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List of CFR Parts Affected

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

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

Rules and Regulations

Title 7—AGRICULTURE

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

[Navel Orange Reg. 212]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.512 Navel Orange Regulation 212.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 35 F.R. 16359), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 9, 1970.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period November 13, 1970, through November 19, 1970, are hereby fixed as follows:

(i) District 1: 801,000 cartons.

(ii) District 2: Unlimited movement.

(iii) District 3: 99,000 cartons.

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

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

Dated: November 10, 1970.

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

[F.R. Doc. 70–15344; Filed, Nov. 10, 1970; 11:44 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Peanut Price Support Regs., 1970 Crop Supp., Amdt. 1]

PART 1446—PEANUTS

Subpart—1970 Crop Peanut Warehouse Storage Loans and Sheller Purchases

PEANUT SEED RESIDUAL

The regulations issued by Commodity Credit Corporation, 35 F.R. 11988, which, together with the General Regulations Governing 1967 and Subsequent Crop Peanut Warehouse Storage Loans and Sheller Purchases, contain the terms and conditions under which CCC will make warehouse storage loans on and sheller purchases of 1970 crop peanuts, are hereby amended by adding a new § 1446.53 as follows:

§ 1446.53 Peanut seed residual.

The sheller shall (a) furnish written reports to the Association monthly on forms prescribed by CCC showing the quantity of shelled peanuts acquired by him during the period covered by the report which have been produced from 1970 crop farmers stock peanuts shelled for seed purposes by a seed sheller, producer, or any other person who has not signed the Peanut Marketing Agreement, and (b) pay to CCC an amount equal to 1.25 cents per gross pound for the total quantity of such peanuts. Any amount due CCC under this section will be deducted from amounts due the sheller from time to time on purchase program peanuts sold to CCC, and if any amount is due CCC over and above the amount due the sheller such amount will be paid to CCC upon receipt of an invoice from the Association.

(Secs. 4 and 5, 62 Stat 1070, as amended; 15 U.S.C. 714 b and c. Interpret or apply secs. 101, 401, 63 Stat. 1051, as amended, 7 U.S.C. 1441, 1421)

Effective date: Upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C. on October 26, 1970.

KENNETH E. FRICK,
Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 70–15234; Filed, Nov. 10, 1970; 8:49 a.m.]

[Amdt. 9]

PART 1472—WOOL

Subpart—Payment Program for Shorn Wool and Unshorn Lambs (Pulled Wool)

MISCELLANEOUS AMENDMENTS

It is desired to amend the regulations issued by Commodity Credit Corporation containing the requirements with respect to the payment program for shorn wool and unshorn lambs (pulled wool), as amended (31 F.R. 4582, 15234; 32 F.R. 4568, 16391; 33 F.R. 5208, 18009; 34 F.R. 6327, 17768; 35 F.R. 5997), (1) to expand marketing of shorn wool to include the sale of a manufactured product of wool, (2) to limit payments on sales by a producer to grower associations, and (3) to provide that the same application form will be used for sales in all marketing years. Accordingly, 7 CFR Part 1472 is further amended as follows:

1. Section 1472.1207 is amended by adding a new paragraph (d) reading as follows:

§ 1472.1207 Marketing within a specified marketing year.

* * * * *

(d) Marketing shall be deemed to include the marketing of a manufactured product of wool provided that the producer of such wool (1) retains title and beneficial interest in it until the product is marketed, and (2) furnishes a document, in a form prescribed by CCC, showing the weight of the wool (grease basis) delivered to the processor or his agent.

2. Section 1472.1209(b) is revised to read as follows:

§ 1472.1209 Computation of payment.

* * * * *

(b) Except as provided in § 1472.1211 (a)(6) with respect to a guaranteed minimum sales price, and except when wool is marketed in the form of a manufactured product, the net sales proceeds shall be determined by deducting from the gross sales proceeds of the wool all marketing expenses, such as any charges paid by or for the account of the producer for transportation, handling (including commissions), grading, scouring, or carbonizing. The figure so arrived at will express the net proceeds received by the producer at his farm, ranch, or local shipping point. Charges for wool bags or storage, as well as any other charges not directly related to the marketing of the wool, such as interest on advances, shall not be considered marketing charges. When a producer markets his wool in the form of a manufactured product, the net sales proceeds shall be determined by multiplying the net weight (grease basis) of the wool delivered to the processor by the average price per pound (grease basis) received by producers for wool sold in the State in which the wool was produced during the specified marketing year in which the product is marketed, as reported by the Statistical Reporting Service of this Department.

* * * * *

§ 1472.1210 [Amended]

3. Section 1472.1210(a) is amended by deleting the first two sentences and substituting the following language therefor: "The application for payment on the sale of shorn wool shall be prepared on Form CCC–1155, "Application for Payment (National Wool Act)."

4. Section 1472.1224(a) is revised to read as follows:

§ 1472.1224 Preparation of application.

(a) *Preparation.* The application for payment on the sale or slaughter of unshorn lambs shall be made on Form CCC–1155, "Application for Payment (National Wool Act)."

* * * * *

§ 1472.1245 [Amended]

5. Section 1472.1245 is amended by adding the following new sentence at the end of paragraph (b): "No payment shall be made on sales to a wool growers association (as distinguished from a cooperative marketing association) by its producer-members on the basis of net sales proceeds in excess of the fair market value of the wool (grease basis) as determined by CCC."

6. Section 1472.1253 is revised to read as follows:

§ 1472.1253 Forms.

Form CCC–1155, "Application for Payment (National Wool Act)," Form CCC–1157, "Assignment of Payment Under the National Wool Act of 1954," Form ASCS–325, "Application for Payment of Amounts Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent," and other forms issued by the U.S. Department of Agriculture for use in connection with this program may be obtained from county ASCS offices.

(Sec. 4, 62 Stat. 1070, sec. 5, 62 Stat. 1072, secs. 702–708, 68 Stat. 910–912, as amended, secs. 401–403, 72 Stat. 994–995, sec. 151, 75 Stat. 306, sec. 201, 79 Stat. 1188; 15 U.S.C. 714b, 714c, 7 U.S.C. 1781–1787, as amended)

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on November 5, 1970.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 70–15187; Filed, Nov. 10, 1970; 8:46 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one additional position of Special Assistant to the Secretary is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (2) of paragraph (a) of § 213.3312 is amended as set out below.

§ 213.3312 Department of the Interior.

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

(2) Seven Special Assistants 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. 70–15237; Filed, Nov. 10, 1970; 8:50 a.m.]

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to show that one additional position of Special Assistant to the Administrator, St. Lawrence Seaway Development Corporation, is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (1) of paragraph (g) of § 213.3394 is amended as set out below.

§ 213.3394 Department of Transportation.

* * * * *

(g) *St. Lawrence Seaway Development Corporation.* (1) Two Special Assistants to the Administrator.

* * * * *

(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. 70–15238; Filed, Nov. 10, 1970; 8:50 a.m.]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

PART 100—STATEMENT OF ORGANIZATION

The Class A ports of entry in Districts No. 27 and No. 28 of subparagraph (2) *Ports of entry for aliens arriving by vessel or by land transportation* of paragraph (c) *Suboffices* of § 100.4 *Field service* are amended to read as follows:

DISTRICT NO. 27—SAN JUAN, P.R.

CLASS A

Aguadilla, P.R.
Ensenada, P.R.
Fajardo, P.R.
Humacao, P.R.
Jobos, P.R.
Mayaguez, P.R.
*Ponce, P.R.
San Juan, P.R.
*Christiansted, St. Croix, V.I.
Frederiksted, St. Croix, V.I.
Coral Bay, St. John, V.I.
*Cruz Bay, St. John, V.I.
*Charlotte Amalie, St. Thomas, V.I.

DISTRICT NO. 28—NEW ORLEANS, LA.

Lake Charles, La.
New Orleans, La. (the port of New Orleans includes, among others, the port facilities at Avondale, Bell Chasse, Braithwaite, Burnside, Chalmette, Destrahan, Geismar, Gramercy, Gretna, Harvey, Marrero, Norco, Port Sulphur, St. Rose, and Westwego, La.)
Gulfport, Miss.

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

The first sentence of paragraph (a) *Countries in which applications may be filed* of § 235.9 *Conditional entries* is amended to read as follows: "Pursuant to agreements entered into with the governments of the countries concerned, officers of the Service are authorized to accept applications and to examine the qualifications of applicants for conditional entry under section 203(a)(7) of the Act in Austria, Belgium, France, Germany, Greece, Hong Kong, Italy, and Lebanon."

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The listings of transportation lines under "At Montreal," "At Nassau," and "At Toronto" of § 238.4 *Preinspection outside the United States* are amended by adding the following transportation line in alphabetical sequence in each listing: "Great Lakes Airlines Limited."

2. The listings of transportation lines under "At Montreal" and "At Toronto" of § 238.4 *Preinspection outside the United States* are amended by adding the following transportation line in alphabetical sequence in each listing: "Ozark Air Lines, Inc."

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

This order shall be effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 553 of title 5 of the United States Code (80 Stat. 383), as to notice of proposed rule making and delayed effective date, is unnecessary in this instance and would serve no useful purpose because the amendments to §§ 100.4 (c)(2) and 235.9(a) relate to agency management and the amendments to § 238.4 add transportation lines to the listings.

Dated: November 5, 1970.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 70-15196; Filed, Nov. 10, 1970; 8:46 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 70-294]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

1. In § 76.2 paragraph (e)(16) relating to the State of Virginia is amended to read:

(16) *Virginia.* That portion of Isle of Wight County bounded by a line beginning at the junction of the Isle of Wight-Surry County line and the James River; thence, following the west bank of the James River in a generally southeasterly direction to Pagan Creek; thence, following the north bank of Pagan Creek in a generally southwesterly direction to State Highway 10; thence, following State Highway 10 in a southerly direction to U.S. Highway 258; thence, following U.S. Highway 258 in a southwesterly direction to Secondary Highway 620; thence, following Secondary Highway 620 in a generally southwesterly direction to the Southampton-Isle of Wight County line; thence, following the Southampton-Isle of Wight County line in a generally northwesterly direction to the Isle of Wight-Surry County line; thence, following the Isle of Wight-Surry County line in a generally northeasterly direction to its junction with the James River.

2. In § 76.2, in paragraph (e)(12) relating to the State of North Carolina, a new subdivision (x) relating to Hertford and Northampton Counties is added to read:

(12) *North Carolina.* * * *

(x) The adjacent portions of Hertford and Northampton Counties bounded by a line beginning at the junction of Secondary Roads 1160 and 1141 in Hertford County; thence, following Secondary Road 1141 in a generally southeasterly direction to State Highway 561; thence, following State Highway 561 in a southwesterly direction to Secondary Road 1123; thence, following Secondary Road 1123; thence, following Secondary Road 1123 in a southwesterly direction to Secondary Road 1112; thence, following Secondary Road 1112 in a southwesterly direction to State Highway 350; thence, following State Highway 350 in a southwesterly direction to the Hertford-Bertie County line; thence, following the Hertford-Bertie County line in a westerly direction to the Hertford-Northampton County line; thence, following the Hertford-Northampton County line in a northeasterly direction to Secondary Road 1101 in Northampton County; thence, following Secondary Road 1101 in a northwesterly direction to State Highway 305; thence, following State Highway 305 in a southwesterly direction to Secondary Road 1522; thence, following Secondary Road 1522 in a northwesterly direction to U.S. Highway 258; thence, following U.S. Highway 258 in a northeasterly direction to Secondary Road 1530; thence, following Secondary Road 1530 in a generally northeasterly direction to Secondary Road 1160; thence, following Secondary Road 1160 in a northeasterly direction to its junction with Secondary Road 1141.

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

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

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

The amendments also exclude all of Nansemond and a portion of Isle of Wight Counties in Virginia from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the areas excluded from quarantine.

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

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

Done at Washington, D.C., this 6th day of November 1970.

F. J. MULHERN,
Acting Administrator, Agricultural Research Service.

[F.R. Doc. 70-15233; Filed, Nov. 10, 1970; 8:49 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter V—National Aeronautics and Space Administration

PART 1209—BOARDS AND COMMITTEES

Subpart 4—Inventions and Contributions Board

Subpart 4 is revised in its entirety:

Subpart 4—Inventions and Contributions Board

Sec.
1209.400 Scope.
1209.401 Establishment.
1209.402 Responsibilities.
1209.403 Membership.
1209.404 Supporting services.

AUTHORITY: The provisions of this Subpart 4 issued under 42 U.S.C. 2457(f) and 2458.

§ 1209.400 Scope.

This subpart sets forth the functions, authority and membership requirements of the NASA Inventions and Contributions Board (hereafter referred to as "Board").

§ 1209.401 Establishment.

(a) Pursuant to the authority of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457(f), 2458) and the Government Employees Incentive Awards Act of 1954 (5 U.S.C. 2121-3), the Board was established on December 4, 1958, was continued in effect by NASA Management Instruction 1152.17A, August 2, 1967, and is further continued in effect by this subpart.

(b) The Board is established within the Office of Industry Affairs, NASA Headquarters, Washington, D.C.

§ 1209.402 Responsibilities.

(a) Under the authority of 42 U.S.C. 2457(f), the Board will receive petitions for waiver of rights of the United States to inventions, accord each interested party an opportunity for a hearing, and transmit to the Administrator its findings of fact as to such petitions and its recommendations for actions to be taken with respect thereto.

(b) Under the authority of 42 U.S.C. 2458, the Board will receive and evaluate each application for award for any scientific or technical contribution to the Administration which has significant value in the conduct of aeronautical and space activities, accord each applicant an opportunity for a hearing upon such application, and transmit to the Administrator its recommendations as to the terms of the award (if any) to be made to such applicant for such contributions. In addition, the Board will act upon other contributions as set forth in Subpart 1240.2 of this chapter.

(c) If the contribution is made by a Government employee who does not qualify for award under 42 U.S.C. 2458, the Board will consider such contribution for award under the Incentive Awards Program and make an award (if any), on its own cognizance, up to the amount of $5,000 in accordance with NASA Supplements to Chapter 451 of the Federal Personnel Manual covering this subject. Awards for larger amounts may be recommended to the Administrator for his action.

§ 1209.403 Membership.

(a) The Board will consist of a full-time Chairman and no less than six members designated by the Administrator from within NASA. One of the members will be designated by the Administrator as Vice Chairman.

(b) Board members will be designated for 1-year terms and may be designated at the discretion of the Administrator. Duties performed in such capacity will be in addition to the regular work assignments of the individuals concerned.

(c) The Chairman of the Board is authorized to:

(1) Reestablish such panels as he may consider necessary in the conduct of the responsibilities and functions of the Board.

(2) Issue implementing rules and procedures, and to take such other action as is necessary to carry out this function.

§ 1209.404 Supporting services.

(a) The staff of the Inventions and Contributions Board is established to assist the Board in discharging its functions and responsibilities. The staff will:

(1) Prepare analyses of petitions for waiver of rights to inventions for consideration of the Board;

(2) Prepare evaluations of proposed awards;

(3) Documents Board actions; and

(4) Perform such other functions as may be required.

(b) A full-time Director of the staff will serve as a nonvoting secretary of the Inventions and Contributions Board and will direct the activities of the staff of the Inventions and Contributions Board.

(c) The Director of the staff of the Inventions and Contributions Board will report to the Chairman of the Board.

Effective date. The provisions of this Subpart 1209.4 are effective upon publication in the FEDERAL REGISTER.

GEORGE M. LOW,
Acting Administrator.

[F.R. Doc. 70-15214; Filed, Nov. 10, 1970; 8:48 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 148b—AMPHOTERICIN

Effective on publication in the FEDERAL REGISTER, Part 148b is republished as follows to incorporate editorial and nonrestrictive technical changes. This order revokes all prior publications.

Sec.

AUTHORITY: The provisions of this Part 148b issued under sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357.

§ 148b.1 Amphotericin B.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Amphotericin B is a yellow to golden-orange powder. It is insoluble in water at pH. 6.0 to 7.0, anhydrous alcohols, esters, ethers, benzene, and toluene. It is soluble in dimethylformamide and dimethylsulfoxide. It is so purified and dried that:

(i) Its potency is not less than 750 micrograms of amphotericin B per milligram on an anhydrous basis.

(ii) It contains not more than 15 percent of amphotericin A.

(iii) It passes the safety test.

(iv) Its loss on drying is not more than 5.0 percent.

(v) Its pH in a 3 percent aqueous suspension is not less than 6.0 and not more than 8.0.

(vi) It contains not more than 3.0 percent residue on ignition.

(vii) It passes the identity test.

(2) *Labeling.* In addition to the labeling prescribed by § 148.3(b) of this chapter, each package shall bear on its label the statements "Store below 10° C." and "Protect from light and moisture."

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, amphotericin A content, safety, loss on drying, pH, residue on ignition, and identity.

(ii) Samples required on the batch: 10 packages, each containing not less than 500 milligrams.

(b) *Tests and methods of assay*—(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient dimethylsulfoxide to give a stock solution of convenient concentration. Further dilute an aliquot with dimethylsulfoxide to a concentration of 20 micrograms of amphotericin B per milliliter (estimated). Remove an aliquot; dilute with 0.2*M* potassium phosphate buffer, pH 10.5 (solution 10), to the reference concentration of 1.0 microgram of amphotericin B per milliliter (estimated).

(2) *Amphotericin A content*—(i) *Amphotericin A.* Dry approximately 20 milligrams of the amphotericin A working standard as described in § 141.501(a) of this chapter. Accurately weigh the dried working standard and quantitatively transfer into a 200-milliliter volumetric flask. Add exactly 40.0 milliliters of dimethylsulfoxide and dissolve. Make to mark with methyl alcohol and mix thoroughly. Pipette 4.0 milliliters of this solution into a 50-milliliter volumetric flask. Add methyl alcohol to mark and mix thoroughly.

(ii) *Amphotericin B.* Dry approximately 50 milligrams of the amphotericin B working standard as described in § 141.501(a) of this chapter. Accurately weigh the dried working standard and quantitatively transfer into a 50-milliliter volumetric flask. Add 10 milliliters of dimethylsulfoxide and dissolve. Make to mark with methyl alcohol and mix thoroughly. Pipette 4.0 milliliters of this solution into a 50-milliliter volumetric flask. Add methyl alcohol to mark and mix thoroughly.

The standard solution should be used for 1 day only.

(iii) *Sample.* Accurately weigh about 50 milligrams of the sample to be tested and quantitatively transfer into a 50-milliliter volumetric flask. Add 10 milliliters of dimethylsulfoxide and dissolve. Make to mark with methyl alcohol and mix thoroughly. Pipette 4.0 milliliters of

this solution into a 50-milliliter volumetric flask. Add methyl alcohol to mark and mix thoroughly.

(iv) *Blank.* Pipette 10 milliliters of dimethylsulfoxide into a 50-milliliter volumetric flask. Make to mark with methyl alcohol and mix. Pipette 4.0 milliliters of this solution into a 50-milliliter volumetric flask. Make to mark with methyl alcohol and mix thoroughly.

(v) *Procedure.* Use a suitable ultraviolet spectrophotometer and 1-centimeter silica cells. Adjust the instrument to zero with the blank solution. Measure the absorbances of the solutions of standard A, standard B, and the sample at 304 nanometers and at 282 nanometers. Calculate the absorptivity of each standard at both wavelengths:

$$\text{Percent amphotericin A} = \frac{[(B \times S_1) - (b \times S_2)] \times 625}{W_s \times [(B \times a) - (b \times A)]},$$

where:

A = Absorptivity of amphotericin A standard at 282 nanometers;
B = Absorptivity of amphotericin B standard at 282 nanometers;
a = Absorptivity of amphotericin A standard at 304 nanometers;
b = Absorptivity of amphotericin B standard at 304 nanometers;
S_1 = Absorbance of sample at 282 nanometers;
S_2 = Absorbance of sample at 304 nanometers;
W_s = Weight of sample in grams (on an anhydrous basis).

(3) *Safety.* Proceed as directed in § 141.5 of this chapter.

(4) *Loss on drying.* Proceed as directed in § 141.501(b) of this chapter.

(5) *pH.* Proceed as directed in § 141.503 of this chapter, using a 3.0 percent aqueous suspension.

(6) *Residue on ignition.* Proceed as directed in § 141.510(a) of this chapter.

(7) *Identity.* Using the solutions prepared as described in subparagraph (2) (ii), (iii), and (iv) of this paragraph, record the absorption spectrum from 320 to 240 nanometers. Then dilute these solutions (1+9) with methyl alcohol and record the absorption spectrum from 400 to 320 nanometers. The sample exhibits absorption peaks at identical wavelengths with that of the amphotericin B standard. Depending on the amphotericin. A content of the sample, a peak may occur at 304 nanometers.

§ 148b.1a Amphotericin B for use in parenteral products.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Amphotericin B is a yellow to golden-orange powder. It is insoluble in water at pH 6.0 to 7.0, anhydrous alcohols, esters, ethers, benzene, and toluene. It is soluble in dimethylformamide and dimethylsulfoxide. It is so purified and dried that:

(i) Its potency is not less than 750 micrograms of amphotericin B per milligram on an anhydrous basis.

(ii) It contains not more than 5 percent of amphotericin A.

(iii) It passes the safety test.

(iv) Its loss on drying is not more than 5.0 percent.

(v) Its pH in a 3 percent aqueous suspension is not less than 3.5 and not more than 6.0.

(vi) It contains not more than 0.5 percent residue on ignition.

(vii) It passes the identity test.

(2) *Labeling.* In addition to the labeling prescribed by § 148.3(b) of this chapter, each package shall bear on its label the statements "Store below 10° C." and "Protect from light and moisture."

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, amphotericin A content, safety, loss on drying, pH, residue on ignition, and identity.

(ii) Samples required on the batch: 10 packages, each containing not less than 500 milligrams.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient dimethylsulfoxide to give a stock solution of convenient concentration. Further dilute with dimethylsulfoxide to give a concentration of 20 micrograms of amphotericin B per milliliter (estimated). Dilute an aliquot with 0.2*M* potassium phosphate buffer, pH 10.5 (solution 10), to the reference concentration of 1.0 microgram of amphotericin B per milliliter (estimated).

(2) *Amphotericin A content.* Proceed as directed in § 148b.1(b)(2).

(3) *Safety.* Proceed as directed in § 141.5 of this chapter.

(4) *Loss on drying.* Proceed as directed in § 141.501(b) of this chapter.

(5) *pH.* Proceed as directed in § 141.503 of this chapter, using a 3.0 percent aqueous suspension.

(6) *Residue of ignition.* Proceed as directed in § 141.510(a) of this chapter.

(7) *Identity.* Proceed as directed in § 148b.1(b)(7).

§ 148b.2 Amphotericin B for injection.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Amphotericin B for injection is a dry powder containing in each immediate container 50 milligrams of amphotericin B, 41 milligrams of sodium desoxycholate, and suitable buffering substances. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of amphotericin B that it is represented to contain. It is sterile. It passes the safety test. It is nonpyrogenic. Its loss on drying is not more than 8.0 percent. Its pH in an aqueous solution containing 10 milligrams of amphotericin B per milliliter is not less than 7.2 and not more than 8.0. The amphotericin B used conforms to the standards prescribed by § 148b.1a(a)(1).

(2) *Labeling.* In addition to the labeling requirements prescribed by § 148.3 of this chapter, each package shall bear on its label and labeling the following statement: "For intravenous infusion in hospitals only."

(3) *Requests for certification; samples.* In addition to the requirements of §146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The amphotericin B used in making the batch for potency, amphotericin A content, loss on drying, pH, residue on ignition, and identity.

(*b*) The batch for potency, sterility, safety, pyrogens, loss on drying, and pH.

(ii) Samples required:

(*a*) Amphotericin B used in making the batch: 10 packages, each containing approximately equal portions of not less than 500 milligrams.

(*b*) The batch:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(*2*) For sterility testing: 20 immediate containers collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Reconstitute as directed in the labeling. Then using a suitable syringe and hypodermic needle, remove all of the withdrawable contents if the container is represented as a single dose container; or if the labeling specifies the amount of potency in a given volume of the resultant preparation, remove an accurately measured representative portion from each container. Dilute with sufficient dimethylsulfoxide to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with dimethylsulfoxide to a concentration of 20 micrograms of amphotericin B per millliliter (estimated). Remove an aliquot of this solution and dilute with 0.2*M* potassium phosphate buffer, pH 10.5 (solution 10), to the reference concentration of 1.0 microgram of amphotericin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 141.2 of this chapter, using the method described in paragraph (e)(1) of that section, except use 50 milligrams in lieu of 300 milligrams.

(3) *Safety.* Proceed as directed in § 141.5 of this chapter.

(4) *Pyrogens.* Proceed as directed in § 141.4(b) of this chapter, using a solution containing 2 milligrams of amphotericin B per milliliter, except in lieu of paragraph (a)(3), if no rabbit shows an individual rise in temperature of 1.1° C. or more above its respective control temperature, and if the sum of the three temperature rises does not exceed 3° C., the sample meets the requirements for absence of pyrogen. If one or two rabbits show a temperature rise of 1.1° C. or more, or if the sum of temperature rises exceeds 3° C., repeat the test using five other rabbits. If not more than three of the eight rabbits show a temperature rise of 1.1° C. or more, and if the sum of the temperature rises does not exceed 8° C. the sample meets the requirements for absence of pyrogens.

(5) *Loss on drying.* Proceed as directed in § 141.501(b) of this chapter.

(6) *pH.* Proceed as directed in § 141.503 of this chapter using an aqueous solution containing 10 milligrams of amphotericin B per milliliter.

§ 148b.3 Amphotericin B lotion.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Amphotericin B lotion is composed of amphotericin B in a suitable and harmless lotion vehicle. It contains suitable and harmless emollients, emulsifiers, coloring agents, diluents, preservatives, and perfumes. It contains 30 milligrams of amphotericin B per milliliter. Its potency is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of amphotericin B per milliliter that it is represented to contain. Its pH is not less than 5.0 and not more than 7.0. The amphotericin B used conforms to the standards prescribed by § 148b.1 (a)(1) (i), (ii), (v), (vi), and (vii).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The amphotericin B used in making the batch for potency, amphotericin A content, pH, residue on ignition, and identity.

(*b*) The batch for potency and pH.

(ii) Samples required:

(*a*) The amphotericin B used in making the batch: 10 packages, each containing not less than 500 milligrams.

(*b*) The batch: A minimum of 5 immediate containers.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Dissolve an aliquot in sufficient dimethylsulfoxide to give a stock solution of convenient concentration. Further dilute the stock solution with dimethylsulfoxide to a concentration of 20 micrograms of amphotericin B per milliliter (estimated). Remove an aliquot and dilute with 0.2*M* potassium phosphate buffer, pH 10.5 (solution 10), to the reference concentration of 1.0 microgram of amphotericin B per milliliter (estimated).

(2) *pH.* Proceed as directed in § 141.503 of this chapter, using the undiluted lotion.

§ 148b.4 Amphotericin B ointment.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Amphotericin B ointment is composed of amphotericin B in a suitable and harmless ointment base. It may contain suitable and harmless coloring agents and protectants. It contains 30 milligrams of amphotericin B in each gram. Its potency is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of amphotericin B that it is represented to contain. Its moisture content is not more than 1.0 percent. The amphotericin B used conforms to the standards prescribed by § 148b.1(a)(1) (i), (ii), (v), (vi), and (vii).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The amphotericin B used in making the batch for potency, amphotericin A content, pH, residue on ignition, and identity.

(*b*) The batch for potency and moisture.

(ii) Samples required:

(*a*) Amphotericin B used in making the batch: 10 packages, each containing not less than 500 milligrams.

(*b*) The batch: A minimum of 5 immediate containers.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample (usually 1 gram) into an appropriate-sized Erlenmeyer flask with 10 milliliters of ethyl ether. Allow to dissolve for 1 hour with intermittent manual shaking. Add a measured amount of dimethylsulfoxide to the flask and place on a shaker for 10 minutes. Further dilute with dimethylsulfoxide to a concentration of 20 micrograms of amphotericin B per milliliter (estimated). Remove an aliquot and dilute with 0.2*M* potassium phosphate buffer, pH 10.5 (solution 10), to the reference concentration of 1.0 microgram of amphotericin B per milliliter (estimated).

(2) *Moisture.* Proceed as directed in § 141.502 of this chapter.

§ 148b.5 Amphotericin B cream.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Amphotericin B cream is composed of amphotericin B, with or without one or more suitable and harmless emollients, perfumes, dispersants, and preservatives, in a suitable and harmless cream base. It contains 30 milligrams of amphotericin B in each gram. Its potency is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of amphotericin B per gram that it is represented to contain. The amphotericin B used conforms to the standards prescribed by § 148b.1 (a)(1) (i), (ii), (v), (vi), and (vii).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 148.3 of this chapter.

(3) *Requests for certification; samples.* In addition to the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The amphotericin B used in making the batch for potency, amphotericin A content, pH, residue on ignition, and identity.

(*b*) The batch for potency.

(ii) Samples required:

(*a*) Amphotericin B used in making the batch: 10 packages, each containing not less than 500 milligrams.

(*b*) The batch: A minimum of 5 immediate containers.

(b) *Tests and methods of assay; potency.* Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: With the aid of a high-speed glass blender, dissolve an accurately weighed sample in sufficient dimethylsulfoxide to give a stock solution of convenient concentration. Further dilute with dimethylsulfoxide to a concentration of 20 micrograms of amphotericin B per milliliter (estimated). Remove an aliquot and dilute with 0.2*M* potassium phosphate buffer, pH 10.5 (solution 10), to the reference concentration of 1.0 microgram of amphotericin B per milliliter (estimated).

Dated: October 21, 1970.

H. E. SIMMONS,
Director, Bureau of Drugs.

[F.R. Doc. 70-15180; Filed, Nov. 10, 1970; 8:45 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 7066]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Treatment of Certain Combat Pay of Members of the Armed Forces

On August 5, 1970, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to clarify regulations under section 112 of the Internal Revenue Code of 1954, was published in the FEDERAL REGISTER (35 F.R. 12477). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments so proposed are adopted subject to the change set forth below:

Paragraphs (j) and (k) of § 1.112-1 as set forth in the notice of proposed rule making are revised.

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

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

Approved: October 23, 1970.

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

In order to clarify the Income Tax Regulations (26 CFR Part 1) under section 112 of the Internal Revenue Code of 1954, such regulations are amended as follows:

Section 1.112-1 is amended by adding immediately after paragraph (i) new paragraphs (j) and (k). These amended provisions read as follows:

§ 1.112–1 Compensation of members of the Armed Forces of the United States for service in a combat zone during an induction period, or for service while hospitalized as a result of such combat zone service.

* * * * *

(j) (1) For purposes of section 112 and this section, members of the Armed Forces who perform military service in an area outside an area designated as a combat zone by Executive order, which service is in direct support of military operations in such zone and is performed under conditions which qualify such members for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)), shall, during the period of such qualifying service, be deemed to have served in such combat zone.

(2) The application of this paragraph may be illustrated by the following examples:

Example (1). On April 24, 1965, an Executive order designated Vietnam and certain adjacent waters as a combat zone, retroactive to January 1, 1964. In May 1970, units of the Armed Forces Assigned to Vietnam crossed into Cambodia from Vietnam. This operation was in direct support of military operations in Vietnam. A is a member of the Armed Forces assigned to a ground unit stationed in Vietnam. A along with his unit performed military service in Cambodia from May 1, 1970, through May 12, 1970, under conditions which qualified him for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)). A is deemed to have served in the Vietnamese combat zone from May 1, 1970, through May 12, 1970. Accordingly, A is entitled to the benefits of section 112 (certain combat pay of members of the Armed Forces) for the month of May 1970.

Example (2). The facts are the same as in example (1) except that A incurred wounds on May 11, 1970, while performing military service in Cambodia under conditions which, at the time he incurred such wounds, qualified him for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)). Accordingly, A is deemed to have incurred such wounds while serving in the Vietnamese combat zone and is entitled to the benefits of section 112 (certain combat pay of members of the Armed Forces).

Example (3). The facts are the same as in example (1) except that A is stationed in Thailand as a member of a ground crew servicing combat aircraft operating in Vietnam, Laos, and Cambodia. During May 1970, A does not qualify for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)). Accordingly, A is not deemed to have served in the Vietnamese combat zone during May 1970, and is not entitled to the benefits of section 112 (certain combat pay of members of the Armed Forces).

Example (4). The facts are the same as in example (1) except that A is assigned to an air unit stationed in Thailand. In May 1970, members of air units of the Armed Forces stationed in Thailand flew combat and supply missions into and over Cambodia from Thailand in direct support of military operations in Vietnam. A flew combat missions over Cambodia from Thailand from May 1, 1970, to May 8, 1970, under conditions which qualified him for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)). Accordingly, A is deemed to have served in the Vietnamese combat zone from May 1, 1970, through May 8, 1970. Thus, A qualifies for the benefits of section 112 (certain combat pay of members of the Armed Forces) for the month of May 1970. The result would be the same if A flew supply missions into Cambodia from Thailand from May 1, 1970, through May 8, 1970, which qualified him for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)).

Example (5). The facts are the same as in example (4) except that on May 8, 1970, A was killed when his plane crashed on returning to the airbase in Thailand. Since A was performing military service under conditions which at the time of his death would have qualified him for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)), he is deemed to have died while serving in the Vietnamese combat zone or to have died as the result of wounds, disease, or injury incurred while serving in such combat zone. Accordingly, A qualifies for the benefits of section 692 (income taxes on members of the Armed Forces on death) and section 2201 (members of the Armed Forces dying during an induction period). The result would be the same if, on May 8, 1970, A flew a supply mission into Cambodia from Thailand and A was killed when his plane crashed on returning to the airbase in Thailand.

Example (6). The facts are the same as in example (4) except that on May 8, 1970, A was killed as the result of an automobile accident while leaving the airbase in Thailand shortly after returning from a mission over Cambodia. Since A was not performing a military duty at the time of his death which would have qualified him for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)), he is not deemed to have died while serving in the Vietnamese combat zone or to have died as the result of wounds, disease, or injury incurred while serving in such combat zone. Accordingly, A does not qualify for the benefits of section 692 (income taxes on members of Armed Forces on death) or section 2201 (members of the Armed Forces dying during an induction period).

(k) (1) For periods after November 11, 1970, members of the Armed Forces who:

(i) Are present in a combat zone while on leave from a duty station which is located outside a combat zone, or

(ii) Pass over or through a combat zone during the course of a trip between two points both of which lie outside a combat zone, or

(iii) Are present in a combat zone solely for their own personal convenience,

shall not be considered to have "served in a combat zone" within the meaning of paragraph (1) of subsection (a) or (b) of section 112 or to have been hospitalized as a result of wounds, disease, or injury incurred "while serving in a combat zone" within the meaning of paragraph (2) of subsection (a) or (b) of section 112.

(2) This paragraph shall not apply to members of the Armed Forces who:

(i) Are assigned on official temporary duty to a combat zone, or

(ii) Qualify for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)) as a result of presence in a combat zone.

(3) The application of this paragraph may be illustrated by the following examples:

Example (1). On April 24, 1965, an Executive order designated Vietnam and certain adjacent waters as a combat zone, retroactive to January 1, 1964. A is a member of the Armed Forces assigned to a unit stationed in Okinawa. On November 10, 1970, A voluntarily visits Vietnam while on leave. A is not considered to have "served in a combat zone" while in Vietnam since he was present in a combat zone while on leave from a duty station located outside a combat zone.

Example (2). The facts are the same as in example (1) except that, due to unusual circumstances, A is subject to hostile fire while on leave in Vietnam. For that reason, A qualifies for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)). A is therefore deemed to have "served in a combat zone" while in Vietnam during November 1970. Accordingly, A qualifies for the benefits of section 112 (certain combat pay of members of the Armed Forces). If A had been killed or had died as a result of wounds due to such hostile fire, he would have qualified for the benefits of section 692 (income taxes on members of Armed Forces on death) and section 2201 (members of the Armed Forces dying during an induction period).

Example (3). The facts are the same as in example (1) except that A is assigned to a ground unit stationed in Vietnam. During November 1970, A takes authorized leave and elects to spend the leave period in Vietnam. A is not on leave from a duty station located outside a combat zone nor is he present in the combat zone solely for his own personal convenience. Accordingly, A's combat zone tax benefits continue while he is on leave in Vietnam.

Example (4). The facts are the same as in example (1) except that A is assigned as a navigator to an air unit station in Okinawa. On December 1, 1970, during the course of a flight between A's home base in Okinawa and another base in Thailand the aircraft on which A is serving as a navigator flew over Vietnam. A does not qualify for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)) as a result of such flight. Accordingly, A is not considered to have "served in a combat zone" as a result of flying over Vietnam since he passed over a combat zone during the course of a trip between two points both of which lie outside a combat zone without having qualified for Hostile Fire Pay.

Example (5). The facts are the same as in example (1) except that A enters Vietnam on a 3-day pass. A arrived in Saigon on November 30, 1970, and departed from Saigon on December 1, 1970. A did not qualify for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)) while he was present in Vietnam. Accordingly, A is not considered to have "served in a combat zone" while in Vietnam since he was present in a combat zone solely for his own personal convenience.

Example (6). The facts are the same as in example (1) except that A is a military courier assigned on official duty to deliver military pouches in Saigon and in Bangkok. On December 20, 1970, A arrived in Saigon from Tokyo and on December 21, 1970, A departed for Bangkok. Although he passed through Vietnam during the course of a trip between two points outside Vietnam, A is nevertheless considered to have "served in a combat zone" while in Vietnam because he was assigned on official temporary duty to a combat zone.

Example (7). The facts are the same as in example (1) except that while in Saigon A

is wounded by hostile fire and therefore qualifies for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)). Although he was present in Vietnam while on leave from a duty station outside Vietnam, A qualifies for the benefits of section 112 (certain combat pay of members of the Armed Forces) because he qualified for Hostile Fire Pay (as authorized under section 9(a) of the Uniformed Services Pay Act of 1963 (37 U.S.C. 310)) while in Vietnam.

[F.R. Doc 70-15122; Filed, Nov. 10, 1970; 8:45 a.m.]

[T.D. 7068]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

PART 31—EMPLOYMENT TAXES; APPLICABLE ON AND AFTER JANUARY 1, 1955

Extension of Withholding to Supplemental Unemployment Compensation Benefits

On July 28, 1970, and August 1, 1970, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) under sections 501 and 6041 of the Internal Revenue Code of 1954 and the Employment Tax Regulations (26 CFR Part 31) under sections 3401 and 3402 of such Code to conform to the portion of section 805(g) of the Tax Reform Act of 1969 (83 Stat. 708), relating to income tax collected at source on payments of supplemental unemployment compensation benefits, was published in the FEDERAL REGISTER (35 F.R. 12064, 12343). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of regulations is hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Paragraph (b)(1) of § 1.6041–2, as set forth in paragraph (2) of the notice of proposed rule making, is revised.

PAR. 2. Paragraph (b)(14) of § 31.3401(a)–1, as set forth in paragraph 3 of the notice of proposed rule making, is amended by revising subdivisions (i), (iii), (iv), and (v) and by deleting subdivision (vi) thereof.

PAR. 3. Paragraph (a) of § 31.3401(a)(12)–1, as set forth in paragraph 4 of the notice of proposed rule making, is revised.

PAR. 4. Paragraph (g) of § 31.3401(c)–1, as set forth in paragraph 6 of the notice of proposed rule making, is revised.

PAR. 5. Paragraph (g) of § 31.3401(d)–1, as set forth in paragraph 7 the notice of proposed rule making, is revised.

PAR. 6. Section 31.3402(o)–1, as set forth in paragraph 8 of the notice of proposed rule making, is revised.

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

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

Approved: November 6, 1970.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 501 and 6041 of the Internal Revenue Code of 1954 and the Employment Tax Regulations (26 CFR Part 31) under sections 3401 and 3402 of such Code to the portion of section 805(g) of the Tax Reform Act of 1969 (83 Stat. 708) relating to the extension of withholding to supplemental unemployment compensation benefits, such regulations are amended as follows:

PARAGRAPH 1. Section 1.501(c)(17)–2 is amended by revising paragraph (j) thereof to read as follows:

§ 1.501(c)(17)–2 General rules.

* * * * *

(j) *Required records and returns.* Every trust described in section 501(c)(17) must maintain records indicating the amount of separation benefits and sick and accident benefits which have been provided to each employee. If a plan is financed, in whole or in part, by employee contributions to the trust, the trust must maintain records indicating the amount of each employee's total contributions allocable to separation benefits. In addition, every trust described in section 501(c)(17) which makes one or more payments totaling $600 or more in 1 year to an individual must file an annual information return in the manner described in paragraph (b)(1) of § 1.6041–2. However, if the payments from such trust are subject to income tax withholding under section 3402(o) and the regulations thereunder, the trust must file, in lieu of such annual information return, the returns of income tax withheld from wages required by section 6011 and the regulations thereunder. In such circumstances, the trust must also furnish the statements to the recipients of trust distributions required by section 6051 and the regulations thereunder.

PAR. 2. Section 1.6041–2 is amended by revising subparagraph (1) of paragraph (b) thereof to read as follows:

§ 1.6041–2 Returns of information as to payments to employees.

* * * * *

(b) *Distributions under employees' trust or under supplemental unemployment benefit trust.* (1) Amounts which are distributed or made available to a beneficiary, and to which section 402 (relating to employees' trusts) or section 403 (relating to employee annuity plans) applies, shall be reported on Forms 1099 and 1096 to the extent such amounts are includible in the gross income of such beneficiary when the amounts so includible are $600 or more in any calendar year. In addition, every trust described in section 501(c)(17) which makes one or more payments (including separation and sick and accident benefits) totaling $600 or more in 1 year to an individual must file an annual information return on Form 1096, accompanied by a statement on Form 1099, for each such individual. Payments made by an employer or a person other than the trustee of the trust should not be considered in determining whether the $600 minimum has been paid by the trustee. The provisions of this subparagraph shall not be applicable to payments of supplemental unemployment compensation benefits made after December 31, 1970, which are treated as if they were wages for purposes of section 3401(a). Such amounts are required to be reported on Form W–2. See paragraph (b)(14) of § 31.3401(a)–1 of this chapter (Employment Tax Regulations).

* * * * *

PAR. 3. Paragraph (b) of § 31.3401(a)–1 is amended by adding a new subparagraph (14) which reads as follows:

§ 31.3401(a)–1 Wages.

* * * * *

(b) *Certain specific items.* * * *

(14) *Supplemental unemployment compensation benefits.* (i) Supplemental unemployment compensation benefits paid to an individual after December 31, 1970, shall be treated (for purposes of the provisions of Subparts E, F, and G of this part which relate to withholding of income tax) as if they were wages, to the extent such benefits are includible in the gross income of such individual.

(ii) For purposes of this subparagraph, the term "supplemental unemployment compensation benefits" means amounts which are paid to an employee, pursuant to a plan to which the employer is a party, because of the employee's involuntary separation from the employment of the employer, whether or not such separation is temporary, but only when such separation is one resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions.

(iii) For the meanings of the terms "involuntary separation from the employment of the employer" and "other similar conditions", see subparagraphs (3) and (4) of § 1.501(c)(17)–1(b) of this chapter (Income Tax Regulations).

(iv) As used in this subparagraph, the term "employee" means an employee within the meaning of paragraph (a) of § 31.3401(c)–1, the term "employer" means an employer within the meaning of paragraph (a) of § 31.3401(d)–1, and the term "employment" means employment as defined under the usual common law rules.

(v) References in this chapter to wages as defined in section 3401(a) shall be deemed to refer also to supplemental unemployment compensation benefits which are treated under this subparagraph as if they were wages.

PAR. 4. Section 31.3401(a)(12)-1 is amended by revising paragraph (a) thereof to read as follows:

§ 31.3401(a)(12)-1 Payments from or to certain tax-exempt trusts, or under or to certain annuity plans or bond purchase plans.

(a) *Payments from or to certain tax-exempt trusts.* The term "wages" does not include any payment made—

(1) By an employer, on behalf of an employee or his beneficiary, into a trust, or

(2) To, or on behalf of, an employee or his beneficiary from a trust,

if at the time of such payment the trust is exempt from tax under section 501(a) as an organization described in section 401(a). A payment made to an employee of such a trust for services rendered as an employee of the trust and not as a beneficiary thereof is not within this exclusion from wages. Also, since supplemental unemployment compensation benefits are treated under paragraph (b)(14) of § 31.3401(a)-1 as if they were wages for purposes of this chapter, this section does not apply to such benefits.

PAR. 5. Section 31.3401(b)-1 is amended by redesignating paragraph (c) thereof as paragraph (d) and inserting a new paragraph (c). These redesignated and inserted provisions read as follows:

§ 31.3401(b)-1 Payroll period.

* * * * *

(c) The term "payroll period" also means the period of accrual of supplemental unemployment compensation benefits for which a payment of such benefits is ordinarily made. Thus if benefits are ordinarily accrued and paid on a monthly basis, the payroll period is deemed to be monthly.

(d) The term "miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.

PAR. 6. Section 31.3401(c)-1 is amended by redesignating paragraph (g) thereof as paragraph (h) and inserting a new paragraph (g). These redesignated and inserted provisions read as follows:

§ 31.3401(c)-1 Employee.

* * * * *

(g) The term "employee" includes every individual who receives a supplemental unemployment compensation benefit which is treated under paragraph (b)(14) of § 31.3401(a)-1 as if it were wages.

(h) Although an individual may be an employee under this section, his services may be of such a nature, or performed under such circumstances, that the remuneration paid for such services does not constitute wages within the meaning of section 3401(a).

PAR. 7. Section 31.3401(d)-1 is amended by revising paragraph (g) thereof and redesignating it as paragraph (h), and by inserting a new paragraph (g). These revised, redesignated, and inserted provisions read as follows:

§ 31.3401(d)-1 Employer.

* * * * *

(g) The term "employer" also means a person making a payment of a supplemental unemployment compensation benefit which is treated under paragraph (b)(14) of § 31.3401(a)-1 as if it were wages. For example, if supplemental unemployment compensation benefits are paid from a trust which was created under the terms of a collective bargaining agreement, the trust shall generally be deemed to be the employer. However, if the person making such payment is acting solely as an agent for another person, the term "employer" shall mean such other person and not the person actually making the payment.

(h) It is a basic purpose to centralize in the employer the responsibility for withholding, returning, and paying the tax, and for furnishing the statements required under section 6051 and § 31.6051-1. The special definitions of the term "employer" in paragraphs (e), (f), and (g) of this section are designed solely to meet special or unusual situations. They are not intended as a departure from the basic purpose.

PAR. 8. The following new sections are added immediately after § 31.3402(n)-1.

§ 31.3402(o) Statutory provisions; income tax collected at source; extension of withholding to certain payments other than wages.

