Crockett County, Tex.	Ratified 2-4-65 [36]	39	.....
			Contract 9-18-64	39	1
			Letter agreement 6-8-65	39	2
			Assignment 4-29-69 [37]	39	3
			Assignment 8-18-69 [17] [38]	39	4
CI70-1116 ..... A 6-15-70	Champlin Petroleum Co.	Marathon Oil Co., Doran Field, Cheyenne County, Nebr.	Contract 5-6-66	107	.....
			Letter agreement 4-1-69	107	1
CI70-1117 ..... A 6-19-70	Doran & Braddock Petroleum Exploration (Operator) et al.	Arkansas Louisiana Gas Co., Ada Field, Webster Parish, La.	Contract 6-8-70	1	.....
			Letter agreement 6-8-70	1	1
CI70-1118 ..... (G-6021) B 6-19-70 [24]	Dora C. Atkinson	United Gas Pipe Line Co., Cotton Valley Field, Webster Parish, La.	Notice of cancellation (undated).[7] [24]	2	4

Docket No. and date filed	Applicant	Purchaser, field, and location	FPC rate schedule to be accepted: Description and date of document	No.	Supp.
CI70-1128 A 6-25-70	D. C. Malcolm, Inc	Consolidated Gas Supply Corp., Ripley District, Jackson County, W. Va.	Contract 3-12-70 (No. 3488).	1	
			Letter agreement 6-4-70 [17] [40]	1	1
CI70-1129 A 6-25-70	C. W. Richards et al., d.b.a. Rock Camp Oil & Gas Co.	Consolidated Gas Supply Corp., Union District, Ritchie County, W. Va.	Contract 3-17-70 (No. 3489).[17]	1	
CI70-1130 A 6-25-70	Francis E. Cain	Consolidated Gas Supply Corp., Sheridan District, Calhoun County, W. Va.	Contract 4-29-70 (No. 3497).[17]	37	
CI70-1132 (CI70-10) B 6-26-70	Sun Oil Co	Cities Service Gas Co., Eureka Field, Grant and Alfalfa Counties, Okla.	Notice of cancellation 6-17-70,[7] [13]	476	2
CI70-1133 (CI70-60) B 6-26-70	do	do	Notice of cancellation 6-17-70.[7] [13]	477	2
CI70-1134 A 6-26-70	Inexco Oil Co	Transcontinental Gas Pipe Line Corp., West St. Paul Area, San Patricio County, Tex.	Contract 6-5-70 [17] [41]		
CI70-1136 A 6-29-70	Eastern Pacific Resources, Inc.	Equitable Gas Co., Troy District, Gilmer County, W. Va.	Contract 4-23-70 (No. 6354).[17]	1	
CI70-1137 A 6-29-70	Donald S. Garvin et al., d.b.a. Garvin-Summers et al.	Consolidated Gas Supply Corp., Salt Lick District, Braxton County, W. Va.	Contract 2-10-70 (No. 3481).[17]	4	
CI70-1138 A 6-29-70	Mareve Oil Corp.	Consolidated Gas Supply Corp., Elk District, Kanawha County, W. Va.	Contract 11-18-69 [42] (No. 3475).[17]	7	
CI70-1139 A 6-29-70	Reeves Lewenthal	Consolidated Gas Supply Corp., Philippi District, Barbour County, W. Va.	Contract 12-15-69 (No. 3466).[17]	16	
CI70-1140 (CI61-954) F 6-30-70	Texas Oil & Gas Corp. (Operator) et al. (successor to Atlantic Richfield Co.).	Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla.	Contract 10-26-60 [43]	63	
			Agreement 10-26-60	63	1
			Agreement 7-1-65	63	2
			Assignment 4-21-70 [44]	63	3
CI70-1142 (CI66-183) F 6-19-70	James Robert Hill et al., d.b.a. Houston Hill Estate (successor to George P. Hill et al., d.b.a. Hill & Hill).	Panhandle Eastern Pipe Line Co., Mocane Laverne Field, Beaver County, Okla.	Contract 3-5-58 [45]	1	
			Assignment 5-18-65	1	1
			Court decree 3-20-69	1	2
			Effective date: 10-1-68		
			Contract 7-3-65 [46]	2	
			Assignment 1-7-69	2	1
			Court decree 3-20-69	2	2
			Effective date: 10-1-68		
CI71-1 (G-18373) B 7-1-70	Cities Service Oil Co.	Northern Natural Gas Co., Southeast Benson Area, Pawnee County, Kans.	Notice of cancellation 6-26-70,[7] [13]	131	3
CI71-12 A 7-6-70	Myrle L. Cady	Pennsylvania Gas Co., Sugar Grove Township, Warren County, Pa.	Contract 7-1-70 [17]	1	

