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**Agencies in this issue—**



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

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# Rules and Regulations

## Title 4—ACCOUNTS

### Chapter II—Federal Claims Collection Standards (General Accounting Office—Department of Justice)

### PART 105—REFERRALS TO GAO OR FOR LITIGATION

#### Debt Referral Minimum Increase

The Federal Claims Collection Standards are amended to establish a minimum of $400 for debt referrals to the Department of Justice.

Section 105.6 is revised to read as follows:

**§ 105.6 Minimum amount of referrals to the Department of Justice.**

Agencies will not refer claims of less than $400, exclusive of interest, for litigation unless (a) referral is important to a significant enforcement policy or (b) the debtor has not only the clear ability to pay the claim but the Government can effectively enforce payment having due regard to the exemptions available to the debtor under State or Federal Law and the judicial remedies available to the Government.

(Sec. 3, 80 Stat. 309; 31 U.S.C. 952)

[SEAL] R. F. KELLER,
*Assistant Comptroller General of the United States.*

[F.R. Doc. 70-14153; Filed, Oct. 20, 1970; 8:48 a.m.]

## Title 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission

### PART 213—EXCEPTED SERVICE

#### Department of Health, Education, and Welfare

Section 213.3116 is amended to show that two positions of social insurance representative in the district offices of the Social Security Administration in Alaska are in Schedule A when filled by appointment of persons of one-fourth or more Alaskan native blood (Eskimos, Indians, or Aleuts). Effective on publication in the FEDERAL REGISTER, subparagraph (3) is added to paragraph (d) of § 213.3116 as set out below.

**§ 213.3116 Department of Health, Education, and Welfare.**

* * * * *

(d) *Social Security Administration.* * * *

(3) Two positions of social insurance representative in the district offices of the Social Security Administration in the State of Alaska when filled by the appointment of persons of one-fourth or more Alaskan native blood (Eskimos, Indians, or Aleuts).

* * * * *

(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. 70-14139; Filed, Oct. 20, 1970; 8:47 a.m.]

### PART 213—EXCEPTED SERVICE

#### Department of Defense

Section 213.3306 is amended to show that one position of Chauffeur to the Deputy Secretary is excepted under Schedule C in lieu of one position of Chauffeur to the Secretary. Effective on publication in the FEDERAL REGISTER, subparagraph (3) of paragraph (a) is amended as set out below.

**§ 213.3306 Department of Defense.**

(a) *Office of the Secretary.* * * *

(3) Two Chauffeurs to the Secretary and one Chauffeur to the Deputy Secretary.

* * * * *

(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. 70-14136; Filed, Oct. 20, 1970; 8:47 a.m.]

### PART 213—EXCEPTED SERVICE

#### Department of Defense

Section 213.3306 is amended to show that one position of Personal Security Assistant to the Secretary is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (37) of paragraph (a) of § 213.3306 is added as set out below.

**§ 213.3306 Department of Defense.**

(a) *Office of the Secretary.* * * *

(37) One Personal Security Assistant to the Secretary.

* * * * *

(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. 70-14137; Filed, Oct. 20, 1970; 8:47 a.m.]

### PART 213—EXCEPTED SERVICE

#### Department of Justice

Section 213.3310 is amended to show that one position of Confidential Secretary to the Associate Deputy Attorney General is excepted under Schedule C and that the positions of Confidential Secretary to the Assistant Deputy Attorney General for Litigation and of Confidential Secretary to the Assistant Deputy Attorney General for Legal Administration are no longer in Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraphs (2) and (3) are revoked and subparagraph (4) is added to paragraph (b) of § 213.3310 as set out below.

**§ 213.3310 Department of Justice.**

* * * * *

(b) *Office of the Deputy Attorney General.* * * *

(2) [Revoked]

(3) [Revoked]

(4) One Confidential Secretary to the Associate Deputy Attorney General.

* * * * *

(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. 70-14140; Filed, Oct. 20, 1970; 8:47 a.m.]

### PART 213—EXCEPTED SERVICE

#### Office of Emergency Preparedness

Section 213.3326 is amended to show that one position of Special Assistant to the Deputy Director is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (3) is added to paragraph (b) of § 213.3326 as set out below.

**§ 213.3326 Office of Emergency Preparedness.**

(b) *Office of the Deputy Director.* * * *

(3) One Special Assistant 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. 70-14143; Filed, Oct. 20, 1970; 8:47 a.m.]

## PART 213—EXCEPTED SERVICE

### Office of Economic Opportunity

Section 213.3373 is amended to show that one position of Deputy Assistant Director for Program Development is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (23) is added to paragraph (a) as set out below.

§ 213.3373 Office of Economic Opportunity.

(a) *Office of the Director.* * * *

(23) One Deputy Assistant Director for Program Development.

(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. 70-14142; Filed, Oct. 20, 1970; 8:47 a.m.]

## PART 213—EXCEPTED SERVICE

### Office of Economic Opportunity

Section 213.3373 is amended to show that the position of Confidential Staff Assistant to the Assistant Director for Volunteers in Service to America is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (3) of paragraph (f) is added to § 213.3373 as set out below.

§ 213.3373 Office of Economic Opportunity.

* * * * *

(f) *Volunteers in Service to America.* * * *

(3) One Confidential Staff Assistant to the Assistant Director for VISTA.

(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. 70-14141; Filed, Oct. 20, 1970; 8:47 a.m.]

# Title 7—AGRICULTURE

## Subtitle A—Office of the Secretary of Agriculture

[Amdt. 2]

## PART 20—LIMITATION OF IMPORTS OF MEAT

### Subpart—Section 204 Import Regulations

RESTRICTION ON THE IMPORTATION OF MEAT FROM PANAMA

Section 20.3 is amended by adding a new paragraph prohibiting the importation of meat in excess of 5.6 million pounds from Panama during the calendar year 1970. This regulation is issued with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations to carry out a bilateral agreement negotiated with the Government of Panama pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854). Since the action taken herewith has been determined to involve foreign affairs functions of the United States, this amendment and the request to the Commissioner of Customs, being necessary to the implementation of such action, fall within the foreign affairs exception to the notice and effective date provision of 5 U.S.C. 553 (Supp. V, 1970).

The subpart, section 204 Import Regulations of Part 20, Subtitle A of Title 7 (35 F.R. 10837, 11613), is amended by adding to §20.3 the following new paragraph:

§ 20.3 Restrictions.

* * * * *

(c) *Imports from Panama.* No more than 5.6 million pounds of meat which is the product of Panama may be entered, or withdrawn from warehouse, for consumption in the United States during the calendar year 1970. Appendix C hereto sets forth a letter to the Commissioner of Customs concurred in by the Secretary of State and Special Representative for Trade Negotiations requesting this limitation be placed in effect.

*Effective date.* The regulation contained in the amendment shall become effective upon publication in the FEDERAL REGISTER but meat released under the provisions of section 448(b) of the Tariff Act of 1930 (19 U.S.C. 1448(b)) prior to such date shall not be denied entry.

(Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and E.O. 11539)

Issued at Washington, D.C., this 14th day of October 1970.

CLIFFORD M. HARDIN,
*Secretary of Agriculture.*

APPENDIX C

Honorable MYLES J. AMBROSE,
*Commissioner of Customs,*
*Department of the Treasury,*
*Washington, D.C. 20220*

DEAR MR. AMBROSE: A bilateral agreement has been negotiated with the Government of Panama pursuant to section 204 of the Agricultural Act of 1956, limiting the export from Panama and the importation into the United States of fresh, chilled, or frozen cattle meat (item 106.10 of the Tariff Schedules of the United States) and fresh, chilled, or frozen meat of goats and sheep, except lambs (item 106.20 of the Tariff Schedules of the United States), during the calendar year 1970. In accordance with the authority delegated by E.O. 11539, dated June 30, 1970, I am, with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations, issuing a regulation to assist in carrying out this bilateral agreement.

This regulation provides that no more than 5.6 million pounds of meat of the above description, the product of Panama, may be entered, or withdrawn from warehouse, for consumption in the United States during the calendar year 1970. This regulation will constitute amendment 2 to the Section 204 Import Regulation (35 F.R. 10837, 11613). A copy of this regulation, which will be published in the FEDERAL REGISTER, is enclosed.

In accordance with E.O. 11539, you are requested to take such action as is necessary to implement this regulation. This request is made with the concurrence of the Secretary of State and the Special Representative for Trade Negotiations.

Sincerely,

CLIFFORD M. HARDIN,
*Secretary of Agriculture.*

[F.R. Doc. 70-14176; Filed, Oct. 20, 1970; 8:49 a.m.]

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

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

### Additional Product Outlets for Substandard Dates

The Date Administrative Committee has recommended that § 987.156 of Subpart—Administrative Rules and Regulations be amended to permit substandard dates to be disposed of by handlers for use, or used by them, in the production of specified date products for human consumption. Section 987.156 is effective pursuant to § 987.56 of the marketing agreement, as amended, and Ordre No. 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in a designated area of California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The Committee has estimated that a shortage of restricted and other marketable dates available to meet product needs (i.e., in the form of rings, chunks, pieces, butter, paste, macerated dates, and syrup) (§ 987.155(b)) will devlop during the 1970–71 crop year, especially in view of very good demands in product outlets and export. The Committee is of the view that the use, during the remainder of the current calendar year, of substandard dates for products for human consumption would aid in satisfying such product needs. Also, the Committee has indicated that a substantial quantity of substandard dates (suitable for human consumption) is available for such limited use. However, such dates presently can only be disposed of in nonhuman food outlets which yield relatively low returns to producers, or for use in the production of table syrup (§ 987.156(a)). Therefore, the Committee concluded that the short term use through December 31, 1970, of substandard dates, inspected and certified as such, in specified products for human consumption would tend to effectuate the declared policy of the act, and made its recommendation accordingly.

The action taken herein would permit substandard dates to be used until 1971 in the production of date products for human consumption in the form of rings, chunks, pieces, butter, paste, or macerated dates. Thus, an additional supply of dates would be made available for date products other than table syrup

and provide an opportunity for higher returns to date producers.

The Committee plans to meet during December of this year to evaluate the then date supply and demand outlook and to make any further recommendation concerning the need to use substandard dates in date products.

Based on the foregoing, the recommendation of the Date Administrative Committee, the information submitted therewith, and other available information, it is hereby found that the use of substandard dates in the date products hereinafter specified for human consumption will tend to effectuate the declared policy of the act.

Therefore, Subpart—Administrative Rules and Regulations (7 CFR 987.100–987.174; 35 F.R. 5396, 6700, 14764), is hereby amended by revising paragraph (a) of § 987.156 to read as follows:

**§ 987.156 Disposition of substandard dates for certain specified products.**

(a) Dates of any variety inspected and certified as substandard dates, as defined in § 987.15, may be disposed of by handlers for use, or used by them, in the production of table syrup. Dates of any variety that are inspected and certified as substandard dates, as defined in §987.15, may be disposed of during the period October 21–December 31, 1970, by handlers for use, or used by them, in the production of date products for human consumption in the form of rings, chunks, pieces, butter, paste, or macerated dates.

* * * * *

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule making procedure, and that good cause exists for making this action effective as hereinafter specified and for not postponing the effective time until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action relieves current restrictions on handlers by permitting additional outlets for substandard dates and should become effective promptly to allow handlers to utilize these additional outlets as soon as possible; (2) handlers are aware of the Date Administrative Committee's recommendation arrived at in an open meeting to consider the matter of using substandard dates for products for human consumption and were afforded the opportunity to present their views at the meeting, and need no additional time or notice to adjust their operations thereto; and (3) currently there is a strong demand for the approved date products and handlers should be afforded the earliest opportunity to meet such demand thereby maximizing sales at the higher prices and thus tending to increase returns to producers.

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

Dated October 15, 1970, to become effective upon publication in the FEDERAL REGISTER.

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

[F.R. Doc. 70–14133; Filed, Oct. 20, 1970; 8:46 a.m.]

## Chapter XVIII—Farmers Home Administration, Department of Agriculture

### SUBCHAPTER A—GENERAL REGULATIONS

[FHA Instruction 402.1]

### PART 1803—SUPERVISED BANK ACCOUNTS

Part 1803, Title 7, Code of Federal Regulations (31 F.R. 14114) is revised to read as follows:

Sec.
1803.1 General.
1803.2 Policies governing deposit of funds in supervised bank accounts.
1803.3 Establishing supervised bank accounts.
1803.4 Pledging collateral for deposit of funds in supervised bank accounts.
1803.5 Authority to countersign checks.
1803.6 Deposits.
1803.7 Withdrawals.
1803.8 County office records.
1803.9 Reconciliation of accounts.
1803.10 Closing accounts.
1803.11 Request for withdrawal by State Director.

AUTHORITY: The provisions of this Part 1803 issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989; sec. 602, 78 Stat. 528, 42 U.S.C. 2942; Order of Director, Office of Economic Opportunity, 29 F.R. 14764; Orders of Secretary of Agriculture, 29 F.R. 16840, 32 F.R. 6650, 33 F.R. 9677.

**§ 1803.1 General.**

This part prescribes the policies and procedures of the Farmers Home Administration (FHA) to be followed in establishing and using supervised bank accounts.

(a) Borrowers as referred to in this part include both loan and grant recipients. They are referred to as depositors in the deposit agreements hereinafter described. References herein and in deposit agreements to "other lenders" include lenders and grantors other than FHA.

(b) Banks referred to in this part are those in which deposits are insured by the Federal Deposit Insurance Corporation (FDIC).

(c) Supervised bank accounts referred to in this part are bank accounts established through deposit agreements entered into between either (1) the borrower, the United States of America acting through the FHA, and the bank on Form FHA 402–1, "Deposit Agreement," or (2) the borrower, FHA, other lenders and the bank on Form FHA 402–5, "Deposit Agreement (Non-FHA Funds)."

(d) Form FHA 402–1 provides for the deposit of funds in a supervised bank account as security for payment of the borrower's indebtedness to FHA and to assure the performance of the borrower's obligations to FHA in connection with a grant.

(e) Form FHA 402–5 provides for the deposit in a separate supervised bank account of funds advanced by other lenders as security for payment of the indebtedness to them and to assure the performance of the borrower's obligation to them in connection with a grant.

(f) Form FHA 402–4, "Interest-Bearing Deposit Agreement," provides for the deposit of loan or grant funds that are not required for immediate disbursement in specified interest-bearing deposits, and is executed in conjunction with Form FHA 402–1 or Form FHA 402–5.

**§ 1803.2 Policies governing deposit of funds in supervised bank accounts.**

(a) Supervised bank accounts are used only when necessary to assure the correct expenditure of all or a part of loan and grant funds, borrower contributions, and borrower income. Such accounts will be limited in amount and duration to the extent feasible through the prudent disbursement of funds and the prompt termination of the interests of FHA and other lenders when the accounts are no longer required.

(b) Funds need not be deposited in a supervised bank account when:

(1) They are to be paid at one time to one party and appropriate action is taken to assure prompt delivery of the endorsed check, or

(2) They are contributed by the borrower for loan or grant closing costs, including attorney's fees, or other minor items, and the County Supervisor is satisfied that such funds will be available for the required purposes when needed, or

(3) They are production-type loan funds which are planned to be used within a reasonable period of time, and the County Supervisor has determined on the basis of experience or other reliable information that the borrower will use the funds for the purposes for which the loan is made, or

(4) They are Farm Ownership (FO), Rural Housing (RH), or association-type funds which will be distributed immediately after loan or grant closing and the County Supervisor has determined on the basis of experience or other reliable information that the borrower will use the funds for the purposes for which the loan or grant is made.

(c) Except for the situations referred to in paragraph (b) of this section, FHA loan and grant funds as well as borrower contributions which supplement the loan or grant will be deposited in a supervised bank account under Form FHA 402–1.

(d) Funds provided to an FHA borrower by another lender (through subordination agreements by the FHA or

under other arrangements between the borrower, FHA, and the other lender) that are not used immediately after the loan or grant closing will be deposited in a supervised bank account under Form FHA 402–5, provided:

(1) The County Supervisor determines such action is necessary to protect FHA's interest and to assure that the funds will be used for the purposes planned, and

(2) The other lender is unwilling to control the use of such funds, and

(3) The other lender is agreeable to the use of the FHA supervised bank account.

(e) Income from the sale of security property or Economic Opportunity (EO) property or the proceeds from insurance on such property will be deposited in a supervised bank account under Form FHA 402–1 when the County Supervisor determines it is necessary to do so to assure that the funds will be available for replacement of the property.

(f) In exceptional cases where a borrower has clearly demonstrated inability to handle his financial affairs, all or part of his income or other funds may be deposited in the supervised bank account under Form FHA 402–1 if the County Supervisor determines that such an arrangement is necessary to provide guidance in major financial management practices essential to the borrower's success, subject to the following requirements:

(1) This supervisory technique will be used for a temporary period to help the borrower learn how to properly manage his financial affairs. Such a period will not exceed 1 year unless extended by the District Supervisor.

(2) Funds which are to be applied on FHA loan indebtedness will be withdrawn immediately and transmitted to the Finance Office.

(3) The borrower is agreeable to such an arrangement.

(g) In exceptional cases when an unincorporated EO cooperative cannot obtain a position fidelity bond, its income may be deposited as provided for in paragraph (c) or (d) of this section.

### § 1803.3 Establishing supervised bank accounts.

(a) Each borrower will be given an opportunity to choose the bank in which his supervised bank account will be established, provided the bank is a member of the FDIC.

(b) When accounts are established, it should be determined that:

(1) The bank is fully informed concerning the provisions of Form FHA 402–1 and/or Form FHA 402–5.

(2) Agreements are reached with respect to the services to be provided by the bank including the frequency and method of transmittal of bank statements, and

(3) Agreement is reached with the bank regarding the place where the countersignature will be stamped on checks, particularly those drawn on banks under electronic checking systems.

(c) Where possible, County Supervisors will make arrangements with banks which are members of the FDIC under which they will waive service charges in connection with supervised bank accounts established in such banks. However, there is no objection to the payment by the borrower of a reasonable charge for such a service.

(d) If the amount of Association, Watershed (WS), Rural Rental Housing (RRH), Rural Renewal (RN), Resource Conservation and Development (RCD), EO loans to a Cooperative Association, Rural Cooperative Housing (RCH), or Labor Housing (LH) loan and grant funds to be deposited in the supervised bank account plus any contribution the borrower has agreed to make will exceed $20,000, the bank will be required to pledge collateral security for the excess over $20,000 before the deposit is made (see § 1803.4). In addition, collateral security may be required for other types of loans or grants in amounts in excess of the State Director's approval authorization when determined necessary by the National Office on an individual case basis.

(e) Generally, only one supervised bank account will be established for any borrower regardless of the amount or source of funds. However when an insured loan is being made by a local bank, the borrower will be expected to deposit funds in a supervised bank account with that bank, upon its request, even though he may already have a supervised bank account with another bank. Only one supervised bank account will be maintained after the insured loan funds are expended.

(f) When a supervised bank account is established, an original and two copies of Form FHA 402–1 or Form FHA 402–5, and Form FHA 402–4 when applicable, will be executed by the borrower, the bank, and a County Office employee who is in a bonded position. The original will be retained in the borrower's case file, one executed copy will be delivered to the bank, and one executed copy to the borrower. An extra copy of Form FHA 402–4 will be prepared and attached to the certificate, passbook, or other evidence of deposit representing the interest-bearing deposit.

(1) If an agreement on Form FHA 402–1 or Form FHA 402–5 has previously been executed and Form FHA 402–6, "Termination of Interest in Supervised Bank Account," has not been executed with respect to it, a new agreement is not required when additional funds are to be deposited unless requested by the bank.

(2) When the note and security instrument are signed by two joint borrowers or by both husband and wife, a joint survivorship supervised bank account will be established from which either can withdraw funds if State laws permit such accounts. In such cases both parties will sign the Deposit Agreement(s).

### § 1803.4 Pledging collateral for deposit of funds in supervised bank accounts.

(a) Funds for group-type borrowers referred to in § 1803.3(d), deposited in supervised bank accounts in excess of $20,000 must be secured by pledging acceptable collateral with the Federal Reserve Bank in an amount not less than the excess.

(b) As soon as it is determined that the loan will be approved and the applicant has selected or tentatively selected a bank for the supervised bank account, the County Supervisor will contact the bank to determine:

(1) Whether the bank is a designated depositary of the Treasury Department under Treasury Circular No. 176.

(2) If the bank is not a designated depositary under Treasury Circular No. 176, whether it is willing to accept such designation.

(3) Whether the bank is willing to pledge collateral with the Federal Reserve Bank under Treasury Circular No. 176 to the extent necessary to secure the amount of funds being deposited in excess of $20,000.

(c) If the bank is agreeable to pledging collateral, the County Supervisor will notify, in writing, the State and National Offices, of such collateral agreement.

(d) The National Office will arrange to have the Treasury Department have the bank designated as a depositary, unless already designated, and have collateral pledged.

(e) If, 2 days before loan closing, the State Director has not received a copy of the Treasury Department's letter to the bank about pledging collateral he should wire the National Office, Attention: Finance Liaison Staff.

(f) When the amount of the deposit in the supervised bank account has been reduced to a point where the bank desires part or all of its collateral released, it should write to the Treasury Department, Deposits Branch, Washington, D.C. 20220, requesting the release and stating the balance in the supervised bank account.

### § 1803.5 Authority to countersign checks.

County Supervisors are authorized to countersign checks drawn on supervised bank accounts and may redelegate this authority to persons in bonded positions under their supervision who are considered capable of exercising countersigning authority.

### § 1803.6 Deposits.

(a) *Deposits by FHA personnel.* (1) Checks made payable solely to the Federal Government, or any agency thereof, and a joint check where the Treasurer of the United States is a joint payee, may not be deposited in a supervised bank account.

(2) FHA personnel will accept funds for deposit in a borrower's supervised bank account only in the form of a check or money order endorsed by the borrower "For Deposit Only," or a check drawn to the order of the bank in which the funds are to be deposited or a loan check drawn on the U.S. Treasury.

(i) A joint check that is payable to the borrower and FHA will be endorsed by the County Supervisor. The following endorsement will be used:

Endorsed without recourse to (insert name of bank) for the deposit of $_____ pursuant to deposit agreement dated _____. By (name of County Supervisor) (and title).

(ii) Ordinarily, when deposits are to be made from funds which are received as the result of consent or subordination agreements or assignments of income, the check should be drawn to the order of the bank in which the supervised bank account is established or jointly to the order of the borrower and the FHA. All such checks should be delivered or mailed to the County Office.

(3) If Operating, Emergency (EM), or EO loan funds are to be deposited in a supervised bank account, such funds will be deposited promptly upon receipt of the loan check.

(4) If direct or insured loan funds (other than Operating, EM, or EO loan funds) or borrower contributions are to be deposited in a supervised bank account, such funds will be deposited on the date of loan closing after it has been determined that the loan can be closed. However, if it is impossible to deposit the funds on the day the loan is closed due to reasons such as distance from the bank or banking hours, the funds will be deposited on the first banking day following the date of loan closing.

(5) Grant funds will be deposited when such funds are delivered.

(6) When funds from any source are deposited by FHA personnel in a supervised bank account, a deposit slip will be prepared in an original and two copies and distributed as follows: Original to the bank, one copy to the borrower, and one copy for the borrower's case folder. The name of the borrower, the source of funds, and "Subject to FHA Countersignature" and, if applicable, the account number will be entered on each deposit slip.

(i) For joint survivorship accounts the names of both the husband and wife will be entered on the deposit slip.

(ii) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account without endorsement by the borrower when it will facilitate delivery of the check and is acceptable to the bank. The borrower will be notified immediately of any deposit made and will be furnished a copy of the deposit slip. When a deposit of this nature is made, the following endorsement will be used:

For deposit only in the supervised bank account of (name of borrower) in the (name of bank and address when necessary for identification) pursuant to Deposit Agreement dated _____.

(7) Accounts established through the use of Form FHA 402-4 will be in the name of the depositor and the Government.

(b) *Deposits by borrowers.* (1) Funds in any form may be deposited in the supervised bank account by the borrower if authorized by the FHA, provided the bank has agreed that when a deposit is made to the account by other than FHA personnel, the bank will promptly deliver or mail a copy of the deposit slip to the FHA County Office.

(i) A loan or grant check drawn on the U.S. Treasury may be deposited in a supervised bank account by a borrower, provided the following endorsement is used and is inserted thereon prior to delivery to the borrower for signature:

For deposit only in my supervised bank account in the (name of bank and address when necessary for identification) pursuant to Deposit Agreement dated _____.

(ii) Funds other than loan or grant funds may be deposited by the borrower in those exceptional instances where an agreement is reached between the County Supervisor and the borrower whereby the borrower will make deposits of income from any source directly into the supervised bank account. In such instances the borrower will be instructed to prepare the deposit slip in the manner described in paragraph (a)(6).

**§ 1803.7 Withdrawals.**

(a) The County Supervisor will not countersign checks on the supervised bank account for the use of funds unless the funds deposited by the borrower from other sources were cash deposits or checks which the County Supervisor knows to be good or until he knows that the deposited checks have cleared.

(b) Withdrawals of funds deposited under Form FHA 402-1 or Form FHA 402-5 are permitted only by order of the borrower and countersignature of authorized FHA personnel or upon written demand on the bank by the State Director of the Farmers Home Administration.

(c) Upon withdrawal or maturity of interest-bearing accounts established through the use of Form FHA 402-4, such funds will be credited to the supervised bank account established through the use of Form FHA 402-1 or Form FHA 402-5.

(d) The issuance of checks on the supervised bank account will be kept to the minimum possible without defeating the purpose of such accounts. When major items of capital goods are being purchased, or a limited number of relatively costly items of operating expenses are being paid, or when debts are being refinanced, the checks will be drawn to the vendors or creditors. If minor capital items are being purchased or numerous items of operating and family living expenses are involved as in connection with a monthly budget, a check may be drawn to the borrower to provide the funds to meet such costs.

(1) A check will be issued payable to the appropriate payee but will never be issued to "cash." The purpose of the expenditure will be indicated on the face of the check. When checks are drawn in favor of the borrower to cover items too numerous to identify, the expenditure will be identified on the check as "miscellaneous."

(2) Normally, operating and EM loan funds will not be withdrawn from the supervised bank account until the lien search has been made and the determination reached that the required security has been obtained. This applies also to withdrawal of funds in secured individual loan cases. However, in those instances when the applicant is unable to pay for the lien search and filing fees from his own funds, a check for this purpose may be drawn on the supervised bank account to meet these loan making requirements.

(3) Ordinarily, a check will be countersigned before it is delivered to the payee. However, in justifiable circumstances such as when excessive travel on the part of the borrower or the County Supervisor would be involved, or purchases would be prevented, and the borrower can be relied upon to select goods and services in accordance with the plans, a check may be delivered to the payee by the borrower before being countersigned.

(i) When a check is to be delivered to the payee before being countersigned, the County Supervisor must make it clear to the borrower and to the payee, if possible, that the checks will be countersigned only if the quantity and quality of items purchased are in accordance with approved plans.

(ii) Checks delivered to the payee before countersignature will bear the following legend in addition to the legend for countersignature: "Valid only upon Countersignature of Farmers Home Administration," and

(iii) The check must be presented by the payee or his representative to the County Office of the FHA servicing the account for the required countersignature, and

(iv) Such check must be accompanied by a bill of sale, invoice, or receipt signed by the borrower identifying the nature and cost of the goods or services purchased or similar information must be indicated on the check.

(4) For real estate loans or grants, whether the check is delivered to the payee before or after countersignature, the number and date of the check will be inserted on all bills of sale, invoices, receipts, and itemized statements for materials, equipment, and services.

(5) Bills of sale, and so forth, may be returned to the borrower together with the canceled check for the payment of the bill.

(6) Checks to be drawn on a supervised bank account will bear the legend:

Countersigned, not as co-maker or endorser.

_____

_____
(Title)
Farmers Home Administration

**§ 1803.8 County Office records.**

A record of funds deposited in a supervised bank account will be maintained on Form FHA 402-2, "Statement of Deposits and Withdrawals," in accordance with instructions for its preparation available at all FHA offices. The record of funds provided for operating purposes by another creditor or grantor will be on a separate Form FHA 402-2 so that they can be clearly identified.

**§ 1803.9 Reconciliation of accounts.**

(a) A bank statement will be obtained periodically in accordance with established banking practices in the area. If

requested by the bank, a supply of addressed, franked envelopes will be provided for use in mailing bank statements and canceled checks for supervised bank accounts to the County Office. Bank statements will be reconciled promptly with County Office records. The persons making the reconciliation will initial the record and indicate the date of the action.

(d) All bank statements and canceled checks will be forwarded immediately to the borrower when bank statements and County Office records are in agreement. If a transmittal is used, Form FHA 140–4, "Transmittal of Documents," is prescribed for that purpose.

**§ 1803.10 Closing accounts.**

When FHA loan or grant funds or those of another lender have all been properly expended or withdrawn, Form FHA 402–6 may be used to give the consent of FHA (and of another lender, if involved) to close the supervised bank account in the following situations:

(a) When FHA loan funds in the supervised bank account of a borrower have been reduced to $100 or less, and a check for the unexpended balance has been issued to the borrower to be used for authorized purposes.

(b) For all loan accounts except association loans, after completion of authorized loan fund expenditures, and after promptly refunding any remaining unexpended loan funds on the borrower's loan account with FHA or another lender, as appropriate.

(c) For association loan and grant accounts, when the funds have been expended in accordance with the requirements of Subparts A and I of Part 1823 of this chapter.

(d) Promptly: upon the death of a borrower, except when the loan is being continued with a joint debtor; or when a borrower is in default and it is determined that no further assistance will be given; or when a borrower is no longer classified as "active."

(1) *Deceased borrowers.* (i) Ordinarily, upon notice of the death of a borrower, the County Supervisor will request the State Director to make demand upon the bank for the balance on deposit and apply all of the balance after payment of any bank charges to the borrower's FHA indebtedness. The exceptions are as follows:

(*a*) If the State Director approves continuation with a survivor, the supervised bank account of a deceased borrower may be continued with a remaining joint debtor who is liable for the loan and agrees to use the unexpended funds as planned, provided

(*1*) The account is a joint survivorship supervised bank account, or

(2) If not a joint survivorship account, the bank will agree to permit the addition of the surviving joint debtor's name to the existing signature card and Form FHA 402–1 and/or Form FHA 402–5 and continue to disburse checks out of the existing account upon FHA's countersignature and the joint debtor's signature in place of the deceased borrower, or

(3) The bank will permit the State Director to withdraw the balance from the existing supervised bank account with a check jointly payable to the FHA and the surviving joint debtor and deposit the money in a new supervised bank account with the surviving joint debtor, and will disburse checks from this new account upon the signature of such survivor and the countersignature of an authorized FHA official.

(ii) The State Director, before applying the balance remaining in the supervised bank account to the FHA indebtedness, is authorized upon approval by the Office of the General Counsel (OGC) to refund any unobligated balances thereof made by other lenders to the FHA borrower for specific operating purposes in accordance with subordination agreements or other arrangements between the FHA, the lender, and the borrower.

(iii) The State Director, upon the recommendation of an authorized representative of the estate of the deceased borrower and the approval of the OGC, is authorized to approve the use of deposited funds for the payment of commitments for goods delivered or services performed in accordance with the deceased borrower's plans approved by FHA.

(2) *Borrowers in default.* Whenever it is impossible or impractical to obtain a signed check from a borrower whose supervised bank account is to be closed, the County Supervisor will request the State Director to make demand upon the bank for the balance on deposit in the borrower's supervised bank account for application as appropriate:

(i) To the borrower's FHA indebtedness, or

(ii) As refunds of any unobligated advances provided by other lenders which were deposited in the account, or

(iii) For the return of FHA grant funds to the FHA Finance Office, or

(iv) For the return of grant funds to other grantors.

(3) *Reclassified borrowers.* When a borrower's loan has not been paid in full, but the borrower is no longer classified as "active."

(4) *Paid up borrowers.* When a balance remains in the supervised bank account of a borrower who has repaid his entire indebtedness to FHA and has properly expended all funds advanced by other lenders. In such cases the County Supervisor will notify the borrower in writing that the interests of FHA and the other lender, if any, in the account have been terminated, and inform the borrower of the balance remaining in the bank account.

**§ 1803.11 Request for withdrawals by State Director.**

When the State Director is requested to make written demand upon the bank for the balance on deposit in the supervised bank account, or any part thereof, the request will be accompanied by the following information:

(a) Name of borrower as it appears on Form FHA 402–1 and/or Form FHA 402–5.

(b) Name and location of the bank.

(c) Amount to be withdrawn for refund to another lender of any balance that may remain of funds received by the borrower from such lender as a loan or grant or under a subordination agreement or other arrangement between the FHA, the other lender, and the borrower.

(d) Amount to be withdrawn excluding any bank charges for a refund of FHA or other lender's loans or grants.

(e) Other pertinent information including reasons for the withdrawal.

Dated: October 16, 1970.

JOSEPH HASPRAY,
*Acting Administrator,*
*Farmers Home Administration.*

[F.R. Doc. 70–14177; Filed, Oct. 20, 1970; 8:49 a.m.]

[FHA Instruction 403.1]

## PART 1805—VOLUNTARY DEBT ADJUSTMENT

Part 1805, Title 7, Code of Federal Regulations (31 F.R. 14119) is revised to read as follows:

Sec.
1805.1 General.
1805.2 Policy.
1805.3 Responsibilities.
1805.4 Processing applications for voluntary debt adjustment.

AUTHORITY: The provisions of this Part 1805 issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989; Orders of the Secretary of Agriculture, 29 F.R. 16840, 32 F.R. 6650.

**§ 1805.1 General.**

This part prescribes the policies, responsibilities, and procedures in the voluntary adjustment of debts of applicants for loans from the Farmers Home Administration (FHA), borrowers, and other persons who request such services.

**§ 1805.2 Policy.**

(a) When the adjustment of debts appears necessary to establish a financial position which is compatible with debt payment ability, voluntary debt adjustment assistance will be provided in accordance with the provisions of this part to applicants for FHA loans, and borrowers, as needed, and to other persons upon request. It is not the policy, however, to assist families in avoiding the payment of any obligation which is within their reasonable ability to pay. Adjustments will be made on the basis that each debtor will meet his obligations to the extent possible consistent with his debt repayment ability.

(b) Debts owed to the FHA will not be adjusted pursuant to this part but will be considered for settlement in accordance with Part 1864 or release of personal liability under Subpart A of Part 1872 of this chapter.

**§ 1805.3 Responsibilities.**

(a) Debtors should negotiate, to the extent of their ability, with their creditors for the adjustment of their debts.

It is their responsibility to provide full information to the County Supervisor regarding their resources, potential income, family situation, and financial obligations. They should also understand that it is their responsibility to comply with the debt adjustment agreements which are negotiated.

(b) County Supervisors are responsible for the evaluation and analysis of the debtor's needs and will inform debtors of the circumstances which make debt adjustment arrangements necessary and the nature of the debt adjustments which will have to be accomplished to enable them to meet their debt payment obligations. County Supervisors also are responsible for training other County Office personnel in performing debt adjustment services and for informing County Committeemen with respect to voluntary debt adjustment policies and procedures. The advice of County Committeemen in performance of this service will be used when advantageous in routine cases and in all instances when the debtor has an involved financial situation which is difficult to adjust.

(c) District Supervisors, with assistance from other State staff members, as needed, are responsible for the training of County Supervisors. They will keep currently informed regarding the extent to which voluntary debt adjustment is being provided in a County Office area and the effectiveness of such services. District Supervisors will report to the State Director on Form FHA 493-2, "District Supervisor's Unit Office Report," and at other appropriate times on: the adequacy and effectiveness of voluntary debt adjustment activities in each County Office; corrective action taken or to be taken; and, assistance needed from the State Director or other State staff members.

(d) State Directors are responsible for seeing that an effective voluntary debt adjustment assistance program is carried out in the State(s) in accordance with the policies and procedures set forth in this part. They will keep informed concerning the Agency's accomplishments in providing this service. Training or other corrective actions will be initiated by State Directors as necessary to assure that adequate, effective voluntary debt adjustment services are made available in each County Office area

**§ 1805.4 Processing applications for voluntary debt adjustment.**

(a) Requests from individuals, other than loan applicants or FHA borrowers, for voluntary debt adjustment will be made on Form FHA 410-1, "Application for FHA Services." Complete information concerning the family's resources, potential income, family situation and financial obligations will be fully documented. This will be accomplished through the development of Forms FHA 431-2, "Farm and Home Plan," FHA 410-2, "Supplement to Application for FHA Services (For Applicants Who Depend on Off-Farm Income)," FHA 431-3, "Family Budget," FHA 431-4, "Business Analysis—Nonagricultural Enterprises," as appropriate, to the extent necessary in each case.

(b) If it is found that a debtor's financial situation and debt paying ability is such that debt adjustment is necessary, one or more of the following actions will be taken:

(1) *Rearrangement of payment terms.* If the debt is within the debtor's ability to repay over a reasonable period of time, the creditor(s) will be informed of the need to extend the time for repayment and the nature of the adjustments in the payment arrangement which will be required to enable the debtor to retire the debt in an orderly manner. This may require such changes as reamortization, rearrangement of payment dates, or suspension of payments during periods of low income.

(2) *Reduction of debts.* If the debtor cannot be expected to pay his creditor(s) in a reasonable period of time, an amount which can be repaid will be determined. The creditor(s) will be advised regarding the amount of reduction in indebtedness that will be necessary in line with this determination, taking into consideration the priority of liens involved, the security for the debts, and other pertinent factors.

(3) *Other methods.* It may be necessary in some cases to: reduce interests rates; transfer to a creditor some property not needed in the farm business in exchange for a full or partial release from an obligation; work out various other arrangements with creditors; or, change creditors if necessary to enable the debtor to obtain terms he can meet.

(4) *Combination of methods.* The more complex cases may require a combination of methods to accomplish adjustments which will be reasonable and equitable to all parties of interest. The most equitable method for all parties of interest should be chosen which will bring the total indebtedness within the debtor's ability to pay in an orderly manner.

(c) When a satisfactory adjustment cannot be reached with creditors on an individual basis, it usually will be advisable to invite part or all of such creditors to attend a meeting of the debtor, the County Supervisor, and the County Committee for the purpose of discussing the debtor's situation and attempting to arrive at appropriate adjustments.

(d) In the event the suggested adjustments are not satisfactory to the creditors they should be invited to make alternative proposals for the adjustment of the debt(s) they hold.

(e) Form FHA 403-1, "Debt Adjustment Agreement," will be used in all cases, if possible, to record agreements reached for adjustments. Agreements which are obtained through the use of other forms or media will be filed in the case file or recorded in the running case record.

Dated: October 16, 1970.

JOSEPH HASPRAY,
*Acting Administrator,*
*Farmers Home Administration.*

[F.R. Doc. 70-14178; Filed, Oct. 20, 1970; 8:49 a.m.]

# Title 19—CUSTOMS DUTIES

## Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 70-225]

## PART 16—LIQUIDATION OF DUTIES

### Countervailing Duties; Sugar Content of Certain Articles From Australia

Net amount of bounty declared for the months of July, August and September 1970, for products of Australia subject to the countervailing duty order published in T.D. 54582. Section 16.24(f), Customs Regulations, amended.

The Treasury Department is in receipt of official information that the rates of bounties or grants paid or bestowed by the Australian Government within the meaning of section 303, Tariff Act of 1930 (19 U.S.C. 1303), on the exportation during the months of July, August, and September 1970, of approved fruit products and other approved products containing sugar amounts to Australian $74.10, $73.40, and $73.40, respectively, per 2,240 pounds of sugar content.

The net amount of bounties or grants on the above-described commodities which are manufactured or produced in Australia is hereby ascertained, determined, and declared to be the rates stated above. Additional duties on the above-described commodities, except those commodities covered by T.D. 55716 (27 F.R. 9595), whether imported directly or indirectly from that country, equal to the net amounts of the bounty shown above shall be assessed and collected.

The table in § 16.24(f) under "Australia—Sugar content of certain articles" is amended (1) by deleting therefrom the reference to T.D. 69-253 and (2) by adding a reference to this Treasury decision. As amended the last three lines of the table under this commodity will read:

| Country | Commodity | Treasury Decision | Action |
|---|---|---|---|
| | | 70-106 | New rate. |
| | | 70-197 | New rate. |
| | | 70-225 | New rate. |

(R.S. 251, secs. 303, 624, 46 Stat. 687, 759; 19 U.S.C. 66, 1303, 1624)

[SEAL] EDWIN F. RAINS,
*Acting Commissioner of Customs.*

Approved: October 2, 1970.

Eugene T. Rossides,
*Assistant Secretary of the Treasury.*

[F.R. Doc. 70-14146; Filed, Oct. 20, 1970; 8:47 a.m.]

# Title 47—TELECOMMUNICATION

## Chapter I—Federal Communications Commission

[Docket No. 18244]

## PART 1—PRACTICE AND PROCEDURE

### Nondiscrimination in Employment Practices of Broadcast Licensees; Correction

1. On September 28, 1970, the Commission released a Memorandum Opinion and Order (FCC 70-1013, 35 F.R. 15289) in the above-captioned matter. In paragraph 3 of this memorandum opinion and order, we stated that we would utilize for FCC Form 395 the Equal Employment Opportunity Commission's reporting periods for EEO-1 Form, and in the appendix to that document we changed the filing date for FCC Form 395 from April 1 to May 31 of each year. Inadvertently, we failed to make the appropriate change in § 1.612 of our Rules and Regulations. This erratum is being issued to cure that defect.

Section 1.612 of the Rules and Regulations is amended to read:

**§ 1.612 Annual employment report.**

Each licensee or permittee of a commercially or noncommercially operated standard, FM, television, or international broadcast station (as defined in Part 73 of this chapter) with five or more fulltime employees shall file with the Commission on or before May 31, of each year, on FCC Form 395, an annual employment report.

Released: October 16, 1970.

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

[F.R. Doc. 70-14127; Filed, Oct. 20, 1970; 8:46 a.m.]

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[Docket No. 18909; FCC 70-1109]

## PART 17—CONSTRUCTION, MARKING, AND LIGHTING OF ANTENNA STRUCTURES

### Painting of Antenna Structures

*Report and Order.* 1. On July 10, 1970, a Notice of Proposed Rule Making (FCC 70-725) was released which proposed an amendment to § 17.23 of the Commission's rules to increase the maximum width of the aviation surface orange and white bands on antenna structures from the present 40 feet to 100 feet. The notice solicited comments by August 14, 1970, and reply comments by August 28, 1970.

2. Briefly, the amendment would require that antenna structures be painted in equal width bands of aviation surface orange and white colors with the minimum number of bands, but in no event less than seven. The width of the bands shall not be less than 1½ feet nor more than 100 feet. Existing antenna structures would have to comply with the and reply comments by August 28, 1970, amended § 17.23 of the rules at the time they next required painting, or in no event later than November 1, 1977.

3. Comments were received from the National Association of Broadcasters and the Rust Communications Group, Inc. There were no reply comments received.

4. Addressing ourselves first to the Rust comments, they agree in principle with the proposed wider paint bands but urge that no specific time frame within which to comply be specified. They cite, from their own experience, examples where painting has withstood weathering as long as 11 years. They further point out that FAA's advisory circular dealing with obstruction marking and lighting (70/7460-1), upon which the notice of proposed rule making was based, does not itself suggest any time frame for repainting.

5. The comments of the National Association of Broadcasters views the proposal as merely an interim step in the development of standards for insuring optimum tower visibility. They cite a series of studies, beginning in 1953, undertaken for the purpose of improving the obstruction marking and lighting of tall structures. To supplement these studies, a selected number of tall towers were painted in black and white bands for comparison with towers of similar height painted in aviation orange and white. The reported results of these tests favored the wider band width and the black and white bands. NAB accordingly expresses reservation concerning the instant proposal believing that it would be a piecemeal attempt to solve a problem which still warrants a solution. NAB also petitions that a time frame for repainting not be specified—only that the tower be painted in the prescribed manner when it next requires repainting.

6. The necessity to repaint an antenna structure is ordinarily dictated by the color and condition of the paint and not according to years of service. In some localities the interval between painting may be but a few years whereas in other areas, and depending on the quality of the paint and the workmanship, may be in excess of 7 years. However, it would seem that only in exceptional cases would the painting weather an extended period.

7. The Commission, in cooperation with the FAA, is working on specific guidelines to determine when structures should be repainted. Conceivably, as a result of these studies and any subsequent rule making, a different time frame may be found justified. However, we find that in the interim a terminal date is necessary, and under the circumstances believe the 7-year period to be a reasonable accommodation therefor—one which will cause a minimal amount of inconvenience and hardship.

8. In answer to NAB's contention that this proposal is an interim measure, we would agree but only in the sense that further measures are being studied whereby tall structures would be made more conspicuous. These studies are being directed to the use of high intensity lighting, however, and not wider or different colored paints. In fact, the aviation surface orange and white 100-foot bands complement the high intensity lighting being studied.

9. The two specific studies cited by the NAB were conducted at the direction of the FAA. While they concluded by recommending the application of black and white paints, the recommendations were rejected by FAA for the reason that the studies were inconclusive and did not show a great improvement over the aviation orange and white bands. The matter of the colored paints therefore is moot since FAA has decided to retain the present colors based on their analysis of the studies mentioned.

