FEDERAL REGISTER

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Pages 1403–1456

Part I

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Agencies in this issue—

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Civil Service Commission
Coast Guard
Customs Bureau
Education Office
Federal Aviation Administration
Federal Communications Commission
Federal Housing Administration
Federal Power Commission
Federal Reserve System
Food and Drug Administration
General Services Administration
Interim Compliance Panel (Coal Mine Health and Safety)
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Just Released

LIST OF CFR SECTIONS AFFECTED

ANNUAL—1970

This useful finding aid lists by number the titles, parts, and sections of the Code of Federal Regulations amended or otherwise affected by documents published in the FEDERAL REGISTER during 1970. Entries indicate the exact nature of changes effected. For amendments published in the FEDERAL REGISTER during 1971, and until the individual volumes of the Code of Federal Regulations (Revised as of January 1, 1971) have been distributed, subscribers should refer to the "Cumulative List of Parts Affected" at the end of each daily FEDERAL REGISTER and the monthly issuances of the "List of CFR Sections Affected."

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1971, and specifies how they are affected.

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Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10799; Amdt. No. 740]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

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

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

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20590. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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

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

1. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAPs, effective February 25, 1971.

Hawthorne, Calif.—Hawthorne Municipal Airport; VOR Runway 25, Amdt. 8; Revised.
Montrose, Colo.—Montrose County Airport; VOR-1 Runway 12, Amdt. 2; Revised.
Montrose, Colo.—Montrose County Airport; VOR-2 Runway 12, Amdt. 1; Revised.
Pascagoula, Miss.—Jackson County Airport; VOR Runway 18, Amdt. 4; Revised.
Tallahassee, Fla.—Tallahassee Municipal Airport; VOR Runway 18, Amdt. 3; Revised.
Wells, Nev.—Harriet Field; VOR A, Orig.; Established.
Redding, Calif.—Redding Municipal Airport; VOR/DME Runway 34, Orig.; Established.

2. Section 97.25 is amended by establishing, revising, or canceling the following LOC-LDA SIAPs, effective February 25, 1971.

San Diego, Calif.—San Diego International Lindbergh Field; LOC (BC)-A, Amdt. 11; Revised.
San Diego, Calif.—San Diego International Lindbergh Field; LOC Runway 9, Amdt. 1; Revised.
San Diego, Calif.—San Diego International Lindbergh Field; LOC/DME (BC) Runway 27, Orig.; Established.

3. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAPs, effective February 25, 1971.

Alton, Ill.—Civic Memorial Airport; NDB Runway 29, Orig.; Established.
San Diego, Calif.—San Diego International Lindbergh Field; NDB (ADF)-A, Amdt. 1; Canceled.
San Diego, Calif.—San Diego International Lindbergh Field; NDB-A Orig.; Established.
San Diego, Calif.—San Diego International Lindbergh Field; NDB Runway 9, Amdt. 11; Revised.
West Palm Beach, Fla.—Palm Beach International Airport; NDB Runway 9L, Amdt. 10; Revised.

4. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAPs, effective February 25, 1971.

Alton, Ill.—Civic Memorial Airport; ILS Runway 29, Orig.; Established.
Nashville, Tenn.—Nashville Metropiltan Airport; ILS Runway 2L, Amdt. 20; Revised.

5. Section 97.33 is amended by establishing, revising, or canceling the following RNAV SIAPs, effective February 25, 1971.

Napa, Calif.—Napa County Airport; RNAV Runway 36, Orig.; Established.
Renton, Wash.—Renton Municipal Airport; RNAV Runway 33, Amdt. 1; Revised.
Santa Barbara, Calif.—Santa Barbara Municipal Airport; RNAV-A, Amdt. 1; Revised.

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

Issued in Washington, D.C., on January 19, 1971.

R. S. Sliff,
Acting Director,
Flight Standards Service.

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

[FR Doc.71-1184 Filed 1-28-71;8:45 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to reflect the transfer of the functions of the Business and Defense Services Administration to the Bureau of Domestic Commerce. The schedule C listings of five positions formerly reporting to the Administrator, BDSA, are amended to show that they now report to the Director, Bureau of Domestic Commerce. The schedule C listing of one position reporting to the Deputy Administrator, BDSA, is amended to show that it now reports to the Deputy Director, Bureau of Domestic Commerce. Effective on publication in the Federal Register (1-29-71), paragraph (c) is revoked and subparagraphs (10), (11), and (12) are added to paragraph (m) of section 213.3314 as set out below.

§ 213.3314 Department of Commerce.

* * * * *

(c) [Revoked]

* * * * *

(m) *Office of the Assistant Secretary for Domestic and International Business.* * * *

(10) Four Confidential Assistants to the Director, Bureau of Domestic Commerce.

(11) One Secretarial Assistant to the Director, Bureau or Domestic Commerce.

(12) One Confidential Assistant to the Deputy Director, Bureau of Domestic Commerce.

(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.

[FR Doc.71-1268 Filed 1-28-71;8:50 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 71-26]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Special Tonnage Tax and Light Money; Austria

JANUARY 19, 1971.

On advice from the Department of State on March 16, 1970, that satisfactory proof had been obtained that no discriminating duties of tonnage or imposts are imposed or levied in ports of Austria upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported in such vessels from the United States or from any foreign country, Treasury Decision 70-112 (35 F.R. 7299) was issued suspending and discontinuing the imposition of such taxes and imposts within the United States with respect to vessels of Austria and the produce, manufactures, and merchandise imported into the United States from Austria or from any other foreign country. The suspension and discontinuance took effect on March 2, 1970.

The Department of State advised the Department of the Treasury on August 7, 1970, that the Treaty of Friendship, Navigation and Consular Rights between Austria and the United States signed on June 19, 1928, and effective as of May 27, 1931, the date the treaty came into force, provided the assurances required by section 4228 of the Revised Statutes, as amended (46 U.S.C. 141).

Therefore, by virtue of the authority vested in the President by section 4228 of the Revised Statutes, as amended (46 U.S.C. 141), which was delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951, as amended by Executive Order No. 10882, July 18, 1960 (3 CFR Ch. II), and pursuant to the authorization provided by Treasury Department Order No. 190, Rev. 7, September 4, 1969 (34 F.R. 15846), I declare that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, so far as respects the vessels of Austria, and the produce, manufactures, or merchandise imported into the United States in such vessels from Austria or from any other foreign country as of May 27, 1931, and shall continue for so long as the reciprocal exemption of vessels wholly belonging to citizens of the United States and their cargoes shall be continued and no longer.

Any application for refund of such duties is subject to the provisions of 46 U.S.C. 8 and 19 CFR 4.24.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-1248 Filed 1-28-71;8:50 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 147—ANTIBIOTICS INTENDED FOR USE IN THE LABORATORY DIAGNOSIS OF DISEASE

Carbenicillin Sensitivity Discs

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 147 is amended as follows to provide for the certification of antibiotic sensitivity discs containing carbenicillin:

1. Section 147.1 *Antibiotic sensitivity discs; tests and methods of assay; potency* is amended:

a. By adding a new subparagraph (12) to paragraph (b), as follows:

(12) *Suspension 12.* The test organism is *Pseudomonas aeruginosa* (ATCC 25619). Follow the procedure described for suspension 2, except wash the resulting growth from the agar surface of the Roux bottle with 25 milliliters of sterile sodium chloride solution in lieu of 50 milliliters and do not standardize the suspension.

b. By alphabetically adding a new item to the tables in paragraphs (c)(3) and (d), as follows:

Antibiotic	Volume of suspension added to each 100 ml. of seed agar used for test	Suspension number	Medium	
			Base layer	Seed layer
	Ml.			
* * *	* * *	* * *	* * *	* * *
Carbenicillin	3.0	12	F	G
* * *	* * *	* * *	* * *	* * *

Antibiotic	Solvent	Standard curve (antibiotic concentration per disc)
* * *	* * *	* * *
Carbenicillin	Methyl alcohol	25.0, 35.5, 50.0, 70.7, 100 μg.
* * *	* * *	* * *

2. Section 147.2(a) is amended by adding a new subparagraph (36), as follows:

§ 147.2 Antibiotic sensitivity discs; certification procedure.

(a) * * *

(36) Carbenicillin: 50 μg.

* * * * *

Data supplied by the manufacturer concerning the subject antibiotic sensitivity disc have been evaluated. Since the conditions prerequisite to providing for its certification have been complied with and since it is in the public interest not to delay in so providing, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (1-29-71).

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: January 12, 1971.

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

[FR Doc.71-1211 Filed 1-28-71;8:45 am]

PART 148j—NOVOBIOCIN

Standards of Identity, Strength, Quality, and Purity

In F.R. Doc. 70-16513 appearing at page 18667 in FEDERAL REGISTER of December 9, 1970, the heading of § 148j.1a (a)(1) is changed to read *"Standards of identity, strength, quality, and purity."*

Dated: January 19, 1971.

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

[FR Doc.71-1210 Filed 1-28-71;8:45 am]

PART 148s—VANCOMYCIN

Effective on publication in the FEDERAL REGISTER (1-29-71), Part 148s is republished as follows to incorporate editorial and nonrestrictive technical changes. This order revokes all prior publications.

§ 148s.1 Vancomycin hydrochloride.

(a) *Requirements for certification—* (1) *Standards of identity, strength, quality, and purity.* Vancomycin hydrochloride is the hyrochloride salt of a kind of vancomycin or a mixture of two or more such salts. It is soluble in water and moderately soluble in dilute methyl alcohol. It is insoluble in higher alcohols, acetone, and ether. It is so purified and dried that:

(i) It contains not less than 900 micrograms of vancomycin per milligram, calculated on an anhydrous basis. If it is packaged for dispensing, its potency is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of vancomycin that it is represented to contain.

(ii) It is sterile.

(iii) It passes the safety test.

(iv) It is nonpyrogenic.

(v) Its moisture content is not more than 5 percent.

(vi) Its pH in an aqueous solution containing 50 milligrams per milliliter is not less than 2.5 and not more than 4.5.

(vii) Its heavy metals content is not more than 30 parts per million.

(viii) It contains not more than 15 percent of factor A.

(ix) It gives a positive identity test for vancomycin.

(2) *Packaging.* In addition to the requirements of § 148.2 of this chapter, if it is packaged for dispensing, the vancomycin content of each immediate container is 500 milligrams of vancomycin.

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

(4) *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, sterility, safety, pyrogens, moisture, pH, heavy metals, factor A content, and identity.

(ii) Samples required:

(*a*) If the batch is packaged for repacking or for use as an ingredient in the manufacture of another drug:

(*1*) For all tests except sterility: 12 packages, each containing approximately 500 milligrams.

(*2*) For sterility testing: 20 packages, each containing approximately 300 milligrams.

(*b*) If the batch is packaged for dispensing:

(*1*) For all tests except sterility: A minimum of 12 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: Dissolve an accurately weighed sample of approximately 30 milligrams in sufficient sterile distilled water to give a stock solution of 1 milligram per milliliter; and also if it is packaged for dispensing, reconstitute as directed in the labeling. Then using a suitable hypodermic needle and syringe, remove all of the withdrawable contents if it 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 0.1*M* potassium phosphate buffer, pH 4.5 (solution 4), to give a stock solution of 1 milligram per milliliter. Further dilute an aliquot of the stock solution with solution 4 to the reference concentration of 10.0 micrograms of vancomycin 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 sterile distilled water in lieu of diluting fluid A.

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

(4) *Pyrogens.* Proceed as directed in § 141.4(a) of this chapter, using a solution containing 5 milligrams of vancomycin per milliliter.

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

(6) *pH.* Proceed as directed in § 141.503 of this chapter, using a solution containing 50 milligrams per milliliter.

(7) *Identity and factor A content*—(i) *Preparation of the chromatogram*—(*a*) *Equipment.* (*1*) Chromatographic paper (Whatman No. 1 untreated filter paper).

(*2*) Equipment for descending paper chromatography (Mitchell tank).

(*b*) *Preparations of solutions*—(*1*) *Factor A.* Prepare a solution in distilled water to contain 1.33 milligrams of factor A per milliliter and further dilute with distilled water to prepare solutions containing 0.1 and 0.2 milligram of factor A per milliliter.

(*2*) *Vancomycin working standard solution.* Prepare a solution in distilled water to contain 1.33 milligrams of vancomycin per milliliter.

(*3*) *Known mixture of factor A and vancomycin.* Prepare a solution in distilled water to contain 0.2 milligram of factor A and 1.13 milligrams of vancomycin (estimated) per milliliter.

(*4*) *Sample.* Prepare two solutions of the sample in distilled water, each to contain 1.33 milligrams of vancomycin (estimated) per milliliter.

(*5*) *Solvent mixture.* Mix 300 milliliters of butyl alcohol, 150 milliliters of pyridine, and 200 milliliters of water in a large separatory funnel and shake well for 3 minutes. Let stand at room temperature. There should be no separation of layers.

(*c*) *Procedure.* Saturate the atmosphere in the tank with vapors of the solvent mixture by placing 10 milliliters of the mixture in a trough in the bottom of the tank and closing tightly for 15 minutes. Prepare a sheet of chromatographic paper (8 inches x 8 inches) by carefully drawing a line of origin with a pencil 2 inches from one of the edges. Fold the paper along a straight line 1½ inches from the same edge of the paper. Starting 1 inch from the left-hand edge, establish points at 1-inch intervals along the line of origin on which to apply the solutions. Using a micropipette, apply the factor A solutions, the vancomycin solution, the known mixture solution, and the sample solutions by placing 5 microliters of each on separate spots. Properly identify the locations of the spots but avoid unnecessary handling of the paper. Allow the spots to dry spontaneously. Suspend the paper in the chamber so that the edge nearest the fold can be conveniently immersed in the solvent mixture contained in the top trough. Immerse the paper across its entire width to a depth sufficient to assure contact with the solvent mixture during the entire development time. Close the chamber tightly and allow the chromatograph to develop at room temperature for 6½ to 7 hours. Remove the paper and allow it to dry completely.

(ii) *Development by bioautograph*—(*a*) *Preparation of test organism (spore suspension).* The test organism is *Bacillus subtilis* (ATCC 6633), test organism H, prepared as described in § 141.104 of this chapter, using the method described in paragraph (b)(2) of that section.

(*b*) *Preparation of plates*—(*1*) *Base layer.* Add 42 milliliters of medium 2 described in § 141.103(b)(2) of this chapter to each Petri dish (25 millimeters x 150 millimeters) and allow to harden on a flat, level surface. To prevent condensation of excess moisture, raise the tops slightly while the agar hardens.

(*2*) *Seed layer.* Melt nutrient agar medium 2 described in § 141.103(b)(2) of this chapter. Accurately measure a sufficient quantity of the melted agar, cool to 48° C., and add the appropriate quantity of the spore suspension prepared as described in (*a*) of this subdivision. Swirl the flask of inoculated agar to obtain a homogeneous suspension. Add 8 milliliters of this inoculated agar to each plate, spread evenly, and allow to harden on a flat, level surface. For accurate results, it is necessary to obtain uniform distribution of the agar over the entire surface of the plates.

(*c*) *Assay.* For each spot on the paper described in subdivision (i)(*c*) of this subparagraph, cut a strip 1.5 centimeters by approximately 14 centimeters with the center of each strip centered about the line of descent of the spot. Place all strips on plates with the aid of forceps within as short a period of time as possible. Use maximum spacing between strips. Insure complete contact so that the entire strip becomes uniformly moistened. Allow to stand for 30 minutes. Remove the strips and identify each strip location on the Petri dish. Incubate the plates for 16–18 hours at 37° C. Any zone of inhibition corresponding to factor A in the sample must not be greater than that of the 0.2 milligram-per-milliliter factor A standard. Also, the two areas of inhibition for the sample due to the presence of factor A and vancomycin must compare to the corresponding two areas of inhibition of the known mixture in their respective distances from their origins.

(8) *Heavy metals.* Proceed as directed in § 141.511 of this chapter.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: January 12, 1971.

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

[FR Doc.71-1230 Filed 1-28-71;8:47 am]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 169—POST OFFICE BOXES

Renting and Closing Post Office Boxes

Correction

In F.R. Doc. 71-936 appearing at page 1141 in the issue for Saturday, January 23, 1971, § 169.1(e) (1) and (2), at the top of the third column, should be transferred to appear immediately following paragraph (d)(5) *Grounds for closing a box.*

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Department of Housing and Urban Development

SUBCHAPTER C—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

APPLICATION FEE

The folowing amendment has been made to increase the application fees:

In § 203.12 paragraphs (a) (1) (i) and (ii) are amended to read as follows:

§ 203.12 Application and commitment extension fees.

(a) *Application fee*—(1) *Amount of fee.* * * *

(i) $40 for an application involving existing construction.

(ii) $50 for an application involving proposed construction.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 203, 52 Stat. 10; 12 U.S.C. 1709)

Issued at Washington, D.C., January 22, 1971.

Effective date: February 1, 1971.

WOODWARD KINGMAN,
Acting Federal Housing Commissioner.

[FR Doc.71-1222 Filed 1-28-71;8:46 am]

SUBCHAPTER G—HOUSING FOR MODERATE INCOME AND DISPLACED FAMILIES

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Moderate Income Projects

COMBINED FEE—REHABILITATION SALES MORTGAGOR

The following amendment has been made to increase the application fee:

Section 221.506a is amended to read as follows:

§ 221.506a Combined fee—rehabilitation sales mortgagor.

In the case of a rehabilitation sales mortgagor, the fees provided in §§ 221.503 through 221.506 shall not be applicable. In lieu of such fees, a combined application, commitment, and inspection fee of $40 per dwelling unit shall be paid to the Commissioner when the application for insurance is filed.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 221, 68 Stat. 599; 12 U.S.C. 1715*l*)

Issued at Washington, D.C., January 22, 1971.

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WOODWARD KINGMAN,
Acting Federal Housing Commissioner.

[FR Doc.71-1223 Filed 1-28-71;8:46 am]

SUBCHAPTER L—CONDOMINIUM HOUSING INSURANCE

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

APPLICATION AND COMMITMENT EXTENSION FEES

The following amendment has been made to increase the application fee:

In § 234.13 paragraph (a) (1) is amended to read as follows:

§ 234.13 Application and commitment extension fees.

(a) *Application fee*—(1) *Amount of fee.* The mortgagee shall pay an application fee of $40 per family unit to cover the cost of processing.

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 234, 75 Stat. 161; 12 U.S.C. 1715y)

Issued at Washington, D.C., January 22, 1971.

Effective date: February 1, 1971.

WOODWARD KINGMAN,
Acting Federal Housing Commissioner.

[FR Doc.71-1224 Filed 1-28-71;8:46 am]

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Projects—Conversion Individual Sales Units

APPLICATION FILING AND APPROVED FEES

The following amendment has been made to increase the application fees:

In § 234.506 paragraphs (a) and (b) are amended to read as follows:

§ 234.506 Application filing and approved fees.

* * * * *

(a) $50 per dwelling unit, in a case involving new construction.

(b) $40 per dwelling unit, in a case involving rehabilitation.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 234, 75 Stat. 161; 12 U.S.C. 1715y.)

Issued at Washington, D.C., January 22, 1971.

Effective date: February 1, 1971.

WOODWARD KINGMAN,
Acting Federal Housing Commissioner.

[FR Doc.71-1225 Filed 1-28-71;8:47 am]

SUBCHAPTER M—HOMES FOR LOWER INCOME FAMILIES

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Subpart D—Eligibility Requirements—Rehabilitation Sales Projects

APPLICATION, COMMITMENT, AND INSPECTION FEES

The following amendment has been made to increase the application fee:

Section 235.520 is amended to read as follows:

§ 235.520 Application, commitment, and inspection fees.

A combined application, commitment, and inspection fee in the amount of $40 per dwelling unit to be contained in the proposed project shall be paid with the filing of the application. A subsequent application for an increase in the number of units to be contained in the project shall be accompanied by a payment of an additional fee in the amount of $40 for each additional unit.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 235, 82 Stat. 477; 12 U.S.C. 1715z.)

Issued at Washington, D.C., January 22, 1971.

Effective date: February 1, 1971.

WOODWARD KINGMAN,
Acting Federal Housing Commissioner.

[FR Doc.71-1226 Filed 1-28-71;8:47 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER J—BRIDGES

[CGFR 70-120a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Passaic River, N.J.

1. The Erie Lackawanna Railroad Co. requested the Commander, Third Coast Guard District to revise the special operation regulations for its bridge across the Passaic River, West Arlington, N.J. A public notice dated September 10, 1970 setting forth the proposed revision of the regulations governing this drawbridge was issued by the Commander, Third Coast Guard District and was made available to all persons known to have an interest in this subject. The Commandant also published these proposals in the FEDERAL REGISTER of September 24, 1970 (35 F.R. 14848).

2. Interested persons were afforded an opportunity to participate in this rule making procedure through the submission of comments. No comments were

received. After consideration of all known factors in this case, the proposal is accepted.

3. Accordingly, Part 117 is amended by revising § 117.225(f)(2-a) to read as follows:

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of drawtenders not required.

* * * * *

(f) * * *

(2-a) Passaic River, Erie Lackawanna Railroad bridge between Newark and West Arlington, N.J. The draw need not be opened from 11 p.m. to 7 a.m. From 7 a.m. to 11 p.m., the draw shall be opened promptly on signal provided 8 hours' advance notice has been given

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5) (35 F.R. 4959) and 33 CFR 1.05-1(c)(4) (35 F.R. 15922))

Effective date. This revision shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

Dated: January 25, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard, Chief, Office of Operations.

[FR Doc.71-1235 Filed 1-28-71;8:48 am]

[CGFR 70-56a]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Sinepuxent Bay, Md.

1. The Maryland State Roads Commission requested the Commander, Fifth Coast Guard District to establish special operation regulations for its bridge across the Sinepuxent Bay at Ocean City, Md. A public notice dated April 13, 1970, setting forth the proposed revision of the regulations governing this drawbridge was issued by the Commander, Fifth Coast Guard District and was made available to all persons known to have an interest in this subject. The Commandant also published these proposals in the FEDERAL REGISTER of April 15, 1970 (35 F.R. 6150).

2. Interested persons were afforded an opportunity to participate in this rule making procedure through the submission of comments. One letter was received that objected on the grounds that marine traffic may be expected to grow in that area on a year round basis and that the proposed restrictions might retard such growth. Available data on the drawbridge openings did not bear out this premise for the periods requested at this time. After consideration of all known factors in this case, the proposal is accepted. If, at a later period, conditions warrant a review of this section, such action will be taken.

3. Accordingly, Part 117 is amended by adding § 117.245(f)(16) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(f) *Waterways discharging into Chesapeake Bay.* * * *

(16) *Sinepuxent Bay, Ocean City, Md., U.S. 50 Bridge.* The draw shall be opened promptly on signal provided that from 6 p.m. to 6 a.m., from October 1 through April 30 at least 3 hours' advance notice has been given.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, Sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5) (35 F.R. 4959) and 33 CFR 1.05-1(c)(4) (35 F.R. 15922))

Effective date. This revision shall become effective 30 days following the date of publication in the FEDERAL REGISTER.

Dated: January 26, 1971.

R. E. HAMMOND,
Rear Admiral, U.S. Coast Guard, Chief, Office of Operations.

[FR Doc.71-1236 Filed 1-28-71;8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A-7—CONTRACT CLAUSES

Preproduction Samples Clause

The table of contents for Part 5A-7 is amended by the addition of the following new entry:

Sec.
5A-7.170-2 Preproduction samples.

Subpart 5A-7.1—Fixed-Price Supply Contracts

Section 5A-7.170-2 is added to read as follows:

§ 5A-7.170-2 Preproduction samples.

Preproduction samples may be required to determine that the contractor can produce supplies which comply with the contract specifications, and to provide a quality standard for reference during the life of the contract. Substantially the following clause shall be included in contracts when submission of preproduction samples is to be required. The clause requires submission of two preproduction samples; however, this aspect may be modified to require the submission of only one such sample when the Quality Control Division notifies the contracting officer in writing that it is not feasible (or practicable) for them to accept and maintain custody of the second sample. Also, the clause may be modified for consistency with other provisions of the solicitation, such as place and method of inspection.