[1] Certificate is presently in names of B. M. Britain and C. E. Weymouth. Filing reflects transfer of Weymouth's interest to Weymouth Corp.
[2] From C. E. Weymouth (et al. party) to Weymouth Corp.
[3] Assigns acreage from Gulf Oil Corp. et al., to applicant.
[4] Petition to amend the certificate to include the interest of a nonoperator formerly covered by Dora C. Atkinson's certificate in Docket No. G-6021. The certificate in Docket No. G-6021 is being terminated by order granting abandonment in Docket No. CI70-1118.
[5] No related rate filing, Supplement No. 11 to Hunt Oil Co. FPC GRS No. 16 effective Nov. 22, 1967, confirms status of coowners.
[6] Purchaser has no facilities in the area to take expected production and does not propose construction of such facilities. Deletes gas to be produced from the Newburg Formation.
[7] Effective date: Date of this order.
[8] Sale being rendered on June 7, 1954. No certificate action ever taken on application filed Dec. 20, 1954, as amended Mar. 14, 1955. Applicant's motion to withdraw the certificate application filed July 1, 1955, and letter dated Jan. 15, 1959, advising that the well has been abandoned are being accepted as an amendment to the application to reflect abandonment of service.
[9] Contract dated Dec. 16, 1954, has been accepted as Appell Drilling Co. FPC GRS No. 1 by letter dated Mar. 28, 1955. Motion filed July 1, 1955, also requested the rate filing be withdrawn and is being treated as a request for cancellation of the rate schedule.
[10] From Mobil Oil Corp. to Cities Service Oil Co.; acreage formerly covered under Mobil Oil Corp. FPC GRS No. 129.
[11] Allows acreage to be transferred from Mobil's contract to Cities' contract.
[12] From Quasar Sciences, Inc. (formerly Shiprock Industries, Inc.), to Rimco. Quasar made no certificate filing to reflect the merger.
[13] Source of gas depleted.
[14] The certificate in Docket No. CI60-540 which was terminated by order issued Mar. 29, 1967, in Docket No. G-12994 et al., will be reinstated.
[14a] Cities Service resells gas under its FPC GRS No. 216 to Kansas-Nebraska Natural Gas Co., Inc.
[14b] Formerly on file as Cabeen Exploration Corp. FPC GRS No. 4 which was canceled by order issued Mar. 29, 1967, in Docket No. G-12994 et al. Beaver Mesa has submitted its own copies of contract as a proposed rate schedule.
[14c] From Antelope Gas Products Co. to Excel Oil Corp. (no filings were made by Excel).
[14d] From Excel Oil Corp. to Beaver Mesa Exploration Co.
[15] Assigned acreage originally involved sales under Cabeen's FPC GRS No. 4 to Antelope Gas who in turn resold gas, as Plant Operator, to Kansas-Nebraska. Cities Service then replaced Antelope Gas retaining interest in acreage acquired from Cabeen. Beaver Mesa has now acquired acreage originally dedicated to the Cabeen-Antelope gas contract.
[16] Contract provides for rate of 19.015 cents per Mcf including tax reimbursement; however, applicant states its willingness to accept permanent authorization conditioned to an initial rate of 15 cents per Mcf including tax reimbursement.
[17] Effective date: Date of initial delivery (applicant shall advise the Commission as to such date).
[18] Releases nonproductive acreage from contract.
[19] Amendment to the pending certificate application in Docket No. CI66-1123 to reflect the change in operator.
[20] Sale being rendered without prior Commission authorization.
[21] Deletes indefinite pricing provisions from contract.
[22] From Cities Service Oil Co. to Donald W. Jackson; acreage formerly covered under Cities Service Oil Co. FPC GRS No. 169.
[23] No permanent certificate granted in Docket No. CI68-914; therefore, the abandonment will be permitted in said docket and the temporary certificate in said docket will be terminated.
[24] Contract provides for a rate of 17 cents per Mcf, however, applicant is proposing a rate of 15 cents per Mcf.
[25] Complies with temporary certificate issued June 5, 1970. Applicant states willingness to accept a permanent certificate conditioned as the temporary certificate.
[26] Filed in compliance with conditioned temporary certificate issued June 26, 1970. Applicant states willingness to accept a permanent certificate conditioned as the temporary certificate.
[27] The acreage being abandoned is located in Archuleta County, Colo, but it is part of the Allison Unit which covers acreage in both counties. Acreage transferred to El Paso by assignment dated Sept. 24, 1965.
[28] Complies with temporary certificate issued June 26, 1970. Applicant states willingness to accept a permanent certificate conditioned as the temporary certificate.
[29] On file as Shell Oil Co. (Operator) et al., FPC GRS No. 201.
[30] Conveys acreage from Shell Oil Co. to Hall Jones Oil Corp.
[31] Conveys acreage from Hall Jones Oil Corp. to Texas Oil & Gas Corp.
[32] Application noticed as a complete succession. Further review of the Commission's files reveals that the application is a partial succession and application reassigned Docket No. CI70-1099.
[33] On file as El Paso Products Co. FPC GRS No. 8. Products is a wholly owned subsidiary of El Paso Natural Gas Co.
[34] From El Paso Products Co. to Aztec Oil & Gas Co.
[35] Applicant proposes to abandon authorization for the percentage type sale previously made to Genere Gas Industries, Inc. Abandonment authorization was granted to Genere in Docket No. CI70-1093 which terminated Genere's certificate in Docket No. CI63-838.
[36] On file as Amerada Hess Corp. FPC GRS No. 126.
[37] From Amerada to Delta Drilling Co., Johnson & Lindley, Inc. and Frio-Tex Oil & Gas Co. (assignor reserves rights below 6,600 feet).
[38] From Frio-Tex Oil & Gas Co. to Suburban Propane Gas Corp. (assignor reserves rights below 6,600 feet).
[39] Filed as an abandonment application, however, it is being treated as a motion to terminate the certificate in Docket No. G-6021. Dora C. Atkinson's interest will now be covered by operator's (Hunt Oil Co. (Operator) et al.) certificate in Docket No. G-4366.
[40] Adds acreage.
[41] Contract provides for rate of 17.8 cents per Mcf; however, by letter filed July 1, 1970, applicant stated willingness to accept a permanent certificate at 16 cents per Mcf.
[42] Limited to gas produced from the Newberg Formation.
[43] Currently on file as Atlantic Richfield Co. FPC GRS No. 226.
[44] From Atlantic Richfield Co. to applicant.
[45] On file as George P. Hill et al., d.b.a. Hill & Hill FPC GRS No. 11.
[46] On file as George P. Hill et al., d.b.a. Hill & Hill FPC GRS No. 10.