10. In consideration of the foregoing, the Commission finds that the amendment of §§ 17.23 and 17.43 of its rules as proposed would be in the public interest and should be adopted. Authority for our action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended. In order to permit conformity with FAA Advisory Circular AC 70/7460-1, it has been determined that the effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, are not applicable.

11. *Accordingly, it is ordered,* That effective November 1, 1970, Part 17 of the Commission's rules is amended as set forth below.

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

Adopted: October 14, 1970.

Released: October 16, 1970.

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

1. Section 17.23 is amended to change the figure 40, in the second sentence, to 100. As amended § 17.23 reads as follows:

**§ 17.23 Specifications for the painting of antenna structures in accordance with § 17.21.**

Antenna structures shall be painted throughout their height with alternate bands of aviation surface orange and white, terminating with aviation surface orange bands at both top and bottom. The width of the bands shall be equal and approximately one-seventh the height of the structure, provided however, that the bands shall not be more than 100 feet nor less than 1½ feet in width.

2. Section 17.43 is amended to read as follows:

**§ 17.43 Painting and lighting of new and existing structures.**

(a) The provisions of this part of the rules with respect to antenna structures required to be painted and/or lighted, shall be effective November 1, 1970, for any new antenna structure and for any change in the height or location of an existing antenna structure.

(b) All existing antenna structures required to be painted shall be painted in the manner set forth in § 17.23 at the time when the antenna structure is repainted (see § 17.50) or in no event later than November 1, 1977.

(c) All existing antenna structures required to be illuminated shall be brought into conformity herewith within 6 months after September 5, 1970, at any station for which the authorization is renewable on or prior to that date, and within 3 months following the renewal of an authorization renewable after September 5, 1970.

(d) Nothing in the notification criteria concerning antenna structures or locations, as set forth in Subpart B of this part, shall apply to painting and lighting those structures authorized prior to September 5, 1967, except where lighting and painting requirements are reduced, in which case the lesser requirements may apply upon approval of an application to the Commission for such reduction.

[F.R. Doc. 70-14180; Filed, Oct. 20, 1970; 8:49 a.m.]

# Title 49—TRANSPORTATION

## Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Amdt. 192-1; Docket No. OPS-4]

## PART 192—TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

### Filing of Inspection and Maintenance Plans

The purpose of this amendment is to establish regulations for the filing of inspection and maintenance plans, and changes thereto, as required by section 11 of the Natural Gas Pipeline Safety Act. This amendment was proposed in a notice of rule making issued on December 31, 1969 (OPS Notice 69-4, 35 F.R. 325, January 8, 1970) which was subsequently amended (OPS Notice 70-9, 35 F.R. 8833, June 6, 1970).

The majority of the comments were addressed to only one point, the proposed filing date. It was in response to these comments that the proposal was amended to delay for 6 months the proposed filing date. This delay permits the operators to revise their inspection and maintenance plans so as to comply with the new minimum Federal standards before they are filed.

As finally issued, this filing date has been further modified due to the expiration and renewal of certifications and agreements. When a certification or agreement is in effect in a particular State, these plans must be filed with the appropriate State agency. A number of existing certifications and agreements expire and are renewed at the end of the calendar year and it is possible that some may not be renewed until the last few days of the calendar year. Consequently, operators in these States would not know where the plans must be filed in sufficient time to meet the January 1, 1971, deadline. In this situation, their only recourse would be to file plans with both the State agency and the Department. To avoid the administrative problems associated with this course of action, the operators will not be required to file the inspection and maintenance plans until February 1, 1971.

A number of comments also stated that the proposal seemed to require the filing of all changes with the Office of Pipeline Safety even though the basic plan was on file with a State agency. To avoid this interpretation, the section has been reorganized. A new paragraph (c) has also been added to state the address to which the plans can be mailed for filing purposes.

The second sentence of proposed § 170.7(a) stated: "This requirement shall not apply to any person who is required to file such a plan with a State agency that has in effect a certification under section 5(a) or agreement under section 5(b) of the Natural Gas Pipeline Safety Act of 1968". One comment suggested that this requirement should not apply to persons operating intrastate facilities in a State that had certified, regardless of whether or not that person was required to file a plan by that State. This conclusion was based on the assumption that section 5(a) of the Act requires only that a State certify that it has authority to require the filing of plans, not that this authority be implemented. This comment ignores the mandate of section 11 of the Act, which is made clear by the House of Representatives Committee report quoted in the preamble to Notice 69-4. In part, this report states "The filing of such plans is mandatory under the bill as to all gathering, transmission and distribution pipelines and pipeline facilities which are not under the jurisdiction of the Federal Power Commission under the Natural Gas Act" (H. Rept. No. 1390, 90th Cong., 2d sess., p. 24).

Thus, establishing a regulation to require the filing of plans under section 11 of the bill for pipeline facilities not under the jurisdiction of the Federal Power Commission is not an action that is discretionary with the Secretary or the State agencies since it is clear that Congress intended that such implementing regulations be adopted in each jurisdiction. Therefore, a State must not only have authority to require the filing of inspection and maintenance plans, but must actually exercise that authority to meet the requirements of section 5(a) of the Act. The Federal regulations are written so as to assure that each company subject to the Act is complying with the Congressional intent since it is excepted from filing an inspection and maintenance plan with the Department only if it is required to file with a State agency.

It was suggested by some comments that it was not necessary that there be an actual filing of inspection and maintenance plans with a State or Federal agency and that it would be sufficient to require merely that such plans be established by each operating company and made available for inspection on request. The Department does not agree that such a system would be consistent with the requirements of section 11 of the Act. The Act requires these documents to be filed to place on record a plan which the operator intends to follow in inspecting and maintaining his pipeline facilities. Once this plan is on record, it becomes, in effect, a regulation for the operator who filed it and it must be complied with under section 8(a)(2) of the Act. It is for this purpose that § 192.17 is being established.

Several commenters stated that the requirement that changes in established inspection and maintenance plans must be filed within 10 days after the change is made would be unduly restrictive. It is recognized that a 10-day requirement could at times be burdensome and it has been determined that a 20-day requirement should ensure that the Department's records are kept reasonably current.

Several State agencies included with their comments copies of guidelines that had been prepared to assist operating companies in preparing inspection and maintenance plans. At the present time, the Department does not intend to prescribe minimum requirements for inspection and maintenance plans other than those substantive requirements contained in the minimum Federal safety standards. As the Department gains experience from reviewing the filed plans, this decision will be reviewed and additional requirements for such plans may be established in the future. In any event, the Department appreciates the work that several of the State agencies have accomplished to date in this regard and further appreciates being kept informed of these State efforts.

One comment stated that inspection and maintenance plans are not appropriate for liquefied petroleum gas systems and that these systems should be exempted from these requirements since the Act was not intended to cover them. This contention was discussed and rejected in the preamble of the amendment establishing the minimum Federal safety standards. However, by virtue of placing this regulation in Part 192, the exemption of systems serving less than 10 customers that are not located in a public place, as specified in § 192.11, will apply. Thus, many of the smaller LPG systems will not be required to file such plans.

In consideration of the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended by adding the following new section after § 192.15, effective January 1, 1971.

**§ 192.17 Filing of inspection and maintenance plans.**

(a) Except as provided in paragraph (b) of this section, each operator shall file with the Secretary not later than February 1, 1971, a plan for inspection and maintenance of each pipeline facility which he owns or operates. In addition, each change to an inspection and maintenance plan must be filed with the Secretary within 20 days after the change is made.

(b) The provisions of paragraph (a) of this section do not apply to pipeline facilities—

(1) That are subject to the jurisdiction of a State agency that has submitted a certification or agreement with respect to those facilities under section 5 of the Natural Gas Pipeline Safety Act (49 U.S.C. 1675); and

(2) For which an inspection and maintenance plan is required to be filed with that State agency.

(c) Plans filed with the Secretary must be sent to the office of Pipeline Safety, Department of Transportation, Washington, D.C. 20590.

(Sec. 11, Natural Gas Pipeline Safety Act of 1968, 49 U.S.C. sec. 1671, et seq.; Part 1, Regulations of Office of the Secretary of Transportation, 49 CFR Part 1; delegation of authority to Director, Office of Pipeline Safety, dated Nov. 6, 1968, 33 F.R. 16468)

Issued in Washington, D.C., on October 16, 1970.

JOSEPH C. CALDWELL,
*Acting Director,*
*Office of Pipeline Safety.*

[F.R. Doc. 70-14156; Filed, Oct. 20, 1970; 8:48 a.m.]

## Chapter X—Interstate Commerce Commission

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[No. MC-C-2 (Sub. No. 1); Ex Parte No. MC-37]

### PART 1048—COMMERCIAL ZONES

### New York, N.Y., Commercial Zone

At a session of the Interstate Commerce Commission, Review Board Number 3, held at its office in Washington, D.C., on the 22d day of September 1970.

It appearing, that on February 4, 1970, the Commission made and entered its report, 111 M.C.C. 123, and order in these proceedings;

It further appearing, that by petition filed June 12, 1970, the Reading Co. seeks restoration of the partial exemption provided by section 203(b)(8) of the Interstate Commerce Act as to defined areas of Port Reading, N.J., within the New York, N.Y., commercial zone;

And good cause appearing therefor:

*It is ordered*, That said proceeding, insofar as it relates to the zone adjacent to and commercially a part of New York, N.Y., be, and it is hereby, reopened for further consideration.

*It is further ordered*, That Part 1048 of Title 49 of the Code of Federal Regulations be, and it is hereby, amended to read as follows:

§ 1048.1 New York, N.Y.

(a) The application of § 1048.101 Commercial Zones determined generally, with exceptions, is hereby extended to New York, N.Y.

(b) The exemption provided by section 203(b)(8) of the Interstate Commerce Act, of transportation by motor vehicle, in interstate or foreign commerce, performed wholly within the zone the limits of which are defined in paragraph (a) of this section, is hereby removed as to all such transportation except:

(1) Transportation which is performed wholly within the following territory: The area within the corporate limits of the cities of New York, Yonkers, Mount Vernon, North Pelham, Pelham, Pelham Manor, Great Neck Estates, Floral Park, and Valley Stream, N.Y., and Englewood, N.J.; the area within the borough limits of Alpine, Tenafly, Englewood Cliffs, Leonia, Fort Lee, Edgewater, Cliffside Park, Fairview, Palisades Park, and Ridgefield, Bergen County, N.J.; and that part of Hudson County, N.J., east of Newark Bay and the Hackensack River;

(2) Transportation which is performed in respect of a shipment which has had a prior, or will have a subsequent movement by water carrier, and which is performed wholly between points named in subparagraph (1) of this paragraph, on the one hand, and, on the other, those points in Newark and Elizabeth, N.J., identified as follows: All points in that area within the corporate limits of the cities of Newark and Elizabeth, N.J., west of Newark Bay and bounded on the south by the Main Line of the Penn Central Transportation Co., and on the north by the property line of the Penn Central Transportation Co.; and

(3) Transportation which is performed in respect of a shipment by rail carrier, and which is performed wholly between points named in subpargaraph (1) of this paragraph, on the one hand, and, on the other,

(i) Those portions of Kearny, N.J., within an area bounded on the north by the Main Line of the Jersey City Branch of the Penn Central Transportation Co., on the south and east by Fish House Road and Pennsylvania Avenue, and on the west by the property line of the Penn Central Transportation Co. Truck Train Terminal,

(ii) (*a*) That portion of Newark, N.J., within an area bounded on the north by South Street and Delancey Street, on the east by Doremus Avenue, on the south by the freight right-of-way of the Penn Central Transportation Co. (Waverly Yard, Newark, N.J., to Greenville Piers, Jersey City, N.J., line), and on the west by the Penn Central Transportation Co.'s Hunter Street produce yard, and

(*b*) That portion of Newark, N.J., within an area bounded on the north by Pionier Street, on the east by Broad Street, on the south by the passenger right-of-way of the Penn Central Transportation Co.'s Main Line, and on the west by Frelinghuysen Avenue, and

(iii) Port Reading, N.J., within an area bounded on the east by the Arthur Kill, on the south by the right-of-way of the Reading Co., on the west by Cliff Road, and on the north by Woodbridge Carteret Road.

(49 Stat. 543, as amended; 544, amended 546, as amended, 49 U.S.C. 302, 303, 304)

*It is further ordered*, That this order shall become effective on the 6th day of November 1970, and shall continue in effect until the further order of the Commission.

*It is further ordered*, That the petition, except to the extent granted herein, be, and it is hereby, denied.

*And it is further ordered*, That notice of this order shall be given to the general public by depositing a copy thereof 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.

By the Commission, Review Board Number 3.

[SEAL] ROBERT L. OSWALD,
*Acting Secretary.*

[F.R. Doc. 70-14171; Filed, Oct. 20, 1970; 8:49 a.m.]

# Title 50—WILDLIFE AND FISHERIES

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

### PART 32—HUNTING

### National Wildlife Refuges in North Carolina and South Carolina

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

NORTH CAROLINA

MATTAMUSKEET NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, and coots on the Mattamuskeet National Wildlife Refuge, N.C., is permitted only on the area designated by signs as open to hunting. This open area, comprising 11,300 acres, is delineated on a map available at the refuge headquarters, New Holland, N.C., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, and coots subject to the following special conditions:

(1) Each hunter is limited to 25 shells per day.

(2) Air-thrust boats are prohibited.

SOUTH CAROLINA

SANTEE NATIONAL WILDLIFE REFUGE

Public hunting of geese, ducks, and coots on the Santee National Wildlife Refuge, Lake Moultrie Unit, S.C. is permitted only on the area designated by signs as open to hunting. This open area, comprising approximately 29,500 acres, is delineated on a map available at refuge headquarters, Summerton, S.C., and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta,

Ga. 30323. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese, ducks, and coots subject to the following special conditions:

(1) Hunting will be permitted only on Tuesdays, Thursdays, and Saturdays during the period from December 2, 1970, through January 20, 1971.

(2) Shooting hours are from one-half hour before sunrise until 12 m. Hunters may not enter the refuge hunting area prior to 1½ hours before sunrise and must be off the hunting area no later than 1 p.m.

(3) Only temporary blinds constructed of native vegetation are permitted. Any blind constructed by a hunter on the hunting area, once vacated, may be occupied by any other hunter on a first come, first served basis.

(4) Boats will not be left in Pinopolis Pool (Hatchery) overnight.

(5) Boat motors of any type, inboard, outboard, gasoline, diesel, air-thrust, or electric are not allowed in Pinopolis Pool (Hatchery).

The provisions of these special regulations 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 January 20, 1970.

W. L. TOWNS,
*Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

OCTOBER 12, 1970.

[F.R. Doc. 70-14123; Filed, Oct. 20, 1970; 8:46 a.m.]

## PART 32—HUNTING

### Crab Orchard National Wildlife Refuge, Ill.

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.**

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

Public hunting of pheasants and bobwhite quail on the Crab Orchard National Wildlife Refuge, Ill., is permitted from November 14, 1970, through December 31, 1970; the hunting of rabbits is permitted from November 14, 1970, through January 31, 1971, and the hunting of raccoons, opossums, skunks and weasels is permitted from November 1, 1970, through January 31, 1971, but only on the area designated by signs as open to hunting. This open area, comprising 9,380 acres is delineated on a map available at the refuge headquarters, Carterville, Ill., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State and Federal regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1971.

L. A. MEHRHOFF, Jr.,
*Project Manager, Crab Orchard National Wildlife Refuge, Carterville, Ill.*

OCTOBER 14, 1970.

[F.R. Doc. 70-14121; Filed, Oct. 20, 1970; 8:46 a.m.]

## PART 32—HUNTING

### Crab Orchard National Wildlife Refuge, Ill.

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

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

The public hunting of deer on the Crab Orchard National Wildlife Refuge on an area designated by signs as open to hunting is permitted with bow and arrow from one-half hour before sunrise to one-half hour before sunset daily from October 1, 1970, through November 15, 1970, and from one-half hour before sunrise until one-half hour before sunset November 23, 1970, through December 31, 1970, except during the period December 7 through December 13, 1970, inclusive. Shotgun or single shot muzzle loading rifle hunting of deer is permitted from 6:30 a.m. to 4 p.m. from November 20, 1970, through November 22, 1970, and from December 11, 1970, through December 13, 1970. This open area comprising 9,380 acres, is delineated on maps available at refuge headquarters, Carterville, Ill., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of deer.

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 December 31, 1970.

L. A. MEHRHOFF, Jr.,
*Project Manager, Crab Orchard National Wildlife Refuge, Carterville, Ill.*

OCTOBER 14, 1970.

[F.R. Doc. 70-14120; Filed, Oct. 20, 1970; 8:46 a.m.]

## PART 32—HUNTING

### Bosque del Apache National Wildlife Refuge, New Mexico

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

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

NEW MEXICO

BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Bosque del Apache National Wildlife Refuge, N. Mex., is permitted only on the area designated by signs as open to hunting. This open area, comprising 20,200 acres, is delineated on maps available at refuge headquarters, San Antonio, N. Mex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

(1) The open season for hunting deer on the refuge is from November 21 through November 29, 1970.

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 November 29, 1970.

RICHARD W. RIGBY,
*Refuge Manager, Bosque del Apache National Wildlife Refuge, San Antonio, N. Mex.*

OCTOBER 8, 1970.

[F.R. Doc. 70-14122; Filed, Oct. 20, 1970; 8:46 a.m.]

# Proposed Rule Making

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### [ 26 CFR Parts 1, 301 ]

### ADDITION TO TAX FOR FAILURE TO PAY TAX

### Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix 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), and the Regulations on Procedure and Administration (26 CFR Part 301), to the amendments of the Internal Revenue Code made by section 943 of the Tax Reform Act of 1969 (83 Stat. 727), such regulations are amended as follows:

INCOME TAX REGULATIONS

PARAGRAPH 1. Section 1.6081–1 is amended by revising paragraph (a) to read as follows:

**§ 1.6081–1 Extension of time for filing returns.**

(a) *In general.* District directors and directors of service centers are authorized to grant a reasonable extension of time for filing any return, declaration, statement, or other document which relates to any tax imposed by subtitle A of the Code and which is required under the provisions of subtitle A or F of the Code or the regulations thereunder. However, except in the case of taxpayers who are abroad, such extensions of time shall not be granted for more than 6 months. An extension of time for filing an income tax return shall operate to extend the time for the payment of the tax or any installment thereof unless specified to the contrary in the extension. For extension of time for filing of declarations of estimated tax, see §§ 1.6073–4 and 1.6074–3. For rules relating to extension of time for paying tax, see § 1.6161–1.

* * * * *

PAR. 2. Section 1.6161–1 is amended by revising subparagraph (3) of paragraph (a) to read as follows:

**§ 1.6161–1 Extension of time for paying tax or deficiency.**

(a) *In general.* * * *

(3) *Extension of time for filing distinguished.* The granting of an extension of time for filing a return shall operate to extend the time for the payment of the tax unless specified to the contrary in the extension.

* * * * *

REGULATIONS ON PROCEDURE AND ADMINISTRATION

PAR. 3. Section 301.6651 is amended by revising section 6651 and by adding a historical note. The revised and added provisions read as follows:

**§ 301.6651 Statutory provisions; failure to file tax return or to pay tax.**

SEC. 6651. *Failure to file tax return or to pay tax*—(a) *Addition to the tax.* In case of failure—

(1) To file any return required under authority of subchapter A of chapter 61 (other than part III thereof), subchapter A of chapter 51 (relating to distilled spirits, wines, and beer), or of subchapter A of chapter 52 (relating to tobacco, cigars, cigarettes, and cigarette papers and tubes), or of subchapter A of chapter 53 (relating to machine guns and certain other firearms), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on such return 5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate;

(2) To pay the amount shown as tax on any return specified in paragraph (1) on or before the date prescribed for payment of such tax (determined with regard to any extension of time for payment), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown as tax on such return 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate; or

(3) To pay any amount in respect of any tax required to be shown on a return specified in paragraph (1) which is not so shown (including an assessment made pursuant to section 6213(b)) within 10 days of the date of the notice and demand therefor, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount of tax stated in such notice and demand 0.5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

(b) *Penalty imposed on net amount due.* For purposes of—

(1) Subsection (a)(1), the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed on the return,

(2) Subsection (a)(2), the amount of tax shown on the return shall, for purposes of computing the addition for any month, be reduced by the amount of any part of the tax which is paid on or before the beginning of such month and by the amount of any credit against the tax which may be claimed on the return, and

(3) Subsection (a)(3), the amount of tax stated in the notice and demand shall, for the purpose of computing the addition for any month, be reduced by the amount of any part of the tax which is paid before the beginning of such month.

(c) *Limitations and special rule*—(1) *Additions under more than one paragraph.* (A) With respect to any return, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under paragraph (2) of subsection (a) for any month to which an addition to tax applies under both paragraphs (1) and (2).

(B) With respect to any return, the maximum amount of the addition permitted under paragraph (3) of subsection (a) shall be reduced by the amount of the addition under paragraph (1) of subsection (a) which is attributable to the tax for which the notice and demand is made and which is not paid within 10 days of notice and demand.

(2) *Amount of tax shown more than amount required to be shown.* If the amount required to be shown as tax on a return is less than the amount shown as tax on such return, subsections (a)(2) and (b)(2) shall be applied by substituting such lower amount.

(d) *Exception for declarations of estimated tax.* This section shall not apply to any failure to file a declaration of estimated tax required by section 6015 or to pay any estimated tax required to be paid by section 6153 or 6154.

(Sec. 6651 as amended by sec. 103(a)(4), Revenue and Expenditure Control Act, 1968 (68A Stat. 740); sec. 943(a), Tax Reform Act, 1969 (83 Stat. 727))

PAR. 4. Section 301.6651–1 is amended to read as follows:

**§ 301.6651–1 Failure to file tax return or to pay tax.**

(a) *Addition to the tax*—(1) *Failure to file tax return.* In case of failure to file a return required under authority of—

(i) Subchapter A, chapter 61 of the Code, relating to returns and records (other than sections 6015 and 6016, relating to declarations of estimated tax, and part III thereof, relating to information returns);

(ii) Subchapter A, chapter 51 of the Code, relating to distilled spirits, wines, and beer;

(iii) Subchapter A, chapter 52 of the Code, relating to cigars, cigarettes, and cigarette papers and tubes; or

(iv) Subchapter A, chapter 53 of the Code, relating to machine guns, destructive devices, and certain other firearms; and the regulations thereunder, on or before the date prescribed for filing (determined with regard to any extension of time for such filing), there shall be added to the tax required to be shown on the return the amount specified below unless the failure to file the return within the prescribed time is shown to the satisfaction of the district director or the director of the service center to be due to reasonable cause and not to willful neglect. The amount to be added to the tax is 5 percent thereof if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate. The amount of any addition under this subparagraph shall be reduced by the amount of the addition under subparagraph (2) of this paragraph for any month to which an addition to tax applies under both subparagraphs (1) and (2) of this paragraph.

(2) *Failure to pay tax shown on return.* In case of failure to pay the amount shown as tax on any return (required to be filed after December 31, 1969, without regard to any extension of time for filing thereof) specified in subparagraph (1) of this paragraph on or before the date prescribed for payment of such tax (determined with regard to any extension of time for payment), there shall be added to the tax shown on the return the amount specified below unless the failure to pay the tax within the prescribed time is shown to the satisfaction of the district director or the director of the service center to be due to reasonable cause and not to willful neglect. The amount to be added to the tax is 0.5 percent of the amount of tax shown on the return if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate.

(3) *Failure to pay tax not shown on return.* In case of failure to pay any amount in respect of any tax required to be shown on a return specified in subparagraph (1) of this paragraph which is not so shown (including an assessment made pursuant to section 6233(b)) within 10 days from the date of the notice and demand therefor (if such notice and demand is made after December 31, 1969), there shall be added to the amount stated in the notice and demand the amount specified below unless the failure to pay the tax within the prescribed time is shown to the satisfaction of the district director or the director of the service center to be due to reasonable cause and not to willful neglect. The amount to be added to the tax is 0.5 percent of the amount stated in the notice and demand if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate. The maximum amount of the addition permitted under this subparagraph shall be reduced by the amount of the addition under subparagraph (1) of this paragraph which is attributable to the tax for which the notice and demand is made and which is not paid within 10 days from the date of notice and demand.

(b) *Month defined.* (1) If the date prescribed for filing the return or paying tax is the last day of a calendar month, each succeeding calendar month or fraction thereof during which the failure to file or pay tax continues shall constitute a month for purposes of section 6651.

(2) If the date prescribed for filing the return or paying tax is a date other than the last day of a calendar month, the period which terminates with the date numerically corresponding thereto in the succeeding calendar month and each such successive period shall constitute a month for purposes of section 6651. If, in the month of February, there is no date corresponding to the date prescribed for filing the return or paying tax, the period from such date in January through the last day of February shall constitute a month for purposes of section 6651. Thus, if a return is due on January 30, the first month shall end on February 28 (or 29 if a leap year), and the succeeding months shall end on March 30, April 30, etc.

(3) If a return is not timely filed or tax is not timely paid, the fact that the date prescribed for filing the return or paying tax, or the corresponding date in any succeeding calendar month, falls on a Saturday, Sunday, or a legal holiday is immaterial in determining the number of months for which the addition to the tax under section 6651 applies.

(c) *Showing of reasonable cause*—(1) A taxpayer who wishes to avoid the addition to the tax for failure to file a tax return or pay tax must make an affirmative showing of all facts alleged as a reasonable cause for his failure to file such return or pay such tax on time in the form of a written statement containing a declaration that it is made under penalties of perjury. Such statement should be filed with the district director or the director of the service center with whom the return is required to be filed. If the district director or the director of the service center determines that the delinquency was due to a reasonable cause and not to willful neglect, the addition to the tax will not be assessed. If the taxpayer exercised ordinary business care and prudence and was nevertheless unable to file the return within the prescribed time, then the delay is due to a reasonable cause. A failure to pay will be considered to be due to reasonable cause to the extent that the taxpayer has made a satisfactory showing that he exercised ordinary business care and prudence in providing for payment of his tax liability and was nevertheless either unable to pay the tax or would suffer an undue hardship (as described in § 1.6161–1(b) of this chapter) if he paid on the due date. In determining whether the taxpayer was unable to pay the tax in spite of the exercise of ordinary business care and prudence in providing for payment of his tax liability, consideration will be given to all the facts and circumstances of the taxpayer's financial situation, including the amount and nature of the taxpayer's expenditures in light of the income (or other amounts) he could, at the time of such expenditures, reasonably expect to receive prior to the date prescribed for the payment of the tax. Thus, for example, a taxpayer who incurs lavish or extravagant living expenses in an amount such that the remainder of his assets and anticipated income will be insufficient to pay his tax, has not exercised ordinary business care and prudence in providing for the payment of his tax liability. Further, a taxpayer who invests funds in speculative or illiquid assets has not exercised ordinary business care and prudence in providing for the payment of his tax liability unless, at the time of the investment, the remainder of the taxpayer's assets and estimated income will be sufficient to pay his tax or it can be reasonably foreseen that the speculative or illiquid investment made by the taxpayer can be utilized (by sale or as security for a loan) to realize sufficient funds to satisfy the tax liability. A taxpayer will be considered to have exercised ordinary business care and prudence if he made reasonable efforts to conserve sufficient assets in marketable form to satisfy his tax liability and nevertheless was unable to pay all or a portion of the tax when it became due.

(2) In determining if the taxpayer exercised ordinary business care and prudence in providing for the payment of his tax liability, consideration will be given to the nature of the tax which the taxpayer has failed to pay. Thus, for example, facts and circumstances which, because of the taxpayer's efforts to conserve assets in marketable form, may constitute reasonable cause for nonpayment of income taxes may not constitute reasonable cause for failure to pay over taxes described in section 7501 that are collected or withheld from any other person.

(d) *Penalty imposed on net amount due*—(1) *Credits against the tax.* The amount of tax required to be shown on the return for purposes of section 6651 (a)(1) and the amount shown as tax

on the return for purposes of section 6651(a)(2) shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed on the return.

(2) *Partial payments.* (i) The amount of tax required to be shown on the return for purposes of section 6651(a)(2) shall, for the purpose of computing the addition for any month, be reduced by the amount of any part of the tax which is paid after the date prescribed for payment and on or before the first day of such month.

(ii) The amount of tax stated in the notice and demand for purposes of section 6651(a)(3) shall, for the purpose of computing the addition for any month, be reduced by the amount of any part of the tax which is paid before the first day of such month.

(e) *No addition to tax if fraud penalty assessed.* No addition to the tax under section 6651 shall be assessed with respect to an underpayment of tax if a 50-percent addition to the tax for fraud is assessed with respect to the same underpayment under section 6653(b). See section 6653(d).

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

*Example (1).* (a) Under section 6072(a), income tax returns of individuals on a calendar year basis must be filed on or before the 15th day of April following the close of the calendar year. Assume an individual filed his income tax return for the calendar year 1969 on July 20, 1970, and the failure to file on or before the prescribed date is not due to reasonable cause. The tax shown on the return is $800 and a deficiency of $200 is subsequently assessed, making the tax required to be shown on the return, $1,000. Of this amount, $300 has been paid by withholding from wages and $400 has been paid as estimated tax. The balance due as shown on the return of $100 ($800 shown as tax on the return less $700 previously paid) is paid on August 21, 1970. The failure to pay on or before the prescribed date is not due to reasonable cause. There will be imposed, in addition to interest, an additional amount under section 6651(a)(2) of $2.50, which is 2.5 percent (2% for the 4 months from April 16 through August 15, and 0.5% for the fractional part of the month from August 16 through August 21) of the net amount due as shown on the return of $100 ($800 shown on the return less $700 paid on or before April 15). There will also be imposed an additional amount under section 6651(a)(1) of $58, determined as follows:

| | |
|---|---|
| 20 percent (5% per month for the 3 months from April 16 through July 15 and 5% for the fractional part of the month from July 16 through July 20) of the net amount due of $300 ($1,000 required to be shown on the return less $700 paid on or before April 15) | $60 |
| Reduced by the amount of the addition imposed under section 6651(a)(2) for those months | 2 |
| Addition to tax under section 6651(a)(1) | 58 |

(b) A notice and demand for the $200 deficiency is issued on January 8, 1971, but the taxpayer does not pay the deficiency until December 23, 1971. In addition to interest there will be imposed an additional amount under section 6651(a)(3) of $10, determined as follows:

| | |
|---|---|
| Addition computed without regard to limitation: 6 percent (5½% for the 11 months from January 19, 1971, through December 18, 1971, and 0.5% for the fractional part of the month from December 19 through December 23) of the amount stated in the notice and demand ($200) | $12 |
| Limitation on addition: 25 percent of the amount stated in the notice and demand ($200) | $50 |
| Reduced by the part of the addition under section 6651(a)(1) for failure to file attributable to the $200 deficiency (20% of $200) | 40 |
| Maximum amount of the addition under section 6651(a)(3) | 10 |

*Example (2).* An individual files his income tax return for the calendar year 1969 on December 2, 1970, and such delinquency is not due to reasonable cause. The balance due, as shown on the return, of $500 is paid when the return is filed on December 2, 1970. In addition to interest and the addition for failure to pay under section 6651(a)(2) of $20 (8 months at 0.5% per month, 4%), there will also be imposed an additional amount under section 6651(a)(1) of $112.50, determined as follows:

| | |
|---|---|
| Penalty at 5 percent for maximum of 5 months, 25 percent of $500 | $125.00 |
| Less reduction for the amount of the addition under section 6651(a)(2): Amount imposed under section 6651(a)(2) for the months in which there is also an addition for failure to pay—2½ percent for the 5 months April 16 through September 15 of the net amount due ($500) | 12.50 |
| Addition to tax under section 6651(a)(1) | 112.50 |

PAR. 5. Section 301.6656 is amended by revising subsection (a) of section 6656 and by adding a historical note. The revised and added provisions read as follows:

**§ 301.6656 Statutory provisions; failure to make deposit of taxes.**

Sec. 6656. *Failure to make deposit of taxes.*—(a) *Penalty.* In case of failure by any person required by this title or by regulation of the Secretary or his delegate under this title to deposit on the date prescribed therefor any amount of tax imposed by this title in such government depositary as is authorized under section 6302(c) to receive such deposit, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be imposed upon such person a penalty of 5 percent of the amount of the underpayment. For purposes of this subsection, the term "underpayment" means the excess of the amount of the tax required to be so deposited over the amount, if any, thereof deposited on or before the date prescribed therefor.

* * * * *

(Sec. 6656 as amended by sec. 943(b), Tax Reform Act, 1969 (83 Stat. 728))

PAR. 6. Section 301.6656–1 is amended by revising paragraph (a) to read as follows:

**§ 301.6656–1 Failure to make deposit of taxes.**

(a) *Penalty.* (1) In case of failure by any person required by the Code or regulations prescribed thereunder to deposit any tax in a Government depositary, as is authorized under section 6302(c), within the time prescribed therefor, a penalty shall be imposed on such person unless such failure is shown to the satisfaction of the district director or the director of the service center to be due to reasonable cause and not to willful neglect. In the case of deposits, the time for making of which is after December 31, 1969, the penalty shall be 5 percent of the amount of the underpayment without regard to the period during which the underpayment continues. In the case of deposits, the time for making of which is before January 1, 1970, the penalty shall be 1 percent of the amount of the underpayment if the failure is for not more than 1 month, with an additional 1 percent for each additional month or fraction thereof during which failure continues, not to exceed 6 percent in the aggregate. For purposes of this section, the term "underpayment" means the amount of tax required to be deposited less the amount, if any, which was deposited on or before the date prescribed therefor, and the term "month" shall have the same meaning assigned to such term in paragraph (b) of § 301.6651–1.

(2) A taxpayer who wishes to avoid the penalty for failure to deposit must make an affirmative showing of all facts alleged as a reasonable cause in a written statement containing a declaration that it is made under the penalties of perjury, which should be filed with the district director for the district in which the return with respect to the tax is required to be filed, or with the director of the service center. If the district director or the director of the service center determines that the delinquency was due to a reasonable cause, and not to willful neglect, the penalty will not be imposed.

* * * * * *

[F.R. Doc. 70–14155; Filed, Oct. 20, 1970; 8:48 a.m.]

# DEPARTMENT OF JUSTICE

## Immigration and Naturalization Service

## [ 8 CFR Part 214 ]

## INTRA-COMPANY TRANSFEREES

## Notice of Proposed Rule Making

Pursuant to section 553 of title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed issuance of the following rules pertaining to intra-company transferees. In accordance with section 553, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 757, 119 D Street NE., Washington, D.C. 20536, written data, views, or arguments, in duplicate, relative to the proposed rules. Such representations

may not be presented orally in any manner. All relevant material received within 20 days following the date of publication of this notice will be considered.

## PART 214—NONIMMIGRANT CLASSES

1. The first and fourth sentences of subparagraph (1) *Petitions* of paragraph (h) *Temporary employees* of § 214.2 *Special requirements for admission, extension, and maintenance of status* are amended to read as follows: "An alien defined in section 101(a)(15)(H) of the Act must be the beneficiary of an approved visa petition filed on Form I–129B. * * * The spouse and minor children of the beneficiary are entitled to nonimmigrant H classification if accompanying or following to join him."

2. Subdivision (iv) *Petition for intracompany transferee* of subparagraph (2) *Supporting evidence* of paragraph (h) *Temporary employees* of § 214.2 *Special requirements for admission, extension, and maintenance of status* is revoked.

3. Section 214.2 is amended by redesignating paragraph (l) *NATO aliens* as paragraph (m) and by adding a new paragraph (l) to read as follows:

(l) *Intra-company transferees*—(1) *Petition.* An alien defined in section 101(a)(15)(L) of the Act must be the beneficiary of an approved visa petition filed on Form I–129B. A separate petition for each such alien, with supporting documents, shall be filed by the petitioner with the district director having administrative jurisdiction over the place in the United States where the beneficiary will perform the services. The approval of a petition under this paragraph shall be valid for the period of established need for the beneficiary's temporary services not to exceed 1 year. The spouse and minor children of the beneficiary are entitled to the same nonimmigrant classification if accompanying or following to join him. However, neither the spouse nor a child may accept employment unless such spouse or child is the beneficiary of an approved petition filed in his behalf. The petitioner, who need not be a U.S. resident, shall be notified of the decision and, if the petition is denied, of the reasons therefor and of his right to appeal in accordance with the provisions of Part 103 of this chapter.

(2) *Supporting evidence.* A petitioner seeking to accord an alien classification under section 101(a)(15)(L) of the Act shall attach to the petition a statement describing the capacity in which the beneficiary has been employed abroad and the capacity in which he is to be employed in the United States. If the services to be rendered by the beneficiary are not managerial or executive in nature but involve specialized knowledge, the statement shall describe the nature of the specialized knowledge possessed by the beneficiary which makes his presence in the United States necessary.

(3) *Admission, employment, and extension.* A beneficiary may apply for admission to the United States only during the period of validity of the petition, and the period of his initial authorized stay shall not exceed the date of validity of that petition. The approval of any petition is automatically terminated when the petitioner dies, goes out of business, or files a written withdrawal of the petition before the beneficiary arrives in the United States. Approval of the beneficiary's employment is automatically suspended while a strike or other labor dispute involving a work stoppage or layoff of employees is in progress in the occupation and at the place the alien is being employed. Upon application on Form I–539, extensions of stay may be authorized in increments of not more than 12 months under the same terms and conditions as apply to an admission, except that a new petition will not be required to continue previously authorized temporary employment. The beneficiary's spouse and children admitted in his nonimmigrant classification may be included in his extension application and given extension of stay coextensive with his.

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

Dated: October 15, 1970.

RAYMOND F. FARRELL,
*Commissioner of Immigration and Naturalization.*

[F.R. Doc. 70-14131; Filed Oct. 20 1970; 8:46 a.m.]

# DEPARTMENT OF THE INTERIOR

## Oil Import Administration

## [ 32A CFR Ch. X ]

[Oil Import Regulation 1 (Rev. 5)]

## CRUDE OIL IMPORTED AS RESIDUAL FUEL OIL FOR USE AS BURNER FUEL

### Topping Process; District I and Districts II–IV

There is set forth below, in the form of a section of Oil Import Regulation 1 (Revision 5), as amended, a proposal which would permit imported crude oil that is to be used as residual fuel oil to be topped solely for the purpose of raising the flash point of the residuum before it is delivered to the consumer.

Subparagraph (7), paragraph (g), section 9 of Proclamation 3279, as amended, defines residual fuel oil as (i) topped crude oil or viscous residuum which has a viscosity of not less than 45 seconds Saybolt Universal at 100° F., and (ii) crude oil which is to be used as fuel without further processing other than by blending by mechanical means.

Persons who have residual fuel oil import allocations and licenses in District I which are issued under the existing Oil Import Regulation 1 (Revision 5), as amended, or by the Oil Import Appeals Board, may import crude oil under such allocations and licenses provided that the crude oil so imported is used as fuel without further processing. Persons may also import Canadian produced crude oil by overland means into Districts I–IV without allocation or license provided the crude oil is used directly as fuel. The flash point of some of these crude oils occurs at or below atmospheric temperatures and may pose a fire hazard in its handling at consumers facilities which, in the main, are presently equipped only for storing and handling a high flash point residual fuel oil.

This proposal, if adopted, with the approval of the Director of the Office of Emergency Preparedness, would implement suggestions that refiners be permitted to distill off a portion of the light hydrocarbons in the imported crude oil for the purpose of raising the flash point of the residuum before delivery to the consumer. The refiners would then either export the portion distilled off or use it as fuel in the plant complex which includes the distillation unit.

Interested persons are invited to submit written comments upon the proposal to the Administrator, Oil Import Administration, Department of the Interior, Washington, D.C. 20240, within a period of 30 days from the date of publication of the notice in the FEDERAL REGISTER. Each person who submits comments is asked to provide fifteen (15) copies.

R. W. SNYDER, Jr.,
*Acting Administrator, Oil Import Administration.*

OCTOBER 19, 1970.

**SEC. ___ Crude oil imported as residual fuel oil for use as fuel—topping process, District I and Districts II–IV.**

(a) (1) For the purposes of this section only the term "crude oil used as residual fuel oil" means crude oil imported from Canada into Districts I–IV pursuant to section 1(a)(4) of Presidential Proclamation 3279, as amended, or (2) crude oil imported into District I under a license issued pursuant to section 12 or 21 of these regulations and, which in either case, is to be used as burner fuel without further processing other than by blending by mechanical means and by distilling as provided by this section.

(2) For the purpose of this section, a plant complex will mean facilities within the immediate area of the distilling unit including all equipment of which the distillation unit is a related part but shall not include points which would require the product to be moved from the distillation unit to such point outside the immediate area.

(b) A person seeking a certificate of approval under paragraph (c) of this section must file an application with the Administrator not later than 15 days before the expected date of the commencement of importation of the crude oil used as residual fuel oil. Such application shall certify in detail such information as the Administrator may require including, but not limited to, the following:

(i) The location of the distillation unit.

(ii) The nature of the distillation unit and any plant complex of which it is a part.

(iii) If the distillation unit is part of a plant complex, a description of the method to be used in segregating and

accounting for feedstocks and products of the distillation unit from the feedstocks and products of the balance of the plant complex.

(iv) The quantity of crude oil to be used as residual fuel oil to be imported and processed in the distillation unit.

(v) The date importation will commence.

(vi) Any other information as may be required by the Administrator.

(c) Upon approving a person's application, based upon a determination that the person's proposed distillation operation will comply with all conditions and limitations of this subparagraph, the Administrator shall issue a certificate of approval for each separate entry for consumption or withdrawal from bond authorizing the person to further process by distillation in Districts I–IV crude oil to be used as residual fuel imported from Canada by overland means and in District I, that crude oil to be used as residual fuel oil imported pursuant to an allocation and license issued under section 12 or 21 of these regulations, subject to the following limitations and conditions:

(1) The distilling of crude oil to be used as residual fuel oil shall be limited to that necessary to raise the flash point of the residuum to no more than 130° F. when tested by the Pensky-Martens Closed Tester.

(2) In no event shall the recovered distillate from the operation exceed 10 percent of the imported crude oil charge.

(3) The recovered distillate from the distillation operation shall be (i) exported or (ii) used as burner fuel in the plant complex including the distillation operation.

(4) The recovered distillate (i) if it is to be exported must be segregated from other products of the plant complex at all times until exported; or (ii) if it is to be used as fuel in the plant complex, need not be isolated and may be mixed with other plant fuel; however, no substitution of a like for like material or on a B.t.u. basis shall be permitted.

(5) Such distillations are conducted in a unit comprising tanks, pumps, pipelines, towers, and other necessary equipment in order that imported "crude oil to be used as residual fuel oil" and all the products from the distillation process upon the crude oil used as residual fuel oil are at all times physically separated from all other feedstocks and products, except as provided in (c)(4) above, of distillation units or other units, if any, in the plant complex.

(6) Crude oil to be used as residual fuel oil which is distilled pursuant to the provisions of this section shall not be counted as refinery or petrochemical plant inputs in computing allocations under section 9, 10, or 25, nor be considered in determining eligibility for allocations pursuant to section 4(a), 22(l), or 22(n).

[F.R. Doc. 70-14214; Filed, Oct. 19, 1970; 2:37 p.m.]

# DEPARTMENT OF AGRICULTURE

## Consumer and Marketing Service

## [ 7 CFR Part 58 ]

## GRADE STANDARD FOR DRY WHEY

### Definition, Requirements for Grade and Test Methods

Notice is hereby given that the U.S. Department of Agriculture is considering the issuance of amendments to the U.S. Grade Standard for Dry Whey. This grade standard was issued under authority of the Agricultural Marketing Act of 1946, as amended (60 Stat 1087 as amended, 7 U.S.C. 1621—1627) which provides for the issuance of Official U.S. Grades to designate levels of quality for voluntary use by producers, handlers and consumers. Official USDA grading service is also provided under this act, available upon request by an applicant and upon payment of a fee to cover cost of the service.

The proposed amendments provide, under Subpart O, Chapter 58, sections 2601, 2603, 2604, and 2605 for the following:

1. Reference to the pasteurization temperature of 161° F. for 15 seconds.

2. Making the now required test for alkalinity of ash an optional test.

3. Updating title of document reference for test methods.

*Statement of consideration.* The proposed amendments to the U.S. Standard is based on information received or developed by USDA since the U.S. Grade Standard for Dry Whey, became effective July 8, 1954.

Presently the predominant method of pasteurizing liquid whey prior to drying is by the high temperature short time method. Therefore, it is considered appropriate to reference in the definition the HTST time and temperature requirement rather than the equivalent vat method time and temperature.

Based on the current production and utilization of dry whey, it is felt that the need for the alkalinity of ash test, has greatly diminished. Therefore, the test is being deleted as a factor in determination of grade. However, to provide a means if and when it should become necessary, the test is being retained as an optional test procedure to determine eligibility of the product for issuance of a U.S. Grade.

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

The proposed amendments to Subpart O are as follows:

1. Amend section 58.2601. Revise pasteurization reference to read "—pasteurized either before or during the process of manufacture at a temperature of 161° F. for 15 seconds or its equivalent in bacterial destruction—".