PREPRODUCTION SAMPLES

The contractor shall have available at his expense within (specify appropriate number of days) calendar days after receipt of notice of award two (2) preproduction samples of each item to be delivered under the contract for inspection and determination by the Government as to compliance with the specifications. The contractor shall notify the Contracting Officer and the Regional Quality Control Division set forth in the notice of award, in writing, of the availability of the samples for inspection, the notification to be made (specify appropriate number of days) calendar days prior to the date the contractor proposes to have the samples available. The contractor shall without any additional charge provide all necessary facilities for inspection of the samples.

Preproduction samples required by this contract must conform to all specification requirements. The acceptance of any previous preproduction samples or the granting of any deviations on previous preproduction samples or on supplies required by previous contracts for the same item(s) shall in no way be considered as justification for assuming that the preproduction samples submitted under this contract will be accepted unless they fully meet specifications or that deviations will be granted.

When the preproduction samples are approved, the Government shall notify the contractor of their acceptance in writing. After acceptance, one preproduction sample shall be retained by the contractor and made available to the Government without additional cost to the Government, at the location where the material is offered to the Government for inspection, until completion of the contract, at which time it may be delivered in "like new" condition as part of the last scheduled delivery under the contract. The other preproduction sample shall be delivered to the Government in accordance with instructions to be furnished by the Contracting Officer and upon acceptance shall be deemed an item delivered under the contract.

If the contractor fails to deliver the preproduction samples or if the Government disapproves the preproduction sample, the contractor shall be deemed to have failed to make delivery within the meaning of the "Default" clause of this contract and this contract shall be subject to termination for default provided that failure of the Government in such an event to terminate this contract for default shall not relieve the contractor of his responsibility to meet the delivery schedule for production quantities.

The Government reserves the right to waive the requirements for preproduction samples as to those bidders offering a product which has been previously procured and approved by General Services Administration under the same specifications applicable to this procurement. Bidders offering such products are requested to furnish with their bids information identifying the product by citing the number, date and item of the purchase order and/or contract number involved in such prior purchase.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c))

Effective date. These regulations are effective 30 days after the date shown below.

Dated: January 22, 1971.

L. E. SPANGLER,
Acting Commissioner, Federal Supply Service.

[FR Doc.71-1229 Filed 1-28-71;8:47 am]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101–26—PROCUREMENT SOURCES AND PROGRAMS

Subpart 101–26.7—Use of GSA Supply Sources by Grantees and Contractors

IDENTIFICATION OF GRANTEES OR CONTRACTORS IN WRITTEN AUTHORIZATIONS

Section 101–26.704(b)(1) is revised to provide that authorizations issued by agencies to grantees and contractors to use GSA supply sources indicate whether the recipient of the authorization is a grantee or a contractor and identify the grant(s) or cite the contract number(s) involved.

Section 101–26.704(b)(1) is revised to read as follows:

§ 101–26.704 Agency authorizations.

* * * * *

(b) * * *

(1) Indicate whether the recipient is a grantee or contractor and identify the grant(s) or cite the contract number(s) involved.

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (1–29–71).

Dated: January 25, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71-1228 Filed 1-28-71;8:47 am]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 113—FINANCIAL ASSISTANCE FOR CURRENT SCHOOL EXPENDITURES OF LOCAL EDUCATIONAL AGENCIES AFFECTED BY CERTAIN DISASTERS

Dates for Filing Applications

Part 113 of Chapter I of Title 45 of the Code of Federal Regulations is amended to reflect the fact that regulations in Part 115 are being amended to provide additional time for the Office of Education to determine before the end of the fiscal year whether local educational agencies meet the statutory requirements for eligibility.

1. Section 113.9 is amended to read as follows:

§ 113.9 Dates for filing applications.

Each application for benefits under section 7 of the Act, except applications for financial assistance for continuing to provide free public education at a preexisting level that are filed for a fiscal year subsequent to that covered by such initial application, must be filed by the applicant on or before 90 days following the date on which the area in which the applicant is, in whole or in part, located is declared to be a major disaster area or 90 days following the date of the publication in the FEDERAL REGISTER of the amendment to the regulations in this part extending their application to the particular major disaster involved, whichever is later; except that, whenever such date shall fall on a nonbusiness day, the final date for filing applications shall be the next succeeding business day. An application for financial assistance for providing free public education for a fiscal year subsequent to that covered by the initial year of such application must be filed by January 31 in the fiscal year following the last such application. An application must either be received by the Commissioner, or be mailed under cover postmarked, on or before the final filing date. It must be transmitted through and certified for by the State educational agency. The applicant is responsible for obtaining the certification of the State educational agency and for securing transmittal of the application to the Commissioner.

(20 U.S.C. 242; interpret or apply 20 U.S.C. 241–1, 242–244)

* * * * *

In accordance with section 421 of the General Education Provisions Act (20 U.S.C. 1232), the foregoing amendments will become effective 30 days following the date of their publication in the FEDERAL REGISTER.

Dated: November 30, 1970.

T. H. BELL,
Acting Commissioner of Education.

Approved: January 25, 1971.

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

[FR Doc.71-1219 Filed 1-28-71;8:46 am]

PART 114—FEDERAL ASSISTANCE UNDER PUBLIC LAW 815, 81ST CONGRESS AS AMENDED, IN CONSTRUCTION OF MINIMUM SCHOOL FACILITIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES

Miscellaneous Amendments

Part 114 of Chapter I of Title 45 of the Code of Federal Regulations is amended to reflect amendments made by Public Law 91–230, and by Public Law 91–260.

1. In the Table of Contents, Subparts B and D are amended to revise the heading of § 114.4, to add a reference to the new § 114.36, to read as follows:

Subpart B—Filing Complete Applications and Determining Priority Indices

* * * * *

Sec.
114.4 Determination of priority indices and priority groupings for applications.

* * * * *

Subpart D—Criteria for Waivers Under the Act

* * * * *

Sec.
114.36 Criteria for waiver of substantial percentage requirement in section 14(c).

* * * * *

AUTHORITY: The provisions of this Part 114 issued under 20 U.S.C. 642. Interpret or apply 20 U.S.C. 631–645.

2. In § 114.1, paragraphs (q) and (s) are amended, and a new paragraph (w) is added, to read as follows:

§ 114.1 Definitions.

* * * * *

(q) The "priority indices" are the indices established pursuant to this part based on relative urgency of need for the purpose of determining the order of approval of project applications, and the order of payments within each priority grouping.

* * * * *

(s) The term "base year" means the third or fourth school year preceding the fiscal year in which an application was filed, as may be designated in the application, except that in the case of an application based on children referred to in paragraphs (2) or (3) of section 5(a) of the Act, the base year shall in no event be later than the regular school year 1968–69.

* * * * *

(w) For the purpose of applications under section 10 of the Act, "repairs" means those repairs which must be accomplished without delay in order to avoid further deterioration of the school facilities and thereby appreciably increase the ultimate repair or replacement cost. The term "repairs" does not for that purpose include remodeling or rearrangement of existing facilities to permit grade pattern reorganization or providing minimum school facilities not otherwise obtainable.

(20 U.S.C. 633, 634, 635, 640, 645)

3. In § 114.2, paragraph (a) is amended to read as follows:

§ 114.2 Cutoff dates for filing applications.

(a) Pursuant to section 3 of the Act, the Commissioner will from time to time set dates by which applications for payments under all sections of the Act with respect to construction projects must be filed, except that the last such date with respect to applications for payments on account of children referred to in paragraphs (2) or (3) of section 5(a) of the Act shall not be later than June 30, 1973.

* * * * *

(20 U.S.C. 633)

4. Section 114.3 is revised to read as follows:

§ 114.3 Procedure if funds are inadequate to make all payments.

(a) Section 2 of the Act provides that for each fiscal year the Commissioner is to determine the portion of the funds appropriated under the Act which shall be available for carrying out the provisions of sections 9 and 10 and that the

remainder of such funds shall be available for paying to local education agencies the Federal share of the cost of projects for the construction of school facilities for which applications have been approved under section 6. Section 3 of the Act provides that the Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, to be followed in approving applications in the event the funds appropriated under the Act and remaining available on any cutoff date for payment to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under the Act have not already been obligated). Only applications meeting the conditions for approval under the Act (other than section 6(b)(2)(C)) shall be considered applications for purposes of the preceding sentence. Such an order of priority is to provide that applications for payments based upon increases in the number of children either residing on, or residing with a parent employed on, property which is part of a low-rent housing project assisted under the United States Housing Act of 1937 shall not be approved for any fiscal year until all other applications under paragraphs (2) and (3) of subsection 5(a) have been approved for that fiscal year. Section 14 of the Act provides, in subsection (e), in part, as follows: "In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications and the nature and extent of the Federal responsibility." Section 14 provides, in subsection (h), that the provision of assistance pursuant to subsections 14(a) and 14(b) of the Act shall be given a priority at least equal to that given to payments made pursuant to section 10 of the Act.

(b) Pursuant to the above provisions of the Act, applications for assistance under the provisions of sections 9, 10, and 16 and subsections 14(a) and 14(b) shall have priority in funding over applications under section 6 (as limited by section 5), and sections 8 and 14(c) of the Act. That portion of payments under applications under section 6 (as limited by section 5) and section 8 of the Act based upon increases in the number of children either residing on, or residing with a parent employed on, Federal property other than property which is part of an eligible low-rent housing property shall have priority in funding over that portion of payments that is based upon increases in the number of children countable for payment under subsections 5(a)(2) and 5(a)(3) who either reside on, or reside with a parent employed on, an eligible low-rent housing property.

(c) For each fiscal year, the Commissioner will first determine the estimated requirements for all applications filed under sections 9, 10, and 16 and subsections 14(a) and 14(b) of the Act; and the funds appropriated and made available for applications filed during that fiscal year will be allocated to each such section and subsection in the ratio of the estimated requirements under each to the total estimated requirements for all such sections and subsections.

(d) Each approvable application will be assigned a priority rating determined in the manner specified in §§ 114.4 and 114.5, and a priority listing shall be established for each such section and subsection. The funds allocated as prescribed in paragraph (c) will be reserved for applications on such priority listings in the order of priority indices. When all such applications have been funded, any remaining available funds will be reserved for applications under section 6 (as limited by section 5) and section 8 and subsection 14(c).

(e) For fiscal year 1971 and following fiscal years, a priority listing will be established also for applications under section 6 (as limited by section 5) and section 8 for that portion of payments that is based on increases in the number of children either residing on, or residing with a parent employed on, an eligible low-rent housing property. Funds will be reserved for applications on such a priority listing after funds have been reserved for all other approvable applications under section 6 (as limited by section 5) and section 8 and subsection 14(c) filed for that fiscal year.

(20 U.S.C. 633, 640, 644)

5. Section 114.4 is amended to read as follows:

§ 114.4 Determination of priority indices and priority groupings for applications.

When the Commissioner has set a date by which complete applications must be filed, the priority indices for approval of such applications will be determined as follows:

(a) For applications under sections 6 and 14 of the Act, a priority index will be determined for the first construction project for each applicant by adding (1) the percentage that the estimated number of federally connected children countable for payment in the school district (or in the approved attendance area except under subsections 14(a) and 14(b)) is of the total estimated membership of all children therein at the close of the applicable period and (2) the percentage of the estimated school membership within the school district (or in the approved attendance area except under subsections 14(a) and 14(b)) which at the same time is without minimum school facilities. However, in no case shall the amount used in determining the priority index exceed twice the percentage in clause (1). No priority, except under subsections 14(a) and 14(b), shall be established for any applicant having less than 20 unhoused children in the school district (or in the approved attendance area).

(b) For applications under section 10 of the Act, a priority index will be determined for the first construction project by adding (1) the percentage that the estimated number of children residing on Federal property (or attending school on Federal property) and for whom minimum school facilities are to be provided, is of the total estimated number of all children residing and attending school on the installation at the close of the applicable period; and (2) the percentage of the estimated school membership at such installation which is without minimum school facilities as of the same time. However, in no case will the combined percentage used in determining the priority index exceed twice the percentage arrived at in clause (1). In determining the order of priority for approving applications under section 10, applications will be classified in groups for priority in funding from funds allocated for applications under section 10 as prescribed in paragraph (c) of § 114.3, and a priority listing will be established for each such group, as follows: (i) Applications requesting major repairs necessary for the safety of school children or to prevent further deterioration of existing school facilities; (ii) applications in cases where the local educational agency which operates the school program in the school facilities located on Federal property has given assurance and a firm commitment to the Commissioner that, upon completion of the proposed project, it will accept ownership of the school facilities located on Federal property under section 10(b) of the Act; (iii) applications in cases where, under currently effective State standards, there are unhoused pupils; and (iv) applications equesting capacity or noncapacity school facilities, or the rehabilitation or remodeling of existing school facilities, required to bring the school facilities up to a standard which will permit the offering of a contemporary educational program.

(c) In those cases in which an applicant has filed more than one project application, or in the case of section 10, two or more applications are filed which fall within the same group classification in paragraph (b), the priority index for the second project will be determined by: (1) Dividing the normal capacity of the first project by the total estimated membership at the close of the applicable period and (2) reducing the applicant's priority index by twice the percentage so obtained. When more than two project applications have been filed, the priority index for each succeeding project shall be reduced by the cumulative total percentage, in the manner provided for in the preceding sentence, of all approved projects of the applicant.

(20 U.S.C. 633, 640, 644)

6. In § 114.5, paragraph (a) is amended to read as follows:

§ 114.5 Determination of subpriority indices for applications.

(a) In the event that the appropriated funds are sufficient to fund only a portion of the project applications with identical priority indices as determined under § 114.4, the subpriority index (relative position) of such project applications will be determined by computing the percentage that the estimated

number of federally connected children countable for payment in the school district (or in the approved attendance area except under section 14, or in the case of section 10, of the number of children for whom school facilities are to be provided on Federal property), is of the total estimated membership of all children in such an area at the close of the applicable period.

(20 U.S.C. 633, 644)

7. In § 114.12, paragraph (d) is amended to read as follows:

§ 114.12 Determination of available and usable school facilities.

* * * * *

(d) With respect to subsections 14(a) and 14(c) of the Act, all minimum school facilities which, with full utilization of practicably available financial resources could be provided from local, State, or other Federal sources will be considered as available and usable in making determinations. Such utilization by the applicant is a condition precedent to Federal assistance for the providing of school facilities. In determining practicably available financial resources, the amount representing the unused bonding authority of the applicant, up to the legal maximum bonding limit in the State, but not in excess of 12 percent of the assessed valuation of the applicant school district, will be considered as an available resource.

(20 U.S.C. 634, 644)

8. In § 114.16, paragraph (a), subparagraph (1), and paragraph (c), subparagraph (1), are revised, and new paragraphs (d) and (e) are added, to read as follows:

§ 114.16 Determination of eligibility under section 14.

(a) * * *

(1) The total number of children who reside on Indian lands (for whom the applicant is providing, or upon completion of the school facilities for which provision is made will provide, free public education, and whose membership in the schools of such applicant has not formed and will not form the basis for payments under other provisions of the Act) is at least 15 and represents 33⅓ percent of the total number of children for whom the applicant is providing free public education: The percentage requirement may however, be waived by the Commissioner under § 114.34;

* * * * *

(c) * * *

(1) The total number of children who reside on Indian lands (for whom the applicant is providing, or upon completion of the school facilities for which provision is made will provide, free public education, and whose membership in the schools of such applicant has not formed and will not form the basis for payments under other provisions of the Act) is at least 15 and represents at least 10 percent of the total number of children for whom the applicant is providing free public education. That percentage requirement may however, be waived by the Commissioner under § 114.35.

* * * * *

(d) The requirement in section 14(c) (1) of the Act will be deemed to have been met when the following conditions exist:

(1) The total number of children who are inadequately housed by minimum school facilities (for whom the applicant is providing, or upon completion of the school facilities for which provisions are made will provide, free public education, and whose membership in the schools of such applicant has not formed and will not form the basis for payments under other provisions of the Act) is at least 20 in number and represents at least 33⅓ percent of the total number of children for whom the applicant is providing free public education: The percentage requirement may however, be waived by the Commissioner under § 114.36.

(2) The Federal property in the school district represents at least 33⅓ percent of the total land area of the school district.

(e) The requirement in section 14(c) (4) of the Act will be deemed to have been met when, subject to the provisions of paragraph (d) of § 114.12, the applicant does not have available sufficient funds to provide minimum school facilities required for the free public education of 95 percent or more of the total number of children estimated to be in the applicant's schools as of the end of the second year following the end of the membership period for which the application is filed.

(20 U.S.C. 644)

9. Subpart D—Criteria for Waivers Under the Act, is amended to add a new § 114.36, and to amend the reservations of section number, to read as follows:

§ 114.36 Criteria for waiver of substantial percentage requirement in section 14(c).

(a) The Commissioner's authority in section 14(c) of the Act to waive the substantial percentage requirement in section 14(c)(1) will not be exercised unless the conditions set forth in subparagraphs (1) through (6), inclusive, of this paragraph, are met:

(1) The applicant would, on the basis of a waiver of the substantial percentage requirement, meet all conditions of eligibility under section 14(c);

(2) The applicant makes a request to waive that percentage requirement;

(3) The applicant's jurisdictional area is countywide or is sufficiently extensive as to be analogous to a countywide school system;

(4) There has been a concentration of children who are inadequately housed by minimum school facilities located in a remote or isolated area; and it would not be practicable to transport such children from the remote or isolated area to other existing school facilities of the applicant because of distance, topography, traffic, or climatic conditions, or other equally cogent reasons;

(5) The number of children who are inadequately housed by minimum school facilities located in the remote or isolated area and estimated to be in membership in the applicant's schools as of the close of the membership period for which the application is filed is at least 20 in number and at least 20 percent of the total number of children in membership in the district as a whole and for whom the applicant is providing free public education.

(6) The area of all Federal lands in the school district composes at least 80 percent of the total area of the school district;

(b) If the Commissioner, on the basis of the minimum criteria set forth in paragraph (a) of this section, determines to waive the specified percentage requirement, the application will be processed under the Act and the regulations in this part, taking into consideration only the established remote or isolated attendance area; but in no case shall payments hereunder exceed the cost of construction of minimum school facilities for the number of children in the remote or isolated attendance area (or approved attendance area) which the Commissioner determines are inadequately housed and who will be in membership in the schools of such applicant as of the close of the second year following the close of the membership period for which the application is filed, and who would otherwise be without such facilities, and which cost has not been, and is not to be, recovered by the applicant from other sources, including payments by the United States under any other provisions of the Act or any other law, less the amount of financial resources which the Commissioner determines to be practicably available to the applicant from local, State, or other Federal sources.

(20 U.S.C. 644)

§§ 114.37–114.40 [Reserved]

10. Section 114.42 is amended to add a new paragraph (c), to read as follows:

§ 114.42 Certification of payments, section 14.

* * * * *

(c) With respect to payments under section 14(c) of the Act, except applications with respect to which the Commissioner has waived the substantial percentage requirement in section 14(c)(1), the Federal share of the cost of a project when certified for payment will be equal to but shall not exceed that portion of the cost of constructing minimum school facilities in the school district of the applicant that the Commissioner determines is attributable to children who are inadequately housed by minimum school facilities and who will be in membership in the schools of such applicant at the close of the second year following the close of the membership period under consideration and who will otherwise be without such facilities, and which cost has not been, and is not to be, recovered by the applicant from other sources, including payments by the United States under any other provisions of the Act or

any other law less the amount of financial resources which the Commissioner determines to be practicably available to the applicant from local, State, or other Federal sources.

(20 U.S.C. 644)

In accordance with section 421 of the General Education Provisions Act (20 U.S.C. 1232), the foregoing amendments will become effective 30 days following the date of their publication in the FEDERAL REGISTER.

Dated: November 30, 1970.

T. H. BELL,
Acting Commissioner of Education.

Approved: January 25, 1971.

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

[FR Doc.71-1220 Filed 1-28-71;8:46 am]

PART 115—FINANCIAL ASSISTANCE FOR CURRENT EXPENDITURES OF LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR FREE PUBLIC EDUCATION OF CERTAIN CHILDREN RESIDING ON FEDERAL PROPERTY

Miscellaneous Amendments

Part 115 of Chapter I of Title 45 of the Code of Federal Regulations is amended to reflect the fact that Public Law 81-874 has been amended by Public Law 91-230 and to provide additional time for the U.S. Office of Education to determine before the end of the fiscal year whether local educational agencies meet the statutory requirements for eligibility.

1. In § 115.3, paragraph (a) is amended to read as follows:

§ 115.3 Definitions.

* * * * *

(a) "The Act" means Public Law 874, 81st Congress (64 Stat. 1100); as amended.

* * * * *

2. In § 115.11, paragraph (a) is amended to read as follows:

§ 115.11 Final date for filing an application for financial assistance.

(a) Except as otherwise provided in this section, the final date for filing an application for financial assistance under sections 2, 3, or 4 of the Act, and the regulations in this part, out of funds appropriated for any fiscal year shall be January 31st of that fiscal year for all applicants; except that, whenever such a final date falls on a Saturday, Sunday, or other legal holiday, the final date for filing an application shall be the next succeeding weekday which is not a legal holiday. Each application must be received by the Commissioner, or under cover postmarked, on or before the final filing date after transmittal through and certification by the State educational agency. The applicant is responsible for obtaining the certification of the State educational agency and for securing a timely transmittal of the application to the Commissioner of Education. In order to give the State educational agency time in which it may process the application, the applicant should file its application with the State educational agency by January 2 of the fiscal year.

* * * * *

(20 U.S.C. 242; interpret or apply 20 U.S.C. 236-241, 242-244)

In accordance with section 421 of the General Education Provision Act (12 U.S.C. 1232), the foregoing amendments will become effective 30 days following the date of their publication in the FEDERAL REGISTER.

Dated: November 30, 1970.

T. H. BELL,
Acting Commissioner of Education.

Approved: January 25, 1971.

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

[FR Doc.71-1221 Filed 1-28-71;8:46 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18862; FCC 71-62]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations; Table of Assignments; Glen Ridge, N.J.

First Report and Order. In the matter of amendment of § 73.606(b). Table of Assignments, Television Broadcast Stations. (Glen Ridge, N.J., and Bowling Green and Toledo, Ohio).

1. The Commission instituted this proceeding by notice of proposed rule making, released May 21, 1970 (FCC 70-524, 35 F.R. 8670) for the purpose of deleting two educational television (ETV) assignments—Channel 77 at Glen Ridge, N.J., and Channel 70 at Bowling Green, Ohio—in order to implement its recent decision in the land mobile-UHF allocation proceeding in Docket No. 18262, in which these channels, among others (Channels 70-83, 806-890 MHz), were reallocated for land mobile use.[1] The notice also invited comments on possible replacements for both assignments, specifically proposing, with respect to the Channel *70 Bowling Green assignment, to replace it with Channel *40 by deleting Channel 54 from Toledo, Ohio. No replacement was proposed for the Channel *77 Glen Ridge assignment since, considering the crowded nature of the UHF assignment picture in the northeast, none appeared possible under present rules. We here consider and act only upon the Glen Ridge proposal. The Bowling Green proposal is still under study and will be dealt with later in a separate action.

2. Comments directed to the Glen Ridge proposal were filed by the Land Mobile Communications Council (LMCC), the New Jersey Public Broadcasting Authority (Authority), the State agency charged with providing a statewide educational television system and which has an application on file for use of the ETV Channel 77 Glen Ridge assignment at Montclair, N.J.,[2] and by the National Association of Educational Broadcasters (NAEB). At the Authority's request, supported by the NAEB, we have also included for consideration herein the petition for rule making which it filed with its comments on August 24, 1970, respecting the replacement for the Channel *77 Glen Ridge assignment proposed in its comments. The Authority has also filed herein copies of correspondence exchanged with Screen Gems Broadcasting Corp., licensee of Station WNJU-TV, Channel 47, Linden, N.J., relative to its replacement proposal.

3. In its comments, LMCC states that, while it does not take lightly the deletion of the Glen Ridge ETV assignment and fully supports the Commission's efforts to substitute assignments for those affected by the Commission's decisions in the land mobile-UHF allocation proceedings in Dockets Nos. 18261 and 18262, it fully supports our proposal to delete the Channel 77 Glen Ridge assignment without replacement at this time inasmuch as none appears possible. It takes the view that no exceptions from total reallocation of the 806-890 MHz frequency band for land mobile use are warranted; that to create exceptions would ultimately act to frustrate the Commission's decisions in Dockets Nos. 18261[3] and 18262[4] and encourage creating a patchwork of "relief" to land mobile users; and that, in the overall scheme of effective frequency utilization and management, total reallocation of the 806-890 MHz frequency band for land mobile use will best serve the public interest.