Suggested agreement and undertaking:

BEFORE THE FEDERAL POWER COMMISSION

(Name of Respondent ----------)
Docket No. ------

AGREEMENT AND UNDERTAKING OF (NAME OF RESPONDENT) TO COMPLY WITH REFUNDING AND REPORTING PROVISIONS OF SECTION 154.102 OF THE COMMISSION'S REGULATIONS UNDER THE NATURAL GAS ACT

(Name of respondent) hereby agrees and undertakes to comply with the refunding and reporting provisions of section 154.102 of the Commission's regulations under the Natural Gas Act insofar as they are applicable to the proceeding in Docket No. ------, and has caused this agreement and undertaking to be executed and sealed in its name by a duly authorized officer this ------ day of ----------, 19--.

(Name of Respondent)
By ----------

Attest:

[F.R. Doc. 70-11937; Filed, Sept. 11, 1970; 8:45 a.m.]

[Docket No. RP71-7]

ALABAMA-TENNESSEE NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges

SEPTEMBER 4, 1970.

Take notice that on September 1, 1970, Alabama-Tennessee Natural Gas Co. (Alabama-Tennessee) tendered for filing a general rate increase application which comprises a complete new tariff designated "FPC Gas Tariff, Second Revised Volume No. 1", to become effective October 17, 1970.

Alabama-Tennessee states that the increased rates are required to provide additional revenues sufficient to permit recovery of a jurisdictional revenue deficiency of $1,903,481.18 reflected in its cost of service for the 12 months ended May 31, 1970, as adjusted. Rates would be increased under all sales rates schedules. The principal reasons for increase are stated as: (1) Increase in purchased gas costs; (2) the need for a 9.2-percent return on jurisdictional business; (3) increases in operation and maintenance costs; (4) an increase in the required depreciation rate from 3.2 percent to 4 percent; (5) increases in Federal, State and local taxes; and (6) the use of liberalized depreciation normalized in determining Federal income taxes.

Alabama-Tennessee's filing consists of its Second Revised Volume No. 1 which contains a purchased gas cost adjustment provision. Alabama-Tennessee has requested that the Commission waive the provisions of § 154.38(d)(3) of the regulations under the Natural Gas Act in order that the purchased gas cost adjustment provision may become effective. If the Commission finds that the proposed purchased gas cost adjustment provision is prohibited by § 154.38(d)(3) and does not waive the terms of that section for purposes of this filing, Alabama-Tennessee requests in the alternative the substitution of tariff sheets filed which do not contain the purchase gas cost adjustment provision. The filing also contains numerous other changes in the tariff.

Copies of the filing were served on customers and interested State regulatory agencies.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 28, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-12177; Filed, Sept. 11, 1970; 8:49 a.m.]

[Docket No. CP71-46]

CONSOLIDATED GAS SUPPLY CORP. AND TENNESSEE GAS PIPELINE CO.

Notice of Application

SEPTEMBER 4, 1970.

Take notice that on August 28, 1970, Consolidated Gas Supply Corp. (Consolidated), 445 West Main Street, Clarksburg, W. Va. 26301 and Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), Post Office Box 2511, Houston, Tex. 77001, pursuant to and in accordance with the provisions of section 7(c) of the Natural Gas Act, as amended, have filed an abbreviated joint application for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities in Erie County, N.Y., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Tennessee proposes to construct and operate on its Niagara Spur an additional delivery point for Supply Corp. The facilities required for such delivery point will consist of a meter station adjacent to Tennessee's Niagara Spur and on the downstream side thereof approximately 2,500 feet of 10-inch pipeline.