2. Amend section 58.2603. Delete the words "alkalinity of ash".

3. Amend section 58.2604. Delete subparagraph (3) and appropriately renumber the remaining subparagraphs.

4. Renumber section 58.2605 to become section 58.2606.

5. Substitute the following new wording for § 58.2605–*U.S. Grade not assignable.* Dry Whey shall not be assigned a U.S. Grade for one or more of the following reasons:

(a) fails to meet the requirements for U.S. Extra Grade,

(b) the alkalinity of ash test when run at the option of the U.S. Department of Agriculture, or when requested by the buyer or seller, shows a test result of more than 225 ml. of 0.1 N HCl per 100 grams.

6. Amend renumbered § 58.2606 as follows: In paragraph (a)1, revise title of referenced test methods publication to read "Methods of Laboratory Analysis, DA Instruction No. 918–103 (dry milk products series), Dairy Division, C&MS, U.S. Department of Agriculture, Washington, D.C. 20250." In (b) revise as follows to indicate proper reference for alkalinity of ash test procedure and current title of reference publication: "The test method used to determine alkalinity of ash shall be that contained in paragraph 15.123, page 241 of the Official Methods of Analysis of Association of Official Agricultural Chemists, Tenth Edition–1965."

Done at Washington, D.C., this 16th day of October 1970.

G. R. GRANGE,
*Marketing Services.*

[F.R. Doc. 70-14175; Filed, Oct. 20, 1970; 8:49 a.m.]

## [ 7 CFR Part 58 ]

## STANDARDS FOR GRADES OF DRY BUTTERMILK

### Definition, Requirements for Grade and Test Methods

Notice is hereby given that the U.S. Department of Agriculture is considering the issuance of amendments to the U.S. Grade Standards for Dry Buttermilk. These grade standards are issued under authority of the Agricultural Maketing Act of 1946, as amended (60 Stat. 1087 as amended, 7 U.S.C. 1621–1627) which provides for the issuance of official U.S. Grades to designate levels of quality for voluntary use by producers, handlers, and consumers. Official USDA grading service is also provided under this Act, available upon request by an applicant and upon payment of a fee to cover the cost of the service.

The proposed amendments provide, under Subpart Q, Chapter 58, sections

2651, 2653, 2654, 2655, and 2656 for the following:

1. Reference to the pasteurization temperature of 161° F. for 15 seconds.

2. Making the now required test for alkalinity of ash and optional test.

3. Updating title of document referenced for test methods.

4. Dropping reference to lintine disc.

*Statement of consideration.* The proposed amendments to the U.S. Standards are based on information received or developed by USDA since the U.S. Standards for Dry Buttermilk became effective on July 30, 1954. Currently USDA grades about 20 percent of total domestic production of dry buttermilk.

Presently the predominant method of pasteurizing natural buttermilk prior to drying is by the high temperature short time method. Therefore, it is considered appropriate to reference in the definition the HTST time and temperature requirement rather than the equivalent vat method time and temperature.

Liquid natural buttermilk is primarily derived from the production of sweet cream butter, thereby greatly reducing the probability that neutralizers may have been added to the cream or buttermilk. As a result of this the need for the alkalinity of ash test has greatly diminished. Therefore, the test is being deleted as a factor in determining the grade. However, to provide a means if it should become necessary, the alkalinity of ash test is being retained as an optional test procedure to determine eligibility of the product for issuance of a U.S. Grade.

The manufacture of lintine discs has been discontinued. The word "lintine" has been replaced with the word "fiber." Presently all suppliers of filter discs obtain their fiber material from the same source.

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

The proposed amendments to Subpart Q are as follows:

1. Amend § 58.2651. Revise pasteurization reference to read "—pasteurized either before or during the process of manufacture at a temperature of 161° F. for 15 seconds or its equivalent in bacterial destruction—."

2. Amend § 58.2653. Delete the words "alkalinity of ash."

3. Amend § 58.2654. Delete subparagraph (3), and appropriately renumber the remaining subparagraphs.

4. Amend § 58.2655. Delete subparagraph (3) of paragraph (a), and appropriately renumber the remaining subparagraphs.

5. Renumber § 58.2656 to become § 58.2657.

6. Substitute the following new wording for § 58.2656–*U.S. Grade not assignable.* Dry Buttermilk shall not be assigned a U.S. Grade for one or more of the following reasons: (a) fails to meet the requirements for U.S. Extra or U.S. Standard Grade, (b) the alkalinity of ash test when run at the option of U.S. Department of Agriculture or when requested by the buyer or seller, shows a test result of more than 125 ml. of 0.1 N HCl per 100 grams.

7. Amend renumbered § 58.2657 as follows: In paragraph (a), revise title of referenced test methods publication to read "Methods of Laboratory Analysis, DA Instruction, No. 918–103 (dry milk products series), Dairy Division, C&MS, U.S. Department of Agriculture, Washington, D.C. 20250." In paragraph (b) subparagraphs (1) and (2) replace the word "lintine" with the word "fiber." In paragraph (c) revise to read as follows: "The test methods used to determine alkalinity of ash shall be that contained in paragraph 15.123, page 241 of the Official Methods of Analysis of the Association of Official Agricultural Chemists, Tenth Edition, 1965".

Done at Washington, D.C., this 16th day of October 1970.

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

[F.R. Doc. 70-14174; Filed, Oct. 20, 1970; 8:49 a.m.]

# DEPARTMENT OF LABOR

## Wage and Hour Division

## [ 29 CFR Part 519 ]

## EMPLOYMENT OF FULL-TIME STUDENTS AT SPECIAL MINIMUM WAGES

### Proposed General Authorizations and Changes in Conditions for Certificates

Pursuant to authority in section 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), Secretary's Order No. 19–67 (32 F.R. 12980), and 29 CFR 519.10, I propose to amend Part 519 of Title 29 of the Code of Federal Regulations. These amendments would provide general authorizations for a simplified certification procedure for retail or service establishment or agricultural employers of full-time students. These amendments would also change the monetary test of full-time student employment in the base years.

Section 14(b) of the Act provides that the proportion of full-time student hours of employment to total hours of employment of all employees in the establishment may not exceed such proportion for the corresponding month of the 12-month base year preceding May 1, 1961. In the case of a retail or service establishment brought under coverage by the Fair Labor Standards Amendments of 1966, such proportion may not exceed such proportion for the corresponding month of the 12-month base year immediately preceding February 1, 1967. In the case of a retail or service establishment for which records of student hours worked during the base year are not available, such proportion cannot exceed the proportion of student hours of employment to total hours of employment of all employees based on the practice during the base year in establishments of the same general character operating in the same or nearby areas.

A review of experience under the rules (29 CFR Part 519) implementing the provisions of the statute has led me to conclude that the unavailability of the required base year information to most retail or service establishments has curtailed the opportunities for employment of full-time students. In order to prevent such curtailment of opportunities for employment of full-time students I propose to find on the basis of experience under the regulations, that on a nationwide basis in retail or service establishments the proportion of student hours of employment to total hours of employment of all employees was five percent (5%). Accordingly, this proposal would amend 29 CFR Part 519 to permit retail or service establishments to employ full-time students at special minimum wages for not more than five percent (5%) of the total hours of all employees in each calendar or fiscal month or one full-time student, whichever amount of employment is greater.

These amendments would simplify the certification procedure by providing that the findings of the proposed amendments combined with records required to be kept by the employer would constitute the certificate for those retail or service establishments employing full-time students pursuant to the provisions of the proposed amendments.

For like reasons, there would also be provided a somewhat similar general authorization for a simplified certification procedure for agricultural employers of full-time students.

These proposed amendments do not affect any retail or service establishment or agricultural employer who can establish that the proportion of student hours of employment to total hours of employment of all employees during the base year is greater than five percent (5%) and who may apply for a certificate under the present regulations.

I propose further to delete §§ 519.4(f) and 519.6(e) of Part 519 of Title 29 of the Code of Federal Regulations which refer to occupations of full-time students. Amendment of section 14 of the Fair Labor Standards Act by the Fair Labor Standards Amendments of 1966 (80 Stat. 830) removed the statutory basis for this rule; and experience under the regulations indicates that any occupational limitation on the basis of base year occupational employment is obstructed by discrepancies of occupational titles and job content coupled with significant changes in occupational titles and job

content in the industry over the up to 10-year period involved. This change would permit additional employment of full-time students without reducing the full-time employment opportunities of other persons.

I propose further to amend § 519.6(c) of Part 519 of Title 29 of the Code of Federal Regulations by changing the monetary test of full-time student employment in the base years from "less than $1 an hour" to "not more than $1 an hour". A review of experience under the rules indicates that the less than $1 an hour limitation has prevented or restricted issuance of certificates to otherwise qualified employers who paid most or all of their students $1 an hour during some or all of the months of the base year. This slight adjustment in the student wage limitation in the base year would permit additional employment of full-time students without reducing the full-time employment opportunities of other persons.

Interested persons are invited to submit written data, views, or arguments regarding the proposed amendments to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210, within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

Part 519 would be amended to read as follows:

1. A new § 519.11 would be added to read as follows:

**§ 519.11 General authorization for a retail or service establishment without available base-year records.**

(a) *Findings.* It has been found on a nationwide basis that the unavailability of base-year records to most retail or service establishments curtails the opportunities for employment of full-time students. It has been found that on a nationwide basis all retail and service establishments have the same general character within the community. It has been found that in retail or service establishments the proportion of student hours of employment to total hours of employment of all employees during the base year is five percent (5%). It has been found that the employment by retail or service establishments of full-time students at special minimum wages for not more than five percent (5%) of the total hours of all employees in each calendar or fiscal month, or one full-time student, whichever amount of employment is greater, will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed pursuant to certificates issued under this part. Therefore, not withstanding other provisions of this part, it has been found that the procedures provided in this section are necessary to prevent curtailment of opportunities for employment of full-time students.

(b) *Definitions.* "A retail or service establishment for which records of student hours worked are not available" shall, for purposes of this section, include a retail or service establishment which elects not to use an otherwise applicable base year which is not within the period during which records are required to be retained under the Fair Labor Standards Act.

(c) *Certificate.* The findings in paragraph (a) of this section combined with compliance with the requirements set forth in paragraph (d) of this section shall constitute the certificate authorizing the employment by a retail or service establishment for which records of student hours worked are not available of full-time students at special minimum wages for not more than five percent (5%) of the total hours of all employees in each calendar or fiscal month or one full-time student, whichever amount of employment is greater.

(d) *Records to be made and kept.* (1) The employer shall obtain at the time of hiring and keep in his records information from the school attended that the employee receives primarily daytime instruction at the physical location of the school in accordance with the school's accepted definition of a full-time student. During a period between attendance at different schools not longer than the usual summer vacation, a certificate from the school next to be attended that the student has been accepted as a full-time student for its next term will satisfy the requirements of this subparagraph (§ 519.7(b)(2));

(2) The employer shall maintain records of the monthly hours of employment of full-time students at special minimum wages and of the total hours of employment during the month of all employees in the establishment. The records shall show the total hours worked in the establishment by all full-time students of the type defined in § 519.2(a) at less than the minimum wage otherwise applicable under the Act, and the total hours of employment of all employees in the establishment as set forth in § 519.7(b)(3).

(3) The employer shall keep the records required in this section for a period of 3 years and make them available for inspection as provided in Part 516 of this chapter.

(e) *Requirements to be met.* Under the certificate provided by this section, the retail or service establishment shall meet the following requirements:

(1) Employment of full-time students at special minimum wages for not more than (i) five percent (5%) of the total hours of all employees in each calendar or fiscal month, or (ii) one (1) full-time student, whichever amount of employment is greater;

(2) Compliance with child labor laws and regulations applicable to full-time students as set forth in § 519.4(d);

(3) Employment of a full-time student at special minimum wages for no more than 20 hours a week during full school weeks and no more than 8 hours a day or 40 a week during vacations as set forth in § 519.4(e);

(4) No hiring of full-time students at special minimum wages during abnormal labor conditions as set forth in § 519.4(g);

(5) Payment of a special minimum wage rate not less than 85 percent of the minimum wage applicable under section 6 of the act as set forth in § 519.6(b); and

(6) Employment of full-time students at special minimum wages only outside of their school hours.

(f) *Excessive hours.* An overestimate of total hours of employment of all employees in the establishment for a current month resulting in the employment of the full-time students in excess of the hours authorized in paragraph (c) of this section shall be corrected by compensating them for the difference between the special minimum wages actually paid and the applicable minimum under section 6 of the act for the excess hours. This additional compensation shall be paid on the regular payday next after the end of the month.

(g) *Other laws.* No provision of any full-time student certificate issued under this section shall excuse noncompliance with higher standards applicable to full-time students which may be established under the Walsh-Healey Public Contracts Act or any other Federal law, State law, local ordinance, or union or other agreement: Thus, certificates issued under this law have no application to employments governed by the Service Contract Act.

(h) *Withdrawal of the authority.* If an employer fails to comply with the limitations of the certificate contained in this section or otherwise violates the Fair Labor Standards Act, the certificate for the particular establishment may be withdrawn in accordance with Part 528 of this chapter.

(i) *Alternative certificate.* Any retail or service establishment that wishes to establish that the proportion of student hours of employment to total hours of employment of all employees during the appropriate base year is different from five percent (5%) may apply for a certificate pursuant to § 519.3 of this part, and the general authorization of this section shall not apply in the case of such a specific adjudication.

2. A new § 519.12 would be added to read as follows:

**§ 519.12 General authorization for agriculture.**

(a) *Findings.* It has been found on a nationwide basis that the employment by agricultural employers of full-time students at special minimum wages for not more than five percent (5%) of the total hours of all employees in each calendar or fiscal month or one full-time student, whichever amount of employment is greater, will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed pursuant to certificates issued under this part. Furthermore, notwithstanding other provisions of this part, it has been found that the procedures provided in this section are necessary to prevent curtailment of opportunities for employment of full-time students.

(b) *Certificate.* The findings in paragraph (a) of this section combined with compliance with the requirements set forth in paragraph (d) of § 519.11 shall constitute the certificate authorizing the

employment by an agricultural employer in agriculture of full-time students at special minimum wages for not more than five percent (5%) of the total hours of all employees in each calendar or fiscal month or one full-time student, whichever amount of employment is greater.

(c) *Requirements.* The provisions in paragraphs (d), (e), (f), (g), and (h) of § 519.11 shall be applicable to agricultural employers employing full-time students in agriculture pursuant to this section.

(d) *Alternative certificate.* Any agricultural employer who wishes to establish that the proportion of student hours of employment to total hours of employment of all employees during the base year is different from five percent (5%) may apply for a certificate pursuant to § 519.3 of this part, and the general authorization of this section shall not apply in the case of such a specific adjudication.

3. Paragraph (f) of § 519.4 would be deleted, and § 519.4 would read as follows:

**§ 519.4 Procedure for action upon an application.**

* * * * *

(f) [Revoked]

* * * * *

4. Section 519.6 would be amended as follows:

**§ 519.6 Terms and conditions of employment under full-time student certificates.**

* * * * *

(c)(1) During any month in which full-time students are to be employed at special minimum wages the percentage derived by the total number of hours worked by full-time students at special minimum wages divided by the total number of hours worked by all employees shall not exceed the same percentage computed for the base period, comparing total hours worked by full-time students at not more than $1 per hour with total hours for all employees.

(2) For example, in retail Establishment A, with a base year as defined in § 519.2(f)(1), full-time students employed at not more than $1 worked 900 hours in July 1960, and the total hours of employment of all employees in the Establishment in that month were 10,000. The percentage of full-time student hours at not more than $1 an hour to all hours of employment is therefore 9 percent. In July 1971, if the hours of employment of Establishment A are 12,000, then not more than 9 percent or 1,080 or these hours may be compensated at special minimum wages for full-time students.

* * * * *

(e) [Revoked]

* * * * *

(Sec. 14, 52 Stat. 1068, as amended; 29 U.S.C. 214)

Signed at Washington, D.C., this 15th day of October 1970.

ROBERT D. MORAN,
*Administrator, Wage and Hour Division, U.S. Department of Labor.*

[F.R. Doc. 70-14132; Filed, Oct. 20, 1970; 8:46 a.m.]

# Notices

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### RAYMOND JACK BROOKS

### Notice of Granting of Relief

Notice is hereby given that Raymond Jack Brooks, 6910 Colby Street, Everett, Wash. 98201, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on May 23, 1956, in the Butler County Municipal Court, El Dorado, Kans., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Brooks because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunication, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Raymond Jack Brooks to receive, possess, or transport in commerce or affecting commerce, any firearm.

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

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

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

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

Signed at Washington, D.C., this 8th day of October 1970.

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

[F.R. Doc. 70-14158; Filed, Oct. 20, 1970; 8:48 a.m.]

### FRANK H. BROWN

### Notice of Granting of Relief

Notice is hereby given that Mr. Frank H. Brown, 202 Cross Street, Albany, Ky. 42602, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on April 30, 1951, in the U.S. District Court, Western District of Kentucky, Louisville Division, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Frank H. Brown because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. Frank H. Brown to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Mr. Frank H. Brown's application and:

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

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

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

Signed at Washington, D.C., this 8th day of October 1970.

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

[F.R. Doc. 70-14159; Filed, Oct. 20, 1970; 8:48 a.m.]

### JASPER RICHARD HAIRSTON

### Notice of Granting of Relief

Notice is hereby given that Jasper Richard Hairston, 1935 Chene Street No. 606, Detroit, Mich., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on March 10, 1942, in the Recorder's Court of the City of Detroit, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Jasper R. Hairston because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Jasper R. Hairston to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Jasper R. Hairston's application and:

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

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

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

Signed at Washington, D.C., this 8th day of October 1970.

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

[F.R. Doc. 70-14160; Filed, Oct. 20, 1970; 8:48 a.m.]

### JEFFERSON A. McPHALL

#### Notice of Granting of Relief

Notice is hereby given that Mr. Jefferson A. McPhall, 282 East Ferry Street, Detroit, Mich. 48202, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on September 21, 1945, and on October 30, 1945, in the Recorder's Court for the City of Detroit, Detroit, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Jefferson A. McPhall, because of such convictions, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C. Appendix), because of such convictions, it would be unlawful for Mr. McPhall to receive, possess, or transport in commerce or affecting commerce, any firearm. Notice is hereby given that I have considered Mr. Jefferson A. McPhall's application and:

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

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

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

Signed at Washington, D.C., this 8th day of October 1970.

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

[F.R. Doc. 70-14161; Filed, Oct. 20, 1970; 8:48 a.m.]

### WAYNE THOMAS PAULI

#### Notice of Granting of Relief

Notice is hereby given that Mr. Wayne Thomas Pauli, 135 Butler Street, Marine City, Mich. 48039, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on January 21, 1958, in St. Clair County Circuit Court, Ocala, Mich., and on April 17, 1959, in St. Clair County Circuit Court, Ocala, Mich., and also on January 4, 1963, in St. Clair County Circuit Court, Ocala, Mich., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. Wayne Thomas Pauli, because of such convictions, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under Title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Mr. Wayne Thomas Pauli to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Mr. Wayne Thomas Pauli's application and:

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

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

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144:

*It is ordered*, That Mr. Wayne Thomas Pauli be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 8th day of October 1970.

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

[F.R. Doc. 70-14162; Filed, Oct. 20, 1970; 8:48 a.m.]

### WILLIAM SOLOMON, JR.

#### Notice of Granting of Relief

Notice is hereby given that Mr. William Solomon, Jr., 14810 San Juan, Detroit, Mich. 48238, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on January 28, 1952, in the Wayne County, Mich., Circuit Court, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Mr. William Solomon, Jr., because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Mr. William Solomon, Jr., to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Mr. William Solomon, Jr.'s application and:

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

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

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

Signed at Washington, D.C., this 8th day of October 1970.

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

[F.R. Doc. 70-14163; Filed, Oct. 20, 1970; 8:48 a.m.]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### OUTER CONTINENTAL SHELF OFF LOUISIANA

#### Oil and Gas Lease Sale

Pursuant to section 8 of the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1331 et seq.) and the regulations issued thereunder (43 CFR Part 3300) sealed bids addressed to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, T-9003 Federal Office Building, 701 Loyola Avenue, New Orleans, La., or Post Office Box 53226, New Orleans, La. 70150, will be received until 9:30 a.m., c.s.t., on December 15, 1970, for the lease of oil and gas in certain areas of the Outer Continental Shelf adjacent to the State of

Louisiana. Bids will be opened on that date at 10 a.m., c.s.t., in the Grand Ballroom, Sheraton Charles Hotel, 211 St. Charles Street, New Orleans, La., for the group of tracts designated herein. The opening of bids is for the sole purpose of publicly announcing and recording bids received and no bids will be accepted or rejected at that time.

Bidders are notified that leases issued pursuant to this notice will be on revised Form 3380–1 (October 1969). Copies of the revised lease form are available from the above listed Manager or the Manager, Eastern States Land Office, 7981 Eastern Avenue, Silver Spring, Md. 20910.

On December 15, 1970, bids may be delivered in person to the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, only at the Grand Ballroom in the Sheraton Charles Hotel between 8:30 a.m., c.s.t., and 9:30 a.m., c.s.t. Bids delivered by mail or in person after 9:30 a.m., c.s.t., on that date will be returned to the bidders unopened.

All bids must be submitted in accordance with applicable regulations, particularly 43 CFR 3302.2, 3302.4, and 3302.5. Each bidder must submit the certification required by 41 CFR 60–1.7(b) and Executive Order No. 11246 of September 24, 1965, on Form 1140–1, November 1969. Bidders are advised that all leases granted pursuant to this notice will include in their provisions a "Certification of Non-segregated Facilities", and that, in submitting their bids, bidders are deemed to have agreed to the inclusion of this certification in any lease issued to them hereunder.

Bids may not be modified or withdrawn unless written modifications or withdrawals are received prior to the end of the period fixed for the filing of bids. Bidders are warned against violation of section 1860 of title 18 U.S.C. prohibiting unlawful combination or intimidation of bidders. Attention is directed to the nondiscrimination clauses in section 3(h) and 3(i) of the lease agreement, Form 3380–1 (October 1969). Bidders must submit with each bid one-fifth of the amount bid in cash or by cashier's check, bank draft, certified check or money order, payable to the order of the Bureau of Land Management.

Bidders are notified that any cash, checks, drafts, or money orders submitted with their bids may be deposited in an unearned escrow account in the Treasury during the period their bids are being considered, and that such deposit does not constitute, and shall not be construed as, acceptance of any bid on behalf of the United States. The leases will provide for a royalty rate of one-sixth, and a yearly rental or minimum royalty of $3 per acre or fraction thereof. The successful bidder will be required to pay the remainder of the bid and the first year's rental of $3 per acre or fraction thereof and furnish an acceptable surety bond as required in 43 CFR 3304.1 prior to the issuance of each lease.

Bids will be considered on the basis of the highest cash bonus offered for a tract. The United States reserves the right and discretion to reject any and all bids, regardless of the amount offered. Oil payment, overriding royalty, logarithmic or sliding scale bids will not be considered. No bid for less than a full tract, as listed below, will be considered.

A separate bid, in a separate envelope, must be submitted for each tract. The envelope should be endorsed "Sealed Bid for oil and gas lease, Louisiana (insert number of tract) not to be opened until 10 a.m., c.s.t., December 15, 1970."

Official leasing maps in a set of 25, which contains the maps for the areas in which the tracts being offered for lease may be located, can be purchased for $5 per set. The official leasing maps and copies of the Compliance Report Certification (Form 1140–1, November 1969) may be obtained from the above listed Manager or Manager, Eastern States Land Office, 7981 Eastern Avenue, Silver Spring, Md. 20910.

Operations under leases which may be issued pursuant to this sale will be subject to provisions for the protection of fishing operations and aquatic values.

The tracts offered for bid are as follows:

LOUISIANA

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 1

(Approved June 8, 1954; Revised July 22, 1954; Apr. 28, 1966)

West Cameron Area

| Tract No. | Block | Description | Acreage |
|---|---|---|---|
| 2101 | 78 | All [1] | 5,000 |
| 2102 | 95 | do [1] | 5,000 |
| 2103 | 145 | do [1] | 5,000 |
| 2104 | 146 | do [1] | 5,000 |
| 2105 | 171 | do [1] | 5,000 |
| 2106 | 172 | do [1] | 5,000 |
| 2107 | 244 | do | 5,000 |
| 2108 | 245 | do | 5,000 |
| 2109 | 256 | do | 5,000 |

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 1A

(Approved Nov. 15, 1955; Revised Jan. 30, 1957; Apr. 28, 1966)

West Cameron Area—West Addition

| | | | |
|---|---|---|---|
| 2110 | 347 | All | 5,000 |

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 1B

(Approved Sept. 8, 1959; Revised Apr. 28, 1966)

West Cameron Area—South Addition

| | | | |
|---|---|---|---|
| 2111 | 466 | All | 5,000 |
| 2112 | 474 | do | 5,000 |
| 2113 | 475 | do | 5,000 |
| 2114 | 504 | do | 5,000 |
| 2115 | 513 | do | 5,000 |
| 2116 | 521 | do | 3,696.37 |
| 2117 | 522 | do | 5,000 |
| 2118 | 543 | do | 5,000 |
| 2119 | 544 | do | 2,762.37 |
| 2120 | 548 | do | 5,000 |
| 2121 | 561 | do | 5,000 |
| 2122 | 564 | do | 5,000 |
| 2123 | 565 | do | 5,000 |
| 2124 | 571 | do | 5,000 |
| 2125 | 572 | do | 5,000 |
| 2126 | 575 | do | 5,000 |
| 2127 | 576 | do | 5,000 |
| 2128 | 580 | do | 5,000 |
| 2129 | 587 | do | 5,000 |
| 2130 | 588 | do | 5,000 |
| 2131 | 593 | do | 5,000 |
| 2132 | 594 | do | 5,000 |
| 2133 | 629 | do | 5,000 |
| 2134 | 638 | do | 5,000 |
| 2135 | 639 | do | 5,000 |
| 2136 | 648 | do | 5,000 |

See footnotes at end of table.

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 2

(Approved June 8, 1954; Revised Apr. 28, 1966)

East Cameron Area

| Tract No. | Block | Description | Acreage |
|---|---|---|---|
| 2137 | 129 | S½ | 2,500 |
| 2138 | 143 | E½ | 2,500 |
| 2139 | 144 | All | 5,000 |
| 2140 | 178 | do | 5,000 |
| 2141 | 179 | do | 5,000 |
| 2142 | 182 | do | 1,665.18 |
| 2143 | 185 | do | 5,000 |
| 2144 | 199 | do | 1,609.07 |
| 2145 | 222 | do | 5,000 |
| 2146 | 231 | do | 5,000 |

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 2A

(Approved Sept. 8, 1959; Revised Apr. 28, 1966)

East Cameron Area—South Addition

| | | | |
|---|---|---|---|
| 2147 | 254 | All | 3,716.36 |
| 2148 | 255 | do | 2,500 |
| 2149 | 257 | do | 5,000 |
| 2150 | 258 | do | 5,000 |
| 2151 | 259 | do | 5,000 |
| 2152 | 267 | do | 5,000 |
| 2153 | 270 | do | 2,500 |
| 2154 | 271 | do | 3,660.26 |
| 2155 | 272 | do | 3,604.15 |
| 2156 | 273 | do | 2,500 |
| 2157 | 280 | do | 5,000 |
| 2158 | 281 | do | 5,000 |
| 2159 | 286 | do | 5,000 |
| 2160 | 287 | do | 5,000 |
| 2161 | 289 | do | 3,548.05 |
| 2162 | 292 | do | 5,000 |
| 2163 | 293 | do | 5,000 |
| 2164 | 294 | do | 5,000 |
| 2165 | 312 | do | 5,000 |
| 2166 | 313 | do | 5,000 |
| 2167 | 317 | do | 5,000 |
| 2168 | 320 | do | 5,000 |
| 2169 | 321 | do | 5,000 |
| 2170 | 334 | do | 5,000 |
| 2171 | 338 | do | 5,000 |
| 2172 | 339 | do | 5,000 |
| 2173 | 348 | do | 5,000 |
| 2174 | 349 | do | 5,000 |

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 3

(Approved June 8, 1954; Revised June 25, 1954; July 22, 1954; Apr. 28, 1966)

Vermilion Area

| | | | |
|---|---|---|---|
| 2175 | 63 | All [1] | 5,000 |
| 2176 | 64 | do [1] | 5,000 |
| 2177 | 101 | N½ | 2,258.79 |
| 2178 | 102 | All | 4,587.79 |
| 2179 | 147 | do | 5,000 |
| 2180 | 176 | do | 5,000 |
| 2181 | 177 | do | 5,000 |
| 2182 | 182 | do | 5,036.52 |
| 2183 | 201 | do | 5,092.62 |
| 2184 | 214 | do | 5,000 |
| 2185 | 227 | do | 5,000 |
| 2186 | 228 | do | 5,000 |
| 2187 | 236 | do | 5,000 |
| 2188 | 247 | do | 5,000 |

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 3B

(Approved Sept. 8, 1959; Revised April 28, 1966)

Vermilion Area—South Addition

| | | | |
|---|---|---|---|
| 2189 | 262 | All | 5,485.34 |
| 2190 | 268 | do | 5,000 |
| 2191 | 281 | do | 5,541.44 |
| 2192 | 282 | do | 5,597.54 |
| 2193 | 301 | do | 5,653.64 |
| 2194 | 310 | do | 5,000 |
| 2195 | 320 | do | 5,000 |
| 2196 | 321 | do | 2,500 |
| 2197 | 325 | do | 5,000 |
| 2198 | 339 | do | 5,000 |
| 2199 | 340 | do | 5,000 |
| 2200 | 349 | do | 5,000 |
| 2201 | 350 | do | 5,000 |

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 3C

(Approved Sept. 8, 1959; Revised Apr. 28, 1966)

South Marsh Island Area—South Addition

| | | | |
|---|---|---|---|
| 2202 | 115 | All | 5,000 |
| 2203 | 116 | do | 5,000 |
| 2204 | 121 | do | 5,000 |
| 2205 | 122 | do | 5,000 |

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 4

(Approved June 8, 1954; Revised July 22, 1954; Apr. 28, 1966)

Eugene Island Area

| | | | |
|---|---|---|---|
| 2206 | 64 | S½ | 2,500 |
| 2207 | 74 | All | 5,000 |
| 2208 | 75 | do | 5,000 |
| 2209 | 83 | do | 5,000 |
| 2210 | 256 | do | 5,000 |
| 2211 | 257 | do | 5,000 |

OFFICIAL LEASING MAP, LOUISIANA MAP NO. 4A

(Approved Sept. 8, 1959; Revised Apr. 28, 1966)

Eugene Island Area—South Addition

| | | | |
|---|---|---|---|
| 2212 | 295 | All | 5,000 |
| 2213 | 296 | do | 5,000 |
| 2214 | 297 | do | 5,000 |
| 2215 | 298 | do | 5,000 |
| 2216 | 305 | do | 5,000 |
| 2217 | 306 | do | 5,000 |
| 2218 | 307 | E½ | 2,500 |
| 2219 | 314 | S½ | 2,500 |
| 2220 | 315 | S½ | 2,500 |
| 2221 | 322 | All | 5,000 |
| 2222 | 323 | do | 5,000 |
| 2223 | 330 | do | 5,000 |
| 2224 | 331 | do | 5,000 |
| 2225 | 335 | do | 5,000 |
| 2226 | 338 | do | 5,000 |
| 2227 | 356 | do | 5,000 |

[1] Any lease issued for this tract will contain the following special provisions:

"No fixed structure may be erected within the leased area until the Director, Geological Survey, has found that the structure is necessary on a geologic and engineering basis for the proper development and production of the tract by the lessee.

"Location of any structure within the leased area will require the prior approval of the Director, Geological Survey."

Some of the tracts offered for lease may fall in fairway areas (including the prolongations thereof) or anchorage areas, or both, as designated by the District Engineer, New Orleans District, Corps of Engineers, U.S. Army. For the location of these areas and for operational restrictions imposed by the Agency, the District Engineer should be consulted.

No installation, device, or structure, whether fixed, permanent, semipermanent, or mobile, shall be placed in designated fairway areas or recognized sea lanes without the prior approval of the District Engineer, New Orleans District, Corps of Engineers, U.S. Army.

Leases issued pursuant to this notice for lands which are on the date of their issuance, or are thereafter adjudicated to be subject to the exclusive jurisdiction and control of the United States, will be subject to all rules and regulations which the Secretary of the Interior is authorized to prescribe and administer under the Outer Continental Shelf Lands Act (43 U.S.C. secs. 1331–1343) including rules and regulations for the prevention of waste and for conservation of the natural resources of the Outer Continental Shelf. The protection of correlative rights therein will be administered by the Secretary of the Interior in accordance with such rules and regulations.

In the event a cooperative agreement is concluded beween the Secretary and the Conservation Agency of the State of Louisiana with respect to enforcement of conservation laws, rules, and regulations pursuant to section 5 of the Act, the lessee will be given notice thereof by publication in the FEDERAL REGISTER.

It is suggested that bidders submit their bids in the following form:

Manager, Bureau of Land Management, Department of the Interior, Post Office Box 53226, T-9003 Federal Office Building, New Orleans, La. 70150.

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the land of the Outer Continental Shelf specified below:

Area _____ Official Leasing Map No. _____

| Tract No. | Total amount bid | Amount per acre | Amount submitted with bid |
|---|---|---|---|
| | | | |
| | | | |
| | | | |

_____
(Signature)
(Please type signer's name under signature)

N.O. Misc. No. _____ Percent

_____
(Company)

_____
(Address)

IMPORTANT

The bid must be accompanied by one-fifth of the total amount bid. This amount may be cash, money order, cashier's check, certified check, or bank draft. A separate bid must be made for each tract.

JOHN O. CROW,
*Acting Director,*
*Bureau of Land Management.*

Approved: October 19, 1970.

HARRISON LOESCH,
*Assistant Secretary*
*of the Interior.*

[F.R. Doc. 70-14183; Filed, Oct. 20, 1970; 8:49 a.m.]

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[Serial No. U-8131]

## UTAH

### Notice of Classification of Public Lands for Multiple-Use Management and for Disposal

*Correction*

In F.R. Doc. 70-12704 appearing at page 14859, in the issue of Thursday, September 24, 1970, the land description in the center column of page 14860 reading "T. 42 S., R. 9 E.," should read "T. 42 S., R. 19 E.,".

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[Serial No. Idaho 3728]

## IDAHO

### Notice of Proposed Withdrawal and Reservation of Lands

OCTOBER 13, 1970.

The Department of Agriculture has filed an application, Serial No. I-3728, for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining laws but not the mineral leasing laws, subject to valid existing rights.

The applicant desires the land for public purposes as a recreation area on the Nezperce National Forest.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Room 334, Federal Building, 550 West Fort Street, Boise, Idaho 83702.

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

He will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the Department of Agriculture.

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

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

The lands involved in the application are:

BOISE MERIDIAN, IDAHO

NEZPERCE NATIONAL FOREST

*Dry Gulch Recreation Area*

T. 29 N., R. 4 E.,
Sec. 22, SE¼NE¼SE¼SE¼, W½NE¼ SE¼SE¼, NW¼SE¼SE¼, NE¼SE¼ SE¼SE¼.

The tract described contains 20 acres in Idaho County, Idaho.

ORVAL G. HADLEY,
*Manager, Land Office.*

[F.R. Doc. 70-14118; Filed, Oct. 20, 1970; 8:46 a.m.]

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[Serial No. I-3639]

## IDAHO

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

OCTOBER 14, 1970.

In F.R. Doc. 70-12697 appearing in Paragraph No. 3 of the third column on page 14856 in the issue of Thursday, September 24, 1970, the land description should read as follows:

BOISE MERIDIAN, IDAHO

T. 11 N., R. 1 W.,
Sec. 7, N½SW¼SE¼ = 20 acres.

WM. L. MATHEWS,
*State Director.*

[F.R. Doc. 70-14172; Filed, Oct. 20, 1970; 8:49 a.m.]

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[OR 6992]

## OREGON

### Notice of Proposed Withdrawal and Reservation of Land

OCTOBER 13, 1970.

The Department of Agriculture, on behalf of the Forest Service, has filed application, OR 6992, for the withdrawal of the national forest land described below, from all forms of appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights.

The applicant desires the land for use as the Byram Gulch Municipal Watershed.

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

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

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

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

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

The land involved in the application is:

MALHEUR NATIONAL FOREST

WILLAMETTE MERIDIAN

*Byram Gulch Municipal Watershed*

T. 14 S., R. 32 E.,
Sec. 18, lots 3, 4, 5, 6, and 7, SE¼NE¼, E½SW¼, W½SE¼;
Sec. 19, lots 1 and 2, NE¼, E½NW¼.

The area described aggregates approximately 684 acres in Grant County, Oreg.

VIRGIL O. SEISER,
*Chief, Branch of Lands.*

[F.R. Doc. 70-14119; Filed, Oct. 20, 1970; 8:46 a.m.]

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## Office of Hearings and Appeals

[Docket No. PITT 71-51]

### JONES & LAUGHLIN STEEL CORP.

### Petition for Modification of an 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 Jones & Laughlin Steel Corp. (Petitioner) has filed a petition to modify the application of section 311 of the Act as implemented by § 75.1100-2(b) of the regulations prescribed by the Secretary, with respect to its Gateway Mine located at California, Pa. Section 75.1100-2(b) of the regulations provides:

*Belt conveyors.* Waterlines shall be installed parallel to the entire length of belt conveyors and shall be equipped with fire hose outlets with valves at 300-foot intervals along each belt conveyor and at tailpieces. Waterlines may be installed in entries adjacent to the conveyor entry belt as long as the outlets project into the belt conveyor entry. One hundred and fifty feet of rubber lined fire hose or the equivalent shall be provided at each fire hose outlet.

Petitioner proposes that said mine be excepted from the application of the requirements of section 311 of the Act as implemented by § 75.1100-2(b) of the regulations prescribed by the Secretary, on the ground, inter alia, that compliance with this section will result in a diminution of the safety protection of the miners.

Parties interested in this petition should file their answer or comments with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at this same address.

JAMES M. DAY,
*Director.*

OCTOBER 6, 1970.

[F.R. Doc. 70-14124; Filed, Oct. 20, 1970; 8:46 a.m.]

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## Office of the Secretary

### IMPORTS INTO PUERTO RICO OF FINISHED PRODUCTS

### Adjustment in Maximum Level

Pursuant to paragraph (c) of section 2 of Proclamation 3279, as amended (30 F.R. 15459), for the period January 1, 1970, through December 31, 1970, the maximum level of imports of residual fuel oil to be used as fuel established pursuant to section 14 of Oil Import Regulation 1 (Revision 5), as amended, is increased by 500,000 barrels to permit the importation of residual fuel oil to be used as fuel to meet a demand in Puerto Rico which would not otherwise be met.

WALTER J. HICKEL,
*Secretary of the Interior.*

OCTOBER 13, 1970.

[F.R. Doc. 70-14125; Filed, Oct. 20, 1970; 8:46 a.m.]

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# DEPARTMENT OF COMMERCE

## Office of the Secretary

[Dept. Organization Order 25-1B; Amdt. 1]

### U.S. TRAVEL SERVICE

### Organization and Functions

This material amends the material appearing at 34 F.R. 17309 of October 24, 1969.

The attached organization chart (a copy of the organization chart is on file with original of this document with the Office of the Federal Register) is issued to reflect the recent move of the Sao Paulo Regional Office to Buenos Aires. It supersedes the organization chart attached to Department Organization Order 25-1B, "United States Travel Service," dated October 13, 1969.

Effective date: July 15, 1970.

LARRY A. JOBE,
*Assistant Secretary for Administration.*

[F.R. Doc. 70-14148; Filed, Oct. 20, 1970; 8:47 a.m.]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

### GEIGY CHEMICAL CORP.

#### Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 0B2542) has been filed by Geigy Chemical Corp., Ardsley, N.Y. 10502, proposing that § 121.2566 *Antioxidants and/or stabilizers for polymers* (21 CFR 121.2566) be amended to provide for the additional safe use of 2(2'-hydroxy-5'-methylphenyl) benzotriazole as a stabilizer in crystal polystyrene intended for use in contact with dry food of type VIII described in table 2 of § 121.2526(c).

Dated: October 14, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70-14107; Filed, Oct. 20, 1970; 8:45 a.m.]

### GLIDDEN-DURKEE DIVISION OF SCM CORP.

#### Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1A2594) has been filed by Glidden-Durkee Division of SCM Corp., 900 Union Commerce Building, Cleveland, Ohio 44115, proposing that § 121.1164 *Synthetic flavoring substances and adjuvants* (21 CFR 121.1164), be amended to provide for the safe use of the following 14 flavoring substances: $\beta$-bourbonene (1,2,3,3a,3b,$\beta$,4,5,6,6a,$\beta$,6b$\alpha$-decahydro-1$\alpha$-isopropyl-3a$\alpha$-methyl-6-methylene-cyclobuta [1,2:3,4] dicyclopentene); carvone oxide (*cis*-carvone oxide); caryophyllene oxide ($\beta$-caryophyllene oxide); geranyl acetone (6,10-dimethyl-5, 9-undecadien-2-one); 4-heptenal (*cis*-4-heptenal); 3-hexenyl phenylacetate (*cis*-3-hexenyl phenylacetate); hexyl phenylacetate (*n*-hexyl phenylacetate); isoamyl 2-methylbutyrate; jasmone (*cis*-jasmone); 1-*p*-menthen-9-yl acetate (*p*-menth-1-en-9-yl acetate); pinocarveol (2(10)-pinen-3-ol); piperitenone (*p*-mentha-1,4(8)-dien-3-one); piperitenone oxide (1,2-epoxy-*p*-menth-4(8)-en-3-one); and verbenol (*trans*-verbenol).

Dated October 8, 1970.

SAM D. FINE,
*Associate Commissioner For Compliance.*

[F.R. Doc. 70-14149; Filed, Oct. 20, 1970; 8:47 a.m.]

### IMPERIAL CHEMICAL INDUSTRIES LTD.

#### Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 0B2557) has been filed by Imperial Chemical Industries Ltd., Dyestuffs Division, Post Office Box 42, Hexagon House, Blackley, Manchester M9 3DA, England, proposing that § 121.2566 *Antioxidants and/or stabilizers for polymers* (21 CFR 121.2566) be amended to provide for the safe use of dicetyl thiodipropionate as an antioxidant and/or stabilizer in polymers used in the manufacture of articles for food-contact use.

Dated: October 14, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70-14108; Filed, Oct. 20, 1970; 8:45 a.m.]

### MOBIL CHEMICAL CO.

#### Notice of Filing of Petitions for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1B2599) has been filed by Mobil Chemical Co., Edison, N.J. 08817, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of poly-1-butene resins and butene/ethylene copolymers as articles, or as components of articles, intended for food-contact applications.

Dated: October 8, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70-14150; Filed, Oct. 20, 1970; 8:47 a.m.]

### RHODIA, INC.

#### Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1H2598 has been filed by Rhodia, Inc., Chipman Division, 120 Jersey Avenue, New Brunswick, N.J. 08903, proposing the issuance of a tolerance (21 CFR Part 121) of 12 parts per million for residues of the insecticide phosalone in or on dried citrus pulp. Such residues would result from application of the insecticide to the raw agricultural commodity group citrus fruit, as proposed by Rhodia, Inc. in a pesticide petition (notice of which was published in the FEDERAL REGISTER of April 17, 1970 (35 F.R. 6289)) submitted under section 408(d) of the act.

Dated: October 8, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70-14151; Filed, Oct. 20, 1970; 8:47 a.m.]

[Docket No. FDC-D-211; NDA 10-740]

### WM. S. MERRELL CO.

#### Alertonic Elixir; Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

In an announcement (DESI 1002) published in the FEDERAL REGISTER of September 12, 1969 (34 F.R. 14339), the Wm. S. Merrell Co., Division of Richardson-Merrell, Inc., 110 Amity Road, Cincinnati, Ohio 45215, holder of new-drug application No. 10-740 for Alertonic Elixir containing in each 45 cubic centimeters: 2 milligrams pipradrol hydrochloride, 10 milligrams thiamine hydrochloride, 5 milligrams riboflavin, 1 milligram pyridoxine hydrochloride, 50 milligrams niacinamide, 100 milligrams choline, 100 milligrams inositol, 100 milligrams calcium glycerophosphate, alcohol and 1 milligram each of manganese (as sulfate), magnesium (as acetate), zinc (as acetate), molybdenum (as ammonium molybdate); as well as any other interested person, were invited to submit pertinent data bearing on the intention of the Commissioner of Food and Drugs to initiate proceedings to withdraw approval of the new-drug application.

On October 12, 1969 and February 9, 1970, the Wm. S. Merrell Co. submitted material for consideration. This material, reviewed, and considered together with other available information, does not provide substantial evidence of effectiveness of the drug for the recommended uses in man.

Therefore, notice is given to the Wm. S. Merrell Co., and to any other interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new drug application No. 10-740 and all amendments and supplements thereto on the grounds that new information, evaluated together with the evidence available when the application was approved, shows 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 its labeling.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicant(s), 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(s) should not be withdrawn. Promulgation of the proposed order will cause any drug for human use containing the same components and offered for the same conditions of use to be a new drug for which an approved new-drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

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

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

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

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the new-drug 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 which the Commissioner finds is 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 the 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 to this notice. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that 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 there is no genuine and substantial issue of fact which precludes the withdrawal of approval 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 is 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: October 5, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70-14109; Filed, Oct. 20, 1970; 8:45 a.m.]