4. The comments of the Authority and the NAEB discuss the planning and active steps the Authority has been and is taking to establish a statewide educational television system, of which an ETV station in the Glen Ridge area to serve northern New Jersey is an integral and planned part; the need for a suitable replacement for the Channel 77 Glen Ridge assignment at this time so that the Authority can go forward with its plans for an ETV station in the area, which had reached the application stage with respect to Channel 77; and the channel replacement proposed by the Authority.

5. From a study made by its technical consultants, the Authority believes that the only channel having potential for use in the proximity of Glen Ridge to meet its ETV needs is Channel 50. The

[1] See First Report and Order and Second Notice of Inquiry, adopted May 20, 1970, in Docket No. 18262, FCC 70-519, 35 F.R. 8644.

[2] BPET-363, filed Feb. 18, 1970.

[3] First Report and Order, adopted May 20, 1970, Docket 18261, FCC 70-521, 23 FCC 2d 325.

[4] Supra, footnote 1.

Authority, supported by the NAEB, therefore requests that Channel 50 be assigned to Little Falls, N.J., as a replacement for the Channel 77 Glen Ridge ETV assignment. Little Falls, a town with a 1960 population of 9,730 persons, is located in Passaic County, in close proximity to Glen Ridge and immediately adjacent to Montclair, the location of a portion of the Montclair State College campus, and the planned location for the Authority's transmitting facilities for an ETV station to serve this northern New Jersey area.

6. The Authority also requests waiver of the rules (§ 73.601(d)) to permit the assignment and use of Channel 50 at Little Falls at less than the 20-mile separation required by the UHF intermodulation taboo from the transmitting facilities of Station WNJU-TV, Channel 47, Linden, N.J., on the Empire State Building, New York City, or from the World Trade Center Building in the event the WNJU-TV transmitter is relocated there when it is completed, as anticipated. The Authority urges that good cause exists for waiving the intermodulation taboo in this case since its technical study indicates that the present or proposed operation on Channel 47 will not be affected by a Little Falls Channel 50 operation; the Channel 47 licensee will not object to the Channel 50 operation—correspondence filed herein by the Authority indicates that Screen Gems would interpose no objection to a Channel 50 operation at the site contemplated by the Authority and that neither party would object to the use of maximum power by the Channel 50 Little Falls station or by Station WNJU-TV at either its present transmitter site or one on the World Trade Center Building; and the people in northern New Jersey are entitled to have the educational television service envisioned by the State Legislature and proposed by the Authority.

7. The Commission subscribes to the view that the overall public interest is served by deleting the ETV Glen Ridge assignment at this time, even without replacement, in view of the fact that it is among the UHF television channels which we have reallocated to the land mobile services in Docket No. 18262 in light of their pressing needs, particularly in the New York-eastern New Jersey area. We also believe, as do all the parties herein, that in withdrawing Channel 77 from ETV use in the Glen Ridge area, it is clearly desirable in the public interest to replace it at this time, if at all possible. Its deletion from Glen Ridge will remove the only ETV channel assignment in northern New Jersey, and we are convinced by the Authority's showing that an assignment is needed in this area to enable the Authority to proceed with its plan to establish a first local ETV station to serve northern New Jersey and to implement its plans for a statewide educational television network effectively.

8. Since instituting this proceeding, we have made further studies of channel replacement possibilities for the Channel 77 Glen Ridge assignment. From them, we have determined that there are no available channels meeting spacing requirements which could be assigned in this area and that, of all other possibilities, the assignment of Channel 50 to the area would pose the fewest problems. If assigned to Little Falls and used as the Authority plans, it would meet all spacing requirements but one—the required 20-mile separation (intermodulation taboo) between Channel 50 and Channel 47, occupied by Station WNJU-TV, Linden, N.J. The distance from the Little Falls reference point to the Empire State Building, where the WNJU-TV transmitter is now located, is but 15.8 miles, and to the World Trade Center Building, where the WNJU-TV transmitter may be relocated when that structure is completed, but 16.3 miles. The distance from the Little Falls transmitter site for the Channel 50 operation planned by the Authority (some 1,150 feet west of the specified site for the Authority's proposed Channel 77 operation, with geographical coordinates of north latitude 40°51′48″ and west longitude 74°12′01″) is only about 13.7 miles from the Empire State Building and only 14.3 miles from the World Trade Center Building.

9. We have also investigated the possibility of interference that might result from waiver of the intermodulation taboo to the extent required for a Little Falls ETV Channel 50 station at the location planned by the Authority. It leads us to believe that there would be little likelihood of significant interference from intermodulation products. In considering the channels that might be received in the Little Falls, N.J., area,[5] we found only two channels that might provide a usable signal in the potential interference area—Channel 43, Bridgeport, Conn., occupied by off-the-air Station WFTT, and unused Channel 54, Poughkeepsie, N.Y. Since both channels are approximately 55 miles from the potential interference area, their signal intensities would likely be too low for satisfactory reception in that area or to create an interference problem of any magnitude. Also, since neither the Authority nor the Channel 47 licensee are proposing to operate with maximum power at this time, the possibility of interference resulting from the requested waiver of the separation requirements for the intermodulation taboo is further reduced. Of course, there is always the possibility that the licensee of either channel may wish to increase power at some future time. In that event, we would again consider the situation at that time. It does not appear, however, that the possibility of interference from intermodulation would be sufficiently great to make the use of even maximum power on either channel prohibitive at present or presently contemplated sites.

[5] For this intermodulation study, the third channel above channel 50, plus and minus one (Channels 52, 53, 54), and the third channel below Channel 47, plus and minus one (Channels 43, 44, 45), were considered.

10. This assignment proposal presents a difficult case for decision. We have not heretofore relaxed the UHF intermodulation taboo in order to permit an assignment or its use, and we believe that, in the interest of maintaining stability in our allocation policies and in insuring adequate protection to the public and stations from interference caused by intermodulation, we should continue to apply this "safety" taboo to all stations, at least until such time as our reevaluation of the UHF taboos, which has begun, shows what relaxation, if any, would be feasible. But this reevaluation will take time, and the case for relaxing the UHF intermodulation taboo to the extent necessary to permit the assignment and ETV use of Channel 50 at Little Falls at this time appears unusually strong and compelling. First, we are reasonably satisfied by our studies that the relaxation required would not create a significant intermodulation interference problem and would be feasible. Second, since the Authority's showing indicates that both it and the Channel 47 licensee are agreeable to the use of Channel 50 at Little Falls under conditions that will not hamper full and effective use of either channel, there appears no problem in this regard. Third, there appears no other channel which could be assigned to this northern New Jersey area to replace Channel 77 at this time which would involve fewer problems than the assignment of Channel 50. Fourth, and most important, we feel called upon, in the public interest and in furtherance of our educational and UHF television goals, to provide the State of New Jersey with an alternate means for implementing the plans which it, through the Authority, has been actively pursuing for establishing a first local and network educational service in northern New Jersey on Channel 77, and which had reached the application stage prior to our decision in Docket No. 18262. We are especially desirous of doing so since it is as a consequence of our reallocation of television Channels 70-83 to meet the needs of the land mobile services that these plans have been disrupted.

11. We are persuaded that the above considerations, taken together, may make this an exceptional case for relaxing the UHF intermodulation taboo to the extent necessary to permit the assignment and use of Channel 50 at Little Falls, as planned by the Authority, and we wish to consider the proposal further in rule making. We are therefore implementing our decision on Docket No. 18262 by deleting the ETV Channel 77 Glen Ridge assignment and, in a separate document adopted today, instituting rule making on the Authority's Channel 50 replacement proposal.

12. Authority for this action is found in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended.

13. *Accordingly, it is ordered,* That, effective March 2, 1971, § 73.606(b), Table of Assignments, Television Broadcast Stations, is amended, by deleting

the entry for Glen Ridge, N.J., and Channel 77 therefrom.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: January 20, 1971.

Released: January 25, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[6]

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

[FR Doc.71-1255 Filed 1-28-71;8:49 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1059]

PART 1033—CAR SERVICE

Pennsylvania-Reading Seashore Lines; Unloading of Certain Cars of Beets Held at Glassboro and Tuckahoe, N.J.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C. on the 25th day of January 1971.

It appearing, that there is a critical shortage of hopper cars throughout the country; that numerous shippers are unable to secure the hopper cars required for transportation of their traffic; that certain shippers load substantial numbers of such hopper cars far in advance of dates wanted at destination; that such cars are subsequently ordered held at origin or at various points en route to billed destination; that 26 such cars are being held by the Pennsylvania-Reading Seashore Lines at Glassboro, N.J., and four such cars are being held on that line at Tuckahoe, N.J., commencing with various dates between November 11, 1970, and December 11, 1970; that the Pennsylvania-Reading Seashore Lines has been unable to secure authority from the shipper to forward these cars to destination for unloading by the consignee; that the consignee named in the billing is unable to accept and unload these cars on a current basis; and that these practices prevent the use of the affected cars for the transportation of products of other shippers. Therefore, it is the opinion of the Commission that, because the existing rules, regulations, and practices of the railroads are inadequate, and emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1059 Service Order No. 1059.

(a) Pennsylvania-Reading Seashore Lines shall unload certain cars of beets held at Glassboro, N.J. and at Tuckahoe, N.J.: The Pennsylvania-Reading Seashore Lines, its agents or employees, shall unload the following cars containing beets held at Glassboro, N.J., and at Tuckahoe, N.J.

(1) Cars held at Glassboro, N.J.:

NYC 906992	PRR 669137
PRR 279901	PRR 667719
PRR 274572	PRR 279891
PRR 267814	PRR 670662
NYC 905962	PRR 279300
PRR 666113	PRR 279439
PRR 670221	PRR 275254
PRR 673129	PRR 272291
PRR 268770	PRR 267206
PRR 271084	PRR 674512
PRR 271590	PRR 670362
PRR 274279	PRR 268988
PRR 673640	PRR 274354

(2) Cars held at Tuckahoe, N.J.:

PRR 671648	PRR 672423
PRR 672518	PRR 274709

(b) The Pennsylvania-Reading Seashore Lines, its agents or employees, shall complete the unloading of each of the cars named in paragraph (a) of this section not later than 11:59 p.m., February 13, 1971.

(c) The Pennsylvania-Reading Seashore Lines, its agents or employees, shall notify the shipper and R. D. Pfahler, Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C., when it has completed the unloading of each car. Such notice shall specify when, where, and by whom such unloading was performed.

(d) Application: The provisions of this order shall apply to intrastate and foreign traffic, as well as to interstate traffic.

(e) Rules and regulations suspended: The operation of all rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(f) Effective date: This order shall become effective at 12:01 a.m., January 26, 1971.

(g) Expiration date: The provisions of this order shall expire at 11:59 p.m., February 13, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

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

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

By the Commission, Railroad Service Board.

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

[FR Doc.71-1241 Filed 1-28-71;8:48 am]

[S.O. 1060]

PART 1033—CAR SERVICE

Reading Co.; Unloading of Certain Cars of Beets Held at Macungie, Pa.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 25th day of January 1971.

It appearing, that there is a critical shortage of hopper cars throughout the country; that numerous shippers are unable to secure the hopper cars required for transportation of their traffic; that certain shippers load substantial numbers of such hopper cars far in advance of dates wanted at destination; that such cars are subsequently ordered held at origin or at various points en route to billed destination; that two such cars are being held by the Reading Co. at Macungie, Pa., since November 23, 1970; that the Reading Co. has been unable to secure authority from the shipper to forward these cars to destination for unloading by the consignee; that the consignee named in the billing is unable to accept and unload these cars on a current basis; and that these practices prevent the use of the affected cars for the transportation of products of other shippers. Therefore, it is the opinion of the Commission that, because the existing rules, regulations, and practices of the railroads are inadequate, an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1060 Service Order No. 1060.

(a) The Reading Co. shall unload certain cars of beets held at Macungie, Pa.: The Reading Co., its agents or employees, shall unload the following cars containing beets held at Macungie, Pa.

BAR 813	BAR 837

(b) The Reading Co., its agents or employees, shall complete the unloading of each of the cars named in paragraph (a) of this section not later than 11:59 p.m., February 13, 1971.

(c) The Reading Co., its agents or employees, shall notify the shipper and R. D. Pfahler, Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C., when it has completed the unloading of each car. Such

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[6] Commissioner Robert E. Lee abstaining from voting; Commissioner Johnson concurring in the result; Commissioner Houser not participating.

notice shall specify when, where, and by whom such unloading was performed.

(d) Application: The provisions of this order shall apply to intrastate and foreign traffic, as well as to interstate traffic.

(e) Rules and regulations suspended: The operation of all rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(f) Effective date: This order shall become effective at 12:01 a.m., January 26, 1971.

(g) Expiration date: The provisions of this order shall expire at 11:59 p.m., February 13, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

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

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

By the Commission, Railroad Service Board.

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

[FR Doc.71-1242 Filed 1-28-71;8:48 am]

Proposed Rule Making

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 30]

EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP AND TRAINING

Notice of Proposed Rule Making

Part 30 of Title 29 of the Code of Federal Regulations was originally issued by the Secretary of Labor on December 13, 1963, 28 F.R. 13775. Approximately 7 years of experience has shown some significant equal employment opportunity progress in apprenticeship programs. However, despite the fact that there has been progress in some occupations and in some geographical areas, there continues to be underutilization of minorities in apprenticeship. The need therefore exists for revision of these regulations in order to sustain the progress which has been made, to correct the underutilization which exists, to meet this Department's responsibilities for insuring that apprenticeship programs registered with the Department or with recognized State apprenticeship agencies provide equal opportunity for all Americans, and to coordinate this part with other equal opportunity programs. It is therefore proposed to revise the provisions of 29 CFR Part 30 to read as set forth below.

Interested persons may submit written statements, data, views, or argument in regard to any or all of the policies or procedures contained in this proposal by mailing them to the Secretary of Labor, U.S. Department of Labor, Constitution Avenue and 14th Street NW., Washington, DC 20210 within 30 days after this notice is published in the FEDERAL REGISTER.

PART 30—EQUAL EMPLOYMENT OPPORTUNITY IN APPRENTICESHIP AND TRAINING

Sec.
30.1 Scope and purpose.
30.2 Definitions.
30.3 Equal opportunity standards.
30.4 Affirmative action plans.
30.5 Selection of apprentices.
30.6 Existing lists of eligibles and public notice.
30.7 Completion of approved preapprenticeship programs.
30.8 Records.
30.9 Compliance reviews.
30.10 Noncompliance with Federal and State equal opportunity requirements.
30.11 Complaint procedure.
30.12 Adjustment in schedule for compliance review or complaint processing.
30.13 Sanctions.
30.14 Reinstatement of program registration.
30.15 State Apprenticeship Councils.
30.16 Hearings.
30.17 Intimidatory of retaliatory acts.
30.18 Nondiscrimination.
30.19 Exemptions.

AUTHORITY: The provisions of this Part 30 are issued under sec. 1, 50 Stat. 664, as amended; 29 U.S.C. 50; 40 U.S.C. 276c; 5 U.S.C. 301; Reorganization Plan No. 14 of 1950, 64 Stat. 1267, 3 CFR 1949-53 Comp., p. 1007.

§ 30.1 Scope and purpose.

This part sets forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the U.S. Department of Labor or with State apprenticeship programs registered with recognized State apprenticeship agencies. These policies and procedures apply to the recruitment and selection of apprentices, and to all conditions of employment and training during apprenticeship; and the procedures established provide for review of apprenticeship programs, for registering apprenticeship programs, for processing complaints, and for deregistering noncomplying apprenticeship programs. This part also provides policies and procedures for recognizing appropriate State agencies for registering apprenticeship programs for Federal purposes. The purpose of this part is to promote equality of opportunity in apprenticeship by prohibiting discrimination based on race, color, religion, national origin, or sex in apprenticeship programs, by requiring affirmative action to provide equal opportunity in such apprenticeship programs, and by coordinating this part with other equal opportunity programs.

§ 30.2 Definitions.

(a) "Department" means the U.S. Department of Labor.

(b) "Employer" means any person or organization employing an apprentice whether or not the apprentice is enrolled with such person or organization or with some other person or organization.

(c) "Apprenticeship program" means a program registered by the Department and evidenced by a Certificate of Registration as meeting the standards of the Department for apprenticeship, but does not include a State apprenticeship program.

(d) "Sponsor" means any person or organization operating an apprenticeship program, irrespective of whether such person or organization is an employer.

(e) "Secretary" means the Secretary of Labor, the Assistant Secretary of Labor for Manpower or any person specifically designated by either of them.

(f) "State Apprenticeship Council" means a State apprenticeship council or other State agency in any of the 50 States, the District of Columbia, or any territory or possession of the United States, which is recognized by the Department as the appropriate agency for registering programs for Federal purposes.

(g) "State apprenticeship program" means a program registered with a State Apprenticeship Council and evidenced by a Certificate of Registration or other appropriate document as meeting the standards of the State Apprenticeship Council for apprenticeship.

(h) "State program sponsor" means any person or organization operating a State apprenticeship program, irrespective of whether such person or organization is an employer.

§ 30.3 Equal opportunity standards.

(a) *Obligations of sponsors.* Each sponsor of an apprenticeship program shall:

(1) Recruit, select, employ, and train apprentices during their apprenticeship, without discrimination because of race, color, religion, national origin, or sex; and

(2) Uniformly apply rules and regulations concerning apprentices, including but not limited to, equality of wages, periodic advancement, promotion, assignment of work, job performance, rotation among all work processes of the trade, imposition of penalties or other disciplinary action, and all other aspects of the apprenticeship program administration by the program sponsor; and

(3) Take affirmative action to provide equal opportunity in apprenticeship, including adoption of an affirmative action plan as required by this part.

(b) *Equal opportunity pledge.* Each sponsor of an apprenticeship program shall include in its standards the following equal opportunity pledge:

> The recruitment, selection, employment, and training of apprentices during their apprenticeship, shall be without discrimination because of race, color, religion, national origin, or sex. The sponsor will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required under Title 29 of the Code of Federal Regulations, Part 30.

(c) *Programs presently registered.* Each sponsor of a program registered with the Department as of the effective date of this part shall within 9 months following that effective date take the following action:

(1) Include in the standards of its apprenticeship program the equal opportunity pledge prescribed by paragraph (b) of this section; and,

(2) Adopt an affirmative action plan required by § 30.4; and

(3) Adopt a selection procedure required by § 30.5. A sponsor adopting a selection method under § 30.5(b) (1), (2), or (3) shall prepare, and have available for submission upon request, copies of its amended standards, affirmative action plans, and selection procedure. A

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sponsor adopting a selection method under § 30.5(b)(4) shall submit to the Department copies of its standards, affirmative action plan and selection procedure in accordance with the requirements of § 30.5(b)(4)(i)(*a*).

(d) *Sponsors seeking new registration.* A sponsor of a program seeking new registration with the Department shall submit copies of its proposed standards, affirmative action plan, selection procedures, and such other information as may be required. The program shall be registered if such standards, affirmative action plan, and selection procedure meet the requirements of this part.

(e) *Programs subject to approved equal employment opportunity plans.* A sponsor shall not be required to adopt an affirmative action plan under §30.4 or a selection procedure under §30.5 if it submits to the Department satisfactory evidence that it is subject to an equal employment opportunity program providing for the selection of apprentices and for affirmative action in apprenticeship which has been approved as meeting the requirements of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or Executive Order 11246, as amended (30 F.R. 12319, 32 F.R. 14303, 34 F.R. 12986) and the implementing regulations published in Title 29 of the Code of Federal Regulations, Chapter XIV, and Title 41 of the Code of Federal Regulations, Chapter 60.

(f) *Program with fewer than five apprentices.* A sponsor of a program in which fewer than five apprentices are indentured shall not be required to adopt an affirmative action plan under § 30.4 or a selection procedure under § 30.5.

§ 30.4 Affirmative action plans.

(a) *Adoption of affirmative action plans.* A sponsor's commitment to equal opportunity in recruitment, selection, employment, and training of apprentices shall include the adoption of a written affirmative action plan.

(b) *Definition of affirmative action.* Affirmative action is not mere passive nondiscrimination. It includes procedures, methods and program for the identification, positive recruitment, training, and motivation of present and potential minority group apprentices. It is action which will equalize opportunity in apprenticeship so as to allow full utilization of minority group manpower potential. The overall result to be sought is equal opportunity in apprenticeship for all individuals participating in or seeking entrance to the Nation's labor force.

(c) *Outreach and positive recruitment.* An acceptable affirmative action plan must also include adequate provision for outreach and positive recruitment that would reasonably be expected to increase minority participation in apprenticeship by expanding the opportunity of minority persons to become eligible for apprenticeship selection. In order to achieve these objectives, sponsors shall undertake activities such as those listed below. It is not contemplated that each sponsor necessarily will include all of the listed activities in its affirmative action program. The scope of the affirmative action program will depend on all the circumstances including the size and type of the program and its resources. However, the sponsor will be required to undertake a significant number of appropriate activities in order to enable it to meet its obligations under this part.

(1) Dissemination of information concerning the nature of apprenticeship, availability of apprenticeship opportunities, sources of apprenticeship applications, and the equal opportunity policy of the sponsor. Such information shall be disseminated at least 30 days in advance of the earliest date for application for admission to the apprenticeship program and be given to the Department, local schools, employment service offices, community organizations which can effectively reach minority groups, and published in newspapers which are circulated in the minority community as well as the general areas in which the program sponsor operates.

(2) Participate in annual workshops conducted by employment service agencies for the purpose of familiarizing school, employment service and other appropriate personnel with the apprenticeship system and current opportunities therein.

(3) Cooperation with local school boards and vocational education systems to develop programs for preparing students to meet the standards and criteria required to qualify for entry into apprenticeship programs.

(4) Internal communication of the sponsor's equal opportunity policy in such a manner as to foster understanding, acceptance, and support among the sponsor's various officers, supervisors, employees, and members and to encourage such persons to take the necessary action to aid the sponsor in meeting its obligations under this part.

(5) Engaging in programs such as outreach for the positive recruitment and preparation of potential applicants for apprenticeships; where appropriate and feasible, such programs shall provide for pretesting experience and training. If no such programs are in existence, the sponsor shall seek to initiate these programs, or, when available, to obtain financial assistance from the Department. In initiating and conducting these programs, the sponsor may be required to work with other sponsors and appropriate community organizations.

(6) Utilization of journeymen to assist in the implementation of the sponsor's affirmative action program.

(7) Granting advance standing or credit on the basis of previously acquired experience, training, skills, or aptitude for all applicants equally.

(8) Admitting to apprenticeship persons whose age exceeds the maximum age for admission to the program, where such action is necessary to assist the sponsor in achieving its affirmative action obligations.

(9) Such other action as to insure that the recruitment, selection, employment, and training of apprentices during apprenticeship, shall be without discrimination because of race, color, religion, national origin, or sex; such as: General publication of apprenticeship opportunities and advantages in advertisements, industry reports, articles, etc.; use of present minority apprentices and journeymen as recruiters; career counseling; periodic auditing of affirmative action programs and activities; and development of reasonable procedures between the sponsor and employers of apprentices to insure that equal employment opportunity is being granted including reporting systems, on site reviews, briefing sessions, etc. The affirmative action program shall set forth the specific steps the program under this paragraph (c) sponsors intend to take, in the above areas. Whenever special circumstances warrant, the Department may provide such financial or other assistance as it deems necessary to implement the above requirements.

(d) *Goals and timetables.* (1) A sponsor adopting a selection method under § 30.5(b) (1) or (2) which determines on the basis of the analysis described in paragraph (e) of this section that it has deficiencies in terms of underutilization of minorities in the craft or crafts represented by the program shall include in its affirmative action plan percentage goals and timetables for the admission of minority applicants into the eligibility pool.

(2) A sponsor adopting a selection method under § 30.5(b) (3) or (4) which determines on the basis of the analysis described in paragraph (e) of this section that it has deficiencies in terms of the underutilization of minorities in the craft or crafts represented by the program shall include in its affirmative action plan percentage goals and timetables for the selection of minority applicants for the apprenticeship program.

(3) "Underutilization" as used in this paragraph refers to the situation where there are fewer minorities in the particular craft or crafts represented by the program than would reasonably be expected in view of an analysis of the specific factors in subparagraphs (1) through (5) in paragraph (e) of this section. Where, on the basis of the analysis, the sponsor determines that it has no deficiencies, no goals and timetables need be established. However, where no goals and timetables are established, the affirmative action program shall include a detailed explanation why no goals and timetables have been established.