SEC. 3402. *Income tax collected at source.* * * *

(o) *Extension of withholding to certain payments other than wages*—(1) *General rule.* For purposes of this chapter (and so much of subtitle F as relates to this chapter)—

(A) Any supplemental unemployment compensation benefit paid to an individual, and

(B) Any payment of an annuity to an individual, if at the time the payment is made a request that such annuity be subjected to withholding under this chapter is in effect,

shall be treated as if it were a payment of wages by an employer to an employee for a payroll period.

(2) *Definitions*—(A) *Supplemental unemployment compensation benefits.* For purposes of paragraph (1), the term "supplemental unemployment compensation benefits" means amounts which are paid to an employee, pursuant to a plan to which the employer is a party, because of an employee's involuntary separation from employment (whether or not such separation is temporary), resulting directly from a reduction in force, the discontinuance of a plant or operation, or other similar conditions, but only to the extent such benefits are includible in the employee's gross income.

(B) *Annuity.* For purposes of this subsection, the term "annuity" means any amount paid to an individual as a pension or annuity, but only to the extent that the amount is includible in the gross income of such individual.

(3) *Request for withholding.* A request that an annuity be subject to withholding under this chapter shall be made by the payee in writing to the person making the annuity payments, shall be accompanied by a withholding exemption certificate, executed in accordance with the provisions of subsection (f)(2), and shall take effect as provided in subsection (f)(3). Such a request may, notwithstanding the provisions of subsection (f)(4), be terminated by furnishing to the person making the payments a written statement of termination which shall be treated as a withholding exemption certificate for purposes of subsection (f)(3)(B).

[Sec. 3402(o) as added by sec. 805(g), Tax Reform Act 1969 (83 Stat. 708)]

§ 31.3402(o)-1 Extension of withholding to certain payments other than wages.

(a) *Supplemental unemployment compensation benefits.* Withholding of income tax is required under section 3402(o) with respect to payments of supplemental unemployment compensation benefits made after December 31, 1970, which are treated under paragraph (b)(14) of § 31.3401(a)-1 as if they were wages.

(b) *Withholding exemption certificates.* For purposes of section 3402(f)(2) and (3) and the regulations thereunder (relating to withholding exemption certificates), in the case of supplemental unemployment compensation benefits an employment relationship shall be considered to commence with either the date on which such benefits begin to accrue or January 1, 1971, whichever is later, and the withholding exemption certificate furnished the employer with respect to such commencement of employment shall be considered the first certificate furnished the employer. The withholding exemption certificate furnished by the employee to his former employer (with whom his employment has been involuntarily terminated, within the meaning of paragraph (b)(14)(ii) of § 31.3401(a)-1) shall be treated as meeting the requirements of section 3402(f)(2)(A) and the regulations thereunder if such former employer furnishes such certificate to the employee's current employer, as defined in paragraph (g) of § 31.3401(d)-1, or if such former employer is the agent of such current employer with respect to the employee's withholding exemption certificate. However, the preceding sentence shall not be applicable if such employee furnishes a new withholding exemption certificate to such current employer (or his agent), provided that such withholding exemption certificate meets the requirements of section 3402(f)(2)(A) and the regulations thereunder. See the definitions of payroll period in paragraph (c) of § 31.3401(b)-1 and of employee in paragraph (g) of § 31.3401(c)-1.

[FR. Doc. 70-15211; Filed, Nov. 10, 1970; 8:48 a.m.]

[T.D. 7069]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

PART 301—PROCEDURE AND ADMINISTRATION

Filing Requirements for Individuals

On August 1, 1970, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26

CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 301) under section 6012 of the Internal Revenue Code of 1954 to reflect the changes made by section 941 of the Tax Reform Act of 1969 (83 Stat. 726) was published in the FEDERAL REGISTER (35 F.R. 12343). No objection to the rules proposed having been received from the public during the 30-day period presented in the notice, the regulations as proposed are hereby adopted.

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

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

Approved: October 28, 1970.

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

In order to conform the Income Tax Regulations (26 CFR Part 1) and the regulations on Procedure and Administration (26 CFR Part 301) under section 6012(a)(1) of the Internal Revenue Code of 1954 to section 941 of the Tax Reform Act of 1969 (83 Stat. 726), such regulations are amended as follows:

PARAGRAPH 1. Section 1.6012 is amended by revising paragraph (1) of section 6012 (a) and the historical note to read as follows:

§ 1.6012 Statutory provisions; persons required to make returns of income.

SEC. 6012. *Persons required to make returns of income*—(a) *General rule.* Returns with respect to income taxes under subtitle A shall be made by the following:

[Applicable to taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1973]

(1) (A) Every individual having for the taxable year a gross income of $600 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

(i) Who is not married (determined by applying section 143(a)) and for the taxable year has a gross income of less than $1,700, or

(ii) Who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than $2,300 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (ii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

(B) The $1,700 amount specified in subparagraph (A)(i) shall be increased to $2,300 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the $2,300 amount specified in subparagraph (A)(ii) shall be increased by $600 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);

[Applicable to taxable years beginning after Dec. 31, 1972]

(1) (A) Every individual having for the taxable year a gross income of $750 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

(i) Who is not married (determined by applying section 143(a)) and for the taxable year has a gross income of less than $1,750, or

(ii) Who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than $2,500 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (ii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

(B) The $1,750 amount specified in subparagraph (A)(i) shall be increased to $2,500 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the $2,500 amount specified in subparagraph (A)(ii) shall be increased by $750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c).

* * * * *

[Sec. 6012 as amended by sec. 72(a), Technical Amendments Act 1958 (72 Stat. 1660); sec. 206(b)(1), Rev. Act 1964 (78 Stat. 40); sec. 941, Tax Reform Act 1969 (83 Stat. 726)]

PAR. 2. Paragraph (a) of § 1.6012-1 is amended by revising subparagraphs (1), (2), and (4) thereof to read as follows:

§ 1.6012-1 Individuals required to make returns of income.

(a) *Individual citizen or resident*—(1) *In general.* Except as provided in subparagraph (2) of this paragraph, an income tax return must be filed by every individual for each taxable year beginning before January 1, 1973, during which he receives $600 or more of gross income, and for each taxable year beginning after December 31, 1972, during which he receives $750 or more of gross income, if such individual is—

(i) A citizen of the United States, whether residing at home or abroad,

(ii) A resident of the United States even though not a citizen thereof, or

(iii) An alien bona fide resident of Puerto Rico during the entire taxable year.

(2) *Special rules.* (i) For taxable years beginning before January 1, 1970, an individual who is described in subparagraph (1) of this paragraph and who has attained the age of 65 before the close of his taxable year must file an income tax return only if he receives $1,200 or more of gross income during his taxable year.

(ii) For taxable years beginning after December 31, 1969, and before January 1, 1973, an individual described in subparagraph (1) of this paragraph (other than an individual referred to in section 142(b))—

(*a*) Who is not married (as determined by applying section 143(a) and the regulations thereunder) must file an income tax return only if he receives $1,700 or more of gross income during his taxable year, except that if such an individual has attained the age of 65 before the close of his taxable year an income tax return must be filed by such individual only if he receives $2,300 or more of gross income during his taxable year.

(*b*) Who is entitled to make a joint return under section 6013 and the regulations thereunder must file an income tax return only if his gross income received during his taxable year, when combined with the gross income of his spouse received during his taxable year, is $2,300 or more. However, if such individual or his spouse has attained the age of 65 before the close of the taxable year an income tax return must be filed by such individual only if their combined gross income is $2,900 or more. If both the individual and his spouse have attained the age of 65 before the close of the taxable year such return must be filed only if their combined gross income is $3,500 or more. However, this subdivision (ii)(*b*) shall not apply if the individual and his spouse did not have the same household as their home at the close of their taxable year, if such spouse files a separate return for a taxable year which includes any part of such individual's taxable year, or if any other taxpayer is entitled to an exemption for such individual or his spouse under section 151(e) for such other taxpayer's taxable year beginning in the calendar year in which such individual's taxable year begins. For example, a married student more than half of whose support is furnished by his father must file an income tax return if he receives $600 or more of gross income during his taxable year.

(iii) For taxable years beginning after December 31, 1972, an individual described in subparagraph (1) of this paragraph (other than an individual referred to in section 142(b))—

(*a*) Who is not married (as determined by applying section 143(a) and the regulations thereunder) must file an income tax return only if he receives $1,750 or more of gross income during his taxable year, except that if such an individual has attained the age of 65 before the close of his taxable year an income tax return must be filed by such individual only if he receives $2,500 or more of gross income during his taxable year.

(*b*) Who is entitled to make a joint return under section 6013 and the regulations thereunder must file an income tax return only if his gross income received during his taxable year, when combined with the gross income of his spouse received during his taxable year, is $2,500 or more. However, if such individual or his spouse has attained the age of 65 before the close of the taxable year an income tax return must be filed by such individual only if their combined gross income is $3,250 or more. If both the individual and his spouse attain the age of 65 before the close of the taxable year such return must be filed only if their combined gross income is $4,000 or more. However, this subdivision (iii)(*b*) shall not apply if the individual and his spouse did not have the same household as their home at the close of their taxable year, if such spouse files a separate return for a taxable year which includes any part of such individual's taxable year, or if any other taxpayer is entitled to an exemption for the taxpayer or his spouse under section 151(e) for such other taxpayer's taxable year

beginning in the calendar year in which such individual's taxable year begins. For example, a married student more than half of whose support is furnished by his father must file an income tax return if he receives $750 or more of gross income during the taxable year.

(iv) For purposes of section 6012(a)(1)(A)(ii) and subdivisions (ii)(b) and (iii)(b) of this subparagraph, an individual and his spouse are considered to have the same household as their home at the close of a taxable year if the same household constituted the principal place of abode of both the individual and his spouse at the close of such taxable year (or on the date of death, if the individual or his spouse died within the taxable year). The individual and his spouse will be considered to have the same household as their home at the close of the taxable year notwithstanding a temporary absence from the household due to special circumstances, as, for example, in the case of a nonpermanent failure on the part of the individual and his spouse to have a common abode by reason of illness, education, business, vacation, or military service. For example, A, a calendar-year individual under 65 years of age, is married to B, also under 65 years of age, and is a member of the Armed Forces of the United States. During 1970 A is transferred to an overseas base. A and B give up their home, which they had jointly occupied until that time; B moves to the home of her parents for the duration of A's absence. They fully intend to set up a new joint household upon A's return. Neither A nor B must file a return for 1970 if their combined gross income for the year is less than $2,300 and if no other taxpayer is entitled to a dependency exemption for A or B under section 151(e).

(v) In the case of a short taxable year referred to in section 443(a)(1), an individual described in subparagraph (1) of this paragraph shall file an income tax return if his gross income received during such short taxable year equals or exceeds his own personal exemption allowed by section 151(b) (prorated as provided in section 443(c)) and, when applicable, his additional exemption for age 65 or more allowed by section 151(c)(1) (prorated as provided in section 443(c)).

* * * * *

(4) *Return of income of minor.* A minor is subject to the same requirements and elections for making returns of income as are other individuals. Thus, for example, for a taxable year beginning after December 31, 1972, a return must be made by or for a minor who has an aggregate of $1,750 of gross income from funds held in trust for him and from his personal services, regardless of the amount of his taxable income. The return of a minor must be made by the minor himself or must be made for him by his guardian or other person charged with the care of the minor's person or property. See paragraph (b)(3) of § 1.6012-3. See § 1.73-1 for inclusion in the minor's gross income of amounts received for his personal services. For the amount of tax which is considered to have been properly assessed against the parent, if not paid by the child, see section 6201(c) and paragraph (c) of § 301.6201-1 of this chapter (Regulations on Procedure and Administration).

* * * * *

PAR. 3. Section 301.6012 is amended by revising paragraph (1) of section 6012(a) and the historical note to read as follows:

§ 301.6012 Statutory provisions; persons required to make returns of income.

SEC. 6012. *Persons required to make returns of income*—(a) *General rule.* Returns with respect to income taxes under subtitle A shall be made by the following:

[Applicable to taxable years beginning after Dec. 31, 1969, and before Jan. 1, 1973]

(1) (A) Every individual having for the taxable year a gross income of $600 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

(i) Who is not married (determined by applying section 143(a)) and for the taxable year has a gross income of less than $1,700, or

(ii) Who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than $2,300 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (ii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

(B) The $1,700 amount specified in subparagraph (A)(i) shall be increased to $2,300 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the $2,300 amount specified in subparagraph (A)(ii) shall be increased by $600 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);

[Applicable to taxable years beginning after Dec. 31, 1972]

(1) (A) Every individual having for the taxable year a gross income of $750 or more, except that a return shall not be required of an individual (other than an individual referred to in section 142(b))—

(i) Who is not married (determined by applying section 143(a)) and for the taxable year has a gross income of less than $1,750, or

(ii) Who is entitled to make a joint return under section 6013 and whose gross income, when combined with the gross income of his spouse, is, for the taxable year, less than $2,500 but only if such individual and his spouse, at the close of the taxable year, had the same household as their home.

Clause (ii) shall not apply if for the taxable year such spouse makes a separate return or any other taxpayer is entitled to an exemption for such spouse under section 151(e).

(B) The $1,750 amount specified in subparagraph (A)(i) shall be increased to $2,500 in the case of an individual entitled to an additional personal exemption under section 151(c)(1), and the $2,500 amount specified in subparagraph (A)(ii) shall be increased by $750 for each additional personal exemption to which the individual or his spouse is entitled under section 151(c);

* * * * *

(Sec. 6012 as amended by sec. 72(a), Technical Amendments Act 1958 (72 Stat. 1660); sec. 206(b)(1), Rev. Act 1964 (78 Stat. 40); sec. 941, Tax Reform Act 1969 (83 Stat. 726))

[F.R. Doc. 70-15212; Filed, Nov. 10, 1970; 8:48 a.m.]

[T.D. 7067]

PART 13—TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1969

Special Rule for Withholding Agents of Foreign Tax-Exempt Organizations for Calendar Year 1970

The following regulations relate to the application for calendar year 1970 of section 1443(b) of the Internal Revenue Code of 1954, as added by section 101(j) of the Tax Reform Act of 1969 (83 Stat. 528) to any person required to deduct and withhold any tax imposed on a foreign private foundation by section 4948(a).

The regulations set forth herein are temporary and are designed to provide rules whereby any person within the United States who makes payment of any item of gross investment income, as defined in section 4940(c)(2), to any foreign organization may rely on the certified statement of such organization that it is not a private foundation and thereby be relieved of the liability for withholding any tax imposed under section 4948(a). The procedure for certification by the foreign organization is also set forth. The regulations are effective until the issuance of final regulations to be prescribed by the Commissioner and approved by the Secretary or his delegate.

In order to provide such temporary regulations under section 1443(b) of the Internal Revenue Code of 1954, the following regulations are adopted:

§ 13.14 Special rule for withholding agents of foreign tax-exempt organizations for calendar year 1970.

(a) Any person required under section 1443(b) to deduct and withhold any tax imposed by section 4948(a) on any foreign organization for any period after December 31, 1969, and before January 1, 1971, shall not be liable for such tax if such person receives a certified statement from the foreign organization prior to December 1, 1970, stating that either—

(1) Such foreign organization has properly filed the notice described in section 508(b) and the regulations thereunder and has not been notified by the Commissioner or his delegate by the 30th day after the day on which the notice is filed that such notice has failed to establish that such foreign organization is not a private foundation, or

(2) The presumption contained in section 508(b) does not apply to such foreign organization by reason of section 508(c) and the regulations thereunder.

If a certified statement is not received prior to December 1, 1970, by any person required to deduct and withhold any tax imposed by section 4948(a) with respect to any foreign organization, then such person shall be liable for all such

tax imposed for any period after December 31, 1969 (excluding interest and penalties on such tax), to the extent that such person incurs liability to the foreign organization after November 30, 1970, for gross investment income, as defined in section 4940(c)(2). Nothing in this paragraph, however, relieves any foreign private foundation of the liability for the tax (including interest and penalties) imposed by section 4948(a).

(b) Certain foreign organizations to which section 508 does not apply: Any foreign organization to which section 508 does not apply because such organization has received substantially all of its support (other than gross investment income, as defined in section 4940(c)(2)) from sources outside the United States may nevertheless receive the benefits of paragraph (a) of this section by following the procedure set forth in such paragraph. See section 4948(b).

(c) Effect of notice by Internal Revenue Service concerning organization's certified statement: Paragraph (a) of this section shall have no effect with respect to a withholding agent as to a particular foreign organization on or after the earlier of (1) the date on which such agent acquired knowledge that the Internal Revenue Service has given notice to such foreign organization that its notice or statement has failed to establish that it is not a private foundation, or (2) the date on which the Internal Revenue Service publishes notice that such foreign organization has failed to establish that it is not a private foundation.

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

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

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

Approved: November 6, 1970.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-15197; Filed, Nov. 10, 1970; 8:47 a.m.]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order 442-70]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart R—Bureau of Narcotics and Dangerous Drugs

DELEGATING FUNCTIONS UNDER COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

By virtue of the authority vested in me by section 501 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513) and 28 U.S.C. 509, 510, and 5 U.S.C. 301, Subpart R of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. Section 0.100 is amended by deleting "sections 1 and 2 of Reorganization Plan No. 1 of 1968" and substituting "the Comprehensive Drug Abuse Prevention and Control Act of 1970."

2. Section 0.102 is deleted.

Dated: November 4, 1970.

JOHN N. MITCHELL,
Attorney General.

[F.R. Doc. 70-15198; Filed, Nov. 10, 1970; 8:47 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 70-1193]

PART 0—COMMISSION ORGANIZATION

PART 1—PRACTICE AND PROCEDURE

Conduct of Hearing Proceedings

Report and order. 1. The Commission, through its Procedure Review Committee, has been inquiring into measures which can be taken to expedite the conduct of hearing proceedings, and has decided to adopt two specific measures which it believes will contribute to this purpose. First, the presiding officer in a hearing proceeding is being authorized to act on joint requests for approval of agreements between broadcast applicants to procure the removal of a conflict between their applications. Such requests have heretofore been acted on by the Review Board. Secondly, we are revising procedures governings appeals from rulings of the presiding officer. Under the new procedures, most interlocutory rulings may be appealed only with the consent of the presiding officer. Heretofore, all such rulings have been appealable as a matter of right. In addition, procedures are being adopted which deal specifically with rulings of the presiding officer which terminate a hearing proceeding. These measures are discussed in paragraphs 3-8 below; the changes in the rules required to effectuate them are set forth below.

2. Before submitting its recommendations to the Commission, the Procedure Review Committee prepared specific rule changes and sent copies for comment to those individuals and groups who have expressed interest in the work of the Committee. Comment on the proposal was received from Earle K. Moore, counsel for the Office of Communications of the United Church of Christ; from Michael H. Bader, Esq., on his own behalf; and from the Federal Communications Bar Association Committee designated to work on the review of procedures. The Church of Christ took no position on the proposals. Mr. Bader supported them and suggested that the presiding officer also be authorized to act on agreements for dismissal of applications in the Domestic Public Land Mobile Radio Services. Because work is proceeding separately on this proposal, outside of the Committee, the Committee has not considered its merits. The FCBA Committee generally approved the proposals but recommended modification of provisions (set out as § 1.301(b)) governing the appeal of most interlocutory rulings.[1] Its comments are discussed in paragraph 7 below with the general discussion of that provision.

3. *Requests for approval of agreements between applicants.* When agreements between broadcast applicants to procure the removal of a conflict between their applications are entered into, requests for approval are required by § 1.525 of the rules. Since the Commission first required the submission of such requests, they have been acted on by a single authority, to develop a body of consistent precedent, and since 1962, they have been acted on by the Review Board. Hearing proceedings can be expedited by authorizing the presiding officer to act on such requests, since he will begin their consideration with a knowledge of the case developed in the proceeding to that point; and the Board's rulings since 1962 should afford the guidance to the corps of examiners needed to provide for the continuing consistency of rulings in this area. This change involves the deletion of a delegation to the Review Board set out in § 0.365(b)(2) of the rules, and of § 1.605(b)(2), concerning the effective date and review of Review Board action on such requests, and the amendment of § 1.525(d)(2).

4. *Appeals.* The new procedures governing appeals from rulings of the presiding officer deal separately with appeals from interlocutory rulings and rulings which terminate a hearing proceeding (i.e., noninterlocutory rulings). The rules at present discourage appeals from interlocutory rulings; that is, they ask that parties defer objections to rulings made by the presiding officer during the hearing and raise them when (and if) they file exceptions to his initial decision. This voluntary approach has been only partially effective. The rules do not now deal specifically with rulings of the presiding officer which terminate a hearing proceeding.

5. Section 1.301 deals with interlocutory rulings made by the presiding officer in a hearing proceeding. Section 1.301(a) provides for appeal, as a matter of right, from a ruling which denies or terminates the right of any person to participate as a party to the proceeding (e.g., an order dismissing an application or denying a petition to intervene) or which grants a request for inspection of documents not routinely available for public inspection. In addition, if a ruling requires testimony or the production of documents, over objection based on a claim of privilege, the ruling on the claim of privilege is appealable as a matter of right. A ruling granting a joint request

[1] The views of the Bar Committee are its own and are not necessarily those of the Bar Association or of its Executive Committee.

(see paragraph 3, supra) without terminating the proceeding, finally, is appealable by any party as a matter of right. Section 1.301(a) also requires that objection to such rulings be raised as an appeal rather than later, on exception to the initial decision.

6. Section 1.301(b) provides principally that no other interlocutory ruling may be appealed without the consent of the presiding officer and that the appeal, if allowed, may be dismissed by the Review Board or the Commission. Under this provision, the presiding officer would allow an appeal if (and only if) "the appeal presents an important question of law or policy as to which there is substantial ground for difference of opinion and * * * the ruling is such that error would be likely to require remand should the appeal be deferred and raised as an exception." Because provision is made for modification of the ruling, we are deleting § 1.303, which now provides for reconsideration of a ruling with the presiding officer's consent. We are amending § 1.246(d) by deleting a provision dealing with orders overruling written objections to a request for the admission of facts or the genuineness of documents. We are also amending § 1.323(e) by deleting a provision dealing with orders invoking adverse procedural consequences following a failure to answer interrogatories. Section 1.301 will govern the appeal of such orders. Section 1.301(c) details procedures relating to appeals from interlocutory rulings. The new procedures relating to interlocutory appeals are similar to those followed in the Federal district courts and in some other agencies. We believe that they will expedite the conduct of hearing proceedings, by strengthening the position of the presiding officer, by cutting down on hearing delays occasioned by consideration of appeals which should be deferred pending action on the merits, and by freeing the Review Board to spend its resources on the other matters coming before it.

7. The primary concern of the FCBA Committee was that the presiding officer, under § 1.301(b), would be authorized to disallow an appeal from his own ruling, that his order disallowing an appeal would be final, and that the consequences of an erroneous ruling could have serious adverse effect on the parties. It recommended that an appeal be allowed from the presiding officer's ruling disallowing an appeal. Upon further consideration, however, the FCBA Committee and the Procedure Review Committee were able to reach a consensus position (in which we concur): First, the benefits of the proposal would be lost by provision for appeal of a ruling disallowing an appeal. Secondly, the corps of examiners could be relied upon to allow appeals when the showing required by the rule was made. Third, the standard itself was acceptable if properly applied. Fourth, a provision allowing appeal from orders overruling an objection based on a claim of privilege (§ 1.301(a)(2)), not a part of the original proposal, should be added. And, finally, on this basis, the new procedures are worthy of trial.

8. Section 1.302 details new procedures to deal with rulings of the presiding officer which terminate a hearing proceeding. There are a number of circumstances in which the presiding officer's ruling on a motion will leave nothing further to decide. Examples include favorable action on a joint request to terminate the hearing proceeding (see paragraph 3, above) or an order dismissing one of two applications, assuming in both instances that no additional issues remain to be heard. Section 1.302 allows 30 days for an appeal from such a ruling, and 20 additional days for review by the Commission or the Review Board on its own motion if the ruling is not appealed. The provision for notice of appeal is for the purpose of avoiding unnecessary delay when no party wishes to appeal the ruling.

9. Authority for the amendments set forth below is contained in sections 4(i), 5(d), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(d), and 303(r). Because the amendments relate to internal organization and procedure, the procedural and effective date provisions of 5 U.S.C. 553 do not apply. The amendments shall apply to joint requests (see paragraph 3, supra) and appeals filed on or after November 13, 1970.

10. In view of the foregoing: *It is ordered*, Effective November 13, 1970, That Parts 0 and 1 of the rules and regulations are amended as set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

Adopted: November 4, 1970.

Released: November 6, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[2]

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

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In paragraph (b) of § 0.365, subparagraph (2) is revoked, and the numerical designation is reserved, to read as follows:

§ 0.365 Authority delegated to the Review Board on a regular basis.

* * * * *

(b) *Original action on interlocutory matters.* * * *

(2) [Reserved]

* * * * *

Part 1 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 1.246(d) is revised to read as follows:

§ 1.246 Admission of facts and genuineness of documents.

* * * * *

(d) Written objections to the requested admissions may be ruled upon by the presiding officer without additional pleadings.

[2] Commissioner Bartley absent; Commissioner Johnson concurring in the result.

2. Section 1.301, and the headnote thereto, are revised to read as follows:

§ 1.301 Appeal from presiding officer's interlocutory ruling; effective date of ruling.

(a) *Interlocutory rulings which are appealable as a matter of right.* Rulings listed in this paragraph are appealable as a matter of right. An appeal from such a ruling may not be deferred and raised as an exception to the initial decision.

(1) If the presiding officer's ruling denies or terminates the right of any person to participate as a party to a hearing proceeding, such person, as a matter of right, may file an appeal from that ruling.

(2) If the presiding officer's ruling requires testimony or the production of documents, over objection based on a claim of privilege, the ruling on the claim of privilege is appealable as a matter of right.

(3) Rulings granting a request for inspection of documents not routinely available for public inspection are appealable as a matter of right. See § 0.461 (e) of this chapter.

(4) Rulings granting a joint request filed under § 1.525 without terminating the proceeding are appealable by any party as a matter of right.

(b) *Other interlocutory rulings.* Except as provided in paragraph (a) of this section, appeals from interlocutory rulings of the presiding officer shall be filed only if allowed by the presiding officer. Any party desiring to file an appeal shall first file a request for permission to file appeal. The request shall be filed within 5 days after the order is released or (if no written order) after the ruling is made. Pleadings responsive to the request shall be filed only if they are requested by the presiding officer. The request shall contain a showing that the appeal presents an important question of law or policy as to which there is substantial ground for difference of opinion and that the ruling is such that error would be likely to require remand should the appeal be deferred and raised as an exception. The presiding officer shall determine whether the showing is such as to justify an interlocutory appeal and, in accordance with his determination, will either allow or disallow the appeal or modify the ruling. If the presiding officer allows or disallows the appeal, his ruling is final: *Provided, however,* That the Review Board or the Commission may, on its own motion, dismiss an appeal allowed by the presiding officer on the ground that objection to the ruling should be deferred and raised as an exception. In the discretion of the presiding officer, the request for permission to file appeal may be made orally, on the record of the proceeding, and if made orally, may be disposed of orally.

(1) If an appeal is not allowed, or is dismissed by the Review Board or the Commission, or if permission to file appeal is not requested, objection to the ruling may be raised on review of the initial decision.

(2) If an appeal is allowed and is considered on its merits, the disposition on

appeal is final. Objection to the ruling or to the action on appeal may not be raised on review of the initial decision.

(3) If the presiding officer modifies the ruling, any party adversely affected by the modified ruling may file a request for permission to file appeal, pursuant to the provisions of this paragraph.

(c) *Procedures; effective date.* (1) Unless the presiding officer orders otherwise, rulings made by him shall be effective when the order is released or (if no written order) when the ruling is made. The Review Board or the Commission may stay the effect of any ruling which comes before it for consideration on appeal.

(2) Appeals filed under paragraph (a) of this section shall be filed within 5 days after the order is released or (if no written order) after the ruling is made. Appeals filed under paragraph (b) of this section shall be filed within 5 days after the appeal is allowed.

(3) The appeal shall conform with the specifications set out in § 1.49 and shall be subscribed and verified as provided in § 1.52.

(4) The appeal shall be served on parties to the proceeding (see §§ 1.47 and 1.211), and shall be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

(5) The appeal shall not exceed 15 double-spaced typewritten pages.

(6) If a commissioner or panel of commissioners is presiding at the hearing, the appeal will be acted on by the Commission. The Commission also acts on appeals from the rulings of a hearing examiner in proceedings which involve rule making matters exclusively. In all other proceedings in which a hearing examiner is presiding, appeals from his ruling will be acted on by the Review Board. The caption of the appeal shall specify whether the appeal is to be acted on by the Commission or the Review Board. If the appeal is to be acted on by the Commission, an original and 19 copies shall be filed. If the appeal is to be acted on by the Review Board, an original and 14 copies shall be filed.

(7) Oppositions and replies shall be served and filed in the same manner as appeals and shall be served on appellant if he is not a party to the proceeding. Oppositions shall be filed within 5 days after the appeal is filed. Replies to oppositions shall be filed within 5 days after the opposition is filed and shall be limited to matters raised in the opposition. Oppositions shall not exceed 15 double-spaced type-written pages. Replies shall not exceed 10 double-spaced type-written pages.

3. Section 1.302 is added, to read as follows:

§ 1.302 Appeal from presiding officer's final ruling; effective date of ruling.

(a) If the presiding officer's ruling terminates a hearing proceeding, any party to the proceeding, as a matter of right, may file an appeal from that ruling within 30 days after the ruling is released.

(b) Any party who desires to preserve the right to appeal shall file a notice of appeal within 10 days after the ruling is released. If a notice of appeal is not filed within 10 days, the ruling shall be effective 30 days after the ruling is released and within this period, may be reviewed by the Commission or the Review Board on its own motion. If an appeal is not filed following notice of appeal, the ruling shall be effective 50 days after the day of its release and, within this period, may be reviewed by the Commission or the Review Board on its own motion. If an appeal is filed, or if the Commission or the Review Board reviews the ruling on its own motion, the effect of the ruling is further stayed pending the completion of proceedings on appeal or review.

(c) The appeal shall conform with the specifications set out in § 1.49 and shall be subscribed and verified as provided in § 1.52.

(d) The appeal shall be served on parties to the proceeding (see §§ 1.47 and 1.211), and shall be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

(e) The appeal shall not exceed 25 double-spaced typewritten pages.

(f) If the Commission would have reviewed an initial decision in the proceeding (see § 0.365(a) of this chapter), the Commission will act on the appeal. In all other cases, the appeal will be acted on by the Review Board. The caption of the appeal shall specify whether the appeal is to be acted on by the Commission or the Review Board. If the appeal is to be acted on by the Commission, an original and 19 copies shall be filed. If the appeal is to be acted on by the Review Board, an original and 14 copies shall be filed.

(g) Oppositions and replies shall be filed and served in the same manner as the appeal. Oppositions to an appeal shall be filed within 15 days after the appeal is filed. Replies to oppositions shall be filed within 10 days after the opposition is filed and shall be limited to matters raised in the oppositions. Oppositions shall not exceed 25 double-spaced typewritten pages. Replies shall not exceed 10 double-spaced typewritten pages.

§ 1.303 [Revoked]

4. Section 1.303 is revoked.

5. Section 1.323(e) is revised to read as follows:

§ 1.323 Interrogatories to parties.

* * * * *

(e) *Appeal.* As order to compel an answer is not subject to appeal.

6. Section 1.525(d)(2) is revised to read as follows:

§ 1.525 Agreements between parties for amendment or dismissal of, or failure to prosecute broadcast applications.

* * * * *

(d) * * *

(2) Requests and affidavits which relate to an application which has not been designated for hearing shall bear the file number of such application. If the affiant is also an applicant, the affidavit shall also bear the file number of affiant's pending application(s). Requests and affidavits which relate to an application which is designated for hearing shall bear the file number of that application and the hearing docket number and will be acted on by the presiding officer.

* * * * *

7. Section 1.605(b)(2) is revoked, and the numerical designation is reserved, to read as follows:

§ 1.605 Retention of applications in hearing status after designation for hearing.

* * * * *

(b) * * *

(2) [Reserved]

* * * * *

[F.R. Doc. 70-15202; Filed, Nov. 10, 1970; 8:47 a.m.]

[Docket No. 18010; FCC 70-1181]

PART 87—AVIATION SERVICES

Use of Private Aircraft Frequencies

Report and order. In the matter of amendment of Part 87 of the rules to permit air carrier aircraft weighing 12,500 pounds or less to use private aircraft frequencies.

1. The Commission, on July 10, 1970, released a notice of proposed rule making in the above entitled matter (FCC 70-728) which made provision for filing comments. The notice was published in the FEDERAL REGISTER on July 16, 1970 (35 F.R. 11409). The time for filing comments and reply comments has passed and none were filed.

2. The notice proposed rule changes, requested by the Federal Aviation Administration, so that aircraft weighing up to 12,500 pounds, rather than 10,000 pounds, would be permitted to use the private aircraft frequencies. We believe, for reasons set forth in the notice, that the requested changes are reasonable and necessary.

3. Accordingly, in view of the foregoing, and the fact that no comments in opposition to this proposed change were filed, the Commission's rules, pursuant to section 4(i) and 303(r) of the Communications Act of 1934, as amended, are amended, effective December 16, 1970, as set forth below.

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

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

Adopted: November 4, 1970.

Released: November 6, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]

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

Part 87 of the rules is amended as shown below:

1. In § 87.5 the definitions of an "air carrier aircraft station" and a "private aircraft station" are amended to read as follows:

§ 87.5 Definition of terms.

* * * * *

[1] Commissioner Bartley absent.

Air carrier aircraft station. An aircraft station on board an aircraft engaged in, or essential to, transportation of passengers or cargo for hire.

* * * * *

Private aircraft station. An aircraft station on board an aircraft not operated as an air carrier, or an aircraft station that has been licensed pursuant to § 87.29(a)(4) as a private aircraft station on board an air carrier weighing less than 12,500 pounds, maximum certified takeoff gross weight.

* * * * *

2. Section 87.29(a) is amended by adding a new subparagraph (4) as follows:

§ 87.29 **Application for aircraft radio station license.**

(a) * * *

(4) A station on board an air carrier aircraft weighing less than 12,500 pounds, maximum certified takeoff gross weight, may at the option of the applicant, be licensed as a private aircraft station, even though actually engaged in air carrier operations.

* * * * *

[F.R. Doc. 70-15203; Filed, Nov. 10, 1970; 8:47 a.m.]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Amdt. 192-1; Docket OPS-3]

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

Odorization of Gas

The purpose of this amendment is to keep in effect, in those States now requiring the odorization of gas in transmission lines, the interim minimum Federal safety standards that apply to the odorization of gas, for a period of time ending not later than January 1, 1972. This will allow time for the resolution of problems still remaining with regard to gas odorization requirements in those States. In all other States, the odorization of gas will be governed by the new minimum Federal safety standards.

Section 192.625 of the new Federal gas pipeline safety standards (35 F.R. 13248, Aug. 19, 1970) requires odorization of combustible gases in mains and service lines. However, the notice of proposed rule making published on April 2, 1970 (35 F.R. 5482), proposed to also require the odorization of gas in transmission lines. This proposal was based on a requirement that presently exists in the States of California, Connecticut, New Hampshire, New York, New Jersey, Massachusetts, Rhode Island, and Vermont. Since the comments received on the original notice were almost unanimously opposed to the odorization of gas in high pressure transmission lines, a supplemental notice was issued on June 10, 1970, requesting additional comments and information. (Notice 70-11; 35 F.R. 9293, June 13, 1970.)

The comments received on the June 10 notice also generally opposed the proposal. These comments argued that difficulties in regulating and maintaining the required level of odorant would result, that odorants used by transmission companies and distribution companies might be incompatible, that removal of odorant from supplies to customers who must have unodorized gas is difficult and costly and creates disposal problems, that highly corrosive sulphur compounds in odorants precipitate out of the gas stream as liquids and cause internal corrosion, and that it is often impossible to separate gas destined for underground storage (which would have been excepted from the proposed odorization requirement) from gas destined for the market.

However, the States named above that now require odorization in transmission lines urged that the requirement be adopted as originally proposed. These States indicated that their experience with the odorization of gas in transmission lines did not support the objections that had been listed in the supplemental notice, and maintained that since many high-pressure transmission lines are located in highly populated areas, often very close to buildings used as dwellings, schools, and places of assembly, and since the use of odorant is still one of the most effective means of early detection of leaks in gas facilities, its use should be required in all facilities transporting or distributing gas.

Since the information received on the notice was conflicting and inconclusive, the minimum Federal safety standards were issued without the requirement for odorization of gas in transmission lines and the Office of Pipeline Safety conducted an informal public hearing on September 17, 1970, to determine the advisability of further action. The notice of hearing (Notice 70-13; Docket No. OPS-3E, 35 F.R. 13470, Aug. 22, 1970) stated that such further action might include temporary extension of the interim standards.

On the basis of the information received on the notice and at the hearing, the Department has concluded that it should retain the requirement for odorization of gas in § 192.625, as adopted, and not require odorization in transmission lines. However, little specific information was submitted at the hearing on the actual effect of § 192.625, as issued in August, on those States whose interim standards required odorization in transmission lines. The Department wishes to determine how many distribution companies in those States will be affected by the elimination of the requirement, the extent of the additional action that must be undertaken by them, the length of time it will take them to assume these new functions, and the costs. It also desires to make a more thorough evaluation of the safety benefits of transmission line odorization.

In order to allow sufficient time for the resolution of these problems, the interim standards for odorization of gas transmission lines, in each State now requiring that odorization, will be extended until January 1, 1972, or until the date upon which the distribution companies in that State have actually taken over the odorization of gas in mains and service lines in accordance with the requirements of § 192.625, whichever is earlier. Until that time, gas in transmission lines must continue to be odorized in those States. In all States other than those now requiring odorization of gas in transmission lines, the interim standards applying to odorization will be revoked when the new minimum Federal safety standards become effective on November 12, 1970.

Although section 3 of the Natural Gas Pipeline Safety Act of 1968 provides that no State agency may adopt or continue in force additional or more stringent standards applicable to interstate transmission facilities after the Federal safety standards become effective, the Federal standards are minimum standards and an operator may voluntarily exceed them. Thus, after January 1, 1972 (or the earlier date, if applicable), in those States where transmission companies are equipped to odorize their lines, and actually do so at the present time, they may continue to do so, even in the absence of Federal requirements.

Since the regulatory provisions that are affected by this amendment will become effective on November 12, 1970, and since this amendment will impose no additional burden on any person, I find that notice and public procedure thereon are not necessary and that good cause exists for making it effective on less than 30 days' notice.

This amendment is issued under the authority of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. section 1671 et seq.), Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1), and the delegation of authority to the Director, Office of Pipeline Safety, dated November 6, 1968 (33 F.R. 16468).

In consideration of the foregoing, § 192.625 of Title 49 of the Code of Federal Regulations is amended by revising paragraph (a), and by adding a new paragraph (g), to read as follows:

§ 192.625 **Odorization of gas.**

(a) Combustible gases in mains and service lines must be odorized as provided in paragraphs (b) through (f) of this section.

* * * * *

(g) The odorization requirements of Part 190 of this chapter, as in effect on August 12, 1970, must be complied with, in each State in which odorization of gas in transmission lines is required by that part, until the earlier of the following dates:

(1) January 1, 1972; or

(2) The date upon which the distribution companies in that State are odorizing gas in accordance with paragraphs (a) through (f) of this section.

Issued in Washington, D.C., on November 6, 1970.

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

[F.R. Doc. 70-15227; Filed, Nov. 10, 1970; 8:50 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Termination of Private Foundation Status

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

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

The following regulations relating to the termination of private foundation status by transfer to, or operation as, a public charity are prescribed under section 507 of the Internal Revenue Code of 1954, as added by section 101(a) of the Tax Reform Act of 1969 (83 Stat. 492).

PARAGRAPH 1. Immediately after § 1.504–1, insert the following sections:

EXEMPT ORGANIZATIONS

PRIVATE FOUNDATIONS

§ 1.507 Statutory provisions; termination of private foundation status; general rule.

SEC. 507. *Termination of private foundation status.*—(a) *General rule.* Except as provided in subsection (b), the status of any organization as a private foundation shall be terminated only if—

(1) Such organization notifies the Secretary or his delegate (at such time and in such manner as the Secretary or his delegate may by regulations prescribe) of its intent to accomplish such termination, or

(2) (A) With respect to such organization, there have been either willful repeated acts (or failures to act), or a willful and flagrant act (or failure to act), giving rise to liability for tax under chapter 42, and

(B) The Secretary or his delegate notifies such organization that, by reason of subparagraph (A), such organization is liable for the tax imposed by subsection (c),

and either such organization pays the tax imposed by subsection (c) (or any portion not abated under subsection (g)) or the entire amount of such tax is abated under subsection (g).

(b) *Special rules*—

(1) *Transfer to, or operation as, public charity.* The status as a private foundation of any organization, with respect to which there have not been either willful repeated acts (or failures to act) or a willful and flagrant act (or failure to act) giving rise to liability for tax under chapter 42, shall be terminated if—

(A) Such organization distributes all of its net assets to one or more organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) each of which has been in existence and so described for a continuous period of at least 60 calendar months immediately preceding such distribution, or

(B) (i) Such organization meets the requirements of paragraph (1), (2), or (3) of section 509(a) by the end of the 12-month period beginning with its first taxable year which begins after December 31, 1969, or for a continuous period of 60 calendar months beginning with the first day of any taxable year which begins after December 31, 1969,

(ii) Such organization notifies the Secretary or his delegate (in such manner as the Secretary or his delegate may by regulations prescribe) before the commencement of such 12-month or 60-month period (or before the 90th day after the day on which regulations first prescribed under this subsection become final) that it is terminating its private foundation status, and

(iii) Such organization establishes to the satisfaction of the Secretary or his delegate (in such manner as the Secretary or his delegate may by regulations prescribe) immediately after the expiration of such 12-month or 60-month period that such organization has complied with clause (i).

If an organization gives notice under subparagraph (B)(ii) of the commencement of a 60-month period and such organization fails to meet the requirements of paragraph (1), (2), or (3) of section 509(a) for the entire 60-month period, this part and chapter 42 shall not apply to such organization for any taxable year within such 60-month period for which it does meet such requirements.

(2) *Transferee foundations.* For purposes of this part, in the case of a transfer of assets of any private foundation to another private foundation pursuant to any liquidation, merger, redemption, recapitalization, or other adjustment, organization, or reorganization, the transferee foundation shall not be treated as a newly created organization.

(c) *Imposition of tax.* There is hereby imposed on each organization which is referred to in subsection (a) a tax equal to the lower of—

(1) The amount which the private foundation substantiates by adequate records or other corroborating evidence as the aggregate tax benefit resulting from the section 501(c)(3) status of such foundation, or

(2) The value of the net assets of such foundation.

(d) *Aggregate tax benefit*—

(1) *In general.* For purposes of subsection (c), the aggregate tax benefit resulting from the section 501(c)(3) status of any private foundation is the sum of—

(A) The aggregate increases in tax under chapters 1, 11, and 12 (or the corresponding provisions of prior law) which would have been imposed with respect to all substantial contributors to the foundation if deductions for all contributions made by such contributors to the foundation after February 28, 1913, had been disallowed, and

(B) The aggregate increases in tax under chapter 1 (or the corresponding provisions of prior law) which would have been imposed with respect to the income of the private foundation for taxable years beginning after December 31, 1912, if (i) it had not been exempt from tax under section 501(a) (or the corresponding provisions of prior law), and (ii) in the case of a trust, deductions under section 642(c) (or the corresponding provisions of prior law) had been limited to 20 percent of the taxable income of the trust (computed without the benefit of section 642(c) but with the benefit of section 170(b)(1)(A)), and

(C) Interest on the increases in tax determined under subparagraphs (A) and (B) from the first date on which each such increase would have been due and payable to the date on which the organization ceases to be a private foundation.

(2) *Substantial contributor.*

(A) *Definition.* For purposes of paragraph (1), the term "substantial contributor" means any person who contributed or bequeathed an aggregate amount of more than $5,000 to the private foundation, if such amount is more than 2 percent of the total contributions and bequests received by the foundation before the close of the taxable year of the foundation in which the contribution or bequest is received by the foundation from such person. In the case of a trust, the term "substantial contributor" also means the creator of the trust.

(B) *Special rules.* For purposes of subparagraph (A)—

(i) Each contribution or bequest shall be valued at fair market value on the date it was received,

(ii) In the case of a foundation which is in existence on October 9, 1969, all contributions and bequests received on or before such date shall be treated (except for purposes of clause (i)) as if received on such date.

(iii) An individual shall be treated as making all contributions and bequests made by his spouse, and

(iv) Any person who is a substantial contributor on any date shall remain a substantial contributor for all subsequent periods.

(3) *Regulations.* For purposes of this section, the determination as to whether and to what extent there would have been any increase in tax shall be made in accordance with regulations prescribed by the Secretary or his delegate.

(e) *Value of assets.* For purposes of subsection (c), the value of the net assets shall be determined at whichever time such value is higher; (1) the first day on which action is taken by the organization which culminates in its ceasing to be a private founda-

tion, or (2) the date on which it ceases to be a private foundation.

(f) *Liability in case of transfers of assets from private foundation.* For purposes of determining liability for the tax imposed by subsection (c) in the case of assets transferred by the private foundation, such tax shall be deemed to have been imposed on the first day on which action is taken by the organization which culminates in its ceasing to be a private foundation.

(g) *Abatement of taxes.* The Secretary or his delegate may abate the unpaid portion of the assessment of any tax imposed by subsection (c), or any liability in respect thereof, if—

(1) The private foundation distributes all of its net assets to one or more organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) each of which has been in existence and so described for a continuous period of at least 60 calendar months, or

(2) Following the notification prescribed in section 6104(c) to the appropriate State officer, such State officer within 1 year notifies the Secretary or his delegate, in such manner as the Secretary or his delegate may by regulations prescribe, that corrective action has been initiated pursuant to State law to insure that the assets of such private foundation are preserved for such charitable or other purposes specified in section 501(c)(3) as may be ordered or approved by a court of competent jurisdiction, and upon completion of the corrective action, the Secretary or his delegate receives certification from the appropriate State officer that such action has resulted in such preservation of assets.

[Sec. 507, as added by sec. 101(a), Tax Reform Act 1969 (83 Stat. 492)]

§ 1.507–1 General rule. [Reserved]

§ 1.507–2 Special rules: transfer to, or operation as, public charity.

(a) *Transfer to public charities*—(1) *General rule.* Under section 507(b)(1)(A) of the Internal Revenue Code of 1954, a private foundation can terminate its status as such without incurring the tax imposed by section 507(c), provided there have not been either willful repeated acts (or failures to act) or a willful and flagrant act (or failure to act) giving rise to liability for tax under Chapter 42, if such organization distributes all of its net assets to one or more organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)) each of which has been in existence and so described for a continuous period of at least 60 calendar months immediately preceding such distribution.