[DESI 4681]

## CERTAIN DRUGS CONTAINING ADIPHENINE HYDROCHLORIDE AND PHENOBARBITAL, DIPHEMANIL METHYLSULFATE, OR METHSCOPOLAMINE BROMIDE

### Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Trasentine-Phenobarbital Tablets containing adiphenine hydrochloride and phenobarbital; marketed by Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, N.J. 07901 (NDA 4-631).

2. Prantal Tablets containing diphemanil methylsulfate; marketed by Schering Corp., 1011 Morris Avenue, Union, N.J. 07083 (NDA 8-114).

3. Prantal Repetabs containing diphemanil methylsulfate; marketed by Schering Corp. (NDA 8-638).

4. Prantal with Phenobarbital Tablets containing diphemanil methylsulfate and phenobarbital; marketed by Schering Corp. (NDA 8-829).

5. Scopolamine Methyl Bromide Prolongsules containing methscopolamine bromide; marketed by Richlyn Laboratories, Inc., 3725 Castor Avenue, Philadelphia, Pa. 19124 (NDA 10-404).

These drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. *Effectiveness Classification.* The Food and Drug Administration, having considered the Academy reports and other available evidence, concludes that:

1. Adiphenine hydrochloride with phenobarbital lacks substantial evidence of effectiveness for the relief of pain and discomfort due to spasm associated with peptic and duodenal ulcer; cholecystitis; biliary dyskinesia; pylorospasm; chronic pancreatitis; dysentery; tubercular enteritis; as an adjunct in relieving ureteral colic; and for relieving pain, nausea, and diarrhea which may follow deep irradiation of pelvic and abdominal cavities.

2. Diphemanil methylsulfate repeat action tablets and conventional tablets with or without phenobarbital lack substantial evidence of effectiveness for gastric hyperacidity and hypermotility; and the treatment of chronic hypertrophic gastritis and certain less specific forms of gastritis and pylorospasm.

3. Methscopolamine bromide extended release capsules lack substantial evidence of effectiveness for the relief of gastritis due to gastric hyperacidity or gastrointestinal hypermotility.

4. Except for those indications referred to above, these drugs are regarded as possibly effective for their other labeled indications.

B. *Marketing status.* 1. Within 60 days of the date of publication of this announcement in the FEDERAL REGISTER, the holder of any previously approved new drug application for a drug described above is requested to submit a supplement to his application to provide for revised labeling, as needed, which deletes those indications for which such drug has been classified as lacking substantial evidence of effectiveness in paragraph A above. Such supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9 (d) and (e)), which permit certain changes to be put into effect at the earliest possible time. The revised labeling should be put into use within the 60-day period. Failure to do so may result in a proposal to withdraw approval of the new drug application.

2. If any such preparation is on the market without an approved new drug application, its labeling should be revised if it includes those claims for which substantial evidence of effectiveness is lacking as described in paragraph A above. Failure to delete such indications and to put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may cause the drug to be subject to regulatory proceedings.

3. Holders of approved new drug applications for any drug described in this announcement and any person marketing such drug without approval will be allowed 6 months from the date of publication of this announcement in the FEDERAL REGISTER to obtain and submit, in a supplemental or original new drug application, data to provide substantial evidence of effectiveness for those indications for which the drug is regarded as possibly effective. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and must include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of the effectiveness of the drug for such uses. After that evaluation, the conclusions concerning the drugs will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the

new-drug applications for these drugs pursuant to the provisions of section 505 (e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the applications will cause any such drug on the market to be a new drug for which an approval is not in effect.

The above-named holders of the new-drug applications for these drugs have been mailed a copy of the NAS–NRC report. Any interested person may obtain a copy of these reports by writing to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 4681, directed to the attention of the appropriate office from the list which follows, and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.

Original new-drug applications: Office of Scientific Evaluation (BD–100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.

Requests for NAS–NRC reports: Press Relations Office (CE–200), Food and Drug Administration, 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, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 28, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70-14110; Filed, Oct. 20, 1970; 8:45 a.m.]

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[DESI 5939]

## DIMERCAPROL INJECTION

### Drugs for Human 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 drug:

Bal In Oil Ampules containing dimercaprol, marketed by Hynson, Westcott, and Dunning, Inc., Charles and Chase Streets, Baltimore, Md. 21201 (NDA 5–939).

The drug is regarded as a new drug. (21 U.S.C. 321 (p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drug. A new drug application is required from any person marketing such drug without approval.

The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described in this announcement.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy report, as well as other available evidence, and concludes that:

1. Dimercaprol injection is effective in the treatment of arsenic, gold, and mercury poisoning. It is effective in the treatment of acute lead poisoning when used concomitantly with calcium disodium edetate.

2. Dimercaprol injection is possibly effective for use in the treatment of hemorrhagic encephalitis due to massive arsenotherapy, postarsenical jaundice, as an adjunct in the treatment of agranulocytosis due to arsenic, other heavy metal poisonings such as antimony and bismuth, and in the treatment of acute lead poisoning when used alone.

B. *Form of drug.* Dimercaprol preparations are sterile oil solutions suitable for intramuscular administration.

C. *Labeling conditions.* 1. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

Dimercaprol injection is indicated in the treatment of arsenic, gold, and mercury poisoning. It is indicated in acute lead poisoning when used concomitantly with calcium disodium edetate.

D. *Indications permitted during extended period for obtaining substantial evidence.* Those indications for which the drug is described in paragraph A above as possibly effective (not included in the labeling conditions in paragraph C) may continue to be used for 6 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness.

E. *Marketing status.* Marketing of the drug may continue under the conditions described in paragraphs F and G of this announcement except that those indications referenced in paragraph D may continue to be used as described therein.

F. *Previously approved applications.* 1. Each holder of a "deemed approved" new drug application (i.e., an application which became effective on the basis of safety prior to Oct. 10, 1962) for such drug is requested to seek approval of the claims of effectiveness and bring the application into conformance by submitting supplements containing:

a. Revised labeling as needed to conform to the labeling conditions described herein for the drug and complete current container labeling, unless recently submitted.

b. Updating information as needed to make the application current in regard to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of the new drug application form FD–356H to the extent described for abbreviated new drug applications, § 130.4(f), published in the FEDERAL REGISTER April 24, 1970 (35 F.R. 6574). (One supplement may contain all the information described in this paragraph.)

2. Such supplements should be submitted within the following periods after the date of publication of this notice in the FEDERAL REGISTER:

a. 60 days for revised labeling—the supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9) which permit certain changes to be put into effect at the earliest possible time.

b. 60 days for updating information.

3. Marketing of the drug may continue until the supplemental applications submitted in accord with the preceding subparagraphs 1 and 2 are acted upon, provided that within 60 days after the date of this publication, the labeling of the preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described in this announcement. (It may continue to include the indications referenced in paragraph D for the period stated.)

G. *New applications.* 1. Any other person who distributes or intends to distribute such drug which is intended for the conditions of use for which it was shown to be effective, as described under A above, should submit an abbreviated new drug application meeting the conditions specified in § 130.4(f) (1) and (2), published in the FEDERAL REGISTER of April 24, 1970 (35 F.R. 6574). Such applications should include proposed labeling which is in accord with the labeling conditions described herein.

2. Distribution of any such preparation currently on the market without an approved new-drug application may be continued provided that:

a. Within 60 days from the date of publication of this announcement in the FEDERAL REGISTER, the labeling of such preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described herein. (It may continue to include the indications referenced in paragraph D for the period stated.)

b. The manufacturer, packer, or distributor of such drug submits, within 60 days from the date of this publication, a new-drug application to the Food and Drug Administration.

c. The applicant submits within a reasonable time additional information that may be required for the approval of the application as specified in a written communication from the Food and Drug Administration.

d. The application has not been ruled incomplete or unapprovable.

H. *Unapproved use or form of drug.* 1. If the article is labeled or advertised for use in any condition other than those provided for in this announcement, it may be regarded as an unapproved new

drug subject to regulatory proceedings until such recommended use is approved in a new-drug application or is otherwise in accord with this announcement.

2. If the article is proposed for marketing in another form or for a use other than the use provided for in this announcement, appropriate additional information as described in § 130.4 or § 130.9 of the regulations (21 CFR 130.4, 130.9) may be required, including results of animal and clinical tests intended to show whether the drug is safe and effective.

A copy of the NAS–NRC report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 5939 and be directed to the attention of the appropriate office listed below and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.

All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD–5), Bureau of Drugs.

Requests for NAS–NRC report: Press Relations Staff (CE–200), Food and Drug Administration, 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, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 28, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70–14113; Filed, Oct. 20, 1970; 8:45 a.m.]

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[DESI 5337]

## ISOBORNYL THIOCYANOACETATE FOR TOPICAL USE

### Drugs for Human 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 drug:

Bornate Lotion containing isobornyl thiocyanoacetate and dioctyl sodium sulfosuccinate; marketed by Wyeth Laboratories, Inc., Post Office Box 8299, Philadelphia, Pa. 19101 (NDA 5–337).

The drug is regarded as a new drug. The effectiveness classification and marketing status are described below.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy report, as well as other available evidence, and concludes that isobornyl thiocyanoacetate is possibly effective for treatment of pediculosis.

B. *Marketing status.* 1. Holders of previously approved new drug applications and any person marketing any such drug without approval will be allowed 6 months from the date of publication of this announcement in the FEDERAL REGISTER to obtain and to submit in a supplemental or original new drug application data to provide substantial evidence of effectiveness for the indication for which this drug has been classified as possibly effective. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well organized, and include data from adequate and well controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

2. At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness for such uses. After that evaluation the conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new drug applications for such drugs, pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the applications will cause any such drugs on the market to be a new drug for which an approval is not in effect.

The above named holder of the new-drug application for this drug has been mailed a copy of the NAS–NRC report. Any interested person may obtain a copy of this report by writing to the Press Relations Office, Food and Drug Administration (CE–200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 5337 and be directed to the attention of the appropriate office listed below and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.

Original new-drug applications: Office of Scientific Evaluation (BD–100), Bureau of Drugs.

All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (BD–5), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs 21 CFR 2.120).

Dated: September 28, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70–14112; Filed, Oct. 20, 1970; 8:45 a.m.]

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[DESI 7750; Docket No. FDC–D–248; NDA 7–750 etc.]

## CERTAIN GLUCOCORTICOID DRUGS FOR ORAL USE

### Drugs for Human Use; Drug Efficacy Study Implementation

Certain glucocorticoid drugs for oral use containing betamethasone; cortisone acetate; dexamethasone; fluprednisolone; hydrocortisone; hydrocortisone acetate; methylprednisolone; paramethason acetate; prednisolone; prednisone; triamcinolone; or triamcinolone diacetate.

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following corticosteroid drugs for oral use:

I. CERTAIN GLUCOCORTICOID DRUGS FOR ORAL USE

A. Preparations containing betamethasone.

1. Celestone Tablets, Schering Corp., 60 Orange Street, Bloomfield, N.J. 07003 (NDA 12–657).

B. Preparations containing cortisone acetate.

1. Cortisone Acetate Tablets, Vitamix Pharmaceuticals, Inc., 2900 North 17th Street, Philadelphia, Pa. 19132 (NDA 10–663).

2. Cortone Tablets, Merck, Sharp and Dohme, Division of Merck and Co., Inc., West Point, Pa. 19486 (NDA 7–750).

3. Cortisone Acetate Tablets, Richlyn Laboratories, Inc., Castor at Kensington Avenues, Philadelphia, Pa. 19124 (NDA 9–458).

4. Cortisone Acetate Tablets, Nysco Laboratories, Inc., 34–24 Vernon Boulevard, Long Island City, N.Y. 11106 (NDA 9–244).

5. Cortisone Acetate Tablets, Rexall Drug and Chemical Co., 8480 Beverly Boulevard, Los Angeles, Calif. 90054 (NDA 9–513).

6. Cortisone Acetate Tablets, Panray Division, Ormont Drug and Chemical Co., Inc., 223 South Dean Street, Englewood, N.J. 07631 (NDA 8–284).

7. Cortisone Acetate Tablets, The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49002 (NDA 8–126).

C. Preparations containing dexamethasone.

1. Decadron Elixir, Merck, Sharp and Dohme, Division of Merck and Co., Inc. (NDA 12–376).

2. Hexadrol Tablets, Organon, Inc., 375 Mount Pleasant Avenue, West Orange, N.J. (NDA 12–675).

3. Gammacorten Tablets, Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, N.J. 07901 (NDA 11–895).

4. Deronil Tablets, Schering Corp. (NDA 11-731).
5. Decadron Tablets, Merck, Sharp, and Dohme (NDA 11-664).
6. Hexadrol Elixir, Organon, Inc. (NDA 12-674).

D. Preparations containing fluprednisolone.

1. Alphadrol Tablets, The Upjohn Co. (NDA 12-259).

E. Preparations containing hydrocortisone or hydrocortisone acetate.

1. Hydrocortisone Tablets, Vitamix Pharmaceuticals, Inc. (NDA 9-658).
2. Hydrocortisone Tablets, Evron Pharmaceutical Co., Inc., 7475 North Rogers Avenue, Chicago, Ill. 60626 (NDA 9-788).
3. Hydrocortisone Tablets, Panray Division, Ormont Drug and Chemical Co., Inc. (NDA 9-659).
4. Cortef Suspension, The Upjohn Co. (NDA 9-900).
5. Cortef Tablets, The Upjohn Co. (NDA 8-697).
6. Cortril Tablets, Chas. Pfizer and Co., Inc., 235 East 42d Street, New York, N.Y. 10017 (NDA 9-127).
7. Hydrocortone Tablets, Merck, Sharp and Dohme (NDA 8-506).
8. Hydrocortisone Acetate Powder, Chas. Pfizer and Co. (NDA 9-164).

F. Preparations containing methylprednisolone.

1. Medrol Medules, The Upjohn Co. (NDA 12-362).
2. Medrol Tablets, The Upjohn Co. (NDA 11-153).

G. Preparations containing paramethasone acetate.

1. Haldrone Tablets, Eli Lilly and Co., Post Office Box 618, Indianapolis, Ind. 46206 (NDA 12-772).

H. Preparations containing prednisolone.

1. Sterane Tablets, Chas. Pfizer and Co., Inc. (NDA 9-996).
2. Meticortilone Tablets, Schering Corp. (NDA 9-931).
3. Delta-Cortef Tablets, The Upjohn Co. (NDA 9-987).
4. Paracortol Tablets, Parke, Davis and Co., Joseph Campau, at the River, Detroit, Mich. 48232 (NDA 10-868).
5. Hydeltra Tablets, Merck, Sharp, and Dohme (NDA 10-051).

I. Preparations containing prednisone.

1. Paracort Tablets, Parke, Davis and Co. (NDA 10-962).
2. Meticorten Tablets, Schering Corp. (NDA 9-766).
3. Deltra Tablets, Merck, Sharp, and Dohme (NDA 9-942).
4. Deltasone Tablets, The Upjohn Co. (NDA 9-986).

J. Preparations containing triamcinolone or triamcinolone diacetate.

1. Aristocort Tablets, Lederle Laboratories Division, American Cyanamid Co., Pearl River, N.Y. 10965 (NDA 11-161).
2. Aristocort Syrup, Lederle Laboratories (NDA 11-960).

II. Conventional Dosage Forms of Above Listed Drugs

The drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drugs without approval.

The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described in this announcement.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes that:

1. Betamethasone; Cortisone Acetate; Dexamethasone; Fluprednisolone; Hydrocortisone; Hydrocortisone Acetate; Methylprednisolone; Paramethasone Acetate; Prednisolone; Prednisone; Triamcinolone; or Triamcinolone Diacetate preparations for oral use are effective or probably effective for the indications listed in the "Indications" section of the labeling guidelines in this announcement. The probably effective indications are as follows: control of severe or incapacitating angioedema and urticaria intractable to adequate trials of conventional treatment; pulmonary emphysema where bronchospasm or bronchial edema plays a significant role; diffuse interstitial pulmonary fibrosis (Hamman-Rich syndrome); to tide the patient over a critical period in ulcerative colitis, regional enteritis, intractable sprue; in conjunction with diuretic agents, to induce a diuresis in cirrhosis of the liver with refractory ascites, or refractory congestive heart failure; and dental postoperative inflammatory reactions.

2. These drugs are possibly effective for use in thyroid crisis; palindromic rheumatism; polyarteritis nodosa; scleroderma; allergic purpura; allergic laryngeal edema; thrombotic thrombocytopenic purpura; cirrhosis; hepatitis; Bell's palsy; Hunner's ulcer; and as adjuvant therapy in certain infectious diseases.

3. These drugs lack substantial evidence of effectiveness for all other labeled indications. In some cases an indication has been placed in this category principally because of its broadness or vagueness, but may have been given a higher classification when more specifically defined as described in this announcement.

B. *Form of drug.* These steroid preparations are in tablet, capsule, suspension, or powder form suitable for oral administration.

C. *Labeling conditions.* 1. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

2. The drug is labeled to comply with all requirements of the Act and regulations promulgated thereunder and those parts of its labeling indicated below are substantially as follows: (Optional additional information, applicable to the drug, may be proposed under other appropriate paragraph headings and should follow the information set forth below.)

Oral Glucocorticoids

DESCRIPTION

Glucocorticoids are adrenocortical steroids, both naturally occurring and synthetic, which are readily absorbed from the gastrointestinal tract. (Other descriptive information to be included by the manufacturer or distributor should be confined to an appropriate description of the physical and chemical properties of the drug and the formulation.)

ACTIONS

Naturally occurring glucocorticoids (hydrocortisone and cortisone), which also have salt-retaining properties, are used as replacement therapy in adrenocortical deficiency states. Their synthetic analogs are primarily used for their potent anti-inflammatory effects in disorders of many organ systems.

Glucocorticoids cause profound and varied metabolic effects. In addition, they modify the body's immune responses to diverse stimuli.

INDICATIONS

1. Endocrine Disorders:
Primary or secondary adrenocortical insufficiency (hydrocortisone or cortisone is the first choice; synthetic analogs may be used in conjunction with mineralocorticoids where applicable; in infancy mineralocorticoid supplementation is of particular importance).
Congenital adrenal hyperplasia.
Nonsuppurative thyroiditis.
Hypercalcemia associated with cancer.
2. Rheumatic Disorders:
As adjunctive therapy for short-term administration (to tide the patient over an acute episode or exacerbation) in Psoriatic arthritis.
Rheumatoid arthritis (selected cases may require low-dose maintenance therapy).
Ankylosing spondylitis.
Acute and subacute bursitis.
Acute nonspecific tenosynovitis.
Acute gouty arthritis.
3. Collagen Diseases:
During an exacerbation or as maintenance therapy in selected cases of—
Systemic lupus erythematosus.
Acute rheumatic carditis.
4. Dermatologic Diseases:
Pemphigus.
Bullous dermatitis herpetiformis.
Severe erythema multiforme (Stevens-Johnson syndrome).
Exfoliative dermatitis.
Mycosis fungoides.
Severe psoriasis.
5. Allergic States:
Control of severe or incapacitating allergic conditions intractable to adequate trials of conventional treatment:
Seasonal or perennial allergic rhinitis.
Bronchial asthma.
Contact dermatitis.
Atopic dermatitis.
Serum sickness.
Angioedema.
Urticaria.
6. Ophthalmic Diseases:
Severe acute and chronic allergic and inflammatory processes involving the eye and its adnexa such as—
Allergic conjunctivitis.
Keratitis.
Allergic corneal marginal ulcers.
Herpes zoster ophthalmicus.
Iritis and iridocyclitis.
Chorioretinitis.
Anterior segment inflammation.
Diffuse posterior uveitis and choroiditis.
Optic neuritis.
Sympathetic ophthalmia.
7. Respiratory Diseases:

Symptomatic sarcoidosis.
Loeffler's syndrome not manageable by other means.
Berylliosis.
Fulminating or disseminated pulmonary tuberculosis when concurrently accompanied by appropriate antituberculous chemotherapy.
Pulmonary emphysema where bronchospasm or bronchial edema plays a significant role.
Diffuse interstitial pulmonary fibrosis (Hamman-Rich syndrome).
8. Hematologic Disorders:
Idiopathic and secondary thrombocytopenia in adults.
Acquired (autoimmune) hemolytic anemia.
Erythroblastopenia (RBC anemia).
Congenital (erythroid) hypoplastic anemia.
9. Neoplastic Diseases:
For palliative management of:
Leukemias and lymphomas in adults.
Acute leukemia of childhood.
10. Edematous States:
To induce a diuresis or remission of proteinuria in the nephrotic syndrome, without uremia, of the idiopathic type or that due to lupus erythematosus.
In conjunction with diuretic agents, to induce a diuresis in:
Cirrhosis of the liver with refractory ascites.
Refractory congestive heart failure.
11. Gastrointestinal Diseases:
To tide the patient over a critical period of the disease in:
Ulcerative colitis.
Regional enteritis.
Intractable sprue.
12. Miscellaneous:
Tuberculous meningitis with subarachnoid block or impending block when concurrently accompanied by appropriate antituberculous chemotherapy.
Dental postoperative inflammatory reactions.
13. In addition to the above indications:
(a) The drug preparations containing dexamethasone are indicated for:
Diagnostic testing of adrenocortical hyperfunction.
(b) The drug preparations containing cortisone, hydrocortisone, prednisone, prednisolone, or methylprednisolone are indicated for:
Systemic dermatomyositis (polymyositis).

CONTRAINDICATIONS

Systemic fungal infections.

WARNINGS

In patients on corticosteroid therapy subjected to unusual stress, increased dosage of rapidly acting corticosteroids before, during, and after the stressful situation is indicated.
Corticosteroids may mask some signs of infection, and new infections may appear during their use. There may be decreased resistance and inability to localize infection when corticosteroids are used.
Prolonged use of corticosteroids may produce posterior subcapsular cataracts, glaucoma with possible damage to the optic nerves, and may enhance the establishment of secondary ocular infections due to fungi or viruses.
Usage in pregnancy: Since adequate human reproduction studies have not been done with corticosteroids, the use of these drugs in pregnancy, nursing mothers or women of childbearing potential requires that the possible benefits of the drug be weighed against the potential hazards to the mother and embryo or fetus. Infants born of mothers who have received substantial doses of corticosteroids during pregnancy, should be carefully observed for signs of hypoadrenalism.
Average and large doses of hydrocortisone or cortisone can cause elevation of blood pressure, salt and water retention, and increased excretion of potassium. These effects are less likely to occur with the synthetic derivatives except when used in large doses. Dietary salt restriction and potassium supplementation may be necessary. All corticosteroids increase calcium excretion.
While on Corticosteroid Therapy Patients Should Not Be Vaccinated Against Smallpox. Other Immunization Procedures Should Not Be Undertaken in Patients Who are on Corticosteroids, Especially on High Dose, Because of Possible Hazards of Neurological Complications and a Lack of Antibody Response.
The use of (insert name of drug) in active tuberculosis should be restricted to those cases of fulminating or disseminated tuberculosis in which the corticosteroid is used for the management of the disease in conjunction with an appropriate antituberculous regimen.
If corticosteroids are indicated in patients with latent tuberculosis or tuberculin reactivity, close observation is necessary as reactivation of the disease may occur. During prolonged corticosteroid therapy, these patients should receive chemoprophylaxis.

PRECAUTIONS

Drug-induced secondary adrenocortical insufficiency may be minimized by gradual reduction of dosage. This type of relative insufficiency may persist for months after discontinuation of therapy; therefore, in any situation of stress occurring during that period, hormone therapy should be reinstituted. Since mineralocorticoid secretion may be impaired, salt and/or a mineralocorticoid should be administered concurrently.
There is an enhanced effect of corticosteroids on patients with hypothyroidism and in those with cirrhosis.
Corticosteroids should be used cautiously in patients with ocular herpes simplex because of possible corneal perforation.
The lowest possible dose of corticosteroid should be used to control the condition under treatment, and when reduction in dosage is possible, the reduction should be gradual.
Psychic derangements may appear when corticosteroids are used, ranging from euphoria, insomnia, mood swings, personality changes, and severe depression, to frank psychotic manifestations. Also, existing emotional instability or psychotic tendencies may be aggravated by corticosteroids.
Aspirin should be used cautiously in conjunction with corticosteroids in hypoprothrombinemia.
Steroids should be used with caution in nonspecific ulcerative colitis, if there is a probability of impending perforation, abscess or other pyogenic infection; diverticulitis; fresh intestinal anastomoses; active or latent peptic ulcer; renal insufficiency; hypertension; osteoporosis; and myasthenia gravis.
Growth and development of infants and children on prolonged corticosteroid therapy should be carefully observed.

ADVERSE REACTIONS

*Fluid and Electrolyte Disturbances.*
Sodium retention.
Fluid retention.
Congestive heart failure in susceptible patients.
Potassium loss.
Hypokalemic alkalosis.
Hypertension.
*Musculoskeletal.*
Muscle weakness.
Steroid myopathy.
Loss of muscle mass.
Osteoporosis.
Vertebral compression fractures.
Aseptic necrosis of femoral and humeral heads.
Pathologic fracture of long bones.
*Gastrointestinal.*
Peptic ulcer with possible perforation and hemorrhage.
Pancreatitis.
Abdominal distention.
Ulcerative esophagitis.
*Dermatologic.*
Impaired wound healing.
Thin fragile skin.
Petechiae and ecchymoses.
Facial erythema.
Increased sweating.
May suppress reactions to skin tests.
*Neurological.*
Convulsions.
Increased intracranial pressure with papilledema (pseudo-tumor cerebri) usually after treatment.
Vertigo.
Headache.
*Endocrine.*
Menstrual irregularities.
Development of Cushingoid state.
Suppression of growth in children.
Secondary adrenocortical and pituitary unresponsiveness, particularly in times of stress, as in trauma, surgery or illness.
Decreased carbohydrate tolerance.
Manifestations of latent diabetes mellitus.
Increased requirements for insulin or oral hypoglycemic agents in diabetics.
*Ophthalmic.*
Posterior subcapsular cataracts.
Increased intraocular pressure.
Glaucoma.
Exophthalmos.
*Metabolic.*
Negative nitrogen balance due to protein catabolism.

DOSAGE AND ADMINISTRATION

This section should enumerate the general principles governing administration.
1. Dosage should be individualized according to the severity of the disease and the response of the patient. For infants and children, the recommended dosage should be governed by the same considerations rather than by strict adherence to the ratio indicated by age or body weight.
2. Hormone therapy is an adjunct to, and not a replacement for, conventional therapy.
3. Dosage should be decreased or discontinued gradually when the drug has been administered for more than a few days.
4. The severity, prognosis and expected duration of the disease and the reaction of the patient to medication are primary factors in determining dosage.
5. If a period of spontaneous remission occurs in a chronic condition, treatment should be discontinued.
6. Blood pressure, body weight, routine laboratory studies, including 2-hour postprandial blood glucose and serum potassium, and a chest X-ray should be obtained at regular intervals during prolonged therapy. Upper GI X-rays are desirable in patients with known or suspected peptic ulcer disease.
*Specific Dosage Recommendation.* The range of dosage for each indicated use of the drug is to be supplied by the manufacturer.

D. *Indications permitted during extended period for obtaining substantial evidence.* 1. Those indications for which a drug is described in paragraph II.A above as probably effective are included in the labeling conditions in paragraph II.C and may continue to be used for 12 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness.

2. Those indications for which a drug is described in paragraph II.A above as possibly effective (not included in the labeling conditions in paragraph II.C may continue to be used for 6 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness.

3. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well organized, and include data from adequate and well controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

E. *Marketing status.* Marketing of the drugs may continue under the conditions described in paragraphs II. F and G of this announcement except that those indications referenced in paragraph II.D may continue to be used as described herein.

F. *Previously approved applications.* 1. Each holder of a "deemed approved" new drug application (i.e., an application which became effective on the basis of safety prior to Oct. 10, 1962) for such drug is requested to seek approval of the claims of effectiveness and bring the application into conformance by submitting supplements containing:

a. Revised labeling as needed to conform to the labeling conditions described herein for the drug and complete current container labeling, unless recently submitted.

b. Adequate data to assure the biologic availability of the drug in the formulation which is marketed. If such data are already included in the application, specific reference thereto may be made.

c. Updating information as needed to make the application current in regard to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of the new drug application form FD-356H to the extent described for abbreviated new drug applications, § 130.4(f), published in the FEDERAL REGISTER April 24, 1970 (35 F.R. 6574). (One supplement may contain all the information described in this paragraph.)

2. Such supplements should be submitted within the following periods after the date of publication of this notice in the FEDERAL REGISTER:

a. 60 days for revised labeling. The supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9) which permit certain changes to be put into effect at the earliest possible time.

b. 180 days for biologic availability data.

c. 60 days for updating information.

3. Marketing of the drug may continue until the supplemental applications submitted in accord with the preceding subparagraphs 1 and 2 are acted upon, provided that within 60 days after the date of this publication, the labeling of the preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described in this announcement. (It may continue to include the indications referenced in paragraph II.D for the period stated.)

G. *New applications.* 1. Any other person who distributes or intends to distribute such drug which is intended for the conditions of use for which it has been shown to be effective, as described under II.A above, should submit an abbreviated new drug application meeting the conditions specified in § 130.4(f) (1), (2), and (3), published in the FEDERAL REGISTER of April 24, 1970 (35 F.R. 6574). Such applications should include proposed labeling which is in accord with the labeling conditions described herein and adequate data to assure the biologic availability of the drug in the formulation which is marketed or proposed for marketing.

2. Distribution of any such preparation currently on the market without an approved new drug application may be continued provided that:

a. Within 60 days from the date of publication of this announcement in the FEDERAL REGISTER, the labeling of such preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described herein. (It may continue to include the indications referenced in paragraph II.D for the period stated.)

b. The manufacturer, packer, or distributor of such drug submits, within 180 days from the date of this publication, a new-drug application to the Food and Drug Administration.

c. The applicant submits within a reasonable time additional information that may be required for the approval of the application as specified in a written communication from the Food and Drug Administration.

d. The application has not been ruled incomplete or unapprovable.

H. *Exemption from periodic reporting.* The periodic reporting requirements of §§ 130.35(e) and 130.13(b)(4) are waived in regard to applications approved for these drugs solely for the conditions of use for which the drugs are regarded as effective as described herein.

I. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new-drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as referred to in paragraph II.A.3 of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order would cause any drug for human use containing the same components and offered for the indications for which substantial evidence of effectiveness is lacking, 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.

2. In accord with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing, together with a well organized and full factual analysis of the clinical and other investigational data the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety. If a hearing is requested and is 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.

J. *Unapproved use or form of drug.* 1. If the article is labeled or advertised for use in any condition other than those provided for in this announcement, it may be regarded as an unapproved new drug subject to regulatory proceedings until such recommended use is approved in a new drug application, or is otherwise in accord with this announcement.

2. If the article is proposed for marketing in another form or for a use other than the use provided for in this announcement, appropriate additional information as described in § 130.4 or § 130.9 of the regulations (21 CFR 130.4, 130.9) may be required, including results of animal and clinical tests intended to show whether the drug is safe and effective.

Representatives of the Administration are willing to meet with any interested person who desires to have a conference concerning proposed changes in the labeling set forth herein. Requests for such meetings should be made to the

Office of Scientific Evaluation (BD-100), at the address given below, within 30 days after the publication of this notice in the FEDERAL REGISTER.

III. SUSTAINED RELEASE DOSAGE FORM OF METHYLPREDNISOLONE

A. *Effectiveness classification.* 1. The Food and Drug Administration has reviewed the Academy report, as well as other evidence, and concludes that in sustained release form, methylprednisolone is possibly effective for the indications for which the conventional dosage form is described above as effective, probably effective and possibly effective.

2. The sustained release form is regarded as lacking substantial evidence of effectiveness for those indications for which the conventional form is described above as lacking substantial evidence of effectiveness.

B. *Marketing status.* 1. Within 60 days of the date of publication of this announcement in the FEDERAL REGISTER, the holder of any previously approved new-drug application for a drug described in paragraph III.A above is requested to submit a supplement to his application to provide for revised labeling, as needed, which deletes those indications for which such drug has been classified as lacking substantial evidence of effectiveness. Such supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new-drug regulations (21 CFR 130.9 (d) and (e)), which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period. Failure to do so may result in a proposal to withdraw approval of the new-drug application.

2. If any such preparation is on the market without an approved new-drug application, its labeling should be revised if it includes those claims for which substantial evidence of effectiveness is lacking as described in paragraph III.A.2 above. Failure to delete such indications and put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER may cause the drug to be subject to regulatory proceedings.

3. Holders of previously approved new-drug applications for any drug described in paragraph III.A of this announcement and any person marketing such drug without approval will be allowed 6 months from the date of publication of this announcement in the FEDERAL REGISTER to obtain and submit in a supplemental or original new-drug application data to provide substantial evidence of effectiveness for those indications for which the drug is regarded as possibly effective. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of the effectiveness of the drug for such uses. After that evaluation, the conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new-drug applications for this drug pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)). Withdrawal of approval of the applications will cause any such drug on the market to be a new drug for which an approval is not in effect.

A copy of the NAS-NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Press Relations Office (CE-200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 7750 and be directed to the attention of the appropriate office listed below and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new-drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

Request for Hearing (identify with Docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-62, Parklawn Building.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 28, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70-14114; Filed, Oct. 20, 1970; 8:45 a.m.]

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[DESI 8085]

## MERCAPTOPURINE; METHOTREXATE; METHOTREXATE SODIUM; AND FLUOROURACIL

### Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Mercaptopurine, marketed as Purinethol tablets, by Burroughs Wellcome and Co., 1 Scarsdale Road, Tuckahoe, N.Y. 10707 (NDA 9-053).

2. Methotrexate, marketed as Methotrexate tablets, by Lederle Laboratories Division, American Cyanamid Co., Pearl River, N.Y. 10965 (NDA 8-085).

3. Methotrexate sodium, marketed as Methotrexate Sodium Parenteral, by Lederle Laboratories (NDA 11-719).

4. Fluorouracil, marketed as Fluorouracil Injection, by Hoffmann-LaRoche, Inc., 340 Kingsland Avenue, Nutley, N.J. 07710 (NDA 12-209).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes that:

1. Mercaptopurine, methotrexate, methotrexate sodium, and fluorouracil are effective for the indications described in the labeling guidelines given below.

2. Methotrexate and methotrexate sodium are possibly effective for the claim for treatment of some inoperable tumors of the head, neck, and pelvis.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* a. Mercaptopurine and methotrexate preparations are in a form suitable for oral administration.

b. Methotrexate sodium and fluorouracil preparations are in a form suitable for parenteral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows: (Labeling guidelines are available from the Administration on request.)

*For Mercaptopurine.*

INDICATIONS

1. *Acute lymphocytic (stem-cell) leukemia:* The rate of complete remissions increases appreciably when mercaptopurine is combined with steroids. Given during remission, mercaptopurine is effective in prolonging the duraton of the remission.

2. *Acute myelocytic and myelomonocytic leukemia.*

3. *Chronic myelocytic leukemia:* Mercaptopurine is highly effective in patients in the early stable phase of this disease. It is much less effective in the acute blastic phase.

*For Methotrexate and Methotrexate Sodium.*

INDICATIONS

Methotrexate is indicated primarily for the treatment of gestational choriocarcinoma, in patients with chorioadenoma destruens and hydatidiform mole.

Methotrexate may be used for the palliation of acute and subacute lymphocytic and meningeal leukemia. Greatest effect has been observed in palliation of acute lymphoblastic (stem-cell) leukemias. The percentage of complete remission is improved by the concomitant administration of steroids.

Methotrexate is also effective in the treatment of the advanced stages (III and IV, Peters Staging System) or lymphosarcoma, particularly in those cases in children, and in advanced cases of mycosis fungoides.

*For Fluorouracil.*

INDICATIONS

Fluorouracil is recommended for the palliative management of carcinoma of the breast, colon or rectum, stomach, and pancreas in carefully selected patients who are considered incurable by surgery or other means.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. *New Drug applications—Mercaptopurine.* i. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to Oct. 10, 1962), the submission of a supplement for revised labeling and a supplement for updating information as described in paragraphs (a)(1) (i) and (iii) of the notice of July 14, 1970.

ii. For any person who does not hold an approved or effective new drug application, the submission of a full new drug application as described in paragraph (a)(3)(iii) of that notice.

*Methotrexate; Methotrexate Sodium.* i. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to Oct. 10, 1962), the submission of a supplement for revised labeling, a supplement for updating information, and adequate data to assure the biologic availability of the drug in the formulation which is marketed, as described in paragraphs (a)(1) (i), (ii), and (iii) of the notice of July 14, 1970.

ii. For any person who does not hold an approved or effective new drug application, the submission of a full new drug application, including adequate data to show the biologic availability of the drug in the formulation which is or is intended to be marketed, as described in paragraph (a)(3)(iii).

*Fluorouracil.* i. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to Oct. 10, 1962), the submission of a supplement for revised labeling, a supplement for updating information, and adequate data to assure the biologic availability of the drug in the formulation which is marketed, as described in paragraphs (a)(1) (i), (ii), and (iii) of the notice of July 14, 1970.

ii. For any person who does not hold an approved or effective new drug application, the submission of a full new drug application as described in paragraph (a)(3)(iii) of that notice; however, the clinical data may be biologic availability data.

b. For any distributor of these drugs, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

c. For indications for which the drug has been classified as possibly effective (not included in the Indications section above), continued use as described in (d), (e), and (f) of that notice.

A copy of the NAS–NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE–200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 8085 and be directed to the attention of the appropriate office listed below and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.
Original new drug applications: Office of Scientific Evaluation (BD–100), Bureau of Drugs.
All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 30, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70-14115; Filed, Oct. 20, 1970; 8:45 a.m.]

[DESI 5070]

## NAPHAZOLINE HYDROCHLORIDE

### Drugs for Human 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 topical ocular vasoconstrictor:

Privine Hydrochloride Ophthalmic Solution containing naphazoline hydrochloride; Ciba Pharmaceutical Co., 556 Morris Ave., Summit, N.J. 07901 (NDA 5–070).

The drug is regarded as a new drug (21 U.S.C. 321 (p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drug. A new drug application is required from any person marketing such drug without approval.

The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described in this announcement.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy report, as well as other available evidence, and concludes that:

1. This drug is effective as a topical ocular vasoconstrictor.

2. The drug is probably effective when utilized in place of epinephrine as a hemostatic agent during ocular surgery.

3. Naphazoline hydrochloride is possibly effective for relief of such symptoms as photophobia, blepharospasm, lacrimation, smarting and itching.

B. *Form of drug.* Naphazoline hydrochloride preparations are in sterile, isotonic solution form suitable for ophthalmic administration.

C. *Labeling conditions.* 1. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription" and a statement that the product is sterile.

2. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

For use as a topical ocular vasoconstrictor. May be utilized in place of epinephrine as a hemostatic agent during ocular surgery.

D. *Indications permitted during extended period for obtaining substantial evidence.* Those indications for which the drug is described in paragraph A.2. above as probably effective are included in the labeling conditions in paragraph C and may continue to be used for 12 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness.

Those indications for which the drug is described in paragraph A.3. above as possibly effective (not included in the labeling conditions in paragraph C) may continue to be used for 6 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness.

To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well organized, and include

data from adequate and well controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published as a final order in the FEDERAL REGISTER of May 8, 1970 (F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

E. *Previously approved applications.* 1. Each holder of a "deemed approved" new drug application (i.e., an application which became effective on the basis of safety prior to October 10, 1962) for such drug is requested to seek approval of the claims of effectiveness and bring the application into conformance by submitting supplements containing:

a. Revised labeling as needed to conform to the labeling conditions described herein for the drug and complete current container labeling, unless recently submitted.

b. Updating information as needed to make the application current in regard to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of the new drug application form FD-356H to the extent described for abbreviated new drug applications, § 130.4(f), published in the FEDERAL REGISTER of April 24, 1970 (35 F.R. 6574). (One supplement may contain all the information described in this paragraph.)

2. Such supplements should be submitted within the following time periods after the date of publication of this notice in the FEDERAL REGISTER:

a. 60 days for revised labeling. The supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new drug regulations (21 CFR 130.9) which permit certain changes to be put into effect at the earliest possible time.

b. 60 days for updating information.

3. Marketing of the drug may continue until the supplemental applications submitted in accord with the preceding subparagraphs 1 and 2 are acted upon, provided that within 60 days after the date of this publication, the labeling of the preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described in this announcement. (It may continue to include the indications referenced in paragraph D for the period stated.)

F. *New applications.* 1. Any other person who distributes or intends to distribute such drug which is intended for the conditions of use for which it has been shown to be effective, as described under A.1. above, should submit an abbreviated new drug application meeting the conditions specified in § 130.4(f) (1) and (2), published in the FEDERAL REGISTER of April 24, 1970 (35 F.R. 6574). Such applications should include proposed labeling which is in accord with the labeling conditions described herein.

2. Distribution of any such preparation currently on the market without an approved new drug application may be continued provided that:

a. Within 60 days from the date of publication of this announcement in the FEDERAL REGISTER, the labeling of such preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described herein. (It may continue to include the indications referenced in paragraph D for the period stated.)

b. The manufacturer, packer, or distributor of such drug submits, within 60 days from the date of this publication, a new drug application to the Food and Drug Administration.

c. The applicant submits, within a reasonable time, additional information that may be required for the approval of the application as specified in a written communication from the Food and Drug Administration.

d. The application has not been ruled incomplete or unapprovable.

G. *Unapproved use or form of drug.* 1. If the article is labeled or advertised for use in any condition other than those provided for in this announcement, it may be regarded as an unapproved new drug subject to regulatory proceedings until such recommended use is approved in a new drug application or is otherwise in accord with this announcement.

2. If the article is proposed for marketing in another form or for a use other than the use provided for in this announcement, appropriate additional information as described in § 130.4 or § 130.9 of the regulations (21 CFR 130.4, 130.9) may be required, including the results of animal and clinical tests intended to show whether the drug is safe and effective.

A copy of the NAS-NRC report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 5070 and be directed to the attention of the appropriate office listed below and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-1), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 30, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70-14111; Filed, Oct. 20, 1970; 8:45 a.m.]

[DESI 11316]

## TRIMEPRAZINE AND METHDILAZINE PREPARATIONS FOR ORAL USE

### Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs:

1. Methdilazine hydrochloride, marketed as Tacaryl Tablets and Syrup by Mead Johnson Laboratories, Division of Mead Johnson & Co., 2404 Pennsylvania Street, Evansville, Ind. 47721 (NDA 11-950).

2. Methdilazine (base), marketed as Tacaryl Chewable Tablets by Mead Johnson Laboratories (NDA 11-950).

3. Trimeprazine as the tartrate, marketed as Temaril Syrup, Tablets, and Spansules (sustained release capsules) by Smith Kline and French Laboratories, 1500 Spring Garden Street, Philadelphia, Pa. 19101 (NDA 11-316).

The drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new-drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new-drug application is required from any person marketing such drugs without approval.

The Food and Drug Administration is prepared to approve new-drug applications and supplements to previously approved new-drug applications under conditions described in this announcement.

METHDILAZINE AND TRIMEPRAZINE FOR ORAL USE

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes that:

1. The drugs are effective in the treatment of pruritic symptoms in urticaria.

2. The drugs are probably effective for symptomatic relief in the management of nasal allergies (hay fever, allergic rhinitis, etc.).

3. The drugs are possibly effective for the following indications:

a. Prolonged relief of pruritic symptoms in a variety of allergic and nonallergic conditions including neurodermatitis, contact dermatitis, pityriasis rosea, poison ivy dermatitis,, eczematous dermatitis, pruritus ani and vulvae, drug rash, and chicken pox.

b. Symptomatic relief in the management of various allergic conditions such as allergic conjunctivitis.

c. Allergic bronchitis and bronchial asthma.

d. Angioneurotic edema.

e. For treatment of pruritus whether acute or chronic.

f. For prolonged relief of pruritic symptoms in atopic dermatitis.

B. *Form of drug.* Preparations of methdilazine (base and hydrochloride) and trimeprazine (as the tartrate) are in a form suitable for oral administration.

C. *Labeling conditions.* 1. The label bears the statement "Caution: Federal law prohibits dispensing without prescription."

2. The drugs are labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for the safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows:

INDICATIONS

For symptomatic relief of pruritic symptoms in urticaria.

For symptomatic relief in the management of nasal allergies (hay fever, allergic rhinitis, etc.).

D. *Indications permitted during extended period for obtaining substantial evidence.* 1. Those indications for which the drugs are described in paragraph A2 above as probably effective are included in the labeling conditions in paragraph C and may continue to be used for 12 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drugs without approval may obtain and submit to the Food and Drug Administration, data to provide substantial evidence of effectiveness.

2. Those indications for which the drugs are described in paragraph A3 above as possibly effective (not included in the labeling conditions in paragraph C) may continue to be used for 6 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drugs without approval may obtain and submit to the Food and Drug Administration, data to provide substantial evidence of effectiveness.