(4) Where the sponsor fails to submit goals and timetables as part of its affirmative action plan or submits goals and timetables which are unacceptable, and the Department determines that the sponsor has deficiencies in terms of underutilization of minorities within the meaning of this section, the Department shall establish goals and timetables applicable to the sponsor for the admission of minority applicants into the eligibility pool or selection of apprentices, as appropriate. The sponsor shall make good faith efforts to attain these goals and timetables in accordance with the requirements of this section.

(e) *Analysis to determine if deficiencies exist.* The sponsor's determination as to whether goals and timetables shall be established, shall be based on an analysis of at least the following factors, which analysis shall be set forth in writing as part of the affirmative action program.

(1) The minority population of the labor market area in which the program sponsor operates;

(2) The size of the minority labor force in the program sponsor's labor market area;

(3) The percentage of minority participation as apprentices in the particular craft as compared with the percentage of minorities in the labor force in the program sponsor's labor market area;

(4) The percentage of minority participation as journeymen employed by the employer or employers participating in the program as compared with the percentage of minorities in the sponsor's labor market area and the extent to which the sponsor should be expected to correct any deficiencies through the achievement of goals and timetables for the selection of apprentices.

(5) The general availability of minorities with present or potential capacity for apprenticeship in the program sponsor's labor market area.

(f) *Establishment and attainment of goals and timetables.* The goals and timetables shall be established on the basis of the sponsor's analysis of its underutilization of minorities and its entire affirmative action program. In establishing the goals, the sponsor should consider the results which could be reasonably expected from its good faith efforts to make its overall affirmative action program work. Compliance with these requirements shall be determined by whether the sponsor has met its goals within its timetable, or failing that, whether it has made good faith efforts to meet its goals and timetables. Its "good faith efforts" shall be judged by whether it is following its affirmative action program and attempting to make it work, including evaluation and changes in its program where necessary to obtain the maximum effectiveness toward the attainment of its goals.

(g) *Data and information.* The Secretary of Labor, or a person or agency designated by him, shall make available to program sponsors data and information on minority population and labor force characteristics for each Standard Metropolitan Statistical Area, and for other special areas as shall be designated by the Secretary.

§ 30.5 Selection of apprentices.

(a) *Obligations of sponsors.* In addition to the development of a written affirmative action plan to insure that minorities have an equal opportunity for selection as apprentices and further to otherwise ensure the prompt achievement of full and equal opportunity in apprenticeship, each sponsor shall further provide in its affirmative action program that the selection of apprentices shall be made under one of the methods specified in the following subparagraphs (1) through (4) of paragraph (b) of this section.

(b) *Selection methods.* The sponsor shall adopt one of the following methods for selecting apprentices:

(1) *Selection on basis of rank from pool of eligible applicants*—(i) *Selection.* A sponsor may select apprentices from a pool of eligible applicants created in accordance with the requirements of subdivision (iii) of this subparagraph on the basis of the rank order of scores of applicants on one or more qualification standards where there is a significant statistical and practical relationship between rank order of scores and performance in the apprenticeship program. In demonstrating such relationship, the sponsor shall follow the procedures set forth in the Department of Labor Order of September 9, 1968 (33 F.R. 14392, Sept. 24, 1968), covering the validation of employment tests of contractors and subcontractors subject to the provision of Executive Order 11246, as amended.

(ii) *Requirements.* The sponsor adopting this method of selecting apprentices shall meet the requirements of subdivisions (iii) through (vii) of this subparagraph.

(iii) *Creation of pool of eligibles.* A pool of eligibles shall be created from applicants who meet the qualifications of minimum legal working age and the sponsor's minimum physical requirements; or from applicants who meet qualification standards in addition to minimum legal working age and the sponsor's minimum physical requirements: *Provided,* That any additional qualification standards conform with the following requirements:

(*a*) *Qualification standards.* The qualification standards, and the procedures for determining such qualification standards, shall be stated in detail and shall provide criteria for the specific factors and attributes to be considered in evaluating applicants for admission to the pool. The score required under each qualification standard for admission to the pool shall also be specified. All qualification standards, and the score required on any standard for admission to the pool, shall be directly related to job performance, as shown by a significant statistical and practical relationship between the score on the standards, and the score required for admission to the pool, and performance in the apprenticeship program. In demonstrating such relationships, the sponsor shall follow the procedures set forth in the Department's testing order of September 9, 1968. Qualifications shall be considered as separately required so that the failure of an applicant to attain the specified score under a single qualification standard shall disqualify the applicant from admission to the pool.

(*b*) *Aptitude tests.* Any qualification standard for admission to the pool consisting of aptitude test scores shall be directly related to job performance, as shown by significant statistical and practical relationships between the score on the aptitude tests, and the score required for admission to the pool, and performance in the apprenticeship program. In determining such relationships, the sponsor shall follow the procedures set forth in the Department's testing order of September 9, 1968. The requirements of this item (b) shall also be applicable to aptitude tests utilized by a program sponsor which are administered by a State employment service agency, a private employment agency, or an other person, agency, or organization engaged in the selection or evaluation of personnel. A national test developed and administered by a national joint apprenticeship committee will not be approved by the Department unless such test meets the requirements of this subsection.

(*c*) *Educational attainments.* All educational attainments or achievements as qualifications for admission to the pool shall be directly related to job performance, as shown by a significant statistical and practical relationship between the score, and the score required for admission to the pool, and performance in the apprenticeship program. In demonstrating such relationships, the sponsor shall meet the requirements of the Department's testing order of September 9, 1968. School records or the results of general education development tests recognized by the State or local public instruction authority shall be evidence of educational achievement. Education requirements shall be applied uniformly to all applicants.

(iv) *Oral interviews.* Oral interviews shall not be used as a qualification standard for admission into an eligibility pool. However, once an applicant is placed in the eligibility pool, and before he is selected for apprenticeship from the pool, he may be required to submit to an oral interview. Oral interviews shall be limited only to such objective questions as may be required to determine the fitness of applicants to enter the apprenticeship program, but shall not include questions relating to qualifications previously determined in gaining entrance to the eligibility pool. When an oral interview is used, each interviewer shall record his questions, the general nature of answers, and shall prepare a summary of any conclusions. Applicants rejected from the pool of eligibles on the basis of an oral interview shall be given a written statement of such rejection, the reasons therefor, and the appeal rights available to the applicant.

(v) *Notification of applicants.* All applicants who meet the requirements for admission shall be notified and placed in the eligibility pool. The program sponsor shall give each rejected applicant notice of his rejection including the reasons for his rejection, the requirements for admission to the pool of eligibles, and the appeal rights available to the applicant.

(vi) *Goals and timetables.* The sponsor shall establish, where required by § 30.4 (d), percentage goals and timetables for the admission of minority persons into the pool of eligibles, in accordance with the provisions of § 30.4 (d), (e), and (f).

(vii) *Compliance.* A sponsor shall be deemed to be in compliance with its commitments under subdivision (vi) of this

subparagraph if it meets its goals or timetables or if it makes a good faith effort to meet these goals and timetables. In the event of the failure of the sponsor to meet its goals and timetables, it shall be given an opportunity to demonstrate that it has made every "good faith effort" to meet its commitments (see § 30.4(f)). All the actions of the sponsor shall be reviewed and evaluated in determining whether such good faith efforts have been made.

(2) *Random selection from pool of eligible applicants*—(i) *Selection.* A sponsor may select apprentices from a pool of eligible applicants on a random basis. The method of random selection is subject to approval by the Department. Supervision of the random selection process shall be by an impartial person or persons selected by the sponsor, but not associated with the administration of the apprenticeship program. The time and place of the selection, and the number of apprentices to be selected, shall be announced. The place of the selection shall be open to all applicants and the public. The names of apprentices drawn by this method shall be posted immediately following the selection at the program sponsor's place of business.

(ii) The sponsor adopting this method of selecting apprentices shall meet the requirements of subdivisions (iii) through (v) of subparagraph (1) of this paragraph relating to the creation of pool of eligibles, oral interviews, and notification of applicants.

(iii) *Goals and timetables.* The sponsor shall establish, where required by § 30.4(d), percentage goals and timetables for the admission of minority persons into the pool of eligibles in accordance with the provisions of § 30.4 (d), (e), and (f).

(iv) *Compliance.* Determinations as to the sponsor's compliance with its obligations under these regulations shall be in accordance with the provisions of subdivision (vii) of subparagraph (1) of this paragraph (b).

(3) *Selection from pool of current employees*—(i) *Selection.* A sponsor may select apprentices from an eligibility pool of the workers already employed by the program sponsor in a manner prescribed by a collective bargaining agreement where such exists, or by the sponsor's established promotion policy. The sponsor adopting this method of selecting apprentices shall establish goals and timetables for the selection of minority apprentices, unless the sponsor concludes, in accordance with the provisions of § 30.4 (d), (e), and (f) that it does not have deficiencies in terms of underutilization of minorities in the apprenticeship of journeymen crafts represented by the program.

(ii) *Compliance.* Determinations as to the sponsor's compliance with its obligations under these regulations shall be in accordance with the provisions of subdivision (vii) of subparagraph (1) of this paragraph (b).

(4) *Alternative selection methods*—(i) *Selection.* A sponsor may select apprentices by means of any other method, including its present selection method: *Provided,* That the sponsor meets the following requirements:

(*a*) *Selection method and goals and timetables.* Within 6 months of the effective date of this part, the sponsor shall submit to the Department a detailed statement of the selection method it proposes to use along with the rest of its written affirmative action program including, where required by § 30.4(d), its percentage goals and timetables for the selection of minority applicants for apprenticeship and its written analysis, upon which such goals and timetables, or lack thereof, are based. The establishment of goals and timetables shall be in accordance with the provisions of § 30.4 (d), (e), and (f). The sponsor may not implement any such selection method until the Department has approved the selection method as meeting the requirements of item (*b*) of this subdivision and has approved the remainder of its affirmative action program including its goals and timetables. If the Department fails to act upon the selection method and the affirmative action program within 30 days of its submission, the sponsor may implement the selection method on the effective date of this part.

(*b*) *Qualification standards.* Apprentices shall be selected on the basis of objective and specific qualification standards. Examples of such standards as fair aptitude tests, school diplomas, age requirements, occupationally essential physical requirements, fair interviews, school grades, and previous work experience. Where interviews are used, adequate records shall be kept including a brief summary of each interview and the conclusions on each of the specific factors, e.g., motivation, ambition, and willingness to accept direction which are part of the total judgment.

(ii) *Compliance.* Determination as to the sponsor's compliance with its obligations under these regulations shall be in accordance with the provisions of subdivision (vii) of subparagraph (1) of this paragraph (b). Where a sponsor, despite its good faith efforts, fails to meet its goals and timetables within a reasonable period of time, the sponsor may be required to make appropriate changes in its affirmative action program to the extent necessary to obtain maximum effectiveness towards the attainment of its goals. The sponsor may also be required to develop and adopt an alternative selection method, including a method prescribed by the Department, where it is determined that the failure of the sponsor to meet its goals is attributable in substantial part to the selection method. Where the sponsor's failure to meet its golas is attributable in substantial part to its use of a qualification standard which has adversely affected the opportunities of minority persons for apprenticeship, the sponsor may be required to demostrate that such qualification standard is directly related to job performance, in accordance with the provisions of subparagraph (1)(iii)(*a*) of this paragraph.

§ 30.6 Existing lists of eligibles and public notice.

A sponsor adopting a selection method under § 30.5(b) (1) or (2), and a sponsor adopting a selection method under § 30.5(b)(4) who determines that there are fewer minorities on its existing lists of eligibles than would reasonably be expected in view of the analysis described in § 30.4(e) shall discard all existing eligibility lists upon adoption of the selection methods required by this part. New eligibility pools shall be established and lists of eligibility pools shall be posted at the sponsor's place of business. Sponsors shall establish a reasonable period of not less than 2 weeks for accepting applications for admission to an apprenticeship program. There shall be at least 30 days of public notice in advance of the earliest date for application for admission to the apprenticeship program (see § 30.4(c) on affirmative action with respect to dissemination of information). Applicants who have been placed in a pool of eligibles shall be retained on lists of eligibles subject to selection for a period of 2 years. Applicants may be removed from the list at an earlier date by their request or following their failure to respond to an apprentice job opportunity given by registered return receipt mail notice. Applicants who have been accepted in the program shall be afforded a reasonable period of time in light of the customs and practices of the industry for reporting for work. All applicants shall be treated equally in determining such period of time. It shall be the responsibility of the applicant to keep the sponsor informed of his current mailing address. A sponsor may restore to the list of eligibles an applicant who has been removed from the list at his request or who has failed to respond to an apprenticeship job opportunity.

§ 30.7 Completion of approved preapprenticeship programs.

In order to encourage the establishment and utilization of preapprenticeship programs, a sponsor shall make appropriate provision in its selection method to assure that applicants who satisfactorily complete an approved preapprenticeship program in the trade will be afforded full opportunity for admission to the apprenticeship program.

§ 30.8 Records.

(a) *Obligations of sponsors.* Each sponsor shall keep adequate records including a summary of the qualifications of each applicant, the basis for evaluation and for selection or rejection of each applicant, the records pertaining to interviews of applicants, the original application for each applicant, information relative to the operation of the apprenticeship program, including but not limited to job assignment, promotion, demotion, layoff, or termination, rates of pay, or other forms of compensation or conditions of work, and any other records pertinent to a determination of compliance with these regulations, as may be required by the Department. The records

pertaining to individual applicants, whether selected or rejected shall be maintained in such manner as to permit identification of minority participants.

(b) *Affirmative action plans.* Each sponsor must retain a statement of its affirmative action plan required by § 30.4 for the prompt achievement of full and equal opportunity in apprenticeship, including all data and analyses made pursuant to the requirements of § 30.4. Sponsors shall periodically review their affirmative action plan and update it where necessary.

(c) *Qualification standards.* Each sponsor must maintain evidence that its qualification standards have been validated in accordance with the requirements set forth in § 30.5(b).

(d) *Records of State Apprenticeship Councils.* State Apprenticeship Councils shall keep adequate records, including registration requirements, individual program standards and registration records, program compliance reviews and investigations, and any other records pertinent to a determination of compliance with this part, as may be required by the Department, and shall report to the Department as may be required by the Department.

(e) *Maintenance of records.* The records required by this part and any other information relevant to compliance with these regulations shall be maintained for 5 years and made available upon request to the Department or other authorized representative.

§ 30.9 Compliance reviews.

(a) *Conduct of compliance reviews.* The Department will regularly conduct systematic reviews of apprenticeship programs in order to determine the extent to which sponsors are complying with these regulations and will also conduct compliance reviews when circumstances, including receipt of complaints not referred to a private review body pursuant to § 30.11(b)(1)(i), so warrant, and take appropriate action regarding programs which are not in compliance with the requirements of this part. Compliance reviews will consist of comprehensive analyses and evaluations of each aspect of the apprenticeship program, including on-site investigations and audits.

(b) *Reregistration.* Sponsors seeking reregistration shall be subject to a compliance review as described in paragraph (a) of this section by the Department as part of the reregistration process.

(c) *New registrations.* Sponsors seeking new registration shall be subject to a compliance review as described in paragraph (a) of this section by the Department as part of the registration process.

(d) *Voluntary compliance.* Where the compliance review indicates that the sponsor is not operating in accordance with this part, the Department shall notify the sponsor in writing of the results of the review and make a reasonable effort to secure voluntary compliance on the part of the program sponsor within a reasonable time before undertaking sanctions under § 30.13. In the case of sponsors seeking new registration, the Department will provide appropriate recommendations to the sponsor to enable it to achieve compliance for registration purposes.

§ 30.10 Noncompliance with Federal and State equal opportunity requirements.

A pattern or practice of noncompliance by a sponsor (or where the sponsor is a joint apprenticeship committee, by one of the parties represented on such committee) with Federal or State laws or regulations requiring equal opportunity may be grounds for the imposition of sanctions in accordance with § 30.13 if such noncompliance is related to the equal employment opportunity of apprentices and/or graduates of such an apprenticeship program under this part. The sponsor shall take affirmative steps to assist and cooperate with employers and unions in fulfilling their equal employment opportunity obligations.

§ 30.11 Complaint procedure.

(a) *Filing.* (1) Any apprentice or applicant for apprenticeship who believes that he has been discriminated against on the basis of race, color, religion, national origin, or sex with regard to apprenticeship or that the equal opportunity standards with respect to his selection have not been followed in the operation of an apprenticeship program may, by himself or by an authorized representative, file a complaint with the Department, or with a private review body established pursuant to subparagraph (3) of this paragraph. The complaint shall be in writing and shall be signed by the complainant. It must include the name, address, and telephone number of the person allegedly discriminated against, the program sponsor involved, and a brief description of the circumstances of the failure to apply the equal opportunity standards provided for in this part.

(2) The complaint must be filed not later than 90 days from the date of the alleged discrimination of specified failure to follow the equal opportunity standards; and, in the case of complaints filed directly with review bodies designated by program sponsors to review such complaints, any referral of such complaint by the complainant to the Department must occur within the time limitation stated above or 30 days from the final decision of such review body, whichever is later. The time may be extended by the Department for good cause shown.

(3) Sponsors are encouraged to establish fair, speedy, and effective procedures for a review body to consider complaints of failure to follow the equal opportunity standards. A private review body established by the program sponsor for this purpose should number three or more responsible persons from the community serving in this capacity without compensation. Members of the review body should not be directly associated with the administration of an apprenticeship program. Sponsors may join together in establishing a review body to serve the needs of programs within the community.

(b) *Processing of complaints.* (1)(i) When the sponsor has designated a review body for reviewing complaints, and if the Department determines that such review body will effectively enforce the equal opportunity standards, the Department, upon receiving a complaint, shall refer the complaint to the review body.

(ii) The Department shall, within 30 days following the referral of a complaint to the review body, obtain reports from the complainant and the review body as to the disposition of the complaint. If the complaint has been satisfactorily adjusted and there is no other indication of failure to apply equal opportunity standards, the case shall be closed and the parties appropriately informed.

(iii) When a complaint has not been resolved by the review body within 90 days or where, despite satisfactory resolution of the particular complaint by the review body, there is evidence that equal opportunity practices of the apprenticeship program are not in accordance with this part, the Department may conduct such compliance review as found necessary, and will take all necessary steps to resolve the complaint.

(2) Where no review body exists, the Department may conduct such compliance review as found necessary in order to determine the facts of the complaint, and obtain such other information relating to compliance with these regulations as the circumstances warrant.

§ 30.12 Adjustments in schedule for compliance review of complaint processing.

If, in the judgment of the Department, a particular situation warrants and requires special processing and either expedited or extended determination, it shall take the steps necessary to permit such determination if it finds that no person or party affected by such determination will be prejudiced by such special processing.

§ 30.13 Sanctions.

(a) Where the Department, as a result of a compliance review or other reason, determines that there is reasonable cause to believe that an apprenticeship program is not operating in accordance with this part and voluntary corrective action has not been taken by the program sponsor, the Department shall institute proceedings to deregister the program or it shall refer the matter to the Attorney General with recommendations for the institution of a court action by the Attorney General under title VII of the Civil Rights Act of 1964.

(b) Deregistration proceedings shall be conducted in accordance with the following procedures:

(1) The Department shall notify the sponsor, in writing, that a determination of reasonable cause has been made under paragraph (a) of this section and that the apprenticeship program may be deregistered unless, within 15 days of the receipt of the notice, the sponsor requests a hearing. The notification shall specify the facts on which the determination is based.

(2) If within 15 days of the receipt of the notice provided for in subparagraph (1) of this paragraph the sponsor mails a request for a hearing, the Secretary shall convene a hearing in accordance with § 30.16.

(3) The Secretary shall make a final decision on the basis of the record before him, which shall consist of the compliance review file and other evidence presented and, if a hearing was conducted pursuant to § 30.16, the proposed findings and recommended decision of the hearing officer. In his discretion, the Secretary may allow the sponsor a reasonable time to achieve voluntary corrective action. If the Secretary's decision is that the apprenticeship program is not operating in accordance with this part, the apprenticeship program shall be deregistered. In each case in which deregistration is ordered, the Secretary shall make public notice of the order and shall notify the sponsor and the complainant, if any.

§ 30.14 Reinstatement of program registration.

Any apprenticeship program deregistered pursuant to this part may be reinstated upon presentation of adequate evidence to the Secretary that the apprenticeship program is operating in accordance with this part.

§ 30.15 State Apprenticeship Councils.

(a) *Adoption of consistent State plans.* (1) The Department shall encourage State Apprenticeship Councils to adopt and implement the requirements of this part.

(2) Each State Apprenticeship Council which, prior to the effective date of this part had in operation a State equal opportunity plan, shall submit a new State plan within 6 months from the effective date of this part. Such new State plan shall, as a prerequisite to approval by the Department, adopt and implement the requirements of this part. The new State plan shall also require all State apprenticeship programs registered with the State Apprenticeship Council to comply with the requirements of the new State plan within 1 year after the effective date of this part. No State Apprenticeship Council shall continue to be recognized by the Department if it has not adopted within 6 months after the effective date of this part a plan implementing the requirements of this part.

(3) The Department retains authority to conduct compliance reviews to determine whether the State plan or any State apprenticeship program registered with a State Apprenticeship Council is being administered or operated in accordance with this part.

(4) It shall be the responsibility of the State Apprenticeship Council to take the necessary action to bring a noncomplying program into compliance with the State plan. In the event the State Apprenticeship Council fails to fulfill this responsibility, the Secretary may withdraw the recognition for Federal purposes of any or all State apprenticeship programs, in accordance with the procedures for deregistration of programs registered by the Department, or refer the matter to the Attorney General with a recommendation for the institution by the Attorney General of a court action under title VII of the Civil Rights Act of 1964.

(5) Each State Apprenticeship Council shall notify the Department of any State apprenticeship program deregistered by it.

(6) Any State apprenticeship program deregistered by a State Apprenticeship Council for noncompliance with requirements of this part may, within 15 days of the receipt of a notice of deregistration, appeal to the Department to set aside the determination of the State Apprenticeship Council. The Department shall make its determination on the basis of the record. The Department may grant the State program sponsor, the State Apprenticeship Council and the complainant(s), if any, the opportunity to present oral or written argument.

(b) *Withdrawal of recognition.* (1) Whenever the Department determines that reasonable cause exists to believe that a State Apprenticeship Council has not adopted or implemented a plan in accordance with the equal opportunity requirements of this part, it shall give notice to such State Apprenticeship Council and to appropriate State sponsors of this determination, stating specifically wherein the State's plan fails to meet such requirements and that the Department proposes to withdraw recognition for Federal purposes, from the State Apprenticeship Council unless within 15 days of the receipt of the notice, the State Apprenticeship Council complies with the provisions of this part or mails a request for a hearing to the Secretary.

(2) If within 15 days of the receipt of the notice provided for in subparagraph (1) of this paragraph the State Apprenticeship Council neither complies with the provisions of this part, nor mails a request for a hearing, the Secretary shall determine whether the State Apprenticeship Council has adopted or implemented a plan in accordance with the equal opportunity requirements of this part.

(3) If within 15 days of the receipt of the notice provided for in subparagraph (1) of this paragraph the State Apprenticeship Council mails a request for a hearing, the Secretary shall proceed in accordance with § 30.16.

(4) If a hearing is conducted in accordance with § 30.16, the Secretary upon receipt of the proposed findings and recommended decision of the hearing officer shall make a final decision whether the State Apprenticeship Council has adopted or implemented a plan in accordance with the equal opportunity requirements of this part.

(5) If the Secretary determines to withdraw recognition, for Federal purposes, from the State Apprenticeship Council he shall notify the State Apprenticeship Council of this determination. He shall also notify the State sponsors that within 30 days of the receipt of the notice the Department shall cease to recognize, for Federal purposes, each State apprenticeship program unless the State program sponsor requests registration with the Department. Such registration may be granted contingent upon finding that the State apprenticeship program is operating in accordance with the requirements of this part.

(6) A State Apprenticeship Council whose recognition has been withdrawn pursuant to this part may have its recognition reinstated upon presentation of adequate evidence to the Secretary that it has adopted and implemented a plan carrying out the equal opportunity requirements of this part.

§ 30.16 Hearings.