(2) *Effect of current ruling.* An organization to which a distribution of net assets is made will qualify as an organization "described in section 170(b)(1)(A) (other than clauses (vii) and (viii))" for purposes of meeting the requirements of section 507(b)(1)(A) without a further showing if such organization:

(i) Has been in existence for a continuous period of at least 60 calendar months preceding the distribution described in subparagraph (1) of this paragraph;

(ii) Has received a ruling that it is an organization described in clause (i), (ii), (iii), (iv), (v), or (vi) of section 170(b)(1)(A);

(iii) The facts and circumstances forming the basis for the issuance of the ruling have not substantially changed during the 60-month period referred to in subdivision (i) of this subparagraph; and

(iv) The ruling referred to in subdivision (ii) of this subparagraph has not been revoked expressly or by a subsequent change of the law or regulations under which the ruling was issued.

(3) *Organizations described in more than one clause in section 170(b)(1)(A).* For purposes of section 507(b)(1)(A), the parenthetical term "other than in clauses (vii) and (viii)" shall be treated as referring only to an organization which is described only in section 170(b)(1)(A) (vii) or (viii). If an organization is described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)), it will not be precluded from being a distributee described in section 507(b)(1)(A) merely because it also appears to meet the description of an organization described in section 170(b)(1)(A)(viii).

(4) *Special transitional rule.* Section 4940(a) imposes a tax upon private foundations with respect to the carrying on of activities for each taxable year. For purposes of section 4940, an organization which terminates its private foundation status under section 507(b)(1)(A) by the end of the 12-month period beginning with its first taxable year which begins after December 31, 1969, will not be considered as carrying on activities within the meaning of section 4940 during such 12-month period. Such organization will therefore not be subject to the tax imposed under section 4940(a) for such 12-month period. For purposes of this subparagraph, if an organization establishes to the satisfaction of the Commissioner that it has taken affirmative action to distribute all of its net assets pursuant to section 507(b)(1)(A) during the 12-month period beginning with its first taxable year which begins after December 31, 1969, but has not completed such distribution by the end of such 12-month period, such organization will not be subject to the tax imposed under section 4940(a) if such distribution becomes final by the date upon which the Form 990, Annual Information Return, of such organization is due (including any extensions) for such first taxable year. For example, if the trustees of a charitable trust have made application to the appropriate State court for approval of the distribution of all of such trust's net assets pursuant to section 507(b)(1)(A) by the end of such 12-month period, but such approval is not granted by the end of such period, such trust will not be subject to the tax imposed under section 4940(a) if its application receives final approval by the court before the date upon which its Annual Information Return is due and such distribution is made by such date.

(5) *Return required from organizations terminating private foundation status under section 507(b)(1)(A).* An organization which terminates its private foundation status under section 507(b)(1)(A) is required to file a return under the provisions of section 6043(b), rather than under the provisions of section 6050.

(6) *Inapplicability of sections 507 (a), (c), and (g) to section 507(b)(1)(A) transactions.* A private foundation which terminates its status as such by distributing all of its net assets in compliance with the requirements of section 507(b)(1)(A) is not required to give the notification described under section 507(a). The tax imposed under section 507(c) on organizations described in section 507(a) is not, therefore, applicable and no abatement of such tax under section 507(g) is required.

(7) *Distribution of net assets.* In order to terminate its private foundation status under section 507(b)(1)(A), an organization is required to distribute all of its net assets. An organization will meet this requirement if it transfers all of its right, title, and interest in and to all of its net assets to one or more organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)). The fact that the transferor organization, at the time of transfer, designates the general exempt purpose or purposes for which such assets are to be used will not, in and of itself, result in the transferor's failing to meet this requirement. Likewise, the mere use of the name of the transferor foundation, or its creator, by the transferee in connection with the use of the assets by the transferee will not, in and of itself, constitute a failure to meet this requirement.

(b) *Operation as public charity*—(1) *General rule.* Under section 507(b)(1)(B) a private foundation can terminate its status as such without incurring the tax imposed by section 507(c) if the organization:

(i) Meets the requirements of section 509(a)(1), (2), or (3) by the end of the 12-month period beginning with its first taxable year which begins after December 31, 1969, or for a continuous period of 60 calendar months beginning with the first day of any taxable year which begins after December 31, 1969;

(ii) Properly notifies the Commissioner before the commencement of such 12-month or 60-month period, or within 90 days after (insert date on which the regulations proposed are published in final form in the FEDERAL REGISTER) that it is terminating its private foundation status; and

(iii) Properly establishes to the satisfaction of the Secretary or his delegate immediately after the expiration of such 12-month or 60-month period that such organization has complied with the requirements of section 509(a)(1), (2), or (3) within the prescribed period.

(2) *Requirements which certain public charities must meet.* Section 509(a) defines the term "private foundation" to mean any domestic or foreign organization described in section 501(c)(3) of the Code other than an organization described in section 509(a)(1), (2), (3), or (4). Section 509(a)(1) describes organizations which are described in section

170(b)(1)(A) (other than in clauses (vii) and (viii)) and, thus, includes organizations described in section 170(b)(1)(A)(vi) of the Code. Section 170(b)(1)(A)(vi) deals with organizations referred to in section 170(c)(2) which "normally" receive a substantial part of their support (exclusive of income received from related activities) from a governmental unit or from direct or indirect contributions from the general public. Section 509(a)(2) includes an organization which "normally" receives more than one-third of its support in each taxable year from gifts, grants, contributions, membership fees, or gross receipts (subject to the limitations of section 509(a)(2)(A)(ii)) from persons other than disqualified persons (as defined in section 4946), from governmental units, or from organizations described in section 170(b)(1)(A) (i) through (vi), and "normally" receives not more than one-third of its support in each taxable year from gross investment income. Section 509(a)(3) includes an organization which, in addition to other requirements, "is organized, and at all times thereafter is operated" exclusively for the purposes specified in section 509(a)(3)(A).

(c) *Method of determining normal sources of support*—(1) *General rules.* (i) Section 1.170–2(b)(5)(iii)(*b*) sets forth a mechanical test to determine whether, for purposes of section 170(b)(1)(A)(vi), an organization "normally" receives a substantial part of its support from governmental units or the general public. Under this mechanical test, an organization will be considered to be publicly supported for its current taxable year if, for the four immediately preceding taxable years, the total amount of public support equals one-third or more of the total support for such 4-year period. In addition, § 1.170–2(b)(5)(iii)(*c*) provides a facts and circumstances test for organizations which fail to qualify as publicly supported under the mechanical test, including organizations which have not been in existence for a sufficient length of time to make such test applicable.

(ii) For the general rule applicable to determining whether an organization "normally" meets the tests prescribed under section 509(a)(2), see the regulations under that section.

(2) *Twelve-month termination rule—In general.* The 12-month termination provisions of section 507(b)(1)(B) permit a private foundation to terminate its status as such by changing its organizational structure, its operations, the sources of its support, or any combination thereof, during the 12-month period in order to conform to the requirements of section 509(a)(1), (2), or (3) by the end of the 12-month period. For the purpose of determining whether such organization "normally" receives a substantial part of its support from governmental units or the general public for purposes of section 170(b)(1)(A)(vi), neither the mechanical test set forth in § 1.170–2(b)(5)(iii)(*b*) which is based on the 4 immediately preceding years, nor a facts and circumstances test which is based exclusively on data from periods preceding the 12-month period, shall be applied.

(3) *Twelve-month termination rule under section 170(b)(1)(A)(iv) or (vi).* (i) A private foundation attempting to meet the requirements of section 509(a)(1) as an organization described in section 170(b)(1)(A)(vi) will be considered "normally" to receive a substantial part of its support from governmental units or direct or indirect contributions from the general public if it can establish to the satisfaction of the Commissioner that it has changed the sources of its support before the close of the 12-month period to those of an organization described in section 170(b)(1)(A)(vi) and it can reasonably be expected to maintain its status as such for subsequent years. In order to establish these facts, an organization shall submit all information sufficient to make a determination under § 1.170–2(b)(5)(iii)(*c*) as if such provisions applied, including a description of all organizational and operational changes which have occurred during the 12-month period. It shall also submit detailed information with respect to its sources of support for the 12-month period, as well as for the four taxable years immediately preceding the 12-month period. Such information shall be considered as part of the facts and circumstances in determining whether the organization has effectively changed its sources of support and whether it can reasonably be expected to maintain such publicly supported status for subsequent years.

(ii) Section 170(b)(1)(A)(iv) describes an organization which "normally" receives a substantial part of its support (exclusive of income from related activities) from the United States or any state or political subdivision thereof, or from the general public, and which is organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of certain colleges or universities. For purposes of the 12-month termination period, the rule set forth in subdivision (i) of this subparagraph with respect to section 170(b)(1)(A)(vi) organizations shall be applicable in determining whether an organization "normally" receives a substantial part of its support from the sources required under section 170(b)(1)(A)(iv).

(4) *Twelve-month termination rule under section 509(a)(2).* An organization attempting to terminate its private foundation status under section 507(b)(1)(B) by meeting the requirements of section 509(a)(2) by the end of the 12-month period will be considered as "normally" receiving its support in compliance with the one-third support requirements of section 509(a)(2) if:

(i) For the 12-month period under section 507(b)(1)(B), the organization receives more than one-third of its support from gifts, grants, contributions, membership fees, and gross receipts from related activities (as limited by section 509(a)(2)(A)(ii)) and not more than one-third of its support from gross investment income, and

(ii) The organization can establish to the satisfaction of the Commissioner that it can reasonably be expected to maintain its continued public support for subsequent years. In order to establish a reasonable expectation of continued public support, an organization shall submit a detailed statement describing its past and current operations, any organizational or operational changes and when such changes have occurred, and any changes in its foundation managers (as defined in section 4946(b)(1)). Duplicate copies of its governing instrument and bylaws, with an indication of any amendments made, and detailed information with respect to its sources of support for the 4 taxable years immediately preceding the 12-month period shall also be submitted as part of the evidence that the organization can reasonably be expected to maintain its publicly supported status.

(5) *Sixty-month termination rule.* (i) In order to meet the requirements of section 507(b)(1)(B) for the 60-month termination period as a section 509(a)(1) or (2) organization, an organization must meet the requirements of section 509(a)(1) or (2), as the case may be, for a continuous period of at least 60 calendar months.

(ii) For purposes of section 507(b)(1)(B), an organization will be considered to be a section 509(a)(1) organization described in section 170(b)(1)(A)(vi) for a continuous period of 60 calendar months only if the total amount of support received from governmental units or from direct or indirect contributions from the general public during such period equals one-third or more of the total support for such period or if such organization meets the facts and circumstances tests set forth in § 1.170–2(b)(5)(iii)(*c*) for such period.

(iii) For purposes of section 507(b)(1)(B), an organization will be considered to be a section 509(a)(2) organization only if such organization meets the support requirements set forth in section 509(a)(2)(A) and (B) for the continuous period of 60 calendar months prescribed under section 507(b)(1)(B), rather than for any shorter period set forth in the regulations under section 509(a)(2). Except for the substitution of such 60-month period for the shorter periods described in the regulations under section 509(a)(2), all other provisions of such regulations pertinent to determining an organization's normal sources of support shall remain applicable.

(d) *Organizational and operational tests*—(1) *Section 509(a)(3) organizations; 12-month terminations.* An organization attempting to terminate its private foundation status under section 507(b)(1)(B) by meeting the requirements of section 509(a)(3) by the end of

the 12-month period is required to meet the organizational and operational test of section 509(a)(3)(A), in addition to the requirements of section 509(a)(3)(B) and (C), by the end of the 12-month period beginning with its first taxable year which begins after December 31, 1969. An organization may qualify under section 509(a)(3)(A) even though its original governing instrument did not limit its purposes to those set forth in section 509(a)(3)(A) and even though it operated for some other purpose before the end of the 12-month period, provided it has amended its governing instrument and changed its operations to conform to the requirements of section 509(a)(3) by the end of the 12-month period.

(2) *Proof of changed status.* In order to establish that an organization described in subparagraph (1) of this paragraph will continue to be operated exclusively for the required purposes in years subsequent to the end of the 12-month period, such organization shall submit a detailed statement describing its past and current operations, any organizational or operational changes and when such changes have occurred, any changes in its foundation managers (as defined in section 4946(b)(1)), and duplicate copies of its governing instrument and bylaws, with an indication of any amendments made. A detailed statement of the relationship between such organization and the specified organizations described in section 509(a)(1) or (2) (as required by section 509(a)(3)(A) and (B)), and all pertinent information to establish that the organization does not violate the control requirements of section 509(a)(3)(C) shall also be submitted.

(3) *Section 509(a)(1) organizations other than those described in section 170(b)(1)(A)(vi); 12-month terminations.* An organization attempting to terminate its private foundation status under section 507(b)(1)(B) by meeting the requirements of section 170(b)(1)(A)(i), (ii), (iii), (iv), or (v) by the end of the 12-month period is required to be operated as an organization described in clauses (i), (ii), (iii), (iv), or (v) of section 170(b)(1)(A) by the end of the 12-month period beginning with its first taxable year which begins after December 31, 1969. An organization may qualify under section 509(a)(1) even though it did not operate as an organization described in section 170(b)(1)(A)(i), (ii), (iii), (iv), or (v) at all times before the end of the 12-month period, provided it has changed its operations to conform to the requirements of an organization described in section 170(b)(1)(A)(i), (ii), (iii), (iv), or (v) by the end of the 12-month period. In order to establish that it will continue to be operated as an organization described in section 509(a)(1) in years subsequent to the end of the 12-month period, the organization shall submit a detailed statement describing its past and current operations, any organizational or operational changes and when such changes have occurred, and any changes in its foundation managers (as defined in section 4946(b)(1)). Duplicate copies of its governing instrument and bylaws, with an indication of any amendments made, and its financial statements for the 4 taxable years immediately preceding the 12-month period shall also be submitted as evidence that the organization can reasonably be expected to maintain its status as an organization described in section 170(b)(1)(A)(i), (ii), (iii), (iv), or (v).

(4) *Sixty-month termination rule.* In order to meet the requirements of section 507(b)(1)(B) for the 60-month termination period as an organization described in section 170(b)(1)(A)(i), (ii), (iii), (iv), or (v) or section 509(a)(3), as the case may be, an organization must meet the requirements of the applicable provision for a continuous period of at least 60 calendar months. For purposes of section 507(b)(1)(B), an organization will be considered to be such an organization only if it satisfies the requirements of the applicable provision (including, with respect to section 509(a)(3), the organizational and operational test set forth in subparagraph (A) thereof) at the commencement of such 60-month period, and continuously thereafter during such period.

(e) *Effect on grantors or contributors and on the organization itself.* In the event that an organization satisfies the requirements of section 507(b)(1)(B) for termination of its private foundation status by the end of the 12-month period or during the continuous 60-month period, such organization shall be treated for such entire 12-month or 60-month period in the same manner as an organization described in section 509(a)(1), (2), or (3).

(f) *Status of organization subsequent to the 12-month period.* For purposes of part II of subchapter F of this chapter, an organization, the status of which as a private foundation is terminated under section 507(b)(1), shall (except as provided in paragraph (h)(2) of this section) be treated as an organization created on the day after the date of such termination. However, termination of private foundation status under the provisions of section 507(b)(1)(B) is based upon an organization's submission of information establishing compliance by the end of the 12-month period with the requirements of paragraph (c) or (d) of this section. Therefore, if in the 4 taxable years immediately following the end of the 12-month period, the sources of support or the methods of operation of the organization are materially different from the facts and circumstances presented during the 12-month period upon which the determination under section 507(b)(1)(B)(iii) was made, the organization will be deemed not to have satisfied the requirements of section 507(b)(1)(B). Under such circumstances, section 509(c) will not apply and the organization will continue to remain subject to the provisions of section 507. However, the status of grants and contributions under sections 170, 4942, and 4945 will not be affected until the Internal Revenue Service makes notice to the public (such as by publication in the Internal Revenue Bulletin) that the organization has been deleted from classification as an organization described in section 509(a)(1), (2), or (3) unless the donor (1) was in part responsible for, or was aware of, the act or failure to act that resulted in the organization's inability to satisfy the requirements of section 507(b)(1)(B), or (2) had knowledge that such organization would be deleted from classification as an organization described in section 509(a)(1), (2), or (3).

(g) *Notification of termination.* In order to comply with the requirements under section 507(b)(1)(B)(ii), an organization shall before the commencement of the 12-month or 60-month period under section 507(b)(1)(B)(i) (or before the 90th day after (insert date on which the regulations proposed are published in final form in the FEDERAL REGISTER)), notify the district director that it is terminating its private foundation status. Such notification shall be filed with the district director for the internal revenue district in which the principal place of business or principal office of the organization is located, and shall contain the following information:

(1) The name and address of the private foundation;

(2) Its intention to terminate its private foundation status;

(3) Whether the 12-month or 60-month period shall apply;

(4) The Code section under which it seeks classification (section 509(a)(1), (2), or (3));

(5) If section 509(a)(1) is applicable, the clause of section 170(b)(1)(A) involved;

(6) The date its regular taxable year begins; and

(7) The date of commencement of the 12-month or 60-month period.

(h) *Establishment of termination.* (1) In order to comply with the requirements under section 507(b)(1)(B)(iii), an organization shall within 90 days after the expiration of the 12-month or 60-month period, file such information with the district director for the internal revenue district in which the principal place of business or principal office of the organization is located as is necessary to make a determination as to the organization's status as an organization described under section 509(a)(1), (2), or (3) and the regulations promulgated thereunder.

(2) An organization which has terminated its private foundation status under section 507(b)(1)(B) is not required to comply with the special rules set forth in section 508 (a) and (b). Such organization is also not required to file a return under the provisions of section 6043(b) or 6050 by reason of termination of its private foundation status under the provisions of section 507(b)(1)(B).

(i) *Failure to meet section 507(b)(1)(B) requirements.* If an organization gives the notification, described in paragraph (g) of this section, of the commencement of a 60-month termination period and such organization fails to meet the requirements of section 509(a)

(1), (2), or (3) for the entire 60-month period, sections 507 through 509 and chapter 42 shall not apply to such organization for any taxable year within such 60-month period for which it does meet such requirements. For purposes of section 507(d), the aggregate tax benefit resulting from the organization's section 501(c)(3) status shall continue to be computed from the date from which such computation would have been made, but for the notice filed under section 507(b)(1)(B)(ii), except that any taxable year within such 60-month period for which such organization meets the requirements of section 509(a) (1), (2), or (3) shall be excluded from such computations.

(j) *Extension of time.* (1) For purposes of this section, the 12-month period referred to in section 507(b)(1)(B) shall not be treated as having expired before 90 days after (insert date on which the regulations proposed are published in final form in the FEDERAL REGISTER).

(2) The failure to supply, within the required time, all of the information required by paragraph (g) or (h) of this section is not alone sufficient to constitute a failure to satisfy the requirements of section 507(b)(1)(B). If the information which is submitted within the required time is incomplete, and the organization supplies the necessary additional information at the request of the Commissioner or his delegate within the additional time period allowed by him, the original submission will be considered timely.

§ 1.507–3 Special rules; transferee foundations. [Reserved]

§ 1.507–4 Imposition of tax. [Reserved]

§ 1.507–5 Aggregate tax benefit; in general. [Reserved]

§ 1.507–6 Aggregate tax benefit; substantial contributor. [Reserved]

§ 1.507–7 Value of assets. [Reserved]

§ 1.507–8 Liability in case of transfers of assets from private foundation. [Reserved]

§ 1.507–9 Abatement of taxes. [Reserved]

[F.R. Doc. 70–15213; Filed, Nov. 10, 1970; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 70]

POULTRY AND EDIBLE PRODUCTS THEREOF

Grading and Inspection

Notice is hereby given that the U.S. Department of Agriculture is considering an amendment to the Regulations Governing the Grading and Inspection of Poultry and Edible Products Thereof and U.S. Classes, Standards, and Grades With Respect Thereto, under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627).

Statement of considerations. A new standard for A quality batter-dipped and/or breaded poultry is being proposed.

A number of requests by product users and processors have indicated a desire for quality standards for batter-dipped and/or breaded poultry parts. Discussions with prospective suppliers and users together with the examination of similar-type product now being processed indicate the feasibility of such a standard. The proposed standard would provide guidelines for processors to prepare high quality, uniform batter-dipped and/or breaded poultry parts which would be highly acceptable to consumers.

All persons who desire to submit written data, views, or arguments in connection with this proposal shall file the same in triplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than December 18, 1970.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The amendment is as follows:

A new § 70.358 would be added to read:

§ 70.358 Batter-dipped and/or breaded poultry—A quality.

The standards of quality contained in this section are applicable to ready-to-cook and cooked batter-dipped and/or breaded poultry parts (excluding neck and giblets).

(a) The parts shall be of A quality, as prescribed in § 70.353, except that very minor cuts and tears that do not detract from the appearance of the finished product are permitted. Parts shall be cut as specified in § 70.350 and may include boneless parts as provided in § 70.357. Excess skin and fat which would detract from the appearance of the finished product shall be trimmed from each part prior to applying the batter.

(b) The batter and/or breading shall uniformly cover the entire part and shall not exceed 30 percent of the total product weight.

(c) Product that is cooked after applying the batter and/or breading shall have a golden brown color and shall be free from dark or burnt areas.

Signed at Washington, D.C., this 6th day of November 1970.

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

[F.R. Doc. 70–15236; Filed, Nov. 10, 1970; 8:50 a.m.]

[7 CFR Parts 1006, 1012, 1013]

[Dockets Nos. AO–356–A8, AO–347–A12, AO–286–A20]

MILK IN UPPER FLORIDA, TAMPA BAY, AND SOUTHEASTERN FLORIDA MARKETING AREAS

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

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas.

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

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at Orlando, Fla., on September 9, 1970, pursuant to notice which was issued on August 26, 1970 (35 F.R. 13843).

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

1. Increasing the Class I differentials in the three Florida markets; and

2. Charging an administrative assessment on the milk handled by producer-handlers.

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

1. Class I prices in the three Florida markets should be increased 20 cents per hundredweight.

Witnesses for producer cooperatives in the Florida markets testified that an increase of 20 cents per hundredweight is necessary to encourage the additional

production required to meet the Class I demands of the three markets.

It was the contention of producers that if the necessary production is to be maintained, there must be some assurance that prices in the coming months will be set at levels consistent with current and anticipated economic conditions affecting milk supplies. They alleged further that Florida producers now face the same uncertainties that prompted the general price assurance provided other producers in all other Federal order markets on the basis of regional hearings held in the spring of 1967.[1]

Amendment of the three Florida orders was not considered at any of such regional hearings. However, the Class I price levels in the Southeastern Florida and Tampa Bay markets were considered at hearings held in Tampa on April 28, 1967, and at Miami on May 1, 1967. No change was made in the levels of the Class I differentials as a result of these hearings. It was concluded that prospective supply-demand conditions in the Florida markets were such that no further incentive to producers was required at that time.

On April 1, 1970, Class I price differentials were reduced 15 cents per hundredweight in each of the three Florida markets. This action was taken as the result of a hearing held in Orlando, Fla., on April 9 and 10, 1968. Simultaneously with the reduction in the Class I differentials the Class I classification in each of the markets was expanded to include milk disposed of as buttermilk, flavored milk drinks, half and half, and cream. At the hearing producers had proposed that the Class I differentials be reduced as an offset to the increased utilization resulting from the changes in classification. It was estimated that a reduction of 15 cents in the Class I differentials would return to producers uniform prices comparable to those that would have resulted without the amendment.

Since 1967, however, the supply situation has deteriorated to some extent relative to the market needs. (In the following comparisons and elsewhere throughout this decision, the Class I utilization for all months prior to April 1970 has been adjusted to reflect the changes in classification which became effective on April 1, 1970). In the period of January through July 1967, producer receipts were equal to 118 percent of the Class I distribution of the regulated plants in the three Florida markets. In the same months of 1968, producer receipts were 113 percent of the Class I distribution. In both 1969 and 1970, producer receipts were only 106 percent of the handlers' Class I distribution for the same months.

A comparison of total receipts by handlers and producer-handlers with their total Class I disposition in the three Florida markets reflects the same pattern. In the first 7 months of 1967, total Class I disposition in the three Florida markets was 796.6 million pounds, or 86.8 percent of the total receipts of 917.3 million pounds. In the same months of 1970, total Class I disposition was 879.3 million pounds, or 94.7 percent of the total receipts of 928.7 million pounds.

Class I sales have been increasing at a rapid rate since 1967. For the entire year of 1968, Class I sales were 4 percent greater than in 1967. In 1969, Class I sales exceeded those of 1968 by 4.7 percent. This increase of almost 9 percent in the Florida markets from 1967 to 1969 is substantially greater than the increase that occurred for the country as a whole. Nationally, consumption of fluid milk and cream products in 1969 was only 1.8 percent greater than in 1967. Official notice is taken of the May 1970 issue of "Dairy Situation," a publication of the Economic Research Service of the U.S. Department of Agriculture.

In Florida this trend is continuing. For the first 7 months of 1970, Class I sales exceeded those of the same period in 1969 by 4.3 percent. In August 1970, the total Class I disposition was greater than in August 1969 by 4.7 million pounds, or 3.8 percent. In September 1970, total Class I disposition exceeded that of September 1969 by 5.65 million pounds or 4.4 percent. Class I disposition by regulated pool handlers in August 1970 was 9.8 percent greater than in August 1969. In September 1970, pool handlers disposed of 10.4 percent more Class I milk than in September 1969. Official notice is taken of the published statistics of the market administrator for the months of August and September 1970.

In August 1970, producer receipts equaled only 103 percent of the Class I sales of regulated handlers. In September 1970, producer receipts dropped to 94 percent of the Class I disposition of regulated handlers. To make up for this deficit, in September it was necessary to import from outside sources almost 13.2 million pounds of fluid milk and cream, compared to the 10.2 million pounds that were imported in September 1969.

Florida's population continues to increase at an above average rate, thus increasing the markets' needs for milk. Although production has been increasing, as noted above, the increase in production has failed to keep pace with the increased demand of Florida for milk.

Producers contend that unless the requested increase is granted, the disparity between receipts and market requirements will continue to widen. They pointed out that shortened supplies of corn and citrus pulp and substantial increases in the cost of feeds as well as other production factors threaten the supply of milk. Producers stated that an increased export market for citrus pulp has reduced the available supply and resulted in substantially increased costs. The price of citrus pulp, which in Florida is a major dairy feed, representing approximately 40 percent of the Florida dairy ration, has increased more than the prices of feeds generally. One producer testified that his average cost of citrus pulp during the first 7 months of 1970 was 25 percent greater than for the same period in 1969. Another producer testified that his most recent purchase of citrus pulp had cost him $50 per ton, while a year ago he had purchased citrus pulp as low as $25 per ton.

Producers pointed out that the corn blight which damaged much of the Nation's corn crop was especially severe in the South Atlantic States. The indicated corn crop for Florida and adjoining States is, in fact, substantially below that of a year ago. For Florida, the crop is estimated at 9,475 thousand bushels compared to the 13,962 thousand bushels harvested in 1969. In Alabama and Georgia the 1970 crops are indicated to be 13,800 thousand bushels and 43,007 thousand bushels, respectively, compared to yields of 17,332 thousand bushels and 47,059 thousand bushels in 1969. In this regard, official notice is taken of the latest issue of "Crop Production," a publication of the Statistical Reporting Service, U.S. Department of Agriculture, dated October 12, 1970.

Official notice is also taken of the September issue of "Milk Production," dated October 13, 1970, issued by the Statistical Reporting Service, U.S. Department of Agriculture. The price of 100 pounds of dairy ration in the South Atlantic States increased from $3.48 to $3.80 between September 1969 and 1970. Florida producers are now feeding 12 pounds of grain and other concentrate per cow daily, compared to 10 pounds a year ago.

Even with such increase the price of Class I milk to handlers will be less, at most points in Florida, than the cost of supplemental milk supplies purchased from other markets. Milk at times is imported into Florida from Georgia or from the Chattanooga, Tenn., area. In July the Class I price at Atlanta was $6.91 per hundredweight. Adding 1.5 cents per hundredweight for each 10 miles or fraction thereof from Atlanta, the Atlanta price plus transportation would be $7.39 at Jacksonville, Fla., $7.57 at Orlando, $7.60 at Tampa, and $7.915 at Miami. The Chattanooga Class I price plus transportation at the same rate would be $7.42 at Jacksonville, $7.60 at Orlando, $7.63 at Tampa and $7.945 at Miami. These amounts do not include the customary handling charge on imported milk.

The Class I prices under the Florida orders at these points in July were $7.26 at Jacksonville, $7.36 at Orlando and Tampa and $7.56 at Miami.

Available supplies from Chattanooga or Georgia are limited. When needed, supplemental milk is obtained from the Wisconsin-Minnesota area. The Chicago Class I price of $5.81, with only transportation added at the rate of 1.5 cents per 10 miles, results in a price of Wisconsin milk delivered to Jacksonville of $7.325;

[1] Effective May 1, 1967, Class I differentials in all Federal order markets, other than the three Florida markets were increased 20 cents per hundredweight to prevent a decline in milk production nationally. Initially this increase was to be effective for 1 year. Subsequently, it was extended indefinitely and is still in effect.

This increase was based on the record of four regional hearings held Apr. 11, 12, 13, and 14, 1967, in Denver, Colo.; St. Louis, Mo.; Cleveland, Ohio; and Washington, D.C., respectively.

to Orlando, of $7.49; to Tampa, of $7.565; and to Miami, of $7.91.

Handlers proposed that the increase in the Class I differentials in the Florida markets should not exceed 15 cents per hundredweight. This amount would bring the differentials back up to the levels which prevailed prior to the amendments of April 1, 1970. As noted above, on that date Class I differentials in the three markets were reduced 15 cents per hundredweight coincidentally with a change in the classification provisions of the orders. The handlers stated that an increase of 15 cents also would establish the same competitive relationship with the Georgia market that existed prior to the amendments, and that a higher price might upset this relationship.

For the reasons set forth above, however, it is concluded that the Class I differentials in each of the Florida markets should be increased the proposed 20 cents per hundredweight.

2. An administrative assessment should not be imposed on producer-handlers.

Representatives of both producers and handlers urged that an administrative assessment be imposed on producer-handlers. They testified that since the market administrator must audit producer-handlers to verify their continued status as such, the cost of such audit should be borne by such producer-handlers rather than by fully and partially regulated handlers as at present. Both groups were unanimous, however, in their position that the market administrator should continue to audit producer-handlers regardless of whether the orders are amended to charge an administrative assessment on their milk.

Under each Federal order, including the present three Florida orders, the cost of order administration is assessed on handlers only with respect to that milk on which a monetary obligation to the pool is imposed under the terms of the order. The exemption of producer-handlers from administrative assessment is analogous to the exemption of fully regulated handlers from administrative assessment with respect to other source milk receipts disposed of for Class II uses, and partially regulated handlers on milk receipts other than those disposed of as Class I milk in the marketing area. This is so even though such receipts require audit in determining the utilization of producer milk.

Under usual circumstances, the market administrator must perform varying degrees of audit on all of the operations of such handlers and, in some cases, to the same extent as that performed with respect to the fluid milk operations of the fully regulated handler. Nevertheless, the primary objective of audit and verification procedures under milk orders is to determine the minimum fiscal obligations for milk and those ancillary monetary obligations which are necessary to make the pricing, pooling, and payment provisions of orders fully effective. Appropriately, therefore, a handler's pro rata share of the cost of order administration basically is measured by or related to that milk on which a pool monetary obligation accrues.

The existing procedure for prorating the cost of administration of the orders here under consideration has tended to promote orderly marketing and equity among handlers in the regulated market and should be continued.

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

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

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

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

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

Recommended marketing agreements and orders amending the orders. The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following orders amending the orders, as amended regulating the handling of milk in the Upper Florida, Tampa Bay, and Southeastern Florida marketing areas are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

In § 1006.51 paragraph (a) is changed to read as follows:

§ 1006.51 Class prices.

* * * * *

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus $2.85.

* * * * *

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

In § 1012.51 paragraph (a) is changed to read as follows:

§ 1012.51 Class prices.

* * * * *

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus $2.95.

* * * * *

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

In § 1013.51 paragraph (a) is changed to read as follows:

§ 1013.51 Class prices.

* * * * *

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus $3.15.

* * * * *

Signed at Washington, D.C., on November 6, 1970.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 70-15235; Filed, Nov. 10, 1970; 8:49 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 81]

FOUR CORNERS INTERSTATE AIR QUALITY CONTROL REGION

Notice of Proposed Designation and Consultation With Appropriate State and Local Authorities

Pursuant to authority delegated by the Secretary and redelegated to the Commissioner of the National Air Pollution Control Administration (33 F.R. 9909), notice is hereby given of a proposal to designate the Four Corners Interstate Air Quality Control Region (Arizona-Colorado-New Mexico-Utah) as set forth in the following new § 81.121 which would be added to Part 81 of Title 42, Code of Federal Regulations. It is proposed to make such designation effective upon republication.

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

Interested authorities of the States of Arizona, Colorado, New Mexico, and Utah, and appropriate local authorities, both within and without the proposed region, who are affected by or interested in the proposed designation, are hereby given notice of an opportunity to consult with representatives of the Secretary concerning such designation. Such consultation will take place at 10 a.m., November 19, 1970, in the City Council Chambers, Farmington City Hall, 800 Municipal Drive, Farmington, N. Mex. 87401.

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

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

In Part 81 a new § 81.121 is proposed to be added to read as follows:

§ 81.121 Four Corners Interstate Air Quality Control Region.

The Four Corners Interstate Air Quality Control Region (Arizona-Colorado-New Mexico-Utah) consists of the territorial area encompassed by the boundaries of the following jurisdictions or described area (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of Arizona:

Apache County.
Coconino County.
Navajo County.
Yavapai County.

In the State of Colorado:

Archuleta County.
Delta County.
Dolores County.
La Plata County.
Mesa County.
Montezuma County.
Montrose County.
San Juan County.
San Miguel County.

In the State of New Mexico:

Portion of McKinley County lying west (Pacific slope) of the Continental Divide.
Portion of Rio Arriba County lying west (Pacific slope) of the Continental Divide.
Portion of Sandoval County lying west (Pacific slope) of the Continental Divide.
San Juan County.

In the State of Utah:

Emery County.
Garfield County.
Grand County.
Iron County.
Kane County.
San Juan County.
Washington County.
Wayne County.

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

Dated: November 9, 1970.

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

[F.R. Doc. 70–15324; Filed, Nov. 10, 1970; 9:55 a.m.]

Social Security Administration

[20 CFR Part 405]

[Regs. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED

Medicare Payment for Items and Services Furnished to Medicare Beneficiaries by Facilities Receiving U.S. Government Funds Under a Federal Program Supporting Health Care Services

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 552 et seq.) that the regulations set forth in tentative form below are proposed by the Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations would permit payment under title XVIII of the Social Security Act for covered items and services furnished Medicare beneficiaries by public or private facilities receiving funds under a U.S. Government program which provides support to facilities furnishing health care services provided that the facility receiving such Federal support seeks reimbursement from all sources available for the health care of its patients, e.g., private insurance, patient's cash resources, etc.

Prior to the final adoption of the proposed regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

The proposed regulations are to be issued under the authority contained in sections 1102, 1862, 1871, 49 Stat. 647, as amended, 79 Stat. 325, 79 Stat. 331, 42 U.S.C. 1302, 1395 et seq.

Dated: September 30, 1970.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: November 5, 1970.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

Subpart C of Part 405 is amended as follows:

Paragraph (f) of § 405.312 is redesignated as paragraph (g) and a new paragraph (f) is added to read as follows:

§ 405.312 Nonreimbursable expenses; items or services paid for by Government entity.

* * * * *

(f) Payment may be made for items and services furnished by a public or private health facility which receives U.S. Government funds under a Federal program which provides support to facilities which furnish health care services (other than a Federal provider of services) provided the facility receiving such Federal support seeks reimbursement from all resources available for the health care of its patients, e.g., private insurance, patients' cash resources, etc. Payments that are made for such items and services covered under supplementary medical insurance shall be subject to the individual's deductible and shall not exceed 80 percent of charges related to reasonable costs that the facility incurs in providing the items and services. The facility's charges to the individual must not exceed 20 percent of such charges plus any unsatisfied deductible amounts and charges for noncovered services.

* * * * *

[F.R. Doc. 70–15189; Filed, Nov. 10, 1970; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[49 CFR Parts 392, 393]

[Docket No. MC–23; Notice 15]

STOPPED VEHICLES AND EMERGENCY EQUIPMENT

Notice of Proposed Rule Making

The Director of the Bureau of Motor Carrier Safety is considering amending §§ 392.22, 392.23, 392.25, and 392.26 of Part 392 and § 393.95 of Part 393 of the Motor Carrier Safety Regulations.

Sections 392.22, 392.23, 392.25, and 392.26 pertain to emergency signals to be used by disabled, stopped, or parked vehicles. Section 393.95 pertains in part to warning devices to be carried by buses, trucks, truck tractors, and driven vehicles in driveaway-towaway operations. Proposed amendments would make the Motor Carrier Safety Regulations consistent with the proposed Motor Vehicle Safety Standard pertaining to warning devices and their use, which the National Highway Safety Bureau has this day published (see page 17350 of this issue).

The proposed amendments to § 393.95 would require vehicles subject to the Motor Carrier Safety Regulations to carry three bidirectional emergency reflective triangles in lieu of the warning devices previously required. Vehicles equipped with other warning devices before January 1, 1972, may continue to be so equipped. However, replacement warning devices would have to be of the new type.

The proposed amendments to §§ 392.22, 392.23, 392.25, and 392.26 would require the use of the new emergency reflective triangles, except that vehicles equipped with other warning devices before January 1, 1972, may continue to use the other devices. Sections 392.23 and 392.26 would be revoked. Section 392.22 as amended would cover the subject matter previously found in §§ 392.22, 392.23, and 392.26.

The proposed new § 392.22 would also change the requirements as to the flashing of turn signals by stopped vehicles. Stopped vehicles, which now must display flashing signals during night hours, would be required to display them during daylight as well. The requirements of § 392.22 as to the immediate placement of a warning device by the side of a stopped vehicle would be deleted. Flashing signals are considered to be an adequate immediate warning. Section 392.25, pertaining to emergency signals for vehicles used to transport dangerous cargoes, would be amended to allow use of emergency reflective triangles.

Interested persons are invited to submit written data, views, or arguments pertaining to the proposed amendments. Comments must identify the docket (No. MC-23) and must be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20591. All comments received before the close of business on February 2, 1971, will be considered. All comments will be available for examination in the docket at Room 5306, 400 Seventh Street SW., Washington, D.C., before and after the closing date for comments.

In consideration of the foregoing the Director of the Bureau of Motor Carrier Safety proposes to amend § 392.22, to revoke § 392.23, to amend § 392.25, and to revoke § 392.26, all of Part 392, Title 49, Code of Federal Regulations. The Director of the Bureau of Motor Carrier Safety also proposes to amend § 393.95 of Part 393, Title 49, Code of Federal Regulations, by adding a new paragraph (e) and revising paragraphs (f) and (h). The proposals are set forth below.

Proposed effective date: January 1, 1972.

This notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, the delegation of authority by the Secretary of Transportation in 49 CFR 1.48 (35 F.R. 4959) and the delegation of authority by the Federal Highway Administrator in 49 CFR 389.4 (35 F.R. 9209).

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

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

1. Section 392.22 would be revised to read as follows:

§ 392.22 Emergency signals; disabled, stopped, or parked vehicles.

(a) *Turn signals.* Whenever a motor vehicle is stopped upon the traveled portion of a highway or the shoulder of a highway for any cause other than necessary traffic stops, the driver of the stopped vehicle shall immediately flash the two front and two rear turn signals simultaneously as a vehicular traffic hazard warning and continue the flashing until he places the warning devices required by paragraphs (b) through (d) of this section in use on the highway. Flashing signals shall be used during the time the warning devices are being picked up and before the movement of the vehicle. Flashing signals may be used at other times while a vehicle is stopped in addition to, but not in lieu of, the warning devices required by paragraphs (b) through (d) of this section.

(b) *Placement of warning devices.* (1) Except as provided in subparagraphs (2) and (3) of this paragraph and except as provided in paragraphs (c) and (d) of this section, as soon as possible after a vehicle is stopped upon the traveled portion of a highway or the shoulder of a highway for any cause other than necessary traffic stops, but in any event within 10 minutes, the driver shall place three emergency reflective triangles in the lane or shoulder occupied by the vehicle in the following order:

(i) One at a distance of approximately 100 feet from the stopped vehicle in the center of the traffic lane or shoulder occupied by the vehicle and in a direction toward traffic approaching in that lane;

(ii) One at a distance of approximately 100 feet from the stopped vehicle in the center of the traffic lane or shoulder occupied by the vehicle and in the direction in which traffic in that lane is moving; and

(iii) One at the traffic side of the stopped vehicle, within 10 feet of the front or rear of the stopped vehicle.

(2) Except as provided in subparagraph (3) of this paragraph and except as provided in paragraphs (c), (d), and (e) of this section, the driver of a stopped vehicle manufactured before January 1, 1972, that is equipped with warning devices as specified in § 393.95(f) of this subchapter shall, during the period lighted lamps are required, place three liquid burning flares, or three red electric lanterns, or three red emergency reflectors, or three emergency reflective triangles within the time and at the location specified in subparagraph (1) of this paragraph. During the period lighted lamps are not required, he shall place two red flags within the time specified in subparagraph (1) of this paragraph and at the locations specified in subparagraph (1) (i) and (ii) of this paragraph. During the period lighted lamps are not required, the driver of a vehicle having no red flags shall place three emergency reflective triangles within the time and at the locations specified in subparagraph (1) of this paragraph.

(3) The placement of warning devices required by subparagraphs (1) and (2) of this paragraph is not required within the business or residential district of a municipality during the period lighted lamps are not required. The placement of warning devices required by subparagraphs (1) and (2) of this paragraph is not required within the business or residential district of a municipality during the period lighted lamps are required, if there is sufficient all-night street or highway lighting to make a vehicle clearly discernible to persons on the highway at a distance of 500 feet.

(c) *Hills, curves, and obstructions.* If a motor vehicle is stopped within 500 feet of a curve, crest of a hill or other obstruction to view, the driver shall place the warning signal required by paragraph (b) of this section in the direction of the obstruction to view a distance of 100 feet to 500 feet from the stopped vehicle so as to afford ample warning to other users of the highway.

(d) *Divided or one-way roads.* If a motor vehicle is stopped upon the traveled portion or the shoulder of a divided or one-way highway, the driver shall place the warning devices required by paragraph (b) of this section, one warning device at a distance of 200 feet and one warning device at a distance of 100 feet in a direction toward approaching traffic in the center of the lane or shoulder occupied by the vehicle. He shall place one warning device at the traffic side of the vehicle within 10 feet of the rear of the vehicle.

(e) *Leaking, flammable material.* If gasoline or any other flammable liquid, or combustible liquid or gas seeps or leaks from a fuel container or a motor vehicle stopped upon a highway, no emergency warning signal producing a flame shall be lighted or placed except at such a distance from any such liquid or gas as will assure the prevention of a fire or explosion.

§ 392.23 [Revoked]

2. Section 392.23 would be revoked.

§ 392.25 [Amended]

3. The last sentence of § 392.25 would be revised to read as follows: "In lieu thereof, emergency reflective triangles, red electric lanterns or red emergency reflectors shall be used, the placement of which shall be in the same manner as prescribed in § 392.22 (b), (c), and (d)."

§ 392.26 [Revoked]

4. Section 392.26 would be revoked.

§ 393.95 [Amended]

5. Section 393.95 would be amended by adding a new paragraph (e), reading as follows:

(e) *Warning devices for stopped vehicles.* Three bidirectional emergency reflective triangles that conform to the requirements of Motor Vehicle Safety Standard No. _____, Part 571 of this title. However, a vehicle manufactured before January 1, 1972, and equipped on January 1, 1972, with warning devices as specified in paragraph (f) of this section may continue to be so equipped as long as those warning devices continue to be carried on the vehicle.

6. The caption and first sentence of paragraph (f) of § 393.95 would be revised to read as follows:

(f) *Warning devices for stopped vehicles manufactured before January 1,*

1972. On a vehicle manufactured before January 1, 1972, except as provided in paragraphs (e) and (g) of this section, one of the following combinations of warning devices:

7. The caption of paragraph (h) of § 393.95 would be revised to read as follows:

(h) *Requirements for emergency reflective triangles manufactured before January 1, 1972.* * * *

[F.R. Doc. 70-15117; Filed, Nov. 10, 1970; 8:45 a.m.]

National Highway Safety Bureau

[49 CFR Part 571]

[Docket No. 70-27; Notice 1]

HYDRAULIC BRAKE SYSTEMS

Proposed Motor Vehicle Safety Standard

Federal Motor Vehicle Safety Standard No. 105 (33 F.R. 19707) specifies requirements for passenger car hydraulic brake systems. An advance notice of proposed rule making (32 F.R. 14278) established Docket No. 1-1 to receive comments on upgrading the requirements of this standard. At the same time, another advance notice (32 F.R. 14279) established Docket No. 1-2 and requested comments on extending Standard No. 105 to multipurpose passenger vehicles, trucks, and buses. This notice proposes both an upgrading of the standard and an extension of its applicability, and Dockets Nos. 1-1 and 1-2 are being consolidated into Docket No. 70-27.

The safety afforded by a vehicle's braking system is determined by several factors, including stopping distance, linear stability while stopping, fade resistance, and fade recovery. There must be features in the system that can both guard against malfunction and stop the vehicle should a malfunction occur in the normal service system. The proposed amendment would establish requirements for each of these aspects of brake safety for vehicles equipped with hydraulic brakes. Compliance with the requirements for performance would be determined by subjecting a vehicle to a series of road tests.

Perhaps the most important indication of brake performance is the distance in which a brake system can stop a vehicle from a given speed. Therefore requirements for stopping distance and minimum and maximum allowable pedal effort from speeds of 30 m.p.h., 60 m.p.h., 80 m.p.h. and a speed divisible by 5 that is 4 m.p.h.-8 m.p.h. less than the maximum speed attainable in 5 miles (if such exceeds 95 m.p.h.) are proposed. The latter requirement would be applicable only to vehicles with a gross vehicle weight rating of 10,000 pounds or less. A second important characteristic is the stability of the vehicle while stopping. The proposed rule would require the vehicle, on all stops other than spike stops, to stop without locking any wheel more than momentarily and to stay within a 12-foot-wide lane. Brake fade characteristics are critical from the standpoint of retaining adequate stopping power despite the high temperatures created by prolonged use. Therefore it is proposed that in fade tests the vehicle must attain the specified initial speed even if auxiliary methods such as towing are necessary to bring the vehicle up to that speed. This initial speed is 50 m.p.h. for vehicles with a GVWR in excess of 10,000 pounds, heavy weight vehicles most likely to experience difficulty in reaching this speed and also the vehicles most likely to experience brake fade on long downhill grades. For other vehicles the initial speed is 60 m.p.h. For vehicles over 10,000 pounds GVWR, the procedure for fade tests consists of a 48-second cycle between snubs, which is compatible with the dynamometer tests specified in Docket No. 70-17, Air Brake Systems (35 F.R. 10368). Lighter vehicles would initiate fade stops every 0.4 mile, as in the fade test procedures for passenger cars presently specified in Standard No. 105.