The application shows the total estimated cost of the proposed facilities to be $158,000 which cost will initially be financed from Tennessee's cash on hand; Supply Corp. will later reimburse Tennessee from Supply Corp.'s cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 28, 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.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-12178; Filed, Sept. 11, 1970; 8:49 a.m.]

[Docket No. CP71-45]

EL PASO NATURAL GAS CO.

Notice of Application

SEPTEMBER 4, 1970.

Take notice that on August 27, 1970, El Paso Natural Gas Co. (El Paso), a Delaware corporation, whose mailing address is Post Office Box 1492, El Paso, Tex. 79999, filed an application in Docket No. CP71-45 under section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the delivery of natural gas on an exchange basis to Pacific Gas Transmission Co. (PGT) for transmission and redelivery to Pacific Gas and Electric Co. (PG&E) for the limited term commencing on or about May 1, 1971, and continuing through no later than September 30, 1971, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that El Paso has entered into an Emergency Exchange Agreement with PG&E and PGT whereby PG&E will direct PGT to deliver to El Paso at an existing point of interconnection between the facilities of El Paso and PGT near Stanfield, Oreg., up to 100,000 Mcf per day of natural gas commencing upon receipt of necessary authorizations or November 1, 1970, whichever is the later, and continuing through

no later than April 30, 1971. Such deliveries by PGT to El Paso will be made only after El Paso has scheduled full deliveries of gas available to its Northwest Division from all other sources. El Paso, commencing on or about May 1, 1971, and continuing through no later than September 30, 1971, will deliver to PGT at Stanfield, Oreg., for transmission and redelivery to PG&E at the California-Oregon border, quantities of gas at the rate of 50,000 Mcf per day, or such other rates as may be agreed upon from time to time, until the total quantity of gas so delivered to PGT shall equal 150 percent of the total quantity of gas delivered by PGT to El Paso.

No facilities are proposed to be constructed by El Paso to enable the performance of the proposed exchange.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 28, 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.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-12179; Filed, Sept. 11, 1970; 8:49 a.m.]

[Docket No. RP71-5]

KANSAS-NEBRASKA NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges

SEPTEMBER 4, 1970.

Take notice that Kansas-Nebraska Natural Gas Co. (Kansas-Nebraska) on August 31, 1970, tendered for filing its FPC Gas Tariff, Second Revised Volume No. 1,[1] containing proposed increases in rates and changes in certain tariff provisions to become effective October 16, 1970. The proposed rate changes would increase charges for jurisdictional service by $3,626,451 annually, based on sales volumes for the 12-month period ended April 30, 1970, as adjusted, including an 8.82 percent overall rate of return. Kansas-Nebraska states that the proposed increase is necessary largely to maintain and acquire an adequate supply of gas for Kansas-Nebraska's jurisdictional customers. In addition to the proposed increased rates, the revised tariff would establish revised rate zones and increase the penalty for unauthorized overruns of gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 23, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-12181; Filed, Sept. 11, 1970; 8:49 a.m.]

[1] The revised tariff as filed is comprised of Original Sheets 1 through 29.

[Docket No. CP71-52]

MOUNTAIN FUEL SUPPLY CO.

Notice of Application

SEPTEMBER 4, 1970.

Take notice that on August 31, 1970, Mountain Fuel Supply Co. (Applicant), 180 East First South Street, Salt Lake City, Utah 84111, filed in Docket No. CP71-52 an abbreviated application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(d) of the regulations thereunder for a budget type certificate of public convenience and necessity authorizing the construction and operation of certain facilities for the testing and development of underground reservoirs over a 3-year period for the possible storage of natural gas, as hereinafter described all as more fully described in the application which is on file with the Commission and open to public inspection.

Applicant proposes to build a pipeline of approximately 3½ miles from its transmission pipeline to the test area of the LeRoy Anticline in Uinta County, Wyo. This pipeline will be installed on the surface of the ground, except for highway and railroad crossings. The Applicant proposes to inject gas into the prospective reservoirs by a rented skid mounted compressor, for the purpose of determining their feasibility as possible underground storage for natural gas.

Applicant states that storage facilities are necessary to provide a reliable means of meeting future firm peak requirements of its growing market areas.

Total expenditures during the 3-year period are estimated not to exceed $3 million, and it is estimated that no more than $1 million will be expended in any 1 year. Applicant states that the total cost of the proposed tests will be financed by funds obtained from internal sources and short-term bank borrowings as may be required.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 28, 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.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-12182; Filed, Sept. 11, 1970; 8:49 a.m.]

[Docket No. CP71-49]

MOUNTAIN FUEL SUPPLY CO.

Notice of Application

SEPTEMBER 4, 1970.