(a) Within 10 days of his receipt of a request for a hearing, the Secretary shall designate a hearing officer. The hearing officer shall give reasonable notice of such hearing by registered mail, return receipt requested, to the appropriate sponsor (Federal or State registered), the State Apprenticeship Council, or both, as the case may be. Such notice shall include (1) a reasonable time and place of hearing, (2) a statement of the provisions of this part pursuant to which the hearing is to be held, and (3) a concise statement of the matters pursuant to which the action forming the basis of the hearing is proposed to be taken.

(b) The hearing officer shall regulate the course of the hearing. Hearings shall be informally conducted. Every party shall have the right to counsel, and a fair opportunity to present his case including such cross-examination as may be appropriate in the circumstances. Hearing officers shall make their proposed findings and recommended decisions to the Secretary upon the basis of the record before them.

§ 30.17 Intimidatory or retaliatory acts.

Any intimidation, threat, coercion, or retaliation by or with the approval of any sponsor against any person for the purpose of interfering with any right or privilege secured by title VII of the Civil Rights Act of 1964, Executive Order 11246 of September 24, 1965, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation proceeding, or hearing under this part shall be considered noncompliance with the equal opportunity standards of this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing or judicial proceeding arising therefrom.

§ 30.18 Nondiscrimination.

The commitments contained in the sponsor's affirmative action program are not intended and shall not be used to discriminate against any qualified applicant or apprentice on the basis of race, color, religion, national origin, or sex.

§ 30.19 Exemptions.

Requests for exemption from these regulations, or any part thereof, shall be made in writing to the Secretary, and

shall contain a statement of reasons supporting the request. Exemptions may be granted for good cause.

Effective date. This part shall be effective [upon publication in the FEDERAL REGISTER].

Signed at Washington, D.C., this 25th day of January 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc. 71-1227 Filed 1-28-71;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 2, 74]

[Docket No. 19130; FCC 71-56]

AURAL BROADCAST STL OPERATIONS, INTERCITY RELAY STATIONS, AND CERTAIN LOW POWER BROADCAST AUXILIARY STATIONS

Notice of Proposed Rule Making and Notice of Inquiry

In the matter of amendment of Parts 2 and 74 to permit Aural Broadcast STL operations in the band 2150-2160 MHz and to accommodate STL, Intercity Relay Stations and certain low power broadcast auxiliary stations within the frequency band 947-952 MHz.

1. On May 20, 1970, the Commission adopted a first report and order and second notice of inquiry in Docket No. 18262 which, among other things, ordered a reduction in the band available for use by the above captioned stations from 942-952 MHz to 947-952 MHz and reallocated the lower 5 MHz to the land mobile service.[1] Aural Broadcast STL and intercity relay stations are authorized under Subpart E, Part 74 and the low power broadcast auxiliary stations concerned are authorized under § 74.437 (c) and (e) of Subpart D. Collectively, these stations shall be referred to hereinafter as broadcast auxiliary stations.

2. In taking the aforementioned action in Docket No. 18262, the Commission recognized that while the band is lightly used at present, some congestion has developed in the Los Angeles area and may develop in one or more other local areas. It therefore stated its intention in that document to: (1) Initiate the instant rulemaking with respect to additional spectrum space for aural broadcast studio transmitter links in the band 2150-2160 MHz (footnote 1, page 2); (2) examine the STL channelling in the band 947-952 MHz; and (3) determine the disposition of existing broadcast auxiliary stations in the band 942-947 MHz.

3. With regard to the frequency band 2150-2160 MHz, by memorandum opinion and order released July 31, 1970, the Commission increased the authorized bandwidth for common carrier use of the band to 10 MHz. Such action was taken to enable the band to be used for omnidirectional relay of closed circuit television signals by common carriers. Interest has been generated for this use and it would be inappropriate to take an action which would preclude or severely hamper a new service before it had a chance to be developed. However, we believe that some shared use with the relatively narrow bandwidth of aural STL stations can be accomplished without foreclosing the possibility of video usage in most metropolitan areas. Specifically, comments are invited as to whether or not the applicant for an aural STL station should be required to demonstrate by a special showing that his operation in the band 947-952 MHz would result in harmful interference to or from existing users before he has access to the band 2150-2160 MHz. Furthermore, upon whatever basis the STL is authorized in the band 2150-2160 MHz we propose that, in the coordination process, the STL operation would be assigned frequencies as close as possible to the upper or lower limits of the band in order to preclude fragmentation of the band to the detriment of those with a wideband requirement. Such limitations could supply STL relief where it is most needed without unduly restricting shared use by common carriers and private users in the operational fixed service.

4. It is proposed also that the band 947-952 MHz be limited to AM and FM broadcasting licensees and that § 74.603 (b), which permits the transmission of the aural portion of TV program material in this band, be deleted. The transmission of such material would be confined to those TV STL frequencies set forth in § 74.602. Present TV licensees operating in the band 947-952 MHz, however, would be permitted to continue such operations.

5. The frequency band 2150-2160 MHz is now allocated to both common carrier and private fixed services generally, for omnidirectional use. Footnote NG45, as now written, precludes broadcast and auxiliary broadcast station use of the band. It is proposed to modify that footnote and other appropriate sections of the rules to permit the limited Aural STL access described in paragraph 3 above. It is not proposed to grant access to intercity relay stations or low power broadcast auxiliary functions presently permitted on a secondary basis in the band 947-952 MHz.

6. With regard to the second item in paragraph 2 above, comments are invited on the following points, with a view toward the more efficient utilization of the band 947-952 MHz:

(a) Being of the view that the present channelling calling for 500 kHz separation between assignable frequencies may be reduced, we solicit comments pro and con with respect to the desirability or necessity of maintaining any specific channelling (e.g., the emission bandwidth of standard broadcasting stations must not exceed 30 kHz);

(b) If there is to be a channeling plan, is there merit in channeling on the basis of the narrowest known requirement and authorizing multiple channels to meet wider bandwidth needs; and

(c) What changes, if any, are required in the technical standards presently applicable to the stations concerned herein?

Microwave equipment manufacturers in particular are requested to comment on the technical and practical aspects of producing equipment capable of providing these functions within lesser bandwidths. Comments are also requested as to the experience of microwave users of bands that are not channelized.

7. The third matter of concern referred to in paragraph 2 above is the reaccommodation of presently licensed broadcast auxiliary stations in the band 942-947 MHz which, effective July 10, 1970, was reallocated to the land mobile service. Inasmuch as "private" land mobile systems are not expected to develop to any significant degree in this part of the spectrum for some years, there is no immediate pressure to clear this band of existing users. Therefore, we propose to amend footnote NG64 so that broadcast auxiliary stations holding a valid license in the band 942-947 MHz as of July 10, 1970, would be permitted to continue to operate on their presently authorized frequencies without interference from the land mobile service for the duration of their current license periods. Such licenses could subsequently be renewed but only on the condition that each such station will thereafter be on a secondary basis with respect to the land mobile service. In other words, they would no longer be protected from the land mobile service but instead would be required to protect the land mobile service from harmful interference. Further, they would not be permitted by their presence to inhibit the normal growth of the land mobile service in the area concerned.

8. We will accept no applications for new facilities in the band 942-947 MHz under Part 74 of the rules. Applications accepted prior to July 10, 1970, will be processed in the normal manner and we will continue to accept applications for renewals, for modifications, and for the licensing of stations authorized for construction prior to July 10, 1970. Applications accepted subsequent to July 10, 1970, will be accommodated in the band 947-952 MHz on the basis of the current channeling plan, during the pendency of this proceeding.

9. As set forth below it is proposed to amend Part 2 of the rules by deleting footnote NG45, by amending footnote NG64, and by introducing a new footnote NG——, specifying the new conditions under which the band 2150-2160 MHz will be used.

10. Specific changes to Part 74 of the rules are not suggested herein. However, it is the Commission's intention to develop such changes, based primarily on the comments filed in response to this and/or subsequent actions in this proceeding.

[1] Several parties filed comments in opposition to decisions in the first report and order. None, however, was directed specifically to the STL matter.

11. Authority for the proposals set forth herein is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

12. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested parties may file comments on or before March 2, 1971, and reply comments on or before March 12, 1971. All relevant and timely comments and reply comments will be considered by the Commission before taking final action in this proceeding. 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.

13. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all written comments, replies, statements or briefs shall be furnished the Commission.

Adopted: January 20, 1971.

Released: January 25, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

In § 2.106, the frequency band 2150–2160 MHz is changed in column 7 by deleting footnote indicator NG45 and replacing it with footnote indicator NG____.

Delete Footnote NG45, amend Footnote NG64, and add new footnote NG____, reading as follows:

NG____ Authorizations in this frequency band will be granted for omnidirectional point-to-point operations only, excluding broadcast and auxiliary broadcast operations. Exceptionally, however, and upon a showing that the operation cannot be accommodated in the frequency band 947–952 MHz, aural STL stations may also be authorized in this band. Such STL stations shall employ directional antennas and utilize frequencies which are as close as practicable to the upper or lower limit of the band.

NG64 Broadcast auxiliary stations operating under a valid license as of July 10, 1970, in the band 942–947 MHz may continue to so operate for the duration of their licenses on frequencies authorized therein without interference from the land mobile service. Such licenses may subsequently be renewed but only on a secondary basis with respect to the land mobile service.

[FR Doc.71-1261 Filed 1-28-71;8:50 am]

[47 CFR Part 73]

[Docket No. 18862; FCC 71-63]

TELEVISION BROADCAST STATIONS

Table of Assignments; Glen Ridge, N.J.; Further Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Glen Ridge, N.J., and Bowling Green and Toledo, Ohio).

1. Further notice of proposed rule making is hereby given in the above-captioned matter concerning Glen Ridge, N.J.

2. In the first report and order adopted today in this proceeding (FCC 71-62), the Commission amended the television Table of Assignments for Glen Ridge, N.J., by deleting Channel *77, its one assignment, the only channel reserved for noncommercial educational television (ETV) use in northern New Jersey, and for which an application was pending, filed by the New Jersey Public Broadcasting Authority (Authority) on February 18, 1970 (BPET-363), for proposed use at Montclair, N.J., as the northern link in the statewide network it is actively planning to construct and operate. This action was necessitated in the public interest by our decision in the land mobile-UHF allocation proceeding in Docket No. 18262 in which, among other things, UHF television spectrum space (Channels 70–83, 806–890 MHz) was permanently reallocated for land mobile use.[1] The first report and order also expressed our intention to institute a further rule making proceeding herein, to examine a proposal made by the Authority in a petition for rule making filed simultaneously with its comments in this proceeding.

3. The proposal of the Authority upon which comments are invited would assign Channel 50 to Little Falls, N.J., as a replacement for the deleted ETV Channel 77 Glen Ridge assignment. Little Falls, a town with a 1960 population of 9,730 persons, is located in Passaic County, in close proximity to Glen Ridge and Montclair; the location of a portion of the Montclair State College campus, and the planned location for the transmitting facilities of the ETV station which the Authority plans to establish to provide local and network educational service to this northern New Jersey area.

4. To permit the assignment and use of Channel 50 at Little Falls, the Authority also requests a waiver of the UHF intermodulation taboo, § 73.610(d) of the rules. This would be required since the Little Falls reference point, as well as the Authority's planned Little Falls transmitter site for an ETV Channel 50 station, is less than the 20-mile separation required by the intermodulation taboo from the transmitter site for the Channel 47 station (Station WNJU-TV, Linden, N.J.) on the Empire State Building, New York City. The Little Falls reference point is a distance of only about 15.8 miles from the Empire State Building and the Authority's contemplated Little Falls Channel 50 transmitter site only about 13.7 miles from the Empire State Building. Also, the new World Trade Center Building, to which it appears that the Channel 47 licensee contemplates moving the transmitting facilities for Station WNJU-TV when that structure is completed, is only about 16.3 miles to the Little Falls reference point and only about 14.3 miles from the Authority's planned Channel 50 site. Channel 50 would, however, meet all other spacing and technical requirements for assignment and use at Little Falls.

5. This assignment proposal presents a difficult case for decision. The Commission has not heretofore relaxed the UHF intermodulation taboo in order to permit an assignment or its use, and we believe that, in the interest of maintaining stability in our allocation policies and in insuring adequate protection to the public and stations from interference caused by intermodulation, we should continue to apply this "safety" taboo to all stations, at least until such time as our reevaluation of the UHF taboos, which has begun, shows what relaxation, if any, would be feasible. But, as we said in the first report and order herein, this reevaluation will take time, and the case for relaxing the UHF intermodulation taboo to the extent necessary to permit the assignment and ETV use of Channel 50 at Little Falls at this time appears unusually strong and compelling.

6. First, we are reasonably satisfied by our studies that the relaxation required would not create a significant intermodulation interference problem and would be feasible. In considering the channels that might be received in the Little Falls, N.J., New York area,[2] we found only two channels that might provide a usable signal in the potential interference area—Channel 43, Bridgeport, Conn., occupied by off-the-air Station WFTT, and unused Channel 54, Poughkeepsie, N.Y. Since both channels are approximately 55 miles from the potential interference area, their signal intensities would likely be too low for satisfactory reception in that area or to create an interference problem from intermodulation products of any magnitude. Also since neither the Authority nor the Channel 47 licensee are proposing to operate with maximum power at this time, the possibility of interference resulting from the requested waiver of the separation requirements for the intermodulation taboo is further reduced. There is, of course, always the possibility that the licensee of either channel may wish to increase power at some time. In that event, we would again consider the situation at that time. It does not appear, however, that the possibility of interference from intermodulation would be sufficiently great to make the use of even maximum power on either channel prohibitive at present or presently contemplated sites for Channel 50 and Channel 47 operations.

7. Second, it appears from the Authority's showing that both it and the Channel 47 licensee, Screen Gems Broadcasting Corp., are agreeable to the use of Channel 50 at Little Falls under conditions that will not hamper full and

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[3] Commissioner Houser not participating.

[1] See first report and order and second notice of inquiry, adopted May 20, 1970, in Docket No. 18262, FCC 70-519, 35 F.R. 8644.

[2] For this intermodulation study, the third channel above Channel 50, plus and minus one (Channels 52, 53, 54), and the third channel below Channel 47, plus and minus one (Channels 43, 44, 45), were considered.

effective use of either channel. In support of its proposal, the Authority has filed copies of correspondence exchanged with Screen Gems which indicates that Screen Gems would interpose no objection to a Channel 50 operation at the Little Falls transmitter site planned for a Channel 50 operation by the Authority and that neither party would object to the use of maximum power by the Channel 50 station or by Station WNJU-TV at either its present transmitter site or at the World Trade Center Building.

8. Third, there appears no other channel which could be assigned to this northern New Jersey area at this time to replace Channel 77 which would involve fewer problems than the assignment of Channel 50. Because of the crowded nature of the UHF assignment picture in the northeast, there are no available channels meeting spacing requirements which could be assigned in northern New Jersey, and our studies of channel replacement possibilities for the Channel 77 Glen Ridge assignment indicate that all other possibilities would pose more problems than would Channel 50.

9. Fourth, and most important, we feel called upon, in the public interest and in furtherance of our educational and UHF television goals, to provide the State of New Jersey with an alternate means for implementing the plans which it, through the Authority, has been actively pursuing for establishing a first local and network educational service in northern New Jersey on Channel 77, and which had reached the application stage prior to our decision in Docket No. 18262. We are especially desirous of doing so since it is as a consequence of our reallocation of television Channel 70-83 to meet the needs of the land mobile services that these plans have been disrupted.

10. We are persuaded that the foregoing considerations, taken together, may make this an exceptional case warranting relaxation of the UHF intermodulation taboo to the extent necessary to permit the assignment and use of Channel 50 at Little Falls at less than the 20-mile separation required from the transmitter site of Station WNJU-TV, Channel 47, Linden, N.J., on the Empire State Building. Accordingly, comments are invited on the following proposed change in the television Table of Assignments, § 73.606(b) of the rules:

City	Channel No.	
	Present	Proposed
Little Falls, N.J.		*50

Comments are also invited on the matter of waiving the UHF intermodulation taboo, § 73.610(d) of the rules, to permit the assignment and use of Channel 50 at Little Falls at less than the 20-mile separation required from the WNJU-TV transmitter site.

11. Authority for the adoption of the amendments and action proposed herein is contained in sections 4(i), 303 (g) and (r) and 307 (b) of the Communications Act of 1934, as amended.

12. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before March 2, 1971, and reply comments on or before March 12, 1971. All submissions by parties to this proceeding or persons acting in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

13. 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: January 20, 1971.

Released: January 25, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[3]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-1258 Filed 1-28-71;8:50 am]

[3] Commissioner Robert E. Lee abstaining from voting; Commissioner Johnson concurring in the result; Commissioner Houser not participating.

[47 CFR Part 73]

[Docket No. 19138; FCC 71-60]

TELEVISION BROADCAST STATIONS

Table of Assignments; Lowry and Martin, S. Dak.; Notice of Proposed Rule Making

In the matter of amendment of § 73.606, Table of Assignments, Television Broadcast Stations. (Lowry and Martin, S. Dak.), RM-1651.

1. On July 6, 1970, the South Dakota State Board of Directors for Educational Television (State Board) filed a brief petition with this Commission requesting the assignment of Channels *11 to Lowry, and *8 to Martin, both in South Dakota, and their reservation for noncommercial educational use. No oppositions were filed.

2. The State Board is a South Dakota governmental agency created during the 1965 session of the South Dakota Legislature for the express purpose of promoting and supporting a statewide educational television network. According to the petition, at the present time it provides or expects to provide educational service to the citizenry of South Dakota through the following television stations in the State: Vermillion, KUSD-TV, licensed to the University of South Dakota; Brookings, KESD-TV, licensed to South Dakota State University; Rapid City, KBHE-TV, licensed to the State Board; and Pierre, KTSD-TV, CP held by the State Board. The pleadings also indicate that the State Board has applications pending for Channel *16 at Aberdeen (BPET-363) and Channel *13 at Eagle Butte (BPET-346). In respect to this educational network petitioner states

> * * * Although there are six educational television broadcast facilities already in operation, under construction or applied for in South Dakota, there are vast areas in the south central and north central portions of the State that still cannot be reached by the network with a signal of acceptable quality. To further the statewide plan, therefore, requires the establishment of ad;tional transmitting facilities in these heretofore inaccessible portions of the State so as to assure the distribution of educational television throughout South Dakota.

In brief, the choice of Lowry in north central South Dakota and Martin in south central South Dakota as communities for television assignments is based not on the size of their populations but on their geographic location and the need of their surrounding regions for educational television service.[1] Lowry is located in Walworth County, respective populations, 35 and 7,842. Martin, population 1,248, is located in Bennett County with its population of 3,088. Neither community has any television assignment.[2]

3. Petitioner indicates the above population statistics in presenting the needs of the State for additional educational service—

> in many areas the population is relatively sparse and the economy is rural in nature, so that these areas cannot provide the substantial tax resources which are found in heavily populated, more industrialized areas. In the sparsely populated areas, local school curriculae must be supplemented by educational television broadcasting which would provide both in-school instruction at all school levels (particularly in science and mathematics) and in-service teacher training. In addition, specialized and professional instruction for teachers and adult education programs also rely heavily upon educational television to supplement the limited local resources. Moreover, the educational network provides the cultural advantages generally available only in metropolitan areas (concerts, live drama, etc.), and inaccessible to those living in the widely distributed rural areas of the State.

The State Board concludes its request for the assignment of Channel *11 to Lowry and Channel *8 to Martin along with its presentation of the above facts by stating:

> * * * It seems clear that such allocations are manifestly in the public interest and would conform with the Commission's mandate in section 303(g) of the Communications Act to "generally encourage larger and more effective use of radio in the public interest" * * *.

4. In view of the above presentation as well as the facts; that there is no opposing parties; that the requested assignments can be made in full compliance with our minimum mileage separation requirements; that no other assignments need be disturbed; and that the State Board has expressed its intention to apply for and promptly activate the channels on their assignment; we are of the view that it is in the public interest to institute this rule making proceeding in order to propose the following assignments:

[1] Petitioner states that neither station will be a production center for the network, but will instead, be a transmitting and distribution center for the network's programing.

[2] Population statistics are from the 1970 U.S. Census.

City	Channel No.	
	Present	Proposed
Lowry, S. Dak.		*–11
Martin, S. Dak.		*–8

5. Authority for the action proposed herein, is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations interested parties may file comments on or before March 2, 1971, and reply comments on or before March 12, 1971. All submissions by parties to this proceeding, or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

7. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all written comments, reply comments, pleadings, briefs, or other documents, shall be furnished the Commission.

Adopted: January 20, 1971.

Released: January 25, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-1259 Filed 1-28-71;8:50 am]

[47 CFR Part 73]

[Docket No. 19139; FCC 71-61]

TELEVISION BROADCAST STATIONS

Table of Assignments; Certain Stations in Ohio; Notice of Proposed Rule Making

In the matter of amendment of § 73.606 (b), Table of Assignments, Television Broadcast Stations. (Alliance, Bowling Green, and Cambridge, Ohio), RM-1653.

1. Notice of proposed rule making is hereby given concerning a proposal to amend the Television Table of Assignments (§ 73.606(b) of the rules) with respect to various communities in Ohio. All the changes were proposed in the petition for rule making of the Ohio Educational Television Network Commission, filed July 8, 1970.

2. The Ohio Educational Television Network Commission[1] is a permanent State agency created by the act of the General Assembly of the State of Ohio to own and operate, contract to provide transmission and interconnection facilities, and take other steps for a statewide educational network and distribute educational programs throughout that network. See Chapter 3353 of the Ohio Code. The OETNC has been authorized to help plan for expansion of educational television in the State of Ohio. Seven of the eight operating educational stations in Ohio are affiliated with the Network Commission.[2] One of the objectives of the overall legislation and the OETNC's primary functions is to provide at least one educational television service to each person in Ohio, and, as especially relevant to the instant proceeding, to aid the Ohio Board of Regents in the distribution of almost $5.5 million appropriated for ETV use during the current fiscal period. The overall plan calls for extending network operational facilities of the network distribution center at Columbus and activate five facilities, that is, apply for the channels at Dayton, Portsmouth, Alliance, "Bryan", and "Woodsfield". The Educational Network Commission has applied for construction permits for Channel *42 at Portsmouth (BPET-370) and Channel *45 at Dayton (BPET-399). As a necessary preliminary to the latter three applications, which already have been filed, this rule making is essential in order to:

(a) Reallocate Channel 45 from Youngstown to Alliance and reserve it;

(b) Reallocate Channel *27 from Bryan to Bowling Green-Lima; and

(c) Redesignate the place of assignment of Channel *44 from Woodsfield to Cambridge-Woodsfield.

3. Both the Lima-Bowling Green and Cambridge-Woodsfield proposals are predicated on use at sites removed from the borders of the State of Ohio where better service could be provided to Ohio proper. Thus, in the case of Cambridge-Woodsfield, a transmitter site north and west of Woodsfield in the Cambridge area is contemplated and, indeed, OETNC has applied for construction at a site 16 miles northeast of Cambridge roughly 25 miles from Woodsfield. As for the Bryan channel, OETNC has applied for a site 41 miles southeast of Bryan and roughly 29 miles northeast of Lima and 21 miles southwest of Bowling Green. With respect to both, it appears that from a technical standpoint the proposed reallocations comport with the requirements of the Commission's rules. However, the Commission does not favor the proposed hyphenated assignments. In this report, while not dispositive, OETNC's applications respectively request cities of license as Cambridge and Bowling Green. As to Channel *27, the proposed facility would not provide principal city grade service over all of Lima as required by § 73.685 of the rules. In the circumstances, we believe that it would be more appropriate to designate Bowling Green as the city of assignment. While the proposed Channel *44 facility would also provide Woodsfield with principal city grade service, we believe that it is best to make the assignment to the nearer community, Cambridge.

4. We turn now to the Alliance proposal. As already noted, the Network Commission here proposes that Channel 45, presently assigned to Youngstown, be reallocated to Alliance and reserved for educational noncommercial use.[3] Petitioner contends that the reallocation and ETV reservation are necessary to provide a wide-area educational service in the northeast portion of Ohio. As perhaps relevant, OETNC's proposed station would provide principal city grade service to Youngstown, Akron, Kent, Canton, and many other cities. It is contemplated that after the application is granted a consortium representing Youngstown State University, Kent State University, and the University of Akron will operate the station.[4] The proposed reallocation complies with all mileage separations under our rules.