Partial failure braking features are necessary in the event of hydraulic pressure loss in the normal service system. It is proposed that all vehicles with hydraulic brake systems have a split service brake system. Stopping distance requirements are proposed with either part of the system rendered inoperable. If a vehicle's brakes have a power assist, similar tests would be required with the assist unit rendered inoperable. Failure indicators would indicate a brake system failure due to pressure loss, low brake fluid level, or failure in a brake proportioning or antilockup system.

Also under the proposal, parking brakes would be required to hold vehicles on a 30-percent grade, and a parking brake indicator lamp would have to be provided. Proposed requirements are also specified for wet brake recovery stops and spike stops.

The proposed standard would comprise, in addition, a durability test, since vehicles would be required to be able to pass all specified tests performed in sequence, without structural deformation or excessive misalignment at the end of the sequence.

Proposed effective date: October 1, 1972.

In consideration of the foregoing it is proposed that 49 CFR 571.21, Federal Motor Vehicle Safety Standards, Standard No. 105, be amended as set forth below. Comments are invited on the proposal, particularly as to the types of failures considered most critical in brake proportioning or antilockup monitoring systems, and as to the methods which could most practically and economically monitor these failures. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on February 4, 1971, will be considered, and will be available in the docket at the above address for examination before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Bureau. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This notice of proposed rulemaking is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392, 1407) and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on November 3, 1970.

RODOLFO A. DIAZ,
Acting Associate Director,
Motor Vehicle Programs.

§ 571.21 Federal motor vehicle safety standards.

* * * * *

HYDRAULIC BRAKE SYSTEMS—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS AND BUSES

S1. *Purpose and scope.* This standard specifies requirements for hydraulic service brake and parking brake systems, and suspension system requirements in certain areas related to braking performance, to ensure safe braking performance under normal and emergency conditions.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses, equipped with hydraulic service brake systems.

S3. *Definitions.* "Antilockup system" means a part of a service brake system that, through wheel slip sensing methods, automatically controls braking torque at one or more road wheels of the vehicle during braking.

"Brake power assist unit" means a device installed in a hydraulic service brake system that reduces the effort required to actuate the system, and that if inoperative does not prevent the operator from braking the vehicle by a continued application of muscular force on the service brake control.

"Brake proportioning system" means a system that automatically adjusts the braking force at the axles to compensate for vehicle static axle loading or dynamic weight transfer between axles during deceleration.

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

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

"Hydraulic brake system" means a system that uses hydraulic fluid as a

medium for transmitting force from a service brake control to the service brake, and includes any system which utilizes air or vacuum to augment such force.

"Initial brake temperature" means the temperature of the hottest service brake of the vehicle 0.2 mile before any brake application.

"Lightly loaded vehicle weight" means:

(a) for vehicles with a GVWR of 10,000 pounds or less, empty vehicle weight plus maximum capacity of all fluids necessary for operation of the vehicle plus 300 pounds (including driver and instrumentation).

(b) for vehicles with a GVWR greater than 10,000 pounds, empty vehicle weight plus maximum capacity of all fluids necessary for operation of the vehicle, plus 500 pounds (including driver and instrumentation).

"Pressure component" means a brake system component that contains the brake system fluid and controls or senses the fluid pressure.

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

"Snub" means the braking deceleration of a vehicle from a higher reference speed to a lower reference speed that is greater than zero.

"Speed attainable in 5 miles" means the speed attainable by accelerating at maximum rate from a standing start for 5 miles.

"Spike stop" means a stop resulting from the application of 200 pounds of force on the service brake pedal in 0.06 seconds.

"Stopping distance" means the distance traveled by a vehicle from the start of the brake application to the point where the vehicle stops.

S4. *Requirements.* Each vehicle shall meet the following requirements under the conditions specified in S5 and when tested according to the procedures and in the sequence specified in S6. Corresponding test procedures of S6 are indicated in parentheses. If a vehicle is incapable of attaining a specified speed, other than on fade tests, its service brakes shall be capable of stopping the vehicle from the multiple of 5 that is 4 m.p.h.–8 m.p.h. less than the speed attainable in 5 miles within distances and with pedal forces that do not exceed the distances and forces specified in Table II.

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

S4.1.1 *Split hydraulic service brake system.* A split hydraulic service brake system, so constructed that failure (other than failure of a master cylinder body or failure indicator body) of any pressure component in one part of the system shall not impair the operation of the other part of the system. The service brake shall be installed so that the lining thickness of drum brake shoes may be visually inspected, either directly or by use of a mirror, without removing the drums, and so that disc brake friction pads may be visually inspected without removing the pads.

S4.1.2 *Parking brake.* A parking brake system of a friction type with a solely mechanical means to retain engagement.

S4.1.3 *Parking brake indicator.* An electrically operated lamp to indicate when the parking brake is applied.

S4.1.4 *Service brake system failure indicator.* At least one electrically operated lamp to indicate a failure in the service brake system.

S4.1.5 *Brake fluid.* Brake fluid conforming to Federal Motor Vehicle Safety Standard No. 116.

S4.2 *Service brake system—first (preburnished) effectiveness.* The service brakes shall be capable of stopping the vehicle from 30 m.p.h. and 60 m.p.h. within distances and with pedal forces that do not exceed the distances and forces specified in Column I of Table II (S6.3).

S4.3 *Parking brake system.*

S4.3.1 *Parking brake system performance.* A parking brake system shall be capable of holding the vehicle stationary, for not less than 5 minutes in both forward and reverse directions, on a 30-percent grade with an applied force of not more than 125 pounds for a foot-operated system or 90 pounds for a hand-operated system (S6.5).

S4.3.2 *Parking brake system indicator.*

(a) The parking brake system indicator lamp shall be mounted in front of and in clear view of the driver, and shall be activated when—

(1) The parking brake is applied and the ignition switch is in the "on" position.

(2) The ignition switch is in the "start" position.

(b) An indicator lamp, once activated, shall remain activated when the ignition switch is in the "on" position as long as the parking brake remains applied. It shall be deactivated when the parking brake is released and the ignition switch is in the "on" or "off" position.

(c) The indicator lamp shall have a red lens labeled "Parking Brake" in letters not less than one-eighth of an inch high, which shall be legible to the driver in daylight when lighted.

S4.4 *Service brake system—second effectiveness.* The service brakes shall be capable of stopping the vehicle from 30 m.p.h., 60 m.p.h., 80 m.p.h., and the multiple of 5 m.p.h. that is 4 m.p.h.–8 m.p.h. less than the speed attainable in 5 miles if this speed is 95 m.p.h. or greater, within distances and with pedal forces that do not exceed the distances and forces specified in Column II of Table II (S.6.6).

S4.5 *Service brake system—lightly loaded vehicle.* The service brakes shall be capable of stopping the vehicle from 60 m.p.h. at lightly loaded vehicle weight within distances and with pedal forces that do not exceed the distances and forces specified in Column II of Table II (S6.7).

S4.6 *Inoperative brake power assist unit.* The service brakes shall be capable of stopping a vehicle equipped with a brake power assist unit from 60 m.p.h. within distances and with pedal forces that do not exceed the distances and forces specified in Column III of Table II, when the brake power assist unit is inoperative (S6.8).

S4.7 *Service brake system—partial failure.* In the event of a pressure component leakage failure, other than a structural failure of either a brake master cylinder body in a split integral body type master cylinder system or a service brake system failure indicator body, the remaining portion of the service brake system shall continue to operate, and shall be capable of stopping a vehicle from 60 m.p.h. within distances and with pedal forces which do not exceed the distances and forces specified in Column III of Table II (S6.9).

S4.7.1 *Master cylinder reservoir.* Each master cylinder shall have a separate reservoir for each brake circuit, with each reservoir filler opening having its own cover, seal, and cover retention device. Each reservoir shall have a minimum capacity equivalent to one and one-half times the total fluid displacement, resulting when all the wheel cylinder or caliper pistons serviced by the reservoir move from a new lining, fully retracted position to a fully worn, fully applied position. Where adjustment is a factor, the worst condition of adjustment is to be used for this measurement (S6.9.3).

S4.7.2 *Failure indicator lamp.*

(a) One or more service brake system failure indicator lamps shall be mounted in front of and in clear view of the driver, and shall be activated—

(1) In the event of pressure failure in any part of the service brake system, other than a structural failure of either a brake master cylinder body in a split integral body type master cylinder system or a service brake system failure indicator body, before or upon application of a line pressure of not more than 200 p.s.i. measured at a master cylinder outlet, or 40 pounds of pedal force upon a manually operated service brake, or 20 pounds of pedal force upon a service brake with a brake power assist unit (S6.9).

(2) Without the application of pedal force, when the level of brake fluid in a master cylinder reservoir drops to less than the recommended safe level specified by the manufacturer, or to less than one-half the fluid reservoir capacity, whichever is the greater (S6.9.3).

(3) When there is a failure in an antilockup system.

(b) All failure indicator lamps shall be activated when the ignition switch is turned from the "on" to the "start" position (S6.19).

(c) Except for the momentary activation required by subsection (b), each indicator lamp, once activated, shall remain activated as long as the condition exists, whenever the ignition switch is in the "on" position. An indicator lamp activated when the ignition switch is turned to the "start" position shall be deactivated upon return of the switch to

the "on" position unless a failure exists in the service brake system.

(d) Each indicator lamp shall have a red lens labeled "Brake Failure" in letters not less than one-eighth of an inch high, which shall be legible to the driver in daylight when lighted.

S4.8 *Service brake system—first fade and recovery.*

S4.8.1 *Baseline check—minimum and maximum pedal pressures.* The pedal force used in establishing the first fade baseline check average shall be between 15 and 60 pounds (S6.10.1).

S.4.8.2 *First fade.* Each vehicle shall be capable of making 10 fade stops or snubs with a pedal force that does not exceed 150 pounds for any stop or snub (S6.10.2).

S4.8.3 *First fade recovery.* Each vehicle shall be capable of making five recovery stops or snubs with a pedal force that does not exceed 125 pounds for any of the first four stops or snubs, and that for the fifth recovery stop or snub shall be within plus 20 pounds and minus 40 percent of the first fade test baseline check average pedal force (S6.10.3).

S4.9 *Service brake system—second fade and recovery.*

S4.9.1 *Baseline check—minimum and maximum pedal forces.* The pedal force used in establishing the second fade baseline check average shall be between 15 and 60 pounds (S6.12).

S4.9.2 *Second fade.* Each vehicle shall be capable of making 15 fade stops or snubs with a pedal force that does not exceed 150 pounds for any stop or snub (S6.12).

S4.9.3 *Second fade recovery.* Each vehicle shall be capable of making five recovery stops or snubs with a pedal force that does not exceed 125 pounds for any of the first four stops or snubs, and that for the fifth recovery stop or snub shall be within plus 20 pounds and minus 40 percent of the second fade test baseline check average pedal force (S6.12).

S4.10 *Service brake system—maximum speed fade and recovery.*

S4.10.1 *Baseline check—minimum and maximum pedal forces.* The pedal force used in establishing the maximum speed fade baseline check average shall be between 15 and 60 pounds (S6.14.1).

S4.10.2 *Maximum speed fade.* Each vehicle shall be capable of making two fade stops with a pedal force that does not exceed 150 pounds for either stop (S6.14.2).

S4.10.3 *Maximum speed fade recovery.* Each vehicle shall be capable of making five recovery stops with a pedal force that does not exceed 125 pounds for any of the first four stops, and that for the fifth recovery stop shall be within plus 20 pounds and minus 40 percent of the maximum speed fade test baseline check average pedal force (S6.14.3).

S4.11 *Service brake system—final effectiveness.* The service brakes shall be capable of stopping the vehicle in a manner that complies with S4.4 (S6.16).

S4.12 *Service brake system—water recovery.*

S4.12.1 *Baseline check—minimum and maximum pedal pressures.* The pedal force used in establishing the water recovery baseline check average shall be between 15 and 60 pounds (S6.17.1).

S4.12.2 *Water recovery test.* Each vehicle shall be capable of making five recovery stops with a pedal force that does not exceed 150 pounds for any of the first four stops, and that, for the fifth recovery stop, shall be within plus 20 pounds and minus 40 percent of the water recovery baseline check average pedal force (S6.17.2).

S4.13 *Service brake system—spike stops.* Each vehicle shall be capable of making 10 spike stops from 30 m.p.h., followed by one check stop from 60 m.p.h., within a stopping distance and with pedal forces which do not exceed the distance and forces specified in Column II of Table II (S6.18).

S4.14 *Master cylinder label.* Each vehicle shall have the following information, located so as to be visible by direct view, permanently affixed, stamped, or embossed, either on or within 4 inches of the brake fluid master cylinder filler plug or cap, in lettering at least one-eighth of an inch high on a contrasting background:

WARNING
Use only DOT ------ brake fluid from a sealed container.
Clean filler cap before removing.

(Complete to indicate fluid used in complying with S4.1.5.)

S4.15 *Antilockup and brake proportioning systems.* In the event of failure of an antilockup system or brake proportioning system, the control valves shall not restrict brake fluid flow and pressure modulation to a degree greater than occurs when the systems are in the neutral or nonresponsive position.

S4.16 *Service brake system design durability.* Each vehicle shall be capable of completing all braking requirements of S4 without:

(a) Structural failures in the braking system, steering system, and suspension system (S6.19.2(a));

(b) A failure in wheel, axle, or suspension springs that affect steering or braking control (S6.19.2(b));

(c) Leakage of fluid or lubricant at wheel cylinder, master cylinder reservoir cover, seal, or retention device, and axle seals (S6.19.2(f)); and

(d) Detachment or fracture of any component of the braking system, such as brake springs, and brake shoe or disc pad facing (S6.19.2(e)).

S4.17 *Suspension system durability.* Front suspension caster, camber, and toe settings measured after completion of the tests (S6.19) shall not differ from the values measured after the burnish procedure (S6.4) by more than one-half of the range specified by the manufacturer for service setting or the following amount, whichever is lower:

Caster ± 1°.
Camber ± ¾ of a degree.
Toe ± ⅛ inch.

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

S5.1 *Vehicle weight.*

S5.1.1 Except for the tests specified in S6.5.2, S6.7, and S6.9.3, vehicle weight is at its gross vehicle weight rating, distributed proportionally to its gross axle weight ratings, and the fuel tank is filled to any level between 75 and 100 percent of capacity.

S5.1.2 For the tests specified in S6.5.2, S6.7, and S6.9.3, vehicle weight is lightly loaded vehicle weight, with the added weight distributed in the front passenger seat area in passenger cars, multipurpose passenger vehicles and trucks, and in the area adjacent to the driver's seat in buses.

S5.2 *Tire inflation pressure.* Tire inflation pressure for a passenger car is the pressure recommended by the manufacturer pursuant to Federal Motor Vehicle Safety Standard No. 110 for the maximum recommended weight. For other vehicles, tire inflation pressure is that specified by the vehicle manufacturer for the GVWR.

S5.3 *Transmission selector control.* Except for S6.3, S6.6, S6.7, S6.16, and S6.18, the transmission selector control is in the gear providing the lowest numerical gear ratio (commonly referred to as "high gear") during all decelerations. To avoid engine stall in vehicles equipped with a manual transmission, the transmission may be shifted to neutral (or the clutch disengaged) when the vehicle speed decreases to 20 m.p.h. or less. For S6.3, S6.6, S6.7, S6.16, and S6.18, the transmission selector control is in neutral during all decelerations.

S5.4 *Engine.* Engine idle speed and ignition timing settings are according to the manufacturer's recommendations. If the vehicle is equipped with an adjustable engine speed governor, it is adjusted according to the manufacturer's recommendation.

S5.5 *Vehicle opening.* All vehicle openings (doors, windows, hood, trunk, convertible top, cargo doors, etc.) are closed except as required for instrumentation purposes.

S5.6 *Ambient temperature.* The ambient temperature is between 32° F. and 100° F.

S5.7 *Wind velocity.* The wind velocity is zero.

S5.8 *Road surface.* Road tests are conducted on a 12-foot-wide, level roadway having a skid number of 75. Burnish stops are conducted on any surface. Parking brake test surface (S6.5) is clean, dry, smooth Portland cement concrete.

S5.9 *Vehicle position.* The vehicle is aligned in the center of the roadway at the start of each brake application. Stops are made without any part of the vehicle leaving the roadway, and, except for spike stops, without lockup of any wheel other than momentary lockup caused by an antilockup system.

S5.10 *Thermocouples.* The brake temperature is measured by plug-type thermocouples installed in the approximate center of the facing length and

width of the most heavily loaded shoe or disc pad, one per brake, as shown in Figure 1. Thermocouples are installed on the outer disc pad on disc brakes. For center grooved shoes or pads, thermocouples are installed within one-eighth to one-quarter inch of the groove and as close to the center as possible.

S5.11 *Initial brake temperature.* Unless otherwise specified, the initial brake temperature is 130° to 150° F.

S5.12 *Center of gravity location.* In cargo carrying van-type or platform-type vehicles, the load is uniformly distributed on the load-carrying platform. The load material densities are from 450 to 725 pounds per cubic foot. For tank-type vehicles, water is used in tank compartments.

S6. *Test procedures and sequence.* Each vehicle shall be capable of meeting all the requirements of this standard when tested according to the procedures and in the sequence set forth below, without replacing any brake system part, or making any adjustments to the brake system other than as permitted in S6.4, S6.8, and S6.9. A vehicle shall be deemed to comply with S4.2, S4.4, S4.5, S4.6, S4.7, or S4.11 if at least one of the stops specified in S6.3, S6.6, S6.7, S6.8, S6.9, or S6.16 is made within distances and with pedal forces specified in Table II.

S6.1 *Brake warming.* If the initial brake temperature for the first stop in a test procedure (other than S6.5 and S6.17) has not been reached, heat the brakes to the initial brake temperature by making up to 10 snubs from not more than 40 m.p.h. to 10 m.p.h., at a deceleration not greater than 10 f.p.s.p.s.

S6.2 *Pretest instrumentation check.* Conduct a general check of instrumentation by making not more than 10 stops from a speed of not more than 30 m.p.h., or 10 snubs from a speed not more than 40 m.p.h. to 10 m.p.h., at a deceleration of not more than 10 f.p.s.p.s. If instrument repair, replacement, or adjustment is necessary make not more than 10 additional stops or snubs after such repair, replacement, or adjustment.

S6.3 *Service brake system—first (preburnish) effectiveness test.* Make six stops from 30 m.p.h. with a pedal force between 15 and 100 pounds. Then make six stops from 60 m.p.h. with a pedal force between 15 and 120 pounds.

S6.4 *Service brake system—burnish procedure.*

S6.4.1 *Vehicles of 10,000 pounds or less GVWR.*

S6.4.1.1 *Burnish.* Burnish the brakes by making 200 stops from 40 m.p.h. at 12 f.p.s.p.s. The interval from the start of one service brake application to the start of the next shall be either the time necessary to reduce the initial brake temperature to between 230° F. and 270° F. or the distance of 1 mile, whichever occurs first. Accelerate at maximum rate to 40 m.p.h. after each stop and maintain that speed until making the next stop.

S6.4.1.2 *Brake adjustment—post burnish.* After burnishing, adjust the brakes in accordance with the manufacturer's recommendation.

S6.4.1.3 *Suspension alinement—post burnish.* Measure, but do not set, front suspension caster, camber, and toe settings according to the manufacturer's recommendations. If no vehicle loading is specified for measurement purposes, use lightly loaded vehicle weight.

S6.4.2 *Vehicles with GVWR greater than 10,000 pounds.*

S6.4.2.1 *Burnish.* Burnish the brakes by making 400 snubs from 40 m.p.h. to 20 m.p.h. at 10 f.p.s.p.s. After each brake application, accelerate at maximum rate to 40 m.p.h. and maintain that speed until making the next brake application at a point 1.5 miles from the point of the previous brake application.

S6.4.2.2 *Brake adjustment—post-burnish.* After burnishing adjust the brakes in accordance with the manufacturer's recommendation.

S6.4.2.3 *Suspension alinement—post-burnish.* Measure according to S6.4.1.3.

S6.5 *Parking brake test.*

S6.5.1 *Vehicle at GVWR.* Use a roadway surface grade of 30 percent. Starting with an initial brake temperature of not more than 150° F., drive the vehicle loaded to GVWR onto the roadway surface with the longitudinal axis of the vehicle in the direction of the grade. Apply the service brakes with a force not exceeding 150 pounds to stop the vehicle and place the transmission in neutral. Apply the parking brakes by exerting a force not exceeding 125 pounds for a foot operated system, or 90 pounds for a hand operated system. Release the service brake and allow the vehicle to remain at rest for at least 5 minutes. Repeat the test with the vehicle parked in the reversed position on the grade. Check parking brake indicator operation.

S6.5.2 *Lightly loaded vehicle.* Repeat S6.5.1 except with the vehicle at lightly loaded vehicle weight.

S6.6 *Service brake system—second effectiveness test.* Repeat S6.3. Then, with a pedal force between 20 and 150 pounds, make four stops from 80 m.p.h. and four stops from the multiple of 5 m.p.h. that is 4 m.p.h.–8 m.p.h. less than the speed attainable in 5 miles if that speed is 95 m.p.h. or greater.

S6.7 *Service brake system—lightly loaded vehicle effectiveness text.* Make six stops from 60 m.p.h., with a pedal force between 15 and 120 pounds, with vehicle at lightly loaded vehicle weight.

S6.8 *Service brake system—inoperative brake power assist unit test.* (Applicable only to vehicles equipped with brake power assist unit.) Render the brake power assist unit inoperative, or one of the brake power assist unit systems if entirely independent duplicate systems are provided, by disconnecting the relevant power supply. Exhaust any residual brake power reserve capability of the disconnected system. Make four stops from 60 m.p.h. by a continuous application of the service brake control with a pedal force not to exceed 150 pounds. Restore the system to normal at completion of this test. For vehicles equipped with more than one brake power assist unit, conduct tests of each brake power assist unit system in turn.

S6.9 *Service brake system test—partial failure.*

S6.9.1 Alter the service brake system to induce a complete loss of braking, including normal pedal travel loss, in any one subsystem. Determine the line pressure or pedal force necessary to cause the brake system failure indicator to operate. Make four stops from 60 m.p.h. by a continuous application of the service brake control with a pedal force not exceeding 150 pounds.

S6.9.2 Repeat S6.9.1 for each of the other subsystems.

S6.9.3 Repeat S6.9.1 and S6.9.2 with vehicle at lightly loaded vehicle weight. Determine that the brake failure indicator is operating when the master cylinder fluid level is less than the level specified in S4.7.2(a)(2). Check for proper operation with each reservoir in turn at a low level. Restore the service brake system to normal at completion of this test.

S6.10 *Service brake system—first fade and recovery test.*

S6.10.1 *Baseline check stops.*

S6.10.1.1 *Vehicles with GVWR of 10,000 pounds or less.* Make three stops from 30 m.p.h. at 10 to 11 f.p.s.p.s for each stop. Average the maximum brake pedal force required for the three stops.

S6.10.1.2 *Vehicles with GVWR greater than 10,000 pounds.* Make three snubs from 40 to 10 m.p.h. at 10 to 11 f.p.s.p.s. for each snub. Average the maximum brake pedal force required for the three snubs.

S6.10.2 *Fade stops or snubs.*

S6.10.2.1 *Vehicles with GVWR of 10,000 pounds or less.* Make 10 stops from 60 m.p.h. at not less than 15 f.p.s.p.s. for each stop. The initial brake temperature before the first brake application shall be 130°–150° F. Initial brake temperatures before brake applications for subsequent stops are those occurring at the distance intervals. Attain the required deceleration as quickly as possible and maintain at least this rate for not less than three-fourths of the total stopping distance for each stop. The interval between the starts of service brake applications shall be 0.4 mile. Accelerate at maximum rate immediately to the initial test speed after each stop. Drive 1 mile at 30 m.p.h. after the last fade stop, and immediately follow the recovery procedure specified in S6.10.3.1.

S6.10.2.2 *Vehicles with GVWR greater than 10,000 pounds.* Make 10 snubs from 50 m.p.h. to 15 m.p.h. at not less than 12 f.p.s.p.s. for each snub. The initial brake temperature before the first brake application shall be 130°–150° F. Initial brake temperatures before brake application for subsequent snubs are those occurring in the time intervals. Attain the required deceleration as quickly as possible and maintain at least this rate for not less than three-fourths of the total snubbing distance for each snub. The interval between snubs shall be 48 seconds. Accelerate at maximum rate immediately to the initial test speed

after each snub. Drive for 1 minute at 20 m.p.h. after the last snub, and immediately follow the recovery procedure specified in S6.10.3.2.

S6.10.3 *Recovery stops.*

S6.10.3.1 *Vehicles with GVWR of 10,000 pounds or less.* Make five stops from 30 m.p.h. at 10 to 11 f.p.s.p.s. for each stop. The braking distance interval shall be not more than 1 mile. Immediately after each stop accelerate at maximum rate to 30 mph and maintain that speed until making the next stop. Record the maximum pedal force for each stop.

S6.10.3.2 *Vehicles with GVWR greater than 10,000 pounds.* Make five snubs from 40 to 10 m.p.h. at 10 to 11 f.p.s.p.s. After each snub, accelerate at maximum rate to 40 m.p.h. and maintain that speed until making the next brake application at a point not more than 1.5 miles from the point of the previous brake application. Record the maximum pedal force for each snub.

S6.11 *Service brake system—first reburnish.* Repeat S6.4, except make 35 burnish stops or snubs instead of 200 stops or 400 snubs. Do not adjust brakes after reburnish, or measure suspension geometry.

S6.12 *Service brake system—second fade and recovery test.* Repeat S6.10, except in S6.10.2 run 15 fade stops or snubs instead of 10.

S6.13 *Second reburnish.* Repeat S6.11.

S6.14 *Service brake system—maximum speed fade and recovery test.* Perform this test only if the speed attainable in 5 miles is 95 m.p.h. or greater.

S6.14.1 *Baseline check stops.* Repeat S6.10.1.

S6.14.2 *Fade stops.* Make two stops from the multiple of 5 m.p.h. that is 4 m.p.h.–8 m.p.h. less than the speed attainable in 5 miles at not less than 15 f.p.s.p.s. for each stop. Attain the required deceleration as quickly as possible and maintain at least this rate for not less than three-fourths of the total stopping distance for each stop. The initial brake temperature before the first brake application is 130°–150° F. Initial brake temperatures before brake application for subsequent stops are those occurring in the distance intervals. The braking distance interval between the first and second stops shall be the minimum distance, as determined by the vehicle's acceleration ability. Between the first and second stop, accelerate the vehicle at maximum rate immediately to the test speed, then stop. After the second stop, accelerate to 30 m.p.h. and maintain that speed for 1 mile, then immediately conduct recovery test specified in S6.14.3.

S6.14.3 *Recovery test.* Repeat S6.10.3.

S6.15 *Final reburnish.* Repeat S6.11, if S6.14 has been run.

S6.16 *Service brake system—final effectiveness test.* Repeat S6.6, including S6.3.

S6.17 *Service brake system—water recovery test.*

S6.17.1 *Baseline check stop.* Make three stops from 30 m.p.h. at 10 to 11 f.p.s.p.s. for each stop. Average the maximum brake pedal force required for the three stops.

S6.17.2 *Wet brake recovery stops.* With the brakes fully released, drive the vehicle for not less than 2 minutes at a speed of 5 m.p.h. through a trough having a water depth of 6 inches. After leaving the trough, immediately accelerate at maximum rate to 30 m.p.h. without a brake application. Immediately upon reaching that speed make five stops, each from 30 m.p.h., at 10 to 11 f.p.s.p.s. for each stop. After each stop (except the last), accelerate the vehicle immediately at a maximum rate to a speed of 30 m.p.h. and begin the next stop.

S6.18 *Spike stops.* Make 10 successive spike stops from 30 m.p.h. with the transmission in neutral, with no reverse stops, then make one check stop from 60 m.p.h. Make no reverse stops before inspecting according to S6.19.1.

S6.19 *Final inspection.*

S6.19.1 Upon completion of testing, measure the front suspension caster, camber, and toe settings according to the manufacturer's recommendations. If no vehicle loading is specified for measurement purposes, use lightly loaded vehicle weight.

S.6.19.2 *Inspect—*

(a) Brake system, steering system, and suspension system, for structural failures such as bent flange plates, bent caliper support struts, deformed steering system arms, tie rods or knuckles, deformed control arms or shafts or deformed or extruded control arm shaft bushings;

(b) Wheel, axle, or suspension springs, for failures that affect steering or braking control;

(c) Brake failure indicator light, for compliance with S4.7.2;

(d) Service brake system, in an assembled condition, for compliance with brake lining inspection requirements;

(e) Service brake system, in a disassembled condition, for detached segments of brake shoe or disc pad facing and broken brake springs;

(f) Wheel cylinder, master cylinder, and axle seals for fluid or lubricant leakage;

(g) Master cylinder, for reservoir capacity and retention device;

(h) Brake fluid placard, for compliance with S4.14; and

(i) Antilockup or brake proportioning system, for compliance with S4.15.

TABLE I.—BRAKE TEST PROCEDURE SEQUENCE AND REQUIREMENTS

Sequence	Test procedure	Requirements
1. Instrumentation check	S6.2	
2. First (preburnished) effectiveness	S6.3	S4.2
3. Burnish procedure	S6.4	
4. Parking brake	S6.5	S4.3
5. Second effectiveness	S6.6	S4.4
6. Lightly loaded vehicle	S6.7	S4.5
7. Inoperative brake power assist unit	S6.8	S4.6
8. Partial failure	S6.9	S4.7
9. First fade and recovery	S6.10	S4.8
10. First reburnish	S6.11	
11. Second fade and recovery	S6.12	S4.9
12. Second reburnish [1]	S6.13	
13. Maximum speed fade and recovery [1]	S6.14	S4.10
14. Final reburnish [1]	S6.15	
15. Final effectiveness	S6.16	S4.11
16. Water recovery	S6.17	S4.12
17. Spike stops	S6.18	S4.13
18. Final inspection	S6.19	S4.16 S4.17

[1] Only if maximum speed fade test is conducted.

TABLE II.—STOPPING DISTANCES AND PEDAL FORCES

Vehicle test speed, m.p.h.	Stopping distances in feet for tests indicated							Pedal forces
	I			II		III		
	1st (preburnish) effectiveness			2d and final effectiveness; lightly loaded vehicle; spike check stop		Inoperative brake power assist unit; partial failure		Pounds (inclusive)
	a	b	c	a, b	c	a, b	c	a, b, c
30	[1] 49	[1] 54	[1] 70	[1] 43	[1] 49	97	121	15–100
35	74	83	95	63	74	132	165	(2)
40	96	108	123	82	96	173	216	(3)
45	121	137	156	104	121	218	273	(4)
50	150	169	193	128	150	264	337	
55	181	204	233	155	181	326	407	
60	[1] 216	[1] 242	[1] 277	[1] 185	[1] 216	[1] 388	[1] 484	
65				228	253			
70				264	293			
75				303	337			
80				[1] 345	[1] 383			
85								20–150
90				484				
95				540				
100				598				
105				659				
110				723				
115				791				
[1] 120				861				

a=Passenger cars.
b=Vehicles other than passenger cars with GVWR of 10,000 pounds or less.
c=Vehicles other than passenger cars with GVWR greater than 10,000 pounds.
[1]=Distances for specified tests.
[2] For speeds in excess of 120 m.p.h., use $S=0.060V^2$ where S is stopping distance in feet and V is test speed in m.p.h.
[3] Column I: 15–120.
[4] Column II: 15–120.
[5] Column III: 15–150.

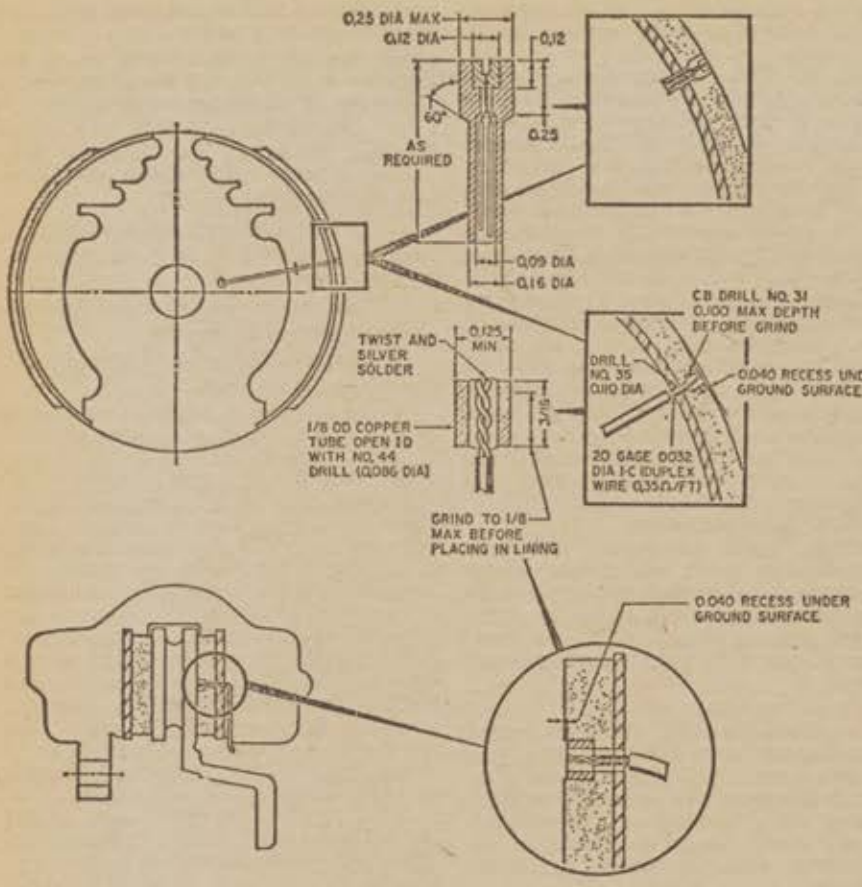


FIGURE 1 - TYPICAL PLUG TYPE THERMOCOUPLE INSTALLATIONS

[F.R. Doc. 70-15085; Filed, Nov. 10, 1970; 8:45 a.m.]

[49 CFR Part 571]

[Docket No. 4-2; Notice 3]

WARNING DEVICES—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, AND BUSES, AND WARNING DEVICES FOR USE WITH THOSE VEHICLES

Notice of Proposed Motor Vehicle Safety Standard

On October 14, 1967, the National Highway Safety Bureau published an advance notice of proposed rule making (32 F.R. 14278) concerning a possible standard requiring warning devices for stopped vehicles, such as flares, fusees, red cloth flags, red electric lanterns, or red emergency reflectors, to be provided for passenger cars, multipurpose passenger vehicles, trucks, buses, and motorcycles. This notice proposes a new safety standard, for both vehicles and equipment, that would require warning devices to be provided for passenger cars, multipurpose passenger vehicles, trucks, and buses, and establish performance requirements for those devices that in emergencies can be erected on or near the roadway to warn approaching drivers of the presence of a stopped vehicle.

The warning given by these devices to approaching drivers would supplement that given by the vehicular hazard warning signal lamps required by Federal Motor Vehicle Safety Standard No. 108—Lamps, Reflective Devices, and Associated Equipment. The approaching driver's view of the signal lamps on a vehicle stopped on a hill or curve may be obscured. In these circumstances, the warning device, placed according to its instructions behind the stopped vehicle, would warn the driver approaching from the rear of the presence of the stopped vehicle sooner than the signal lamps would. Furthermore, the warning device, unlike the signal lamps, is not dependent for its operation upon a power source, flasher, or bulbs that may fail or burn out.

The equipment aspect of the standard would apply to all devices, sold for use with passenger cars, multipurpose passenger vehicles, trucks, and buses, that are designed to be erected on or near the roadway to warn approaching drivers of the presence of a stopped vehicle. It would not apply, however, to warning devices with self-contained energy sources, such as fusees or red electric lanterns.

The standard would require that at least one warning device be provided with each passenger car and multipurpose passenger vehicle and at least three warning devices with each truck and bus. A greater number of warning devices would be required for trucks and buses because they often cannot be moved entirely off the road. Furthermore, the requirement of three warning devices is consistent with the present Bureau of Motor Carrier Safety regulations for commercial vehicles.

The warning device would consist, when erected, of an upright triangle and supporting members. The triangle would be required to be covered with red reflex reflective material and orange fluorescent material on at least one face of each warning device required for use in passenger cars and multipurpose passenger vehicles, and on both faces of each warning device required for use in trucks and buses. This type of warning device was selected because, when properly made and used, it can perform well at all times of day, is reusable, and may be easily erected without posing any danger to the user. Further, this type of warning device is being considered as an international signal by the United Nations Committee on road safety. In order to make the warning devices internationally uniform, the length of each side of the triangular portion of the device has been set to conform with Committee proposals.

The standard would set higher performance requirements than are presently contained in the Bureau of Motor Carrier Safety regulations for warning devices for commercial vehicles. The Bureau of Motor Carrier Safety is today publishing (35 F.R. 17343) a notice of proposed rule making which would amend its regulations to achieve consistency with the standard.

The standard would establish test procedures for measuring photometrically the reflectivity of the red reflective material and the luminance of the orange fluorescent material. The red reflective material would be required to have a minimum candle power per square inch of 1.5 at an entrance angle of 0° and observation angle of 0.2° and specified minimum values for total candle power per incident foot candle for each of the entrance and observation angles listed in the standard. The orange fluorescent material would be required to have a luminance not less than 30 percent of that of a flat magnesium oxide surface, when compared under the light from an overcast sky (not direct sunlight).

The substantial similarity in configuration and materials of the warning device to the slow-moving-vehicle emblem in many States may result in a conflict between Federal law and the laws of those States. The laws of the States which limit the use of the emblem may be interpreted to prohibit use of

the warning device for its intended purpose. Operation of the State law in this manner could be construed to conflict with the Congressional intent expressed in the National Traffic and Motor Vehicle Safety Act. Further, if the State laws were interpreted in this manner, they would, in effect, be warning device standards which require that the warning device be other than triangular, and thus would be nonidentical standards on the same aspect of motor vehicle equipment performance as the proposed Federal standard. Consequently, conflicting State law would be preempted under section 103(d) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392(d)) to the extent that it would forbid the intended use of the warning devices.

Proposed effective date: January 1, 1972.

Interested persons are invited to submit data, views, and arguments concerning the proposed standard. Comments are particularly invited on the lead time and costs directly related to compliance with the proposed standard. Comments should refer to the docket number, and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on February 5, 1971, will be considered, and will be available in the docket at the above address for examination both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Bureau. However, the rule making action may proceed at any time after the date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rule making. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This notice of proposed rule making is issued under the authority of sections 103, 112, and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1401, 1407), and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on November 3, 1970.

RODOLFO A. DIAZ,
Acting Associate Director,
Motor Vehicle Programs.

§ 571.21 Federal Motor Vehicle Safety Standards.

* * * * *

WARNING DEVICES—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, AND BUSES, AND WARNING DEVICES FOR USE WITH THOSE VEHICLES

S1. *Purpose and scope.* This standard establishes requirements for warning devices, to be carried in vehicles, that in emergencies can be erected on or near the roadway to warn approaching drivers of the presence of a stopped vehicle.

S2. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses. It also applies to all devices, for use with those vehicles, that are designed to be set up on or near the roadway to warn approaching drivers of the presence of a stopped vehicle. It does not apply to warning devices with self-contained energy sources.

S3. *Definitions.*

S3.1 "Entrance angle" means the angle having as its sides the line normal to the material to be tested at its center and the line from the center of the material to the center of the source of illumination (Figure 2).

S3.2 "Fluorescent" means the property of emitting visible light due to the absorption of radiation of a wave-length that may be outside the visible spectrum.

S3.3 "Observation angle" means the angle having as its sides the line from the observation point to the center of the material to be tested and the line from the center of the material to the center of the source of illumination (Figure 2).

S4. *Requirements.*

S4.1 *Equipment.*

S4.1.1 Each passenger car and multipurpose passenger vehicle shall have at least one warning device.

S4.1.2 Each truck and bus shall have at least three warning devices.

S4.1.3 Reflective material and fluorescent material that meet the requirements of this standard shall be affixed to at least one face of each warning device required by S4.1.1, and to both faces of each warning device required by S4.1.2.

S4.1.4 Each warning device required by S4.1.1 shall be stored in an opaque, protective, reusable container within reach of a person seated on the front seat. The warning devices required by S4.1.2 shall be stored in one or more of those containers within reach of a person seated in the front seat.

S4.1.5 Each warning device sold separately for use in vehicles specified in S2 shall be enclosed in an opaque, protective, reusable container, except that two or three warning devices intended to be sold for use as a set with a single vehicle may be enclosed in a single container.

S4.1.6 Each warning device shall be permanently and legibly marked with:

(a) Name of manufacturer;

(b) Month and year of manufacture, which may be expressed numerically, as "6/72"; and

(c) The symbol DOT, or the statement that the warning device complies with all applicable Federal motor vehicle standards.

S4.1.7 Each warning device shall have instructions for its erection and display.

(a) The instructions shall be either indelibly printed on the warning device or attached in such a manner that they cannot be easily removed.

(b) Instructions for each warning device shall include a recommendation that the driver activate the vehicular hazard warning signal lamps before leaving the vehicle to erect the warning device. Instructions for warning devices required by S4.1.1 and for warning devices sold separately for use in passenger cars and multipurpose passenger vehicles shall include illustrations similar to Figures 3, 4, and 5. Instructions for warning devices required by S4.1.2 and for warning devices sold separately for use in trucks and buses shall include illustrations similar to Figures 6, 7, 8, and 9.

S4.2 *Configuration.*

S4.2.1 Each warning device shall be able to be erected and then replaced in its container without the use of tools.

S4.2.2 When the warning device is erected on level ground:

(a) Part of the warning device shall form an equilateral triangle that stands in a plane not more than 5° from the vertical, with the lower edge of the base of the triangle horizontal and not less than one-half inch above the ground.

(b) None of the required portion of the reflective material and fluorescent material shall be obscured by any other part of the warning device.

S4.2.3 Each of the three sides of the triangular portion of the warning device shall be 20 ± 2 inches long and $3\pm1/16$ inches wide (Fig. 1).

S4.2.4 Each face of the triangular portion of the warning device to which reflective material and fluorescent material is required by S4.1.3 to be affixed shall have an outer border of red reflex reflective material of uniform width not less than one-half and not more than 1¾ inches wide and an inner border of orange fluorescent material of uniform width at least 1¼ inches wide (Fig. 1).

S4.2.5 The sum of the widths of the red reflective and orange fluorescent borders shall be $3\pm1/16$ inches.

S4.2.6 Each vertex of the triangular portion of the warning device shall have a minimum radius of one-quarter inch.

S4.2.7 No edge or corner of the warning device shall have a radius of less than one-sixteenth inch.

S4.3 *Color.*

S4.3.1 The color of the red reflective material on the warning device shall have the following characteristics both before and after the warning device has been conditioned in accordance with S5.1:

(a) A dominant wave length of not less than 615 nanometers (millimicrons).

(b) A chromaticity coordinate y of not more than 0.320.

(c) Chromaticity coordinates x and y whose sum is not less than 0.992.

(d) Purity of not less than 98 percent.

S4.3.2 The color of the orange fluorescent material on the warning device shall have the following characteristics both before and after the warning device has been conditioned in accordance with S5.1:

(a) A dominant wave length of not less than 590 and not more than 605 nanometers.

(b) A chromaticity coordinate y of not less than 0.351 and not more than 0.424.

(c) Chromaticity coordinates x and y whose sum is not less than 0.932.

(d) Purity of not less than 85 percent.

S4.4 *Reflectivity.* When the red reflective material on the warning device is tested in accordance with S5.2, both before and after the warning device has been conditioned in accordance with S5.1:

(a) Its candlepower per square inch

shall be not less than 1.5 at an entrance angle of 0° and observation angle of 0.2°

(b) Its total candlepower per incident foot candle shall be not less than the values specified in Table I for each of the listed entrance and observation angles.

S4.5 *Luminance.* Both before and after the warning device has been conditioned in accordance with S5.1, the orange flourescent material on the warning device shall have a luminance not less than 30 percent of that of a flat magnesium oxide surface when compared under the light from an overcast sky (not direct sunlight), in a manner that prevents the red reflective material from affecting the photometric measurement of the luminance of the orange flourescent material.

S4.6 *Stability.* When the warning device is erected on a horizontal brushed concrete surface with the plane of the triangular portion normal to the brush marks and subjected to a horizontal wind of 40 miles per hour in any direction for 3 minutes—

(a) No part of it shall slide more than 3 inches from its initial position;

(b) Its triangular portion shall not tilt more than 10° from the vertical; and

(c) Its triangular portion shall not turn through a horizontal angle of more than 10° in either direction from the initial position.

S4.7 *Durability.* When the warning device is conditioned in accordance with S5.1, no part of the warning device shall become warped or separated from the rest of the warning device.

S5. *Test procedures.*

S5.1 *Conditioning.*

S5.1.1 Submit the warning device to each of the following conditions:

(a) Minus 40° Fahrenheit for 16 hours in a circulating air chamber using ambient air which would have not less than 30 percent and not more than 70 percent relative humidity at 70° Fahrenheit;

(b) 200° Fahrenheit for 16 hours in a circulating air oven using ambient air which would have not less than 30 percent and not more than 70 percent relative humidity at 70° Fahrenheit;

(c) 100° Fahrenheit and 90 percent relative humidity for 16 hours;

(d) Salt spray (fog) test in accordance with American Society of Testing and Materials Standard B–117, Standard Method of Salt Spray (Fog) Testing, August 1964, except that the test shall be for 4 hours rather than 40 hours; and

(e) Immersion for 2 hours in water at a temperature of 100° Fahrenheit.

S5.1.2 After submitting the warning device to the conditions specified in S5.1.1, dry any moisture on the red reflective material and orange fluorescent material.

S5.2 *Reflectivity test.* Test the red reflective material as follows:

(a) Prevent the orange fluorescent material from affecting the photometric measurement of the reflectivity of the red reflective material, either by separation or masking.

(b) Use a lamp with a filament operating at 2,584° Kelvin color temperature as the source of illumination.