Take notice that on August 29, 1970, Mountain Fuel Supply Co. (Applicant), 180 East First South Street, Salt Lake City, Utah 84111, filed in Docket No. CP71-49 an abbreviated application pursuant to section 7(c) of the Natural Gas

Act, as implemented by § 157.7 of the regulations thereunder, for a certificate of public convenience and necessity authorizing the construction, installation, and operation of certain natural gas facilities, for the redelivery of gas to Colorado Interstate Gas Co. (Colorado), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and install metering facilities for redelivery of gas to Colorado in amounts up to 10,000 Mcf per day at the point of intersection of their respective pipelines in sec. 2, T. 19 N., R. 104 W., Sweetwater County, Wyo.

Applicant states that the proposed facilities will allow it to redeliver to Colorado gas received from Colorado under a short term agreement for the exchange gas, heretofore authorized in Docket No. CP70–210. Applicant further states that the above mentioned exchange agreement was necessitated by Applicant's firm peak requirements in the winter of 1970–71.

The total estimated cost of the proposed facilities is $7,800, which will be financed by Applicant out of funds from internal sources and from short term bank borrowings as may be required.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 28, 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 CRF 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.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70–12183; Filed, Sept. 11, 1970; 8:50 a.m.]

[Dockets Nos. CP64–150, CP64–273]

NATURAL GAS PIPELINE COMPANY OF AMERICA ET AL.

Notice of Petition for Modification

SEPTEMBER 4, 1970.

Take notice that on August 17, 1970, Oklahoma Natural Gas Storage Co. (petitioner), Oklahoma Natural Building, Tulsa, Okla. 74119, filed in the above dockets a petition to modify the Commission's Opinion No. 480 and order issued November 8, 1965 (34 FPC 1258), as supplemented by Opinion No. 480–A and order issued February 7, 1966 (35 FPC 189), in Docket No. CP64–150 et al., to eliminate the limitation on volumes of gas which may be retained in storage by Petitioner without subjecting Petitioner to jurisdiction under the Natural Gas Act, all as more fully set forth in the subject petition which is on file with the Commission and open to public inspection.

The above-described opinions and orders, among other things, authorized Natural Gas Pipeline Company of America (Natural) to acquire from petitioner and operate the Sayre underground storage field located in Beckham County, Okla. Said opinions and orders conclude that neither petitioner nor Oklahoma Natural Gas Co. (Oklahoma Gas) will become a natural gas company within the meaning of the Natural Gas Act: *Provided*, That they, beginning in the sixth year of operations under the related storage agreement, deplete the volume of gas stored in Sayre to their account by 3,000,000 Mcf per year so that, by the end of the ninth year of operation, they do not maintain in excess of 6,000,000 Mcf of gas in the Sayre Field for which additional amounts of gas, they or either of them are directly or indirectly compensated by Natural.

Petitioner alleges that the limitations imposed are contrary to the public interest and that the requirement that Petitioner reduce its volumes in the Sayre Field at this time would force petitioner to dispose of gas to the detriment of local consumers served by the storage operation and would require that Natural replace the volumes at a considerably increased cost. Accordingly, Petitioner requests modification of said opinions to eliminate the requirement that it reduce the amount which it may maintain in the Sayre Field. Petitioner states that such modification would permit it and Natural to continue to share the Sayre Field so that petitioner could maintain up to a maximum of 25 million Mcf of intrastate gas in storage without becoming subject to Commission jurisdiction.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 28, 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 petitions to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70–12184; Filed, Sept. 11, 1970; 8:50 a.m.]

[Docket No. E–7554]

NORTHERN STATES POWER CO.

Notice of Application

SEPTEMBER 3, 1970.

Take notice that on August 31, 1970, Northern States Power Co. (Minnesota) (applicant), filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of 1,729,298 additional shares of its common stock par value $5 per share.

Applicant is incorporated under the laws of the State of Minnesota with its principal business office at Minneapolis, Minn., and is engaged in the electric utility business in central and southern Minnesota, southeastern South Dakota, and in the Fargo-Grand Forks and Minot areas of North Dakota.

The common stock is to be issued during October and November, 1970. Applicant proposes to issue and sell the additional common stock by (a) offering said shares to the holders of its common stock on the basis of one share for each 10 shares of common stock held of record on a date and at a price per share to be determined by the applicant, (b) offering, at the subscription price to the full-time regular employees and retired employees of applicant and its subsidiaries such of the additional common stock as shall not be subscribed for by the holders of subscription warrants, and (c) selling at the subscription price, at competitive bidding, such of the above shares of common stock as are not subscribed by the holders of the subscription warrants or by the full-time regular employees and retired employees.

Expenditures during 1970 for the construction program of applicant are estimated at $166 million, of which $156 million is for electric facilities, $5 million for gas facilities, and $5 millon for heating, telephone, and general facilities. Of the expenditures for electric facilities, $114 million is for production, $11 million for transmission, and $31 million for distribution facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 24, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not

serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-12185; Filed, Sept. 11, 1970; 8:50 a.m.]

[Docket No. E-7552]

PACIFIC POWER & LIGHT CO.

Notice of Application

SEPTEMBER 3, 1970.