E. *Previously approved applications.* 1. Each holder of a "deemed approved" new-drug application (i.e., an application which became effective on the basis of safety prior to October 10, 1962) for such drug is requested to seek approval of the claims of effectiveness and bring the application into conformance by submitting supplements containing:

a. Revised labeling as needed to conform with the labeling conditions described herein for the drug, and complete current container labeling, unless recently submitted.

b. Updating information as needed to make the application current.

2. Such supplements should be submitted within the following periods after the date of publication of this announcement in the FEDERAL REGISTER:

a. 60 days for revised labeling—the supplement should be submitted under the provisions of § 130.9 (d) and (e) of the new-drug regulations (21 CFR 130.9) which permit certain changes to be put into effect at the earliest possible time.

b. 60 days for updating information.

3. Marketing of the drug may continue until the supplemental applications submitted in accord with the preceding subparagraphs 1 and 2 are acted upon, provided that within 60 days after the date of this publication, the labeling of the preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described in this announcement. (It may continue to include the indications referenced in par. D for the period stated.)

F. *New applications.* 1. Any other person who distributes or intends to distribute such drug which is intended for the conditions of use for which it has been shown to be effective, as described under paragraph A above, should submit a new-drug application containing full information required by the new-drug application form FD-356H (21 CFR 130.4(c)). Such applications should include proposed labeling which is in accord with the labeling conditions described herein.

2. Distribution of any such preparation currently on the market without an approved new-drug application may be continued provided that:

a. Within 60 days from the date of publication of this announcement in the FEDERAL REGISTER, the labeling of such preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described herein. (It may continue to include the indications referenced in par. D for the period stated.)

b. The manufacturer, packer, or distributor of such drug submits, within 180 days from the date of this publication, a new-drug application to the Food and Drug Administration.

c. The applicant submits additional information that may be required for the approval of the application within a reasonable time as specified in a written communication from the Food and Drug Administration.

d. The application has not been ruled incomplete or unapprovable.

G. *Unapproved use or form of drug.* If the article is marketed in another form or is labeled or advertised for use in any condition other than those provided for in this announcement, it may be regarded as an unapproved new drug subject to regulatory proceedings until such form or use is approved in a new-drug application, or is otherwise in accord with announcement.

A copy of the NAS–NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 11316, directed to the attention of the appropriate office listed below, and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.

Original new drug applications: Office of Scientific Evaluation (BD–100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.

Requests for NAS–NRC report: Press Relations Staff (CE–200), Food and Drug Administration, 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, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 28, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70–14116; Filed, Oct. 20, 1970; 8:45 a.m.]

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[DESI 11919]

## XYLOMETAZOLINE HYDROCHLORIDE NASAL PREPARATIONS FOR TOPICAL USE

### Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration published an announcement in the FEDERAL REGISTER of September 23, 1970 (35 F.R. 14802), regarding the efficacy of xylometazoline hydrochloride nasal preparations for topical use. Based upon a re-evaluation of these nasal preparations, the Commissioner of Food and Drugs finds it appropriate to amend the announcement of September 23, 1970, by revising the "Indications" section appearing in paragraph C to read: "For decongestion of the nasal and nasopharyngeal mucosa."

The date of publication of this notice in the FEDERAL REGISTER amending the previous notice shall be used to compute all time periods allowed, thus superseding the time periods previously announced in the FEDERAL REGISTER of September 23, 1970.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: October 5, 1970.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[F.R. Doc. 70–14117; Filed; Oct. 20, 1970; 8:45 a.m.]

# INTER-AMERICAN SOCIAL DEVELOPMENT INSTITUTE

## CHAIRMAN OF THE BOARD OF DIRECTORS

### Resolution Delegating Authorities

The following resolution was adopted by the Board of Directors of the Inter-American Social Development Institute (Institute) at its initial meeting held at

Washington, D.C., on the third day of October 1970:

Resolved, that the Chairman of the Board be and he is hereby authorized, within the general guidelines established by the Board, to exercise all of the authorities of the Institute as are conferred upon the Institute by Part IV of the Foreign Assistance Act of 1969 (Public Law 91-175, 83 Stat. 805), or any other provision of law or regulation, except those authorities, which in the context of any such provision of law or regulation, as reserved to the Board of Directors.

Be it resolved further, that the Chairman, to the extent permitted by law or by regulation of competent authority, be and he is hereby authorized to exercise those authorities vested in the Board of Directors as "head of agency" by statute or regulation, relating to aspects of personnel authority or administration.

Be it further resolved, that the Chairman be and he hereby is authorized to sign the name of the Institute to any and all papers, agreements, or other instruments necessary to carry out the authorities conferred by this resolution.

Be it further resolved, that the authorities delegated herein may be delegated and the Chairman may authorize further redelegations.

ROBERT W. MASHEK,
*Acting Secretary.*

[F.R. Doc. 70-14152; Filed, Oct. 20, 1970; 8:47 a.m.]

# DEPARTMENT OF TRANSPORTATION

## Coast Guard

[OGFR 79-134]

## DETERMINATION OF NEED FOR ADDITIONAL LEGISLATION CONCERNING LIMITATION OF LIABILITY AND FINANCIAL RESPONSIBILITY FOR OIL SPILLS

### Study Required by Water Quality Improvement Act of 1970

1. Paragraph (4) of subsection 11(p) of the Federal Water Pollution Control Act, as amended by the Water Quality Improvement Act of 1970, Public Law 91-224, 84 Stat. 91 (Apr. 3, 1970), requires that the Secretary of Transportation, in consultation with the Secretaries of Interior, State, Commerce, and other interested Federal agencies, representatives of the merchant marine, oil companies, insurance companies, and other interested individuals and organizations, shall conduct a study of the need for measures, other than those presently contained in section 102 of the Water Quality Improvement Act of 1970 to provide financial responsibility and limitation of liability with respect to:

a. vessels using the navigable waters of the United States;

b. onshore facilities; and

c. offshore facilities.

Such measures would provide for the cost of removing discharged oil and paying all damages resulting from the discharge of such oil.

2. The Secretary of Transportation has directed the Commandant, U.S. Coast Guard to manage and conduct the study. The report of the study, together with any legislative recommendations are to be submitted to the Congress by January 1, 1971.

3. Persons and organizations interested in the subject are invited to participate in the study by submitting written data, views, arguments or comments before November 16, 1970. All submissions should be made to the Commandant, U.S. Coast Guard, 400 7th Street SW., Washington, D.C. 20591, Attention: Manager 11 P 4 Study. Each communication received within the time specified will be given full consideration before a report of the study, together with any legislative recommendations, is submitted.

Dated: October 16, 1970.

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

[F.R. Doc. 70-14157; Filed, Oct. 20, 1970; 8:48 a.m.]

# ATOMIC ENERGY COMMISSION

[Docket No. 50-336]

## CONNECTICUT LIGHT AND POWER CO. ET AL.

### Notice of Application for Construction Permit and Operating License

The Connecticut Light and Power Co., Selden Street, Berlin, Conn.; The Hartford Electric Light Co., 176 Cumberland Avenue, Wethersfield, Conn.; Western Massachusetts Electric Co., 174 Brush Hill Avenue, West Springfield, Mass.; and The Millstone Point Co., 176 Cumberland Avenue, Wethersfield, Conn. (the applicants), pursuant to the Atomic Energy Act of 1954, as amended, filed an application, dated February 27, 1969, for a permit to construct and a license to operate a pressurized water nuclear power reactor at the Millstone Nuclear Power Station, an approximately 500-acre site on Long Island Sound in the town of Waterford, Conn., about 40 miles southeast of Hartford and 3.2 miles westsouthwest of New London, Conn.

The application notes that the proposed facility will be owned and financed by The Connecticut Light and Power Co., The Hartford Electric Light Co., and Western Massachusetts Electric Co., as tenants in common. The Millstone Point Co. will act as representative of the owners with respect to design, construction, and operation of the facility.

The proposed reactor, designated as Millstone Nuclear Power Station Unit 2, is designed for initial operation at approximately 2560 megawatts (thermal), with net electrical output of approximately 828 megawatts.

A copy of the application and the amendments thereto is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Town Clerk's Office, Waterford Town Hall, 200 Boston Post Road, Waterford, Conn.

Dated at Bethesda, Md., this 9th day of October 1970.

For the Atomic Energy Commission.

FRANK SCHROEDER,
*Acting Director,*
*Division of Reactor Licensing.*

[F.R. Doc. 70-13869; Filed, Oct. 13, 1970; 8:52 a.m.]

## STATE OF MARYLAND

### Proposed Agreement for Assumption of Certain AEC Regulatory Authority

Notice is hereby given that the U.S. Atomic Energy Commission is publishing for public comment, prior to action thereon, a proposed agreement received from the Governor of the State of Maryland for the assumption of certain of the Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended. The Commission is also publishing for comment a proposed Memorandum of Understanding between the State and AEC which would accompany the agreement. The Memorandum of Understanding is made for the purpose of facilitating an agreement with the State pending resolution of the jurisdictional issue raised by the Maryland Department of Water Resources' Surface Water Appropriation Permit No. C-70-SAP-1 to Baltimore Gas and Electric Co. The permit purports to impose limits upon radionuclide concentrations in liquid waste discharged by the Company's Calvert Cliffs nuclear power station being constructed at Calvert County, Md. The legal issue of whether or not a state has authority to impose radioactivity standards on a nuclear power plant licensed by the Commission is being litigated in a cause pending before the U.S. District Court for the District of Minnesota, Northern States Power Company v. State of Minnesota (pending litigation).

A résumé, prepared by the State of Maryland and summarizing the State's proposed program for control of sources of radiation, is set forth below as an appendix to this notice. A copy of the program, including proposed Maryland regulations, is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., or may be obtained by writing to the Director, Division of State and Licensee Relations, U.S. Atomic Energy Commission, Washington, D.C. 20545. All interested persons desiring to submit comments and suggestions for the consideration of the Commission in connection with the proposed agreement should send them, in triplicate, to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545. Attention: Chief, Public Proceedings Branch, within

30 days after initial publication of this notice in the FEDERAL REGISTER.

Exemptions from the Commission's regulatory authority which would implement this proposed agreement, as well as other agreements which may be entered into under section 274 of the Atomic Energy Act, as amended, have been published in the FEDERAL REGISTER and are codified in 10 CFR Part 150.

Dated at Germantown, Md., this 16th day of October 1970.

For the Atomic Energy Commission.

W. B. McCOOL,
*Secretary of the Commission.*

PROPOSED AGREEMENT BETWEEN THE UNITED STATES ATOMIC ENERGY COMMISSION AND THE STATE OF MARYLAND FOR DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY AND RESPONSIBILITY WITHIN THE STATE PURSUANT TO SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Whereas, The U.S. Atomic Energy Commission (hereinafter referred to as the Commission) is authorized under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8 and section 161 of the Act with respect to byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, The Governor of the State of Maryland is authorized under Section 689 of Article 43 of the Annotated Code of Maryland, 1965 Replacement Volume, and 1968 Supplement, to enter into this Agreement with the Commission; and

Whereas, The Governor of the State of Maryland certified on September 30, 1970, that the State of Maryland (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas, The Commission found on _____ that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, The Commission and the State recognize the desirability of reciprocal recognition of licenses and exemptions from licensing of those materials subject to this Agreement; and

Whereas, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, it is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

ARTICLE I. Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to the following materials:

A. Byproduct materials;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

ART. II. This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

ART. III. Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

ART. IV. This Agreement shall not affect the authority of the Commission under subsection 161 b or i of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

ART. V. The Commission will use its best efforts to cooperate with the State and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

ART. VI. The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

ART. VII. The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that such termination or suspension is required to protect the public health and safety.

ART. VIII. This Agreement shall become effective on January 1, 1971, and shall remain in effect unless, and until such time as it is terminated pursuant to Article VII.

Done at _____,
in triplicate, this _____ day of _____.

FOR THE UNITED STATES ATOMIC ENERGY COMMISSION

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FOR THE STATE OF MARYLAND

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PROPOSED MEMORANDUM OF UNDERSTANDING BETWEEN THE STATE OF MARYLAND AND THE U.S. ATOMIC ENERGY COMMISSION

The State of Maryland (State) and the U.S. Atomic Energy Commission (Commission) have this date entered into an "Agreement between the U.S. Atomic Energy Commission and the State of Maryland for Discontinuance of Certain Commission Regulatory Authority and Responsibility within the State pursuant to section 274 of the Atomic Energy Act of 1954, as Amended" ("274b. Agreement"), the effective date of which is _____, 1971.

On July 10, 1970, the State's Department of Water Resources issued Surface Water Appropriation Permit No. C-70-SAP-1 to Baltimore Gas and Electric Co. (Company). Among other things, that Permit purports to impose limits upon radionuclide concentrations in liquid waste discharged by the Company's Calvert Cliffs nuclear power station being constructed at Lusby, Calvert County, Md., under Construction Permits Nos. CPPR-63 and CPPR-64, issued by the Commission on July 7, 1969.

Whether a State may lawfully impose requirements, for purposes of protection against radiation hazards, on effluents discharged from a facility licensed by the Commission is currently an issue in litigation in a cause pending before the U.S. District Court for the District of Minnesota, styled Northern States Power Company v. State of Minnesota et al. (Civil Court File No. 3-69-185 Civil).

The purpose of this Memorandum of Understanding between the State and Commission is to facilitate the parties' entry into the 274b. Agreement without prejudice to their respective legal positions on the question described in the preceding paragraph.

It is hereby agreed between the Commission and the Governor of the State acting on behalf of the State, as follows:

*First.* Nothing herein nor in the 274b. Agreement shall be construed as defining or affecting the respective rights and powers of the Commission or the State under the U.S. Constitution.

*Second.* Nothing herein nor in the 274b. Agreement shall in any manner affect or prejudice the position of either party with respect to the legal authority, or the lack thereof, of the State to impose requirements, for purposes of protection against radiation hazards, upon activities within the State licensed by the Commission.

*Third.* This Memorandum of Understanding shall be effective on January 1, 1971, and shall remain in effect so long as the 274b. Agreement remains in effect.

Done at Annapolis, Md., in triplicate, this ------ day of ----------, 1970.

FOR THE STATE OF MARYLAND

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FOR THE ATOMIC ENERGY COMMISSION

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STATE OF MARYLAND PROGRAM FOR THE REGULATION OF ATOMIC ENERGY

FOREWORD

A new cabinet level State Department of Health and Mental Hygiene was established by a legislative act of Maryland's General Assembly, effective July 1, 1969, to encompass the functions and responsibilities of the existing State Department of Health, Mental Hygiene, Comprehensive Health Planning, and Juvenile Services and the new Directorate for Mental Retardation.

The changing economic, social, and cultural characteristics of Maryland's expanding and diversified population have added to the complexities of providing high caliber health care on a large scale. The concept of an overall Department of Health and Mental Hygiene was predicated upon an urgent need to deliver comprehensive health services to the public as quickly, economically, and effectively as possible. Basic to the delivery of improved health care is coordination and effective utilization of existing services and resources in order to construct a broader and more flexible system for dealing with Maryland's health problems.

A new Directorate of Environmental Health Services was established on April 3, 1970, and its activities include air quality control, water and sewerage, solid wastes, drug control, food and milk, general sanitation, and radiological health, all formerly under the Health Department.

The Secretary of Health and Mental Hygiene is given the power to formulate and promulgate rules, regulations and standards for the purpose of promoting and guiding the development of the environmental, physical, and mental hygiene services of the State and its subdivisions. It is also the duty of the Secretary of Health and Mental Hygiene to enforce rules and regulations promulgated by the Department of Health and Mental Hygiene. The control of ionizing radiation is among specifically defined functions designated to the Secretary by legislation.

Section 274 of the Atomic Energy Act of 1954, as amended, authorizes the U.S. Atomic Energy Commission to enter into an agreement with the Governor of a State to transfer to the State certain licensing and control of byproduct, source, and special nuclear materials in quantities not sufficient to form a critical mass. The Department of Health and Mental Hygiene is prepared to accept these additional responsibilities and hereby presents a narrative description of its proposed program for the control of ionizing radiation, including naturally occurring radionuclides, accelerator produced radionuclides, and certain radiation producing machines.

The regulatory program for control of sources of ionizing radiation in Maryland will be conducted in such a manner as to protect the public health and safety, and at the same time to encourage the constructive uses of radiation. Every effort has been made to make this program compatible with the regulatory program of the U.S. Atomic Energy Commission and continued compatibility will be maintained. Uniformity with the regulatory programs of other agreement States will be maintained insofar as possible.

The Governor on behalf of the State of Maryland is authorized to enter into an agreement with the Federal Government providing for the State to assume certain responsibilities with respect to sources of radiation. This authority is granted in Article 43, section 689 of the Annotated Code of Maryland (1965 Replacement Volume and 1968 Supplement).

CHRONOLOGY OF EVENTS RELATING TO RADIATION CONTROL

LEGISLATIVE

*1960.* The "Radiation Protection Act" was enacted by the General Assembly. This Act set forth public policy regarding uses of ionizing radiation, and of radiation control. The Maryland State Board of Health and Mental Hygiene was empowered to formulate and promulgate, amend and repeal rules and regulations controlling sources of radiation. The Act also created the Radiation Control Advisory Board to review policies and programs of the Board, and to consult with and render advice to the Board on problems, procedures, and matters relating to radiation.

*1962.* A bill was passed by the General Assembly to add a new section to the "Radiation Protection Act", providing generally for the Governor to enter into agreements with the Federal Government for discontinuance of certain responsibilities in respect to radiation and the assumption thereof by the State.

*1963.* On April 30, Governor Tawes signed into law House Bill 555 making Maryland party to the Southern Interstate Nuclear Compact.

*1966.* The Governor's Advisory Committee on Nuclear Energy became the "Advisory Commission on Atomic Energy" by special Act of the Legislature in June. Its purpose, as declared, is "to advise the Governor and the State Government concerning matters arising from the peaceful application of atomic energy."

*1967.* A section was added to the Radiation Protection Act in June to permit the State Board of Health and Mental Hygiene to license radioactive materials.

*1969.* Article 41, section 206 of the Annotated Code of Maryland (1965 Replacement Volume and 1969 Supplement) created a Department of Health and Mental Hygiene as a Principal Department within the Executive Branch to be headed by a Secretary. The State Board of Health and Mental Hygiene was abolished and replaced by the Department of Health and Mental Hygiene.

GOVERNOR'S APPOINTMENTS, BOARD, AND ADVISORY BODY ACTIONS

*1957.* Recognizing the potential public health implications of the rapidly growing field of nuclear energy, the Director of Health called together a group of knowledgeable persons in mid-1957 to meet with selected staff members to discuss the problem. An informal advisory committee was the outgrowth of this meeting.

*1959.* A Governor's Advisory Committee on Nuclear Energy was appointed to make recommendations on State policy with respect to proper development of peacetime uses of nuclear energy.

The U.S. Congress passed Public Law 86-373 in September providing legislative means for the Atomic Energy Commission to transfer to States the responsibility for the regulation of the use of radioisotopes, the source materials and prescribed quantities of fissionable materials. Recommendation was made to the Department, both by the Radiation Control Advisory Board and by the Governor's Advisory Committee on Nuclear Energy, that preparation should be made to assume this responsibility from the AEC so the State could increase its capacity to protect the health and safety of its citizens from the hazards of ionizing radiation.

*1961.* Henry T. Douglas, Chief of Planning, Maryland Port Authority, was appointed as the Maryland representative to the Southern Interstate Nuclear Board.

*1963.* The "Regulations Governing Radiation Protection" were approved by the Radiation Control Advisory Board and adopted by the State Board of Health and Mental Hygiene on September 27, 1963, to become effective January 1, 1964. These regulations were primarily for X-ray control.

*1969.* A contract between the U.S. Atomic Energy Commission and the Maryland State Department of Health was signed as a part of a Pilot Program of the U.S. AEC in developing a centralized system for the recording of occupational exposure to radiation. This contract generally requires the State to furnish to the Commission reports on radiation exposure received by persons employed by Maryland registrants who are required to so register pursuant to the Radiation Protection Act of 1960.

*1970.* April 3. A Directorate of Environmental Health Services was established by the Secretary of Health and Mental Hygiene. This action placed environmental health services on a level equal to that of the Department of Health, Department of Mental Hygiene, and others under the State Department of Health and Mental Hygiene.

July 9. At a formal meeting, the Radiation Control Advisory Board voted its approval of Maryland's becoming an agreement State and approved new regulations drafted for the purpose of assuming the additional regulatory functions.

August 17. The new "Regulations Governing Radiation Protection" were adopted by the Secretary of Health and Mental Hygiene.

HISTORY OF DEPARTMENT ACTIVITIES IN RADIATION CONTROL

For at least 20 years, the State of Maryland has been concerned with some aspect of the problem of protecting the public health against overexposure to ionizing radiation. Health Department records show that a survey of an X-ray machine was made on October 14, 1947, by Industrial Health personnel using a newly purchased survey meter. Later, that same month, members of the staff attended a meeting discussing the Evaluation and Control of Health Hazards Associated with the use of radioactive materials.

In 1956, Maryland was among the first States to join the U.S. Public Health Service's Radiation Surveillance Network. The purpose of this nationwide sampling network was to determine the amount of radioactive fallout in air and precipitation.

During 1957, several industrial X-ray installations were surveyed by the Industrial Hygiene Section as a part of their overall plant inspections. This attention to ionizing radiation was expanded in 1958 to include radium surveys of the Hearing Clinics at several County Health Departments, and radiation protection surveys of all X-ray installations located in County Health Department clinics.

In 1958 the Department purchased an internal proportional counter for gross beta determinations on some streams used as public water supply sources.

In 1959 the Department assigned two chemists to conduct radiation laboratory analyses, and in 1960 began securing a limited amount of additional laboratory and field equipment to initiate monitoring in the Maryland vicinity of the authorized nuclear power generating station at Peach Bottom, Pa., on the Susquehanna River. Operation of a radiological milk sampling station was begun in Baltimore in August of 1960 as a part of the Public Health Service Pasteurized Milk Network.

During the academic year 1959-60, a staff member was sent to Harvard University and Brookhaven National Laboratory to obtain

a masters degree in Radiological Health under an Atomic Energy Commission Fellowship. Upon completion of the training, he was placed in charge of developing a radiation protection program as head of a newly created Radiation Protection Section in the Division of Occupational Health.

In 1962 a Public Health Radiation Specialist was added to the staff to assist in the evaluation and correction of hazards associated with the use of X-ray machines.

Because of an increase in nuclear weapons testing in 1962 and the resulting increase in radioactive fallout from the atmosphere, Maryland intensified its environmental surveillance program. Air sampling stations were set up at nine new locations, and water was sampled from various locations on nine streams and other bodies of water on a routine basis.

In 1963 a second Public Health Radiation Specialist was added to the staff to give special attention to radium, other radionuclides, and environmental surveillance; and to assist in planning for Maryland's entry into an agreement with the Atomic Energy Commission.

A dental X-ray Surpac Survey begun 2 years earlier was completed in 1963. In excess of 1,350 dental X-ray units were surveyed during this period. The Surpac had been developed to be used in a "mail-order" type survey; however, personal visits to the dentists' offices were found to be more beneficial and the program included these visits. Collimation and filtration corrections where required were subsequently made on all of the surveyed units.

During the summer months of 1963 a survey of 202 Baltimore physician office X-ray units located in 129 installations was made in cooperation with the Baltimore City Health Department and the approval of the Baltimore City Medical Society. The principal purpose of the project was to estimate the degree to which existing X-ray units employed by this segment of the medical profession met minimum standards established by the National Committee on Radiation Protection and Measurements as published in "Handbook 76" of the National Bureau of Standards, and the "Suggested State Regulations for Control of Radiation" prepared by the Council of State Governments. Additional objectives of the survey were to:

1. Obtain a basis for extending the estimate of the condition of the medical X-ray units in use in the city to those in the State.
2. Provide field experience in survey techniques for City Health Department personnel.
3. Develop a field survey form and report for machine owners.

The special survey disclosed that more than 75 percent of the units were deficient in one or more items considered to meet minimum standards.

Beginning in June of 1963, a special University Course entitled "Fundamentals of Radiation and Healthful and Safe Management of Ionizing Radiation," cosponsored by the AEC and the State Department of Health, was offered at Loyola College in Baltimore. Combination lectures and laboratory sessions or site visitations were held one afternoon each week for an academic year. Loyola College faculty members organized and taught the course with the assistance of guest lecturers. Three persons from the Division of Occupational Health (two of them from the Radiation Protection Section) completed the course. Several staff members from the Baltimore City Health Department, and some of the county health departments also participated. A local hospital and one industrial firm also sent one person each to the course.

The registration of sources of ionizing radiation, except exempt radioactive material and radioactive material licensed by the AEC, required by the new Maryland "Regulations Governing Radiation Protection" was begun in January 1964.

An extensive State-wide environmental surveillance plan was developed during 1964. The plan, involving the cooperation of numerous other divisions of the Department and other Agencies, prescribed sampling and the radio-analysis of samples taken throughout the State from the following media:

1. Air.
2. Milk.
3. Water.
   a. Rain.
   b. Surface Streams.
   c. Public Water Supplies (surface, wells, and springs).
4. Aquatic Life.
5. Soil and Vegetation.

In 1965, four new positons for the Radiation Protection Section were authorized and subsequently filled. Three of the new positions were for health physicists to work in the X-ray survey program, and one health physicist to work in the radionuclide program.

On July 1, 1967, the Radiation Protection Section became the Division of Radiological Health as part of a Departmental organizational change.

CURRENT DEPARTMENT ACTIVITIES IN RADIATION CONTROL

There are currently 3,801 X-ray units registered at 2,306 installations in the State. Of the units registered 3,463 (or approximately 91 percent) have been inspected at least once. At this time 3,137 (approximately 82 percent of those registered) are in conformance with the regulations. About 75 percent of the units surveyed were either in conformance at the time of the survey, or were brought into conformance by the surveyors, who can make minor corrections on the spot.

During 1968 color T.V. sets were surveyed in the homes of the owners at the owners specific request. Of the 530 sets inspected, 38 sets were found to be emitting 0.5 mR/hr or more with no obvious correlation to manufacturer. During 1969, 487 sets were inspected with 30 sets found to be emitting in excess of 0.5 mR/hr.

There are 54 radium installations registered all of which have been inspected with 41 percent showing deficiencies in good health and safety practices that have since been corrected. Leak testing of radium sources is performed by the staff during these inspections. At the present; resurveys of radium installations are in progress. Radium utilization is indicated as follows: 44 percent, private medical practices; 32 percent, hospitals; 17 percent, industrial applications; and 7 percent, educational institutions. Sixty percent of the total registrants are located in Baltimore City and employ 72 percent of the total radium inventory registered. One-half of the Baltimore City registrants are practicing physicians. There are 10 hospitals registered representing one-third of the total radium inventory registered in the State. The Department has been called upon to assist in searches for lost radium sources and in other radium incidents. There has been no problem of lack of communication on the part of radium users with the Department in these instances. Lost radium sources have been located by the Department personnel in some cases.

The number of applications for the utilization of radioactive material increased approximately 6 percent in Maryland during 1969. As of December 31, 1969, an additional five facilities were recorded as licensees of the U.S. Atomic Energy Commission which had issued 20 new licenses for the utilization of radioactive material in the State during the past year. Two hundred and thirteen individual Maryland based licensees are using radioactive material as authorized by 366 AEC licenses. Sixty-five percent of the AEC licensees are located in Baltimore City, Montgomery County, Baltimore County, and Prince Georges County in descending order. Approximately 45 percent or 96 AEC licensees possess and use r.dioactive material in Baltimore City and Montgomery County.

Authorized use of radioactive materials approximates 4.5 million curies of byproduct material, 1,000 kgs. of special nuclear material, and 25 tons of source material. Of the 4.5 million curies of byproduct material, approximately 91 percent is authorized for industrial applications, 1 percent for medical diagnosis and therapy, and 8 percent for research and special projects.

Health Department staff members have accompanied AEC inspectors on inspections of licensees within the State for many years. During the last 6 years, these accompanying visits have been made in 95 percent of the inspections. This opportunity has allowed Division of Radiological Health staff members to gain valuable experience in the conduct of inspections of byproduct, source, and special nuclear material licenses.

In March of 1970 a new section, Nuclear Facilities and Environmental Surveillance was established within the Division of Radiological Health to increase the Division's capacity to deal with new problems arising from the expansion of nuclear power. The greatest potential source of manmade radioactive contamination of the environment is no longer fallout from nuclear weapons testing, but discharges from large nuclear facilities. Therefore, the Calvert Cliffs Nuclear Power Station being constructed in Maryland on the Chesapeake Bay by the Baltimore Gas and Electric Co. has been given high planning priorities in environmental surveillance and emergency procedures.

PROGRAM DESCRIPTION

The Secretary of Health and Mental Hygiene by law (Articles 41 and 43, 1965 Replacement Volume, 1969 Supplement) has the authority for regulating, licensing and inspecting sources and uses of radioactive materials and machines and devices producing ionizing radiation.

The radiation control program will be carried out by the Division of Radiological Health, an organizational division of the Bureau of Consumer Protection of the Directorate of Environmental Health Services.

Laboratory services for the program are provided by the Radiation Laboratory of the Division of Environmental Chemistry in the Bureau of Laboratories. Although the radiation laboratory is not administratively located in the Division of Radiological Health; it operates exclusively for the Radiological Health Program, and receives technical guidance from the Division staff, and from the Director of the Bureau of Consumer Protection.

*Licensing and registration.* The registration of all radiation producing machines is required except those specifically exempted in accordance with the regulations. The registrant shall be subject to all applicable requirements of the regulations and at the time of registration shall designate an individual, qualified by training and experience, to be responsible for radiation protection practices such as:

1. Recommending a radiation safety program adequate to meet applicable requirements of the regulations.
2. Giving instructions concerning hazards and safety practices.

3. Making surveys as required. This registration program will be similar to current registration activities.

Licensing of radioactive materials will be required as set forth in Part B of the regulations.

Licensing procedures and criteria will be consistent with those of the Atomic Energy Commission.

General Licenses are effective by regulation without the filing of applications with the Division or the issuance of licensing documents. General licenses are issued for specified materials under specified conditions when it is determined that the issuance of specific licenses is not necessary to protect the public and occupational health and safety. Specific licenses or amendments thereto are issued upon review and approval of an application. A specific licensing document will be issued to named persons and will incorporate appropriate conditions and expiration date.

The Chief of the Division of Radiological Health and the Head of the Radionuclide Section will evaluate license applications.

When appropriate, the Division will request the advice of the Radiation Control Advisory Board with respect to any matter pertaining to a license application or to criteria for reviewing applications. A Medical Advisory Committee has been appointed to provide advice and consultation on applications for nonroutine administration of radioisotopes to human beings, physician qualifications and research protocols.

*Inspection.* Staff personnel will conduct inspections of licensees and registrants to determine compliance with regulations promulgated by the Department and to determine the adequacy of the radiation protection program. Inspections will be performed under the supervision of the heads of the Radionuclide and X-ray Sections. Three health physicists will perform inspections of radiation producing machines. Two health physicists will perform radioactive materials inspections.

Inspection frequency for radioactive material licensees will be based upon the extent of the hazard potential and experiences with the particular facility. It is expected that all specific licensees will be inspected at least once each 2-year period.

The following frequency is anticipated.

| *Classification* | *Usual inspection frequency* |
|---|---|
| Industrial radiography: | |
| Fixed installations | Once each 12 months. |
| Mobile installations | Once each 6 months. |
| Commercial waste disposal operations | Once each 6 months. |
| Broad licenses: Industrial, Medical, or Academic | Once each 6–12 months. |
| Teletherapy licenses | Within 6 months of source installation, then once each 12 to 24 months. |
| Other specific licenses | Once each 12–24 months. |

Inspections will be made by prearrangement with the licensee or may be unannounced at reasonable times, as the Division, in its judgment, determines to be most constructive. Consultation visits will be made frequently in the early years of the licensing and compliance program in order to establish understanding and cooperation. It will be the policy of the Division to conduct prelicensing visits and to offer constructive assistance in licensing matters prior to issuance of a license for a new application for radioactive material utilization or for a significant amendment to an existing license.

Inspections will include the observation of pertinent facilities and equipment; a review of use procedures and radiation safety practices; a review of records of radiation surveys, personnel exposure, and receipt and disposition of licensed materials; and instrument surveys to assess radiation levels incident to the operation—all as appropriate to the scope and conditions of the license and applicable regulations.

At the start and conclusion of an inspection, personal contact will be at management-level whenever possible. Following the inspections, results will be discussed with the licensee management, appropriate tentative recommendations will be made and questions answered.

Investigations will be made of all reported or alleged incidents to determine the conditions and exposures incident thereto and to determine the steps taken for correction, cleanup, and the prevention of similar incidents in the future.

Radiological assistance in the form of monitoring, liaison with appropriate authorities, and recommendations for area security and cleanup will be available from the Division.

Reports will be prepared covering each inspection or investigation. The reports will be reviewed by a senior staff member and submitted to the Division Chief for approval.

In general, facilities or registrants of radiation machines are scheduled for inspections according to the following listing:

| Priority | Type | Comments |
|---|---|---|
| I | Request inspections | Announced or unannounced in response to requests from owners, users, health authorities, or other responsible persons. |
| II | Follow-up inspections | Announced or unannounced. To insure correction of items of nonconformance noted in other inspection activities which create danger to public or occupational health and safety. |
| III | Initial inspections | Announced; initiated by the Division. |
| IV | Reinspections | Announced; usually scheduled because of changes in the nature of the equipment, facilities, or procedures made after completion of the initial inspection. |

It is the intention of the Department to inspect all facilities having radiation machines as often as possible giving priority on the basis of workload. The establishment of a 3-year reinspection cycle is now the Department goal.

*Compliance and enforcement.* The status of compliance with regulations, registration, or license conditions will be determined through inspections and evaluations of inspection reports.

When there are items of noncompliance, the licensee will be so informed at the time of inspection. When the items are minor and the licensee agrees at the time of inspection to correct them, written notice at the completion of the inspection will list the items of noncompliance, confirm corrections made at the time, and inform the person that a review of other corrective action will be made at the next inspection.

Where items of noncompliance of a more serious nature occur, the licensee will be informed by letter of the items of noncompliance and required to reply within a stated time as to the corrective action taken and the date completed. Assurance of corrective action will be determined by a follow-up inspection or at the time of the next regular inspection.

Upon request by the licensee, the terms and conditions of a license may be amended, consistent with the Act or regulations, to meet changing conditions in operations or to remedy technicalities of noncompliance of a minor nature. The Department may amend, suspend, or revoke a license whenever, after hearing, it is determined that a licensee has failed to comply with the State law or regulations.

The Department will use its best efforts to attain compliance through cooperation and education. Only in instances where real or potential hazards exist, or cases of repeated noncompliance or willful violation will the full legal procedures normally be employed.

Whenever the Department finds that an emergency exists requiring immediate action to protect the public health or welfare, it may issue an order reciting the existence of such an emergency and requiring that such action be taken as it deems necessary to meet the emergency. Such order shall be effective immediately. The Department is empowered to impound or order the impounding of sources of ionizing radiation in the possession of any person who is not equipped to observe or fails to observe the provisions of the Radiation Protection Act or regulations promulgated thereunder.

*Reciprocity.* The regulations provide for the recognition of licenses issued by the U.S. Atomic Energy Commission or other agreement States.

*Emergency response.* The Division of Radiological Health possesses trained manpower and equipment capability to respond under emergency conditions in the event of any incident in the State involving radioactive material. Each member of the Division is subject to call on a continuous basis in case of any radiological emergency. Competency exists to take complete charge of the radiological recovery program or to give assistance and guidance to another agency. A program of mutual assistance with other agencies such as the police, fire, and Federal agencies is actively pursued. A formal plan for radiological emergency assistance will be prepared.

*Instrumentation.* The Division of Radiological Health is equipped with portable area and personnel monitoring equipment.

*Rate meters.*

*Alpha.* 1—Eberline Model PAC—1SAGA scintillation counter.
(a) AC–3 detector.
(b) RASP detector.
1—Eberline Model PAC–ISA.
1—Eberline Model PAC–IS.
(a) AC–3 detector.
1—Eberline Model PAC–3G gas proportional counter.

*Beta Gamma.* 1—Eberline Model E500B GM survey meter.
(a) Model HP–180A detector.
(b) Model HP–177A detector.
1—Ludlum Model 14A GM survey meter.
1—Jordan Model 457 GM area monitor.
1—Victoreen Thyac II Model 459 GM survey meter.
4—Nuclear Corp. of America Model CS–40A.

*Gamma.* 1—Eberline PG–1 Plutonium gamma detector for use with PAC–1SAGA.

*Integrating meters.*

4—Victoreen Model 570 condenser R meters.
(a) 8—25 R chambers.
(b) 3—10 R chambers.
(c) 3—0.25 R chambers.
(d) 3—0.025 R chambers.
1—Victoreen Minometer II.

(a) 3—0.01 R chambers.
(b) 10—0.2 R chambers.
5—Dosimeter chargers.
6—Dosimeters (0–200 mR).
8—Dosimeters (0–2R).
4—Dosimeters (0–20R).
1—Dosimeter (0–100R).
*Standby emergency equipment.*
7—CDV 700.
2—CDV 715.
2—CDV 720.
The Radiation Laboratory includes a chemistry laboratory for the preparation of samples and a counting facility.
*Laboratory Equipment.*
1—Beckman—Wide Beta II—Low Background Automatic Pianchett Counting System.
1—Beckman—Liquid Scintillation Spectrometer Model LS–133.
1—Victoreen Tullamore Model ST 400 DL Analyzer.
(a) 1—Monroe Model MC 10–40 paper tape printer.
(b) 1—Photovolt Varicord Model 43 strip chart recorder.
(c) 1—3 x 3 NaI crystal.
(d) 2—2 x 2 NaI crystals.
(e) 1—Victoreen 3-inch universal shield.
1—Nuclear Measurements Corp. scaler, Model DS1A.
(a) 1—Internal proportional converter; Model RCC–11A.
(b) 1—Universal shield with NMC end window GM Detector.
*Standby Equipment.*
1—Low level Beta counting system. W. R. Johnston Lab., Inc., Model D with 5-channel analyzer and 36 sample capacity automatic sample changer.
(a) 6-inch steel shield (from Battleship U.S.S. Hawaii—preatomic age steel).
(b) 1—large window, gas flow, GM counter window 10" x 8".
(c) 1—2 pi counter.
(d) 3—Libby foil flow counters.

STAFF

Current staff qualifications follow. Future replacements and additions will be similarly qualified.

DIRECTOR, BUREAU OF CONSUMER PROTECTION

*Education and Training.*
B.S. Chemistry—Johns Hopkins University, 1955.
M.P.H. Environmental Medicine—Johns Hopkins School of Public Health and Hygiene, 1957.
S.M. Hygiene—Environmental Health—Harvard School of Public Health 1960 (AEC-Fellowship) Summer-Brookhaven National Laboratory.
USPHS Training Courses:
Basic Radiological Health, Cincinnati, Ohio.
Reactor Safety and Hazards Evaluation, Cincinnati, Ohio.
Medical X-Ray Protection, Rockville, Md.
Management of Radiation Accidents, Rockville, Md.
Introduction to Automatic Data Processing System, Rockville, Md.
Radium Hazards and Control, Rockville, Md.
AEC Training Courses: Three-week Orientation Course—(Licensing Practices).
*Experience and Related Activity.*
Present Maryland State Health Department:
1942–1951—Chemist — In-Charge—Eastern Shore Chemical Lab.
1951–1960—Chemist—Industrial Health—Air Pollution. Instrumental in establishing PHS environmental radiation surveillance monitoring system.
1960–1965—Head, Radiation Protection Section. Responsible for developing radiation protection program in Maryland.
1965–1966—Chief, Division of Occupational Health. Supervised radiological, industrial health, and air pollution programs.
1966—Present—Director, Bureau of Consumer Protection. Establishes and directs the programs and policies and coordinates the operation of the four divisions of the Bureau; namely, Radiological Health, Food and Milk, Drug Control, and General Sanitation.

CHIEF, DIVISION OF RADIOLOGICAL HEALTH

*Education and Training.*
B.S. Chemistry—University of Denver, 1948.
Math—University of Tennessee, 1958–59.
USPHS Training Courses:
Basic Radiological Health, Rockville, Md., 1963.
Medical X-Ray Protection, Rockville, Md., 1964.
Radium Hazards and Control, Rockville, Md., 1965.
Reactor Safety and Hazards Evaluation, Rockville, Md., 1968.
Training Conference on Nonionizing Radiation, Rockville, Md., 1969.
USAEC Training Courses:
University: Fundamentals of Radiation and Healthful and Safe Management of Ionizing Radiation, Loyola College, Baltimore, Md. (essentially equivalent to the academic portion of the 10-Week Course in Health Physics and Radiation Protection), 1963–64.
Orientation Course in Regulatory Practices and Procedures, Bethesda, Md., 1964 and 1966.
Applied Health Physics, Oak Ridge, Tenn. (3 weeks), 1967.
*Experience and Related Activity.*
1953–54—Trustees of the Public Water Works, Pueblo, Colo., Chemist. Assistant to Laboratory Supervisor.
1954–60—Oak Ridge National Laboratory, Oak Ridge, Tenn., Chemist. Shift supervisor in High Radiation Level Analytical Facility.
1960–62—Martin Marietta Corp., Baltimore, Md., Chemist. Responsible for development of methods for radiochemical separation and purification of radioisotopic fuel sources.
1962—United Nuclear Corp., Pawling, N.Y. Chemist. Responsible for plutonium product chemistry.
1962—U.S. Army Edgewood Arsenal Nuclear Defense Laboratory, Edgewood, Md. Chemist. Radiochemistry research and development.
1963–Present—Maryland State State Department of Health, Baltimore Md.
1963–66—Public Health Radiation Specialist. Responsible for radionuclide program and statewide environmental radiation surveillance program. Assisted in X-ray registration and inspection program.
1966–67—Head, Radiation Protection Section. Responsible for administration of radiological health program.
1967–Present—Chief, Division of Radiological Health. Responsible for administration of radiological health program on the divisional level.

PUBLIC HEALTH RADIATION SPECIALIST

*X-Ray Section*

*Education and Training.*
B.S. Physics—Loyola College, Baltimore, Md., 1942.
USPHS Training Courses:
Basic Radiological Health.
Medical X-Ray Protection.
Occupational Radiation Protection.
Radiation Safety in Industrial Radiography.
Training Conference on Nonionizing Radiation, Rockville, Md.
Special Courses:
Health Physics and Radiographic Safety—Budd Co.
Safe Handling of Radioisotopes—Picker X-Ray Co.
USAEC Training Courses: Ten-Week Course in Health Physics.
*Experience and Related Activity.*
1955–65—Roberts and Randolph Ultrasonics Co.—Nondestructive testing including X-ray.
1965–Present—Maryland State Health Department, Public Health Radiation Specialist. Responsible for registration, utilization, and surveillance of X-ray installations.

PUBLIC HEALTH RADIATION SPECIALIST

*Radionuclide Section*

*Education and Training.*
B.S. Chemistry—Heidelberg College, Tiffin, Ohio, 1940. Graduate Chemistry—Ohio State University, 1948.
USPHS Training Courses:
Basic Radiological Health.
Medical X-Ray Protection.
Training Conference on Nonionizing Radiation, Rockville, Md.
USAEC Training Course: Orientation Course in Regulatory Practices and Procedures.
*Experience and Related Activity.*
1948–52—General Electric Co., Richland, Wash., Radiochemist.
1952–56—General Electric Co., Richland, Wash., Health Physics Supervisor.
1956–58—USAEC Chicago, Ill. Tech. Rep.—Nuclear Materials.
1958–62—USAEC Pittsburgh, Pa., Branch Chief Nuclear Materials Management.
1962–68—Martin Marietta Corp., Baltimore, Md., Nuclear Materials and Licensing Representative.
1968–Present—Maryland State Health Department, Public Health Radiation Specialist. Responsible for licensing, utilization, and control of all radionuclides.

PUBLIC HEALTH RADIATION SPECIALIST

*Nuclear Facility and Environmental Surveillance Section*

*Education and Training.*
B.S. Mathematics—St. Michael's College, Winooski Park, Vt., 1952.
Training Courses:
Nuclear Instrumentation Fundamentals and Standardization—Brookhaven National Laboratory (BNL).
Principles of Film Dosimetry (BNL).
Reactor Theory (BNL).
Radioactive Waste Management (BNL).
Environmental Surveillance (BNL).
Hot Laboratory Equipment—Design Features (BNL).
Fundamentals of Nuclear Engineering—Bethlehem Steel Co.
Basic Radiological Health USPHS.
*Experience and Related Activity.*
1952–56—U.S. Navy—Electronics and Communications.
1956–60—Brookhaven National Laboratory—Upton, N.Y., Health Physicist—BNL Graphite Reactor. Health Physics Supervisor—BNL Radiochemistry Department, Hot Machine Shops and Hot Laboratory.
1960–61—Bethlehem Steel Co. Shipbuilding Division—Quincy, Mass., Assistant Health Physics Engineer—Naval Nuclear Reactor Project.
1961–68—Martin Marietta Corp., Nuclear Division, Baltimore, Md., Senior Health Physicist—Chief Health Physicist 1964.
1968–70—Isotopes Nuclear Systems Division, Baltimore, Md. (formerly Martin Marietta Corp., Nuclear Division) Chief Health Physicist.