(c) Place the source of illumination 100 feet from the red reflective material (Figure 2).

(d) Place the observation point directly above the source of illumination (Figure 2).

(e) Determine photometrically the candle power per square inch of red reflective material on the warning device at each of the entrance and observation angles specified in Table 1.

(f) Calculate the total candle power per incident foot candle of the red reflective material at each of the entrance and observation angles specified in Table 1.

TOTAL MINIMUM CANDLE POWER PER INCIDENT FOOT CANDLE

Observation Angles - Degrees	Entrance Angles - Degrees				
	0	10 up	10 down	20 left	20 right
0.2	120	80	80	40	40
1.5	12.0	8.0	8.0	4.0	4.0

Table I

WARNING DEVICE

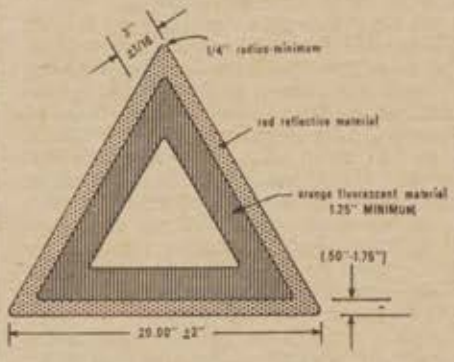


Figure 1

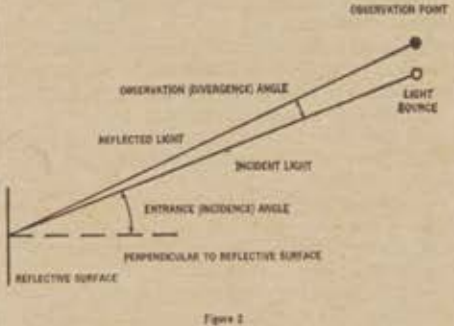


Figure 2

WARNING DEVICE* POSITIONING
STRAIGHT HIGHWAY
FOR PASSENGER CARS AND MULTIPURPOSE PASSENGER VEHICLES

Figure 3

WARNING DEVICE* POSITIONING
CURVED HIGHWAY
FOR PASSENGER CARS AND MULTIPURPOSE PASSENGER VEHICLES

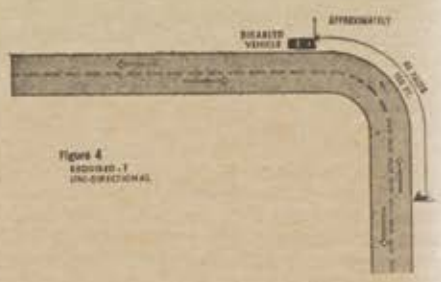


Figure 4

WARNING DEVICE* POSITIONING
OVER A HILL

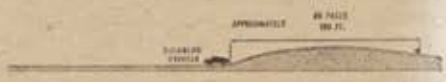


Figure 5

WARNING DEVICE* POSITIONING
STRAIGHT HIGHWAY
FOR TRUCKS AND BUSES

Figure 6

WARNING DEVICE* POSITIONING
CURVED HIGHWAY
FOR TRUCKS AND BUSES

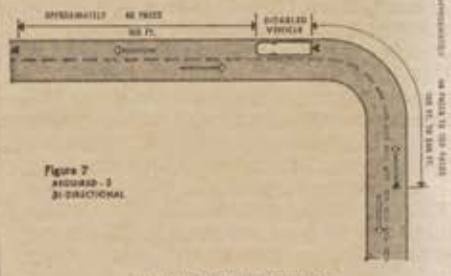


Figure 7

WARNING DEVICE* POSITIONING
OVER A HILL
FOR TRUCKS AND BUSES

Figure 8

WARNING DEVICE POSITIONING
DIVIDED HIGHWAY
FOR TRUCKS AND BUSES

Figure 9

[F.R. Doc. 70-15116; Filed, Nov. 10, 1970; 8:45 a.m.]

[49 CFR Part 575]

[Docket No. 70-24; Notice 1]

MOTOR VEHICLE SAFETY REGULATIONS

Consumer Information Requirements; General Provisions and Vehicle Stopping Distance

The Consumer Information requirement concerning "Vehicle Stopping Distance" (49 CFR 575.101) published January 25, 1969 (34 F.R. 1246), and amended and published in final form May 23, 1969 (34 F.R. 8112), with further amendments July 16, 1969 (34 F.R. 11974), November 26, 1969 (34 F.R. 18865), and April 30, 1970 (35 F.R. 6867), presently requires manufacturers of passenger cars and motorcycles to furnish consumers with information on the stopping ability of these vehicles. This is a proposed amendment to that Consumer Information regulation that would impose additional reporting requirements, and extend the regulation, as amended, to manufacturers, including multistage vehicle manufacturers, of multipurpose passenger vehicles, trucks, and buses. Because some of the terms used in the regulation are defined in the general definitions section of the Consumer Information part (§ 575.2), this amendment also proposes changes to that section to reflect the substantive amendments proposed to the stopping distance provisions.

Although the primary purpose of the proposed amendment is to extend the applicability of the regulation to additional vehicles, one change is proposed in the information presently required. This change would require a vehicle stopping distance figure, achieved with a fully operational service brake system, obtainable on a wet roadway as well as the dry roadway figure presently required.

Extending the applicability of the regulation to multipurpose passenger vehicles, trucks, and buses will result in bringing heavier vehicles, and many vehicles equipped with air brakes, within its scope. Because of the greater stress that brakes of heavier vehicles must withstand, and furthermore, because of the increased potential hazard heavier vehicles present on the highway, the proposed rule specifies an additional information requirement, labeled a "fade rating", for these vehicles. The rating would consist of the number of times the vehicle can repeatedly decelerate at a specified rate and time interval from 50 m.p.h. to 15 m.p.h. using the service brake. This information would provide comparative data on the ability of the vehicle's brakes to withstand repeated heavy use over a short period of time. Test procedures for obtaining the fade rating specify a road test for vehicles having a GVWR over 10,000 pounds having brakes other than air brakes. For vehicles with air brakes, a dynamometer test is specified that is patterned after SAE Recommended Practices J971, "Brake Rating Test Code—Commercial Vehicle Inertia Dynamometer," June 1967, and J667, "Brake Test Code—Inertia Dynamometer," June 1961.

The regulation would also apply to multipurpose passenger vehicles, trucks, and buses when those vehicles are manufactured in a multistage process. It is recognized that a large proportion of trucks and buses are produced by this method, with the initial manufacturer, usually a major vehicle producer, delivering an incomplete vehicle to a subsequent processor for completion, usually consisting of the addition of a body. This process up to now has been an obstacle to requiring consumer information on the performance of multistage vehicles. The reason for this was that, while information reflecting a vehicle's performance is more meaningful if based on a complete vehicle, the incomplete vehicle manufacturer, with his greater technological ability and financial resources, is best equipped to provide the required information. The proposed revision provides quantitative assumptions concerning the vehicle as completed, on the basis of which the incomplete vehicle manufacturer would provide the performance information. The information would be provided in the document required to be furnished with the incomplete vehicle under the proposed Part 568, "Vehicles Manufactured in Two or More Stages," published March 17, 1970 (35 F.R. 4639).

The proposed regulation, therefore, provides that the incomplete vehicle manufacturer assume a specified wind resistance for the vehicle. Other assumptions are that the vehicle is equipped with power-consuming equipment and accessories, including, as a minimum, all equipment necessary for operation and required by law. Instead of itemizing accessories and equipment to be operated during tests, the procedures would specify that all accessories and equipment whose operation affects engine performance are operating in their maximum power-consuming condition. To simplify the providing of information, the test conditions substitute the terms "gross vehicle weight rating" and "gross axle weight ratings" for the more particularized existing description of loading conditions. Another condition proposes that the vehicle be able to meet the requirements with wind velocity of zero.

Truck tractors present particular problems for performance information because they are generally used to tow semitrailers that are loaded to varying degrees. It is proposed that truck tractors be tested as other trucks, loaded to gross vehicle weight rating, with the load distributed according to gross axle weight ratings. Although these conditions do not simulate actual conditions of truck tractors towing semitrailers, testing will be simplified, standardized trailers will not have to be built, and results will be more reproduceable while still retaining comparative qualities.

Pursuant to the above, it is proposed that §§ 575.2 and 575.101 of Title 49, Code of Federal Regulations, be amended as set forth below.

Interested persons are invited to submit written data, views, or arguments pertaining to the proposed amendments. Comments should identify the docket number and be submitted to: Docket Section, National Highway Safety Bureau, Room 4223, 400 Seventh Street SW., Washington, D.C. 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on February 4, 1971, will be considered, and will be available in the docket at the above address for examination both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Bureau. However, the rule making action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rule making. The Bureau will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

Proposed effective date: October 1, 1971.

This notice of proposed rule making is issued under the authority of sections 112 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1401, 1407), and the delegations of authority at 49 CFR 1.51 (35 F.R. 4955) and 49 CFR 501.8 (35 F.R. 11126).

Issued on November 3, 1970.

RODOLFO A. DIAZ,
Acting Associate Director,
Motor Vehicle Programs.

1. Section 575.2 would be amended as follows:

§ 575.2 Definitions.

* * * * *

(c) *Definitions used in this part.* "Antilockup system" means a portion of a service brake system that, through wheel slip sensing methods, automatically controls braking torque at one or more road wheels of the vehicle during braking.

"Brake power assist unit" means a device installed in a hydraulic service brake system that reduces the effort required to actuate the system, and that if inoperative does not prevent the operator from braking the vehicle by a continued application of musclar force on the service brake control.

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

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

"Lightly loaded vehicle weight" means—

(1) For a vehicle with a GVWR of 10,000 pounds or less, other than a motorcycle, empty vehicle weight, plus

maximum capacity of all fluids necessary for operation of the vehicle, plus 300 pounds (including driver and instrumentation), with the added weight distributed in the front seat area.

(2) For a motorcycle, empty vehicle weight, plus maximum capacity of all fluids necessary for operation of the vehicle, plus 200 pounds (including driver and instrumentation), with the added weight distributed in the saddle or carrier if so equipped.

(3) For a vehicle with a GVWR over 10,000 pounds, empty vehicle weight, plus maximum capacity of all fluids necessary for operation of the vehicle, plus 500 pounds (including driver and instrumentation) with the added weight distributed in the front seat area.

"Skid number" means the frictional resistance measured in accordance with American Society for Testing and Materials Method E-274 at 40 miles per hour, omitting water delivery as specified in paragraph 7.1 of that method.

"Speed attainable in 5 miles" means the speed attainable by accelerating on level ground at maximum rate from a standing start for 5 miles.

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

2. Section 575.101 would be amended to read as follows:

§ 575.101 Vehicle stopping distance.

(a) *Purpose and scope.* This section requires manufacturers of motor vehicles to provide information on vehicle stopping distance under specified speed, brake, loading, and pavement conditions.

(b) *Application.* This section applies to passenger cars, multipurpose passenger vehicles, trucks, buses, and motorcycles.

(c) *Required information*—(1) *Complete vehicles.* Each manufacturer of complete vehicles equipped with brakes other than air brakes shall, unless otherwise provided, furnish the information specified in subdivisions (i) through (v) of this subparagraph, under the conditions specified in paragraph (d)(1) of this section and the procedures specified in paragraph (e)(1) of this section, in the form illustrated in Figure 1. Manufacturers of complete vehicles having a GVWR over 10,000 pounds that are equipped with brakes other than air brakes shall, in addition, include in the same form the information specified in subdivision (vii) of this subparagraph. Each manufacturer of complete vehicles equipped with air brakes, unless otherwise provided, shall furnish the information specified in subdivisions (i) through (iii), (vi), and (viii) of this subparagraph under the conditions specified in paragraph (d) of this section and the procedures specified in paragraph (e) of this section, in essentially the form illustrated in Figure 2. Each vehicle in the group to which the information applies shall be able, under the conditions and procedures specified in this section, to perform at least as well as the information indicates. The document provided with a vehicle may contain more than one table, but the document must clearly and unconditionally indicate which of the tables applies to the vehicle with which it is provided. If a vehicle is unable to reach the speed of 60 miles per hour (m.p.h.), the speed that is a multiple of 5 m.p.h. and 4 to 8 m.p.h. less than the speed attainable in 5 miles shall be substituted for "60 m.p.h.", in the heading "Stopping Distance in Feet from 60 m.p.h." that appears in both Figures 1 and 2. The substituted speed shall be asterisked (*), as shall the following notation, appearing in the following form at the bottom of the figure used: "The vehicle's approximate maximum speed, expressed as a multiple of 5 m.p.h., attainable by accelerating at maximum rate from a standing start for 5 miles."

(i) *Vehicle description.* The group of vehicles to which the table applies, identified in the terms by which they are described to the public by the manufacturer.

(ii) *Minimum stopping distance with fully operational service brake system.* The minimum stopping distance attainable, expressed in feet, from 60 m.p.h., using the fully operational service brake system, at both lightly loaded vehicle weight and GVWR, on both a dry and wet roadway.

(iii) *Minimum stopping distance with partially failed service brake system.* (Applicable only to vehicles with more than one service brake subsystem; not applicable to motorcycles.) The minimum stopping distance attainable on a dry roadway, expressed in feet, from 60 m.p.h., for the most adverse combination of GVWR or lightly loaded vehicle weight and complete loss of braking in one of the vehicle's service brake subsystems.

(iv) *Minimum stopping distance with inoperative brake power assist unit.* (Not applicable to vehicles with airbrakes.) The minimum stopping distance attainable on a dry roadway, expressed in feet, from 60 m.p.h., using the service brake system, with the vehicle loaded to GVWR and the brake power assist unit rendered inoperative by disconnection of its power supply, and with any residual power supply exhausted. If the vehicle has more than one independent brake power assist unit, the figure shall represent the most adverse performance with one unit disconnected.

(v) *Notice.* For a vehicle equipped with brakes other than airbrakes, the following notice: "This figure indicates braking performance that can be met or exceeded by the vehicles to which it applies, without locking the wheels, under different conditions of loading and with partial failures of the braking system. The information presented represents results obtainable by skilled drivers under controlled road and vehicle conditions, and the information may not be correct under other conditions."

(vi) *Notice.* For a vehicle equipped with air brakes, the following notice: "This figure indicates braking performance that can be met or exceeded by the vehicles to which it applies. Parts A and B of this figure indicate braking performance obtainable without locking the vehicle's wheels, under different conditions of loading and with partial failures of the braking system. This information represents results obtainable by skilled drivers under controlled road and vehicle conditions and the information may not be correct under other conditions. Part C indicates braking performance obtainable from an off-the-vehicle mechanical test."

(vii) *Brake fade rating.* (Applicable to vehicles having a GVWR over 10,000 pounds and manufactured with brakes other than air brakes.) The number of times that the vehicle can decelerate from 50 m.p.h. to 15 m.p.h. at a rate of 12 f.p.s.p.s. using the service brake, and then return to 50 m.p.h., with an interval of 48 seconds between consecutive brake applications.

(viii) *Brake fade dynamometer rating.* (Applicable to vehicles manufactured with air brakes.) The number of times, measured on a dynamometer, that a wheel on any axle can decelerate from 50 m.p.h. to 15 m.p.h. at a rate of 12 f.p.s.p.s. using the service brake, and then return to 50 m.p.h., with an interval of 48 seconds between consecutive brake applications.

(2) *Incomplete vehicles.* Each incomplete vehicle manufacturer shall, for each incomplete vehicle with which a document must be furnished pursuant to § 568.4 of this chapter, include in the document the vehicle stopping distance information specified in subparagraph (1) of this paragraph under the conditions specified in paragraph (e) of this section and the procedures specified in paragraph (f) of this section. The information shall also contain a description of the power-consuming equipment and accessories assumed to be included in the vehicle, including as a minimum all equipment necessary for operation or required by law. The following additional assumptions shall be made:

(i) Passenger cars—The vehicle as completed has a frontal area of 34 square feet.

(ii) Multipurpose passenger vehicles, trucks, and buses—The vehicle as completed has a frontal area of 102 square feet.

(d) *Conditions.* The data provided in the format of Figures 1 and 2 shall represent a level of performance that can be equaled or exceeded by each vehicle in the group to which the table applies, under the conditions and procedures specified in this paragraph. Where a range of conditions is specified, the vehicle shall be able to meet the performance level at all points within the range.

(1) *Vehicle, road, and ambient conditions.* (i) Stops and decelerations are made without lockup on any wheel, except for momentary lock-up caused by an antilockup system.

(ii) The tire inflation pressure is set according to the manufacturer's recommendations for the vehicle at its GVWR; other relevant component adjustments are made according to the manufacturer's recommendations.

(iii) For motorcycles, hand brake lever force applied 1¼ inches from the

outer end of the lever does not exceed 55 pounds, and foot brake pedal force does not exceed 90 pounds. For all vehicles manufactured with brakes other than air brakes, except motorcycles, brake pedal force does not exceed 150 pounds for any brake application. For vehicles manufactured with air brakes, the service brake line air pressure does not exceed 90 pounds per square inch.

(iv) Transmission is in neutral, or the clutch disengaged, during the entire deceleration.

(v) The vehicle begins the deceleration in the center of a straight roadway lane that is 12 feet wide, and remains in the lane throughout the deceleration.

(vi) The roadway lane has a grade of zero percent. For tests run on dry pavement, the roadway has a skid number of 75. For tests run on wet pavement, the roadway has a wet skid number of 30.

(vii) All vehicle openings (doors, windows, hood, trunk, convertible top, etc.) are in the closed position except as required for instrumentation purposes.

(viii) Ambient temperature is between 32° F. and 100° F.

(ix) Wind velocity is zero.

(2) *Dynamometer test conditions.* (i) The dynamometer inertia for each wheel is equivalent to the load on the wheel with the axle at rated gross axle weight.

(ii) Ambient temperature is between 85° F. and 95° F.

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

(iv) The service line air pressure is not greater than 90 pounds per square inch.

(v) Brake temperature is as specified in each procedure.

(vi) The brake temperature is measured by plug-type thermocouples installed according to SAE Recommended Practice J843a, June 1966.

(e) *Procedures*—(1) *Road tests.* (i) Burnish:

(*a*) *All vehicles having a GVWR of 10,000 pounds or less except motorcycles.* Burnish brakes once prior to the first stopping distance test by conducting 200 stops from 40 m.p.h. (or the speed attainable in 5 miles if the vehicle is incapable of reaching 40 m.p.h.) at a deceleration rate of 12 f.p.s.p.s. in normal driving gear, with a cooling interval between stops, accomplished by driving at 40 m.p.h. for a sufficient distance to reduce brake temperature to 250° F., or for 1 mile, whichever occurs first. Readjust brakes according to manufacturer's recommendations after burnishing.

(*b*) *Motorcycles.* Same as for passenger cars, except substitute 30 m.p.h. for 40 m.p.h. and 150° F. for 250° F., and maintain hand lever force to foot lever force ratio of approximately 1 to 2.

(*c*) *Vehicles having a GVWR over 10,000 pounds.* Burnish brakes once prior to first stopping distance test as follows: With the vehicle's transmission in the highest gear range, make 400 brake applications from 40 m.p.h. to 20 m.p.h. at 10 f.p.s.p.s. After each brake application, accelerate to 40 m.p.h. and maintain that speed until making the next application at a point 1.5 miles from the point of previous brake application. After burnishing, adjust the brakes as recommended by the brake manufacturer.

(ii) Insure that the temperature of the hottest service brake is between 130° F. and 150° F. prior to the start of all stops (other than burnishing stops).

(iii) Measure the stopping distances specified in paragraph (c) of this section from the point of application of force to the brake control to the point at which the vehicle reaches a full stop.

(iv) Obtain the brake fade rating as follows:

(*a*) Establish a brake temperature between 150° F. and 200° F.

(*b*) With the vehicle traveling at 50 m.p.h., decelerate to 15 m.p.h. at a rate of 12 f.p.s.p.s. using the service brake.

(*c*) Accelerate to 50 m.p.h. and repeat the procedure in (*b*) of this subdivision as many times as possible, with the beginning of each brake application occurring 48 seconds after the beginning of the immediately preceding application.

(*d*) The brake fade rating is the number of decelerations completed without either the rate of deceleration decreasing to less than 12 f.p.s.p.s. or the 48-second interval between service brake applications being exceeded.

(2) *Dynamometer test procedure.* (i) Burnish:

(*a*) Place the brake assembly on an inertia dynamometer and adjust the brake as recommended by the brake manufacturer.

(*b*) Accelerate the brake assembly to 40 m.p.h. Calculate the rate of brake rotation on the dynamometer that corresponds to the rate of rotation on the vehicle at a given speed by assuming a tire radius equal to the static loaded radius specified by the tire manufacturer.

(*c*) Make 200 stops from 40 m.p.h. at a deceleration rate of 10 f.p.s.p.s., maintaining a drum temperature on each stop of not less than 315° F. or more than 385° F. Increase brake lining temperature to a specified level, when necessary, by conducting one or more stops from 40 m.p.h. at a deceleration rate of 10 f.p.s.p.s. Decrease brake lining temperature to a specified level, when necessary, by rotating the drum at a constant 30 m.p.h.

(*d*) Make 200 additional stops from 40 m.p.h. at a deceleration rate of 10 f.p.s.p.s., maintaining a drum temperature on each stop of not less than 450° F. and not more than 550° F., increasing or decreasing temperature, when necessary, as provided in (*c*) of this subdivision.

(*e*) After burnishing, adjust the brakes as recommended by the brake manufacturer.

(ii) Obtain the brake fade dynamometer rating as follows:

(*a*) Establish a brake temperature between 150° F. and 200° F.

(*b*) With the brake drum or disc traveling at 50 m.p.h., decelerate to 15 m.p.h. at a rate of 12 f.p.s.p.s.

(*c*) Accelerate the brake drum or disc to 50 m.p.h. and repeat the procedure in (*b*) of this subdivision as many times as possible with the beginning of each deceleration occurring 48 seconds after the beginning of the immediately preceding deceleration.

(*d*) The brake fade dynamometer rating is the number of decelerations completed without either the rate of deceleration decreasing to less than 12 f.p.s.p.s. or the 48-second interval between decelerations being exceeded.

FIGURE 1

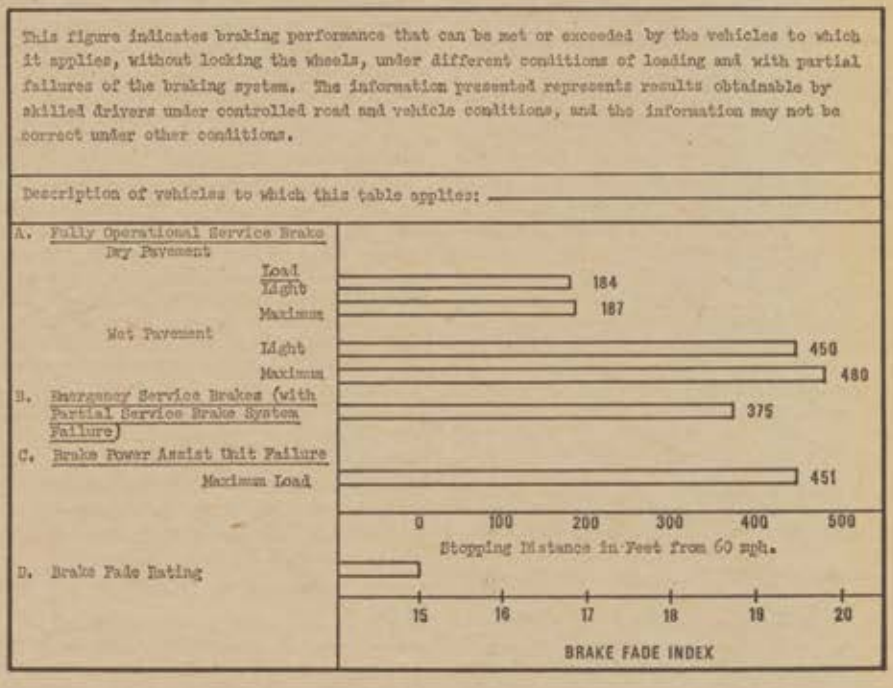
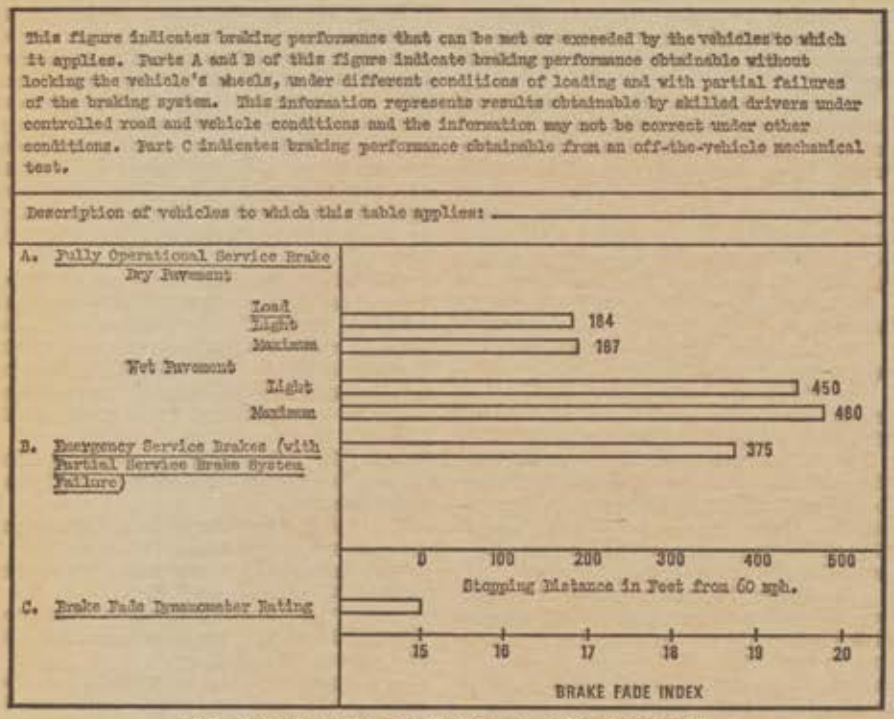


FIGURE 2



[F.R. Doc. 70-15119; Filed, Nov. 10, 1970; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[Docket No. 22719; EDR-192]

UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Reporting Departures, Miles and Nonrevenue Passenger Enplanements

NOVEMBER 5, 1970.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Part 241 of its economic regulations (14 CFR Part 241) which would include statistical elements for scheduled aircraft miles and departures completed and delete the statistical element for nonrevenue passenger enplanements.

The principal features of the proposed amendments are described in the Explanatory Statement below and the proposed amendments are set forth in the proposed rule. The amendments are proposed under the authority of sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 766; 49 U.S.C. 1324, 1377).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before December 14, 1970, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

Explanatory statement. This proposed rule, in addition to providing the necessary data elements for reporting schedule completion data, is intended to eliminate reporting inconsistencies and to achieve uniformity among the carriers in the reporting of schedule and schedule completion data under Part 241.

While developing standard practices for implementation of Regulation ER-586,[1] Modernization of Traffic and Capacity Data Collection System, it was noted that two additional data items were needed to properly report scheduled aircraft departures completed and scheduled aircraft miles completed in a manner consistent with previous reporting requirements and the definitions in section 03—Glossary of Part 241. Therefore, provision was made in Standard Practice Letter 20[2] for reporting these data by adding items 431 Scheduled Aircraft Miles Completed and 521 Scheduled Aircraft Departures Completed. Under this notice, it is proposed that Part 241 be amended to include these data items.

[1] Adopted Aug. 6, 1969.
[2] Issued Dec. 12, 1969.

Related to our proposal herein is the petition of certain member carriers[3] of the Airline Finance and Accounting Conference of the Air Transport Association of America to amend the definition of scheduled aircraft miles completed. The term is presently defined as "the aircraft miles performed on scheduled flights computed between only those scheduled points actually served." Under this definition, if a flight is scheduled to operate nonstop from A to B but for some reason terminates at point C (i.e., operates A to C), none of the mileage flown would be recognized as "scheduled aircraft miles completed" since point C is not a scheduled point. Likewise, if an A–B flight originates at a point other than A, no mileage would be recognized. To further illustrate the present definition, if a flight is scheduled to operate A to B to C, and actually operates nonstop A to C or operates at an intermediate point D in lieu of B (i.e., A to D to C), only the nonstop A–C mileage would be recognized since A and C are the only scheduled points actually served. In all the above cases mileage actually flown would be reported under a separate item—"Revenue aircraft miles flown—scheduled."

The petitioning carriers propose to amend the present definition in such a manner as to recognize, to a certain extent, the mileage flown when a nonscheduled point is served in lieu of either the scheduled point of origin or termination.[4] When the nonscheduled point served is farther from the origin than is the scheduled destination, allowance of all miles flown would result in a completion factor[5] greater than 100 percent. Thus, in order to avoid this anomalous result, the petitioners would subtract the mileage between, for example, the scheduled terminal point and the point actually served from the scheduled mileage of the flight. To illustrate, if a flight scheduled to operate A to B flies A to C, the mileage includable under the petitioners' definition of scheduled aircraft miles completed would be the A–B miles minus the B–C miles.

The method of calculating miles completed affects each carrier's so-called "completion factor," i.e., the percent of scheduled miles which are completed.

[3] Alaska Airlines, Inc.; Aloha Airlines, Inc.; Delta Air Lines, Inc.; Eastern Air Lines, Inc.; The Flying Tiger Line, Inc.; Hawaiian Airlines, Inc.; Mohawk Airlines, Inc.; Northeast Airlines, Inc.; Northwest Airlines, Inc.; Piedmont Aviation, Inc.; Southern Airways, Inc.; Texas International Airlines, Inc.; and United Air Lines, Inc.

[4] AFAC's proposed definition reads as follows: "The aircraft miles performed on scheduled flights computed between only those scheduled points actually served, except that in the event a point other than the scheduled point is served, either at origin or destination, the miles completed will be computed by subtracting from the scheduled aircraft miles the distance between the scheduled point and the point actually served."

[5] The completion factor is the ratio of scheduled aircraft miles completed to scheduled aircraft miles.

The petitioning carriers point out that under the present definition an airline which completes a substantial portion of the flight but fails to serve the scheduled point receives no more credit in its completion factor than if the flight were canceled. Petitioners contend that a passenger carried to a point closer to his destination is better served than one whose trip is canceled. Accordingly, the petitioning carriers seek to change the definition of scheduled aircraft miles completed in such a way as to reflect partially completed or deviated flights in the completion factor but to do so in such a way as not to allow the completion factor to exceed 100 percent.

The Board has determined to deny the petition. The fact of the matter is that the definition proposed by the petitioners simply does not reflect what it purports to measure. A flight which serves a point other than a scheduled point is not serving that point pursuant to its schedule. A completion factor which gives credit to flights which do not in fact serve the points scheduled would be misleading to the public. Furthermore, it is by no means clear that a passenger whose flight is partially completed is in fact better served than one whose flight is canceled altogether. Thus, for example, the definition proposed in the petition would recognize mileage flown in the case where a flight originates at a point other than the scheduled point of origination. It is difficult to imagine how a passenger intending to board a flight at point A is served at all when the flight in fact originates at point B instead of point A. Moreover, the petitioners' definition would not measure revenue aircraft miles flown in scheduled service, which is already reported under a separate data item.

The Board is aware of the fact that some carriers have historically interpreted the definition to include miles flown to a nonscheduled point served in lieu of the scheduled point. Questions raised by the carriers following the issuance of SPL–20, with respect to the reporting of scheduled aircraft departures and miles completed, indicate that many carriers have been improperly reporting departures and miles scheduled and related completion data on CAB Form 41 reports. For this reason, we wish to clarify these reporting requirements. Specifically, scheduled departures and miles data should be reported in Form 41 based on the carriers' published flight schedules on file with the Board. Scheduled departures, therefore, should be the number of takeoffs scheduled to be performed, and scheduled miles should be the sum of the airport-to-airport distance of all flights scheduled over certificated routes. Furthermore, related completion data are obtained for comparison with scheduled data to measure the extent of performance in accordance with schedules. These data, therefore, should not include departures and miles that arise from service to nonscheduled points as a result of deviations from the scheduled service pattern.

Finally, in connection with the development of standard practices for implementation of ER–586, two carriers asked that the requirement for reporting nonrevenue passenger enplanements by service segment be deleted. They stated that a vast majority of nonrevenue passengers travel on a space-available basis, and are subject to frequent removal from one flight and subsequent reboarding on other flights. They concluded that any nonrevenue passenger enplanement data developed and reported would be highly distorted. After reviewing this reporting, the Board has tentatively concluded that adequate nonrevenue passenger traffic data will be supplied through the reporting requirements for nonrevenue passengers transported and nonrevenue passenger miles. Accordingly, this notice proposes deletion of item 120 Nonrevenue Passenger Enplanements from the service segment data.

Proposed rule. It is proposed to amend Part 241 of the Economic Regulations (14 CFR Part 241) as follows:

1. By amending section 19–1, Chart of Operating Statistical Elements, to delete data element "120 Nonrevenue passengers enplaned A, C, E, G, L, N, P, R" and to add data elements "431 Scheduled aircraft miles completed" and "521 Scheduled aircraft departures completed" so that the chart in pertinent part for data elements added reads:

Air transport traffic and capacity elements	*Service classes*
* * *	* * *
430 Revenue aircraft miles scheduled	A, C, E, G.
431 Scheduled aircraft miles completed	A, C, E, G.
510 Revenue aircraft departures performed	A, C, E, G, L, N, P, R.
511 Scheduled service	A, C, E, G.
512 Extra section	A, C, E, G.
520 Revenue aircraft departures scheduled	A, C, E, G.
521 Scheduled aircraft departures completed	A, C, E, G.
* * *	* * *

2. By amending section 19–5(e) so as to:

(a) Delete data element "X120 Nonrevenue passengers enplaned."

(b) Add a data element immediately following data element "X430 Revenue aircraft miles scheduled" to read:

X431 *Scheduled aircraft miles completed.* The aircraft miles performed on scheduled flights computed between only those scheduled points actually served. Service to nonscheduled points should not be considered in determining scheduled aircraft miles completed.

(c) Add a data element immediately following data element "X520 Revenue aircraft departures scheduled" to read:

X521 *Scheduled aircraft departures completed.* The number of takeoffs performed at each airport pursuant to published schedules, exclusive of extra sections to scheduled departures. This element should include only those scheduled departures included in element X520 which are actually performed.

3. By amending the list of data elements in paragraph (d) of section 25, Schedule T–1—Traffic and Capacity Statistics by Class of Service, so that the list in pertinent part reads:

Code	*Element*
* * *	* * *
X280	Available ton-miles.
X410	Revenue aircraft miles flown.
X430	Revenue aircraft miles scheduled.
X431	Scheduled aircraft miles completed.
X510	Revenue aircraft departures performed.
* * *	* * *

4. By amending the list of data elements in paragraph (d) of section 25, Schedule T–3—Airport Activity Statistics, so that the list in pertinent part reads:

Item	Scheduled service	Nonscheduled service
* * *	* * *	* * *
Revenue aircraft departures scheduled	K–520	
Scheduled aircraft departures completed	K–521	
Revenue aircraft departures performed in nonscheduled services		V–510
* * *	* * *	* * *

[F.R. Doc. 70–15228; Filed, Nov. 10, 1970; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19078; FCC 70–1188]

NONCOMMERCIAL EDUCATIONAL FM STATIONS

Uses of FM Multiplex Channels Involving Charge to Audience

In the matter of amendment of § 73.593 of the Commission's rules with respect to uses of FM multiplex channels of noncommercial educational FM stations involving a charge to the audience; Docket No. 19078, RM–1623.

1. This proceeding concerns possible amendment of § 73.593 of the Commission's rules, dealing with FM multiplex operation by noncommercial educational FM stations under Subsidiary Communications Authorization (SCA). It is based largely on a petition (RM–1623) filed on May 20, 1970, by Educasting Systems, Inc. (Educasting), asking that the rule be changed to make it clear that such stations, or their licensees, may charge

"tuition or course fees" in connection with formal courses broadcast over the subcarriers of such stations. In another proceeding instituted today in the same area, we are proposing to consider extension of the SCA rules to encompass a wider range of uses, including the "Electrowriter" system proposed in a recent petition filed by the Educational Communications Division of the State of Wisconsin (RM-1674, filed Aug. 18, 1970).

2. Present § 73.593(a) contains the language below which is not in quotation marks. Educasting would add the quoted language, so that the paragraph would read as follows:

SEC. 73.593 Subsidiary Communications Authorizations. (a) A noncommercial educational FM broadcast licensee or permittee may apply for a Subsidiary Communications Authorization (SCA) to provide limited types of subsidiary service on a multiplex basis. Any use of SCA by such licensee or permittee must be consistent with the limitation on the purpose and operation of noncommercial educational FM stations contained in § 73.503: *Provided*, That uses permitted under this paragraph will not be considered "commercial" as long as no consideration for such use (other than the furnishing of the material transmitted and/or payment of line charges "and/or the payment of tuition or course fees by individual students or by school districts or other educational authorities or institutions on a per pupil or per course basis") is received by the licensee, directly or indirectly, and no commercial announcements or references are contained in the material transmitted under the SCA. Permissible uses must fall within one or both of the following categories:

(1) Transmission of programs which are noncommercial and "in furtherance of an educational purpose, and which are of a broadcast nature but of interest primarily to limited segments of the station's audience * * * and any use which would be permitted for a commercial FM station under § 73.293 (a)(1), subject to the prohibitions against commercial operations and limitations as to purposes contained in this section and in § 73.503.

(2) Transmission of signals which are directly related to the operation of FM broadcast stations * * *.

Section 73.503, referred to in this section, states (paragraph (d)) that noncommercial educational FM stations shall furnish a "non-profit and noncommercial broadcast service." Under paragraph (c), such stations may broadcast programs produced or furnished by or at the expense of others, provided that no consideration is received by the licensee other than the furnishing of the material and costs incidental to its production and broadcast, including line charges.

3. Petitioner's purpose in proposing a rule change is to permit educational FM stations and educational institutions to use an instructional system developed by Educating, involving four subchannels of the FM station. Over one, an instructor asks multiple choice questions; the student at the SCA receiver has a choice of four buttons from which he pushes the one he believes represents the correct answer. When the button is pushed, the student receives a message telling him whether the answer is correct, with evaluation and appropriate reinforcement material. The student also has an "Edutext" textbook for the course, which parallels the "lessons". Although it could be used in classroom instruction, the present utility of the system is chiefly in home instruction.

4. The Commission has approved use of the Educasting system by commercial FM station WFIL-FM, Philadelphia (BCA-621) and others for "self improvement" courses.[1] In that type of arrangement, a regional licensee actually conducts the presentation and selects the courses, leasing from Educasting all of the hardware and software involved, collecting tuition fees from the students, and making his own arrangements with a commercial FM station for use of its subchannels. Educasting now hopes to enlarge its activities to include regular curriculum courses, at every level, as well as continuing education, to be offered by educational institutions over their own educational FM stations or those to which they may have access. Educasting would either sell or lease the hardware and software to the institution, which would give the courses and may wish to charge tuition. Or, if it does not have an FM station itself, the institution may wish to make arrangements with an outside educational FM station to present the material, and to pay the station on a per-pupil or per-course basis, as some school districts now do with ETV stations furnishing educational material to their students.

5. Educasting also refers to other possible uses of the system: Use in classrooms to save classroom space, or by students at home, or by an educational institution and its station to furnish lecture material to persons in its community who are interested in such material. In sum, it is said, use of Educasting techniques by educational FM stations can contribute significantly to accomplishment of the missions of these stations and institutions.

6. It appears that to some degree the type of operation proposed by Educasting, or the transmission of instructional types of programs on one or more subcarriers by a noncommercial educational FM station for a fee, could be conducted without undue "commercialization" of the educational FM service, and would be in the public interest. Therefore, we invite comments on a change in the rules designed to permit it. However, in our view there are certain possible abuses which could arise in application. While we invite comments on the limitations set forth below, we are tentatively of the view that, at least in this type of SCA operation, the modification of the rule should include the conditions set forth in the next paragraph. The language set forth there, and in the proposed rule, below, is also intended to include as permissible situations where the material is not presented by or for an educational institution as such, but where it is presented through other agencies and is clearly of a public-service nature, for example the presentation of material for the blind through agencies of the Federal or State governments.

7. The limitations mentioned are as follows:

(a) The course or other material is presented by or for a bona fide educational institution; or, if not, the licensee of the noncommercial FM station has investigated the material and deems it to be clearly of educational or public service value;

(b) The payment is made to the educational institution or the noncommercial FM station; and

(c) The payments retained by the station licensee total no more than the approximate cost of conducting the SCA operation (including purchase or lease of equipment, course material, etc.) and general overhead and operational costs incidental to it. Where the material is presented by or for an educational institution or other entity, the payments made to the station or directly to the institution or entity may also include the usual tuition fees charged for similar material presented otherwise.

8. *Proposed rule.* In view of the foregoing, it is proposed to amend § 73.593 (a)(1) to read as follows:

§ 73.593 Subsidiary Communications Authorizations.

(a) * * *

(1) Transmission of programs which are noncommercial and in furtherance of an educational purpose, and which are of a broadcast nature but of interest primarily to limited segments of the station's audience. Illustrative services include: programs for presentation in classrooms; programs designed for special professional groups such as doctors, lawyers and engineers; materials designed for special interest groups, including those of ethnic, safety and technical orientations and the handicapped; and any use which would be permitted for a commercial FM station under § 73.293 (a)(1), subject to the prohibitions against commercial operations and limitation as to purpose contained in this section and in § 73.503. Uses under this subparagraph will not be considered "commercial" if there is charged either a per-course or per-pupil fee, where: (i) The material is presented by or for a bona fide educational institution; or if it is not, the licensee of the noncommercial educational FM station has investigated the material and deems it to be clearly of educational or public service value; (ii) the payment is made to the educational institution or the noncommercial educational FM station; and (iii) the payments retained by the station licensee total no more than the approximate cost of conducting the SCA operation (including purchase or lease of equipment, course material, etc.) and general overhead and operational costs incidental to

[1] However, it is to be noted that later the SCA operation had to be restricted to three subchannels, because of interference on stereo FM receivers. At the same time as the WFIL-FM authorization (1965), educational FM Station WUSV, Scranton, Pa., was authorized to present the same type of material, without charge.

it. Where the material is presented by or for an educational institution, or other entity, the payments made to the station or directly to the institution or entity may also include the usual tuition fees charged for similar material presented otherwise.

* * * * *

9. Authority for the proposed amendments is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

10. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before December 16, 1970, and reply comments on or before January 6, 1971. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

11. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission.

Adopted: November 4, 1970.

Released: November 6, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-15204; Filed, Nov. 10, 1970; 8:47 a.m.]

[47 CFR Part 73]

[Docket No. 19079; FCC 70-1189]

NONCOMMERCIAL EDUCATIONAL FM STATIONS

Wider Range of Uses of FM Multiplex Channels

In the matter of amendment of § 73.593 of the Commission's rules to permit a wider range of uses of FM multiplex channels of noncommercial educational FM stations; Docket No. 19079, RM-1674.

1. This proceeding concerns possible expansion of § 73.593 of the Commission's rules, dealing with FM multiplex operation by noncommercial educational FM stations under Subsidiary Communications Authorization (SCA), to permit a wider range of uses of the multiplex channels of these stations. It is based in part on a petition filed August 18, 1970 (RM-1674), by the Educational Communications Division of the State of Wisconsin (licensee of WHA-FM, Madison), discussed below. In another proceeding begun today (Docket No. 19078), we propose to modify this rule to permit such stations to present via multiplex course material for which students and other members of the audience pay a per-course or per-pupil fee. The present matter is of wider scope, involving consideration of a wider range of uses which have been formally or informally proposed in recent years as suitable for the multiplex operations of noncommercial FM stations.

2. In the rule making petition mentioned above, the Educational Communications Division of the State of Wisconsin, licensee of WHA-FM, Madison, asks that § 73.593 be expanded to permit the transmission of "control tones which will permit use of electro-mechanical display devices to supplement a teaching effort and similar uses." [1] It appears that it has in mind chiefly a device called "Electrowriter", in which subcarrier tones are used to control a writing pen at a remote point. Information concerning a trial of this system at Station KFAB-FM, Omaha, is submitted as well as material concerning the proposed use of the system by WHA-FM, as part of part of extension courses (particularly engineering) given at various places in the State.

3. Other noncommercial educational FM subcarrier uses which have been suggested in recent years (although not in formal petitions) have included lease of the subcarrier for a background music service similar to that furnished over many commercial FM stations under SCA, and a news service to other AM and FM stations in the area, for which a charge would be made by the EFM station providing it. In general, proposals of these types have appeared inconsistent with the prohibition on use of the subcarriers of EFM stations for "commercial" purposes. Other uses which have been suggested include "slow scan" reproduction of visual material, and presentation of material for the blind and physically handicapped, underwritten by Government grants or private foundations.[2]

4. It appears that some of the proposals mentioned, including that of WHA-FM, may represent usages which would be consistent with the purposes of noncommercial educational stations, and that amending the rule to permit them might be in the public interest. We are not now advancing any definite formulation of a rule, but will consider suggestions in this respect. We are of the view that any expansion of the rule to include subcarrier uses beyond those now specified should be limited by two basic concepts: (1) Nothing should be permitted which would tend to inhibit the maximum use of the main channel for true noncommercial educational broadcast service; and (2) the frequencies involved here are part of the bands allocated for broadcast service, and therefore no usages should be permitted which are not either of a broadcast or "quasi-broadcast" character or closely related to a bona fide educational purpose (as with the Electrowriter proposal). In the latter connection, we call attention to the discussion in the 1961 decision adopting the noncommercial FM SCA rules (Docket 13755) that uses such as traffic light control, radio paging, or data transmission from one university to another, do not appear to be appropriate uses. See 21 R.R. 1519, 1521-1522, paragraphs 6 and 7.

5. In that decision we also emphasized the noncommercial character of operations which are conducted in this portion of the FM band, a concept which we believed should also limit permissible SCA uses therein. Some of the suggestions listed above, such as lease of the subcarrier for a background music service, are obviously at variance with this. While some modification of this concept may be in order, we are inclined to question seriously the propriety of permitting uses of this type, which are not at all related to the education process, at least where there are commercial facilities in the area able and willing to do the same job at not substantially greater cost.

6. Comments are accordingly invited on the question of expanding the scope of § 73.593, the noncommercial educational FM rule, to permit uses beyond those now allowed, such as those mentioned in paragraphs 2 and 3, above, and others that parties may wish to suggest. Proponents of particular uses should address themselves to the following points:

(a) Information showing that the proposed use is technically feasible, including operation within the bandwidth and other specifications set forth in the educational FM SCA rules (§§ 73.319 and 73.595), and avoidance of interference to main channel operation. Proponents of uses which cannot be accommodated within the present technical rules governing SCA multiplex operation should discuss in detail whatever modifications of the rules would be involved, and the consequences of such modifications.