Take notice that on August 26, 1970, Pacific Power & Light Co. (applicant), filed an application seeking an order pursuant to section 203 of the Federal Power Act authorizing the sale of certain transmission facilities to the United States of America, Department of Interior (Government).

Applicant is incorporated under the laws of the State of Maine and qualified to do business in the States of Oregon, Washington, Wyoming, Montana, Idaho, and California. Applicant is principally engaged in the electric utility business with its principal business office at Portland, Oreg.

Applicant proposes to transfer to the Government the following facilities, located in the State of Montana, and associated easements and other property rights relating thereto;

(i) Approximately 0.91 mile of 230-kv. transmission line from applicant's Yellowtail Substation to the Government's Yellowtail Substation being applicant interconnecting transmission line between the substations,

(ii) The circuit breakers and associated station facilities in applicant's Yellowtail Substation related to said transmission line.

The Government will pay Applicant $342,245 in exchange for the facilities. The amount is the original cost to applicant less depreciation accrued on applicant's books.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 28, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[F.R. Doc. 70-12186; Filed, Sept. 11, 1970; 8:50 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[811-1809]

OPTIONS ASSOCIATES

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

SEPTEMBER 4, 1970.

Notice is hereby given that Options Associates (Applicant), c/o Edward R. Garber, 118-21 Queens Boulevard, Forest Hills, N.Y. 11375, a partnership organized under the laws of New York and a management closed-end diversified investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant represents that it has less than 100 partners; that it has never made and does not propose to make a public offering of securities; that all of the partners have agreed to dissolve the partnership; and that all of the partnership interests will be distributed to the partners on or about October 13, 1970. Applicant also requests an order of the Commission declaring that it has ceased to be an investment company as defined in the Act.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 25, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70-12127; Filed, Sept. 11, 1970; 8:45 a.m.]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. D-22]

SECRETARY OF THE TREASURY

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of the Treasury to assist in controlling violations of law at U.S. Treasury locations.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and the Act of June 1, 1948 (62 Stat. 281), as amended, authority is hereby delegated to the Secretary of the Treasury to appoint uniformed guards as special policemen, to make all needful rules and regulations, and to annex to such rules and regulations such reasonable penalties, not to exceed those prescribed in 40 U.S.C. 318c., as will insure their enforcement, for the protection of Treasury Building and Treasury Annex, Washington, D.C.; Bureau of Engraving and Printing, and Bureau of Engraving and Printing Annex, Washington, D.C.; U.S. Mint, Denver, Colo.; U.S. Bullion Depository, Fort Knox, Ky.; U.S. Assay Office, 32 Old Slip, New York, N.Y.; U.S. Mint, 16th and Spring Garden Streets, Philadelphia, Pa.; new U.S. Mint, Fifth and Arch Streets, Philadelphia, Pa.; U.S. Assay Office, 155 Hermann Street, San Francisco, Calif.; and U.S. Bullion Depository, West Point, N.Y., over which the United States has exclusive or concurrent legislative jurisdiction.

b. The Secretary of the Treasury may redelegate this authority to any officer

or employee of the Department of the Treasury.

c. This authority shall be exercised in accordance with the limitations and requirements of the above cited Acts, and the policies, procedures, and controls prescribed by the General Services Administration.

4. *Revocation.* This regulation revokes FPMR Temporary Regulation D–5.

Dated: September 4, 1970.

ROBERT L. KUNZIG,
Administrator of General Services.

[F.R. Doc. 70–12203; Filed, Sept. 11, 1970; 8:51 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 9, 1970.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42044—*Plasticizers or solvents to Institute, W. Va.* Filed by Southwestern Freight Bureau, agent (No. B–185), for interested rail carriers. Rates on plasticizers or solvents, in tank carloads, as described in the application, from Taft, La., to Institute, W. Va.

Grounds for relief—Water competition.

Tariff—Supplement 222 to Southwestern Freight Bureau, agent, tariff ICC 4668.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Acting Secretary.

[F.R. Doc. 70–12196; Filed, Sept. 11, 1970; 8:51 a.m.]

[Notice 586]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 9, 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–72041. By supplemental order of September 3, 1970, the Motor Carrier Board approved the transfer to Dettinburn Trucking, Inc., Petersburg, W. Va., of the operating rights in certificate No. MC–126320 (Sub-No. 5), issued August 24, 1970, to Harold V. Dettinburn, doing business as Dettinburn Trucking, Petersburg, W. Va., which additional authority, acquired by transferor subsequent to the issuance of the approval order of April 30, 1970, authorizes the transportation of: Lime and limestone products, dry, in bulk, in tank or hopper type vehicles, from points in Monongalia and Pendleton Counties, W. Va., to points in Delaware, Maryland, Ohio (as excepted), Pennsylvania and Virginia. D. L. Bennett, Registered Practitioner, 129 Edgington Lane, Wheeling, W. Va. 26003, attorney for applicants.