5. From the foregoing, it would appear that the proposals of the Ohio Educational Television Network Commission, as modified by our comments as to the cities of assignment for the Cambridge and Bowling Green proposals, would serve the public interest, convenience and necessity. Accordingly, we are adopting this notice of proposed rule making.

6. In view of the foregoing, and pursuant to authority contained in sections 4(i), 303(r), and 307(b) of the Communications Act of 1934, as amended, comments are invited as to amending the Television Table of Assignments (§ 73.606(b) of the rules) as concerns the cities named, to read as follows:

City	Channel No.	
	Present	Proposed
Bryan, Ohio	*27	
Bowling Green, Ohio	[1] *70	*27, *70
Woodsfield, Ohio	*44	
Cambridge, Ohio		*44
Youngstown, Ohio	21, 27, 33, 45, *58	21, 27, 33, *58
Alliance, Ohio		*45

[1] In Docket No. 18862, there is pending a proposal to substitute Channel *40 for *70 which requires the simultaneous deletion of Channel 54 from Toledo. This change was proposed because of the land mobile proceeding (Docket No. 18262).

7. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before February 23, 1971, and reply comments on or before

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[2] Commissioner Houser not participating.

[1] Referred to hereinafter at times as the "OETNC," "Network Commission," or "Educational Network Commission."

[2] They are: Station WOUB-TV, Athens; WBGU-TV, Bowling Green; WCET-TV, Cincinnati; WOSU-TV, Columbus; WGSF, Newark; WMUB-TV, Oxford; and WGTE-TV, Toledo. Station WVIZ-TV, Cleveland, is the only ETV station in the State of Ohio not presently associated with the OETNC.

[3] When this petition was filed, pending were Youngstown State University's application for Youngstown's Channel 45 (BPCT-4221) and its petition to reserve the channel for ETV use (RM-1337); and Kent State University's petition to reallocate Channel 45 to Kent and designate for ETV use (RM-1229). These and Kent State University's application for Akron Channel *49 (BPET-129) have been withdrawn.

[4] While the Educational Network Commission is the applicant for five stations, it is contemplated that each would be licensed to an educational organization or group. The Portsmouth station would be licensed to Ohio State University; Cambridge would be licensed to Ohio University; the Bowling Green station would be licensed to Bowling Green University; and the Dayton station would be licensed and operated by another consortium (Miami University, Wright State University, and Central State University).

March 2, 1971. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

8. 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: January 20, 1971.

Released: January 25, 1971.

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

[FR Doc.71-1260 Filed 1-28-71;8:50 am]

[5] Commissioner Houser not participating.

[47 CFR Part 73]

[Docket No. 19142; FCC 71-71]

CHILDREN'S TELEVISION PROGRAMS

Notice of Inquiry and Notice of Proposed Rule Making

In the matter of petition of Action for Childrens Television (ACT) for rule making looking toward the elimination of sponsorship and commercial content in children's programing and the establishment of a weekly 14 hour quota of children's television programs, RM-1569.

1. Notice of inquiry and notice of proposed rule making in the above-captioned proceeding are hereby given.

2. By a submission received February 5, 1970, Action for Childrens Television (ACT) requested that the Commission adopt certain guidelines for television programing for children. The specific proposals of ACT are:

(a) There shall be no sponsorship and no commercials on children's programs.

(b) No performer shall be permitted to use or mention products, services or stores by brand names during children's programs, nor shall such names be included in any way during children's programs.

(c) Each station shall provide daily programing for children and in no case shall this be less than 14 hours a week, as part of its public service requirement. Provision shall be made for programing in each of the age groups specified below, and during the time periods specified:

(i) Preschool: Ages, 2-5: 7 a.m.-6 p.m. daily; 7 a.m.-6 p.m. weekends.

(ii) Primary: Ages, 6-9: 4 p.m.-8 p.m. daily; 8 a.m.-8 p.m. weekends.

(iii) Elementary: Ages, 10-12; 5 p.m.-9 p.m. daily; 9 a.m.-9 p.m. weekends.

3. By public notice (Mimeo No. 44628) of February 12, 1970, the Commission announced that it had accepted the ACT submission as a petition for rule making, and assigned it file number RM-1569. Over 2,000 letters and other short memoranda were filed in support of the ACT proposal. A few letters were filed in opposition. The listed broadcasters, broadcaster associations and advertiser oriented organizations filed comments, which, in the main, opposed the ACT proposals.[1] ACT filed a detailed reply statement together with two statistical exhibits.

4. The letters filed in support of the ACT proposal contained, for the most part, general expressions of support for better programming and less "hard sell" advertising on children's programs. The 20 or so letters opposing the ACT request rest mainly on the contention that parents should exercise proper control over their children's choice of programs.

5. The most lengthy pleadings in opposition to ACT's proposals will be dealt with in summary. The first of the most basic objections presented is that the three requests of ACT are violative of the First Amendment to the Constitution and section 326 of the Communications Act of 1934, as amended. The second objection is that adoption of the proposals would contravene the longstanding policy whereby the Commission charges the licensee with the duty of making programing decisions that serve the public interest. The next objection is that the proposal is unworkable because of the difficulty of definition and classification of children's programs. The last objection is that prohibition of commercials on children's programs will be self-defeating in that it will dry up the major sources of children's programs because of the problem of funding such programs. Other correlative or subsidiary propositions raised in the pleadings are that the proposals would have a severe inhibiting effect on UHF television and other marginal television stations; that the NAB Code has been and is fully capable of regulation of this problem; and that the Commission should not substitute its judgment for proper parental control over the programing for children.

6. In support of their First Amendment and section 326 contentions, the parties so arguing cite a number of well-known cases, including U.S. v. Paramount Pictures, Inc., 334 U.S. 131 (1948); Burstyn, Inc. v. Wilson, 343 U.S. 495 (1952); and New York Times v. Sullivan, 376 U.S. 254 (1964). Also cited, in support of the arguments concerning the limitations on the Commission's role in the program selection process, are past Commission pronouncements such as the 1960 Program Policy Statement[2] and Butte Broadcasting Company, Inc., 22 F.C.C. 2d 7 (1970).

7. We recognize the importance and significance of these pronouncements and the concepts expressed in them. It may be that, ultimately, we will conclude that they substantially limit otherwise appropriate Commission action in this area. But it is also apparent that there are high public interest considerations involved in the use of television, perhaps the most powerful communications medium ever devised, in relation to a large and important segment of the audience, the Nation's children. The importance of this portion of the audience, and the character of material reaching it, are particularly great because its ideas and concepts are largely not yet crystallized and are therefore open to suggestion, and also because its members do not yet have the experience and judgment always to distinguish the real from the fanciful.

8. The Commission does not have in its files sufficient data on children's TV programing upon which we can evaluate the situation to determine whether these public interest considerations in fact amount to a substantial public interest question as to whether the present use of the medium in this respect is as satisfactory as should be expected. Thus, we know that on many stations programing designed for children is available in substantial amount, but occasionally there have been complaints that in particular cases it is not. We also are aware that on some such programs there is vigorous selling of products designed for children's use. In order to arrive at an informed determination in this area, we need the data which this inquiry proceeding is designed to elicit through the questions set forth below. This information will give us an idea of the scope of the problem if in fact one exists, and of how it may best be approached. We emphasize that we have not reached conclusions as to the matters referred to in paragraphs 5 and 6 above. In light of the above considerations, our authority to conduct this inquiry proceeding, pursuant to section 403 of the Act, is not seriously open to challenge.[3]

9. *Definition of "children's programming".* As noted above, one of the arguments against the ACT proposal is the

[1] The following parties filed statements in response to the public notice: Licensees filing statements: American Broadcasting Cos.; Broadcast-Plaza, Inc.; Broadcasting Services, Inc.; Connecticut Television, Inc., et al.; Doubleday Broadcasting Co.; The Houston Post Co.; Hubbard Broadcasting, Inc., et al.; Kern County Broadcasting Co.; Meredith Corp.; National Broadcasting Co., Inc.; Palmer Broadcasting Co.; Storer Broadcasting Co.; Triangle Broadcasting Corp.; Van Curler Broadcasting Corp.; Westinghouse Broadcasting Co., Inc.; WGN Continental Broadcasting Co.; WKY Television System, Inc., et al.; WTVY, Inc. Licensees filing reply statements: Bonneville International Corp.; Columbia Broadcasting System, Inc. Broadcaster Associations filing statements: National Association of Broadcasters; North Dakota Association of Broadcasters; Virginia Association of Broadcasters. Other statements: Toy Manufacturers of America, Inc.; Cognivision, Inc.; Ecumedia; American Association of Advertising Agencies; National Confectioners Association of the United States, Inc., et al.

[2] Report and Policy Statement re: Commission en Banc Programing Inquiry (Docket 12782), 20 R.R. 1901, FCC 60-970 (1960).

[3] It will be appropriate to reexamine the First Amendment question at such time as we contemplate definitive action. This inquiry and the information elicited through it could be pertinent, among other things, to the Commission's duty, under section 4(i) of the Act, to transmit to Congress significant data concerning the use of radio, and also legislative recommendations. It is also conceivable that the extent of the problem would be pertinent to the question of whether the First Amendment and section 326 do apply to limit the Commission's role.

difficulty of defining "children's programs". This is, indeed, not an easy matter, and we are not proposing, at this time, any final definition for comment. The matter of a suitable definition is among the general questions set forth in paragraph 11, below. However, it is also necessary to set forth some general guidelines for stations and others to use in presenting their material herein, so that there can be some uniformity and reasonably accurate evaluation. The programs chiefly involved herein are those which are primarily designed for children of the ages mentioned by ACT and referred to above. However, stations and other parties are also invited to list and comment on other programs which are of substantial interest to children even though not primarily designed for them.

10. The Commission is inviting comments and data on a number of questions. With respect to specific data requested, the Commission is setting up a composite week so that a representative sample may be secured, as well as to give specific guidelines and to somewhat alleviate the burden on the television networks and television station licensees. The Commission hopes and urges that all television networks and station licensees will furnish the specific program data requested for the composite week. The composite week for the specific data will be:

Sunday, September 13, 1970.
Monday, February 16, 1970.
Tuesday, June 23, 1970.
Wednesday, April 8, 1970.
Thursday, October 2, 1969.
Friday, August 14, 1970.
Saturday, December 6, 1969.

The listing of questions should not be construed as limiting in any way the area of comment.

11. (a) Data and comments are invited on the following questions:

(1) What children's programs[4] were broadcast over your television network or television station? (Give name, date, time and length.) The listing of programs for the composite week should state whether the program was network produced, a syndicated production, locally produced or from other sources. The listing should also classify the programs as to being either entertainment or educational. It should also state whether it is an original showing or a rerun of the program. A short descriptive summary of each program would greatly assist the Commission in analyzing the data.

(2) For each program listed above, list the sponsor or sponsors, or, if it were "participating", the advertisers involved (if a program were sustaining, please so indicate). State with particularity the nature of the sponsorship or commercial participation, i.e., the products, stores or services advertised, and the total commercial time on each program.

(3) Give the same information as in 2, above, for all commercial announcements adjacent to children's programs, i.e., all those presented after the end of the previous program and before the opening of the next program.

(4) For each program listed above, state, if possible, whether the performers on the show conducted or participated in the delivery of commercial copy on the program; and whether there were any other oral reference to, or visual exposure of, a product by brand name.

(5) For each program listed, state which age group, if any, it was designed for or of particular interest to.

(6) Set forth your definition of "children's programs" used in the compilation of the data submitted pursuant to this notice.

(b) General questions.

(1) What types of children's programs not now available do parties believe commercial TV stations should present?

(2) To what extent, generally and with respect to particular programs and types of programs, does "children's programming" have benefits to children beyond the fact that it holds their interest and attention and thus removes the need for other activity or parental attention?

(3) What, generally speaking, is a definition of "children's programming" which could serve for the Commission's use in this connection? To what extent do children, particularly in the higher age groups mentioned by ACT, view and benefit from general TV programing?

(4) What restriction on commercials short of prohibition—e.g., on types of products or services, what can be said, number, divorcement from program content, etc.—would be desirable? Comments should take into account in this connection the provisions of the NAB Television Code and its guidelines.

(5) To what extent should any restriction on commercial messages in children's programs also apply to such messages adjacent to children's programs?

12. We have also labeled this as a notice of proposed rule making, although as shown by the above discussion its primary focus is as an inquiry. Our reason for so designating the proceeding is twofold. First, in the foregoing discussion, we have given notice of the subject matter and the issues, as required by the Administrative Procedure Act. Thus, the subject matter is children's programing on television, and the issues are the appropriate definition of children's programing; the nature of the commercials associated with such programing (e.g., no commercials or a limited number of commercials; no commercials by performers; divorcement from content of show, and the appropriateness and legality of the specification of the amount of time to be devoted to various categories of children's programing). Second, while we believe that the data to be collected from this inquiry is the most appropriate first step in this area and have reached no conclusion, tentative or final, on the desirability of a rule, it may be that on the basis of the data and the comments, a clear basis for a rule will emerge. If so, we wish to be in a position to take definitive action. In sum, by proceeding in this fashion, we insure the achievement of the prerequisite step—the collection of an adequate data base—and at the same time maintain maximum flexibility to take such action as the public interest may call for (e.g., further notice of proposed rule making; a rule; a rule with a further notice of proposed rule making; a policy statement).

13. Authority for the institution of this inquiry proceeding is found in section 403 of the Communications Act of 1934, as amended. Authority for the institution of the rule making proceeding is contained in sections 4(i) and 303, 307(d) and 309 of the Communications Act of 1934, as amended.

14. Pursuant to applicable procedures set forth §§ 1.51 and 1.419 of the Commission's rules, an original and 14 copies of all material requested by this proceeding should be submitted on or before May 3, 1971, and reply comments on or before June 1, 1971. All revelant material will be considered by the Commission. In reaching its decision, if any, in this proceeding, the Commission may also take into account other relevant data before it, in addition to the specific data invited by this notice.

Adopted: January 20, 1971.

Released: January 26, 1971.

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

[FR Doc.71-1262 Filed 1-28-71;8:50 am]

[4] See paragraph 9, above. The information mentioned in these questions particularly relates to programs designed primarily for children, of the age groups mentioned herein. Parties are also invited to give as much information as is feasible with respect to other programs which are of substantial interest to, though not primarily designed for, children.

[5] Commissioners Bartley, Robert E. Lee, and Wells dissenting; Commissioner Johnson concurring and issuing a statement which is filed as part of the original document.

FEDERAL RESERVE SYSTEM

[12 CFR Part 222]

[Reg. Y]

BANK HOLDING COMPANIES

Interests in Nonbanking Activities

By act of Congress approved December 31, 1970 (Public Law 91-607) the Bank Holding Company Act was expanded to cover companies that control only one bank. In conjunction with that expansion Congress amended section 4(c)(8) of that Act, under which bank holding companies may acquire interests in nonbanking activities subject to certain restrictions and upon certain conditions. Under that section as amended, the Board is authorized to promulgate regulations governing acquisition of companies whose activities are "so closely related to banking or managing

or controlling banks as to be a proper incident thereto."

In determining whether a particular activity is a proper incident to banking or managing or controlling banks, the Board is required to "consider whether its performance by an affiliate of a holding company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." In promulgating regulations under that section, the Board is authorized to "differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern".

As its initial implementation of this authority, the Board is giving consideration to amending § 222.4(a) of Regulation Y to read as follows:

§ 222.4 Interests in nonbanking organizations.

(a) *Shares of companies whose activities are closely related to banking or managing or controlling banks.* Any bank holding company may apply to the Board, by filing an application with its Federal Reserve Bank, for permission to retain or acquire an interest in a company that engages solely in one or more of the following activities:

(1) Making, for its own account or for the account of others, loans such as would be made, for example, by a mortgage, finance, or factoring company;

(2) Operating as an industrial bank;

(3) Servicing loans;

(4) Acting as fiduciary;

(5) Acting as investment or financial adviser, including for a mortgage investment trust or a real estate investment trust;

(6) Leasing personal property, where the initial lease provides for payment of rentals that will reimburse the lessor for the full purchase price of the property;

(7) Acting as insurance agent or broker principally in connection with extensions of credit by the holding company or any of its subsidiaries;

(8) Acting as insurer for the holding company and its subsidiaries or with respect to insurance sold by the holding company or any of its subsidiaries as agent or broker;

(9) Providing bookkeeping or data processing services for (i) the holding company and its subsidiaries, (ii) other financial institutions or (iii) others, *Provided*, That the value of services performed by the company for such persons is not a principal portion of the total value of all such services performed; or

(10) Making equity investments in community rehabilitation and development corporations engaged in providing better housing and employment opportunities for low-income and moderate-income population.

Every application filed under this section shall be accompanied by a copy of a notice of the proposal published within the preceding 30 days in a newspaper of general circulation in the communities in which offices of the company are or are to be located. The Board will cause to be published in the FEDERAL REGISTER notice of any application to acquire an interest in a going concern and will give interested persons an opportunity to express their views (including where appropriate, by means of a hearing) on the question whether performance of the activity proposed by the holding company, under the particular circumstances involved can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. Applications to engage in the foregoing activities de novo shall be deemed to be approved, unless the applicant is notified to the contrary within 45 days after being advised that the application has been filed. Except to the extent otherwise provided in an order in a particular case, the following conditions shall apply with respect to every acquisition consummated or activity engaged in on authority of this section: (i) Performance of services of the company shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970; (ii) activities of the company acquired shall not be altered in any significant respect from those considered by the Board in making the determination, nor provided at any location other than those described in the application for such determination, except upon compliance with the foregoing procedures for engaging in an activity de novo; and (iii) no merger, acquisition of assets, or assumption of liabilities to which the acquired company is a party shall be consummated without prior Board approval, if thereafter the bank holding company will continue to own, directly or indirectly, more than 5 percent of the voting shares of such company or its successor.

* * * * *

The regulation as proposed does not limit the location at which permissible activities may be conducted to any State or other geographical area. Such limitations might be imposed by regulation, or by order in particular cases.

In view of the amendment to section 4(c)(8), the Board is considering limiting the scope of acquisitions by holding companies that may be made on the basis of section 4(c)(5) of the Act. Under that section, holding companies may acquire shares of the kinds and amounts eligible for investment by national banks under the provisions of section 5136 of the Revised Statutes. Under present interpretations of the Board, a holding company may acquire interests in many of the types of companies described above if located at a place at which one of the banks in the holding company may engage in the activities involved and such activities are otherwise conducted in accordance with certain other limitations on the activities of national banks.

The amendment to section 4(c)(8) requires the Board to consider acquisitions by a bank holding company not only from the standpoint of whether the activities of the company to be acquired are closely related to banking, but also from the standpoint of antitrust and related considerations. Accordingly, the Board believes that it should exercise its general regulatory authority over holding companies under section 5 of the Act to limit the scope of permissible activities under section 4(c)(5) to lending and fiduciary activities commenced de novo, except where the shares involved are of the kinds and amounts explicitly eligible for investment by a national bank under Federal statute law. Otherwise Congress' purpose in amending section 4(c)(8) might be substantially nullified. Any limitations on section 4(c)(5) would not affect the scope of activities permitted to a banking subsidiary of a bank holding company, but could affect acquisitions of a nonbanking company by such a bank, since any acquisition by a subsidiary bank would represent an indirect acquisition by the parent holding company.

To aid in the consideration by the Board of the proposed regulation, interested persons are invited to submit relevant data, views, or arguments. In accordance with the provisions of section 4(c)(8) interested persons are also given opportunity to request a hearing on the question whether an activity specified in the proposed amendment is "so closely related to banking or managing or controlling banks as to be a proper incident thereto".

The Board anticipates proposing from time to time additional activities for inclusion in the regulation. Accordingly, holding companies or other interested persons may desire to submit proposals that they wish to have the Board consider for that purpose. However, to facilitate prompt implementation of the amended section 4(c)(8), the Board does not intend to consider such proposals until after adoption by the Board of its initial regulation. For similar reasons, the Board does not anticipate processing until that time applications for acquisitions on the basis of section 4(c)(8) received by the Reserve Banks after December 31, 1970, except in unusual and exigent circumstances.

Any such material or requests for hearing should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 26, 1971. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

By order of the Board of Governors, January 21, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-1215 Filed 1-28-71;8:46 am]

[12 CFR Part 222]

[Reg. Y]

BANK HOLDING COMPANIES

Nonbanking Acquisitions by One-Bank Holding Companies

The Board of Governors proposes to add a new paragraph to § 222.4 of Regulation Y to read as follows:

§ 222.4 Interests in nonbanking organizations.

* * * * *

(d) *Certain acquisitions by company covered in 1970.* Except with respect to acquisitions made pursuant to a binding commitment entered into before January 26, 1971, no bank holding company may after that date, directly or indirectly, acquire any shares or commence to engage in any activities on the basis of section 4(c)(12) of the Bank Holding Company Act, except with prior approval of the Board. If the company has filed with the Board an irrevocable declaration that, unless granted an exemption under section 4(d) of the Act, it will cease to be a bank holding company by January 1, 1981, requests for such approval shall be deemed to be approved 45 days after the company is informed that the request has been received by its Reserve Bank, unless the company is notified to the contrary within that time. If the company has not filed such a declaration, only requests with respect to acquisitions or expansion of activities that the company demonstrates to the satisfaction of the Board are necessary to enable it more efficiently to market its assets subject to divestiture will be approved.

Section 4(c)(12) of the Bank Holding Company Act permits a company covered by the 1970 amendments to retain or acquire any shares or engage in any activities until January 1, 1981, if the holding company complies with such conditions as the Board may by regulation prescribe. In enacting this exemption, Congress had two types of companies in mind. The Board believes that the foregoing system of prior approvals is necessary to assure that the exemption is used only by those companies for purposes consistent with the Act.

The two types of companies Congress had in mind in enacting section 4(c)(12) are (1) a company that elects to divest itself of its bank before 1981 and thereby cease to be a bank holding company and (2) a company that will be required to divest a nonbanking subsidiary or cease to engage in a nonbanking activity owned or engaged in on December 31, 1970.

Under the proposal, approval of acquisitions by a company that elects to divest itself of its bank would normally be granted, under a simple notification procedure. Acquisitions by other companies normally would not be approved, unless the company demonstrates that the acquisition is necessary to assure that the company's required divestitures can be made as quickly as possible, as efficiently as possible, and with as little economic loss to the divesting company as possible.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 26, 1971. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

By order of the Board of Governors, January 21, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-1214 Filed 1-28-71;8:46 am]

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

DONALD EDWIN DEDERER, SR.

Notice of Granting of Relief

Notice is hereby given that Donald Edwin Dederer, Sr., 31 Oakwood Street, East Hartford, CT 06111, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on October 10, 1963, in the Superior Court, New London, Conn., and on January 6, 1964, in the Superior Court, Kingston, R.I., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Donald Edwin Dederer, Sr., because of such convictions, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Donald Edwin Dederer, Sr., to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Donald Edwin Dederer, Sr.'s application and:

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

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

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

Signed at Washington, D.C., this 19th day of January 1971.

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

[FR Doc.71-1243 Filed 1-28-71;8:48 am]

DONALD LEROY GREEN

Notice of Granting of Relief

Notice is hereby given that Donald Leroy Green, 1515½ Sixth Avenue North, Post Office Box 1312, Great Falls, MT 59401, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on April 14, 1967, in the District Court, County of Rice, Faribault, Minn., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Donald Leroy Green because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacture, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Donald Leroy Green to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Donald Leroy Green's application and:

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

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

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

Signed at Washington, D.C., this 19th day of January 1971.

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

[FR Doc.71-1244 Filed 1-28-71;8:48 am]

DUANE EDWARD MARVIN, SR.

Notice of Granting of Relief

Notice is hereby given that Duane Edward Marvin, Sr., 7129 Southeast 72d Avenue, Portland, OR 97206, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on July 16, 1965, in the Circuit Court of Multnomah County, Oreg., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Duane Edward Marvin, Sr., because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Duane Edward Marvin, Sr., to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Duane Edward Marvin, Sr.'s application and:

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

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

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Duane Edward Marvin, Sr., be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect

to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 19th day of January 1971.