(b) The extent to which the proposed use is consistent with the noncommercial educational public service and broadcast character of these frequencies.

(c) If the use proposed is of a type which commercial FM stations can and do present and is not related to an educational purpose (e.g., a background music service), whether it should be permitted under any circumstances when the FM station will be remunerated for it, whether it should be permitted only in the absence of commercial stations which can perform the same function, whether the permissible remuneration should be limited, and if so how the Commission can appropriately fix and enforce limitations on remuneration.

7. *Proposed rules.* In view of the wide scope of this proceeding, no specific rule modifications are proposed at this time.

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[2] Commissioner Bartley absent.

[1] WHA-FM's specific suggestion is that this language be added to the permissible uses now specified in § 73.593(a)(2), signals "directly related to the operation of FM broadcast stations" (relaying, remote cueing and order circuits, etc.). As a matter of draftsmanship we do not regard this as appropriate, since it would convert this subparagraph, now dealing with one particular type of use, into a catch-all SCA uses generally. However, substantially the same provisions could be added in another form.

[2] The last-mentioned use would probably fall within the scope of the rule if amended as proposed today in Docket No. 19078.

Section 73.593(a)(1) will be amended as appears appropriate, to allow whatever additional uses appear to be in the public interest. Any changes in the technical rules concerning SCA operation which are involved may be adopted herein, if they are reasonably simple matters, or otherwise may be the subject of further proceedings.

8. Authority for the proposed amendments is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

9. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before February 1, 1971, and reply comments on or before March 1, 1971. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

10. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission.

Adopted: November 4, 1970.

Released: November 6, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 70-15205; Filed, Nov. 10, 1970; 8:47 a.m.]

[47 CFR Part 83]

[Docket No. 19076; FCC 70-1180]

USE OF FREQUENCIES BY SHIP STATIONS

Notice of Proposed Rule Making

1. Notice is hereby given of proposed rule making in the above entitled matter.

2. In administering the Maritime services it has come to our attention that there is an unsatisfied requirement for a common VHF channel, other than a safety channel, for intership communications available to all vessels for their needs. At present, the Commission's rules, Part 83, provide for the use of 156.450 MHz, channel 09, by all vessels for ship to shore communications concerning the needs of the vessel. In addition, commercial transport vessels may use the frequency for intership communications with other commercial transport vessels concerning the needs of this class of vessel. Vessels that are not commercial transport vessels may not use channel 09 for intership communications.

3. Limiting intership communications on channel 09 to commercial transport vessels serves no useful purpose. Further, the limitation has caused some misunderstanding and confusion on the part of ship station licensees. Vessels other than commercial transport vessels monitoring channel 09 will hear intership communications and often they assume that they may engage in intership communications on the channel. In other situations, a commercial vessel will work another vessel on channel 09 and not know if it is a commercial vessel or not. Should the commercial vessel operator attempt to assess the eligibility of the called ship to use channel 09 before switching to that channel, a longer period of valuable air time would be used on the distress, safety, and calling channel.

4. In view of the foregoing, the Commission proposes to remove restrictions on intership communications between commercial transport and noncommercial vessels and between noncommercial vessels. The amendment would permit channel 09 to be used for intership communications between all types of vessels.

5. The proposed amendments, as set forth below, are issued pursuant to the authority contained in sections 4(i), and 303 (b) and (r) of the Communications Act of 1934, as amended.

6. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested parties may file comments on or before December 16, 1970, and reply comments on or before December 28, 1970. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into consideration other relevant information before it, in addition to the specific comments invited by this notice.

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

Adopted: November 4, 1970.

Released: November 6, 1970.

FEDERAL COMMUNICATIONS, COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

Part 83 is amended as follows:

1. In § 83.351 paragraph (a)(5) is amended to add 6,40 to conditions of use for the frequency 156.450 MHz and paragraph (b)(6) is changed to express limitations and conditions of use.

§ 83.351 Frequencies available.

(a) * * *

(5) * * *

Carrier frequency (MHz)	*Conditions of use*
* * *	* * *
156.450	6,34,40,41,49,50
* * *	* * *

(b) * * *

(6) The frequency 156.450 MHz may be used for intership communications between commercial transport vessels and other vessels concerning the commercial, operational, or economic matters relating directly to the purposes for which the commercial transport vessel is used; or to messages relating directly to the needs of the other vessel.

* * * * *

2. In § 83.359 the table "Noncommercial" is amended to change the points of communications for noncommercial vessels on channel 09.

§ 83.359 Frequencies in the band 152—162Mc/s available for assignment.

* * * * *

Channel designator	Frequency (MHz) Ship	Frequency (MHz) Coast	Points of communication
*	*	*	* *
NONCOMMERCIAL			
68	156.425	156.425	Intership and ship to coast.
09	156.450	156.450	Do.
69	156.475	156.475	Ship to coast.
70	156.525	.....	Intership.
71	156.575	156.575	Ship to coast.
72	156.625	.....	Intership.
78	156.925	156.925	Ship to coast.
*	*	*	* *

[F.R. Doc. 70-15206; Filed, Nov. 10, 1970; 8:47 a.m.]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Parts 545, 556]

[No. 70-376]

FEDERAL SAVINGS AND LOAN SYSTEM

Regular Lending Area of Federal Associations and Location of Branch Offices

NOVEMBER 5, 1970.

Resolved that the Federal Home Loan Bank Board considers it advisable to begin implementation of section 706 of Public Law 91-315, which amended section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)), by amending Parts 545 and 556 of the rules and regulations for the Federal Savings and Loan System (12 CFR Parts 545, 556) for the purposes of (1) enlarging the regular lending area of a Federal savings and loan association which maintains a branch or agency office and (2) permitting a Federal savings and loan association to maintain a branch office in the same State acquired as a result of a merger even though such branch office is located more than 100 miles from such association's home office. Accordingly, it hereby proposes to amend said Parts 545 and 556 as follows:

1. By revising § 545.6-6 thereof to read as follows:

§ 545.6-6 Lending area.

The regular lending area of a Federal association consists of the area: (a) Within a radius of 100 miles from such association's home office; (b) within a radius of 100 miles from each branch

[2] Commissioner Bartley absent.

[1] Commissioner Bartley absent.

office of such association or other place of business approved by the Board as an agency of such association, to the extent that such area is also within the State in which such association's home office is located; and (c) in the case of a Federal association which is converted from a State-chartered institution, beyond 100 miles from its home office but within which such association made loans while operating under State charter. Any Federal association may make loans in its regular lending area, and, within the 20-percent-of-assets limitation as defined in § 545.6–7, in other areas but shall comply with the provisions of the rules and regulations for Insurance of Accounts with respect to loans on the security of real estate located more than 50 miles from the association's home office. Each converted association that desires to continue to make loans beyond 100 miles from its home office in the areas in which it made loans while operating under State charter shall file with the Board a map showing the areas within which such association made loans while operating under State charter. For the purpose of this section, the term "State" shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States; and a county, parish, or similar political subdivision of a State is the unit of "area" in which a converted association made loans beyond a radius of 100 miles from its home office while operating under State charter.

2. By revising subparagraph (3) of paragraph (b) of § 556.5 thereof to read as follows:

§ 556.5 Establishment of Federal savings and loan associations and branch offices and mobile facilities of such associations.

* * * * *

(b) *Policy on approval of branch office and mobile facilities.* * * *

(3) It is the Board's policy to consider applications by such an association for permission to establish a branch office or a mobile facility, except as to a branch office acquired as a result of merger, only when the proposed branch office or mobile facility is to be located within 100 miles of the association's home office, unless the association is located in Alaska, Hawaii, or Puerto Rico. This policy is applicable whether or not an association was converted from a State-chartered institution at a time when it made loans on the security of real estate located more than 100 miles from its home office and whether or not it was organized initially as a Federal savings and loan association.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, D.C. 20552, by December 11, 1970, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[F.R. Doc. 70-15215; Filed, Nov. 10, 1970; 8:48 a.m.]

[12 CFR Parts 561, 563]

[No. 70-377]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Definition of "Normal Lending Territory" and Loans on Security of Real Estate Located Outside Such Territory

NOVEMBER 5, 1970.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend Parts 561 and 563 of the rules and regulations for Insurance of Accounts (12 CFR Parts 561, 563) for the purpose of (1) enlarging the normal lending territory of an insured institution which maintains a branch or agency office and (2) liberalizing the regulations affecting lending by an insured institution on the security of real estate located outside such territory. Accordingly, it hereby proposes to amend said Parts 561 and 563 as follows:

1. By revising § 561.22 thereof to read as follows:

§ 561.22 Normal lending territory.

The term "normal lending territory" means the territory: (a) Within a radius of 50 miles from the institution's principal office; (b) within a radius of 50 miles from each place of business which has been approved in writing by the institution's appropriate supervisory authority as a branch office, agency office, or similar place of business for such institution, to the extent that such territory is also within the State in which such institution's principal office is located; and (c) beyond 50 miles from the institution's principal office but within which the institution was operating on June 27, 1934. In the case of an insured institution which, at the close of its most recent semiannual period, had scheduled items (other than assets acquired in a merger instituted for supervisory reasons) not in excess of 4 percent of its specified assets, the figure "100" shall be substituted for the figure "50" the first two times it appears in the preceding sentence. For the purpose of this section, the term "State" shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States; and a county, parish, or similar political subdivision of a State is the unit of territory in which the institution was operating on June 27, 1934.

2. By revising subparagraphs (1) and (4) of paragraph (a) of § 563.9 thereof to read as follows:

§ 563.9 Loans and investments.

(a) *General provisions.* Except as provided herein, no insured institution may make, or invest its funds in, loans on the security of real estate located outside its normal lending territory without the prior approval of the Corporation.

(1) Any insured institution may, to the extent that it has legal power to do so, make, or invest its funds in, loans in an aggregate amount not exceeding 20 percent of such institution's assets on the security of real estate located outside its normal lending territory but within (i) 100 miles from such institution's principal office or (ii) 100 miles from each place of business which has been approved in writing by the institution's appropriate supervisory authority as a branch office, agency office, or similar place of business for such institution to the extent that such territory is also within the State in which such institution's principal office is located. For the purpose of this paragraph, the term "State" shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

* * * * *

(4) Any insured institution which, at the close of its most recent semiannual period, had a ratio of scheduled items (other than assets acquired in a merger instituted for supervisory reasons) to specified assets of less than 2.5 percent may, to the extent that it has legal power to do so, make or invest its funds in loans, serviced by or through (i) an institution the accounts or deposits of which are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation or (ii) an approved Federal Housing Administration mortgagee, in an aggregate amount not exceeding 10 percent of such institution's assets on the security of real estate located outside its normal lending territory but within any State of the United States subject to the following requirements:

(*a*) The real estate security must be located within 50 miles of the principal or a branch office of the servicer of such loans;

(*b*) Any such approved Federal Housing Administration mortgagee must have been continuously and principally engaged in the business of originating and servicing loans for other lenders and investors for a period of at least 5 years, and such approved mortgagee must furnish to such insured institution documentation showing that it has been so engaged and is then approved by the Federal Housing Administration; and

(*c*) The insured institution must have obtained a signed report of appraisal of the real estate security for the loan by an appraiser designated by such institution and who has no interest, direct or indirect, in the real estate or in any loan on the security thereof.

* * * * *

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp. p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, D.C. 20552, by December 11, 1970, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[F.R. Doc. 70-15216; Filed, Nov. 10, 1970; 8:48 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 6817]

OREGON

Classification of Public Lands for Disposal by Exchange

NOVEMBER 3, 1970.

Pursuant to section 2 of the Act of September 19, 1964 (43 U.S.C. 1412), and to the regulations in 43 CFR Subpart 2462, the lands described below are classified for disposal through exchange, under the Act of June 28, 1934, as amended (48 Stat. 1269; 43 U.S.C. 315g; 43 CFR Part 2220), for lands within the Prineville District. The proposed classification received no protests.

WILLAMETTE MERIDIAN

T. 1 N., R. 19 E.,
Sec. 2, SW¼SE¼;
Sec. 12, SE¼NE¼, N½NW¼, SW¼NW¼, and N½S½.
T. 1 N., R. 20 E.,
Sec. 6, lot 7.

The area described aggregates approximately 411.47 acres in Gilliam County.

In accordance with 43 CFR 2201.2, no application for an exchange will be accepted unless the application is accompanied by a statement from the BLM Prineville District Manager that the proposal is feasible.

Information concerning these lands is available at the Prineville District Office, Bureau of Land Management, 185 East Fourth Street (P.O. Box 550), Prineville, Oreg. 97754.

ARCHIE D. CRAFT,
State Director.

[F.R. Doc. 70-15200; Filed, Nov. 10, 1970; 8:47 a.m.]

Geological Survey

NORTH DAKOTA AND WYOMING

Definitions of Known Geologic Structures of Producing Oil and Gas Fields

Pursuant to 43 CFR 3120.2-2(b), notice is hereby given that the known geologic structures of producing oil and gas fields have been defined as follows:

NAMES OF FIELD, EFFECTIVE DATE, AND ACREAGE

(34) NORTH DAKOTA

Blue Buttes; May 22, 1970; 24,083.

(50) WYOMING

Bertha; Sept. 1, 1970; 240.
Collums; Aug. 27, 1970; 5,084.
Corral Creek; July 22, 1970; 305.
Hunter Ranch; July 20, 1970; 1,354.
Jewel; July 15, 1970; 232.
Recluse; Aug. 12, 1970; 16,676.
Sandbar West; Sept. 15, 1970; 6,314.

Maps and diagrams showing the boundaries of the defined structures have been filed with the appropriate land office of the Bureau of Land Management and are also of record in the Geological Survey, Washington, D.C.

W. A. RADLINSKI,
Acting Director.

NOVEMBER 4, 1970.

[F.R. Doc. 70-15181; Filed, Nov. 10, 1970; 8:46 a.m.]

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

DEPRESSANT AND STIMULANT DRUGS

Use of Peyote for Religious Purposes

In the matter of the petition of the Church of the Awakening to amend § 320.3(c)(3):

Petitioner's amendment would grant the Church an exemption to use peyote for religious purposes. A hearing was held on this matter before Mr. Frederick M. Garfield from June 30, 1969, through July 9, 1969. Additionally, the hearing was reopened on July 1, 1970, to permit the petitioner to recross-examine one of the Government's witnesses. The report, findings of fact, conclusions, and recommendations of the hearing examiner were published in the FEDERAL REGISTER on September 23, 1970 (35 F.R. 14789), in conjunction with the decision of the Director of the Bureau of Narcotics and Dangerous Drugs to accept them in their entirety, and to deny the petition of the Church of the Awakening.

In response to the above decision, the petitioner has submitted objections and exceptions to the findings of fact, conclusions, and the decision of the Director.

After reviewing these objections and exceptions: *It is ordered*, That it is the decision of the Director of the Bureau of Narcotics and Dangerous Drugs that the petition of the Church of the Awakening is denied.

It was agreed upon at the hearing which began June 30, 1969 (Tr. pages 11–13), that the record established at the hearing would constitute an exhaustion of administrative remedies on the part of both parties. Therefore, pursuant to 21 U.S.C. 371(f), the petitioner may within 90 days of the effective date of this order seek judicial review with the Circuit Court of Appeals of the United States for the Circuit wherein the petitioner resides or is principally located.

This order shall become effective upon its publication in the FEDERAL REGISTER.

Dated: November 5, 1970.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[F.R. Doc. 70-15199; Filed, Nov. 10, 1970; 8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 5]

SALES OF CERTAIN COMMODITIES

Monthly Sales List

The CCC Monthly Sales List for the fiscal year ending June 30, 1971, published in 35 F.R. 10922, is amended as follows:

1. Section 9 entitled "Barter Eligibility List" is revised to read as follows:

Barter eligibility list. The following commodities from CCC-owned inventories are currently available for new and existing barter contracts: Upland cotton and tobacco (under loan). In addition, private stocks of barley, corn, cotton (upland and American Pima), cottonseed oil, flaxseed, grain sorghum, grease (inedible), linseed oil, oats, rice (milled and brown), soybean oil, tallow (inedible), tobacco, wheat, and wheat flour are eligible under Barter Announcement PS-6 for programing in connection with barter contracts covering procurement for Federal agencies that will reimburse CCC. (However, Hard Red Winter wheat in excess of 11.49 percent protein, Hard Red Spring wheat, Durum wheats, and flour produced from these wheats may not be exported under the barter program through west coast ports.) Eligible commodities acquired from CCC, except grains so acquired before June 8, 1970, for other than unrestricted use, may be applied to and exported under barter contracts as private stocks in accordance with the terms and conditions of Announcement PS-6.

2. Section 14 entitled "Wheat—Unrestricted Use Sales—(Bulk-Storable-Basis Grade 1 In-Store) is revised to read as follows:

The minimum price is the market price but not less than the formula price.

(a) Except as specified in paragraph (b) of this section: (1) At designated terminals the formula price for the predominant class of wheat is the 1970 county loan rate where stored plus the monthly markup shown in this section plus the transit value or 4 cents per bushel whichever is higher. Adjustments for other classes will be established when necessary by CCC.

(2) Outside of designated terminal markets the formula price is the 1970 county loan rate where stored plus the monthly markup shown in this section plus transit value, if any.

(3) Loan differentials will be applied in determining the formula price of other qualities at all locations.

MONTHLY MARKUPS IN CENTS PER BUSHEL

1970		1971	
July	18¾	Jan.	27¾
Aug.	20¼	Feb.	29¼
Sept.	21¾	March	30¾
Oct.	23¼	April	32¼
Nov.	24¾	May	32¼
Dec.	26¼	June	32¼

(b) The November formula price of wheat at the West Gulf is fixed at $1.77¾ per bushel. The minimum price for sales of Hard Red Winter wheat at points tributary to the Gulf will be the higher of the market price, the formula price at point of sale, or the West Gulf price of $1.77¾ backed-off to point of sale. For each succeeding month through June 1971, the foregoing price of wheat at the West Gulf will increase by the same monthly markup adjustments shown in the schedule above.

3. A section 19 is inserted and reads as follows:

19. *Grain Sorghum—Export Sales (Bulk-Basis Grade 2 or Better).* Export market price as determined by CCC basis in-store West Coast ports.

Sales will be made for cash under Announcement GR–212. Available from the Portland ASCS Branch Office.

4. Section 33 entitled "Linseed Oil (Raw) Unrestricted Use Sales" is amended by the insertion of the following sentence after the first sentence:

For November the price will be $0.1195 per pound.

5. A section 34 is inserted and reads as follows:

34. *Castor Oil Unrestricted Use Sales.* Competitive offers under the terms and conditions of Announcement NO–CA–11. The quantity offered, grade, storage location and date bids are to be received are announced in invitations issued by the New Orleans ASCS Commodity Office.

Bids will include, and be evaluated on the basis of, price offered per pound f.o.b. storage location.

Sales will be made by the New Orleans ASCS Commodity Office. Copies of the announcement and the applicable invitation may be obtained from that office.

Signed at Washington, D.C., on November 5, 1970.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 70–15188; Filed, Nov. 10, 1970; 8:46 a.m.]

Consumer and Marketing Service

ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

The following amendments are made to the Organization, Functions, and Delegations of Authority of the Consumer and Marketing Service appearing in 33 F.R. 10750 et seq.:

1. Section 9 is amended by adding after the concluding sentence, the following sentence: The Deputy Administrator, Regulatory Programs is hereby delegated the authority to designate Market Administrators and Committees administering market agreement and order programs.

2. Section 17(1) which reserves to the Administrator, or to the individual designated to act in his stead the authority to designate Market Administrators and Committees administering market agreement and order programs, is hereby deleted.

Issued at Washington, D.C., this 3d day of November 1970.

CLAYTON YEUTTER,
Administrator.

[F.R. Doc. 70–15186; Filed, Nov. 10, 1970; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CHEVRON CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1020) has been filed by Chevron Chemical Co., Ortho Division, 940 Hensley Street, Richmond, Calif. 94804, proposing the establishment of tolerances (21 CFR Part 120) for residues of the fungicide *cis* - *N* - [(1,1,2,2-tetrachloroethyl) thio] - 4-cyclohexene-1,2-dicarboximide in or on the raw agricultural commodities cranberries at 8 parts per million, citrus fruits at 0.5 part per million (negligible residue), and onions at 0.1 part per million (negligible residue).

The analytical method proposed in the petition for determining residues of the fungicide is a gas chromatographic procedure with an electron-capture detector.

Dated: November 2, 1970.

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

[F.R. Doc. 70–15177; Filed, Nov. 10, 1970; 8:45 a.m.]

GEIGY CHEMICAL CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1049) has been filed by Geigy Chemical Corp., Ardsley, N.Y. 10502, proposing the establishment of tolerances (21 CFR Part 120) for residues of the insecticide isopropyl 4,4'-dibromobenzilate in or on the raw agricultural commodities citrus fruits at 3 parts per million; in meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.75 part per million; and in milk at 0.03 part per million.

The analytical method proposed in the petition for determining residues of the insecticide is a gas chromatographic technique with electron-capture detection.

Dated: November 2, 1970.

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

[F.R. Doc. 70–15176; Filed, Nov. 10, 1970; 8:45 a.m.]

HERCULES, INC.

Notice of Filing of Pesticide and Food Additive Petitions

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 408 (d)(1), 409(b)(5), 68 Stat. 512, 72 Stat. 1786; 21 U.S.C. 346a(d)(1), 348(b)(5)), notice is given that a petition (PP 1F1032) has been filed by Hercules, Inc., Wilmington, Del. 19899, proposing the establishment of tolerances (21 CFR Part 120) for combined residues of the insecticide dialifor and its oxygen analog in or on the raw agricultural commodities citrus fruits at 1.5 parts per million and in meat and milk at 0.005 part per million (negligible residue).

Notice is also given that the same firm has filed a related petition (FAP 1H2589) proposing the establishment of a food additive tolerance (21 CFR Part 121) of 10 parts per million in or on dried citrus pulp for residues of the insecticide resulting from carryover and concentration after application of the insecticide to growing citrus fruits.

The analytical method proposed in the pesticide petition for determining residues of the insecticide is a gas chromatographic procedure using a phosphorus-specific potassium chloride thermionic detector.

Dated: November 2, 1970.

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

[F.R. Doc. 70–15179; Filed, Nov. 10, 1970; 8:45 a.m.]

RHODIA, INC.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1051) has been filed by Rhodia, Inc., Chipman Division, 120 Jersey Avenue, New Brunswick, N.J. 08903, proposing the establishment of a tolerance (21 CFR Part 120) for negligible residues of the herbicide 4-(2-methyl-4-chlorophenoxy)butyric acid in or on the raw agricultural commodity peas with pods at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a procedure in which the

residues of 4-(2-methyl-4-chlorophenoxy) butyric acid and its metabolite 2-methyl-4-chlorophenoxyacetic acid are extracted and converted to their nitro derivatives. The latter are esterified to their methyl esters and determined by a gas-liquid chromatograph equipped with an electron-capture detector.

Dated: November 2, 1970.

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

[F.R. Doc. 70-15175; Filed, Nov. 10, 1970; 8:45 a.m.]

STAUFFER CHEMICAL CO.

Notice of Filing of Petition Regarding Pesticide Chemicals

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 1F1042) has been filed by the Stauffer Chemical Co., 1200 South 47th Street, Richmond, Calif. 94804, proposing the establishment of a tolerance (21 CFR Part 120) for negligible residues of the herbicide *S*-propyl dipropylthiocarbamate in or on the new agricultural commodity potatoes at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic procedure using a flame photometric detector with a 394-nanometer filter for sulfur response.

Dated: November 2, 1970.

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

[F.R. Doc. 70-15178; Filed, Nov. 10, 1970; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 21322, 21866; Order 70-11-34]

DOMESTIC PASSENGER FARE INVESTIGATION

Order Denying Petitions for Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 6th day of November 1970.

By Order 70-9-123 dated September 24, 1970, as amended by Order 70-10-38, dated October 7, 1970, the Board suspended tariff filings proposed by 15 of the domestic trunkline and local-service carriers. The suspended tariffs involved increases over present revenues estimated to be between 2 and 8 percent. Continental Air Lines, Inc., and National Airlines, Inc., whose tariff proposals were suspended, have petitioned the Board to reconsider Order 70-9-123.

The Department of Defense and Northwest Airlines, Inc., have filed answers in opposition to the petitions for reconsideration.

Upon consideration of the petitions and answers thereto, the Board finds that they do not establish error in the Board's decision or a basis for vacation of suspension, and that the petitions should be denied.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. The petitions for reconsideration of Order 70-9-123 are denied, and

2. This order shall be served upon Continental Air Lines, Inc., and National Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[1]

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-15229; Filed, Nov. 10, 1970; 8:49 a.m.]

[Docket No. 22656; Order 70-11-28]

JIM HANKINS AIR SERVICE, INC.

Order To Show Cause

Issued under delegated authority November 5, 1970.

The Postmaster General filed a petition October 19, 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 82.6 cents per great circle aircraft mile for the transportation of mail by aircraft between Thermal and Los Angeles, Calif., based on five round trips per week.

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 Beechcraft E-18S 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 notice of intent and other matters officially noticed, it is proposed to issue an order[2] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Jim Hankins Air Service, 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 82.6 cents per great circle aircraft mile between Thermal and Los Angeles, Calif., 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. Jim Hankins Air Service, 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 the fair and reasonable rate of compensation to be paid to Jim Hankins Air Service, 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 Jim Hankins Air Service, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-15230; Filed, Nov. 10, 1970; 8:49 a.m.]

[Docket No. 22663; Order 70-11-27]

SEDALIA, MARSHALL, BOONVILLE STAGE LINE, INC.

Order To Show Cause

Issued under delegated authority November 5, 1970.

The Postmaster General filed a notice of intent October 21, 1970, pursuant to 14 CFR Part 298, petitioning the Board

[1] Dissenting statement of member Adams filed as part of the original document.

[2] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

to establish for the above-captioned air taxi operator, a final service mail rate of 49.74 cents per great circle aircraft mile for the transportation of mail by aircraft between Shreveport, La., Texarkana, Tex., Camden and Little Rock, Ark., and Dallas, Tex., based on five round trips per week.

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 Beechcraft 18 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 notice of intent 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 Sedalia, Marshall, Boonville Stage Line, 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 49.74 cents per great circle aircraft mile between Shreveport, La., Texarkana, Tex., Camden and Little Rock, Ark., and Dallas, Tex., 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. Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General, American Airlines, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., Frontier Airlines, Inc., Texas International Airlines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final 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 the fair and reasonable rate of compensation to be paid to Sedalia, Marshall, Boonville Stage Line, 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 Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General, American Airlines, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., Frontier Airlines, Inc., and Texas International Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-15231; Filed, Nov. 10, 1970; 8:49 a.m.]

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 18948]

TECHNICAL AND OPERATIONS SPECIFICATIONS FOR RADAR INSTALLATIONS ON CERTAIN VESSELS

Order Extending Time for Filing Comments

Amendment of Part 83 to include technical and operations specifications for radar installations on vessels of 1600 gross tons and upward.

1. The above-captioned notice of inquiry (FCC 70-898), which was released on August 31, 1970 (35 F.R. 14109), provided for the submission of comments on or before October 9, 1970. The Central Committee on Communications Facilities of the American Petroleum Institute has filed a request for extension of time within which to file comments.

2. The Central Committee requests a 60-day extension on the grounds that the proposed amendment requires the development of highly technical information and that additional time is needed in order to coordinate the development of the Central Committee's response with the various petroleum industry users which rely on marine vessels in their operation.

3. The Commission is not unmindful of the problems associated with preparing and coordinating an industrial associations comments, especially where, as in this case, the notice of inquiry covers complex technical proposals requiring detailed examination by the affected maritime industry. A 60-day extension of time would not unduly delay the proceeding, and the additional time appears warranted. In view of the foregoing: *It is ordered*, That the time for filing comments in this proceeding is extended to December 9, 1970.

4. This action is taken pursuant to authority contained in section 4(i) and 5(d)(1) of the Communications Act of 1934, as amended, and § 0.331(b)(4) of the Commission's rules.

Adopted: November 4, 1970.

Released: November 6, 1970.

[SEAL] JAMES E. BARR,
Chief, Safety and Special Radio Services Bureau.

[F.R. Doc. 70-15207; Filed, Nov. 10, 1970; 8:47 a.m.]

STANDARD BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on December 15, 1970, the applications for increase in daytime power of Class IV standard broadcast stations listed below will be considered as ready and available for processing.

The purpose of this notice is not to invite applications which may conflict with the listed applications, but to apprise any party in interest who desires to file pleadings concerning any of the applications pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, of the necessity of complying with § 1.580(i) of the Commission's rules governing the time of filing and other requirements relating to such pleadings.

Adopted: November 4, 1970.

Released: November 6, 1970.

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

BP-18755	WWWC, Wilkesboro, N.C. Wilkes County Radio. Has: 1240 kc., 100 w., U. Req: 1240 kc., 250 w., 500 w.-LS, U.
BP-18916	KSUN, Bisbee, Ariz. Bisbee Broadcasters, Inc. Has: 1230 kc., 250 w., U. Req: 1230 kc., 250 w., 1 kw.-LS, U.
BP-18917	WSTU, Stuart, Fla. WSTU, Inc. Has: 1450 kc., 250 w., U. Req: 1450 kc., 250 w., 1 kw.-LS, U.

[F.R. Doc. 70-15203; Filed, Nov. 10, 1970; 8:47 a.m.]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on December 15, 1970, the following standard broadcast application will be considered as ready and available for processing:

BP-18816 NEW, Fairbanks, Alaska. Big Country Radio, Inc. Req.: 970 kc., 5 kw., U.

Pursuant to § 1.227(b)(1), § 1.591(b) and Note 2 to § 1.571 of the Commission's rules,[1] an application, in order to be considered with the above application must be in direct conflict with said application, substantially complete, and tendered for filing at the offices of the Commission by the close of business on December 14, 1970.

The attention of any party in interest desiring to file pleadings concerning the application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time of filing and other requirements relating to such pleadings.

Adopted: November 4, 1970.

Released: November 6, 1970.

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

[F.R. Doc. 70-15209; Filed, Nov. 10, 1970; 8:47 a.m.]

FEDERAL MARITIME COMMISSION

U.S. ATLANTIC AND GULF-RED SEA AND GULF OF ADEN RATE AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

William L. Hamm, Secretary, U.S. Atlantic and Gulf-Red Sea and Gulf of Aden Rate Agreement, 25 Broadway, New York, N.Y. 10004.

Agreement No. 8630-5, among the member lines of the U.S. Atlantic and Gulf-Red Sea and Gulf of Aden Rate Agreement, amends the basic agreement by changing the designation of present Clause 3 to Clause 5 and adding (1) a new Clause 3(a) providing that three-fourths (¾) of the parties to the agreement shall form a quorum at any meeting and no meeting shall be held unless a quorum is present; (2) a new Clause 3(b) providing (a) that all action within the scope of the agreement, other than changes in the agreement and action by telephone polls which require unanimity, shall be taken by unanimous consent of all members when the membership consists of less than three members, and by two-thirds (⅔) vote of the members when the membership consists of three or more members, and (b) that each carrier under the agreement shall have the right to alter for itself any rate, charge, classification, amount of brokerage and/or compensation to forwarders and conditions of payment thereof, practice or related tariff matter upon giving at least forty-eight (48) hours advance notice thereof to the other carriers, provided that this right shall not apply to project rates and shall only apply to the ports of Port Sudan and Jeddah; and (3) a new Clause 4 which does not apply to the ports of Port Sudan and Jeddah, providing that the carriers may declare rates on specified commodities to be "open" and may thereafter declare rates thereon to be "closed", and provided further that the agreement tariff shall indicate the commodities on which rates have been declared "open" and the extent to which the carriers have relinquished control over the booking and transportation thereof.

Dated: November 6, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-15232; Filed, Nov. 10, 1970; 8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. E-7573]

BOSTON EDISON CO.

Notice of Proposed Rate Changes

NOVEMBER 2, 1970.

Take notice that on October 15, 1970, Boston Edison Co., tendered for filing proposed changes in FPC Rate Schedules Nos. 41-42 and 43, to become effective as of October 1, 1970, covering the sale of energy to Montaup Electric Co., NEGEA Service Corp. and Public Service of New Hampshire. The proposed change in rates is the addition of a fuel adjustment clause which based upon 300 hours per month usage would increase charges for applicable sales by approximately $836,000 annually.

Boston Edison Co. states that the reason for the proposed rate increase is the unsettled fuel oil market and recent requirements of the Commonwealth of Massachusetts and the city of Boston that, effective October 1, 1970, no oil with a sulphur content greater than 1 percent be burned within the area of metropolitan Boston which embraces Boston Edison's Mystic, L-Street and New-Boston generating stations.

Copies of the filing have been served on customers and interested State regulatory agencies.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 27, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-15170; Filed, Nov. 10, 1970; 8:45 a.m.]

[Docket No. E-7558]

CAROLINA POWER AND LIGHT CO. ET AL.

Order Suspending Certain Tendered Rate Schedules, Accepting Other Tendered Rate Schedules for Filing, Instituting Investigations, Granting Waiver of Notice Requirements, and Providing for Hearing; Correction

NOVEMBER 3, 1970.

In F.R. Doc. 70-14421 appearing at page 16709 in the issue for Wednesday,

[1] See report and order released July 18, 1968, FCC 68-739, Interim Criteria to Govern Acceptance of Standard Broadcast Applications, 33 F.R. 10343, 13 R.R. 2d 1667.

October 28, 1970, the following material should be included in Appendix A:

APPENDIX A

RATE SCHEDULE DESIGNATIONS

Filing Date: July 10, 1970

Designation	Instrument date	Instrument
Carolina Power & Light Co., Supplement No. 2 to Rate Schedule FPC No. 92 (Cancels Rate Schedule FPC No. 92 and exhibits and supplement thereto).	7-10-70	Notice of cancellation.
Duke Power Co., Supplement No. 2 to Rate Schedule FPC No. 148 (Cancels Rate Schedule FPC No. 148 and exhibits and supplement thereto).	7-10-70	Notice of cancellation.
South Carolina Electric & Gas Co., Supplement No. 2 to Rate Schedule FPC No. 26 (Cancels Rate Schedule FPC No. 26 and exhibits and supplement thereto).	7-10-70	Notice of cancellation.
Virginia Electric & Power Co., Supplement No. 2 to Rate Schedule FPC No. 72 (Cancels Rate Schedule FPC No. 72 and exhibits and supplement thereto).	7-10-70	Notice of cancellation.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-15169; Filed, Nov. 10, 1970; 8:45 a.m.]

[Docket No. CP71-122]

NORTHERN NATURAL GAS CO.

Notice of Application

NOVEMBER 2, 1970.

Take notice that on October 22, 1970, Northern Natural Gas Co. (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed in Docket No. CP71-122 an application pursuant to section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing the construction and operation of three emergency service interconnections with Great Lakes Gas Transmission Co. (Great Lakes), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to establish permanent interconnections with Great Lakes near Carlton, Minn.; Grand Rapids, Minn.; and Wakefield, Mich., to provide standby security during emergency situations. Natural gas would be delivered on an exchange basis during periods of emergency only.

The application states that applicant and Great Lakes are currently negotiating an Emergency Service Exchange Agreement whereby natural gas would be delivered on an exchange basis by either party to the other during emergency situations to assure maintenance of adequate service to the customers of applicant or Great Lakes as the case may be.

Applicant states that the estimated cost of the proposed interconnections is $295,000, which will be financed from cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 23, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-15171; Filed, Nov. 10, 1970; 8:45 a.m.]

[Project 96]

PACIFIC GAS AND ELECTRIC CO.

Notice of Application for New License for Constructed Project

NOVEMBER 3, 1970.

Public notice is hereby given that application for new license has been filed under section 15 of the Federal Power Act (16 U.S.C 791a-825r) by Pacific Gas and Electric Co. (correspondence to: J. F. Roberts, Jr., Vice President-Rates and Valuation, Pacific Gas and Electric Co., 245 Market Street, San Francisco, Calif. 94106) for its constructed Kerckhoff Project No. 96, located on the San Joaquin River in Fresno and Madera Counties, Calif., and affecting lands of the United States within the Sierra National Forest and other lands of the United States. The project is about 50 miles from Fresno, Madera, and Merced. The present license for the project expires on December 1, 1972.

The Kerckhoff Project consists of: (1) Kerckhoff Dam, a concrete arch structure, with a crest length of 507 feet at elevation 994.5 feet which is largely taken up by a spillway, with crest at elevation 971.34 feet, surmounted by 14 radial gates 14 feet 4 inches high by 20 feet long (the dam also contains three 72-inch diameter sluice gates at elevation 900.14 feet); (2) Kerckhoff Lake with a gross storage capacity of 4,252 acre-feet and a surface area of 160 acres at elevation 985 feet; (3) an intake structure, within the lake; (4) a tunnel about 17,000 feet in length leading from the intake structure to the penstocks; (5) three penstocks, each about 900 feet long, leading to a powerhouse; (6) a powerhouse containing three turbines, each rated at 15,000 hp., connected to three generators, each rated at 13,348 kw.; (7) three transformer banks (consisting of one 3 phase and eight single phase 6.6/115 kv. transformers); (8) two 115 kv. transmission lines, one extending 46 miles west to Le Grande Substation and the other extending 28 miles south to Sanger Substation, and (9) all other facilities and interests appurtenant to operation of the project. Applicant purposes that because of new construction planned in 1973, the present project transmission lines, (8) above, will be altered as follows: (1) The line to Le Grande Substation will terminate at Oakhurst Junction, thereby shortening the length of line under license; and (2) the line to Sanger Substation will be tapped to Clovis Junction, thereby changing its route and length under license. Applicant states that while recreational use of the project is limited, due to the area, climate and availability of other recreation sources, Applicant proposes construction within 5 years of a 16-unit picnic area and cartop boat launching site at Kerckhoff Lake.

According to the application: (1) Project power is integrated into Applicant's interconnected transmission and distribution systems; ((2) the estimated net investment in the project to be at about $3,200,000 as of December 31, 1969, which is less than its estimate of fair value; (3) no estimate of severance damages is furnished in the event of "takeover" by the United States; and (4) annual taxes paid to State and local government agencies are estimated to amount to about $143,600.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 30, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-15172; Filed, Nov. 10, 1970; 8:45 a.m.]

[Dockets Nos. CP64-165, CP65-120]

TENNESSEE GAS PIPELINE CO.

Notice of Petition To Amend

NOVEMBER 3, 1970.

Take notice that on October 26, 1970, Tennessee Gas Pipeline Co. (petitioner), Post Office Box 2511, Houston, Tex. 77001, filed in Dockets Nos. CP64-165 and CP65-120 a petition to amend the orders of the Commission in said dockets so as to authorize a reallocation of gas service among the service areas of one of petitioner's customers, Berkshire Gas Co. (Berkshire), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Petitioner states that it was authorized by the Commission's orders in Docket No. CP64-165 and in Docket No. CP65-120 dated July 13, 1964 and March 30, 1965, respectively, inter alia, to serve Berkshire a maximum daily quantity (MDQ) of 6,750 Mcf for its North Adams Service Area and an MDQ of 9,300 Mcf for its Pittsfield Service Area, each sale being under petitioner's Rate Schedule G-6.

Petitioner further states that Berkshire, by letter dated October 15, 1970, has requested that petitioner permanently transfer 425 Mcf of the aforementioned quantity authorized for the North Adams Service Area to the Pittsfield Service Area commencing with the 1970-71 winter. Following such transfer, Berkshire's MDQ for the North Adams Service Area would be 6,325 Mcf and for the Pittsfield Service Area would be 9,725 Mcf. There will be no increase in the total maximum daily contract quantity of Berkshire.

Petitioner here requests that the Commission amend its orders issued July 13, 1964, in Docket No. CP64-165 and March 30, 1965, in Docket No. CP65-120 to authorize petitioner to render natural gas service under its Rate Schedule G-6 to Berkshire commencing November 1, 1970, for the North Adams and Pittsfield Service Areas in the volumes set forth above.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 23, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-15173; Filed, Nov. 10, 1970; 8:45 a.m.]

[Docket No. CP71-125]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

NOVEMBER 2, 1970.

Take notice that on October 27, 1970, Transcontinental Gas Pipe Line Corp. (applicant), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP71-125 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities for the transportation and sale of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to construct and operate 35.52 miles of 30-inch pipeline loop and 5,500 additional horsepower at existing Compressor Station No. 62, all on applicant's Southeast Louisiana Gathering System. The application states that the added capacity to be provided by the proposed facilities will enable applicant to take into its system additional quantities of gas expected to become available from presently authorized sources of supply, and will provide additional flexibility in this gathering system.

Applicant states that the total estimated cost of the proposed facilities is $13,430,000, which will be financed initially through short-term loans and available cash, with long-term financing to be accomplished at a later date.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 23, 1970, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-15174; Filed, Nov. 10, 1970; 8:45 a.m.]

ATOMIC ENERGY COMMISSION

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

FOR THE STATE OF MARYLAND

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

FOR THE ATOMIC ENERGY COMMISSION

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 radioactive 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 prgoram 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-1SA.
1—Eberline Model PAC-1S.
(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 Planchett 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.]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

COVE HOLLOW COAL CO. 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 received as follows:

(1) ICP Docket No. 10077, Cove Hollow Coal Co., No. 1 Mine, USBM ID No. 44 00462 0, Grundy, Buchanan County, Va., Section ID No. 001 (Sec. No. 1).

(2) ICP Docket No. 10194, Smith-Baker Coal Co., USBM ID No. 44 00947 0, Hurley, Buchanan County, Va., Section ID No. 001 (Second left off one Main).

(3) ICP Docket No. 10662, Amherst Coal Co., Luncale No. 1 Mine UG, USBM ID No. 46 01365 0, Lundale, Logan County, W. Va., Section ID No. 003 (Road 523).

(4) ICP Docket No. 11108, Freeman Coal Mining Corp., Orient No. 3 Mine, USBM ID No. 11 00600 0, Waltonville, Jefferson County, Ill., Section ID No. 001 (27 North West North), Section ID No. 015 (8 North East North), Section ID No. 017 (Main North), Section ID No. 018 (10 North East North), Section ID No. 019 (9 North East North).

(5) ICP Docket No. 10658, Amherst Coal Co., MacGregor No. 7 Mine UG, USBM ID No. 46 01370 0, Lundale, Logan County, W. Va., Section ID No. 001 (Road 3), Section ID No. 003 (Road 131), Section ID No. 004 (Road 143).

(6) ICP Docket No. 10659, Amherst Coal Co., Paragon Mine UG, USBM ID No. 46 01367 0, Lundale, Logan County, W. Va., Section ID No. 001 (Road 353), Section ID No. 002 (Road 563), Section ID No. 004 (Road 194), Section ID No. 005 (Road 42).

(7) ICP Docket No. 10660, Amherst Coal Co., No. 4H Mine UG, USBM ID No. 46 01364 0, Lundale, Logan County, W. Va., Section ID No. 001 (Road 159), Section ID No. 002 (Road 181), Section ID No. 003 (Road 188).

(8) ICP Docket No. 10657, Amherst Coal Co., Yolyn No. 2 Mine UG, USBM ID No. 46 01360 0, Lundale, Logan County, W. Va., Section ID No. 001 (Road 3).

(9) ICP Docket No. 10437, Union Carbide Corp., Putnam Mine, USBM ID No. 46 01619 0, Leon, Mason County, W. Va., Section ID No. 001 (North Left), Section ID No. 002 (North Right), Section ID No. 003 (East Left), Section ID No. 005 (South Left), Section ID No. 006 (South Right).

(10) ICP Docket No. 10271, Kentucky Carbon Corp., Kencar No. 1 Mine, USBM ID No. 15 02107 0, Phelps, Pike County, Ky., Section ID No. 002 (East Mains).

(11) ICP Docket No. 10004, Clayton Coal Co., Lincoln Mine, USBM ID No. 05 00305 0, Erie, Weld County, Colo., Section ID No. 001 (First South West off of

Main South), Section ID No. 002 (Third North off of Main East).

In acordance 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.

NOVEMBER 6, 1970.

[F.R. Doc. 70-15192; Filed, Nov. 10, 1970; 8:46 a.m.]

EASTERN ASSOCIATED COAL 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 received as follows:

(1) ICP Docket No. 10333, Eastern Associated Coal Corp., Harris No. 2 Mine, USBM ID No. 46 01270 0, Bald Knob, Boone County, W. Va., Section ID No. 001 (7 Bt. Rt. off 1 East Mains), Section ID No. 004 (2 Bt. Rt. off North Mains).

(2) ICP Docket No. 10961, Peabody Coal Co., River Queen Underground Mine, USBM ID No. 15 02070 0, Central City, Muhlenberg County, Ky., Section ID No. 001 (1st N off 3d E off South Mains), Section ID No. 003 (2d SE panel off 2d NE Mains), Section ID No. 005 (2d NE Mains), Section ID No. 006 (3d SE panel off 2d NE Mains), Section ID No. 004 (4th SE panel off 2d NE Mains), Section ID No. 002 (5th SE panel off 2d NE Mains).

(3) ICP Docket No. 10728, Peabody Coal Co., Ken No. 4 Underground Mine, USBM ID No. 15 02079 0, Beaver Dam, Ohio County, Ky., section ID No. 001 (6th East off Main South), Section ID No. 002 (8th East off Main South), Section ID No. 005 7th East off Main South), Section ID No. 006 (13th West off Main South).

(4) ICP Docket No. 11181, Freeman Coal Mining Corp., Orient No. 4 Mine, USBM ID No. 11 00628 0, Pittsburg, Williamson County, Ill., Section ID No. 010 (6 North off Northwest).

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.

NOVEMBER 6, 1970.

[F.R. Doc. 70-15190; Filed, Nov. 10, 1970; 8:46 a.m.]

FREEMAN COAL MINING 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 received as follows:

(1) ICP Docket No. 11109, Freeman Coal Mining Corp., Orient No. 6 Mine, USBM ID No. 11 00599 0, Waltonville, Jefferson County, Ill., Section ID No. 001 (Main East off Main North), Section ID No. 002 (8 North off Main East), Section ID No. 004 (6 North off Main East), Section ID No. 010 (4 North off Main West), Section ID No. 011 (5 North off Main West).

(2) ICP Docket No. 10074, Linda Jay Coal Co., No. 1 Mine, USBM ID No. 44 01621, Grundy, Buchanan County, Va., Section ID No. 001 (Sec. No. 1).

(3) ICP Docket No. 10391, Pocahontas Fuel Co., Maitland Mine, USBM ID No. 46 01409 0, Welch, McDowell County, W. Va., Section ID No. 001 (Carswell Mains A), Section ID No. 002 (4th Left), Section ID No. 003 (Carswell Mains B), Section ID No. 004 (4th Right), Section ID No. 005 (North Diagonal), Section ID No. 006 (No. 3 Seam).