No. MC–FC–72331. By order of September 2, 1970, the Motor Carrier Board approved the transfer to United Container Services, Inc., Secaucus, N.J., of that portion of the operating rights in certificate No. MC–16505 issued July 12, 1943, in the name of William S. Riggs, doing business as Riggs Motor Freight, 96 East Bringhurst Street, Philadelphia, Pa. 19120, authorizing the transportation of general commodities, with the usual exceptions between Philadelphia, Pa., and New York, N.Y., over a regular route serving specified intermediate and off-route points. Arthur J. Piken, 160–16 Jamaica Avenue, Jamaica, N.Y. 11432, attorney for transferee.

No. MC–FC–72336. By order of September 2, 1970, the Motor Carrier Board approved the transfer to Charles W. Young, Jr., doing business as C. W. Young & Co., Mays Landing, N.J., of that portion of the operating rights in certificate No. MC–16505, issued July 12, 1943, in the name of William S. Riggs, doing business as Rigg's Motor Freight, Philadelphia, Pa., authorizing the transportation of pipe and machinery, which because of size or weight require the use of special handling or equipment between Philadelphia, Pa., on the one hand, and, on the other, Wilmington, Del., Baltimore, Md., and points in New Jersey and the District of Columbia. Robert B. Einhorn, 1540 PSFS Building, 12 South 12th Street, Philadelphia, Pa. 19107, attorney for transferee. Anthony D. Pirillo, Jr., 1400 Robinson Building, Philadelphia, Pa. 19102, attorney for transferor.

No. MC–FC–72338. By order of September 3, 1970, the Motor Carrier Board approved the transfer to Tischler Motor Freight, Inc., Rosenhayn, N.J., of the operating rights in certificates Nos. MC–60612, MC–60612 (Sub-No. 13) and MC–60612 (Sub-No. 15) issued December 15, 1959, March 23, 1966, and July 20, 1967, respectively, to Samuel Tischler, doing business as Tischler Motor Freight, Rosenhayn, N.J., authorizing the transportation of general commodities and specified commodities from, to, and between points and areas in New Jersey, Pennsylvania, New York, Maryland, Massachusetts, Connecticut, Rhode Island, Delaware, and the District of Columbia. Michael D. Varbalow, 225 North Sixth Street, Camden, N.J. 08102, attorney for applicants.

No. MC–FC–72340. By order of September 4, 1970, the Motor Carrier Board approved the transfer to Nix Transportation, Inc., Albany, Oreg., of the operating rights in certificate No. MC–114035 (Sub-No. 1) issued February 12, 1963, to The J. C. Redifer Co., Inc., Albany, Oreg., authorizing the transportation of specified commodities between specified areas in Washington, on the one hand, and, on the other, specified points and areas in Oregon. Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, Oreg. 97210, attorney for applicants.

No. MC–FC–72342. By order of September 3, 1970, the Motor Carrier Board approved the transfer to Liverpool Express Co., a corporation, Darlington, Pa., of the certificate of registration in No. MC–99990 (Sub-No. 2), issued June 18, 1965, to Liverpool Express, Inc., Wellsville, Ohio, evidencing a right to engage in transportation in interstate or foreign commerce solely within the State of Ohio, corresponding in scope to the service authorized by Certificate No. 2211–I dated March 7, 1957, issued by the Public Utilities Commission of Ohio. A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215, attorney for applicants.

No. MC–FC–72350. By order of September 3, 1970, the Motor Carrier Board approved the transfer to Beamer Brothers Trucking Co., a corporation, Cincinnati, Ohio, of certificate of registration No. MC–121642 issued February 10, 1969 to Allyn Beamer and Robert Beamer, doing business as Beamer Brothers Trucking Co., Cincinnati, Ohio, evidencing a right to engage in transportation in interstate commerce as described in Certificate No. 10747–I dated August 6, 1970, issued by the Public Service Commission of the State of Ohio. Jack B. Josselson, Atlas Bank Building, Cincinnati, Ohio 45202, attorney for applicants.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70–12195; Filed, Sept. 11, 1970; 8:51 a.m.]

[No. 19610]

SWITCHING RATES IN CHICAGO SWITCHING DISTRICT

AUGUST 27, 1970.

The Commission has received a petition filed July 13, 1970, by Illinois Freight Association on behalf of member railroads serving the Chicago Switching District, for modification of outstanding orders in the above-entitled proceeding, 177 I.C.C. 769 and 195 I.C.C. 89, so as to permit elimination of the prevailing per car surcharge ($9.28 not subject to Ex Parte No. 262) applicable in connection with the single and joint line loaded car rates within the Chicago Switching District (including related rates), as published in Illinois Freight Association tariff 21–F, I.C.C. No. 1168, and also other

agency and individual lines' issues and, in lieu thereof, to add 1 cent per 100 pounds or 20 cents per net ton, as the case may be, to the applicable single and joint line rates.