1970–Present—Maryland State Department of Health, Public Health Radiation Specialist. Responsible for review of in-state nuclear facilities and environmental surveillance.

HEALTH PHYSICIST III

*X-Ray Section*

*Education and Training.*
B.A. Physics—Syracuse University, Syracuse, N.Y., 1953.
M.A. Physics—University of Buffalo, Buffalo, N.Y., 1959.
M.A. Physics—The Johns Hopkins University, Baltimore, Md., 1967. Thesis Title (M.A. 1959) "Electron Stopping Powers of Gases Relative to Air".
USPHS Training Course: Basic Radiological Health, 1970.
*Experience and Related Activity.*
1951–56—Rome Air Development Center, Rome, N.Y., Physicist (Electronic Engineer) (Summers).
1953–57—The University of Buffalo, Buffalo, N.Y., Teaching Assistant.
1957–59—Roswell Park Memorial Institute, Buffalo, N.Y., Radiological Physicist.
1959–68—The Johns Hopkins University, Carlyle Barton Lab. Research Staff (Res. in microwaves, optics, lasers).
1968–70—Baltimore Biological Laboratory, Cockeysville, Md., Project Engineer (Physicist)—Product and Instrument Development in Bacteriology and Serology.
1970–present—Health Physicist III, Division of Radiological Health, Maryland State Department of Health.

HEALTH PHYSICIST III

*Radionuclide Section*

*Education and Training.*
B.S. Biology—Pembroke State College, 1956.
USPHS Training Courses:
Basic Radiological Health.
Medical X-ray Protection.
Occupational Radiation Protection.
US AEC Training Courses:
Ten-week Health Physics Course.
Orientation Course in Regulatory Practices and Procedures.
Manhattan College Radiography Course for State Regulatory Personnel.
*Experience and Related Activity.*
1959–62—Sinai Hospital, Clinical Lab Technician.
1962–65—Strasburger and Siegal, Bacteriological Assays.
1965–present—Maryland State Health Department, Health Physicist (X-ray and Radionuclide Programs).

HEALTH PHYSICIST II

*X-Ray Section*

*Education.*
B.S. Biology—Campbell College, 1965.
USPHS Training Courses:
Basic Radiological Health.
Medical X-Ray Protection.
Occupational Radiation Protection.
*Experience.*
1966–Present—Maryland State Health Department, Health Physicist (X-Ray).

HEALTH PHYSICIST II

*X-Ray Section*

*Education.*
B.S. Physical Education—University of Maryland, 1965.
USPHS Courses:
Basic Radiological Health.
Medical X-Ray Protection.
Occupational Radiation Protection.
*Experience.*
1965–Present—Maryland State Health Department, Health Physicist (X-Ray).

HEALTH PHYSICIST II

*Radionuclide Section*

*Education and Training.*
B.S. Physics—Morgan State College, Baltimore, Md., 1967.
M.S. Radiological Health—North Dakota State University, Fargo, N. Dak., 1969.
Organic Chemistry—Towson State College, Baltimore, Md., 1967.
*Experience and Related Activity.*
1967—Bendix Corp., Baltimore, Md., Reliability Engineer and Computer Programer.
1968—State Department of Health, Bismarck, N. Dak., Environmental Health Trainee—Radionuclide and X-Ray Inspections.
1969—University Hospital of San Diego County, San Diego, Calif.—Radiation Safety Officer including responsibility for personnel safety, monitoring, waste control, and patient dose calculations.
1970—Morgan State College, Baltimore, Md., Anatomy and Physiology Instructor.
August 1970—Maryland State Department of Health and Mental Hygiene, Health Physicist—Radionuclide Program.

RADIOCHEMIST

*Radiation Laboratories, Bureau of Laboratories*

*Education and Training.*
B.S. Chemistry—Johns Hopkins University, 1957.
USPHS Training Courses:
Radionuclide Analysis by Gamma Spectrometry.
Introduction to Automatic Data Processing.
Ion-Exchange Workshop.
USAEC Training Courses: Health Physics, Loyola College, Baltimore, Md.
Special Courses:
Theory and Operation of Channel-Analyzer—Victoreen Instrument Co.
Radiation Chemistry—Sponsored by A.C.S.
*Experience and Related Activity.*
1959–Present—Maryland State Health Department, Radiochemist—Responsible for analysis of radiological surveillance samples.

LABORATORY SCIENTIST I (RADIOCHEMISTRY)

*Radiation Laboratory Bureau of Labs*

*Education and Training.*
B.S. Biology—Towson State College, 1968.
Additional College Courses, Towson State College:
Calculus.
General Physics.
USPHS Training Course: Basic Radiological Health.
*Experience and Related Activity.*
September 1966–January 1968—Math-Science Teaching Baltimore County.
January 1968–January 1969—Claims Adjustor, U.S. Government.
August 1969–present—Maryland State Health Department, Analysis of Environmental Surveillance Samples.

LABORATORY TECHNICIAN (RADIOCHEMISTRY)

*Radiation Laboratory Bureau of Labs*

*Education and Training.*
Graduate Eastern High School—Academic Curriculum, 1967.
College Courses:
Chemistry.
General Botany.
Microbiology.
*Experience.*
1967–present—Maryland State Health Department, Environmental Surveillance Sample Preparation and Counting.

[F.R. Doc. 70-14173; Filed, Oct. 20, 1970; 8:49 a.m.]

# CIVIL AERONAUTICS BOARD

[Docket No. 22605; Order 70-10-81]

## COMBS AIRWAYS, INC.

### Order To Show Cause

Issued under delegated authority October 14, 1970.

The Postmaster General filed a petition on September 25, 1970, pursuant to 14 CFR, Part 298, requesting the Board to establish for the above captioned air taxi operator, a final service mail rate of 68.8 cents per great circle aircraft mile for the transportation of mail by aircraft between Gary and Indianapolis, Ind., based on five round trips per week. There is no certificated service between these points.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Aero Commander Model 500-B aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the petition and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Combs Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 68.8 cents per great circle aircraft mile between Gary and Indianapolis, Ind., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR, Part 302, 14 CFR, Part 298, and 14 CFR 385.16(f),

*It is ordered*, That:

1. Combs Airways, Inc., the Postmaster General, and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as

[1] This order to show cause is not a final action and is not regarded as subject to the review provisions of 14 CFR, Part 385. These provisions will be applicable to final action taken by the staff under authority delegated in § 385.16(g).

the fair and reasonable rate of compensation to be paid to Combs Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served upon Combs Airways, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

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

[F.R. Doc. 70-14179; Filed, Oct. 20, 1970; 8:49 a.m.]

# CIVIL SERVICE COMMISSION

## DEPARTMENT OF COMMERCE

### Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Assistant Secretary for Economic Development.

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

[F.R. Doc. 70-14135; Filed, Oct. 20, 1970; 8:46 a.m.]

## FARM CREDIT ADMINISTRATION

### Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Farm Credit Administration to fill by noncareer executive assignment in the excepted service the position of Deputy Director of Short-Term Credit Service.

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

[F.R. Doc. 70-14138; Filed, Oct. 20, 1970; 8:47 a.m.]

## ASSISTANT COORDINATOR OF INFORMATION SYSTEMS, LIBRARY OF CONGRESS

### Manpower Shortage; Notice of Listing

Under the provisions of 5 United States Code 5723, the Civil Service Commission has found on October 2, 1970, that there is a manpower shortage for the single position of Assistant Coordinator of Information Systems, Library of Congress, Washington, D.C. The appointee may be paid for the expenses of travel and transportation to his first post of duty.

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

[F.R. Doc. 70-14144; Filed, Oct. 20, 1970; 8:47 a.m.]

# FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19044; FCC 70-1083]

## KOTA CABLE TV CO. AND MINNESOTA MICROWAVE, INC.

### Memorandum Opinion and Order Designating Matters for Hearing on Stated Issues

1. The Commission has before it: (a) A formal complaint filed on January 28, 1970, by KOTA Cable TV Co. (KOTA), a corporation engaged in the ownership and operation of community antenna television systems in South Dakota, against Minnesota Microwave, Inc., a miscellaneous common carrier engaged in point-to-point microwave radio service; (b) an answer, designated "Reply", filed on March 20, 1970, by defendant, Minnesota Microwave, in which there is a request for dismissal of KOTA's complaint; (c) a reply from KOTA filed on April 17, 1970.

2. In its complaint KOTA contends that Minnesota Microwave has acted in contravention of sections 201 and 202 of the Communications Act of 1934. Specifically, KOTA avers that the defendant has refused to provide an unrestricted interconnection with KOTA's community antenna relay facility at Marshall, Minn., at a reasonable and nondiscriminatory tariff rate. KOTA alleges that it originally ordered two signals from the defendant in 1968, and thereafter defendant filed an application to provide such service, but an application had also been filed by another carrier to provide the same service. Consequently, in view of these mutually exclusive applications, the Commission has not authorized such service to Brookings, S. Dak. Subsequently, KOTA discussed with defendant the possibility of installing KOTA's own CARS (community antenna relay service) facility to relay one signal from Marshall, Minn., to Brookings, S. Dak. At that time, defendant was already delivering three signals to a cable customer at Marshall, Minn., at a charge of $1,050 per month. Allegedly, defendant stated that the charge to KOTA to interconnect at Marshall would be $400 monthly for all three channels. When complainant's CARS application was approved, complainant was informed that the tariff rate for three channels at Marshall, Minn., was $1,050. KOTA's position is that, since it merely desires one signal and defendant is already providing service at Marshall, defendant will enjoy a windfall in any additional revenue through interconnection at this site. Moreover, complainant avers that defendant's stipulation of a 10-year contract with KOTA is not necessary as no capital investment is required of defendant and that defendant's restriction of use solely to KOTA at Brookings, assuming a contract for service is forthcoming, unreasonably and illegally restrains KOTA from entering into a sharing arrangement with other operators. Finally, complainant seeks damages equal to gross revenues lost because of the delay in commencing CATV service in Brookings, S. Dak., allegedly because of Minnesota Microwave's violations of the Act.

3. In its answer, defendant maintains it has not refused to make service available to any customer upon reasonable terms nor has it unreasonably delayed commencement of service to KOTA. Furthermore, defendant avers that it never quoted the $400 rate for three channels to KOTA at the requested site and that KOTA is urging, in effect, that defendant violate the Communications Act by providing service at a rate lower than that published in its tariff. Moreover, defendant maintains that there is no basis for KOTA's allegation that defendant will enjoy a windfall in any additional revenue through interconnection at Marshall, since its charges and the 10-year contract provision are necessary in order to recoup the substantial capital investment originally required of defendant. Defendant contends that it is not restricting sharing; rather, it is only requiring that if KOTA desires to sell such services, it must renegotiate the terms of its agreement with defendant to reflect a just and reasonable consideration between the two parties. Finally, defendant cites its current provision of one channel of service, which it previously did not offer, for $600 monthly, and claims that the effect of this is to a large extent to moot the complaint.

4. The reply of KOTA alleges that as a precondition to commencement of the present interconnection for one signal, it had to pay, under protest, $2,683.31 for

expenses allegedly incurred by defendant in pursuit of defendant's previous common carrier application to provide two signals to Brookings, S. Dak. Also, KOTA maintains that it had to sign, under protest, a rental agreement containing the terms that are the subject of this dispute before the requested interconnection could take place. Moreover, KOTA urges its complaint has not been mooted even though it is now receiving service, because such service is not being received on reasonable terms; i.e., the new $600 monthly charge for one channel is excessive. Also, it is KOTA's position that it has still not been compensated for the damages it allegedly sustained because of defendant's unreasonable delay in commencing service in addition to the economic loss it allegedly suffered by having to reimburse defendant for expenses to which defendant was not entitled and by having to pay an excessive monthly rate.

5. Upon consideration of the aforementioned, we conclude that substantial questions are presented as to whether defendant failed to furnish service to KOTA upon reasonable request therefor within the meaning of section 201(a) of the Act; whether defendant collected charges from KOTA that were not properly tariffed within the meaning of section 203 of the Act; and whether defendant is providing interconnection to KOTA under terms and conditions that are just, reasonable and free of undue discrimination within the meaning of sections 201(b) and 202(a) of the Act. Since the questions presented in the complaint cannot be resolved on the controverted allegations before us, this matter will be designated for hearing.

6. *Accordingly, it is ordered*, That, pursuant to sections 201(b), 202, 203, 205, 206, 207, 208, 209, and 403 of the Communications Act of 1934, as amended, this matter is designated for hearing at the Commission's offices in Washington, D.C., at a time to be specified, and that the examiner to be designated to preside at the hearing shall, upon the close of the record, prepare an initial decision which shall be subject to the submittal of exceptions and requests for oral argument as provided in 47 CFR §§ 1.276 and 1.277, after which the Review Board shall issue its decision as provided for in 47 CFR § 0.365 (1967).

7. *It is further ordered*, That, without in any way limiting the scope of the proceeding, it shall include inquiry into the following:

(a) Whether Minnesota Microwave failed to provide service to KOTA upon reasonable request within the meaning of section 201(a) of the Act;

(b) Whether the charges, practices, classifications and regulations for and in connection with the service provided to KOTA by Minnesota Microwave are just and reasonable and otherwise lawful under section 201(b) of the Act;

(c) Whether the charges, practices, classifications, regulations in connection with the service provided by Minnesota Microwave subject KOTA Cable TV Co. to any unjust or unreasonable discrimination or give any undue or unreasonable preference or advantage to KOTA, or subject KOTA to any undue or unreasonable prejudice or disadvantage within the meaning of section 202(a) of the Act;

(d) Whether the $2,683.31 "expense" imposed by Minnesota Microwave upon complainant is a charge for a communication service within the meaning of section 203 of the Act, and, if so, whether the defendant violated the Act by not filing the charge before collecting it, and, if so, what action should be taken by the Commission.

(e) Whether, in the light of the evidence adduced under the aforementioned issues, the Commission should prescribe any changes in the tariff of defendant, as provided in section 205 of the Act, and, if so, the nature thereof;

(f) Whether complainant is entitled to any damages as a result of any violation of section 201(a), 201(b), or 202(c) that may be found herein, and, if so, the amount thereof.

8. *It is further ordered*, That, defendant's request for dismissal of the complaint is denied without prejudice;

9. *It is further ordered*, That, a copy of this order shall be served upon the complainant and defendant herein who are hereby designated parties in this proceeding.

Adopted: October 7, 1970.

Released: October 15, 1970.

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

[F.R. Doc. 70-14181; Filed, Oct. 20, 1970; 8:49 a.m.]

# FEDERAL POWER COMMISSION

[Docket No. E-7568]

## INITIAL ENVIRONMENTAL STATEMENT ON THE PROPOSED ELECTRIC POWER ENVIRONMENTAL POLICY ACT

### Notice of Opportunity for Comment in Compliance With the National Environmental Policy Act

Take notice that in compliance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., and the Interim Guidelines of the Council on Environmental Quality (CEQ), 35 F.R. 7390, the Commission submits for comment the following initial environmental statement evaluating the overall environmental impact of the Commission's proposed Electric Power Environmental Policy Act, including therein the environmental criteria specified in § 102(2)(C) of the NEPA, 42 U.S.C. 4332.

Commissioners Lawrence J. O'Connor, Jr., and John A. Carver, Jr., have recommended their own individual legislative approaches and do not join in supporting the proposal published in this notice.

Federal, State, and local agencies of government with jurisdiction or special expertise in the matters covered by this notice are required by the NEPA to be consulted in the preparation of our environmental statement. Such agencies and all other interested persons are invited to offer comments on the environmental impact of the legislative proposal as well as on the contents of the environmental statement submitted in compliance with the NEPA. Federal agencies are requested to submit comments no later than 30 days after publication of this notice in the FEDERAL REGISTER. State and local agencies shall have 60 days from the publication of this notice in the FEDERAL REGISTER in which to submit comments. An original and 14 conformed copies should be filed with the Secretary of the Federal Power Commission, Washington, D.C. 20426. Submittals to the Commission should include the name, title, and mailing address of the person responsible for preparing the comment. Ten copies of all comments dealing with environmental matters shall be supplied to the Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20506, by the person or agency supplying such comment at the time the comments are filed with the Commission.

The Electric Power Environmental Policy Act of 1970 (Act) is designed to promote and insure adequate and reliable electric power supplies for the Nation by facilitating the timely construction of electric generating facilities and EHV transmission lines upon a basis compatible with environmental quality. Harmony between the needs of the Nation for an adequate and reliable bulk power supply and the national interest in environmental protection is the basic objective of the bill. To this end the proposed legislation would require all public and private electric entities owning or operating bulk power supply facilities to plan, evaluate and seek certification of powerplant sites and EHV transmission lines well in advance of commencement of construction. All such facilities, other than those federally owned or operated or within the jurisdiction of Part I of the Federal Power Act, 41 Stat. 1063, 16 U.S.C. 791–823, as amended,[1] would require certification of site and facility by State or regional agencies established and operated in accordance with the Act. If State agencies are not created, the Federal Power Commission would exercise the certification responsibility until such time as the States take action. With respect to federally owned facilities there would be FPC certification. Also, there would be Federal certification in those cases where State or regional procedures are established but the State agencies do not act upon a timely basis. The Commission would also be empowered to certify facilities in cases where the national public interest in an adequate and reliable bulk power supply requires certification upon

[1] Hydroelectric facilities are exempted from the Act because they are currently fully within the licensing jurisdiction of the Federal Power Commission.

findings that public health and safety are not endangered by the proposed facility and that construction, operation and maintenance thereof will not cause irreparable damage to a necessary ecological system. The FPC would be authorized to delegate to the U.S. Atomic Energy Commission the certification of nuclear facilities.

The need for this legislation has become increasingly apparent as a result of the emergence of urgent and critical national problems: the continually increasing demands for reliable supplies of electricity and a new awareness of serious threats to our environmental integrity, especially the quality of our air and water. This bill reflects our judgment that these two important and legitimate concerns can be accommodated and mutually ameliorated by sound long-range planning, the application and enforcement of carefully screened procedures and guidelines, and more intense and well-financed research and development.

### Need for Electricity

Barring some unforeseen change in our ever-increasing energy demands in the two decades ahead, the net electric power generating capacity will increase from over 300,000 megawatts in 1970 to an estimated 1,261,000 megawatts in 1990. Load forecasts developed in connection with the updating of the Federal Power Commission's National Power Survey reveal the Nation's 1990 electric energy requirements as 5.83 trillion kilowatt hours. By way of comparison, the 1965 energy usage was approximately 1 trillion kilowatt hours. Based upon presently known and proven technology, it is believed that the operable generating capacity in 1990 will be 40 percent nuclear fueled, 44 percent fossil fired, 7 percent conventional hydroelectric, 5 percent pumped storage and 4 percent internal combustion and gas turbine. For 1970, the comparable estimates are 76 percent fossil, 15 percent conventional hydro, 1 percent pumped storage, 5 percent internal combustion and 3 percent nuclear. The number of thermal plantsites of 500-megawatt capacity and above required by the year 1990 will call for about 300 new sites.

Load forecasts developed for the current updating of the Commission's National Power Survey indicate that energy requirements are expected to increase from 1.06 trillion kilowatt-hours in 1965 to 5.83 trillion kilowatt-hours in 1990, an increase of 450 percent in the 25-year period. By the year 2000 it is roughly estimated that the Nation's electric energy requirements will reach 10 trillion kilowatt-hours. Capital investment of $350 billion or more is estimated to be required by 1990 to install the necessary plant and equipment.

Throughout the Nation these problems have surfaced in differing degree. Areas of population density have occasioned the greater number of power supply and environmental problems. The projected growth of generating capacity in the heavily populated 11 Northeastern States[2] provides an example to illustrate these mounting electric power demands. A recent report[3] to the Commission indicates that between now and 1990 the power industry in these 11 States must build about four times as much electrical generating capacity as the industry has provided thus far in its 80-year history. In other words, about four times the existing capacity must be built in one-fourth the time to meet the projected public needs. Based on current prices, these vast undertakings will involve an investment in excess of $60 billion in the Northeast for generation, transmission and distribution facilities.

A number of important new facilities are threatened with delays for a variety of reasons, including objections on environmental grounds. However, 84 fossil units and 37 nuclear units are now reported on schedule. Most of these units are scheduled for service later in this decade. It is quite likely that a number of these units will also be delayed as their in-service date approaches.

Those delays attributable to environmental concerns have made it increasingly evident that environmentally-oriented groups as well as individual citizens are calling in question the construction of needed facilities. It is also apparent that electric utilities must plan and design their facilities with maximum concern for minimizing adverse environmental effects.

Much of this environmental opposition is directed at the routing and construction of necessary electric transmission lines. Today there are approximately 67,000 miles of EHV transmission lines in service involving over 1.3 million acres of land. This represents more than 2,000 square miles of land. Twenty years from today it is estimated that 165,000 miles of EHV lines will be needed to transmit power.

### Environmental Factors

*General.* Inextricably associated with the steady increase in power demands and the resulting need for additional powerplant sites and transmission rights-of-way are several important environmental problems. These problems demand the attention and concern of the electric industry, all levels of government, and the general public. It is our conviction that these environmental problems, which principally involve the use of air, water and land resources within any given state of technology, require a balanced and comprehensive use of those resources in the light of available designs and electric demands. The dynamics of change in each of these require continuing analysis. The proposed bill provides for this.

It also recognizes the need for additional research and study of siting. Acceptable methods of using the Nation's resources in the production and transmission of electric power in future periods will depend upon further technological developments. Pending such advances, the Nation's electric suppliers must use available hardware. They must give careful consideration to appropriate environmental guidelines and procedures. The bill we are proposing includes provision for these measures through the certification process, and prior to certification through a continuous public long-range planning process by the industry.

*Land.* The nature of the electric energy demand situation, as evidenced by the facts and estimates set out above, involves the key environmental problem of land use planning. Thousands of square miles of land are already committed to the generation, transmission and distribution of electric energy. Of necessity, this commitment of land will continue to increase for years to come. Methods are and must continue to be studied and developed for increased utilization of existing plantsites and rights-of-way for the expanded power facilities we need. The proposed bill would authorize and direct studies of new and evolving siting concepts relative to bulk power supply facilities. Steam powerplants (fossil fueled and nuclear) are and will continue for the foreseeable future to be the backbone of our power system. The need for vast quantities of cooling water in immediate proximity to these plants minimizes the possibility that a great percentage of our future power needs can be met by increasing generation at existing sites.

Transmission rights-of-way offer real possibilities for safely and efficiently utilizing currently developed utility property prior to the opening of new areas to development. Nonetheless, between 1970 and 1990 we estimate that operable circuit miles of major high-voltage transmission will increase dramatically: 230-kv from 40,500 to 67,000; 345-kv from 16,600 to 50,500; 500-kv from 7,500 to 34,700 and 765-kv from 560 to 10,200.

These new and expanded transmission lines are essential not only to serve the Nation's distribution systems but to perform the essential service of interconnecting systems and regions as well. The interconnection of the Nation's electric facilities in accordance with the Commission's mandate in § 202(a) of the Federal Power Act (16 U.S.C. 824a(a)), viz, "[f]or the purpose of assuring an abundant supply of electric energy throughout the United States with the greatest possible economy and with regard to the proper utilization and conservation of natural resources * * *" serves the dual objective of enhancing the reliability and adequacy of power services while reducing to some degree the need for certain types of power plant construction, thus serving the objectives of environmental protection.

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[2] Vermont, New Hampshire, Connecticut, Rhode Island, Massachusetts, Delaware, New Jersey, New York, Pennsylvania, Maine, and Maryland.

[3] Electric Power in the Northeast 1970–90, A report to the Federal Power Commission, prepared by the Northeast Regional Advisory Committee, Dec. 2, 1968.

Generating plants as well as transmission lines require the use of large areas of land. For example, approximately 400 acres of land are needed to accommodate a 3,000 megawatt nuclear plant. A coal-fired plant of the same capacity with on-site coal and ash storage facilities might well require up to 1,200 acres of land. As stated earlier, estimates now reveal that hundreds of new plants will be needed over the next several decades. Much of this land is necessarily in ecologically sensitive areas such as land adjacent to estuaries and rivers, and the already overburdened land around and in our cities. The need for cooling water and hydroelectric power and necessary access to load centers requires the utilization of these lands. Because some of this land must be developed for these purposes if our energy-dependent economy is to survive and prosper, the proper determination of what land will be used and in what manner becomes a matter of paramount importance. This bill would provide the mechanism and procedures for proper planning in these areas by the utility industry and public agencies.

*Water.* One form of environmental intrusion that has been causing increasing concern is so-called thermal pollution. As indicated above, steam powerplants—both fossil fueled and nuclear—require vast quantities of cooling water. The quantity of heated water discharged by these plants is considerable. For example, every kilowatt hour of electric energy generated by a large, modern fossil fuel plant results in more than a kilowatt hour of heat rejected at the condenser. Nuclear plants, in their present state of technology, produce even greater quantities of waste heat.

The waste heat problem has several aspects, including the sudden increase in water temperature and the more subtle consequences arising from gradual warming of the water. Sudden increases in water temperature may in some cases damage aquatic life and limit recreational opportunities. The effects of gradual temperature build-ups on the other hand are widely debated. Clear answers concerning their environmental significance are not yet certain. It is definite, however, that any sustained increase in water temperature is a matter to be closely examined and evaluated in the planning and approval of powerplant sites. Advance study and public disclosure of these problem areas will not only assure a greater possibility of properly resolving siting problems but will foster timely construction as well. The Electric Power Environmental Policy Act of 1970, with its centralized and comprehensive method of certifying powerplant sites and facilities and its requirement for long-range industry planning and disclosure, promises to effectively serve these objectives.

*Air.* Another environmental problem of major importance in selecting and operating fossil-fueled powerplant sites is the pollution of the air. It has been estimated that almost 50 percent of the oxides of sulfur and 25 percent of particulate matter and oxides of nitrogen emitted in the United States originate in powerplants. By any measure these are substantial percentages. The present scarcity of low sulfur fuels and the indicated shortage of developed natural gas reserves compound these problems and will continue to do so pending the development of more complete commercial sized pollution control equipment. In our judgment this requires a careful balancing of environmental standards, and the satisfaction of the Nation's electric needs from available utility hardware and fuels.

The development of new technology has made considerable inroads on the air pollution problem and much more needs to be done. In the meantime, considerable planning and cooperation are needed between the electric utility industry and all levels of government to site and operate plants in a manner that will assure adequate and reliable energy while maintaining healthful air quality levels. The Act proposed by this Commission would aid these objectives through the certification and planning processes.

Nuclear powerplants are regarded as a future source of substantial amounts of electricity. Their environmental characteristics are open to discussion, but these plants do not present the serious air pollution problems just discussed. They do contribute to concerns about thermal pollution. Additionally, atomic powerplants have given rise to a serious debate among scientists and other experts regarding the dangers of radioactive contamination. Regardless of the merits of either side of this debate, it is obvious that the peculiar problems of nuclear installations require careful consideration when sites are selected. Long-range planning with full public disclosure are particularly important in an area so charged with controversy. The procedures of our proposed bill would meet these considerations.

### The Criteria of NEPA

These basic data and background information are essential to a proper evaluation of the environmental significance of the siting of bulk power supply facilities and any legislative proposal to cope with the siting problem. They are also essential in any attempt to analyze such legislation within the framework of the criteria enumerated in § 102(2)(C) of the NEPA. The criteria listed in that section of the NEPA do not lend themselves as readily to an analysis of the environmental impact of legislation such as this Act as they do to individual projects or specific Federal problems. To the extent the NEPA criteria are applicable, we believe the following points are relevant:

(1) *Environmental impact of the proposed action.* This bill is designed to minimize environmental problems associated with the construction and operation of bulk power supply facilities. Its environmental impact will be beneficial in that the location, operation and nature of all bulk power supply facilities will be planned and disclosed far in advance of construction, thus allowing full discussion and resolution of the issues and environmental problems involved in various alternative powerplant sites. Also, centralized and comprehensive EHV transmission approvals will be carried out at the appropriate governmental level in accordance with environmental guidelines drawn up by the Council on Environmental Quality. This approval process will promote the interconnection of systems and regions. Certification of facilities pursuant to this Act will provide that the facility approved will be constructed and operated in accordance with applicable Federal, State, regional and local laws governing air, land, water quality and environmental considerations. Section 10 of the bill requires that all certificates of site and facility be conditioned on compliance with such laws. Section 16 of the bill provides strict penalities for failure to comply.

(2) *Adverse environmental effects which cannot be avoided should the proposal be implemented.* We do not envision the possibility of any adverse effects resulting from the enactment of this proposed legislation. On the contrary, adoption of this bill, in our opinion, will only serve to emphasize the importance given to environmental problems in the resolution of powerplant siting problems and the location of transmission rights-of-way, thus enhancing the prospects for the full and correct resolution of these problems.

(3) *Alternatives to the proposed action.* Broadly speaking, alternatives to this bill are (1) the status quo, viz., no bill at all or (2) some other legislative approach. We believe a clear and compelling need for legislation in this area has been demonstrated. Current procedures for the authorization of power facilities are both inadequate and diffused among various agencies of government. This situation is clearly unacceptable.

After full evaluation of other possible legislative approaches to the dual problems of providing adequate and reliable electric supplies and preservation of environmental values we are convinced that this bill provides the best course of action. Joint activity in the field by Federal and State or regional governmental entities in cooperation with advance industry planning characterizes the approach we advocate. The role we envision for the Federal Power Commission as Federal certifying agency recognizes this Commission's 50 years of experience in power planning and licensing. Our responsibility for administering the comprehensive planning mandate of Part I of the Federal Power Act (16 U.S.C. 803(a)) with respect to hydroelectric licensing has required our careful evaluation of environmental concerns over a long period of years. The Commission would undertake to exercise these same concerns under the proposed legislation in cooperation with the Council on Environmental Quality and other interested public and private agencies and groups in assuring the protection of the environment in the siting of bulk power supply facilities.

(4) *The relationship between local short-term uses of man's environment*

*and the maintenance and enhancement of long-term productivity.* In our judgment the enactment of this proposed legislation will best protect the long-term needs of our energy-dependent economy by assuring adequate electric supplies in the years to come with minimal environmental degradation. For the short-term, this legislation is designed to facilitate the timely construction of bulk power supply facilities needed in the immediate future while providing comprehensive environmental protection. Failure to adopt this needed legislative remedy can only result in an aggravation of existing electric power problems in the immediate future without any offsetting environmental or economic advantages. For the long-term, it has become obvious that without the long-range planning this bill will require, and the streamlined but more efficient governmental licensing authority it will create, construction of needed facilities will not advance on schedule in the years ahead.

(5) *Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.* This bill in no sense commits our national resources. Rather, it offers the best workable framework in which our resources can be both developed and preserved for the dual objectives of adequate and reliable electric services and environmental protection.

We believe that it is essential to remember that the electric power industry has the primary responsibility to provide this Nation with an adequate supply of electric energy. If that responsibility is to be met, it has become increasingly clear that protection of the environment is a major factor to be considered in industry's planning. As many utility managements are recognizing, preservation and where possible, enhancement of the Nation's natural environment is a duty and an obligation of the industry. A balanced response is needed—one which accommodates environmental concern with the need for additional utility services. This legislation will enable industry and government to strike the balance that is needed.

With adequate protection of the environment at the plantsites and along the transmission rights-of-way, electrical energy is an environmental asset. At the point of consumption it is a clean energy supply. This is especially important in that the major centers of power consumption coincide with our population and industrial concentrations.

Furthermore, electric energy is a vital contributor to the success of a wide variety of other essential environmental efforts. Much of the apparatus needed to control air and water pollution is electrically powered, sewage treatment plants being a prime example. Another example would be mass transportation systems which are taking on increasing importance and also depend on electric energy.

It is our opinion, therefore, that enactment of the Electric Power Environmental Policy Act (for purposes of reference the text of the proposed Act and a section-by-section analysis are appended hereto) is required by the public interest if we are to have the electric energy we so clearly need while providing maximum protection to our environment.

To secure electric power supplies adequate to the demands of the Nation compatible with environmental quality,

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED,

SECTION 1. This Act may be cited as the "Electric Power Environmental Policy Act of 1970."

SEC. 2. The Congress, in furtherance of the national environmental policy as set forth in the National Environmental Policy Act of 1969, 83 Stat. 852 (42 U.S.C. 4321 et seq.), and the national electric energy policy as set forth in section 202(a) of the Federal Power Act, 49 Stat. 848 (16 U.S.C. 824a(a)), hereby finds and declares the national public interest in the environment, the interest of interstate commerce, the interest of public and private investors in electric utility facilities, and the interest of consumers of electric energy require:

(a) That bulk power supply facilities adequate to the Nation's need for a reliable electric power supply be constructed upon a timely basis;

(b) That the construction, operation and maintenance of such bulk power supply facilities be recognized as a significant aspect of air, land and water usage;

(c) That such bulk power supply facilities be constructed, operated and maintained upon a basis consonant with the comprehensive use of the Nation's air, land and water resources for all beneficial purposes, public and private;

(d) That such bulk power supply facilities be constructed, operated and maintained in a manner adapted to assuring a safe, healthful, productive, aesthetically and culturally pleasing environment for all of the Nation, including the preservation of important historic, cultural, and natural aspects of the Nation's heritage;

(e) That Federal, State, or regional governmental authorities be authorized and empowered to act expeditiously in coordinating reviews of environmental values and in certifying the construction, operation and maintenance of bulk power supply facilities, all to the end of assuring for the Nation an adequate and reliable supply of electric power through a balanced and comprehensive use of the Nation's air, land and water resources for all beneficial purposes, public and private;

(f) That each electric entity and Federal electric entity which constructs, owns, operates or maintains bulk power supply facilities undertake to achieve the foregoing through timely certification of sites and related bulk power supply facilities, after appropriate long-range studies and planning by such entities to develop in coordination with other entities or utility systems long-range plans for future expansion of bulk power supply facilities on a continuous basis, and following timely public notice of such plans to other entities, Federal, State, regional and local interests;

(g) That this long-range planning be carried out through the electric reliability councils voluntarily established on regional and national bases and open to all systems comprising the various component parts of the electric utility industry, investor owned, publicly owned and cooperatively owned, and by participation of these councils in the work of the Federal Power Commission under section 202(a) of the Federal Power Act;

(h) That the aforementioned certification procedure established at the State, regional, or Federal level provide for the preconstruction review and approval of bulk power supply facility sites and all related bulk power supply facilities to be constructed thereon; and

(i) That a mechanism be established to provide Federal guidelines for the functioning of these certification procedures by State, regional or Federal certifying agencies and that authority be granted to authorize the assessment of fees for administrative expenses of such State or regional agencies.

SEC. 3. As used in this Act:

(a) "Electric entity" means any individual or corporation which owns or operates bulk power supply facilities, or which will own or operate such facilities when constructed, however organized or owned, whether investor owned, publicly owned or cooperatively owned, including a "State" or a "municipality" as defined in section 3(6) and 3(7) of the Federal Power Act, 41 Stat. 1064; 49 Stat. 838 (16 U.S.C. 796), but not the United States or an agency, authority or instrumentality thereof, or any corporation which directly or indirectly is wholly owned by the United States, its agencies, authorities or instrumentalities;

(b) "Federal electric entity" means the United States, an agency, authority or instrumentality thereof, or any corporation which directly or indirectly is wholly owned by the United States, its agencies, authorities or instrumentalities, and which owns or operates bulk power supply facilities, or which will own or operate such facilities when constructed;

(c) "Bulk power supply facilities" means electric generating equipment and associated facilities designed for, or capable of, operation at a capacity of 300,000 kilowatts or more, or electric transmission lines and associated facilities designed for, or capable of, operation at a nominal voltage of 230 kilovolts or more, between phase conductors for alternating current or between poles for direct current, but do not include any facilities licensed pursuant to Part I of the Federal Power Act, 41 Stat. 1063, as amended (16 U.S.C. 791a–823);

(d) "Federal certifying agency means the Federal Power Commission or the U.S. Atomic Energy Commission if designated by the Federal Power Commission with respect to nuclear facilities falling within the definition of bulk power supply facilities;

(e) "State or regional certifying agency" means the State or regional agency or authority authorized and empowered to carry out the certifying responsibilities provided for in this Act within the State or States affected;

(f) "Regional" means comprised of two or more States; and

(g) "Commence to construct" means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route of bulk power supply facilities, but does not include changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing geological data, including necessary borings to ascertain foundation conditions.

SEC. 4(a) The Congress hereby authorizes and directs that each electric entity and Federal electric entity pursuant to rules and regulations established by the Federal Power Commission, shall prepare annually its long-range plans for bulk power supply facilities, which plans may be part of a single regional plan and shall:

(1) Include a description of the general location, size and type of all bulk power supply facilities to be owned or operated by such entity and whose construction is projected to commence during the ensuing 10 years or

during such longer period as the Commission may determine, together with an identification of all existing utility facilities to be removed from utility service upon completion of construction of such bulk power supply facilities;

(2) Include a description of such entity's efforts to coordinate the bulk power supply facility plans identified therein with those of other entities so as to provide a coordinated regional plan for meeting the overall electric power needs of the region; and

(3) Include a listing of governmental authorities, Federal, State, regional or local, having jurisdiction in respect to environmental, siting and certification matters affecting the construction, operation or maintenance of such bulk power supply facilities, together with the addresses of the principal places of business of such authorities and the person or persons to whom interested parties may direct comments or petitions.

SEC. 4(b). Each electric entity and Federal electric entity, shall give initial public notice of its plans referred to in subsection (a), by filing annually a copy of such plans with the Federal Power Commission, appropriate state or regional certifying agency or agencies, other affected Federal, State, regional and local governmental authorities, and citizens' environmental protection and resource planning groups requesting such plans. In addition, each electric entity and Federal electric entity shall give further public notice annually of these portions of its plans which project the commencement of construction of bulk power supply facilities within the immediately succeeding 2-year period, which notice shall identify the specific site of such facilities and provide a detailed description of the facilities proposed; said notice shall be served upon the above-mentioned governmental authorities and shall be published once each week for 4 weeks in a daily or weekly newspaper published or circulated on a regular basis in the county or counties in which the proposed facilities or any part thereof are to be located: *Provided*, That with respect to bulk power supply facilities under construction on the date of enactment hereof, no notice need be given and with respect to those facilities for which construction is to commence within 2 years from the date of enactment, such newspaper publication notice shall be given by one publication within 90 days following enactment.

SEC. 5(a) The several States are hereby afforded a period of 24 months from the date of enactment hereof, within which to establish legal authorities and procedures for the certification of sites and related bulk power supply facilities of any electric entity by a designated State or regional certifying agency. These State or regional certifying agencies shall be established and administered in accordance with the requirements of section 7 hereof, and with published environmental guidelines to be prepared and published by the Council on Environmental Quality after consultations with interested Federal and State representatives, which guidelines may be revised from time-to-time after similar consultation. It is a purpose and requirement of this Act that the State authorities and procedures provide for, and insure, a systematic correlation of all laws, governmental policies, rules, regulations and orders governing air, land, and water environments, and the construction, operation, and maintenance of bulk power supply facilities within those environments, so as to facilitate an integrated decision by the State or regional certifying agency on environmental and electric power resource matters, and to obviate the need or basis for duplicating independent proceedings by State agencies or departments charged with the administration or enforcement of environmental laws, rules, regulations, or orders which affect the construction, operation, or maintenance of such bulk power supply facilities. These requirements for procedural simplification and the manner and method of applying environmental substantive law to the construction, operation, and maintenance of bulk power supply facilities through an integrated decision of the certifying agency shall be conclusive as to all environmental questions affecting certificated bulk power supply facilities.

SEC. 5(b) The Governor of each State which establishes such legal authorities and procedures shall notify the Federal Power Commission of that fact, and thereupon the Commission, if it finds such authorities and procedures to be in accord with the requirements of this Act, including the environmental guidelines of the Council on Environmental Quality, shall issue a Certificate of Qualification of Procedure with respect to each such State, which Certificate shall be subject to revocation by the Commission for failure of the State to observe said requirements, but, until revoked, shall constitute conclusive evidence of the invocation of the certification authority of this Act by said State and of its authority to exercise the provisions of section 6 hereof, for such time period as the Certificate remains effective.

SEC. 5(c) If, within 24 months from the date of enactment hereof, legal authorities and procedures are not established for the certification of sites and related bulk power supply facilities within one or more of the several States, and qualified in the manner as set forth in subsection (b), the Federal certifying agency shall have exclusive authority to issue a certificate of site and facility with respect to any bulk power supply facility of any electric entity within any said State or States. With respect to each such State the authority of the Federal certifying agency shall continue until such State or States have established legal authorities and procedures and have obtained a Certificate of Qualification of Procedure. Any proceedings for the certification of sites and bulk power supply facilities which are pending before the Federal certifying agency on the date of issuance of any Certificate of Qualification of Procedure by the Commission, shall continue to be proceedings subject to the authority of the Federal certifying agency and shall require a Federal certificate before construction shall commence, except that the Federal certifying agency may in its discretion transfer such proceeding to the appropriate State or regional certifying agency.

SEC. 5(d) The Federal Power Commission, prior to denying or revoking a Certificate of Qualification of Procedure in respect to matters arising under subsection (b), shall consult with the Governor or Governors of the State or States involved, informing each of the particular respects in which the State or regional certifying agency's authorities or procedures fail to comply with the requirements of this Act, including published guidelines of the Council on Environmental Quality, and shall afford each State affected a reasonable time to respond and to make appropriate changes.

SEC. 5(e) Any State dissatisfied with the action of the Federal Power Commission denying or revoking a Certificate of Qualification of Procedure as referred to in subsection (b) may appeal to the U.S. Court of Appeals for the circuit in which such State is located, with service of the summons and notice of appeal at any place within the United States, and the court shall have jurisdiction to affirm the action of the Commission, to set it aside in whole or in part, and for good cause shown, to remand the case to the Commission for further deliberation: *Provided*, That any findings of fact of the Commission supported by substantial evidence shall be conclusive: *Provided further*, That, any judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. Upon the filing of an appeal, the Clerk of the Court of Appeals shall forthwith transmit a copy of the notice to any member of the Commission and thereupon the Commission shall file with the court the record upon which the appealed action was entered, as provided in section 2112 of title 28, United States Code. Upon the filing by the Commission of the record the jurisdiction of the court shall be exclusive.

SEC. 6 Each State or regional certifying agency qualified pursuant to a Certificate of Qualification of Procedure is hereby authorized to assess and collect annually, fees in a just and equitable manner from every electric entity operating within the jurisdiction of the legal authorities and procedures of said agency, such assessment and collection to be in an amount each year up to but not in excess of the cost of administration of the qualified agency's certification program for the year, including the cost of personnel but excluding therefrom any costs met by the use of Federal funds.

SEC. 7(a) Effective upon and after 24 months from the date of enactment of this Act, no electric entity shall commence to construct bulk power supply facilities, within a State or States unless there shall have been obtained from such State or States a certificate of site and facility with respect to those facilities, issued by a qualified State or regional certifying agency. If after 24 months from the date of enactment of this Act there is no qualified State or regional certifying agency in one or more of the several States, no electric entity shall commence to construct bulk power supply facilities within said State or States unless there shall have been obtained from the Federal certifying agency a certificate of site and facility with respect to such bulk power supply facilities to be constructed within said States or States by any such electric entity.

SEC. 7(b) All applications by any electric entity for a certificate of site and facility whether applied for pursuant to jurisdiction of a State or regional certifying agency or Federal certifying agency, shall be filed with the agency not less than 2 years prior to the date of commencement of construction of the affected bulk power supply facilities, and as a prerequisite to such filing, the electric entity shall have complied with the notice provisions of section 4 hereof.

SEC. 7(c) Each State or regional certifying agency and the Federal certifying agency as a part of their respective actions in certifying sites and related bulk power supply facilities of electric entities hereunder, shall find that the construction, operation and maintenance of said facilities under the conditions of the certificate are consonant with and necessary for comprehensive utilization of air, land and water resources for all beneficial purposes, public and private.

SEC. 7(d) It is the intent of Congress that any State or regional certifying agency or Federal certifying agency shall complete action on each application filed pursuant to the authority of this Act within the 2-year period prior to construction as provided under the procedures of subsection (b). The guidelines to be published by the Council on Environmental Quality shall, to the maximum extent possible, facilitate the accomplishment of these objectives. For a period of 48 months from the date of enactment hereof, any of the provisions of section 7 may be waived by the certifying agency in respect to filed applications of electric entities for good cause shown. Compliance with the procedures of section 4 hereof in respect to planning, filing, and public notice requirements

shall constitute prima facie evidence of timely disclosure of construction plans in support of petitions for expedition of proceedings involving the noticed bulk power supply facilities in all courts and administrative agencies of the United States and of the several States.