(4) ICP Docket No. 10318, Winding Gulf Coals, Inc., Eccles No. 5 Mine, USBM ID No. 46 01516 0, Eccles, Raleigh County, W. Va., Section ID No. 003 (5 Left—4 Mains).

(5) ICP Docket No. 10322, Winding Gulf Coals, Inc., McAlpin Mine, USBM ID No. 46 00517 0, McAlpin, Raleigh County, W. Va., Section ID No. 002 (6 Panel—East Mains), Section ID No. 005 (7 Panel—East Mains).

(6) ICP Docket No. 10323, Winding Gulf Coals, Inc., No. 4 Mine, USBM ID No. 46 01515 0, East Gulf, Raleigh County, W. Va., Section ID No. 007 (3 Panel—4 Rt).

(7) ICP Docket No. 10324, Winding Gulf Coals, Inc., East Gulf Mine, USBM ID No. 46 00513 0, East Gulf, Raleigh County, W. Va., Section ID No. 001 (8 Panel—1 North), Section ID No. 004 (14 Left—No. 1 Mains).

(8) ICP Docket No. 10317, Winding Gulf Coals, Inc., Eccles No. 6 Mine, USBM ID No. 46 01514 0, Eccles, Raleigh County, W. Va., Section ID No. 001 (6 Rt.—2 North), Section ID No. 003 (8 Rt.—2 North), Section ID No. 004 (1 North Back).

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.

NOVEMBER 5, 1970.

[F.R. Doc. 70-15195; Filed, Nov. 10, 1970; 8:46 a.m.]

JEWELL RIDGE COAL 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 received as follows:

(1) ICP Docket No. 10362, Jewell Ridge Coal Corp. (S & S Coal Co. CT-238-J), USBM ID No. 44 01627 0, Jewell Valley, Buchanan County, Va., Section ID No. 001 (East Mains).

(2) ICP Docket No. 10297, Superior Island Creek Coal Co., Mine No. 2 USBM ID No. 46 00528 0, Omar, Logan County, W. Va., Section ID No. 001 (1st Right).

(3) ICP Docket No. 10218, Old Ben Coal Corp., Mine No. 21, USBM ID No. 11 00588 0, Sesser, Franklin County, Ill., Section ID No. 002 (1st through 8th East South Entries), Section ID No. 003 (39th, 40th, 41st North Panel Off 8th East North), Section ID No. 006 (1st through 7th West North Entry Pillars), Section ID No. 009 (42d, 43d, 44th North Panel Off 8th East North).

(4) ICP Docket No. 10217, Old Ben Coal Corp., Mine No. 24, USBM ID No. 11 00589 0, Benton, Franklin County, Ill., Section ID No. 009 (9th-18th East South Cross Entry Groups), Section ID No. 011 (28th, 29th, 30th North Panel Off 9th West South), Section ID No. 012 (1st, 2d, 3d, West Panel Off 63d North, 1st West South), Section ID No. 013 (31st, 32d, 33d, South Panel, Off 17th West South), Section ID No. 016 (10th, 11th, 12th North Panel Off 9th East South).

(5) ICP Docket No. 10216, Old Ben Coal Corp., Mine No. 26, USBM ID No. 11 00590 0, Sesser, Franklin County, Ill.,

Section ID No. 002 (12th through 20th East South Cross Entry Group), Section ID No. 003 (1st through 11th East South Cross Entry Group), Section ID No. 005 (10th, 11th, 12th, South Panel off 11th East South).

(6) ICP Docket No. 10990, Bethlehem Mines Corp. (Delaware), Mine No. 41, USBM ID No. 46 01427 0, Barrackville, Marion County, W. Va., Section ID No. 002 ("B-Butts"), Section ID No. 003 (No. 1 North), Section ID No. 004 (Main North).

(7) ICP Docket No. 10214, Kings Station Coal Corp., Kings Mine, USBM ID No. 12 00323 0, Princeton, Gibson County, Ind., Section ID No. 004 (Main Northwest Cross Entry), Section ID No. 006 (Main North Entry).

(8) ICP Docket No. 10653, Westmoreland Coal Co., Osaka Mine No. 2, USBM ID No. 44 00299 0, Stonega, Wise County, Va., Section ID No. 001 (No. 1 Right, 4 Face), Section ID No. 002 (No. 6 Left, 4 Face), Section ID No. 005 (No. 6 Face Right or No. 8 Right).

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.

NOVEMBER 6, 1970.

[F.R. Doc. 70-15191; Filed, Nov. 10, 1970; 8:46 a.m.]

MOUNTAINEER COAL CO. 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 received as follows:

(1) ICP Docket No. 10239, Mountaineer Coal Co., Williams Mine, USBM ID No. 46 01319 0, Fairmont, Marion County, W. Va., Section ID No. 001 (No. 4 South—Sec. A), Section ID No. 002 (No. 4 South—Sec. B), Section ID No. 003 (No. 3 North), Section ID No. 004 (No. 4 North), Section ID No. 007 (No. 11 North—Sec. A), Section ID No. 009 (Main West).

(2) ICP Docket No. 10113, Itmann Coal Co., No. 4 Mine, USBM ID No. 46 01577 0, Itmann, Wyoming County, W. Va., Section ID No. 020 (East Mains 5 Panel), Section ID No. 021 (East Mains).

(3) ICP Docket No. 10111, Itmann Coal Co., Itmann No. 2 Mine, USBM ID No. 46 01540 0, Itmann, Wyoming County, W. Va., Section ID No. 011 (Poll Green 7 Panel), Section ID No. 012 (Poll Green Mains).

(4) ICP Docket No. 10078, Slate Creek Coal Co., No. 1 Mine, USBM ID No. 44 00938 0, Grundy, Buchanan County, Va., Section ID No. 001 (No. 1).

(5) ICP Docket No. 10117, Pocahontas Fuel Co., Turkey Gap, USBM ID No. 46 01433 0, Dott, Mercer County, W. Va., Section ID No. 001 (Chrysler), Section ID No. 002 (Camp Creek), Section ID No. 003 (1st Right Ford), Section ID No. 005 (Ford Mains).

(6) ICP Docket No. 10112, Itmann Coal Co., No. 3 Mine, USBM ID No. 46 01576 0, Itmann, Wyoming County, W. Va., Section ID No. 013 (Cabin Creek 1 Panel), Section ID No. 015 (South Mains 1 Panel), Section ID No. 016 (West Mains 1 Panel), Section ID No. 017 (West Mains 2 Panel), Section ID No. 018 (Cabin Creek 2 Panel).

(7) ICP Docket No. 10118, Pocahontas Fuel Co., Kepler Mine, USBM ID No. 46 01544, Pineville, Wyoming County, W. Va., Section ID No. 001 (Intake South), Section ID No. 002 (Return South), Section ID No. 003 (West Headings), Section ID No. 004 (South Mains).

(8) ICP Docket No. 10116, Pocahontas Fuel Co., Buckeye Mine, USBM ID No. 46 01546 0, Stephenson, Wyoming County, W. Va., Section ID No. 001 (Four Mains), Section ID No. 003 (Three Right Panel).

(9) ICP Docket No. 10115, Pocahontas Fuel Co., Lynco Mine, USBM ID No. 46 01237 0, Lynco, Wyoming County, W. Va., Section ID No. 001 (Hernshaw No. 2 Mains), Section ID No. 002 (Hernshaw No. 2, 1 Right).

(10) ICP Docket No. 10114, Pocahontas Fuel Co., Lynco Mine, USBM ID No. 46 01545 0, Lynco, Wyoming County, W. Va., Section ID No. 002 (A-9), Section ID No. 003 (Alma), Section ID No. 004 (Eagle).

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.

NOVEMBER 5, 1970.

[F.R. Doc. 70-15194; Filed, Nov. 10, 1970; 8:46 a.m.]

PEABODY COAL CO. 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 received as follows:

(1) ICP Docket No. 10964, Peabody Coal Co., Ken No. 3 Underground, USBM ID No. 15 02078 0, Beaver Dam, Ohio County, Ky., Section ID No. 003 (3d East off Main North), Section ID No. 004 (2d West off Main North).

(2) ICP Docket No. 10395, Pocahontas Fuel Co., Crane Creek No. 1 Mine, USBM ID No. 46 01442 0, Pocahontas, Tazewell County, Va., Section ID No. 001 (C Mains).

(3) ICP Docket No. 10393, Pocahontas Fuel Co., Jenkinjones Mine, USBM ID No. 46 01412 0, Pocahontas, Tazewell County, Va., Section ID No. 002 (6-1 Haulway), Section ID No. 003 (5 Mains), Section ID No. 004 (Laurel Headings).

(4) ICP Docket No. 10392, Pocahontas Fuel Co., Laurel No. 2 Mine, USBM ID No. 44 01484 0, Pocahontas, Tazewell County, Va., Section ID No. 001 (Laurel No. 2).

(5) ICP Docket No. 10389, Pocahontas Fuel Co., Elkhorn Mine, USBM ID No. 46 01585 0, Pocahontas, Tazewell County, Va., Section ID No. 001 (Mains).

(6) ICP Docket No. 10387, Pocahontas Fuel Co., Eckman No. 12 Mine, USBM ID No. 46 01583 0, Pocahontas, Tazewell County, Va., Section ID No. 001 (Mains Right A).

(7) ICP Docket No. 10386, Pocahontas Fuel Co., Eckman-Page Mine, USBM ID No. 46 01584 0, Pocahontas, Tazewell County, Va., Section ID No. 001 (West Mains), Section ID No. 002 (North Mains).

(8) ICP Docket No. 10385, Pocahontas Fuel Co., Eckman No. 11 Mine, USBM ID No. 46 01410 0, Pocahontas, Tazewell County, Va., Section ID No. 001 (Mains Left), Section ID No. 002 (Mains Right).

(9) ICP Docket No. 11295, the Powellton Co., Jane Ann No. 17 Mine, USBM ID No. 46 01390 0, Mallory, Logan County, W. Va., Section ID No. 001 (East Mains).

(10) ICP Docket No. 10254, Pittsburgh Coal Co., Montour No. 4 Mine, USBM ID No. 36 00966 0, Library, Pa., Section ID No. 002 (4 North Right off 2 West), Section ID No. 009 (5 Bt. 1 North), Section ID No. 010 (2 Bt. 1 North).

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.

NOVEMBER 6, 1970.

[F.R. Doc. 70-15193; Filed, Nov. 10, 1970; 8:46 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

GENERAL INSTRUMENT CORP.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of July 24, 1970, the U.S. Tariff Commission made a report of the results of an investigation (TEA-W-21) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of production and maintenance workers of the F. W. Sickles Division, General Instrument Corp., Chicopee and Ludlow, Mass. In this report, the Commission being equally divided, made no finding with respect to whether articles like or directly competitive with the electrical components and apparatus and allied products produced by the F. W. Sickles Division are, as result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers at the plants concerned. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended to accept the findings of those Commissioners who found injury as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation. Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 35 F.R. 16068; 29 CFR Part 90). After due consideration, I make the following certification:

Those production and maintenance workers of the F. W. Sickles Division, General Instrument Corp., located at Chicopee and at Ludlow, Mass., who became or will become unemployed or underemployed after October 18, 1968, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 4th day of November 1970.

HERBERT N. BLACKMAN,
Deputy Assistant Secretary for Trade and Adjustment Policy.

[F.R. Doc. 70-15201; Filed, Nov. 10, 1970; 8:47 a.m.]

Wage and Hour Division

CERTIFICATES AUTHORIZING EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 595 (31 F.R. 12981), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly rates lower than the minimum wage rates otherwise applicable under section 6 of the act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base year.

Auerbach's, variety-department store; 2457 Washington Boulevard, Ogden, Utah; 9-2-71.

Boulevard Food Store, foodstore; 1021 Nebraska Street, Sioux City, Iowa; 9-2-71.

Buehler Markets, foodstore; 2315 N Street, Omaha, Nebr.; 9-2-71.

Buy Rite, Inc., foodstore; 308 South Silver, Paola, Kans.; 9-14-70 to 9-2-71.

Charlies Market, foodstore; George, Iowa; 9-14-70 to 9-9-71.

Cowan Grocery, foodstore; 232 Trade Street, Tryon, N.C.; 9-4-71.

The Dixie Store, variety-department store; 415-17 Chickasha Avenue, Chickasha, Okla.; 8-22-71.

Edward's Inc., variety-department stores, 9-7-71: 917 Bay Street, Beaufort, S.C.; 517 King Street, Charleston, S.C.; Saint Andrews Shopping Center, Charleston, S.C.; Pinehaven Shopping Center and 2018 Reynolds Avenue, Charleston Heights, S.C.; 324-6 Laurel Street, Conway, S.C.; 929 Front Street, Georgetown, S.C.; 819 Kings Highway Extended, Myrtle Beach, S.C.; 10-18 North Main Street, Sumter, S.C.; 201 Wichman Street, Walterboro, S.C.

Fairview Planting Co., agriculture; Wilson, Ark.; 8-25-71.

Garrison Memorial Hospital, hospital; Garrison, N. Dak.; 9-3-71.

W. T. Grant Co., variety-department stores: No. 589, Newport, Vt., 9-2-71; No. 647, Jacksonville, Fla., 9-11-71.

R. Guinan and Co., variety-department store; 117 South Oak Street, Mount Carmel, Pa.; 9-2-71.

H. E. B. Food Store, foodstores, 9-2-71: No. 27, Alice, Tex.; No. 73, Aransas Pass, Tex.; Nos. 30, 31, 32, 33, 34, 45, 51, and 79, Austin, Tex.; No. 10, Beeville, Tex.; Nos. 1, 14, and 15, Brownsville, Tex.; Nos. 17, 19, 21, 23, 35, 37, 46, and 65, Corpus Christi, Tex.; No. 80, Cuero, Tex.; No. 88, Del Rio, Tex.; No. 9, Donna, Tex.; No. 75, Eagle Pass, Tex.; No. 6, Edinburg, Tex.; No. 78, El Campo, Tex.; Nos. 3, 55, and 77, Harlingen, Tex.; No. 89, Kerrville, Tex.; No. 72, Killeen, Tex.; No. 26, Kingsville, Tex.; Nos. 8 and 16, Laredo, Tex.; No. 7, McAllen, Tex.; No. 4, Mercedes, Tex.; No. 13, Mission, Tex.; No. 62, New Braunfels, Tex.; No. 12, Pharr, Tex.; No. 11, Raymondville, Tex.; No. 24, Refugio, Tex.; No. 22, Robstown, Tex.; Nos. 40, 41, 42, 43, 44, 47, 48, 49, 52, 53, 57, 60, 66, 68, and 69, San Antonio, Tex.; No. 2, San Benito, Tex.; No. 63, San Marcos, Tex.; No. 29, Taft, Tex.; No. 71, Temple, Tex.; No. 74, Uvalde, Tex.; Nos. 25 and 28, Victoria, Tex.; Nos. 50, 70, 76, and 87, Waco, Tex.; No. 5, Weslaco, Tex.; No. 81, Yoakum, Tex.

IGA Foodliner, foodstore; 905 South Main, Carrollton, Mo.; 9-2-71.

Thomas Kilpatrick & Co., variety-department store; 42d and Center Streets, Omaha, Nebr.; 9-2-71.

S. S. Kresge Co., variety-department stores, 9-2-71, except as otherwise indicated: No. 66, Bridgeport, Conn.; No. 4608, Meriden, Conn.; No. 33, New Haven, Conn.; No. 291, New London, Conn.; No. 651, New London, Conn. (9-14-71); No. 590, Waterbury, Conn.; No. 358, Wilmington, Del.; No. 742, St. Petersburg, Fla.; No. 4628, Burlington, Iowa; Nos. 71 and 542, Des Moines, Iowa; No. 100, Dubuque, Iowa; No. 559, Iowa City, Iowa (9-11-70 to 9-2-71); No. 210, Marshalltown, Iowa; No. 692, Mason City, Iowa; No. 163, Sioux City, Iowa; No. 152, Waterloo, Iowa; No. 697, Wichita, Kans.; No. 341, Forrestville, Md. (9-10-71); No. 165, Boston, Mass.; No. 532, Boston, Mass.; No. 63, Brockton, Mass.; No. 653, Cambridge, Mass.; No. 294, Lynn, Mass.; No. 255, Quincy, Mass.; No. 28, Springfield, Mass. (9-14-71); No. 89, Hannibal, Mo.; No. 82, Kansas City, Mo.; No. 58, St. Joseph, Mo.; Nos. 24, 461, 601, and 4585, St. Louis, Mo.; No. 4616, Springfield, Mo.; No. 11, Webster Groves, Mo.; No. 326, Omaha, Nebr.; No. 639, Baden, Pa.; No. 476, Levittown, Pa.; Nos. 289, 438, and 528, Philadelphia, Pa.; No. 379, Philadelphia, Pa. (9-16-71); No. 182, Pittsburgh, Pa. (9-8-71); No. 492, Springfield, Pa.; No. 67, Williamsport, Pa.; No. 671, Rapid City, S. Dak. (9-11-70 to 9-2-71).

McCroy-McLellan-Green Stores, variety-department stores, 9-2-71, except as otherwise indicated: No. 239, Fort Smith, Ark. (8-26-71); No. 287, Clearwater, Fla.; No. 1003, Coral Gables, Fla. (9-10-70 to 9-2-71); No. 270 Fort Lauderdale, Fla.; No. 130, Fort Myers, Fla.; No. 245, Homestead, Fla.; No. 173, Kissimee, Fla.; No. 157, Lake City, Fla.; No. 1313, Lake Wales, Fla.; No. 97, Lakeland, Fla. (9-10-70 to 9-2-71); No. 259, Leesburg, Fla. (9-7-71); No. 74, Miami, Fla.; No. 61, Orlando, Fla.; No. 150, Plant City, Fla.; No. 171, St. Petersburg, Fla. (9-7-71); No. 324, St. Petersburg, Fla.; No. 69, Sanford, Fla. (9-10-70 to 9-2-71); No. 111, Tallahassee, Fla.; No. 329 Titusville, Fla. (9-17-71); No. 244, Winter Haven, Fla.; No. 1130, Albany, Ga.; No. 191, Atlanta, Ga.; No. 1211, Atlanta, Ga. (9-14-70 to 9-2-71); No. 1107, Columbus, Ga. (9-10-70 to 9-2-71); No. 1219, Columbus, Ga. (9-4-71); No. 428, Dalton, Ga. (9-18-71); No. 327, East Point, Ga. (9-10-70 to 9-2-71); No. 412, Gainesville, Ga.; No. 433, Griffin, Ga.; No. 435, Marietta, Ga.; No. 176, Savannah, Ga.; No 424, Thomasville, Ga.; No. 209, Valdosta, Ga. (9-11-71); No. 303, Waycross, Ga. (9-10-70 to 9-2-71); No. 569, Fort Dodge, Iowa (9-11-70 to 9-2-71); No. 560, Mason City, Iowa (9-15-70 to 9-2-71); No. 470, Topeka, Kans. (9-15-70 to 9-2-71); No. 298, Lafayette, La. (9-3-70 to 8-2-71); No. 664, Lynn, Mass. (9-17-71); No. 542, Albuquerque, N. Mex. (9-12-71); No. 485, Hobbs, N. Mex. (9-9-71); No. 700, Albemarle, N.C.; No. 406, Concord, N.C.; No. 306, Fort Bragg, N.C.; No. 1140, Kinston, N.C.; No. 427, Lexington, N.C. (9-10-70 to 9-2-71); No. 699, New Bern, N.C.; No. 1141, Reidsville, N.C.; No. 402, Washington, N.C. (9-10-70 to 9-2-71); No.

410, Wilson, N.C. (9–4–71); No. 1127, Winston-Salem, N.C.; No. 1083, Oklahoma City, Okla.; No. 633, Pryor, Okla. (9–13–71); No. 164, Aiken S.C.; No. 161, Chester, S.C. (9–17–71); No. 1104, Columbia, S.C. (9–10–70 to 9–2–71); No. 1108, Greenville, S.C. (9–17–70 to 9–2–71); No. 1135, Spartanburg, S.C. (9–10–70 to 9–2–71); No. 415, Sumter, S.C.; No. 1004, Dallas, Tex. (9–9–71); No. 241, Galveston, Tex.; No. 533, McAllen, Tex. (9–9–71); No. 216, Wichita Falls, Tex.

Minimax, foodstores: 1552 Palm Boulevard, Brownsville, Tex., 9–4–71; 200 North 10th Street, McAllen, Tex., 9–5–71.

Model Food Market, foodstore; North Hills Shopping Center, North Little Rock, Ark.; 8–22–71.

Neisner Brothers, Inc., variety-department stores, 9–2–71: No. 162, Cocoa, Fla.; No. 158, Fort Lauderdale, Fla.; No. 99, Gainesville, Fla.; No. 175, Key West, Fla.; No. 21, Miami, Fla.; No. 40, Pompano Beach, Fla.; No. 174, Port Charlotte, Fla.; No. 157, Tallahassee, Fla.; Nos. 146 and 147, Tampa, Fla.; No. 59, St. Louis, Mo.; No. 70, Omaha, Nebr.; No. 131, Brownsville, Tex.; No. 75, Corpus Christi, Tex.; No. 45, Laredo, Tex.; Nos. 120, 141, and 160, San Antonio, Tex.

J. J. Newberry Co., variety-department stores, 9–2–71, except as otherwise indicated: No. 417, Ellsworth, Maine; No. 264, Farmington, Maine; No. 311, Madawaska, Maine; No. 351, Norway, Maine; No. 238, Rockland, Maine (9–7–71); No. 715, Norfolk, Nebr. (9–14–70 to 9–2–71); No. 278, Huron, S. Dak.; No. 66, El Paso, Tex.; No. 202, El Paso, Tex. (9–7–71); No. 91, Barre, Vt. (9–4–71).

Piggly Wiggly, foodstores, 9–2–71, except as otherwise indicated: No. 1, Panama City, Fla. (9–8–70 to 9–2–71); Nos. 1 and 2, Columbus, Ga.; No. 66, Great Falls, S.C. (8–24–71); Nos. 1 and 2, Lamesa, Tex.

Randle's IGA, foodstore; Eureka, Utah; 9–14–70 to 9–9–71.

Rodenberg's Inc., foodstores, 8–23–71: Nos. 1 and 4, Charleston, S.C.; No. 3, Charleston Heights, S.C.

Roodhouse Search Food Stores, Inc., foodstores; West Clay Street, Roodhouse, Ill.; 8–24–71.

Roth's Department Store, variety-department store; 100 East Third Street, Mount Vernon, Ind.; 8–27–71.

Rusty's Food Centers Inc., variety-department store; Ninth and Iowa, Lawrence, Kans.; 9–2–71.

Speckarts Fine Foods, foodstore; 69 North 100 East, Provo, Utah; 8–25–71.

Super Duper Food Center, foodstores: South Third and Sayles Boulevard, Abilene, Tex., 9–14–71; 300 Hailey Street, Sweetwater, Tex., 9–2–71.

T.G. & Y. Stores Co., variety-department stores, 9–2–71, except as otherwise indicated: No. 155, Kansas City, Kans.; No. 143, Mission, Kans.; No. 158, Independence, Mo.; No. 163, Jefferson City, Mo.; No. 132, Kansas City, Mo.; No. 13, Anadarko, Okla.; No. 31 Bartlesville, Okla.; No. 6, Clinton, Okla.; No. 43, Cushing, Okla. (8–23–71); Elk City, Okla.; No. 57, Muskogee, Okla.; No. 35, Ponca City, Okla.; No. 53, Shawnee, Okla.

Tynes & McPherson, Inc., variety-department store; Monticello, Miss.; 9–3–70 to 8–2–71.

Weeks, Inc., foodstore; 505 South Santa Fe, Salina, Kans.; 9–2–71.

Younker Brothers, Inc., variety-department stores, 9–2–71; 323 Main Street, Ames, Iowa; 503 Merle Hay Plaza and Seventh Walnut Street, Des Moines, Iowa; 217–239 South 25th Street, Fort Dodge, Iowa; 111 East Washington, Iowa City, Iowa; 22–24 Main Street, Marshalltown, Iowa; 101 South Federal Mason City, Iowa; 118 High Street West, Oskaloosa, Iowa; 129 East Main Street, Ottumwa; Iowa; Fourth and Pierce, Sioux City, Iowa.

The following certificates were issued to establishments relying on the base-year employment experience of other establishments, either because they came into existence after the beginning of the applicable base-year or because they did not have available base-year records. The certificates permit the employment of full-time students at rates of not less than 85 percent of the statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

Byrd's, Inc. foodstore; 304 East Main Street, Carrboro, N.C.; bagger, carryout, janitorial, stock clerk, cashier, 18 percent; 10–2–71.

Cooper's, apparel store; 227 West Coal Avenue, Gallup, N. Mex.; salesclerk, stock clerk, office clerk, gift wrapper; 5 to 18 percent; 8–28–71.

Dickinson Service Drug Inc., drugstore; Dickinson, N. Dak.; clerk, restaurant helper, janitorial; 10 to 73 percent; 9–15–70 to 9–9–71.

Don's Model Market, foodstore; Levy Shopping Center, North Little Rock, Ark.; sacker, carryout, stock clerk; 15 percent; 8–22–71.

Edward's Inc., variety-department stores, for the occupations of salesclerk, stock clerk, checker, lay away clerk, marker, 9 to 16 percent, 9–7–71, except as otherwise indicated: Mitchell Shopping Center, Aiken, S.C. (4 to 18 percent); Hampton Place Shopping Center, Greenwood, S.C.; 159 Broughton Street NW, Orangeburg, S.C.

Fine Bros.-Matison Co., variety-department store; 328 Front Street, Laurel, Miss.; salesclerk, gift wrapper, stock clerk; 0.3 to 11 percent; 8–22–71.

W. T. Grant Co., variety-department store; No. 599, Mableton, Ga.; salesclerk; 0.1 to 12 percent; 9–13–71.

H. E. B. Food Store, foodstores, for the occupations of bottle clerk, sacker, package clerk, 10 percent, 9–2–71: No. 36, Austin, Tex.; No. 82, Bay City, Tex.; No. 99, Bellmead, Tex.; No. 93, Belton, Tex.; Nos. 18, 92, 101, 102, 103, 107, and 108, Corpus Christi, Tex.; No. 95, Del Rio, Tex.; No. 85, Falfurrias, Tex.; No. 112, Hondo, Tex.; No. 113, Lampasas, Tex.; No. 100, Laredo, Tex.; No. 84, McAllen, Tex.; No. 20, Port Lavaca, Tex.; No. 96, Rockport, Tex.; Nos. 58, 59, 83, and 90, San Antonio, Tex.; No. 97, Seguin, Tex.; No. 56, Taylor, Tex.; No. 54, Waco, Tex.; No. 91, Wharton, Tex.

J & S Enterprise Market, foodstore; Hawk Point, Mo.; stock clerk, carryout; 13 to 36 percent; 8–25–70 to 7–13–71.

King Mart, foodstore; 1301 East Levee Street, Brownsville, Tex.; stock clerk, checker, carryout, janitorial; 9 to 11 percent; 9–5–71.

S. S. Kresge Co., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, checker-cashier, 9–2–71, except as otherwise indicated: No. 4088, Colorado Springs, Colo., 9 to 16 percent (9–19–71); No. 4121, Denver, Colo., 28 to 59 percent (8–31–71); No. 259, Waterbury, Conn., 10 percent (salesclerk); No. 745, Carol City, Fla., 7 to 21 percent (salesclerk); No. 4551, Chicago, Ill., 16 to 42 percent (salesclerk, office clerk, checker-cashier, stock clerk, maintenance); No. 170, Cedar Rapids, Iowa, 3 to 10 perent; No. 4584, Clinton, Iowa, 0.7 to 14 percent (8–30–71); No. 4156, Urbandale, Iowa, 10 to 24 percent (8–20–71); No. 197, Salina, Kans., 7 to 15 percent; No. 4222, Shawnee Mission, Kans., 5 to 10 percent (9–15–70 to 9–12–71); No. 4581, Fitchburg, Mass., 10 percent (salesclerk); No. 49, Kansas City, Mo., 13 to 20 percent; No. 4220, Kansas City, Mo., 5 to 10 percent (8–25–71); No. 771, Billings, Mont., 18 to 30 percent (9–17–70 to 9–2–71); No. 4063, Charlotte, N.C., 11 to 22 percent (salesclerk); No. 4251, Charlotte, N.C., 11 to 22 percent (checker-cashier, salesclerk, 9–24–71); No. 4182, Greensboro, N.C., 11 to 22 percent (salesclerk, checker-cashier, 9–16–71); No. 4335, Kannapolis, N.C., 11 to 22 percent (salesclerk, stock clerk, office clerk, checker-cashier, maintenance, customer service, 9–29–71); No. 4022, Grand Forks, N. Dak., 6 to 14 percent; No. 4544, Minot, N. Dak., 13 to 22 percent (salesclerk); No. 129, Philadelphia, Pa., 3 to 10 percent (salesclerk); No. 4013, Bayton, Tex., 7 to 27 percent (salesclerk, 9–11–71); No. 761, Fort Worth, Tex., 7 to 10 percent (salesclerk).

Lerner Shops, apparel stores: No. 195, Mobile, Ala., salesclerk, cashier, credit clerk, 5 to 21 percent, 8–23–71; No. 196, West Palm Beach, Fla., salesclerk, stock clerk, cashier, credit clerk, 9 to 19 percent, 10–18–71.

McCall's Greenleaf Grocery, foodstore; 301 South Porter Street, Norman, Okla.; bagger, checker, clerk, carryout; 19 to 31 percent; 9–17–71.

McCrory-McLellan-Green Stores, variety-department stores, for the occupations of salesclerk, office clerk, stock clerk, 9–2–71, except as otherwise indicated: No. 350, Deerfield Beach, Fla., 13 to 27 percent (salesclerk, office clerk, 9–10–71); No. 371, Fort Lauderdale, Fla., 13 to 26 percent (8–2–71); No. 342, Fort Myers, Fla., 6 to 15 percent (9–10–70 to 9–2–71); No. 347, Leesburg, Fla., 7 to 24 percent; No. 365, Melbourne, Fla., 10 to 30 percent; No. 344, Mount Dora, Fla., 7 to 24 percent; No. 359, Dalton, Ga., 7 to 24 percent (9–18–71); No. 557, Thomson, Ga., 7 to 28 percent (9–19–71); No. 343, Hadley, Mass., 7 to 15 percent (9–7–71); No. 646, Pascagoula, Miss., 6 to 31 percent (salesclerk, stock clerk, check out, 8–26–71); No. 706, Albuquerque, N. Mex., 0 to 40 percent (salesclerk, office clerk, janitorial).

Magic Mart, Inc., variety-department stores, for the occupations of salesclerk, stock clerk, janitorial: Highway 84 and Locust Street, Caruthersville, Mo., 6 to 31 percent, 8–22–71; 620 South Grove, Marshall, Tex., 17 to 40 percent, 9–2–71.

Marstaller Grocery and Market, Inc., foodstore; 3344 Franklin, Waco, Tex.; bagger, checker, janitorial, stock clerk, bottle clerk; 10 percent; 9–1–71.

Dick Millett's Market, foodstore; 820 North 700 East, Provo, Utah; stock clerk, cashier; 26 to 33 percent; 9–15–70 to 9–9–71.

Minimax, foodstore; 1001 South Broadway, La Porte, Tex., bagger, carryout, janitorial, checker; 8 to 10 percent, 8–25–71.

M. E. Moses Co., variety-department store; 515 Westcliff Mall, Dallas, Tex.; salesclerk, checker, stock clerk; 19 to 50 percent; 9–16–71.

G. C. Murphy Co., variety-department stores, for the occupations of salesclerk, office clerk, stock clerk, janitorial, 10 to 28 percent, 9–2–71, except as otherwise indicated: No. 283, Abilene, Tex.; No. 173, Austin, Tex. (9–4–71); No. 219, Fort Worth, Tex.; No. 294, Odessa, Tex.; No. 283, Texarkana, Tex.

Neisner Bros., Inc., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, 10 to 29 percent, 9–2–71, except as otherwise indicated: No. 135, Arcadia, Fla. (9–15–71); No. 192, Avon Park, Fla.; No. 188, Brandon, Fla. (salesclerk, stock clerk, 4 to 10 percent); No. 183, Dade City, Fla.; No. 197, DeLand, Fla. (8 to 17 percent); No. 80, Deltona, Fla. (8 to 17 percent, 9–18–71); No. 179, Lake City, Fla. (salesclerk, 8 to 17 percent); No. 196, Marathon, Fla. (salesclerk, stock clerk, 7 to 17 percent); No. 187, New Port Richey, Fla.; No. 184, Palmetto, Fla. (salesclerk); No. 79, South Miami, Fla. (17 to 29 percent, 9–18–71); No. 189, Stuart, Fla.; No. 194, Tallahassee, Fla. (4 to 17 percent); No. 204, Burlington, Iowa (salesclerk, stock clerk, office clerk, maintenance, 4 to 23 percent); No. 168, Spencer, Iowa (salesclerk, stock clerk, maintenance, 4 to 20 percent); No. 180, Del Rio, Tex. (6 to 14 percent).

J. J. Newberry Co., variety-department store; No. 595, Mitchell, S. Dak.; stock clerk, salesclerk; 6 to 16 percent; 9-2-71.

Parisian Mercantile Corp., variety-department store; 205 Morley Avenue, Nogales, Ariz.; salesclerk, marker, gift wrapper; 1 to 12 percent; 9-3-70 to 8-31-71.

Piggly Wiggly, foodstores: 3808 Summerville Road, Phenix City, Ala., bagger, bottler, carryout, janitorial, 10 to 12 percent, 8-31-71; Candor, N.C., bagger, checker, stock clerk, 20 percent, 8-18-71.

Pleezing Food Store of West Florida, foodstore; No. 3, Pensacola, Fla.; bagger, stock clerk, checker, market counter helper; 8 to 18 percent; 9-13-71.

Rodenberg's, Inc., foodstores, for the occupations of bagger, carryout, 10 percent: No. 6, Charleston, S.C., 9-21-70 to 9-4-71; No. 7, Charleston, S.C., 8-25-70 to 8-23-71; No. 5, Mount Pleasant, S.C., 8-25-70 to 8-23-71.

Rogers Department Store, Inc., variety-department store; 959 28th Street SW., Wyoming, Mich.; salesclerk, stock clerk, wrapper, marker; 8 percent; 9-1-71.

Rose's Stores, Inc., variety-department store; No. 178, Alexander City, Ala.; window trimmer, marker, checker, order writer, stock clerk, salesclerk; 13 to 32 percent; 9-8-71.

Rusty's Food Centers, Inc., foodstore; 620 North Second Street, Lawrence, Kans.; bagger, courtesy clerk, carryout; 12 to 20 percent; 9-2-71.

Super Duper Food, foodstore; 802 Pine Street, Abilene, Tex.; bagger, clerk; 6 to 10 percent; 8-31-71.

T.G. & Y. Stores Co., variety-department stores, for the occupations of office clerk, salesclerk, stock clerk, except as otherwise indicated: No. 248, Pine Bluff, Ark., 11 to 34 percent, 9-1-71 (salesclerk, stock clerk); No. 780, Iverness, Fla., 2 to 17 percent, 9-17-71; No. 746, New Iberia, La., 6 to 22 percent, 8-24-71; No. 159, Columbia, Mo., 5 to 30 percent, 9-2-71; No. 151, Gladstone, Mo., 22 to 39 percent, 8-23-71; No. 454, Hannibal, Mo., 14 to 30 percent, 9-2-71; No. 152, Parkville, Mo., 22 to 31 percent, 9-15-70 to 9-11-71; No. 280, Belen, N. Mex., 13 to 24 percent, 8-26-71; No. 288, Espanola, N. Mex., 13 to 24 percent, 8-27-71; No. 65, Enid, Okla., 22 to 25 percent, 9-2-71; No. 30, Midwest City, Okla., 7 to 30 percent, 9-2-71; No. 444, Tulsa, Okla., 24 to 30 percent, 9-10-71; No. 402, Dimmitt, Tex., 14 to 30 percent, 8-26-71; No. 844, Houston, Tex., 30 percent, 9-11-71; No. 809, Texas City, Tex., 30 percent, 8-27-71.

Tarboro Crest Stores Co., variety-department store; Tarboro Shopping Center, Tarboro, N.C.; salesclerk, stock clerk; 10 to 45 percent; 9-30-71.

Terry Farris, variety-department store; Lackland City Drive, San Antonio, Tex.; salesclerk, stock clerk, office clerk, janitorial; 10 to 28 percent; 9-4-71.

Warshaw's Giant Foods, foodstore; 5520 Van Winkle Expressway, Salt Lake City, Utah; bagger, carryout; 26 to 33 percent; 9-15-70 to 9-9-71.

Younker Brothers, Inc., variety-department stores, for the occupations of stock clerk, messenger, delivery clerk, marker, office clerk, salesclerk, wrapper, porter, cleanup, 9-2-71, except as otherwise indicated: Middle and Kimberley Roads, Bettendorf, Iowa, 9 to 16 percent; 4444 First Avenue NE., Cedar Rapids, Iowa, 2 to 9 percent; 1550 East Douglas, Des Moines, Iowa, 5 to 10 percent (stock clerk, wrapper, messenger, porter, marker, cleanup, office clerk, delivery clerk); 1501 First Avenue East, Newton, Iowa, 0.6 to 8 percent; 1950 Grand Avenue North, Spencer, Iowa, 0 to 8 percent.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 29th day of October 1970.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[F.R. Doc. 70-15183; Filed, Nov. 10, 1970; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Rev. S.O. 1002; Rev. Car Distribution Direction 91]

BALTIMORE AND OHIO RAILROAD CO. AND PITTSBURGH AND SHAWMUT RAILROAD CO.

Car Distribution

Pursuant to section 1 (15) and (17) of the Interstate Commerce Act and authority vested in me by Interstate Commerce Commission Revised Service Order No. 1002.

It is ordered, That:

(1) Each common carrier by railroad subject to the Interstate Commerce Act shall comply with the following distribution directions:

(a) The Baltimore and Ohio Railroad Co. shall deliver to the Pittsburgh and Shawmut Railroad Co. a weekly total of 50 empty B. & O. serviceable open top hopper cars for return loading to the B. & O.

It is further ordered, That the rate of delivery specified in this direction shall be maintained within weekly periods ending each Sunday at 11:59 p.m., so that at the end of each 7 days the full delivery required for that period shall have been made.

It is further ordered, That cars applied under this direction shall be so identified on empty car cards, movement slips, and interchange records as moving under the provisions of this direction.

(b) The carrier delivering the empty open top hopper cars must advise Agent R. D. Pfahler on or before each Wednesday as to the number of cars, covered by this direction, delivered during the preceding week, ending each Sunday at 11:59 p.m.

(c) The carrier receiving the cars described above must advise Agent R. D. Pfahler on or before each Wednesday as to the number of cars received during the preceding week, ending each Sunday at 11:59 p.m.

(2) Regulations suspended. The operation of all rules and regulations, insofar as they conflict with the provisions of this direction, is hereby suspended.

(3) Effective date. This direction shall become effective at 12:01 a.m., November 8, 1970.

(4) Expiration date. This direction shall expire at 11:59 p.m., November 22, 1970, unless otherwise modified, changed, or suspended by order of this Commission.

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

Issued at Washington, D.C., November 5, 1970.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[F.R. Doc. 70-15219; Filed, Nov. 10, 1970; 8:48 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 6, 1970.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42074—*Ethylene dichloride from points in Louisiana and Texas.* Filed by Southwestern Freight Bureau, agent (No. B-190), for interested rail carriers. Rates on ethylene dichloride, in tank carloads, as described in the application, from specified points in Texas and Louisiana, to Chicago, Ill., and points taking same rates, also Lemont, Ill.

Grounds for relief—Related commodity relationship.

Tariffs—Supplements 237 and 29 to Southwestern Freight Bureau, agent, tariffs ICC 4668 and 4899, respectively.

By the Commission.

[SEAL] ROBERT OSWALD,
Secretary.

[F.R. Doc. 70-15218; Filed, Nov. 10, 1970; 8:48 a.m.]

[Notice 27]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 6, 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 1515 (Deviation No. 566), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed October 27, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From junction U.S. Highway 45 and U.S. Highway 45 Bypass 2 miles north of Mayfield, Ky., over U.S. Highway 45 Bypass to junction of the Jackson Purchase Parkway, thence over the Jackson Purchase Parkway to junction U.S. Highway 45 Bypass north of Fulton, Ky., thence over U.S. Highway 45 Bypass to junction U.S. Highway 51, with the following access routes: (1) From Mayfield, Ky., over U.S. Highway 45 to junction U.S. Highway 45 Bypass; (2) from Mayfield, Ky., over Kentucky Highway 80 to junction U.S. Highway 45 Bypass; (3) from Fulton, Ky., over U.S. Highway 51 to junction U.S. Highway 45 Bypass; and (4) from Fulton, Ky., over U.S. Highway 51 and U.S. Highway 45W to junction U.S. Highway 45 Bypass, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Vienna, Ill., over U.S. Highway 45 via Paducah, Ky., to Fulton, Ky., thence over U.S. Highway 51 to Jackson, Miss., and return over the same route.

By the Commission.

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

[F.R. Doc. 70-15225; Filed, Nov. 10, 1970, 8:49 a.m.]

[Notice 36]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 6, 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 40719 (Deviation No. 3), PAYNE FREIGHT LINES, INC., 1515 Main Street, Des Moines, Iowa 50314, filed October 28, 1970. Carrier's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Des Moines, Iowa, over Interstate Highway 235 to junction Interstate Highway 80, thence over Interstate Highway 80 to Omaha, Nebr., 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 Des Moines, Iowa, over Iowa Highway 60 to junction Interstate Highway 35, thence south over Interstate Highway 35 to junction Iowa Highway 92, thence west over Iowa Highway 92 to junction U.S. Highway 169, thence south over U.S. Highway 169 to Mount Ayr, Iowa; and (2) from Tingley, Iowa, over Iowa Highway 259 to junction U.S. Highway 169, thence over U.S. Highway 169 to Afton, Iowa, thence over U.S. Highway 34 to junction U.S. Highway 275, thence over U.S. Highway 275 to Council Bluffs, Iowa, thence across the Missouri River to Omaha, Nebr., and return over the same routes.

No. MC 63823 (Deviation No. 1), KOLB, INC., 4216 Commercial Avenue, Omaha, Nebr. 68110, filed October 27, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From junction U.S. Highway 71 and Missouri Highway 148 (formerly Missouri Highway 27) approximately 3 miles north of Maryville, Mo., over U.S. Highway 71 to junction U.S. Highway 34; (2) from junction U.S. Highway 71 and U.S. Highway 59 at or near St. Joseph, Mo., over U.S. Highway 59 to junction U.S. Highway 34; and (3) from junction U.S. Highway 34 and U.S. Highway 59 over U.S. Highway 59 to junction Iowa Highway 92, thence over Iowa Highway 92 to junction U.S. Highway 275 at or near Council Bluffs, Iowa, and return over the same routes, 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 Lenox, Iowa, over Iowa Highway 49 to junction U.S. Highway 34, thence over U.S. Highway 34 to junction U.S. Highway 275, thence over U.S. Highway 275 to Council Bluffs, Iowa, thence across the Missouri River to Omaha, Nebr., and (2) from St. Joseph, Mo., over U.S. Highway 71 to junction Missouri Highway 148 (formerly Missouri Highway 27), thence over Missouri Highway 148 to the Missouri-Iowa State line, thence over Iowa Highway 148 via Bedford, Iowa, to Corning, Iowa, thence over U.S. Highway 34 to junction Iowa Highway 49, thence over Iowa Highway 49 to Lenox, Iowa, and return over the same routes.

By the Commission.

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

[F.R. Doc. 70-15226; Filed, Nov. 10, 1970; 8:49 a.m.]

[Notice 102]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 6, 1970.

The following publications are governed by the new § 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 123048 (Sub-No. 159) (Republication), filed August 11, 1969, published in the FEDERAL REGISTER issue of September 5, 1969, and republished this issue. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53401. Applicant's representatives: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703, and Paul L. Martinson, Post Office Box A, Racine, Wis. 53401. A decision and order of the Commission, Review Board No. 1, dated September 24, 1970, and served September 30, 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 agricultural implements and parts and attachments of agricultural implements, from Defiance, Ohio, to points in Alabama, Florida,

Georgia, Indiana, Kentucky, Michigan, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, those points in Illinois located on and south and west of a line beginning at the intersection of the Mississippi River and Interstate Highway 80 and extending along Interstate Highway 80 to its intersection with Interstate Highway 74, thence along Interstate Highway 74 to its intersection with U.S. Highway 136, thence along U.S. Highway 136 to its intersection with the Illinois-Indiana State line, and those points in Missouri located on and south of Interstate Highway 70 and on and east of U.S. Highway 63; restricted to shipments originating at Defiance, Ohio, and destined to points in states named above. 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.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 2066 (Sub-No. 2), filed October 20, 1970. Applicant: R. M. SULLIVAN TRANSPORTATION, INC., 649 Cottage Street, Springfield, Mass. 01104. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Over regular routes; between Springfield, Mass., and Chester, Mass., over U.S. Highway 20, serving all intermediate points; and (2) Over irregular routes; between points in Massachusetts. NOTE: Applicant states it would tack with its existing authority at various points in Massachusetts to provide service to and from points in New Hampshire, Rhode Island, and Connecticut. The instant application is a matter directly related to No. MC-F-10999 published in the FEDERAL REGISTER issue of October 28, 1970. If a hearing is deemed necessary, applicant requests it be held at (1) Springfield, Mass.; (2) Hartford, Conn.; (3) Albany, N.Y.; or (4) Boston, Mass.