Petitioner, in support of modification, avers that application of the per car surcharge to the transportation charges results in substantially increased workload in both clerical handling as well as in pricing; it is difficult for the shipping public to quote prices on thier commodities because of the variance of weight factors involved; and difficulty is encountered in applying the various Ex Parte increases.

General public notification of the filing of this petition will be given by publication of the instant notice in the FEDERAL REGISTER.

Any persons interested in the matters involved in this petition may, on or before 30 days from date of publication of this notice in the FEDERAL REGISTER, file replies to the petition supporting or opposing the determination sought. An original and 15 copies of such replies must be filed with the Commission and must show service of 2 copies upon John H. Doeringer, Attorney for petitioner, Illinois Freight Association, 135 East 11th Place, Chicago, Ill. 60605. Thereafter a determination will be made as to the disposition of the petition. It is not contemplated that there will be any further general public notification published in the FEDERAL REGISTER of the succeeding procedural handling of this proceeding. Subsequent orders entered herein will be served solely on the persons responding to this notice and on petitioner.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70-12193; Filed, Sept. 11, 1970; 8:50 a.m.]

[No. 35297]

TENNESSEE INTRASTATE RAIL FREIGHT RATES AND CHARGES, 1970

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 28th day of August 1970.

By petition filed July 10, 1970, The Alabama Great Southern Railroad; Cincinnati, New Orleans & Texas Pacific Railway; Clinchfield Railroad; Gulf, Mobile & Ohio Railroad; Illinois Central Railroad; Louisville and Nashville Railroad Co.; and Southern Railway Co., carriers by railroad operating within the State of Tennessee, aver that the Tennessee Public Service Commission has refused to permit increases in intrastate rates and charges on aggregates, stone, pulpwood, and wood chips, woodpulp paper, and paper products, salt cake and lime corresponding to increases maintained by the carriers on interstate commerce as authorized by this Commission in Ex Parte No. 259, Increased Freight Rates, 1968, 332 ICC 590, 332 ICC 714;

It appearing, that petitioners allege that the interstate rates and charges, as increased, are just and reasonable, that conditions incident to the transportation of hereinbefore specified commodities within the State of Tennessee are not more favorable than the conditions incident to interstate transportation of the same commodities to, from, and between points in the State of Tennessee, that an increase in intrastate rates and charges comparable to those authorized in Ex Parte No. 259 would not result in rates or charges that are unreasonable, that the failure of the Tennessee Public Service Commission to permit the increases in rates and charges on intrastate traffic, referred to in the previous paragraph, causes and results in the petitioners being required to maintain abnormally low rates on such traffic, depriving them of needed revenue to offset increased operating costs, causing an undue burden on interstate commerce, causing undue, unreasonable, and unjust discrimination against interstate commerce, and giving undue and unreasonable prejudice and disadvantage; thus, petitioners request an investigation, under sections 13 and 15a(2) of the Interstate Commerce Act, of the Tennessee intrastate rates and charges on traffic as more fully described hereinabove and an order removing the alleged unlawfulness, and petitioners seek to have all railroads operating in the State of Tennessee made respondents;

And it further appearing, that there have been brought in issue by the said petition matters sufficient to require an investigation of certain intrastate rates and charges made or imposed by the State of Tennessee;

Wherefore, and good cause appearing:

It is ordered, That the petition be, and it is hereby, granted, and that an investigation be, and it is hereby, instituted under section 13 of the Act to determine whether the said rates and charges of carriers by railroad, or any of them, operating in the State of Tennessee, for the intrastate transportation of aggregates, stone, pulpwood, and wood chips, woodpulp, paper and paper products, salt cake, and lime made or imposed by authority of the State of Tennessee, cause or will cause, by reason of the failure of such rates and charges to include increases corresponding to those permitted by this Commission on the same commodities for interstate transportation in Ex Parte No. 259, Increased Freight Rates, 1968, supra, any undue or unreasonable advantage, preference, or prejudice, as between persons or locations in intrastate commerce, on the one hand, and interstate or foreign commerce, on the other hand, or any undue unreasonable, or unjust discrimination against, or undue burden on interstate or foreign commerce; and to determine what rates and charges, if any, or what maximum, or minimum, or maximum and minimum rates and charges shall be prescribed to remove the unlawful advantage, preference, prejudice, discrimination, or undue burden, if any, that may be found to exist;

It is further ordered, That all carriers by railroad operating within the State of Tennessee, subject to the jurisdiction of this Commission, be, and they are hereby, made respondents to this proceeding; that a copy of this order be served upon each of the said respondents, and that the State of Tennessee be notified of the proceeding by sending copies of this order and of said petition by certified mail to the Governor of the said State and to the Tennessee Public Service Commission at Nashville, Tenn.;

It is further ordered, That notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register; for publication in the FEDERAL REGISTER;

And it is further ordered, That this proceeding be assigned for hearing as may hereafter be designated.

By the Commission, Division 2.

[SEAL] JOSEPH M. HARRINGTON,
Acting Secretary.

[F.R. Doc. 70-12194; Filed, Sept. 11, 1970; 8:50 a.m.]

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