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

[FR Doc.71-1245 Filed 1-28-71;8:48 am]

EDWARD FRANCIS PERKINS

Notice of Granting of Relief

Notice is hereby given that Edward Francis Perkins, Box 109, Main Street, La Fargeville, NY 13656, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on November 17, 1960, in the County Court, Jefferson County, Watertown, N.Y. of a crime punishable by imprisonment for a term exceeding one year. Unless relief is granted, it will be unlawful for Edward Francis Perkins because of such conviction, to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Edward Francis Perkins to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Edward Francis Perkins' application and:

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

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

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

Signed at Washington, D.C., this 19th day of January 1971.

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

[FR Doc.71-1246 Filed 1-28-71;8:48 am]

Office of the Secretary

CLEAR SHEET GLASS FROM JAPAN

Amendment of Determination of Sales at Less Than Fair Value

JANUARY 26, 1971.

The determination of sales at less than fair value with respect to sheet glass from Japan, published in the FEDERAL REGISTER of January 9, 1971 (36 F.R. 333, F.R. Doc. 71-284), was intended to apply only to "clear sheet glass". In order to make plain that the determination applies only to "clear sheet glass", the determination is hereby amended by inserting the word "clear" before "sheet glass" wherever that term occurs.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-1247 Filed 1-28-71;8:49 am]

FROZEN FRENCH FRIED POTATOES FROM CANADA

Determination of Sales at Not Less Than Fair Value

JANUARY 22, 1971.

On October 22, 1970, there was published in the FEDERAL REGISTER a "Notice of Tentative Negative Determination" that frozen french fried potatoes manufactured by McCain Foods Ltd., Florenceville, New Brunswick, Canada, are not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as the "Act").

The statement of reasons for the tentative determination was published in the above-mentioned notice and interested parties were afforded an opportunity to make written submissions and requests to present oral views in connection with the tentative determination.

No written submissions or requests having been received, I hereby determine that, for the reasons stated in the tentative determination, frozen french fried potatoes manufactured by McCain Foods Ltd., Florenceville, New Brunswick, Canada, are not being, nor likely to be, sold at less than fair value (section 201 (a) of the Act; 19 U.S.C. 160(a)).

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)) and § 153.33(c), Customs regulations (19 CFR 153.33(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-1216 Filed 1-28-71;8:46 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska, effective at 10:00 a.m. February 16, 1971.

SEWARD MERIDIAN, ALASKA

T. 14 N., R. 1 E.
Sec. 30, lots 5 and 6 (S½NW¼).

Containing 76.49 acres.

2. The area is steep mountainous to precipitous slopes. Timber is small birch, spruce, aspen, and some cottonwood with alder. Soil is for the most part thin sandy loam.

3. The public lands affected by this order are hereby restored to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Public Land Order 4582 dated January 17, 1969, Public Land Order 4962 dated December 11, 1970, and the requirements of applicable law, rules, and regulations.

4. Inquiries concerning the lands should be addressed to the Manager, Anchorage Land Office, 555 Cordova Street, Anchorage, AK 99501.

NEIL R. BASSETT,
Acting Manager, Land Office.

[FR Doc.71-1208 Filed 1-28-71;8:45 am]

[Serial No. I-3823]

IDAHO

Notice of Hearing on Proposed Withdrawal of Public Lands

JANUARY 22, 1971.

1. Notice is hereby given that a public hearing will be held at 1 p.m., February 26, 1971, in the Boise Interagency Fire Center Auditorium, Boise, Idaho, pertaining to the request of the Bureau of Land Management for withdrawal from all forms of appropriation and location under the public land and mining laws, except the mineral leasing laws, of the public lands described hereafter as the Snake River Birds of Prey Natural Area as set forth in the notice of proposed withdrawal and reservation of lands published in the FEDERAL REGISTER on December 12, 1970, vol. 35, page 18926. The lands are described as follows:

BOISE MERIDIAN, IDAHO

T. 1 S., R. 2 W.,
Sec. 25, SW¼SE¼.
T. 1 S., R. 1 W.,
Sec. 26, S½S½;
Sec. 27, SW¼, NW¼SE¼, S½SE¼;
Sec. 28, S½;
Sec. 29, S½SW¼, SE¼;
Sec. 31, lots 1, 2, 3, 4, 5, 6, E½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 32, lots 2, 3, 4, 5, 6, 7, N½N½, SW¼NE¼, S½NW¼;
Sec. 33, lots 1, 2, 5, 6, 7, 8, NW¼NE¼, S½NE¼, E½NW¼, S½S½;
Sec. 34, lots 1, 2, 5, 6, 7, 8, NE¼NW¼, N½SE¼, S½S½;
Sec. 35, all.
T. 2 S., R. 2 W.,
Sec. 1, E½E½.
T. 2 S., R. 1 W.,
Sec. 1, lots 1, 2, 3, 6, 7, 8, 9, 12, 13, SW¼NW¼, W½SW¼;
Sec. 2, lots 1, 2, 3, 4, S½NE¼, SE¼NW¼, NE¼SE¼;
Sec. 3, lots 1, 2, 3, 4, S½NW¼;
Sec. 4, lots 1, 2, 3, 4, S½N½, NE¼SW¼, S½SW¼, W½SE¼;
Sec. 5, lots 1, 2, 3, 4, S½N½, NW¼SW¼;

Sec. 6, lots 1, 2, 3, 4, 5, 6, 7, 8, SE¼NW¼, E½SW¼, N½SE¼;
Sec. 8, NE¼NE¼;
Sec. 9, NW¼NW¼;
Sec. 12, lots 1, 2, 4, 6, 9, 10, W½W½, SE¼SW¼;
Sec. 13, lots 1, 2, 3, 4, W½NE¼, N½NW¼, W½SE¼;
Sec. 24, lots 1, 2, 3, 4, W½E½, SE¼SW¼;
Sec. 25, lots 1, 2, NW¼NE¼, NE¼NW¼.

T. 2 S., R. 1 E.,
Sec. 6, lots 5, 6, 7, E½SW¼;
Sec. 7, lots 1, 2, 5, E½W½, SW¼NE¼, SE¼;
Sec. 8, SW¼SW¼;
Sec. 17, SW¼NE¼, W½, W½SE¼;
Sec. 18, lots 2, 3, 4, 7, 8, 9, N½NE¼, SE¼NE¼, SE¼SW¼;
Sec. 19, lots 3, 4, 5, 6, 11, 12, 13, 14, 15, E½W½;
Sec. 20, W½E½, W½;
Sec. 28, SW¼SW¼;
Sec. 29, W½NE¼, W½, SE¼;
Sec. 30, lots 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, SE¼NE¼, E½SE¼;
Sec. 31, lots 2, 3, 4, 5, 6, 7, 10, 11, 12, 13, 14, 15, E½E½;
Sec. 32, all;
Sec. 33, W½W½.

T. 3 S., R. 1 W.,
Sec. 1, lots 1, 2, S½NE¼, SE¼NW¼.

T. 3 S., R. 1 E.,
Sec. 4, lot 4, SW¼NW¼, W½SW¼;
Sec. 5, all;
Sec. 6, lots 1, 2, 3, 4, 5, 8, 9, 11, SE¼NE¼, SE¼SW¼;
Sec. 7, lot 1, NW¼NE¼, S½NE¼, NE¼NW¼;
Sec. 8, all;
Sec. 9, W½W½;
Sec. 10, S½N½, S½;
Sec. 15, W½E½, NW¼, E½SW¼, SE¼SE¼;
Sec. 17, lots 1, 2, 3, SW¼NE¼, NE¼NW¼, E½SE¼;
Sec. 21, lots 1, 2, E½SE¼;
Sec. 22, lots 3, 4, 5, 6, 7, 8, 9, NW¼NE¼, S½NE¼, E½NW¼, SW¼SW¼;
Sec. 23, S½N½, S½;
Sec. 24, SW¼NE¼, SE¼NW¼, S½;
Sec. 25, W½NE¼, W½, SE¼;
Sec. 26, lots 1, 2, 3, 4, 6, 7, E½, E½NW¼;
Sec. 27, lots 1, 2, 3, W½NE¼, E½SE¼;
Sec. 34, E½NE¼;
Sec. 35, lots 2, 3, 4, N½NE¼.

T. 3 S., R. 2 E.,
Sec. 30, lots 3, 4, SE¼SW¼;
Sec. 31, lots 1, 2, 3, 6, NE¼, E½NW¼, N½SE¼, SE¼SE¼;
Sec. 32, S½N½, S½;
Sec. 33, S½.

T. 4 S., R. 2 E.,
Sec. 2, S½SW¼;
Sec. 3, lots 3, 4, S½N½, S½;
Sec. 4, lots 1, 2, 3, 4, S½N½, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 5, lots 1, 2, 3, 4, SE¼NE¼;
Sec. 6, lots 2, 5, 6, 9, 10, SE¼SW¼;
Sec. 7, lot 1, NW¼NE¼, S½NE¼, NE¼NW¼;
Sec. 8, lots 2, 4, SW¼NE¼, S½NW¼, E½SE¼;
Sec. 9, lots 1, 2, 5, 6, 7, 8, S½;
Sec. 10, lots 2, 3, 4, 7, 8, E½NE¼, SW¼, SW¼SE¼;
Sec. 11, lot 1, S½NE¼, NW¼, SE¼SW¼, SE¼;
Sec. 12, SW¼;
Sec. 13, NW¼;
Sec. 14, lots 1, 3, NE¼, SE¼NW¼, SW¼, NW¼SE¼;
Sec. 15, N½NE¼, SW¼NE¼, NW¼;
Sec. 22, lots 1, 4, 5, 8, E½E½;
Sec. 23, NW¼NW¼, S½NW¼, SW¼, NW¼SE¼, S½SE¼;
Sec. 24, SW¼SW¼;
Sec. 25, N½, NW¼SW¼;
Sec. 26, lot 5, NE¼, N½NW¼, SE¼NW¼.

The areas described aggregate 26,255.60 acres in Ada, Canyon, Elmore, and Owyhee Counties of Idaho.

2. The hearing will be open to attendance and participation of all persons having an interest either for or against the proposed withdrawal. At the outset of the hearing, the proposed withdrawal will be described as to objectives, extent, and provisions.

Parties desiring to make a statement at the hearing should file notice thereof not later than February 24, 1971, with the State Director, Bureau of Land Management, Room 334, Federal Building, 550 West Fort Street, Boise, ID 83702. The record of the hearing will be held open until March 29, 1971, for receipt of written comments at the above address.

WILLIAM L. MATHEWS,
State Director.

[FR Doc.71-1209 Filed 1-28-71;8:45 am]

National Park Service

ANACOSTIA PARK

Notice of Intention To Issue a Concession Permit

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20) public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, National Capital Parks—East, proposes to issue a concession permit to Mr. Thomas C. Long, authorizing him to provide concession facilities and services for the public at Anacostia Park, Reservation 343, Section E, 1900 M Street SE., Washington, DC, for a period of two (2) years from January 1, 1971, through December 31, 1972.

The foregoing concessioner has performed his obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Superintendent, National Capital Parks—East, 5210 Indian Head Highway, Oxon Hill, MD 20021, for information as to the requirements of the proposed permit.

ROBERT H. VIKLUND,
Acting Superintendent, National Capital Parks—East.

DECEMBER 16, 1970.

[FR Doc.71-1197 Filed 1-28-71;8:45 am]

DEPARTMENT OF COMMERCE

National Bureau of Standards

TWO RECOMMENDED STANDARDS

Notice of Circulation for Acceptance

The National Bureau of Standards is giving public notice and circulating for public comment the following recommended standards (TS) for a determination of their acceptance to manufacturers, distributors, users and consumers:

TS 116d, "Hardwood and Decorative Plywood".
TS 132, "Body Measurements for the Sizing of Apparel for Young Men (Students)".

These circulations are being made in accordance with the provisions of § 10.5 of the Department of Commerce Procedures for the Development of Voluntary Product Standards (15 CFR Part 10, as amended; 35 F.R. 8349 dated May 28, 1970).

Copies of these recommended standards may be obtained from the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234. Written comments or objections concerning the standards should be addressed to the Office of Engineering Standards Services within 30 days following publication of this notice.

LEWIS M. BRANSCOMB,
Director.

JANUARY 18, 1971.

Approved: January 25, 1971.

RICHARD O. SIMPSON,
Acting Assistant Secretary for Science and Technology.

[FR Doc.71-1213 Filed 1-28-71;8:45 am]

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board

[Docket No. SA-423]

AIRCRAFT ACCIDENT AT ANCHORAGE, ALASKA

Notice of Investigation Hearing

In the matter of investigation of accident involving Capitol International Airways, Inc., Douglas DC-8, N4909C, Anchorage, Alaska, November 27, 1970.

Notice is hereby given that an Accident Investigation Hearing on the above matter will be held commencing at 9 a.m., local time, on February 16, 1971, at the Royal Inn Hotel, 720 West Fifth Street, Anchorage, Alaska.

Dated this 25th day of January 1971.

[SEAL] WILLIAM R. HENDRICKS,
Senior Hearing Officer.

[FR Doc.71-1232 Filed 1-28-71;8:47 am]

CIVIL AERONAUTICS BOARD

[Docket No. 21980]

AEROMAR AIR CARGO, C. POR A.

Notice of Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on February 9, 1971, at 10 a.m., e.s.t., in Room 805, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the undersigned examiner.

Dated at Washington, D.C., January 25, 1971.

[SEAL] JOSEPH L. FITZMAURICE, *Hearing Examiner.*

[FR Doc.71-1249 Filed 1-28-71;8:49 am]

[Docket No. 22896]

EMPRESA GUATEMALTECA DE AVIACION

Notice of Postponement of Prehearing Conference

Pursuant to applicant's request and with concurrence of the Bureau of Operating Rights, notice is hereby given that the prehearing conference in the above-entitled matter now scheduled for January 25, 1971, is postponed until March 9, 1971 at 10 a.m., e.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

Dated at Washington, D.C., January 25, 1971.

[SEAL] JOHN E. FAULK, *Hearing Examiner.*

[FR Doc.71-1250 Filed 1-28-71;8:49 am]

[Docket Nos. 22903, etc.; Order 71-1-103]

EXECUTIVE AIRLINES, INC.

Order To Show Cause

Issued under delegated authority January 21, 1971.

The Postmaster General filed a notice of intent December 17, 1970, pursuant to 14 CFR Part 298, petitioning the Board to establish for Executive Airlines, Inc. (Executive), an air taxi operator, final service mail rates for the transportation of priority and nonpriority mail by aircraft between (1) Boston, Mass., and Albany, N.Y., via Worchester, Mass., and Keene, N.H., and (2) Boston, Mass., and Burlington, Vt., via Lebanon, N.H., and Montpelier, Vt.

No service mail rates are currently in effect for this transportation by Executive. The Postmaster General requests that the multielement service mail rates established for priority mail by Order E-25610, August 28, 1967, in the Domestic Service Mail Rate Investigation, and for nonpriority mail by Order 70-4-9, April 2, 1970, Nonpriority Mail Rates, be made applicable to this carriage of mail.[1] He states that the Postal Service and Executive agree that the applicable multielement rates are the fair and reasonable rates of compensation for the proposed services.

The rates established by Orders E-25610 and 70-4-9 have been open since December 12, 1970, pursuant to Order 70-12-48, December 8, 1970, instituting an investigation of the domestic service mail rates for priority and nonpriority mail. Therefore, the present domestic service rates for the transportation of priority and nonpriority mail by air are subject to such retroactive adjustment to December 12, 1970, as the final decision in the current domestic service mail rate investigation may provide.

We propose to establish service rates for the transportation by Executive of priority and nonpriority mail at the levels established in Orders E-25610 and 70-4-9, respectively. These rates and provisions will be subject to retroactive adjustment when the current domestic service mail rate investigation is concluded. Furthermore, Executive will be made a party to that proceeding.

The Board finds it in the public interest to fix, determine, and establish the fair and reasonable rates of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[2] to include the following findings and conclusions:

The fair and reasonable service mail rates to be paid to Executive Airlines, Inc., entirely by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between (1) Boston, Mass., and Albany, N.Y., via Worchester, Mass., and Keene, N.H., and (2) Boston, Mass., and Burlington, Vt., via Lebanon, N.H., and Montpelier, Vt., shall be:

(a) For priority mail, the multielement rates established by the Board in Order E-25610, August 28, 1967, as amended;

(b) For nonpriority mail, the multielement rates established by the Board in Order 70-4-9, April 2, 1970; and

(c) The rates and provisions of Orders E-25610 and 70-4-9 shall be applicable to Executive Airlines, Inc., on a temporary basis, subject to such retroactive adjustment as the decision in Dockets 22671 and 22731 may provide.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, the Board's regulations 14 CFR Part 302, 14 CFR Part 298, and the authority duly delegated by the Board in its Organization Regulations, 14 CFR 385.16(f),

It is ordered, That:

1. Executive Airlines, Inc., the Postmaster General, American Airlines, Inc., Mohawk Airlines, Inc., Northeast 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 rates specified above, as the fair and reasonable temporary rates of compensation to be paid to Executive Airlines, Inc., for the transportation of priority and nonpriority mail by aircraft, the facilities used and useful therefor, and the service connected therewith as specified above;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, as specified, in the attached appendix;

3. Executive Airlines, Inc., is hereby made a party in Dockets 22671 and 22731;

4. This order shall be served upon Executive Airlines, Inc., the Postmaster General, American Airlines, Inc., Mohawk Airlines, Inc., and Northeast Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

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

[1] The service mail rates established by those orders provide for terminal charges per pound of mail originated of 2.34 cents at Albany and Boston, 4.68 cents at Burlington, and 9.36 cents at Keene, Lebanon, Montpelier, and Worchester, plus line-haul charges per mail ton-mile of 24 cents for priority mail and 11.33 cents for nonpriority mail.

[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 section 385.16(g).

APPENDIX

1. Further procedures related to the attached order shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed therein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

2. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed therein and fix and determine the final rate specified therein;

3. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307).

[FR Doc.71-1251 Filed 1-28-71;8:49 am]

[Docket No. 22628; Order 71-1-111]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Reduced Fares for Spouses of Passenger Sales Agents

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of January 1971.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Composite Passenger Conference of the International Air Transport Association (IATA). The agreement, which was adopted at the Honolulu Worldwide Passenger Fare Conference has been assigned the above-designated CAB Agreement number.

The IATA carriers have filed amendments to two resolutions relating to reduced fares for spouses of passenger agents. One amends the resolution for application to passenger agents located in the United States and the other amends the existing resolution relating to the facility for passenger agents based in other countries. These resolutions, which are discussed below, are intended to become effective April 1, 1971.

The Honolulu agreement amends both resolutions to permit the spouse of each eligible person (agent) traveling, to accompany that agent at a discounted fare not exceeding 50 percent of the applicable fare. Presently, spouses of agents cannot travel at reduced fares.

We will herein approve the agreement as it relates to reduced fares for spouses of travel agents outside the United States. We will defer action with a view toward disapproval of the agreement as it relates to reduced fares for spouses of travel agents located in the United States.

Generally speaking, it has not been demonstrated that by granting discounted air fares to the spouses of agents, the agents' ability to sell air transportation will be enhanced. The concept of reduced fares to travel agents is predicated on the business needs of the carriers and agents, including travel for familiarization purposes as well as that required in the day-to-day conduct of business activities. In fact, the IATA resolutions providing for reduced fares for passenger agents stipulate that the reduced fares are "for the purpose of enhancing the professional ability and capacity of Approved Agents to generate, promote and sell international air passenger transportation." [1] We will, however, defer action for a period of 30 days for the receipt of comments in support of or in opposition to this proposed action.

As regards agents located outside the United States, it is our opinion that those agents (and their spouses) should have at least the same opportunity to travel to the United States as to other countries. To require more restrictive standards, with respect to travel to the United States in order to achieve uniformity among agents in "air transportation" could serve to create a greater incentive for the sale of transportation between other countries.

The Board, acting pursuant to sections 102, 204(a) and 412 of the Act, makes the following findings:

[1] IATA Resolution 203.

1. The Board finds that it is in the public interest to defer action for a period of 30 days on Agreement CAB 22068, R-22 (Resolution 203, Reduced Fares for Passenger Agents-U.S.A.-Amending) so as to receive comments in support of or in opposition to the Board's proposed disapproval.

2. The Board does not find Agreement CAB 22068, R-23 (Resolution 203, Reduced Fares for Passenger Agents-Except U.S.A.-Amending) to be adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

1. Action on Agreement CAB 22068, R-22 (Resolution 203, Reduced Fares for Passenger Agents-U.S.A.-Amending) is deferred with a view toward disapproval as it would permit spouses of travel agents to travel on reduced fares; and

2. Agreement CAB 22068, R-23 (Resolution 203, Reduced Fares for Passenger Agents-Except U.S.A.-Amending) is approved.

Any air carrier party to the agreements, or any interested person, may, within 30 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data, in support of or in opposition to the Board's action and/or proposed action herein. An original and 19 copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein with respect to agreements approved by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

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

[FR Doc.71-1252 Filed 1-28-71;8:49 am]

[Dockets Nos. 23040, 22625; Order 71-1-118]

TAMPA-MEXICO CITY NONSTOP SERVICE INVESTIGATION AND PAN AMERICAN WORLD AIRWAYS, INC.

Application for an Exemption

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of January, 1971.

On August 1, 1970, the United States concluded amendments to a bilateral Air Transport Agreement with the Mexican Government authorizing, inter alia, nonstop air service between Tampa and Mexico City by a designated U.S.-flag carrier. At present Pan American World Airways, Inc. (Pan Am) is authorized to operate one-stop service between Tampa and Mexico City.[1]

[1] Pan Am is required to serve Merida, Mexico, pursuant to Condition (12) in Pan Am's certificate of public convenience and necessity for route 138 on all flights between Miami and Tampa, on the one hand, and Mexico City, on the other hand.

On October 6, August 12, and October 14, 1970, Pan Am,[2] Eastern,[3] and National,[4] respectively, filed applications for Tampa-Mexico City nonstop authority. Pan Am further filed an application [5] for exemption authority to operate Tampa-Mexico City nonstop service pendente lite. In support of its application, Pan Am relies primarily on the reduction of its losses in that market which allegedly would result from an increased and more efficient schedule pattern between Miami and Mexico City.[6]

The Tampa Bay Area Parties (Tampa Parties) filed an answer in support of Pan Am's exemption request.

National Airlines, Inc. (National) filed an answer which does not oppose Pan Am's exemption request, subject to an "understanding" that this is without prejudice to its own application for Tampa-Mexico City nonstop service as well as its right to petition for suspension of Pan Am's present certificate between Tampa and Mexico City.

Eastern filed an answer in opposition to Pan Am's exemption request and Pan Am filed a reply to National's and Eastern's answers.

Upon consideration of the foregoing pleadings and the relevant facts, we have decided (1) to institute an investigation into the need for U.S.-flag Tampa-Mexico City nonstop service, pursuant to the amended U.S.-Mexico bilateral Air Transport Agreement, and (2) to deny the request of Pan Am for an exemption pendente lite for Tampa-Mexico City nonstop authority.

We are not persuaded that this is an appropriate situation for the exercise of the Board's extraordinary exemption powers.

Pan Am argues that the authority requested would reduce the losses of its operation. However, in the present circumstances, that factor standing alone is not sufficient to warrant grant of an exemption. Pan Am has not established that enforcement of the Act would be an undue burden on it and not in the public interest.

Accordingly, it is ordered, That:

1. An investigation designated the Tampa-Mexico City Nonstop Service Investigation, be and it hereby is instituted in Docket 23040 pursuant to sections 204 (a) and 401(g) of the Federal Aviation Act of 1958, as amended, to consider the need for authorization of U.S.-flag service between Tampa and Mexico City on a nonstop basis;

2. The following applications are hereby consolidated with the above investigation: Pan American Airways, Inc.,

[2] Docket 22624.
[3] Docket 22467.
[4] Docket 22645.
[5] Docket 22625.
[6] Pan Am proposed to operate a circular schedule pattern; i.e., Sundays, Wednesdays, and Fridays, the aircraft would operate Mexico City-Tampa-Miami-Merida-Mexico City, while on Mondays, Thursdays, and Saturdays, it would operate Mexico City-Merida-Miami-Tampa-Mexico City.