No. MC 28536 (Sub-No. 15), filed September 9, 1970. Applicant: FOX & GINN, INC., 207 Perry Road, Bangor, Maine 04401. Applicant's representative: Richard R. Sigmon, 618 Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except household goods, classes A and B explosives, commodities in bulk, commodities injurious or contaminating to other lading, and commodities requiring special handling and equipment; (1) between Portland and Fairfield, Maine: From Portland over U.S. Highway 1 to Brunswick, Maine (also from Portland over Interstate Highway 95 to Brunswick), thence over U.S. Highway 201 to Fairfield, Maine, return over the same route, serving the intermediate and off-route points of South Portland, Falmouth, Cumberland, Randolph, Gardiner, Hallowell, Togus, Augusta, Vassalboro, Winslow, and Waterville; (2) between Portland and Fairfield, Maine: From Portland over Maine Highway 100 to junction with U.S. Highway 202; thence over U.S. Highway 202 to Augusta, Maine; thence over Maine Highway 11 to junction with U.S. Highway 201; thence over U.S. Highway 201 to Fairfield, Maine, and return over the same route, serving the intermediate and off-route points of South Portland, Cumberland, Gray, New Gloucester, Lewiston, Auburn, Greene, Monmouth, North Monmouth, Winthrop, Manchester, Augusta, Belgrade Station, Oakland and Waterville;

(3) Between Lewiston, and Rumford, Maine: From Lewiston via city streets to junction with Maine Highway 4 in Auburn, Maine; thence over Maine Highway 4 via Turner to junction with Maine Highway 108 at Livermore, Maine; thence over Maine Highway 108 to Rumford (also from Turner over Maine Highway 117 to junction with Maine Highway 140; thence over Maine Highway 140 to junction with Maine Highway 17; thence over Maine Highway 17 to junction with U.S. Highway 2; thence over U.S. Highway 2 to Rumford), and return over the same routes, serving all intermediate points and the off-route point of North Turner; (4) between Dixfield and Weld, Maine, from Dixfield over Maine Highway 142 to Weld (also from Dixfield over U.S. Highway 2 to junction with Maine Highway 156; thence over Maine Highway 156 to Weld), and return over the same routes, serving all intermediate points; (5) between Rumford and Houghton, Maine: From Rumford over city streets and bridge to Mexico, Maine; thence over Maine Highway 17 to Houghton, Maine (also from Rumford over Maine Highway 120 to junction unnumbered highway; thence via unnumbered highway and bridge to junction with Maine Highway 17 at or near Frye, Maine; thence over Maine Highway 17 to Houghton), and return over the same route, serving all intermediate points; and (6) between Rumford and Andover, Maine: From Rumford over U.S. Highway 2 via Rumford Center, to junction with Maine Highway 5 at or near Rumford Point, Maine; thence over Maine Highway 5 to junction with Maine Highway 120 at or near Andover, Maine (also from Rumford over Maine Highway 120 to Andover) (also from Rumford over U.S. Highway 2 to Rumford Center; thence over unnumbered highway via East Andover to junction with Maine Highway 120; thence over Maine Highway 120 to Andover, Maine), and return over the same routes; serving all intermediate points. NOTE: This is a matter directly related to MC-F-10943 published in FEDERAL REGISTER issue of September 16, 1970, wherein applicant seeks the rights of Fogg's Transportation, Inc., who has intrastate authority, embracing the authority sought herein. This application seeks a certificate of public convenience and necessity in lieu of a certificate of registration. If a hearing is deemed necessary, applicant requests it be held at Portland, Maine.

No. MC 108633 (Sub-No. 7), filed October 8, 1970. Applicant: BARNES FREIGHT LINE, INC., Post Office Box 369, Bankhead Highway, Carrollton, Ga. 30117. Applicant's representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (1) between Birmingham and points within 15 miles thereof on the one hand, and, on the other, Anniston and points within 10 miles thereof over U.S. Highway 78 and return over the same route, serving no intermediate points (except Pell City); (2) between Talladega, Ala., and Birmingham, Ala., from Talladega to Lincoln over Alabama Highway 77 (also U.S. Highway 231) and from Lincoln to Birmingham over U.S. Highway 78 and return over the same route; (3) between Pell City and Easonville, Ala., over Alabama Highway 53 (also U.S. Highway 231) and return over the same route; (4) between Pell City and Cropwell over Alabama Highway 53 (also U.S. Highway 231) and return over the same route; (5) between Pell City and Ragland, Ala., over Alabama Highway 53 (also U.S. Highway 231) to Wattsville, thence to Ragland over unnumbered county road and return over the same routes; and (6) between Talladega and Cropwell over Alabama Highway 34 and return over the same route and serving all intermediate points in connection with (2), (3), (4), (5), and (6) above. NOTE: This application is a matter directly related to MC-F-10981, published in the FEDERAL REGISTER issue of October 14, 1970. The instant application seeks to convert the certificate of registration of Anniston-Talladega Motor Express, Inc., MC 99635 (Sub-No. 2) into a certificate of public convenience and necessity. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–11006. Authority sought for merger into JOHNSON MOTOR LINES, INC., 2426 North Graham Street, Post Office Box 10877, Charlotte, N.C., of the operating rights and property of JOHNSON MOTOR LINES CORPORATION, 2426 North Graham Street, Post Office Box 10877, Charlotte, N.C. 28201, and for acquisition by H. BEALE ROLLINS, Sixth Floor, Title Building, Baltimore, Md. 21201, of control of such rights and property through the transaction. Applicants' attorney: Donald E. Cross, 917 Munsey Building, 1329 E Street NW., Washington, D.C. 20004. Operating rights sought to be merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Scranton, Pa., and Pottsville, Pa., serving all intermediate points, and the off-route point of Old Forge, Pa., between Scranton, Pa., and Oswego and Buffalo, N.Y., between Scranton, Pa., and Buffalo and New York, N.Y., between Scranton, Pa., and New York, N.Y., serving all intermediate points and certain off-route points, between Scranton, Pa., and New York, N.Y., and Philadelphia, Pa., serving all intermediate points, and the off-route points of Princeton and Lawrenceville, N.J., between Scranton, Pa., and Erie, Pa., serving all intermediate points and certain off-route points, between Scranton, Pa., and Fredonia and Glens Falls, N.Y., serving all intermediate points and the off-route points of Troy and Hudson Falls, N.Y., between Scranton, Pa., and Albany, N.Y., serving all intermediate points, and the off-route point of New Rochelle, N.Y., between Scranton, Pa., and Saratoga Springs, N.Y., Utica, N.Y., certain specified points in Pennsylvania, serving all intermediate points, and the off-route points of Throop and Olyphant, Pa., between Hazleton, Pa., and Allentown, Pa., serving all intermediate points, and the off-route point of Each Mauch Chunk, Pa., between Philadelphia, Pa., and Atlantic City, N.J., serving all intermediate points and the off-route points of Vineland and Collingswood, N.J.,

Between Canandaigua, N.Y., and Batavia, N.Y., serving all intermediate points, and the off-route point of Hamlin, N.Y., between Rochester, N.Y., and Buffalo, N.Y., serving all intermediate points, and the off-route point of Hamlin, N.Y., between Waterloo, N.Y., and junction New York Highways 96 and 332, serving all intermediate points and the off-route point of East Rochester, N.Y., between Mount Morris, N.Y., and Avon, N.Y., serving all intermediate points, and the off-route point of East Rochester, N.Y., between Ovid, N.Y., and Rochester, N.Y., serving all intermediate points and the off-route point of East Rochester, N.Y., between Lyons, N.Y., and Rochester, N.Y., serving all intermediate points and the off-route point of Marion, N.Y., between Tamaqua, Pa., and Molino, Pa., between Easton, Pa., and Philadelphia, Pa., serving no intermediate points but serving the off-route point of Bethlehem, Pa., between Jamestown, N.Y., and Westfield, N.Y., between junction New York Highways 365A and 5 near Oneida, N.Y., and Utica, N.Y., between Fulton, N.Y., and Rome, N.Y., between Hazleton, Pa., and Ashland, Pa., serving no intermediate points, but serving the off-route points of Mahanoy City and Shenandoah, Pa., between Port Carbon, Pa., and Harrisburg, Pa., serving no intermediate points, but serving the off-route point of Minnersville, Pa., between Homer, N.Y., and Syracuse, N.Y., between Skaneateles, N.Y., and junction New York Highways 321 and 5, serving no intermediate or off-route points, over one alternate route for operating convenience only;

Empty vehicles only, between New York, N.Y., and Philadelphia, Pa., between Rochester, N.Y., and Fulton, N.Y., between Rochester, N.Y., and junction New York Highways 31B and 5, between Geneva, N.Y., and Auburn, N.Y., serving no intermediate or off-route points; *new automobiles, new trucks, automobile show equipment, and advertising matter used in connection with the distribution and sale of motor vehicles*, in truckaway service, in secondary movements, during the season of open navigation on the Great Lakes, from Buffalo, N.Y., to Scranton, Pa., from Buffalo, N.Y., to Wilkes-Barre, Pa., from Buffalo, N.Y., to Carbondale, Pa., serving no intermediate or off-route points; *general commodities*, excepting, among others, classes A and B explosives, household goods and commodities in bulk, over irregular routes, between Corning, N.Y., on the one hand, and, on the other, points in Pennsylvania within 75 miles of Corning; *chocolate, cocoa, confectionery, chocolate coating, chocolate syrup, malt milk, and chocolate and cocoa compounds*, from Fulton, N.Y., to Chambersburg, Pa.; *rejected shipments of above described commodities*, from Chambersburg, Pa., to Fulton, N.Y. JOHNSON MOTOR LINES, INC., is authorized to operate as a *common carrier* in Massachusetts, Connecticut, Rhode Island, New Jersey, New York, Pennsylvania, Maryland, Virginia, Georgia, Mississippi, Louisiana, Florida, North Carolina, Alabama, South Carolina, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b). NOTE: JOHNSON MOTOR LINES, INC., controls JOHNSON MOTOR LINES CORPORATION (formerly RICHARDS FREIGHT LINES, INC.), through ownership of all its capital stock pursuant to authority granted in Docket No. MC–F–10091, effective October 10, 1968, and consummated December 12, 1968. Finance Docket No. 25050 is a simultaneously filing.

No. MC–F–11008. Application under section 5(1) of the Interstate Commerce Act for approval of an agreement between common carriers for the pooling of traffic. Applicants: PACIFIC INTERMOUNTAIN EXPRESS CO., 1417 Clay Street, Post Office Box 958, Oakland, Calif. 94604 (MC–730), BROWN TRANSFER COMPANY, Post Office Box 158, 1202 East 26th Street, Kearney, Nebr. 68847 (MC–107037), seeks to enter into an agreement for the pooling of traffic consisting of general commodities moving in interstate commerce between Omaha, Nebr., and points in Big Springs, Brady, Brule, Chappell, Elm Creek, Gibbon, Gothenburg, Hershey, Kearney, Lexington, Lodgepole, Maxwell, Overton, Shelton, and Wood River, Nebr. Attorney: W. S. Pilling, 1417 Clay Street, Post Office Box 958, Oakland, Calif. 94604. NOTE: PACIFIC INTERMOUNTAIN EXPRESS CO., holds authority from this Commission to operate from coast to coast.

No. MC–F–11009. Application under section 5(1) of the Interstate Commerce Act for approval of an agreement between common carriers for the pooling of traffic. Applicants: PACIFIC INTERMOUNTAIN EXPRESS CO., 1417 Clay Street, Post Office Box 958, Oakland, Calif. 94604 (MC–730), ABLER TRANSFER, INC., Post Office Box 708, Norfolk, Nebr. 68701 (MC–58973), seeks to enter into an agreement for the pooling of traffic consisting of general commodities moving in interstate commerce between Omaha, Nebr., and Sioux City, Iowa, and points in Allen, Battle Creek, Belden, Brunswick, Clearwater, Concord, Hadar, Hoskins, Jackson, Laurel, McLean, Meadow Grove, Neligh, Norfolk, Oakdale, Orchard, Osmond, Pierce, Plainview, Randolph, Royal, Scribner, Tilden, Wakefield, Waterbury, Wayne, and Winside, Nebr. Attorney: W. S. Pilling, 1417 Clay Street, Post Office Box 958, Oakland, Calif. 94604. NOTE: PACIFIC INTERMOUNTAIN EXPRESS CO., holds authority from this Commission to operate from coast to coast.

By the Commission.

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

[F.R. Doc. 70–15222; Filed, Nov. 10, 1970; 8:48 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

NOVEMBER 6, 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 § 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 and 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 Interstate Commerce Commission.

State Docket No. CPC A–2114, filed February 27, 1970. Applicant: CLARENCE E. SPICER, doing business as

SPICER STAGE, Post Office Box 1041, Tonopah, Nev. 89049. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *commodities generally and laundry*, between Tonopah, Nev., and Austin, Nev., via Manhattan and Round Mountain and all points on 8A and 50 to Austin. Both intrastate and interstate authority sought.

HEARING: Time and place not assigned. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Service Commission of Nevada, Carson City, Nev. 89701 and should not be directed to the Interstate Commerce Commission.

State Docket No. Case MT-8880, filed October 1, 1970. Applicant: DEFENDER AUTO EXPRESS, INC., 287 East Seventh Street, Mount Vernon, N.Y. 10550. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, between all points in the points in the territory comprised of New York City commercial zone and the counties of Rockland and Westchester. Corresponding ICC authority requested between Rockland County on the one hand, and, on the other, Westchester County and New York City. Both intrastate and interstate authority sought.

HEARING: Time and place to be hereafter fixed. Requests for procedural information including the time for filing protests concerning this application should be addressed to the State of New York, Public Service Commission, 44 Holland Avenue, Albany, N.Y. 12208, and should not be directed to the Interstate Commerce Commission.

State Docket No. A 52064 (Clarification), filed July 22, 1970, published in the FEDERAL REGISTER September 2, 1970, and republished in part, as clarified this issue. Applicant: LOS ANGELES CITY EXPRESS, INC., 2300 East 48th Street, Los Angeles, Calif. 90058. Applicant's representative: Alvin H. Weissman, 9700 Venice Boulevard, Culver City, Calif. 90230. The purpose of this partial republication is to delete the following words from the exceptions previously published. "classes A and B explosives." The rest of the application remains as published.

State Docket No. A-52253, filed October 16, 1970. Applicant: SOLVANG FREIGHT LINES, INC., 4701 South Eastern Avenue, Bell, Calif. 90201. Applicant's representative: Karl K. Roos, 825 City National Bank Building, 606 South Olive Street, Los Angeles, Calif. 90014. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in San Diego County, Calif., and Salinas, Calif., as follows: (1) Interstate Highway 5 between San Diego and Los Angeles; (2) U.S. Highway 101 between Los Angeles and Salinas; (3) State Highway 1 between Los Angeles and El Rio; (4) Interstate Highway 5 and State Highway 118 between Los Angeles and Ventura; (5) Interstate Highway 5 and State Highway 126 between Los Angeles and Ventura; (6) State Highway 150 between Santa Paula and Carpenteria; (7) State Highway 1 between Las Cruces and Arroyo Grande; (8) State Highways 1 and 68 between San Luis Obispo and Salinas; (9) U.S. Highway 395 and State Highways 76 and 78 between San Diego and Oceanside; and (10) Interstate Highway 8 between San Diego and El Cajon, serving all intermediate points on and along the foregoing highways; also, serving within and between that portion of the Los Angeles Basin territory described as follows: Beginning at the intersection of Sunset Boulevard and U.S. Highway 101, Alternate; thence northeasterly on Sunset Boulevard to State Highway 7; northerly along State Highway 7 to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest boundary to State Highway 39; southerly along State Highway 39 and its prolongation to the Pacific Ocean; westerly and northerly along the shore line of the Pacific Ocean to a point directly south of the intersection to a point directly south of the intersection of Sunset Boulevard and U.S. Highway 101, Alternate; thence northerly along an imaginary line to point of beginning. Both intrastate and interstate authority sought.

HEARING: Not yet assigned for hearing. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

By the Commission.

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

[F.R. Doc. 70-15224; Filed, Nov. 10, 1970; 8:49 a.m.]

[Notice 188]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 5, 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 88594 (Sub-No. 19 TA), filed November 3, 1970. Applicant: CARLETON G. WHITAKER, INC., Post Office Box 93, Route 17, Exit 84, Deposit, N.Y. 13754. Applicant's representative: Martin Werner, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and cheese spreads*, in vehicles equipped with mechanical refrigeration, from South Edmeston, N.Y., to Philadelphia, King of Prussia, and Pittsburgh, Pa., Washington, D.C., and Landover, Md., and return, for 150 days. Supporting shipper: Kraft Foods, 99 Park Avenue, New York, N.Y. 10016. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y.

No. MC 106497 (Sub-No. 50 TA), filed November 3, 1970. Applicant: PARKHILL TRUCK COMPANY, Post Office Box 912, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, Post Office Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Antipollution systems and antipollution system parts*, from points in Tulsa and Orange Counties, Okla., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: John Zink Co., 4401 South Peoria, Tulsa, Okla. 74105. Send Protests to: John V. Barry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas, City, Mo. 64106.

No. MC 109006 (Sub-No. 2 TA), filed October 30, 1970. Applicant: C. L. BIGHAM, G. W. BIGHAM, L. C. BIGHAM, AND MELVIN BIGHAM, a partnership, doing business as W. K. BIGHAM & SONS, Route 2, Box 166, Lubbock, Tex. 79415. Applicant's representative: James M. Gerdeman, 2321 50th Street, Lubbock, Tex. 79412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building*, other then those knocked down or in sections; (1) from El Paso Natural Gas Co., Aneth Camp, Utah, to El Paso, Natural Gas Cos., Ballard Camp, N. Mex.; (2) from Hale Center, Tex., to 60 miles south of Gallup, N. Mex.; and (3) between points in Colorado, Kansas, New Mexico, Oklahoma, Utah, and

Texas within 750 miles of Lefors, including Lefors, for 180 days. NOTE: This application for 750 miles is in addition to 300 miles of Lefors, Tex. Supporting shippers: Lewis Bros. Plumbing & Heating Inc., Post Office Box 1026, Gallup, N. Mex. 87301; C. L. Stogner, Stogner Construction, Box 288, Artesia, N. Mex. 88210; Craig's Ready Homes, 2102 Erskine, Lubbock, Tex. 79145; L & M Builders, Inc., 1801 Erskine, Lubbock, Tex. 79415; B & S Lumber Co. Inc., 2124 Erskine, Lubbock, Tex. 79415. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Herring Plaza, Room 1012, 317 East Third, Amarillo, Tex. 79101.

No. MC 109028 (Sub-No. 9 TA), filed November 3, 1970. Applicant: S & W TRANSFER, INC., 1050 East Bay Street, Wilwaukee, Wis. 53207. Applicant's representative: Kenneth R. Williams (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat poducts, and meat byproducts and articles distributed in meat packinghouses* as defined in sections A and C of appendix 1 to the *Report in the Descriptions Case*, from Gibbon, Nebr., to Milwaukee, Wis., and Chicago Ill., for 150 days. Supporting shipper: Peck Meat Packing Corp., 231 South Muskego Avenue, Milwaukee, Wis. 53233 (Irving Lowe, Secretary). Send protests to: District Supervisor Lyle D. Helfer, Bureau of Operations, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 116077 (Sub-No. 304 TA), filed November 2, 1970. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, 77023, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: J. C. Browder (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrochloric acid*, in bulk, in tank vehicles, from the plantsite of Kaiser Chemical Co. at or near Gramercy, La., to Thompson-Hayward Co., Jackson, Miss, for 180 days. NOTE: Applicant does not intend to tack with existing authority. Supporting shipper: Kaiser Chemicals, Kaiser Center, 300 Lakeside Drive, Post Office Box 2099, Oakland, Calif. (R. L. Weber, Traffic Manager). Send protests to: District Supervisor John C. Redus, Interstate Commerce Commission, Bureau of Operations, Post Office Box 61212, Houston, Tex. 77061.

No. MC 118838 (Sub-No. 11 TA), filed November 2, 1970. Applicant: GABOR TRUCKING, INC., Post Office Box 646, Rural Route 2, Detroit Lakes, Minn. 56501. Applicant's representative: Gene P. Johnson, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and feed ingredients*, from Albert Lea, Austin, Lurverne, Redwood Falls, and Worthington, Minn.; Dakota City, La Platte, and Omaha, Nebr.; Sioux City, Fort Dodge, Eagle Grove, Des Moines, Iowa Falls, Mason City, and Waterloo, Iowa; and Green Bay, Wis., to ports of entry on the international boundary line between the United States and Canada located in Minnesota, North Dakota, and Montana, for 180 days. Supporting shipper: The Pillsbury Co., 608 Second Avenue South, Minneapolis, Minn. 55402. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, N. Dak. 58201.

No. MC 121249 (Sub-No. 3 TA), filed October 30, 1970. Applicant: COHEN & POWELL, INCORPORATED, 105 Hamilton Street, New Haven, Conn. 06511. Applicant's representative: Sidney L. Goldstein, 109 Church Street, New Haven, Conn. 06510. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods and personal effects* restricted to shipments having an immediately prior or subsequent line haul movement by rail, motor, water, or air, beyond the points indicated below, between points in New Haven County, on the one hand, and, points in Connecticut, on the other, for 180 days. Supporting shipper: Department of the Air Force, Headquarters 99th Bombardment Wing (SAC), Westover Air Force Base, Mass. 01022. Send protests to: David J. Kiernan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 324 U.S. Post Office Building, 135 High Street, Hartford, Conn. 06101.

No. MC 134324 (Sub-No. 3 TA), filed November 3, 1970. Applicant: PACER TRANSIT CORP., 1713 Francis Street, Muskegon, Mich. 49442. Applicant's representative: William B. Elmer, 22644 Gratiot Avenue, East Detroit, Mich. 48021. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas*, in bulk, in tank vehicles, from Shell Oil Refinery at Hammond, Ind., to Muskegon, Scottville, and Hart, Mich., for 150 days. NOTE: No tacking or interlining intended. Supporting shipper: Pro-Gas Sales & Service, 1535 South Walker Road, Muskegon, Mich. 49442. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Federal Building, Room 225, Lansing, Mich. 48933.

By the Commission.

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

[F.R. Doc. 70-15220; Filed, Nov. 10, 1970, 8:48 a.m.]

[Notice 189]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 6, 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 4687 (Sub-No. 9 TA), filed November 3, 1970. Applicant: BURGESS & COOK, INC., 21 North Second Street, Post Office Box 458, Fernandina Beach, Fla. 32034. Applicant's representative: Archie B. Culbreth, Suite 417, 1252 West Peachtree Street NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyethylene or polystyrene plastic products, such as plastic garbage bags, trash can liners, food bags, produce bags, laundry and dry cleaning bags, expanded plastic foam egg cartons, meat and produce trays, paper tie bands, iron or steel store display racks, and steel refuse bag or sack holding racks or stands*, from Covington, Ga., to points in Florida, for 180 days. Supporting shipper: Mobil Chemical Co., Plastics Division, Covington, Ga. 30209. Send protests to: District Supervisor G. H. Fauss, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 40235 (Sub-No. 31 TA), filed November 3, 1970. Applicant: I.R.C. & D. MOTOR FREIGHT, INC., 128 South Second Sreet, Richmond, Ind. 47374. Applicant's representative: John Thoman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, livestock, dangerous explosives, household goods, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, serving Rushville and Arlington, Ind., as off-route in conjunction with carrier's regular operations at Connersville, Ind. Supported by: There are approximately 30 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 40915 (Sub-No. 38 TA), filed November 3, 1970. Applicant: BOAT

TRANSIT, INC., Post Office Box 1403, Newport Beach, Calif. 92663, Office: 1343 Logan Avenue, Costa Mesa, Calif. 92626. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass bathtubs and shower bathstalls*, from Santa Ana, Calif., to points in Arizona, Arkansas, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, for 150 days. Restriction: Restricted against the transportation of commodities in bulk or those which by reason of size or weight require special equipment. Supporting shipper: Tridair Industries, Kimstock, Inc. Division, 2200 South Yale Street, Santa Ana, Calif. 92704. Send protests to: Philip Yallowitz, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 59150 (Sub-No. 57 TA), filed November 3, 1970. Applicant: PLOOF TRANSFER COMPANY, INC., 1901 Hill Street, Box 47, Station G., Jacksonville, Fla. 32202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fiberboard, wood fiberboard faced or finished with decorative and/or protective material, and accessories, and supplies used in the installation thereof* (except commodities in bulk), from Evans Products Co., site at or near Doswell (Hanover County), Va., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper: Evans Products Co., 2200 East Devon Avenue, Des Plaines, Ill. 60018. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 112750 (Sub-No. 277 TA), filed November 2, 1970. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, N.Y. 11040. Applicant's representative: John M. Delaney (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments, and business records* (except currency and negotiable securities) as are used in the business of banks and banking institutions: (1) between Norfolk, Va., Newport News, Va., on the one hand, and, on the other, Raleigh and Charlotte, N.C.; (2) between points in South Carolina, on the one hand, and, on the other, Atlanta, Ga., and Richmond, Va.; (3) between Charlotte, N.C., and Atlanta, Ga.; (4) between Toledo, Ohio, on the one hand, and, on the other, Metropolitan Airport, Wayne County, Mich., and Detroit City Airport, Detroit, Mich., on traffic having an immediately prior or subsequent movement by air; and (5) between Monroe, Mich., and Toledo, Ohio, for 180 days. Supporting shippers: Virginia National Bank, Norfolk, Va.; Bank of Newport News, 2411 Jefferson Avenue, Newport News, Va.; United Virginia Bank, Seaboard National, Box 3127, Norfolk, Va. 23514; North Carolina National Bank, Post Office Box 120, Charlotte, N.C. 28201; The Citizens & Southern National Bank of South Carolina, Columbia, S.C. 29202; Monroe Bank & Trust, Monroe, Mich.; The Toledo Trust Co., Toledo, Ohio 43603. Send protests to: Anthony Chiusano, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112822 (Sub-No. 168 TA) (Amendment), filed September 30, 1970, published FEDERAL REGISTER, issue of October 10, 1970, and republished, as amended this issue. Applicant: BRAY LINES INCORPORATED, Post Office Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Joe W. Ballard (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Pine Bluff, Ark., to points in Colorado, Kansas, Missouri (except points in St. Louis County and in the St. Louis commercial zone), New Mexico, Oklahoma, and Texas, for 180 days. NOTE: The purpose of this republication is to show that the authority sought has been amended to include the State of Oklahoma as a destination State. Supporting shipper: International Paper Co., C. C. Wright, Jr., Supervisor, Post Office Box 2328, Mobile, Ala. 36601. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 114284 (Sub-No. 46 TA), filed November 3, 1970. Applicant: FOX-SMYTHE TRANSPORTATION CO., Post Office Box 82307, Stockyards Station, 1700 South Portland Avenue, Oklahoma City, Okla. 73108. Applicant's representative: Carl Smythe (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts and articles distributed by meat packinghouses* as described in appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Oklahoma City, Okla., to points in California, for 180 days. Restriction: restricted to the transportation of traffic originating at the plantsite or storage facilities of Wilson Certified Foods & Frisco Packing Co., at or near Oklahoma City, Okla., and destined to points in California, restricted against the transportation of hides and commodities in bulk. Supporting shippers: Frisco Packing Co., R. B. McKoy, 644 South Walnut, Oklahoma City, Okla.; Wilson Certified Food, Harold P. Simpsen, 4545 Lincoln Boulevard, Oklahoma City, Okla. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 124796 (Sub-No. 75 TA), filed November 3, 1970. Applicant: CONTINENTAL CONTRACT CARRIER CORP., Post Office Box 1257, 15045 East Salt Lake Avenue, City of Industry, Calif. 91747. Applicant's representative: William J. Monheim (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles and packaging supplies*, (1) from Reading, Pa., to points in states in and west of Michigan, Ohio, Kentucky, Arkansas, and Louisiana; and (2) from Michigan City, Ind., to points in the United States (except Alaska and Hawaii). Limited to a transportation service to be performed under continuing contract with W. R. Grace & Co., for 150 days. Supporting shipper: W. R. Grace & Co. Post Office Box 464, Duncan, S.C. 29334. Send protests to: John E. Nance, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 133436 (Sub-No. 3 TA), filed November 3, 1970. Applicant: DUDDEN ELEVATOR, INC., Post Office Box 60, Ogallala, Nebr. 69153. Applicant's representative: Richard A. Dudden (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and frozen foodstuffs*, (except meat products), under a continuing contract with Skyland Food Corp., from Delta, Colo., on the one hand, to points in Arizona, Arkansas, Kansas, Missouri, Nebraska, New Mexico, Oklahoma, Texas, and Utah, and return there from *such commodities, products, materials, and supplies*, as are used by manufacturers, producers, and distributors of canned goods and frozen foodstuffs under a continuing contract with Skyland Food Corp., for 180 days. Supporting shipper: Skyland Food Corp., Post Office Box 250, Delta, Colo. 81416. Send protests to: District Supervisor Johnston, Bureau of Operations, Interstate Commerce Commission, 315 Post Office Building, Lincoln, Nebr. 68508.

No. MC 134928 (Sub-No. 1 TA), filed November 3, 1970. Applicant: DONALD L. MYERS, doing business as L & D CARTAGE, Post Office Box 6338, 455 Roberts Street, Jacksonville, Fla. 32205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (usual exceptions), in shipper supplied containers or trailers, between Jacksonville, Fla., and Savannah, Ga., on the one hand, and points in Florida, Georgia, South Carolina, and Tennessee, on the other hand, with the return of the *empty or loaded containers* to Jacksonville, Fla., or Savannah, Ga., also the movement of *empty containers*, between the ports of Jacksonville, Fla., and Savannah, Ga., for 180 days. Supporting shippers: Strachan Shipping Co., Post Office Box 4010, Jacksonville, Fla. 32201; McGiffin & Co. Inc., Post

Office Box 3, 1510 Talleyrand Avenue, Jacksonville, Fla. 32201; Thomas L. Watkins, Post Office Box 1194, Jacksonville, Fla. 32201; Southeastern Maritime Co., 2701 Talleyrand Avenue, Post Office Box 1504, Jacksonville, Fla. 32201; Savannah Overseas Forwarders, Inc., 414 American Building, Post Office Box 2764, Savannah, Ga. 31402. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 135042 TA, filed November 3, 1970. Applicant: JIMMY C. TURNER, doing business as JIM TURNER & EQUIPMENT MOVING, 112 West Pepper Place, Mesa, Ariz. 85201. Applicant's representative: Paul D. Levie, 2333 North Central Avenue, Phoenix, Ariz. 85004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Specialized cooling equipment used in cooling lettuce and produce*, between points in Arizona, California, and New Mexico, for 180 days. Supporting shipper: Maricopa Cooling, Inc., 112 West Pepper Place, Mesa, Ariz. 85201. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, 3427 Federal Building, Phoenix, Ariz. 85025.

No. MC 135041 TA, filed November 3, 1970. Applicant: PAUL L. COURTNEY, Polk Street, Harpers Ferry, W. Va. 25425. Applicant's representative: Daniel B. Johnson, Perpetual Building, Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fabricated metal products*, from Ranson, Halltown, and Charles Town, W. Va., to points in New Jersey, Pennsylvania, Maryland, Delaware, the District of Columbia, Virginia, North Carolina, South Carolina and Tennessee; and (2) *fabricated metal products and materials and supplies* used in the manufacture of fabricated metal products from points in New Jersey, Pennsylvania, Maryland, Delaware, Virginia, North Carolina, South Carolina, and Tennessee to Ranson, Halltown, and Charles Town, W. Va., restricted to a transportation service to be performed under a continuing contract with Jefferson Machine Co., for 180 days. Supporting shipper: Jefferson Machine Co., Inc., Box 329, Charles Town, W. Va. 25414. Send protests to: Robert D. Caldwell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423.

By the Commission.

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

[F.R. Doc. 70-15221; Filed, Nov. 10, 1970; 8:48 a.m.]

[No. MC-16682]

MURAL TRANSPORT, INC.

Notice of Filing of Petition for Modification of Certificates

NOVEMBER 6, 1970.

Notice of filing of petition for modification of certificates, filed October 22, 1970. Petitioner: Mural Transport, Inc., Long Island City, N.Y. Petitioner's representative: S. S. Eisen, 140 Cedar Street, New York, N.Y. 10006. Petitioner presently holds certificates in Nos. MC-16682, MC-16682 (Sub-No. 66), MC-16682 (Sub-No. 68), MC-16682 (Sub-No. 71), MC-16682 (Sub-No. 72), MC-16682 (Sub-No. 74), MC-16682 (Sub-No. 75), MC-16682 (Sub-No. 76), MC-16682 (Sub-No. 78), and MC-F-10826 (Mural Transport, Inc.—Purchase—M. Morrison Trucking, Inc.), issued April 22, 1964, August 5, 1965, September 5, 1969, March 13, 1967, May 15, 1967, February 6, 1968, July 8, 1968, May 22, 1968, August 14, 1970, and August 5, 1970, respectively, authorizing operations as a common carrier by motor vehicle, over irregular routes, in the transportation of: (1) *Store fixtures*, uncrated, between points in Connecticut, Massachusetts, New Jersey, New York, and Pennsylvania, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *store fixtures and store equipment*, uncrated, (a) between points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia;

(b) Between St. Louis, Mo., and points in Illinois (except Chicago, Ill.), Indiana, Michigan, Ohio, and Wisconsin, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia; (c) between points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois (except Chicago, Ill.), Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Missouri (except St. Louis, Mo.), Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; and (d) between points in Illinois (except Chicago and points within 20 miles thereof), Indiana (except points within 20 miles of Chicago, Ill.), Michigan, Ohio, Wisconsin, and St. Louis, Mo.; (3) *hotel equipment and kitchen equipment*, uncrated; (a) between points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia;

(b) Between points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming; and (c) between points in Connecticut, Massachusetts, New Jersey, New York, and Pennsylvania, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (4) *new furniture*, (a)(1) between New York, N.Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, New Jersey, Pennsylvania, and New York; and (b) between Syracuse, Fayetteville, and Oneida, N.Y., on the one hand, and, on the other, Washington, D.C., and points in Illinois, Maryland, Massachusetts, Michigan, New Jersey, Ohio, and Pennsylvania; (5) *new furniture*, uncrated, (a) between New York and Long Island City, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Florida, Illinois, Maryland, Massachusetts, Michigan, New Jersey, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and the District of Columbia (except no service is authorized from points in Michigan, to New York and Long Island City, N.Y.);

(b) Between New York, N.Y., and points in Georgia, Indiana, Maine, and Wisconsin; (c) between Chicago, Ill., and points in Florida, Georgia, Maine, New Hampshire, North Carolina, South Carolina, Vermont, and Virginia; (d) from Fayetteville and Syracuse, N.Y., to Houston, Tex., Oklahoma City, Okla., Memphis and Nashville, Tenn., New Haven, Conn., St. Louis, Mo., Milwaukee, Wis., and point in California and Florida, with no transportation for compensation on return except as otherwise authorized; and (e) from Fayetteville, N.Y., to points in Virginia and Georgia with no transportation for compensation on return except as otherwise authorized; (6) *such new furniture and new houshold furnishings*, uncrated, as are dealt in by retail furniture and department stores and dealers, when transported on the delivery instructions of such stores or dealers, between New York, N.Y., on the one hand, and, on the other, points in Alabama, Kentucky, Mississippi, Tennessee, and West Virginia; (7) *new and used furniture* (uncrated), other than store fixtures, and hotel and kitchen equipment, between New York, N.Y., on the one hand, and, on the other, points in Florida; (8) *new store, office, and hospital fixtures and equipment*, between Chicago, Ill., and points within 20 miles of Chicago, Ill., on the one hand, and, on

the other, St. Louis, Mo., and points in Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio, and Wisconsin;

(9) *Household goods* as defined by the Commission, between points in the New York, N.Y., commercial zone, as defined by the Commission, on the one hand, and, on the other, points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Virgina, West Virginia, and the District of Columbia; and between New York, N.Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, New Jersey, Pennsylvania, and New York; (10) *ranges and stoves, and range and stove parts,* crated, between New York, N.Y., on the one hand, and, on the other, points in Florida, Georgia, Illinois, Indiana, Maine, Michigan, New Hampshire, North Carolina, Ohio, South Carolina, West Virginia, Vermont, Alabama, Kentucky, Mississippi, Missouri, Tennessee, Texas, Wisconsin, and Louisiana; (11) *store fixtures* as described in appendix III to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, (a) from St. Louis, Mo., to points in Arkansas and Iowa; and (b) from Beatrice, Nebr., to points in Arkansas, Idaho, Iowa, Montana, North Dakota, Oklahoma, Oregon, South Dakota, Washington, and Wyoming; and (c) *damaged or defective shipments of store fixtures,* which carrier has previously delivered, from the two next above-specified destination points, to their respective origin points;

(12) *New furniture and new store and office fixtures and equipment,* uncrated (except new office and business machines), from points in Texas, to points in the United States (except Alaska and Hawaii), with no transportation for compensation on return except as otherwise authorized: (13) *new furniture,* uncrated, and *store and office fixtures and equipment* (except office and business machines), uncrated, (a) from points in Arkansas, to points in the United States (except Alaska and Hawaii), with no transportation for compensation on return except as otherwise authorized; (b) from points in Colorado, to points in Minnesota, Iowa, Missouri, Arkansas, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Nevada, Washington, Oregon, California, and that part of Louisiana west of the Mississippi River, with no transportation for compensation on return except as otherwise authorized; (c) from Oklahoma City, Okla., to points in California, Arizona, New Mexico, Texas, Kansas, Missouri, Arkansas, Louisiana, Alabama, Mississippi, Florida, and Tennessee, with no transportation for compensation on return except as otherwise authorized; (14) *store and office fixtures and kitchen equipment,* restricted so as not to include the transportation of gas ranges are a part of a shipment of store or office fixtures or kitchen equipment, between New York, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia;

(15) *Store and office fixtures and kitchen equipment,* uncrated, between New York, N.Y., on the one hand, and, on the other, points in Virginia, West Virginia, Georgia, North Carolina, South Carolina, Florida, and Ohio; (16) *store and office fixtures and equipment, and new furniture,* between Flemington, N.J., on the one hand, and, on the other, points in Delaware, New York, Pennsylvania, Maryland, Ohio, and the District of Columbia; (17) *new furniture, new store fixtures and equipment, and new kitchen equipment,* from points in Tennessee and Kentucky to points in the United States, except Alaska and Hawaii, with no transportation for compensation on return except as otherwise authorized; (18) *office furniture and equipment, and store fixtures,* between points in Cuyahoga County, Ohio, on the one hand, and, on the other, St. Louis, Mo., Covington, Ky., and points in Kentucky within 10 miles of Covington, those in Ohio, Indiana, Illinois, Pennsylvania, West Virginia, New York, Connecticut, Massachusetts, and New Jersey, and those in Michigan on and south of Interstate Highway 94 (formerly U.S. Highway 12); (19) *store fixtures and office furniture,* between points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia;

(20) *Such commodities,* as are dealt in by persons engaged in the manufacture or sale of store fixtures and office furniture, uncrated, between New York, N.Y., on the one hand, and, on the other, points in Virginia on and east of U.S. Highway 15; (21) *new and used store and office furniture, and equipment,* between New York, N.Y., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Ohio, West Virginia, North Carolina, South Carolina, and that part of Virginia west of U.S. Highway 15; (22) *uncrated store fixtures and uncrated hotel and restaurant equipment,* between points in the New York, N.Y., commercial zone, as defined by the Commission, on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia; (23) *musical instruments,* except pianos, and household appliances, new and used, uncrated, other than those transported as a part of a household goods movement, as defined by the Commission, between points in the Philadelphia, Pa., commercial zone, as defined by the Commission, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont Massachusetts, Rhode Island, Connecticut, Ohio, Missouri, Kansas, Arkansas, Texas, Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Tennessee, Kentucky, West Virginia, Virginia, Illinois, Indiana, and Michigan, and points in Pennsylvania west of a line beginning at the Pennsylvania-New York State line, and extending along U.S. Highway 11 to Lemoyne, Pa., thence along Interstate Highway 83 (formerly portion U.S. Highway 111) to York, Pa., thence along unnumbered highway (formerly portion U.S. Highway 111) through Jacobus, Loganville and Shrewsbury, Pa., to the Pennsylvania-Maryland State line, and points in that part of New York north and west of a line beginning at the New York-Massachusetts State line, and extending along New York Highway 2 to Troy, N.Y., and thence along New York Highway 7 to the New York-Pennsylvania State line;

(24) *Uncrated new furniture and new office and store furnishings,* between points in the Philadelphia, Pa., commercial zone, as defined by the Commission, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Missouri, Kansas, Arkansas, Texas, Louisiana, Mississippi. Alabama, Florida, Georgia, South Carolina, North Carolina, Tennessee, Kentucky, West Virginia, and Virginia, and points in Pennsylvania west of a line beginning at the Pennsylvania-New York State line, and extending along U.S. Highway 11 to Lemoyne, Pa., thence along Interstate Highway 83 (formerly portion U.S. Highway 111) to York, Pa., thence along unnumbered highway (formerly portion U.S. Highway 111) through Jacobus, Loganville and Shrewsbury, Pa., to the Pennsylvania-Maryland State line, and points in that part of New York north and west of a line beginning at the New York-Massachussets State line, and extending along New York Highway 2 to Troy, N.Y., and thence along New York Highway 7 to the New York-Pennsylvania State line; (25) *vending machines and show cases,* between points in the Philadelphia, Pa., commercial zone, as defined by the Commission, on the one hand, and, on the other, points in Ohio; (27) *new furniture and store and office fixtures and equipment,* between points in Craighead and Greene Counties, Ark., on the one hand, and, on the other, points in the United States (except points in Alaska and Hawaii), restricted against the transportation of new furniture from Morristown, Tenn., and from points in Cocke, Carter, Greene, Hamblen, Knox, and Washington Counties, Tenn.;

(28) *New* and *used store fixtures,* between points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin; (29) *uncrated new furniture and new store fixtures and equipment,* from Omaha, Nebr., Burlington, Iowa, and points in the Chicago, Ill., commercial zone, as defined by the Commission, to Kansas City, Mo.-Kans.; and damaged or rejected shipments of the above-specified commodities, from the above-specified destination points to the above-designated origin points; (30) *uncrated physicians', dentists' and hospital equipment,* (a) between Kansas City, Mo.-Kans., and points within 25 miles thereof; and (b) between Kansas City, Mo.-Kans., and points within 25 miles thereof, on the one hand, and, on the other, Chicago, Ill.,

Detroit, Mich., Philadelphia, Pa., and points in Kansas, Nebraska, Iowa, Missouri, Wisconsin, Ohio, and New York; (31) *new furniture, new household and office appliances*, uncrated, and *new store fixtures and appliances*, uncrated, between points in the Kansas City, Mo.-Kans., commercial zone, as defined by the Commission, and points within 25 miles thereof, on the one hand, and, on the other, points in Missouri, Arkansas, Oklahoma, Kansas, Nebraska, and Iowa; (32) *new furniture, new household* and *office appliances, new store fixtures and appliances, and new floor coverings*, uncrated, (a) between points in the Kansas City, Mo.-Kansas City, Kans., commerical zone, as defined by the Commission, and points within 25 miles thereof, on the one hand, and, on the other, points in Arizona, California, Colorado, Kentucky, Minnesota, New Mexico, North Dakota, South Dakota, Tennessee, Texas, and West Virginia; and (b) from points in the Kansas City, Mo.-Kansas City, Kans., commercial zone, as defined by the Commission, and points within 25 miles thereof, to points in Illinois, Indiana, Michigan, New York, Ohio, Pennsylvania, and Wisconsin, with no transportation for compensation on return except as otherwise authorized;

(33) *New floor coverings*, uncrated, between points in Kansas City, Mo.-Kansas City, Kans., commercial zone, as defined by the Commission, and points within 25 miles thereof, on the one hand, and, on the other, points in Arkansas, Iowa, Nebraska, and Oklahoma; (34) *coin-operated vending machines*, uncrated, between Kansas City, Mo., on the one hand, and, on the other, points in Minnesota and those in all States east of a line beginning at Lake Superior and extending along the western boundary of Wisconsin to the Mississippi River and thence along the east bank of the Mississippi River to the Gulf of Mexico; (35) *new* and *used store fixtures*, uncrated, between Kansas City, Mo., on the one hand, and, on the other, points in Alabama, Delaware, Florida, Georgia, Idaho, Louisiana, Maryland, Mississippi, Montana, Nevada, New Jersey, North Carolina, Oregon, South Carolina, Utah, Virginia, Washington, Wyoming, and the District of Columbia; (36) *dentists' equipment*, uncrated, between Kansas City, Mo., on the one hand, and, on the other, points in Washington, Oregon, Idaho, Montana, Colorado, North Dakota, South Dakota, Oklahoma, Texas, Minnesota, Louisiana, California, and Utah; (37) *furniture, pianos, electric organs and other musical instruments, home appliances, radios, carpets and rugs and office and store fixtures and appliances*, all uncrated, except such of the named commodities as are included in the term *household goods* as defined by the Commission, between points in Missouri, on the one hand, and, on the other, points in Kansas;

(38) *Store fixtures and equipment*, between New York, N.Y., on the one hand, and, on the other, Wilmington, Del., and points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia; (39) *such commodities* as are dealt in by persons engaged in the manufacture of or sale of store fixtures and store equipment, uncrated, between New York, N.Y., on the one hand, and, on the other, points in that part of Virginia on and east of U.S. Highway 12; and (40) *new and used store fixtures and equipment*, between New York, N.Y., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Ohio, West Virginia, North Carolina, South Carolina, points in Delaware except Wilmington, and those in that part of Virginia west of U.S. Highway 15.

By the instant petition, petitioner states that it now seeks to have its certificates authorizing the above-described operations modified and amended in order to authorize the transportation of commercial and institutional furniture, fixtures, and equipment from, to, or between, all points from, to, or between, which it now holds authority to transport store fixtures and equipment. Any person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petitions within 30 days from the date of publication in the FEDERAL REGISTER.

By the Commission.

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

[F.R. Doc. 70-15223; Filed, Nov. 10, 1970; 8:48 a.m.]

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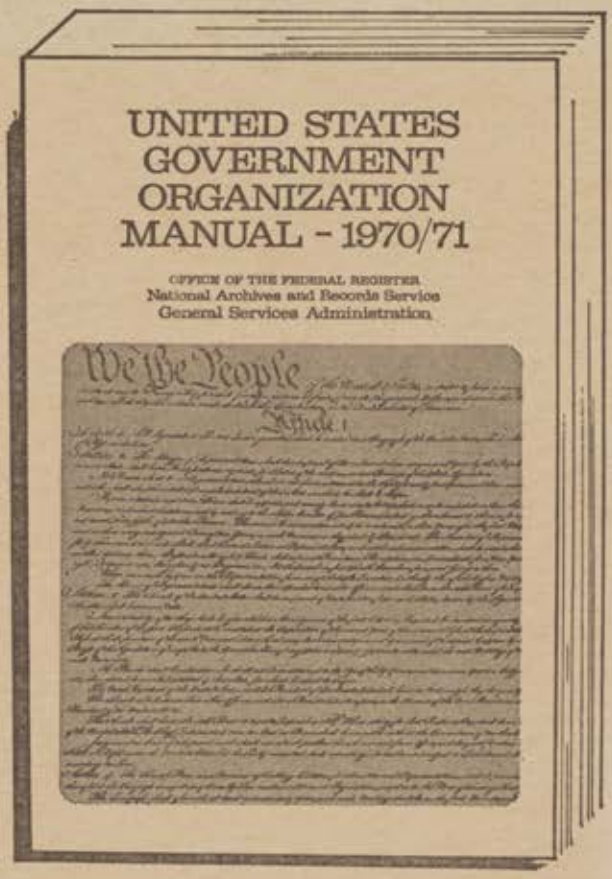

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