SEC. 7(e) The provisions of section 5 and subsection (a) of this section notwithstanding, any electric entity may petition the Federal certifying agency for a certificate of site and facility based upon the entity's showing to that agency of a failure of a State or regional certifying agency or agencies to act upon a timely basis with respect to any application of such electric entity for a State or regional certification; and that as a result thereof the public interest in an adequate and reliable regional bulk power supply imperatively and unavoidably requires a decision with respect to such certification. The Federal certifying agency shall prescribe by regulation the facts necessary to constitute the basis of such showing, giving due consideration to the effect upon adequacy and reliability of electric supply of the lack of timely or conclusive action by the State or States concerned. Upon a finding by the Federal certifying agency, that adequate and reliable regional bulk power supply will be materially impaired by reason of the fact that a State or States have failed to act upon a timely basis, the Federal certifying agency shall effective upon the date of such finding, have jurisdiction to act in these circumstances, removing from the State or States concerned, any basis upon which to proceed further in respect of State or regional certification of the affected bulk power supply facilities. The Federal certifying agency shall accord priority to all petitions for certificates of site and facility filed under this subsection and shall resolve them in accordance with the criteria of subsection (c) of this section.

SEC. 7(f) The Federal certifying agency shall also have exclusive jurisdiction to act with respect to the certification of any bulk power supply facility of any electric entity effective upon the date when it shall find that construction, operation and maintenance of the facility is essential to maintain an adequate and reliable regional bulk power supply and that public health and safety will not be endangered by the construction, operation and maintenance of such bulk power supply facility and which has not been shown affirmatively to cause irreparable damage to a necessary ecological system. The Federal certifying agency may implement jurisdiction in those circumstances upon its own motion or upon petition, and shall notify any affected State or regional certifying agencies of its intention to act. The Federal certifying agency, when acting under this subsection, shall apply the criteria of subsection (c) recognizing the necessity of balancing environmental considerations and the national interest in an adequate and reliable regional bulk power supply.

SEC. 8(a) The consent of the Congress is hereby given to two or more States to negotiate and enter into agreements or compacts not in conflict with any law or treaty of the United States for cooperative effort and mutual assistance in certificating sites and related bulk power supply facilities of electric entities, for the enforcement of their respective laws thereon, and for the establishment of such authorities or agencies, joint or otherwise, as they may deem desirable for implementing such agreements or compacts.

SEC. 8(b) It is the intent of Congress to encourage cooperative procedures and joint actions by the several States, including compacts between the States, to coordinate and resolve environmental considerations which affect bulk power supply facilities. To the extent practicable, the Federal Power Commission shall encourage the enactment of uniform State laws providing for the certification of sites and related bulk power supply facilities so as to facilitate timely construction, operation and maintenance of such facilities by all electric entities upon a basis consonant with the comprehensive use of the Nation's air, land and water resources for all beneficial purposes, public and private.

SEC. 9(a) Effective upon and after 24 months from the date of enactment of this Act, no Federal electric entity shall commence to construct bulk power supply facilities unless there shall have been obtained from the Federal certifying agency a certificate of site and facility with respect to those facilities.

SEC. 9(b) The Federal certifying agency as a part of its actions in certifying sites and related bulk power supply facilities of Federal electric entities hereunder, shall find that the construction, operation and maintenance of said facilities under the conditions of the certificate, are consonant with and necessary for comprehensive utilization of air, land and water resources for all beneficial purposes, public and private.

SEC. 9(c) The filing requirements of section 7(b) hereof, shall apply to all Federal electric entities which seek certificates of site and facility under subsection (a) of this section.

SEC. 9(d) All provisions of section 7(d) hereof shall be deemed restated in the context of this section and shall apply to all matters arising under this section.

SEC. 10(a) Each certifying agency acting pursuant to sections 7 and 9, shall recognize the national policies and interests in harmony between man and his environment; in a balanced ecology, through the interrelation of the Nation's natural environment and the development of its resources; and, within that balance, a necessary development of the Nation's electric power resources adequate to the physical and economic welfare of the Nation and its citizens. Findings of the certifying agency in respect to certificated sites and related bulk power supply facilities shall reflect the agency's consideration of all relevant factors, including, without limitation as to the following enumeration, those factors affecting adequacy and reliability of electric power supply, environmental laws and regulations, ecological effects, the nature and character of available air, fuel, land, and water resources, the state of technological developments and changes in the arts, as well as public health, safety, and economic considerations, including the interests of consumers of electric utility services and public and private investors therein. The comprehensive beneficial utilization of resources standard for certification by authority of this Act, shall be applied by each State, regional, or Federal certifying agency in recognition of changing physical conditions and circumstances, together with changing legal requirements affecting air, land, and water environments and other factors. The interpretation of any section of this Act shall be rendered with due regard to these underlying Congressional policies and purposes.

SEC. 10(b) Certificates of site and facility as referred in sections 7 and 9 shall show as a part and condition of the certificate acceptance thereof by the electric entity or Federal electric entity and agreement to comply with the requirements of this Act, and conditions of the certificate which shall include an express undertaking to comply with all applicable Federal, State, regional, and local laws governing air, land, water quality or other environmental considerations. Also, they shall show actions and agreement of the electric entity and Federal electric entity to meet and accomplish the objectives of section 202(a) of the Federal Power Act, regarding reliability and adequacy of electric service. Other terms and conditions of the certificate shall be as the certifying agency shall find as necessary or appropriate to meet the purposes of this Act. The affected bulk power supply facilities shall be constructed, operated and maintained in accordance with the terms and conditions of the certification.

SEC. 10(c) Certificates of site and facility issued in accordance with the provisions of this Act shall be final and conclusive subject only to such judicial review of a State or regional certifying agency certification as may be provided for under the laws of any State, or such judicial review of the Federal certifying agency certification as is provided for under section 16 hereof.

SEC. 11 An electric entity holding a certificate of site and facility as referred to in section 7, and which cannot acquire by contract, or is unable to agree with the owner of property as to compensation to be paid for the necessary rights-of-way or other property to construct, operate and maintain the certified bulk power supply facilities, may acquire the same by the exercise of the right of eminent domain in the district court of the United States for the district in which such property may be located, or in the State courts. In any proceeding brought in the district court of the United States, the petitioner may file with the petition or at any time before judgment a declaration of taking in the manner and with the consequences provided by sections 1, 2, and 4 of the Act of February 26, 1931, 46 Stat. 1421–1422; (40 U.S.C. 258a, 258b, 258d), and the petitioner shall be subject to all of the provisions of said section which are applicable to the United States when it files a declaration of taking thereunder.

SEC. 12 Any electric entity or Federal electric entity which holds a valid certificate of site and facility as referred to in section 7 or section 9 shall be entitled to acquire rights-of-way on public lands and reservations of the United States insofar as they may be necessary to proceed with the construction of the certificated bulk power supply facilities, upon terms and conditions relating to land use to be specified by the respective department or agency under whose general supervision such lands fall and for periods not greater than 50 years.

SEC. 13 The Federal Power Commission is authorized and directed to make studies of new and evolving siting concepts relative to bulk power supply facilities in consultation with interested Federal, State, regional and local governmental authorities and others. The Commission shall make public the results of its studies.

SEC. 14(a) To serve the purposes of this Act, and further the policies and goals of the National Environmental Policy Act of 1969, the Congress authorizes and directs that all public laws of the United States, which relate to matters of concern herein, shall be interpreted and administered so as to insure a systematic correlation of all laws, governmental policies, rules, regulations, and orders governing air, land, and water environments, and the construction, operation and maintenance of bulk power supply facilities within those environments. At such time as the Federal certifying agency shall request, any department or agency of the Federal Government which is charged with responsibility to administer or enforce any law governing air, land, water quality or other environmental requirements affecting any bulk power supply facility falling within the purview of this Act, shall consult with, and make available to, the certifying agency information, data, recommendations, findings and conclusions so as to facilitate an integrated decision by the certifying agency on

environmental and electric power resource matters, and to obviate the need or basis for duplicating independent proceedings by agencies or departments charged with the administration or enforcement of environmental laws, rules, regulations, or orders, which affect the construction, operation, or maintenance of such bulk power supply facilities. These requirements for procedural simplification and the manner and method of applying environmental substantive law to the construction, operation and maintenance of bulk power supply facilities through an integrated decision of the certifying agency shall be conclusive as to all environmental questions affecting certificated bulk power supply facilities.

SEC. 14(b) Pursuant to the requirement of the National Environmental Policy Act of 1969, 83 Stat. 854 (42 U.S.C. 4333), all departments and agencies of the Federal Government shall include within their proposals to the President all measures required to bring their respective authorities and policies into conformity, as may be necessary by reason of this Act.

SEC. 14(c) All departments and agencies of the Federal Government shall make available to the various certifying agencies staff experts, information and technical assistance upon request or as provided for in the guidelines of the Council on Environmental Quality. Upon the request of one or more States for a study of a specific siting or routing affecting any bulk power supply facility appropriately directed to a Federal department or agency, said department or agency shall undertake, to the extent practicable, such study in cooperation with other interested Federal, State, and local agencies and make its findings available to all concerned.

SEC. 15(a) The provisions, policies, and goals set forth in this Act supplement those set forth in existing laws of the United States.

SEC. 15(b) For purposes of this Act, the Federal certifying agency when acting pursuant to section 7 hereof, shall request the Governor of each State which has not established authorities and procedures qualified in the manner of section 5 hereof, to furnish to the agency information, data, recommendations, findings, and conclusions so as to facilitate an integrated decision by the Federal certifying agency on environmental and electric power resource matters. The Federal certifying agency need not seek the respective individual views of State agencies or departments in these circumstances.

SEC. 15(c) The provisions of this Act shall in no way alter or affect the jurisdiction of the Council on Environmental Quality or the requirements of the National Environmental Policy Act of 1969, except that the detailed statements required by section 102 (2)(C) thereof, 83 Stat. 853 (42 U.S.C. 4332), shall not be required for any Federal actions with respect to bulk power supply facilities which require a certificate of site and facility pursuant to section 7 or 9 of this Act.

SEC. 16 For purposes of administration and enforcement of the provisions of this Act the following provisions of the Federal Power Act shall be deemed restated in the context of this Act, and the authority therein conferred shall be deemed a part of this Act, interpreted pursuant to the appropriate definitions set forth in section 3 of this Act, and section 3 of the Federal Power Act: Section 209, 49 Stat. 853–854 (16 U.S.C. 824h); Section 304, 49 Stat. 855–856 (16 U.S.C. 825c); Section 306, 49 Stat. 856 (16 U.S.C. 825e); Section 307, 49 Stat. 856–858 (16 U.S.C. 825f); Section 308, 49 Stat. 858 (16 U.S.C. 825g); Section 309, 49 Stat. 858–859 (16 U.S.C. 825h); Section 310, 49 Stat. 859, as amended October 28, 1949, 63 Stat. 972 (16 U.S.C. 825i); Section 313, 49 Stat. 860–861, as amended August 28, 1958, 72 Stat. 947 (16 U.S.C. 825l); Section 314, 49 Stat. 861 (16 U.S.C. 825m); Section 315, 49 Stat. 861–862 (16 U.S.C. 825n); Section 316, 49 Stat. 862 (16 U.S.C. 825o); Section 317, 49 Stat. 862 (16 U.S.C. 825p).

SECTIONAL ANALYSIS

SECTION 1—Short title.

POLICY PREAMBLE

SEC. 2—Congressional findings and public policy reasons for legislation and particular provisions of this bill:

To further the policy purposes of the National Environmental Policy Act of 1969;

To further the National energy policy of the Federal Power Act;

To act in the interests of environmental protection, interstate commerce, investors and consumers;

2(a)—Finding that timely construction of bulk power supply facilities is basic to reliability;

2(b)—Finding that bulk power supply facilities have a significant impact on air, land and water usage;

2(c)—Determination that air, land, and water resources for power and other purposes must be used comprehensively for all purposes; in essence that all uses must be balanced;

2(d)—Conclusion that environmental values must include aesthetic and other factors;

2(e)—Finding that this balancing of various uses must be done expeditiously; and that a mechanism for certification procedures is needed, which will coordinate all State and local, regional and Federal interests;

2(f)—Determination that this expedition and coordination will be facilitated by advance planning of utilities on coordinated and regional bases, and with advance public disclosure of such plans;

2(g)—Finding that this obligation for long-range planning should be discharged through the work of the industrywide structure of National and regional electric reliability councils which are to be open to all systems, regardless of size or ownership characteristics, investor owned, publicly owned or cooperatively owned; and that such councils are to achieve as their objectives the policy objectives of section 202(a) of the Federal Power Act;

2(h)—Conclusion that the certification mechanism should function at the time of site utilization and prior to construction of facilities; and

2(i)—Determination that State (or regional, if more than one State) certification procedures should be formulated in respect to Federal guidelines, and that when such procedures are established, the costs of administering State certification programs are to be borne by the affected utility suppliers.

DEFINITIONS

SEC. 3—Definition section covering particular terms used in the bill:

3(a)—Describes one of two types of regulated parties, "electric entities" which are all non-Federal systems which own or operate "bulk power supply facilities"; "electric entities" include States, municipals, individuals, corporations, cooperatives and any other types of organizations;

3(b)—Describes the other type as "Federal electric entity"; e.g., the Tennessee Valley Authority and the Bonneville Power Administration;

3(c)—Identifies "bulk power supply facilities" as electric generating equipment of 300,000 kilowatts or more and transmission lines of 230 kilovolts and higher, together with associated facilities; but not including any facilities licensed under Part I of the Federal Power Act;

3(d)—Identifies the Federal Power Commission as the designated Federal agency to certificate sites and facilities and the U.S. Atomic Energy Commission, if designated by the FPC to certificate nuclear facilities;

3(e)—Identifies the State or regional agencies which may certificate sites and facilities;

3(f)—Defines "regional" as two or more States; and

3(g)—Defines the point of commencement of construction in terms of site preparation excluding geological exploration and nonutility uses.

PLANNING NOTICE

SEC. 4—Establishes as a statutory requirement a duty of all "electric entities" and "Federal electric entities" to plan and coordinate their bulk power supply facilities on a long-range basis and with reference to regional bulk power needs; and a duty to disclose those plans annually to all concerned, including the general public:

4(a)—Authorizes the Federal Power Commission to issue rules and regulations;

4(a)(1)—Requires, as a part of the plan, the identification of all bulk power supply facilities * * * general location, size and type * * * which any entity (electric or Federal) projects for construction during the following 10 years or longer period as fixed by the Federal Power Commission;

The identification of existing utility facilities of any size or voltage which would be removed from service upon completion of construction of the projected bulk power supply facilities;

4(a)(2)—Requires a disclosure by each entity of the actions which it took to coordinate its bulk power supply planning with the planning of other entities in the interests of arriving at a regional plan coordinated on such basis;

4(a)(3)—Requires a listing of Federal, State, regional, and local governmental authorities having jurisdiction in respect to siting, certification, and environmental matters; this requirement being designed to facilitate the direction of public comments by interested persons to the appropriate governmental authorities in furtherance of the full and advance disclosure concepts of the bill; and

4(b)—Establishes as a statutory requirement a duty of all "electric entities" and "Federal electric entities" to give two types of notice of their plans—

Annual notice by filing copies of such plans, in their entirety, with identified governmental authorities and citizens' groups requesting such plans;

Annual notice of those particular portions of the plans which project the commencement of construction of bulk power supply facilities within the following 2 years;

The detailed notice of such parts of the plan is to be specific in respect to the site and the particular facilities proposed thereon; and is to be served upon identified governmental authorities and published in a newspaper of general circulation in the area in which any part of the proposed facilities are to be constructed.

JURISDICTION—QUALIFICATION—STATE PROCEDURES

SEC. 5—Exercises Congressional authority to control bulk power supply facilities through a system of certification of sites and related bulk power supply facilities of non-Federal systems commencing from and after 2 years from enactment of the bill—

5(a)—Affords the States an initial period of 2 years to establish authorities and procedures to exercise the certificate jurisdiction—through State or regional certifying agencies if the interests of more than one State are involved;

Establishes as a statutory requirement that State or regional certifying agencies be established and administered in accordance with the provisions of the Act (bill), and in consideration of published environmental guidelines which the Council on Environmental Quality would prepare and publish from time-to-time after appropriate consultation with interested Federal and State representatives;

Requires that State authorities and procedures be designed to correlate laws governing environmental factors and electric power resource matters so as to facilitate an integrated decision by the certifying agency taking account of all relevant aspects, and to avoid duplicate hearings and the layering of regulatory approvals; in essence a feature designed to accomplish one stop consideration but taking account of all relevant matters, power and environmental;

5(b)—Provides for notice to the Federal Power Commission by the Governor of each State which establishes this certification mechanism, Federal Power Commission review of such procedures, and issuance by the Commission of a certificate of Qualification of Procedure if they meet the requirements of the Act (bill);

Provides authority for the Commission to revoke certificates of Qualification for failure of a State to observe the requirements of the Act (bill);

Certificate of Qualification specified to be the controlling evidence of State invocation of this jurisdiction and the predicate for State or regional certifying agencies to assess the costs of administration of the certification program against electric entities for so long as the certificate of Qualification remains effective;

5(c)—Authorizes a Federal certification procedure with respect to electric entities in any State which does not establish and qualify its procedures within this 2-year period; such Federal certification to continue in any State until the latter establishes and qualifies its certification procedures;

Authorizes transitional procedures which the Federal certifying agency may adopt in transferring pending matters to State or regional certifying agencies which so qualify;

5(d)—Establishes as a statutory duty a requirement that the Federal Power Commission consult with the Governor of each affected State before denying or revoking a certificate of Qualification of Procedure, affording the State time for responsive action; and

5(e)—Authorizes judicial review of Federal Power Commission action denying a certificate of qualification or revoking an effective certificate; jurisdiction being in the U.S. Court of Appeals, with venue stated; and provision for subsequent judicial review by the U.S. Supreme Court upon certiorari or certification.

FEE ASSESSMENT

SEC. 6—Authorizes State or regional certifying agencies acting under qualified legal authorities and procedures to assess and collect annually from regulated non-Federal systems (electric entities) amounts up to the cost of the qualified State certification program, excluding therefrom any costs met by Federal funds.

CERTIFICATION IMPLEMENTATION (ELECTRIC ENTITIES)

SEC. 7—Implements the certification requirement for bulk power supply facilities of electric entities (non-Federal systems) by prohibiting any electric entity from commencing to construct such facilities upon and after 2 years from the enactment of the bill unless such entity has obtained an appropriate certificate of site and facility;

7(a)—Recognizes that this certification will be pursuant to action of State or regional certifying agencies where established and qualified, or the Federal certifying agency in the absence of qualified State authorities and procedures;

7(b)—Establishes as a mandatory precondition to the filing by any electric entity of an application for a certificate, that such entity has complied with the notice requirements of section 4;

Establishes as a statutory requirement that all applications for certificates of site and facility shall be filed with the certifying agency at least 2 years prior to commencement of construction of the affected bulk power supply facilities;

These requirements being designed to give effect to the advance public disclosure and lead time concepts of the bill, both of which are to facilitate full consideration of all issues on a timely basis prior to construction of bulk power supply facilities;

7(c)—Establishes as a statutory requirement that the certification procedure—State or Federal—shall be based upon a comprehensive use of resources test;

Establishes as a statutory requirement that the certifying agency shall find and apply this test to the construction, operation and maintenance of the facilities through conditions in the certificate;

These requirements being designed to facilitate the discharge of the balancing concept of the bill with respect to use of the environment for power development—i.e., that the air, land and water environments be used comprehensively for all beneficial purposes, public and private;

7(d)—Expresses the intent of Congress that certification proceedings—State or Federal—are to be conducted and completed within the 2-year lead time prior to construction;

Directs the Council on Environmental Quality to frame its environmental guidelines to accomplish that task, insofar as possible;

States a statutory presumption that compliance with the planning, filing and public notice requirements of section 4 will constitute prima facie evidence of timely disclosure in support of petitions for expeditious processing in administrative and court proceedings, Federal and State;

Authorizes waiver by the certifying agency of these statutory provisions for good cause, during a transitional period of 48 months following enactment of the bill to recognize the fact that electric entities will find themselves in various conditions of planning and facility construction, and will have need to accommodate to the requirements of the bill;

7(e)—Establishes as a statutory exception an instance in which Federal certification of bulk power supply facilities may be had with respect to facilities in a State or States wherein qualified State or regional certifying agencies may be established; i.e., the instance where lack of timely, or conclusive action by a State or regional agency or agencies has produced conditions which imperatively and unavoidably require a decision respecting certification of the related bulk power supply facilities of an electric entity in the interests of an adequate and reliable regional bulk power supply;

Authorizes the Federal certifying agency to prescribe by regulation the factual bases upon which it will act in these circumstances and thereby assume certificating jurisdiction over particular facilities only—not general jurisdiction over all bulk power supply facilities in such State or States;

Requires that to assume such jurisdiction the Federal certifying agency must first find that adequate and reliable regional bulk power supply will be materially impaired by reason of failure of State action upon a timely basis;

Directs the Federal certifying agency to accord priority consideration to such situations and to do so within the basic balancing concept of the bill—the comprehensive utilization of resources test;

7(f)—Establishes a second statutory classification in which Federal certification of particular bulk power supply facilities of any electric entity may occur; i.e., when the Federal certifying agency shall find that construction, operation and maintenance of a bulk power supply facility is essential to the national interest in an adequate and reliable regional bulk power supply where construction, operation or maintenance of the facility will not endanger public health and safety and the facility has not been affirmatively shown to cause irreparable damage to the environment;

Authorizes the Federal certifying agency to exercise this jurisdiction upon its own motion or petition after the required findings; that agency being obligated to notify affected State or regional agencies of its intention to act; and

Requires the Federal certifying agency to apply the basic balancing concept of the bill, in light of the facts and the circumstances which prompted the agency to intercede in support of the national interest.

COMPACTS UNIFORM STATE LAWS

SEC. 8(a)—Gives advance consent of Congress to the negotiation and implementation of agreements or compacts to effectuate the certification procedures of the bill as to non-Federal systems, and which are not in conflict with any law or treaty of the United States;

8(b)—Expresses the intent of Congress that States are to be encouraged to adopt compacts, cooperative procedures and joint actions to coordinate and resolve environmental and other considerations; it being a basic intent and purpose of the bill to facilitate and encourage State or regional certification, to assist States in eliminating manifold or layered approvals from various resource or economic regulatory agencies, and to coordinate their respective regional interests through regional certifying agencies as defined in section 3; and

Directs the Federal Power Commission to encourage the enactment of appropriate uniform State laws for purposes of certificating bulk power supply facilities of electric entities.

CERTIFICATION IMPLEMENTATION (FEDERAL ELECTRIC ENTITIES)

SEC. 9—Implements the certification requirement for bulk power supply facilities of Federal electric entities by prohibiting any such entity from commencing to construct such facilities upon and after 2 years from the enactment of the Bill unless such entity has obtained an appropriate certificate of site and facility;

This section parallels section 7, which latter section applies to non-Federal systems (electric entities);

9(a)—Recognizes that this certification will be pursuant to action of the Federal certifying agency;

9(b)—Establishes as a statutory requirement that the certification procedure shall be based upon a comprehensive use of resources test;

Establishes as a statutory requirement that the certifying agency shall find and apply this test to the construction, operation

and maintenance of the facilities through conditions in the certificate;

These requirements being the same as set forth in section 7(c);

9(c)—Applies the filing requirements of section 7(b) to applications under section 9; and

9(d)—Applies the provisions of section 7(d) to section 9.

OVERALL CERTIFICATE REQUIREMENTS

SECS. 10 and 10(a)—States that certification provisions and conditions are to recognize the dynamics of change in values to be balanced in the certification process and specifies what shall be the overall obligation of the holder of the certificate of site and facility whether issued under section 7 or 9:

Acceptance thereof by the holder;

Agreement to comply with all provisions of the Act (bill);

Specifies that certificates of site and facility are to be final and conclusive subject only to judicial review—as State laws may authorize when there is State certification; and—as the Act (bill) authorizes when there is Federal certification, i.e., the judicial review procedures of the Federal Power Act, section 313;

10(b)—Specifies conditions of the certificate in matters of environment, adequacy and reliability of electric service:

Holders' undertaking to comply with all applicable Federal, State, regional, and local laws governing air, land, water quality, or other environmental considerations;

Holders' undertaking to accomplish the objectives of reliability and adequacy of electric service, all as set forth in section 202(a) of the Federal Power Act;

Other terms and conditions necessary or appropriate to the purposes of this Act (bill);

10(c)—Specifies the statutory finality of the certificate, subject only to judicial review, i.e., to recognize the need for an end to hearings and proceedings affecting bulk power supply facilities once they have been certificated in accordance with the requirements of the Act (bill).

EMINENT DOMAIN QUICK TAKE

SEC. 11—Authorizes non-Federal systems holding certificates of site and facility (electric entities) to utilize eminent domain procedures in Federal or State courts to acquire needed property; and where the Federal courts are used, quick take procedures apply.

ACCESS FEDERAL LANDS

SEC. 12—Authorizes access to Federal public lands and reservations (excludes National parks and National monuments) for rights-of-way needed by electric entities and Federal electric entities to construct certificated bulk power supply facilities;

Restricts this access to periods not greater than 50 years and subjects the user (certificate holder) to land use terms and conditions to be specified by the respective department or agency under whose general supervision the lands fall; and

Public lands and reservations being those as referred to in section 3 of the Federal Power Act.

STUDY AUTHORIZATION

SEC. 13—Authorizes and directs the Federal Power Commission to conduct studies of siting concepts relative to bulk power supply facilities and directs that the results of such studies be made public information.

INTERDEPARTMENTAL AGENCY COOPERATION

SEC. 14—Authorizes and directs all Federal departments and agencies to correlate their policies, programs, and procedures and cooperate with State, regional, and Federal certifying agencies to effectuate the purposes of the Act (bill);

14(a)—Requires that all Federal departments and agencies seek to correlate the administration of their laws governing environmental factors as they may relate to electric power resource matters so as to facilitate an integrated decision by the Federal certifying agency taking account of all relevant aspects, and to avoid duplicate hearings and the layering of regulatory approvals; in essence a feature designed to accomplish one stop consideration at the Federal level paralleling section 5 when bulk power facility supply certifying action is at the State level;

14(b)—Requires all Federal departments and agencies to implement this requirement with all necessary legislation proposals and to report the same to the President by July 1, 1971, in accordance with the provisions of the National Environmental Policy Act of 1969, section 103; and

14(c)—Specifies that all Federal departments and agencies shall furnish technical experts, assistance and information to certifying agencies and make studies of sites or routings affecting bulk power supply facilities which may be requested by one or more States, in cooperation with other interested Federal, State, or local agencies, with the findings made available to all concerned.

RESERVATION AS TO OTHER LAWS

SEC. 15(a)—States that the provisions, policies, and goals of the Act (bill) supplement other laws of the United States;

15(b)—Specifies that the Federal certifying agency shall seek the environmental conclusions and recommendations of the Governor of any State which does not invoke the certificate jurisdiction of section 5, in order to facilitate an integrated decision by Federal certifying agency on environmental and electric power resource matters; this in recognition of the fact that Federal certifications would follow under section 7 in the absence of State or regional certification of bulk power supply facilities; and

15(c)—Relieves the Federal certifying agency, when acting pursuant to section 7 or 9 of the Act (bill), from the requirement of completing a detailed statement pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969.

ADMINISTRATIVE ENFORCEMENT

SEC. 16—Authorizes and establishes as a part of this Act (bill) a series of definitional, administrative, judicial review, enforcement and penalty provisions:

These provisions are those of the Federal Power Act adapted to the definitions and specific purposes of this Act (bill); this being in recognition of the fact that the Federal Power Commission would be the primary Federal certifying agency, with discretion to delegate certain duties to the Atomic Energy Commission in matters of nuclear facilities;

Authorizes general power of the Commission for cooperative procedures with State agencies; reference, section 209 of the Federal Power Act;

Establishes general report prescription power of the Commission; reference, section 304 of the Federal Power Act;

Authorizes general complaint provisions to be administered by the Federal Power Commission; reference, section 306 of the Federal Power Act;

Establishes general investigatory powers of the Commission; reference, section 307 of the Federal Power Act;

Establishes general hearing power of the Commission; reference, section 308 of the Federal Power Act;

Establishes general administrative powers of the Commission; reference, section 309 of the Federal Power Act;

Establishes general personnel employment power of the Commission; reference, section 310 of the Federal Power Act;

Authorizes rehearing and judicial review of Commission orders upon petition of aggrieved parties; reference, section 313 of the Federal Power Act;

Authorizes judicial enforcement procedures concerning violations of the Act (bill); reference, section 314 of the Federal Power Act;

Establishes general forfeiture provisions for certain conduct in response to actions arising out of the administration of the Act (bill); reference, section 315 of the Federal Power Act;

Establishes general penalty provisions for certain conduct in response to actions arising out of the administration of the Act (bill); reference, section 316 of the Federal Power Act; and

Authorizes jurisdiction in the District courts of the United States relative to violations of the Act and enforcement actions; reference, section 317 of the Federal Power Act.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
*Acting Secretary.*

[F.R. Doc. 70-14105; Filed, Oct. 20, 1970; 8:45 a.m.]

# FEDERAL RESERVE SYSTEM

## FEDERAL OPEN MARKET COMMITTEE

### Current Economic Policy Directive of July 21, 1970

In accordance with § 271.5 of its Rules Regarding Availability of Information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on July 21, 1970.[1]

The information reviewed at this meeting indicates that real economic activity changed little in the second quarter after declining appreciably earlier in the year. Prices and wage rates generally are continuing to rise at a rapid pace. However, improvements in productivity appear to be slowing the rise in costs, and some major price measures are showing moderating tendencies. Since mid-June long-term interest rates have declined considerably, and prices of common stocks have fluctuated above their recent lows. Although conditions in financial markets have improved in recent weeks uncertainties persist, particularly in the commercial paper market where the volume of outstanding paper has contracted sharply. A large proportion of the funds so freed apparently was rechanneled through the banking system, as suggested by sharp increases in bank loans and in large-denomination CD's of short maturity—for which rate ceilings were suspended in late June. Consequently, in early July bank credit grew rapidly; there was also a sharp increase in the money supply. Over the second quarter as a whole both bank credit and money supply rose moderately. The overall balance of payments remained

[1] The Record of Policy Actions of the Committee for the meeting of July 21, 1970, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

in heavy deficit in the second quarter. In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to orderly reduction in the rate of inflation, while encouraging the resumption of sustainable economic growth and the attainment of reasonable equilibrium in the country's balance of payments.

To implement this policy, while taking account of persisting market uncertainties, liquidity strains, and the forthcoming Treasury financing, the Committee seeks to promote moderate growth in money and bank credit over the months ahead, allowing for a possible continued shift of credit flows from market to banking channels. System open market operations until the next meeting of the Committee shall be conducted with a view to maintaining bank reserves and money market conditions consistent with that objective: *Provided, however,* That operations shall be modified as needed to counter excessive pressures in financial markets should they develop.

By order of the Federal Open Market Committee, October 13, 1970.

ARTHUR L. BROIDA,
*Deputy Secretary.*

[F.R. Doc. 70-14106; Filed, Oct. 20, 1970; 8:45 a.m.]

# INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

## WHEELING-PITTSBURGH STEEL CORP. ET AL.

### Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.$^3$) have been accepted for consideration as follows:

(1) ICP Docket No. 10299, Wheeling-Pittsburgh Steel Corp., Mine No. 15, USBM ID No. 46 01396 0, Omar, Logan County, W. Va., Section ID No. 001 (6 North).

(2) ICP Docket No. 10375, Peabody Coal Co., Sunnyhill Underground Mine No. 9 South, USBM ID No. 33 01068 0, New Lexington, Perry County, Ohio, Section ID No. 001 (3d S.W. of 1st South), Section ID No. 004 (1st South Main).

(3) ICP Docket No. 10843, Eastern Coal Corp., Inc., Stone Mine, USBM ID No. 15 02096 0, Stone, Pike County, Ky., Section ID No. 011 (Section 34, 1 Lt. Off Northeast Mains).

In accordance with the provisions of section 202(b)(4) 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 requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
*Chairman,*
*Interim Compliance Panel.*

OCTOBER 16, 1970.

[F.R. Doc. 70-14154; Filed, Oct. 20, 1970; 8:48 a.m.]

# SECURITIES AND EXCHANGE COMMISSION

[812-2703]

## MUTUAL FUNDS ADVISORY, INC.

### Notice of and Order for Hearing on Application To Exempt Certain Transactions

OCTOBER 12, 1970.

On May 12, 1970, the Commission issued a notice (Investment Company Act Release No. 6053) of the filing of an application by Mutual Funds Advisory, Inc. (Applicant), 382 Miracle Mile, Coral Gables, Fla. 33134, a registered broker-dealer under the Securities Exchange Act of 1934 and an affiliated person of Fundpack, Inc. (Fundpack), a registered open-end, diversified, management investment company, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 (Act) (i) exempting from the provisions of section 17(a) of the Act the proposed transactions described below to the extent that they involve sales by Applicant to Fundpack of shares of other open-end investment companies, and (ii) exempting from the provisions of section 22(d) the proposed transactions described below to the extent that redeemable securities of registered open-end investment companies (other than Fundpack) are proposed to be sold by Applicant to Fundpack for the latter's portfolio at a price, in each case, other than the public offering price described in the prospectus of the registered investment company whose shares are to be sold to Fundpack.

Fundpack, which will initially invest exclusively in no-load open-end investment company shares—a method of operation which it asserts does not require an exemption order from the Commission, proposes to invest 80 percent or more of its investments in shares of not less than seven other open-end companies of either the load or no-load type. It will not invest more than $250,000 or 15 percent of its assets, whichever is greater, in the securities of any one investment company nor purchase more than 3 percent of the outstanding securities of such company. Fundpack does not intend to purchase any investment company where the sales load to be paid by Fundpack together with any redemption fee, would exceed 1 percent of the public offering price of the shares to be purchased, exclusive of the sales charge for Fundpack shares which will be a maximum of 1½ percent of the public offering price.

Applicant anticipates that it will be a party to selling agreements with the principal underwriters of various load type open-end investment companies and that, pursuant to such agreements, Applicant will be able to purchase shares of such funds at net asset value plus the principal underwriter's net commission for resale at a price which would allow Applicant to retain a concession. In order to minimize the charge to which shareholders of Fundpack will be subject directly through Fundpack's purchase of shares of other investment companies, Applicant proposes to sell shares of other load type open-end investment companies to Fundpack at prices equal to its cost. Thus, in such transactions Applicant, by remitting its entire concession to Fundpack, will charge Fundpack only the net asset value of such shares plus the principal underwriter's net sales commission with respect thereto.

The notice of filing issued by the Commission gave any interested person an opportunity to file a request in writing for a hearing on the matter.

Certain interested persons have filed a request for a hearing. It appears to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to said application.

*It is ordered,* Pursuant to section 40(a) of the Act, that a hearing on the aforesaid application under the applicable provisions of the Act and the rules of the Commission thereunder be held on November 16, 1970, at 2 p.m., in the offices of the Commission, 500 North Capitol Street NW., Washington, D.C. 20549. At such time the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person, other than the applicant, desiring to be heard or otherwise wishing to participate in the proceeding is directed to file with the Secretary of the Commission, on or before November 9, 1970, his application pursuant to rule 9(c) of the Commission's rules of practice. 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 applicant at the address noted above, and proof of service (by affidavit, or, in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. Persons filing an application to participate or be heard will receive notice of any adjournment of the hearing as well as other actions of the Commission involving the subject matter of these proceedings.

*It is further ordered,* That any officer or officers of the Commission to be designated by it for that purpose shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Act, and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation has advised the Commission that it has made a preliminary examination of the application and requests for hearing and that upon the basis thereof the following matters are presented for consideration, without prejudice to the specification of additional matters upon further examination:

(1) Whether, in order to permit the proposed transactions, an exemption from section 17(a) of the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act; or

(2) Whether the Applicant, in proposing to place orders for the purchase of shares of other open-end load type investment companies for Fundpack, will act in the course of its business as a broker or as a dealer, and, if not, in what other capacity; and

(3) Whether MFA, when engaging in the proposed transactions, will act as Fundpack's agent other than in the course of its business as an underwriter or broker, thereby precluding the receipt by MFA of any compensation therefore unless exempted from section 17(e)(1) pursuant to section 6(c);

(4) Whether, in order to permit the proposed transactions, an exemption from section 22(d) of the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

*It is further ordered*, That at the aforesaid hearing attention be given to the foregoing matters.

*It is further ordered*, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing copies of this order by certified mail to the applicant and to the persons who have requested a hearing, and that notice to all persons shall be given by publication of this order in the FEDERAL REGISTER; and that a general release of the Commission in respect of this order be distributed to the press and mailed to the mailing list for releases.

By the Commission.

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

[F.R. Doc. 70-14147; Filed, Oct. 20, 1970; 8:47 a.m.]

# INTERSTATE COMMERCE COMMISSION

## FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 16, 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. 42061—*Carbolic acid (phenol) from specified points in Texas.* Filed by Southwestern Freight Bureau, agent (No. B-191), for interested rail carriers. Rates on acid, carbolic (phenol), in tank carloads, as described in the application, from Bayport, Chocolate Bayou, East Baytown, and Houston, Tex., to Cincinnati, Ohio.

Grounds for relief—Private barge competition.

Tariff—Supplement 88 to Southwestern Freight Bureau, agent, tariff ICC 4834.

FSA No. 42063—*Chlorine from Memphis, Tenn.* Filed by O. W. South, Jr., agent (No. A6200), for and on behalf of the Southern Railway Co. Rates on chlorine, in tank carloads, as described in the application, from Memphis, Tenn., to Robertson, Ala.

Grounds for relief—Market competition.

Tariff—Supplement 292 to Southern Freight Association, Agent, tariff ICC S-484.

AGGREGATE-OF-INTERMEDIATES

FSA No. 42062—*Carbolic acid (phenol) from specified points in Texas.* Filed by Southwestern Freight Bureau, agent (No. B-192), for interested rail carriers. Rates on acid, carbolic (phenol), in tank carloads, as described in the application, from Bayport, Chocolate Bayou, East Baytown, and Houston, Tex., to Cincinnati, Ohio.

Grounds for relief—Maintenance of depressed rates without use such rates as factors in constructing combination rates.

Tariff—Supplement 88 to Southwestern Freight Bureau, agent, tariff ICC 4834.

By the Commission.

ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-14170; Filed, Oct. 20, 1970, 8:49 a.m.]

[Notice 24]

## MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

OCTOBER 16, 1970.

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

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

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

MOTOR CARRIERS OF PASSENGERS

No. MC 67308 (Deviation No. 6), COLONIAL TRAILWAYS, 212 St. Francis Street, Mobile, Ala. 36602, filed August 27, 1970, amended October 9, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From New Orleans, La., over Interstate Highway 10 to junction Mississippi Highway 607, thence over Mississippi Highway 607 to junction U.S. Highway 90, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: Between Mobile, Ala., and New Orleans, La., over U.S. Highway 90.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-14167; Filed, Oct. 20, 1970; 8:49 a.m.]

[Notice 33]

## MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

OCTOBER 16, 1970.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

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

MOTOR CARRIERS OF PROPERTY

No. MC 61440 (Deviation No. 16), LEE WAY MOTOR FREIGHT, INC., 3000 West Reno, Post Office Box 82488, Oklahoma City, Okla. 73108, filed September 30, 1970. Carrier's representative: Richard H. Champlin, same address as applicant. Carrier proposes to operate as

a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Salem, Ill., over Illinois Highway 37 to Mount Vernon, Ill., thence over U.S. Highway 460 to New Albany, Ind., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Tulsa, Okla., over U.S. Highway 66 to St. Louis, Mo.; (2) from St. Louis, Mo., over U.S. Highway 50 to Aurora, Ind.; and (3) from junction U.S. Highway 50 and U.S. Highway 150 near Shoals, Ind., over U.S. Highway 150 to New Albany, Ind., thence over Indiana Highway 62 to Madison, Ind., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-14168; Filed, Oct. 20, 1970; 8:49 a.m.]

[Notice 95]

## MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

OCTOBER 16, 1970.

The following publications are governed by the new Special Rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

### APPLICATIONS ASSIGNED FOR ORAL HEARING

#### MOTOR CARRIERS OF PROPERTY

No. MC 102616 (Sub-No. 855) (Republication), filed May 4, 1970, published in the FEDERAL REGISTER issue of May 28, 1970, and republished this issue. Applicant: COSTAL TANK LINES, INC., Post Office Box 7211, 215 East Waterloo Road, Akron, Ohio 44319. Applicant's representative: Harold G. Hernly, 711 14th Street NW., Washington, D.C. 20005. The modified procedure has been followed in this proceeding and an Order of the Commission, Operating Rights Board, dated September 22, 1970, and served October 8, 1970, finds: that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, of bisphenol A, in bulk, in tank or hopper type vehicles, from Wheeling, W. Va., to Natrium, W. Va. Because it is possible that other persons, who relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in the proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 129004 (Sub-No. 1) (Republication), filed January 5, 1970, published in the FEDERAL REGISTER issue of February 19, 1970, and republished this issue. Applicant: BORIS M. PETROFF, doing business as TRANS-WORLD VAN LINES, 1520 West 11th Street, Long Beach, Calif. 90813. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, Calif. 90027. The modified procedure has been followed in this proceeding and a supplemental order of the Commission, Operating Rights Board, dated September 22, 1970, and served October 8, 1970, finds: that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of used household goods between points in Kern, Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. Because it is possible that other persons, who relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order a notice of authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in the proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 134233 (Sub-No. 2) (Republication), filed January 2, 1970, published in the FEDERAL REGISTER issue of February 12, 1970, and republished this issue. Applicant: ANGELO ACACIO, doing business as ANGELO TRUCKING CO., 363 North Washington Street, Wilkes-Barre, Pa. 18705. Applicant's representative: Philip F. Hudock, 408 Citizens Bank Building, Hazleton, Pa. 18201. The modified procedure has been followed in the proceeding and a supplemental order of the Commission, Operating Rights Board, dated September 22, 1970, and served October 8, 1970, finds: that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of (1) nonalcoholic carbonated beverages, in containers, from Wilkes-Barre, Pa., to points in Massachusetts, Connecticut, Rhode Island, Vermont, New Hampshire, Maine, Ohio, Delaware, New York, New Jersey, West Virginia, Virginia, Maryland, and the District of Columbia; and (2) materials used in the manufacture and distribution of nonalcoholic carbonated beverages (except in bulk, in tank vehicles), from points in Massachusetts, Connecticut, Rhode Island, Vermont, New Hampshire, Maine, Ohio, Delaware, New York, New Jersey, West Virginia, Virginia, Maryland, and the District of Columbia, to Wilkes-Barre, Pa., restricted against the transportation of glass containers from Salem, Bridgeton, Millville, Freehold, and Cliffwood, N.J., and Orangeburg, N.Y.; under continuing contract with Ma's Old Fashion Bottling, Inc., of Wilkes-Barre, Pa., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition for leave to reopen the proceeding of or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

### NOTICE OF FILING OF PETITIONS

No. MC 56546 and No. MC 56546 (Sub-No. 1 EX) (Notice of Filing of Petition To Reinstate Certificate of Public Convenience and Necessity and Revoke Certificate of Exemption), filed September 16, 1970. Petitioner: LYNN D. McKEE, doing business as CORTLAND-NORWICH-ONEONTA BUS LINE, Cortland, N.Y. Petitioner holds a certificate of exemption in No. MC 56546 (Sub-No. 1 EX), authorizing the transportation of Passengers and their baggage, over regular routes, between Cortland, N.Y., and Oneonta, N.Y.: From Cortland over U.S. Highway 11 to junction New York Highway 41, thence over New York Highway 41 to junction New York Highway 26, thence over New York Highway 26 to South Otselic, N.Y., thence returning over New York Highway 26 to junction New York Highway 23, thence over New York Highway 23 to Oneonta, and return over the same route. Service is authorized to and from all intermediate points. Prior to the issuance of the above-named certificate of exemption, petitioner held a certificate of public convenience and necessity from this Commission authorizing the transportation of: Passengers

and their baggage, and express and newspapers, in the same vehicle with passengers, over a regular route, between Cortland, N.Y., and Oneonta, N.Y.: From Cortland over New York Highway 41 to Gee Brook, N.Y., thence over New York Highway 26 to junction New York Highway 23, and thence over New York Highway 23 via South New Berlin and Morris, N.Y., to Oneonta (also from South New Berlin over New York Highway 8 to Berlin, N.Y., thence over unnumbered highway to Morris, and thence to Oneonta as specified above), and return over the same route. Service is authorized to and from the intermediate and off-route points of McGraw, Solon, East Freetown, Cincinnatus, Taylor, Pitcher, North Pitcher, North Pharsalia, Kirk, South Plymouth, Norwich, South New Berlin, New Berlin, Morris, West Laurens, West Oneonta, and South Otselic, N.Y. By the instant petition, petitioner requests the Commission to reinstate his former certificate of public convenience and necessity (MC 56546) and concurrently revoke his presently existing certificate of exemption (MC 56546 Sub 1 EX). Any interested person desiring to participaate may file an original and six copies of his written representations, views or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 124333 (Sub-No. 9) (Notice of Filing of Petition for Modification of Permit), filed October 6, 1970. Petitioner: BAKER PETROLEUM TRANSPORTATION CO., INC., New Castle, Del. Petitioner's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. Petitioner is authorized to conduct operations as a motor contract carrier, transporting: Gasoline, furnace oil, and kerosene, in bulk, in tank vehicles, from Wilmington, Del., to points in Cecil and Kent Counties, Md., and Chester County, Pa., under a continuing contract with Atlantic Richfield Co. By the instant petition, petitioner seeks to add the destination point of Salisbury, Md. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 124841 (Sub-No. 7) (Notice of Filing of Petition To Add Additional Shippers), filed September 24, 1970. Petitioner: D. D. JACOBS, INC., Walla Walla, Wash. 99362. Petitioner's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Petitioner holds authority in No. MC 124841 (Sub-No. 7) to transport (1) frozen foods, and supplies and equipment used in the manufacture, storage, and distribution of frozen foods, between points in Milwaukee, Portland, Salem, Hillsboro, Woodburn, Ontario, Weston, Pendleton, and Milton-Freewater, Oreg.; Walla Walla, Spokane, Quincy, Burlington, Wheeler, and Connell, Wash.; and Heyburn, Nampa, Caldwell, Burley, Lewiston, and American Falls, Idaho; under a continuing contract or contracts with Terminal Ice & Storage Co., of Portland, Oreg.; and (2) of beet pulp, from Wheeler, Moses Lake, Quincy, and Toppenhish, Wash., to points in Umatilla County, Oreg., under a continuing contract with Archie Harris Feed Lot, of Milton-Freewater, Oreg. By the instant petition, petitioner seeks to add the following shippers: Pendleton Distributing Co., Granger Distributing Co., and Dee-Dee Distributing Co. Any interested person desiring to participate, may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 129629 (Notice of Filing of Petition To Add Additional Shipper), filed October 9, 1970. Petitioner: PAUL L. RYAN, doing business as PAT RYAN MOVERS, Chicago, Ill. 60657. Petitioner's representative: Robert E. Cleveland, 100 North LaSalle Street, Chicago, Ill. 60602. Petitioner holds contract carrier authority to transport carpet, carpet materials, and uncrated furniture, between Chicago, Ill., and Milwaukee, Wis., under a continuing contract, or contracts, with Walton Rug & Furniture Co., Chicago, Ill. By the instant petition, petitioner seeks to add the following shippers to his authority. (1) Galaxy Carpet Mills, Inc., 2401 American Lane, Elk Grove Village, Ill.; (2) World Carpets, 7405 North Oak Park Avenue, Niles, Ill.; and (3) World Carpets, 7200 South Cicero Avenue, Chicago, Ill. Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 129680 and No. MC 129680 (Sub-No. 1) (Notice of Filing of Petition To Modify Permits), filed October 1, 1970. Petitioner: FRANK MORRIS, doing business as MORRIS TRANSPORTATION, Wethersfield, Conn. Petitioner's representative: Thomas W. Murrett, 410 Aslum Street, Hartford, Conn. 06103. Petitioner holds authority in No. MC 129680, the part here pertinent, to transport prefabricated building components, from Wethersfield, Conn., to points in Connecticut, under contract with Guy Jodice Building Products of Bloomfield, Conn. It also holds authority in No. MC 129680 (Sub-No. 1) to transport prefabricated building components, from Hingham, Mass., and Malvern, Pa., to points in Connecticut and those in Hampden County, Mass., under contract with Guy Jodice Building Products, of Bloomfield, Conn. By the instant petition, petitioner seeks to have its permits amended to include transportation under a contract or contracts with Shepard Steel Co., Inc., of Hartford, Conn. Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 133775 (Notice of Filing of Petition for Modification), filed September 21, 1970. Petitioner: REEFER TRANSIT LINES, INC., Post Office Box 536, Worthington, Minn. 56187. Petitioner's representatives: Charles W. Sullivan and Daniel C. Sullivan, 33 North Dearborn Street, Chicago, Ill. 60602. Petitioner holds authority in No. MC 133-775, the part here pertinent, to transport Meats, meat products, and meat byproducts, and meat articles distributed by meat packinghouses, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk, in tank vehicles). From the plantsite of Armour & Co., near Worthington, Minn., to Wheeling, W. Va., and points within 25 miles thereof, and points in Iowa, Kansas, Missouri, Nebraska, New Jersey, New York, Ohio, and Pennsylvania, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized immediately above are (1) limited to shipments originating at the plantsite of Armour & Co., near Worthington, Minn.; and are (2) restricted against tacking at point of origin with any of carrier's other operations authorized in same certificate. By the instant petition, petitioner seeks modification of the above authority and requests that it be reworded as follows: "From the plant *and warehouse* sites of Armour and Company, *at or* near Worthington, Minn., to Wheeling, W. Va., and points within 25 miles thereof, and points in Iowa, Kansas, Missouri, Nebraska, New Jersey, New York, Ohio, and Pennsylvania, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized immediately above are (1) limited to shipments originating at the *plant and warehouse sites* of Armour and Company, *at or* near Worthington, Minn.; and are (2) restricted against tacking at point of origin with any of carrier's other operations authorized hereinabove (additions underlined)". Any interested person desiring to participate, may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATION UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 107576 (Sub-No. 19), filed October 5, 1970. Applicant: SILVER WHEEL FREIGHT LINES, INC., 1321 Southeast Water Avenue, Portland, Oreg. 97214. Applicant's representative: Kenneth G. Thomas, 900 Failing Building, Portland, Oreg. 97204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, and commodities injurious or contaminating to other

lading): (1) between Baker, Oreg., and Boise, Idaho, over Interstate Highway 80N, U.S. Highway 30 and 30N, and return over the same routes, serving all intermediate points; (2) between Vale, Oreg., and Boise, Idaho, over U.S. Highway 20 and 26 and return over the same routes, serving all intermediate points and off-route points of Adrian and Owyhee, Oreg., and Homedale, Marsing, and Wilder, Idaho; (3) between Weiser and Parma, Idaho, over U.S. Highway 95 and return over the same route, serving all intermediate points; and (4) between Weiser, Idaho, and Nyssa, Oreg., over U.S. Highway 30N and Oregon Highway 201, and return over the same routes, serving all intermediate points. NOTE: Applicant requests that the foregoing authority be tacked with its existing authority described in MC 107576 with joinder at Baker, Oreg., permitting performance of a through service between points named and all points on applicant's present authority. Common control may be involved. The instant application is a matter directly related to MC-F-10979, published in the FEDERAL REGISTER issue of October 14, 1970. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho, Ontario, Baker, or Portland, Oreg.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

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

MOTOR CARRIERS OF PROPERTY

Finance Docket No. 26371. By application filed October 6, 1970, the NORTH WESTERN EMPLOYEES TRANSPORTATION CORPORATION, 400 West Madison Street, Chicago (Cook County), Ill. 60606, seeks an order under section 5(2) of the Interstate Commerce Act for authority to purchase assets of CHICAGO AND NORTH WESTERN RAILWAY COMPANY, also of Chicago, Ill., through the purchase. Applicants' attorney and representative: Edward K. Wheeler, Southern Building, 15th and H Streets NW., Washington, D.C. 20005 and Earl E. Pollock, 69 West Washington Street, Chicago, Ill. 60602. Operating rights sought to be transferred:

*General commodities*, as a *common carrier* over regular routes, between Chicago, Ill., and Waukegan, Ill., between Highland Park, Ill., and Waukegan, Ill., between Chicago, Ill., and Crystal Lake, Ill., between Berkeley, Ill., and Evanston, Ill., between Chicago, Ill., and Orchard Place, Ill., between Berkeley, Ill., and Belvidere, Ill., between Berkeley, Ill., and St. Charles and Algonquin, Ill., between Dundee, Ill., and Marengo, Ill., between Berkeley, Ill., and Malta, Ill., between St. Charles, Ill., and Aurora, Ill., between Rochelle, Ill., and Creston Ill., between Dixon, Ill., and Franklin Grove, Ill., between Rochelle, Ill., and Ashton, Ill., between Wausau, Wis., and Rothschild, Wis., between Hurley, Wis., and Ironwood, Mich., between Council Bluffs, Iowa, and Omaha, Nebr., between Sheboygan, Wis., and Clintonville, Wis., between Manitowoc, Wis., and Denmark, Wis., between Fond du Lac, Wis., and Escanaba, Mich., between Crystal Lake, Ill., and Woodstock, Ill., between Algonquin, Ill., and the junction of Illinois Highway 31 and U.S. Highway 14, between South Elgin, Ill., and St. Charles, Ill., between the junction of Illinois Highway 83 and Alternate U.S. Highway 30 and the junction of Alternate U.S. Highway 30 and unnumbered highway, near West Chicago, Ill., between Mount Prospect, Ill., and the junction of Illinois Highway 83 and Alternate U.S. Highway 30, between Chicago, Ill., and the junction of U.S. Highway and Illinois Highway 64, near Berkeley, Ill., between the junction of U.S. Highway 20 and Illinois Highway 42A, and the junction of Illinois Highways 42A and 58, between Chicago, Ill., and Highland Park, Ill., with restrictions, between Sterling, Ill., and Union Grove, Ill., between Stanwood, Iowa, and Tipton, Iowa, between Manitowoc, Wis., and Two Rivers, Wis., between Madison, Wis., and Beloit, Wis., between Wisconsin Rapids, Wis., and Adams, Wis., between Rapid City, S. Dak., and Lead, S. Dak., between Rapid City, S. Dak., and Vale, S. Dak., between Pierre, S. Dak., and Fort Pierre, S. Dak., between Fulton, Ill., and Sioux City, Iowa, and Omaha, Nebr., between Des Moines, Iowa, and Eagle Grove, Iowa, between Sioux City, Iowa and Eagle Grove, Iowa;

Between Audubon, Iowa, and Sioux City, Iowa, between Denison, Iowa, and Ida Grove, Iowa, between junction Iowa Highway 39 and U.S. Highway 30 and Denison, Iowa, between Marshalltown, Iowa, and Auburn, Iowa, between Tama, Iowa, and Colo, Iowa, between Eldora, Iowa, and junction Iowa Highway 215 and unnumbered highway, between Lawn Hill, Iowa, and junction Iowa Highways 299 and 57, between Mount Vernon, Iowa, and Clinton, Iowa, between Stanwood, Iowa, and junction Iowa Highways 38 and 64, between De Witt, Iowa, and junction U.S. Highway 61 and Iowa Highway 136, between Lead, S. Dak., and Deadwood, S. Dak., between Oral, S. Dak., and Hot Springs, S. Dak., between Beloit, Wis., and Evansville, Wis., between junction U.S. Highway 51 and unnumbered highway, approximately 5 miles north of Beloit, Wis., and junction Rock County Highway D and unnumbered highway south of Afton, Wis., between Janesville, Wis., and junction unnumbered highway and Wisconsin Highway 11, approximately 5 miles west of Janesville, Wis., between junction of unnumbered highways approximately ½ mile west of Footville and junction of unnumbered highways approximately 2 miles south of Magnolia Station, with restrictions; *general commodities*, which are at the time in primary custody of and moving on bills of lading of a railway express company, and *newspapers*, between De Kalk, Ill., and Sycamore, Ill.;

*General commodities* moving express service, between Sioux City, Iowa, and Omaha, Nebr., serving certain intermediate points in Iowa, between St. Paul, Minn., and Sioux City, Iowa, serving certain intermediate and off-route points in Iowa and the off-route point of Minnesota, between Rhinelander, Wis., and Land O'Lakes, Wis., serving certain specified intermediate points in Wisconsin, between Milwaukee, Wis., and Green Bay, Wis., serving certain specified intermediate and off-route points in Wisconsin, between Milwaukee, Wis., and Green Bay, Wis., serving certain intermediate and off-route points in Wisconsin, between Altoona, Wis., and Duluth, Minn., serving certain specified intermediate and off-route points in Wisconsin, between Mankato, Minn., and Huron, S. Dak., serving all intermediate points, with restrictions; *general commodities*, except classes A and B explosives, between Fond du Lac, Wis., and Marshfield, Wis., and all intermediate points, and the off-route points of El Dorado, Green Lake, and Arpin, Wis., between Malta, Ill., and Creston, Ill., serving all intermediate points, between Ashton, Ill., and Franklin Grove, Ill., serving all intermediate points, between Dixon, Ill., and Sterling, Ill., serving no intermediate points, between Union Grove, Ill., and Fulton, Ill., serving all intermediate points, between Belvidere, Ill., and Freeport, Ill., serving all intermediate points, between Woodstock, Ill., and Beloit, Wis., serving all intermediate points, with restrictions; general commodities, except classes A and B explosives, livestock, commodities in bulk, and those requiring special equipment, between Peoria, Ill., and Monmouth, Ill., serving certain specified intermediate and off-route points in Illinois, between Monmouth, Ill., and Keithsburg, Ill., serving the intermediate points of Little Rock and Seaton, Ill., with restrictions; *general commodities*, excepting, among others, classes A and B explosives, household goods and commodities in bulk, between New Sharon, Iowa, and Newton, Iowa, serving certain intermediate points of Iowa, between New Sharon, Iowa, and Newton, Iowa, serving the intermediate points of Lynnville, Sully, and Killduf, Iowa, between Newton, Iowa, and Marshalltown, Iowa, serving no intermediate points, with restrictions;

*Meats, meat products and meat byproducts, articles distributed by meat packinghouses, and such commodities as are used by meatpackers in the conduct of their business when destined to and for use by meatpackers*, as described in sections A, C, and D of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between West Point, Nebr., and Council Bluffs, Iowa, serving the intermediate points of Missouri Valley, Iowa, and Blair, Fremont, and Omaha, Nebr., between West Point, Nebr., and Sioux City, Iowa, serving no intermediate points, from Hawarden, Iowa, to Sioux City, Iowa, serving no intermediate points, between Hospers, Iowa, and Worthington, Minn., serving no intermediate points,

with restrictions; *meats, meat products, and meat byproducts*, and *articles distributed by meat packinghouses*, as described in section A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except hides, from Watertown, S. Dak., to Aberdeen, S. Dak., serving no intermediate points, from Huron, S. Dak., to Aberdeen, S. Dak., serving no intermediate points, with restrictions; *general commodities*, excepting, among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over irregular routes, between certain specified points in Nebraska, on the one hand, and, on the other, the construction site of the Niobrara Reclamation Project in Cherry and Brown Counties, Nebr., with restriction; *commodities* used in the construction of power transmission lines, between Highmore, S. Dak., on the one hand, and, on the other, points in Buffalo and Hyde Counties, S. Dak., between certain specified points in South Dakota, and certain specified points in Iowa, on the one hand, and, on the other, points in Minnehaha County, S. Dak., and Lyon, Sioux and Plymouth Counties, Iowa, with restrictions;

*Commodities* used in the erection, construction, and maintenance of power transmission lines or substations, except commodities which, because of size or weight, require the use of special equipment or special handling, and *aluminum and steel cable* used in the construction of power transmission lines, between certain specified points in Nebraska, on the one hand, and, on the other, points in Dawes, Sioux, and Scotts Bluff Counties, Nebr., certain specified points in South Dakota, lying on and east of line beginning at the northern boundary of Pennington County, and extending southerly along U.S. Highway 385 to junction South Dakota Highway 87, and thence southerly along South Dakota Highway 87 to the South Dakota-Nebraska State line, with restriction. NORTH WESTERN EMPLOYEES TRANSPORTATION CORPORATION holds no authority from this Commission. NOTE: Certificate No. MC-42614 Sub-34 is also included herein.

No. MC-F-10983. Authority sought for purchase by UNITED TRANSPORTS, INC., 4900 North Santa Fe, Oklahoma City, Okla. 73118, of the operating rights and property of WOODS INDUSTRIES, INC., 4900 North Santa Fe, Oklahoma City, Okla. 73118, and for acquisition by WOODS CORPORATION, and in turn ROY G. WOODS and W. B. VOSS, all also of Oklahoma City, Okla., of control of such rights and property through the purchase. Applicants' attorney: Harold G. Hernly, 711 14th Street, Washington, D.C. 20005. Operating rights sought to be transferred: *New motor vehicles, vehicle cabs and bodies, and automobile show equipment and paraphernalia*, when transported with display vehicles, in initial movements, in truckaway and driveaway service, as a *contract carrier* over irregular routes, from the site of the General Motors plant in Wyandotte County, Kans., to points in Alabama, Arizona, California, Kentucky, Mississippi, Nevada, and Tennessee, from the site of the General Motors plant (GM Assembly Division) in Wyandotte County, Kans., to points in Idaho, Oregon, and Washington, from points in Wyandotte County, Kans., to points in Arkansas, Colorado, Illinois, Iowa, Louisiana, Minnesota, Missouri, Montana, Nebraska, New Mexico, Oklahoma, South Dakota, Texas, Utah, and Wyoming, between points in Arkansas, Louisiana, and Texas, between points in Colorado, Illinois, Iowa, Minnesota, Missouri, Montana, Nebraska, New Mexico, Oklahoma, South Dakota, Utah, Wyoming, and Kansas, between points in Colorado, Illinois, Iowa, Minnesota, Missouri, Montana, Nebraska, New Mexico, Oklahoma, South Dakota, Utah, Wyoming, and Kansas, on the one hand, and, on the other, points in Arkansas, Louisiana, and Texas, with restrictions;

*Motor vehicles*, in initial movements, in driveaway and truckaway service, *vehicle cabs and bodies*, and *automobile show equipment and paraphernalia*, from points in Wyandotte County, Kans., to points in North Dakota, Wisconsin, and Indiana, from Arlington, Tex., to points in Texas, Louisiana, Oklahoma, New Mexico, Arizona, Utah, Colorado, Kansas, Arkansas, Wyoming, Nebraska, and Missouri, and to Memphis, Tenn.; *new motor vehicles, vehicle cabs and bodies*, and *automobile show equipment*, when transported with display vehicles, in initial movements, in truckaway service, from the plant site of General Motors Corp. (GM Assembly Division), at Arlington, Tex., to points in Alabama, Kentucky, Mississippi, and those in Tennessee (except Memphis), with restrictions. Vendee is authorized to operate as a *common carrier* in Missouri, Oklahoma, Texas, Indiana, Kansas, Ohio, New Mexico, Arizona, Tennessee, Michigan, Arkansas, Mississippi, Illinois, Louisiana, Wisconsin, Wyoming, and Colorado. Application has not been filed for temporary authority under section 210a(b). NOTE: MC-71902 Sub 72 is matter directly related.

No. MC-F-10984. Authority sought for purchase by MATCO TRANSPORTATION, INC., Third Street and Hackensack Avenue, South Kearny, N.J. 07032, of a portion of the operating rights of SOMCO FREIGHT LINES, INC. (FRANK G. MASINI, RECEIVER), Paterson Plank Road, East Rutherford, N.J., and for acquisition by DOMINIC A. MARINO and GASPER F. MARINO, also of South Kearny, N.J., of control of such rights through the purchase. Applicants' attorneys: William J. Hanlon, 744 Broad Street, Newark, N.J. 07102 and Arthur J. Piken, 160-16 Jamaica Avenue, Jamaica, N.Y. 11432. Operating rights sought to be transferred: *General commodities*, excepting among others classes A and B explosives, commodities in bulk, as a *common carrier* over irregular routes, between Carlstadt, N.J., on the one hand, and, on the other, points in that part of Connecticut south of a line extending from New Haven, Conn., in a northwesterly direction through Ansonia, Sandy Hook, and Brookfield, Conn., to the Connecticut-New York State line; points in that part of New York south of U.S. Highway 202 and west of New York Highway 112 extending between Patchogue and Port Jefferson, Long Island, N.Y. (not including New York, N.Y.); and points in that part of New Jersey and Pennsylvania bounded by a line beginning at the New Jersey-New York State line and extending along U.S. Highway 202 to junction U.S. Highway 46, thence along U.S. Highway 46 to junction U.S. Highway 206, thence along U.S. Highway 206 to Trenton, N.J., thence along U.S. Highway 1 to Philadelphia, Pa., thence to Camden, N.J., thence along the east bank of the Delaware River to Penns Grove, N.J., thence along U.S. Highway 130 to junction Alternate U.S. Highway 130, thence along Alternate U.S. Highway 130 to Paulsboro, N.J., thence in an easterly direction to Clementon, N.J., thence in a northeasterly direction through Mount Holly and Freehold, N.J., to the Atlantic Ocean, thence along the east bay and river shores of New Jersey to the New Jersey-New York State line, and thence along the New Jersey-New York State line to point of beginning, including points on the indicated portions of the highways specified, *asphalt or asbestos roofing and siding, including nails and cement* for the installation thereof, *fiberboard, and asbestos board*, from South Kearny, N.J., to Elmira, N.Y., points in Delaware, Maryland, that part of Pennsylvania east of the Susquehanna River, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in New Jersey and New York. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10985. Authority sought for control by INTERSTATE VAN LINES, INC., 821 Howard Road SE., Washington, D.C. 20020, of UNIVERSAL VAN LINES, INC., 117 Virginia Beach Boulevard, Norfolk, Va. 23510, and for acquisition by ARTHUR E. MORRISSETTE, ARTHUR E. MORRISSETTE, JR., DONALD J. MORRISSETTE and KENNETH MORRISSETTE, all also of 821 Howard Road SE., Washington, D.C. 20020, of control of INTERSTATE VAN LINES, INC., through the acquisition by UNIVERSAL VAN LINES, INC. Applicants' attorneys: Paul F. Sullivan and David C. Venable, both of 701 Washington Building, 15th and New York Avenue NW., Washington, D.C. 20005. Operating rights sought to be controlled: *Household goods*, as defined by the Commission, as a *common carrier* over irregular routes, between points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Kentucky, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and the District of Columbia. INTERSTATE VAN LINES, INC., is authorized to operate as a *common carrier* in Maryland, Virginia,

Pennsylvania, Florida, Connecticut, North Carolina, New York, Rhode Island, Massachusetts, New Jersey, Delaware, Indiana, Vermont, Kansas, Missouri, Tennessee, West Virginia, South Carolina, Mississippi, Louisiana, Alabama, Georgia, Kentucky, Ohio, Illinois, Oklahoma, Michigan, Wisconsin, New Hampshire, Maine, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10986. Authority sought for purchase by CHECKER EXPRESS CO., 6801 South 13th Street, Milwaukee, Wis. 53221, of the operating rights and property of ILLINI REEFER TRANSIT, INC., 906 Bradley Street, Champaign, Ill. 61820, and for acquisition by HYMAN J. LEWENSOHN, also of Milwaukee, Wis., of control of such rights and property through the purchase. Applicants' attorney: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC 120048 Sub-2, covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Illinois. Vendee is authorized to operate as a *common carrier* in Wisconsin, Illinois, Iowa, and Minnesota. Application has been filed for temporary authority under section 210a(b). NOTE: MC 68980 Sub-15, is a matter directly related.

No. MC–F–10988. Authority sought for purchase by WILLIAM EARNHARDT, doing business as EARNHARDT TRANSPORT, Post Office Box 77, Highway No. 52, Gold Hill, N.C. 28071, of the operating rights of J. C. BANKETT (GRACE MAHALEY BANKETT, ADMINISTRATRIX), 201 East Innes Street, Salisbury, N.C. 28144, and for acquisition by WILLIAM EARNHARDT, Route 1, Gold Hill, N.C. 28071, of control of such rights through the purchase. Applicants' representative: George L. Burke, Jr., 113 West Council Street, Salisbury, N.C. 28144. Operating rights sought to be transferred: Clay products, as a *common carrier* over irregular routes, from Salisbury and East Spencer, N.C., to Florence and Winnsboro, S.C., Richmond, Va., points and places in Pittsylvania, Henry, Patrick, Roanoke, Chesterfield, Hanover, and Halifax Counties, Va., and those in Lancaster, Chester, York, Chesterfield and Fairfield Counties, S.C. Vendee is authorized to operate as a *common carrier* in all States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10989. Authority sought for purchase by YELLOW FREIGHT SYSTEM, INC., 92d Street at State Line Road, Kansas City, Mo. 64114, of the operating rights of NEW YORK & WORCESTER EXPRESS, INC., Eastern and Moonachie Avenues, Carlstadt, N.J. 07072, and for acquisition by GEORGE E. POWELL, 801 West 64th Terrace, Kansas City, Mo., and GEORGE E. POWELL, Jr., 1040 West 57th Street, Kansas City, Mo., of control of such rights through the purchase. Applicants' attorneys and representative: Richard K. Andrews, 1500 Commerce Trust Building, Kansas City, Mo. 64106, David Axelrod, 39 South La Salle Street, Chicago, Ill. 60603, Maxwell A. Howell, 1511 K Street NW., Washington, D.C. 20005 and John M. Records, Post Office Box 8462, Kansas City, Mo. 64114. Operating rights sought to be transferred: *General commodities*, excepting among others dangerous explosives, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Boston, Mass., and New York, N.Y., between Springfield, Mass., and Worcester, Mass., between Worcester, Mass., and New Bedford, Mass., serving all intermediate points, and certain off-route points, between Worcester, Mass., and New Bedford, Mass., serving all intermediate points, and certain off-route points, between Brockton, Mass., and Taunton, Mass., serving all intermediate points, between Worcester, Mass., and Gardner, Mass., serving all intermediate points, and certain off-route points, between Worcester, Mass., and Brockton, Mass., serving all intermediate points, and the off-route point of Abington, Mass., between Worcester, Mass., and Brockton, Mass., serving all intermediate points, and certain off-route points, between Worcester, Mass., and Brockton, Mass., serving all intermediate points, between Worcester, Mass., and Holyoke, Mass., serving all intermediate points, and the off-route points of West Springfield and Chicopee, Mass., between Worcester, Mass., and Holyoke, Mass., serving all intermediate points; *general commodities*, except those of unusual value, and except dangerous explosives, livestock, commodities in bulk, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, and commodities requiring special equipment, moving at the time on bills of freight forwarders, between New York, N.Y., and Springfield, Mass.; and *brass and brass products*, between Worcester, Mass., and Providence, R.I., serving the intermediate point of Uxbridge, Mass., and the off-route point of Whitinsville, Mass. Vendee is authorized to operate as a *common carrier* in Illinois, Kansas, Oklahoma, Missouri, Texas, Indiana, Kentucky, Michigan, Ohio, Iowa, Nebraska, Georgia, Tennessee, Colorado, New Mexico, California, Nevada, Arizona, South Carolina, Wyoming, Maryland, Virginia, South Dakota, and Utah. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10990. Authority sought for purchase by BAKER HI-WAY EXPRESS, INC., Box 484, Dover, Ohio 44622, of a portion of the operating rights of GEORGE L. HOOKER, INC., Tuscarawas Road, Uhrichsville, Ohio 44683, and for acquisition by HAROLD BAKER, Stone Creek, Ohio 43840, of control of such rights through the purchase. Applicants' attorney: Richard H. Brandon, 79 East State Street, Columbus, Ohio 43215. Operating rights sought to be transferred: *Brick, silo blocks, forms of building block, veneer slab, and other commodities in the brick line*, including everything that goes with faced brick building material, as a *contract carrier* over irregular routes, from Sugarcreek, Ohio, to points in Indiana, Kentucky, Michigan, New Jersey, New York, Ohio, Pennsylvania, and West Virginia; *salt, silica, barium, lath, sewer pipe, lumber, machinery, and machine parts*, from points in the above-described territory, to the above-specified origin points. Vendee is authorized to operate as a *common carrier* in Ohio, Illinois, Kentucky, Michigan, New York, Indiana, West Virginia, Maryland, District of Columbia, Iowa, Minnesota, Missouri, Wisconsin, Pennsylvania, New Jersey, Connecticut, Massachusetts, Rhode Island, New Hampshire, Maine, Vermont, Delaware, and Virginia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10991. Authority sought for purchase by O.N.C. MOTOR FREIGHT SYSTEM, 2800 West Bayshore Road, Palo Alto, Calif. 94303, of a portion of the operating rights of VALLEY MOTOR LINES, INC., doing business as VALLEY COPPERSTATE SYSTEM, Post Office Box 10125, Dallas, Tex. 75207, and for acquisition by ALTRAN CORPORATION, and in turn, by DAVID P. ROUSH, G. JON ROUSH, CARROLL J. ROUSH, DIANE G. ROUSH AS CUSTODIAN FOR MINOR CHILDREN, also of Palo Alto, Calif., of control of such rights through the purchase. Applicants' attorney and representative: Jack R. Turney, Jr., 2001 Massachusetts Avenue NW., Washington, D.C. 20036, and C. J. Boddington, 2800 West Bayshore Road, Palo Alto, Calif. 94303. Operating rights sought to be transferred: *General commodities*, except commodities in bulk, and household goods as defined by the Commission as a common carrier over regular routes, between Grants Pass, Oreg., and Crescent City, Calif., serving all intermediate points, the off-route points of Holland and Takilma, Oreg., and Patricks Creek, Calif., and points within 10 miles of Crescent City, except those south of Crescent City which are on or within 1 mile of U.S. Highway 101, from Grants Pass over U.S. Highway 101 to junction U.S. Highway 199, thence over U.S. Highway 199 to Crescent City, and return over the same route. Vendee is authorized to operate as a *common carrier* in Oregon, California, Nevada, and Washington. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10992. Authority sought for purchase by POSA, INC., 122 Kingsland Avenue, Brooklyn, N.Y., of a portion of the operating rights of BERNSIE'S EXPRESS CO., INC., 1080 Springfield Road, Union, N.J., and for acquisition by JOSEPH POSA, 81–43 Woodhaven Boulevard, Glendale, N.Y., of control of such rights through the purchase. Applicants' attorneys: Arthur J. Piken, 160–16 Jamaica Avenue, Jamaica, N.Y. 11432 and Edward F. Bowes, 744 Broad Street, Newark, N.J. 07102. Operating rights sought to be transferred: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the

Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier*, over irregular routes, between New York, N.Y., on the one hand, and, on the other, points in Essex, Bergen, Passaic, Hudson, Union, and Middlesex Counties, N.J. Vendee is authorized to operate as a *common carrier* in New Jersey, New York, Pennsylvania, and Connecticut. Application has not been filed for temporary authority under section 210a(b).

MOTOR CARRIER OF PASSENGER

No. MC-F-10987. Authority sought for purchase by JACK RABBIT LINES, INC., 301 North Dakota Avenue, Sioux Falls, S. Dak. 57101, of the operating rights of INTER CITY BUS LINE, INC., 420 West 3d Street, Yankton, S. Dak. 57078, and for acquisition by THE FIRST NATIONAL BANK, EXECUTOR, ESTATE OF LOWELL C. HANSEN, DECEASED, 112 South Phillips Avenue, Sioux Falls, S. Dak. 57102, of control of such rights through the purchase. Applicant's attorney: Robert G. May, 412 West Ninth Street, Sioux Falls, S. Dak. 57104. Operating rights sought to be transferred: Passengers and their baggage, and express and newspapers, in the same vehicle with passengers, as a *common carrier* over regular routes, between Yankton, S. Dak., and Sioux City, Iowa, serving all intermediate points; passengers and their baggage, and express mail, and newspapers, in the same vehicle with passengers, between Platte, S. Dak., and Chamberlain, S. Dak., serving the intermediate points of Kimball and Pukwana, S. Dak., between Pierre, S. Dak., and junction U.S. Highways 83 and 16 near Vivian, S. Dak., between Mitchell, S. Dak., and Rapid City, S. Dak., between Mitchell, S. Dak., and Yankton, S. Dak., serving all intermediate points. Vendee is authorized to operate as a *common carrier* in South Dakota, North Dakota, and Minnesota. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-14169; Filed, Oct. 20, 1970; 8:49 a.m.]

## NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

OCTOBER 16, 1970.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's Rules of Practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. 24519-Ext., filed August 21, 1970. Applicant: DENVER-CLIMAX TRUCK LINE, INC., 4250 Oneida Street, Denver, Colo. 80237. Applicant's representative: R. B. Danks, 401 First National Bank Building, Denver, Colo. 80202. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* to and from the Henderson millsite, in intrastate and interstate commerce. Road to millsite will join Colorado Highway No. 9 about 5 miles southeast of southeast end of Green Mountain Reservoir. Road runs from that point in a northeasterly direction over Ute Pass a distance of about 5 miles to millsite.

*HEARING:* December 15, 1970, at 10 o'clock a.m., Commission Hearing Room, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203. Requests for procedural information including the time for filing protests concerning this application should be addressed to Public Utilities Commission, State of Colorado, 500 Columbine Building, 1845 Sherman Street, Denver, Colo. 80203.

State Docket No. MC 27362 Sub-1, filed September 28, 1970. Applicant: JIMMY SWEET, doing business as J & M TRUCK LINE, 520 South Fifth Street, Clinton, Okla. Applicant's representative: Max G. Morgan, 600 Leininger Building, Oklahoma City, Okla. 73112. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, between Oklahoma City, Okla., and Arapaho, Okla., via I-40 from Oklahoma City to Clinton, Okla., thence over Highway 183 to Arapaho, Okla., and return over the same route serving the intermediate point of Clinton, Okla., and the off-route point of Weatherford, Okla. Both intrastate and interstate authority sought.

*HEARING:* November 16, 1970, 9 a.m., 3d floor, Jim Thorpe Building, Oklahoma City, Okla. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Oklahoma Corporation Commission, 3d floor, Jim Thorpe Building, Oklahoma City, Okla. 73105.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[F.R. Doc. 70-14166; Filed, Oct 20, 1970; 8:48 a.m.]

[Notice 174]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 16, 1970.

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

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

MOTOR CARRIERS OF PROPERTY

No. MC 30837 (Sub-No. 410 TA), filed October 14, 1970. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Post Office Box 160, 53141, Kenosha, Wis. 53140. Applicant's representative: Albert P. Barber (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Seat cabs*, set up, from Rochester, Minn., to Racine, Wis., for 180 days. Supporting shipper: J. I. Case Co., 700 State Street, Racine, Wis. 53404. (Craig Stewart, traffic supervisor.) Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 108207 (Sub-No. 308 TA), filed October 13, 1970. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street, Post Office Box 5888, Dallas, Tex. 75222. Applicant's representative: J. B. Ham, Post Office Box 5888, Dallas, Tex. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts*, from Palestine, Tex., to Columbia, Tenn., and Henderson, Ky., for 150 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Vernon Calhoun Packing Co., Post Office Box 709, Palestine, Tex. 75801. Send protests to: E. K. Willis, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, 513 Thomas Building, 1314 Wood Street, Dallas, Tex. 75202.

No. MC 109891 (Sub-No. 18 TA), filed October 13, 1970. Applicant: INFINGER TRANSPORTATION COMPANY, INC., Post Office Box 7398, Charleston Heights, S.C. 29405. Applicant's representative: William Addams, Suite 527, 1776 Peachtree Street NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt and asphalt products*, from Tuscaloosa, Ala., and points within 10 miles thereof, to points in North Carolina and South Carolina, for 120 days. Supporting shippers: Dickerson, Inc., Monroe, N.C., Midstate Contractors, Inc., Hickory, N.C.; Blythe

Brothers Co., Charlotte, N.C.; A. R. Thompson Contractors, Inc., Rutherfordton, N.C. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, S.C. 29202.

No. MC 111231 (Sub-No. 168 TA), filed October 13, 1970. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, Ark. 72764. Applicant's representatives: James Blair, Springdale, Ark. 72764. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Fort Smith, Ark., to Emporia, Kans., for 180 days. Supporting shipper: Fort Smith Port Terminal, Division of Pine Bluff Warehouse Co., Post Office Box 6009, Pine Bluff, Ark. 71601. Send protests to: District Supervisor, William H. Land, Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 118127 (Sub-No. 19 TA), filed October 13, 1970. Applicant: HALE DISTRIBUTING COMPANY, INC., 914 South Vail Avenue, Montebello, Calif. 90640. Applicant's representative: William J. Augello, Jr., 103 Fort Salonga Road, Northport, N.Y. 11768. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen meat and meat products* and (2) *frozen commodities*, the transportation of which is otherwise exempt from economic regulations under section 203(b)(6) of the Act, when moving in the same vehicle and at the same time with the commodities authorized in part (1), from Manchester, N.H., and Lawrence, Mass., to Fort Carson and Denver, Colo., Chicago, Ill., Fort Leonard Wood and Kansas City, Mo., Fort Riley, Kans., El Paso, Fort Worth and San Antonio, Tex., Fort Campbell and Fort Knox, Ky., and Nashville, Tenn., for 150 days. Supporting shipper: Foster's of Manchester, 409–413 Elm Street, Manchester, N.H. 03105. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 123067 (Sub-No. 108 TA), filed October 13, 1970. Applicant: M & M TANK LINES, INC., Post Office Box 612, Winston-Salem, N.C. 27102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, having a prior out-of-State movement by rail, from points in Franklin and Roanoke Counties, Va., to points in North Carolina and Virginia, for 150 days. Supporting shipper: International Salt Co., Clarks Summit, Pa. Send protests to: District Supervisor Jack Huff, Interstate Commerce Commission, Bureau of Operations, Suite 417, BSR Building, 316 East Morehead Street, Charlotte, N.C. 28202.

No. MC 123565 (Sub-No. 1 TA), filed October 13, 1970. Applicant: HAYNES, INC., 4151 Federal Way, Post Office Box 101, Boise, Idaho 83701. Applicant's representative: Kenneth G. Bergquist, Post Office Box 1775, Boise, Idaho 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods, frozen;* also *dry vegetable products*, between Ontario, Oreg., and Weiser, Buckingham (near Fruitland), Nampa, Boise, Burley, and Borah, Idaho, for 150 days. NOTE: Carrier does not intend to tack authority applied for, or interline, with other carriers. Supporting shipper: Ore-Ida Foods, Inc., Post Office Box 10, Boise, Idaho 83701. Send protests to: C. W. Campbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 455 Federal Building and U.S. Courthouse, Boise, Idaho 83701.

No. MC 127505 (Sub-No. 34 TA) filed October 13, 1970. Applicant: RALPH H. BOELK, doing business as R. H. BOELK TRUCK LINES, Route No. 2, Mendota, Ill. 61342. Applicant's representative: Walter J. Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum plate or sheet*, from Amax Aluminum Mill Products, Inc., near Channahon, Ill., to Ixonia, Wis., for 180 days. Supporting shipper: Robert Michalak, Traffic Manager, Amax Aluminum Mill Products, Inc., Post Office Box 143, Morris, Ill. 60450. Send protests to: William E. Gallagher, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 128866 (Sub-No. 14 TA), filed October 13, 1970. Applicant: B & B TRUCKING, INC., Post Office Box 128, 9 Brade Lane, Cherry Hill, N.J. 08034. Applicant's representative: J. Michael Farrell, Federal Bar Building, Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum food containers*, from the plantsites of Penny Plate, Inc., at Cherry Hill, N.J., and Searcy, Ark., to the plantsite of Edwards Baking Co., Atlanta, Ga., the plantsite of R & T Baking Co., Inc., Birmingham, Ala., the plantsite of Wicks Pie Co., Winchester, Ind., the plantsite of H. E. Butts Bakeries, Inc., San Antonio, Tex., the plantsite of RJR Foods Inc., San Antonio, Tex., for 150 days. Supporting shipper: Penny Plate, Inc., Post Office Box 458, Haddonfield, N.J. 08034. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, Trenton, N.J. 08608.

No. MC 133106 (Sub-No. 4 TA), filed October 12, 1970. Applicant: NATIONAL CARRIERS, INC., Post Office Box 1358, 1501 East Eighth Street, Liberal, Kans. 67901. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Drugs, medicines, and toilet preparations*, moving in vehicles equipped with mechanical temperature control devices; from Lititz, Pa., to points in Washington, Oregon, California, Nevada, Utah, Idaho, Arizona, New Mexico, Colorado, Nebraska, Oklahoma, Kansas, Texas, Iowa, Missouri, and Rockford, Ill.; (2) *drugs, medicines, toilet preparations, candy, confectionery, chewing gum, beverage preparations, and anti-acid mints*, moving in vehicles equipped with mechanical temperature control devices; from Rockford, Ill., to points in Washington, Oregon, California, Nevada, Utah, Idaho, Arizona, New Mexico, Colorado, Nebraska, Kansas, Oklahoma, Texas, Iowa, and Missouri, under continuing contract with Warner-Lambert Pharmaceutical Co. and its division and subsidiaries, for 180 days. NOTE: Applicant intends to file schedule of rates on statutory notice, if application is granted. Supporting shipper: Warner-Lambert Pharmaceutical Co., 201 Tabor Road, Morris Plains, N.J. 07950. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 133581 (Sub-No. 6 TA), filed October 13, 1970. Applicant: HOLDT POTATO COMPANY, INC., Rural Route No. 2, Red Cloud, Nebr. 68970. Applicant's representative: Frederick J. Coffman, Post Office Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cheese;* (a) from Monroe, Fond Du Lac, Green Bay, Fremont, Spencer, Wisconsin Rapids, Mishicot, Manitowoc, Poy Sippi, Marshfield, and Wausau, Wis., and their respective commercial zones; to Red Cloud, Nebr., and points in Arizona, California, Missouri, Kansas, New Mexico, and Oklahoma; (b) from Red Cloud, Nebr., to points in Kansas, New Mexico, and Oklahoma; (2) *Equipment, materials and supplies* used in the manufacture of cheese (except in bulk), between points in Wisconsin and Nebraska; (3) *rejected and unused cheese;* (a) from points in Arizona, California, Kansas, Missouri, New Mexico, and Oklahoma, to Red Cloud, Nebr., and points in Wisconsin as listed in (1) above; (b) from Red Cloud, Nebr., to points in Wisconsin as listed in (1), under continuing contract with Don Pauly Cheese, Inc., for 180 days. Supporting shipper: Don Pauly Cheese, Inc., Manitowoc, Wis. Send protests to: District Supervisor Johnson, Bureau of Operations, Interstate Commerce Commission, 315 Post Office Building, Lincoln, Nebr. 68508.

No. MC 134278 (Sub-No. 1 TA), filed October 13, 1970. Applicant: CHARLES R. GOODMAN, doing business as GOODMAN TRUCKING CO., 1238 South Second West Street, Salt Lake City, Utah 84101. Applicant's representative: Irene Warr, 419 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (not in bulk), and *empty containers*, between points in California, Washington, Oregon, Nevada, and Utah, for 180 days. Supporting shipper: Thatcher Chemical Co., Post Office Box 6037, Salt Lake City, Utah 84106 (Lawrence E. Thatcher, President). Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5239

Federal Building, Salt Lake City, Utah 84111.

No. MC 134978 TA, filed October 13, 1970. Applicant: C. P. BELUE, doing business as BELUE'S TRUCKING, Route 2, Chesnee, S.C. 29323. Applicant's representative: C. P. Belue (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete products for building, highway sewer and utility construction*, from Fairforest, S.C., to points in North Carolina, for 180 days. Supporting shipper: Tindall Concrete Pipe Co., Box 5053, Spartanburg, S.C. 29301. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, S.C. 29201.

No. MC 134979 TA, filed October 13, 1970. Applicant: DAGGETT TRUCK LINE, INC., Frazee, Minn. 56544. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen and refrigerated pie crusts*, from the plantsite of Ready Italy, Inc., at or near Fargo, N. Dak., to Duluth, Minn., for 180 days. Supporting shipper: Ready Italy, Inc., Highway 81 South, Fargo, N. Dak. 58102. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, N. Dak. 58102.

No. MC 134980 TA, filed October 13, 1970. Applicant: DOCTORMAN TRUCKING, INC., 2900 South Second West Street, Salt Lake City, Utah 84115. Applicant's representative: Bernard L. Rose, 72 East Fourth South Street, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, packinghouse products, and commodities used by packinghouses*, from Joe Doctorman & Son Packing Co., Inc., plantsite, South Salt Lake, Salt Lake County, Utah, to points in Los Angeles, San Francisco, Alameda, San Bernardino, Orange, San Joaquin, Santa Clara, and San Mateo Counties, Calif.; Denver and Adams Counties, Colo.; Brighton, Colo.; and its commercial zone; and Elko, Las Vegas, Reno, and Sparks, Nev.; including the commercial zones of each; (2) on the return movement, *commodities used in the operation of a packinghouse plant and byproducts and rendering plant*, from points in Los Angeles, San Francisco, Alameda, San Bernardino, Orange, San Joaquin, Santa Clara, and San Mateo Counties, Calif., and from Denver and Adams Counties, Colo., to the plantsite of Joe Doctorman & Son Packing Co., Inc., South Salt Lake, Salt Lake County, Utah, under continuing contracts with Joe Doctorman & Son Packing Co., Inc., and United By-Products, Inc., for 180 days. Supporting shipper: Joe Doctorman & Son Packing Co., Inc., Post Office Box 2137, Salt Lake City, Utah 84110. (Harry G. Doctorman, Vice President), and United By-Products Inc., 2900 South Second West Street, Salt Lake City, Utah 84115 (Harry J. Doctorman, President). Send protests to: John T. Vaughan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, Salt Lake City, Utah 84111.

MOTOR CARRIER OF PASSENGERS

No. MC 134981 TA, filed October 13, 1970. Applicant: THE HUDSON BUS TRANSPORTATION CO., INC., 437 Tonnele Avenue, Jersey City, N.J. 07306. Applicant's representative: Virden A. Rittgers (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Passengers*, between Port Authority Bus Terminal, New York, N.Y., and plantsite of Nelson Distribution Corp., 20 Enterprise Avenue, Secaucus, N.J. 07094, for 180 days. Supporting shipper: Nelson Distribution Corp., 20 Enterprise Avenue, Secaucus, N.J. 07094. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, N.J. 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[F.R. Doc. 70-14165; Filed, Oct. 20, 1970; 8:48 a.m.]

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