Docket 22624; and National Airlines, Inc., Docket 22645;[7]

3. Applications and motions to consolidate and motions or petitions seeking modification or reconsideration of this order shall be filed no later than 20 days after the service of this order, and answers to such pleadings shall be filed within 15 days thereafter;

4. This proceeding shall be set for hearing at a time and place to be designated hereafter;

5. The application of Pan American World Airways, Inc., Docket 22625, for an exemption be and it hereby is denied; and

6. A copy of this order shall be served upon Pan American World Airways, Inc., Eastern Air Lines, Inc., National Airlines, Inc., The Tampa Bay Area Parties, and each carrier and civic party designated for service in Docket 22625.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

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

[FR Doc.71-1253 Filed 1-28-71;8:49 am]

[Dockets Nos. 23039, 22859; Order 71-1-114]

TRANS WORLD AIRLINES, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of January 1971.

By tariff revisions[1] bearing the posting date of December 16, 1970, and marked to become effective January 30, 1971, Trans World Airlines, Inc., (TWA) proposes to increase all of its mainland general commodity rates according to the following formula:

Minimum weight (in pounds)	*Increase per 100 pounds*
Under 100	2 cents (per pound)
100	$2.00
500	1.25
1,000 and over	.75

A complaint requesting suspension and investigation of the proposed rates to the extent that they would apply to floral and fishery products was filed jointly by the Society of American Florists and the National Fisheries Institute, Inc.[2] The complainants assert, inter alia, that the proposed rates would be unreasonably high and would divert a considerable amount of floral and seafood traffic to surface transportation.

[7] Because Eastern's application includes other authority which may be heard in separate proceedings, we will not consolidate its application as framed; the carrier is, however, free to move consolidation of an application conforming to the scope of this proceeding in accordance with ordering paragraph 3.

[1] Revisions to Airline Tariff Publishers, Inc., Agent's Tariffs CAB No. 8 (Agent J. Aniello Series).

[2] A telegraphic complaint was filed by Emery Air Freight Corp., but was not followed by a formal complaint as required by the Board's economic regulations.

In support of its proposals, TWA claims, inter alia, that (1) a need for additional freight revenues exists as a result of continuing losses in cargo operations, (2) the rate of inflation has outpaced the average percentage revenue increase resulting from the mid-1970 general rate increases, and (3) the rates proposed are based upon costs by shipment size and length of haul.

The general commodity rates proposed would result in increases ranging up to 28 percent. Such increases, at one time, have the potential for very significant adverse effects upon many shippers. While TWA contends that its proposed rate structure comports with its unit cost patterns, this is a highly complex and controversial area.

In Order 70-12-143, dated December 28, 1970, the Board suspended, pending investigation, mainland general commodity rate increases proposed by United Air Lines, Inc., which also ranged as high as 28 percent. Consistent with the foregoing order, and upon consideration of other relevant matters, the Board finds that TWA's proposed general commodity rates may be unjust, unreasonable, unjustly discriminatory, unduly preferential, or unduly prejudicial or otherwise unlawful, and should be suspended pending investigation.

Although many of TWA's proposed rate increases are moderate in extent, we shall suspend all of the general commodity rates filed because suspension of only the larger increases would leave in effect a distorted general rate structure not proposed by TWA.

TWA's proposed rates will automatically be under investigation in Docket 22859, Domestic Air Freight Rate Investigation, and Docket 21474, In the Matter of Air Freight Rates on Live Animals and Birds.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. An investigation is instituted to determine whether the rates and charges described in Appendix A hereto[3] and rules, regulations, or practices affecting such rates and charges, are or will be unjust, unreasonable, unjustly discriminatory, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates and charges and rules, regulations and practices affecting such rates and charges;

2. Pending hearing and decision by the Board, the rates and charges described in Appendix A hereto are suspended and their use deferred to and including April 29, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Docket 23039 initiated herein be consolidated into Docket 22859, Domestic Air Freight Rate Investigation;

4. The complaints filed by Emery Air Freight Corp., in Docket 22953 and jointly by the Society of American Florists and the National Fisheries Institute, Inc., in Docket 22948 are dismissed, except to the extend granted herein; and

5. Copies of this order shall be filed with the tariff and shall be served upon Trans World Airlines, Inc., and the Society of American Florists and the National Fisheries Institute, Inc., which are hereby made parties to Docket 23039.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

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

[FR Doc.71-1254 Filed 1-28-71;8:49 am]

[3] Filed as part of original document.

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 18308, 18793; FCC 71-54]

CHRISTIAN VOICE OF CENTRAL OHIO AND DELAWARE-GAHANNA FM RADIO BROADCASTING STATION, INC.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Christian Voice of Central Ohio, Gahanna, Ohio, Docket No. 18308, File No. BPH-6137; and Delaware-Gahanna FM Radio Broadcasting Station, Inc., Delaware, Ohio, Docket No. 18793, File No. BPH-7004; for construction permits.

1. The Commission has before it for consideration: (a) A memorandum opinion and order of the Review Board, FCC 70R-278, 24 FCC 2d 709, released August 10, 1970; (b) an application for review filed by Christian Voice of Central Ohio (CVCO), on August 17, 1970; (c) an opposition to the application for review, filed by Delaware-Gahanna FM Radio Broadcasting Station, Inc. (D-G), on August 27, 1970; (d) comments on the application for review filed by the Chief, Broadcast Bureau (Bureau), on August 27, 1970; and (e) a reply filed by CVCO on September 4, 1970.

2. This proceeding began when the Commission designated for evidentiary hearing the mutually exclusive applications of CVCO and Delaware-Maryville Broadcast Service, Inc. (D-M), 14 FCC 2d 576 released September 11, 1968. CVCO and D-M thereafter filed a joint petition for approval of an agreement looking toward the dismissal of the D-M application in return for partial reimbursement of its out-of-pocket expenses. By memorandum opinion and order, 16 FCC 2d 879, released March 24, 1969, the Review Board (Board) withheld further action on the joint petition pending publication, pursuant to § 1.525 (b) of the rules. On May 12, 1969, an application for a new FM station in Delaware, Ohio, was tendered for filing by a partnership composed of Charles

Gordon, et al., doing business as Delaware-Gahanna FM Radio Broadcasting Station. On February 12, 1970, the Commission released an order accepting this application for filing, and consolidated it for hearing with applications of CVCO and D-M. Subsequently, the Board, by memorandum opinion and order released March 6, 1970, dismissed the D-M application (22 FCC 2d 13).

3. On March 5, 1970, CVCO petitioned the Board to enlarge the hearing issues in this evidentiary proceeding. The petition alleged numerous inconsistencies between the information contained in the filings of D-G with this Commission and with the Division of Securities of the State of Ohio. The petition also alleged that D-G had been guilty of misrepresentations to actual and prospective investors, regarding the comparative status of its application. The misrepresentations and discrepancies considered by the Board fall into the following principal areas: (1) Misrepresentations to the Commission regarding a cease and desist order issued by Ohio Division of Securities, and sales of partnership interests in violation thereof; (2) misrepresentations to actual and potential D-G investors and subscribers; (3) discrepancies in balance sheets, registration statements and other pertinent information filed with the Commission and with the State of Ohio; and (4) discrepancies in statements made by persons buying and selling pledges, stock subscriptions or securities of D-G. By memorandum opinion and order, 24 FCC 2d 709, released August 10, 1970, the Board granted in part and denied in part the CVCO petition to enlarge issues. In doing so, the Board added four hearing issues to this proceeding, each of which inquires into a specific area of alleged misrepresentation and/or concealment by D-G. The Board's findings and conclusions regarding these matters are not before us for review and, accordingly, are not set forth herein.

4. In the same order, however, the Board declined to add hearing issues inquiring into certain other alleged irregularities by D-G, which CVCO alleged in its petition to enlarge issues. The Board's rulings in this respect are before us for review, and both of the parties' contentions and the Board's rulings are as follows. CVCO averred that in a balance sheet dated May 9, 1969, submitted with D-G's application to this Commission, the applicant showed no "Pledges Receivable", whereas in a balance sheet dated May 15, 1969, filed with the Ohio Division of Securities, D-G showed "Pledges Receivable" of $60,000. CVCO also contended that the identity of individuals pledging the $60,000 to D-G was not made known to either the Ohio Division of Securities or to the Commission and that these pledges were not disclosed until December 4, 1969, nearly 7 months later, when D-G filed an amendment with the Commission updating its balance sheet to show a total of $58,350 of stock either paid for or subscribed. In reply thereto, D-G conceded the discrepancies in the balance sheets, but contended that the cash on hand account was inadvertently increased by a "bookkeeping error" and that the pledges receivable account was increased only after the Ohio Division of Securities permitted D-G to solicit pledges, following a conference with that State agency on May 15, 1969. CVCO, however, took issue with D-G, stating that the conference occurred "on or about May 19, 1969," 4 days after the May 15, 1969, balance sheet showing $60,000 in "Pledges Receivable."

5. In refusing to add a hearing issue, the Board found that the discrepancies between the two balance sheets were adequately explained by D-G; that the only other substantive allegation presented by CVCO is a possible misstatement by D-G of a date of a conference held by the Ohio authorities; and that such a showing was grossly insufficient to establish CVCO's major contention that D-G sold securities in violation of the cease and desist order of the State of Ohio. Moreover, the Board further concluded that in the absence of further affirmative action by the Ohio authorities, it would be inappropriate to add an issue inquiring into alleged violations of an order solely within the jurisdiction of the State of Ohio. Having concluded that an issue should not be specified in this respect, the Board further concluded that an associated issue inquiring into both the identity of D-G's pledgors and the dates of their pledges was not warranted. CVCO's request for a hearing issue inquiring into the alleged failure of D-G to inform prospective investors and subscribers of the pendency of a comparative hearing was also refused by the Board. In doing so, the Board held that D-G's one omission, i.e., the failure to inform Charles P. Hagan, Jr. (an initial partner in D-G, who subsequently withdrew from the partnership) that D-G faced a comparative hearing, does not warrant the requested issue nor does it constitute a misrepresentation. Moreover, the Board further concluded that D-G's failure to inform Hagan of the comparative status of its applications is insufficient to sustain CVCO's general contention that other D-G investors were likewise misinformed. A claim was also made by one Reverend Sanders that false representations were made to him; however the Board refused to consider this matter because CVCO first raised such contentions in a reply pleading.

6. Presently before us is CVCO's application for review, which was filed on August 17, 1970. CVCO complains that the Board, in the above-described memorandum opinion and order, erroneously failed to enlarge the hearing issues in this comparative proceeding on matters equally significant to those for which hearing inquiries were ordered. CVCO believes that the Board should have ordered inquiries to determine the facts surrounding the inconsistent May 9 and May 15 balance sheets of D-G submitted to this Commission and to the State of Ohio, respectively, and to determine whether or not D-G misrepresented and/or concealed the existence of CVCO's mutually exclusive application to D-G investors or potential investors. In support thereof, CVCO essentially reiterates the prior contentions raised in its earlier petition to enlarge issues, and contends that it has, in essence, made a prima facie showing justifying the requested hearing issues; that failure of the Board to recognize this fact is reversible error; and that the Commission, at this juncture of the proceeding, should review and reverse the Board's interlocutory rulings regarding these particular matters.

7. D-G opposes the application for review. As it did before the Board, D-G sets forth its version of both the circumstances leading to the discrepancies in its balance sheets and the circumstances under which potential investors were solicited. Based upon these reiterations, D-G concludes that it has resolved all substantial questions regarding these two matters; that the Board properly found this to be the case; that contrary to CVCO's contentions, the Board's rulings are both legally and factually sound; and that, therefore, such rulings should not be disturbed by the Commission. The Bureau has filed comments supporting CVCO's request for the addition of issues. It is the position of the Bureau that there are substantial and material unresolved questions of fact surrounding the markedly different balance sheets of D-G; that CVCO has also presented sufficient information to warrant an inquiry as to whether or not investors have been taken advantage of in soliciting capital funds by D-G; and that contrary to the Board's findings and D-G's allegations, there are significant unresolved matters in these areas which justify further exploration in the evidentiary process. CVCO has replied to D-G's opposition and the Bureau's comments, restating its prior position taken before the Board and again repeated in its application for review.

8. We believe that CVCO's application for review raises valid questions regarding certain interlocutory rulings in this adjudicatory case which are fundamental and which could affect the entire conduct of this proceeding. Accordingly, we find that the public interest will be served by our review of these matters at this juncture of the proceeding, rather than at the time when exceptions are filed. Moreover, the evidentiary hearing in this case has been postponed by the presiding Examiner pending the determination of other matters before the Commission, and thus, the action taken herein will neither disrupt the orderly processes of this case nor will it unduly inconvenience the parties in their preparations.

9. We have fully considered the memorandum opinion and order of the Review Board and the respective pleadings thereto. After careful analysis, we conclude that additional hearing issues should be specified in this proceeding. We believe an issue is warranted to authorize an inquiry into the discrepancies surrounding D-G's May 9 and May 15 balance sheets. A spectre of confusion and voluminous assertions by all parties

have arisen in this respect. Based upon all the information now before us, we are unable to glean the necessary facts upon which to render a public interest determination. For instance, D-G asserts that the discrepancies were due to bookkeeping errors and additional investments by its original principals, but CVCO continually refutes these explanations. We are further troubled by the fact that D-G made substantial changes in its capital picture between May and December 1969, of which we were not informed. The Board attempted to dismiss this matter, apparently considering such changes insignificant because 51 percent of the ownership of D-G was still retained by D-G's original partners. However, CVCO asserts that these persons held only 36.02 percent of the D-G capital stock as reported in D-G's December 4, 1969, amendment to its application.[1] Moreover, we find that section II of D-G's application is not particularly illuminating in this respect, since only the names of the partners are reflected therein and no reference is made to the amount of their capital contributions. While it is true that the parties have submitted some supporting documentation to corroborate their contentions, we find that such information is equally inconclusive and insufficient and does not warrant acceptance of one party's assertions to the exclusion of the other. For these reasons, we believe that this matter should be thoroughly examined in the evidentiary hearing where all parties would have the opportunity to present evidence in their own behalf, subject to the test of cross-examination.

10. Moreover, we are not persuaded, as the Board was, that CVCO's allegations, both with respect to the discrepancies in D-G's balance sheets and with respect to the inconsistent statements concerning the date of a conference between D-G and the Ohio Division of Securities were submitted to indicate no more than a possible misstatement regarding the date of that conference, nor are they to be considered, in the context of this case, solely for determining whether a hearing issue should be added to inquire into D-G's possible violations of the Ohio cease and desist order. Our examination of CVCO's petition to enlarge issues and other responsive pleadings clearly indicates that in alleging these irregularities, and others, CVCO sought something more in this comparative proceeding, i.e., a broad misrepresentation issue against D-G because of contradictory information and statements submitted to this Commission. Accordingly, on our own motion, we have so considered CVCO's allegations and conclude that they lend further support to our determination that substantial and material unresolved questions of fact exist warranting a hearing inquiry into the circumstances surrounding D-G's May 9 and May 15 balance sheets.

11. We are also persuaded that a hearing issue inquiring into whether D-G made misrepresentations to actual and prospective investors is likewise warranted. As the Board recognized, it has been shown that D-G did in fact on one occassion fail to advise one of its investors (Charles P. Hagan, Jr.) of the comparative status of its application. The significance of such information to potential investors, we believe, is borne out by the fact that upon being apprised of the comparative status of the application, Hagan elected to withdraw his pledge to D-G. Moreover, D-G's responsibility to divulge such information when soliciting capital investments, we believe, is fundamental and pertinent to any reasoned determination regarding an applicant's qualifications to be a Commission licensee. While we are not prepared to say that this one act of omission and/or concealment of material information by D-G's principals is sufficient to sustain CVCO's charge, neither are we prepared to say that the public interest would not be served by further exploration of this matter in the evidentiary process. This is so, we believe, because of the seriousness of the allegations and because D-G has failed, in our opinion, to adequately refute them in its pleadings.[2]

12. In specifying the following hearing issues in this proceeding we wish to emphasize that they have been drafted sufficiently broad so as not to restrict or unduly limit the scope of all relevant and material evidence which should be admitted to compile a complete and proper record. Moreover, the conduct of the hearing, which necessarily encompasses the admissibility of evidence dependent upon its materiality and relevance, is properly within the purview of the Hearing Examiner, and he can provide adequate protection against surprise and other unfairness. Consequently, we find no need to add specific hearing issues, as CVCO suggests, to inquire into both the identity of D-G pledgors before and after its May 15, 1969, balance sheet was prepared and the identity of prospective investors sought by D-G in its attempt to solicit capital investments.

13. *Accordingly, it is ordered,* That the application for review, filed August 17, 1970, by Christian Voice of Central Ohio is granted to the extent indicated herein, and is denied in all other respects.

14. *It is further ordered,* That the issues in this proceeding are enlarged by the addition of the following issues:

(a) To determine the facts and circumstances surrounding the May 9, 1969, and May 15, 1969, balance sheets and amendment thereto of December 4, 1969, of Delaware-Gahanna FM Radio Broadcasting Station, Inc.; and based thereon, to determine whether deliberate misrepresentations and/or concealment of pertinent facts have been made or withheld from the Commission which would reflect adversely on Delaware-Gahanna FM Radio Broadcasting Station, Inc.'s basic or comparative qualifications to be a Commission licensee.

(b) To determine whether Delaware-Gahanna FM Radio Broadcasting Station, Inc., misrepresented itself to actual and prospective investors in its attempts to capitalize and, if so, whether such conduct reflects adversely on Delaware-Gahanna FM Radio Broadcasting Station, Inc.'s basic or comparative qualifications to be a Commission licensee.

15. *It is further ordered,* That the initial burden of proceeding with the introduction of the evidence under the issues added herein shall be upon Christian Voice of Central Ohio and the burden of proof shall be upon Delaware-Gahanna FM Radio Broadcasting Station, Inc.

Adopted: January 20, 1971.

Released: January 25, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-1256 Filed 1-28-71;8:49 am]

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[1] The Commission's associated memorandum opinion and order adopted today, which disposes of a petition for reconsideration filed by CVCO on Mar. 16, 1970, thoroughly considers and deals with D-G's change of ownership structure and the resultant effect thereof. Thus, our references to the parties' contentions regarding the percentages of ownership interests in D-G are set forth herein merely to point out the apparent financial discrepancies in the two D-G balance sheets, and the need to explore further this matter in an evidentiary hearing.

[2] The allegations of the Reverend Mr. Sanders raise serious questions regarding D-G's refutations. Though improperly pleaded, such information is material and relevant to any reasoned determination in this case and, accordingly, on our own motion, these allegations have been considered.

[3] Commissioner Houser not participating.

[Docket No. 19143]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC), ET AL.

Memorandum Opinion and Order Instituting Hearing; Correction

In the Commission's Memorandum Opinion and Order, FCC 71-75 (58371), adopted January 21, 1971 (36 F.R. 1287), issues (A) and (D), adopted therein, should be corrected to read as follows:

(A) Whether the existing employment practices of A.T. & T. tend to impede equal employment opportunities in A.T. & T. and its operating companies contrary to the purposes and requirements of the Commission's rules and regulations and the Civil Rights Act of 1964?

(D) Whether, and in what manner, any of the employment practices of A.T. & T., if found to be discriminatory, affect the revenues or expenses of A.T. & T., or otherwise affect the rates charged by that company for its interstate and foreign communication services, and if so, in what ways this is reflected in the present rate structure?

Released: January 25, 1971.

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

[FR Doc.71-1257 Filed 1-28-71;8:49 am]

FEDERAL POWER COMMISSION

[Docket No. G-4421, etc.]

HASSIE HUNT TRUST ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

JANUARY 20, 1971.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 12, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

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[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-4421, D 12-30-70	Hassie Hunt Trust (Operator) et al., 1401 Elm St., Dallas, TX 75202 (partial abandonment).	Texas Eastern Transmission Corp., Northeast Lisbon Field, Claiborne Parish, La.	Depleted	....
G-10033, D 1-4-71	Petroleum, Inc. (Operator) et al., 300 West Douglas, Wichita, KS 67202 (partial abandonment).	Cities Service Gas Co., acreage in Barber County, Kans.	Depleted	....
G-11863, C&D 10-23-70 [1]	Mobil Oil Corp., Post Office Box 1774, Houston, TX 77001.	Lone Star Gas Co., Graham Area, Carter County, Okla.	21.0	14.65
G-13826, C 12-28-70 [2]	do	Northern Natural Gas Co., Parnell and Northrup Field, Ochiltree County, Tex.	18.0675	14.65
CI60-122, D 11-27-70	Texas San Juan Oil Corp., 1126 Mercantile Securities Bldg., Dallas, TX 75201 (partial abandonment).	Tennessee Gas Pipeline Co., a division of Tenneco Inc., acreage in Jim Wells and Duval Counties, Tex.	Depleted	....
CI62-522, C 11-5-70	J. M. Huber Corp., c/o James B. Reed, General Attorney, 2300 West Loop, Houston, TX 77027.	Panhandle Eastern Pipe Line Co., acreage in Texas County, Okla.	17.0	14.65
CI62-855, E 12-18-70	Lewis S. DeBruiar d.b.a. Stephen Gas Co. (successor to Shaff Mineral Associates, Inc., et al.), Camden, W. V. 26338.	Consolidated Gas Supply Corp.; Freemans Creek District, Lewis County, W. Va., and Court House District, Lewis County, W. Va.	25.0	15.325
CI64-461 [3], E 10-27-70	The South Coast Corp. (successor to Shore Oil Co.), c/o Robert L. Goodwin, Esq., Exchange Oil & Gas Corp., 1200 Oil and Gas Bldg., New Orleans, LA 70112.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Patterson Field, St. Mary Parish, La.	[4] 21.25	15.025
CI64-670, D 1-4-71	Marathon Oil Co., 539 South Main St., Findlay, OH 45840.	Arkansas Louisiana Gas Co., Wilburton Field, Le Flore County, Okla.	Assigned	....
CI65-631, D 12-31-70	Hunt Petroleum Corp., 1401 Elm St., Dallas, TX 75202.	Northern Natural Gas Co., South Six Mile Field, Beaver County, Okla.	([5])	....
CI66-260, D 11-23-70	Edison J. Parsons et al., 1001 Charleston National Plaza, Charleston, WV 25301 (partial abandonment).	Consolidated Gas Supply Corp.; Ripley District, Jackson County, W. Va.	([6])	....
CI67-1651 [3], E 11-23-70 [7]	Owen Oil Co., Inc. (Operator) et al. (successor to Ladd Petroleum Corp. (Operator) et al.), Post Office Box 51288, Lafayette, LA 70501.	Trunkline Gas Co., Lake Arthur Field, Jefferson Davis Parish, La.	19.5 [7] 20.0	15.025
CI69-838 [8] (CI71-488), B 12-23-70 [9]	Exchange Oil & Gas Corp. (Operator) et al., 16th Floor, 1010 Common St., New Orleans, LA 70112.	Gas Gathering Corp., South Klondike Field, Iberville Parish, La.	Depleted	....
CI70-179 [10], B 12-28-70	Petroleum, Inc., 300 West Douglas, Wichita, KS 67202.	Panhandle Eastern Pipe Line Co., acreage in Woodward County, Okla.	Depleted	....
CI70-986, C 8-28-70	Cleary Funds, Inc. et al., c/o G. D. Ashabranner, attorney, Lawyers Bldg., 219 Couch Dr., Oklahoma City, OK 73102.	Panhandle Eastern Pipe Line Co., Salon Field, Ellis County, Okla.	20.0	14.65
CI71-418 (CI62-1388), F 11-9-70	Burk Gas Corp. (successor to Atlantic Richfield Co.), 800 Oil & Gas Bldg., Wichita Falls, TX 76301.	Northern Natural Gas Co., Southeast Flores Field, Beaver County, Okla.	18.0	14.65
CI71-459, A 12-7-70 as amended 12-17-70	Inexco Oil Co., 308 Lincoln Tower Bldg., Denver, CO 80203.	Natural Gas Pipeline Co. of America, South Mermentau Area, Acadia Parish, La.	[11] 28.0	15.025
CI71-467, A 12-10-70	Ashland Oil, Inc., Post Office Box 18695, Oklahoma City OK 73118.	Industrial Gas Corp., McCorkle Field, Lincoln, Kanawha, and Boone Counties, W. Va.	25.0	15.325
CI71-479, A 12-14-70 [13]	Marathon Oil Co	Plateau Natural Gas Co., Hugoton Field, Stevens County, Kans.	[12] 13.0 [14] 16.0	14.65
CI71-481, B 12-18-70	Tamarack Petroleum Co., Inc., Agent et al., 910 Bank of the Southwest Bldg., Midland, TX 79701.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., West Ross Field, Starr County, Tex.	([15])	....
CI71-482, B 12-18-70	do	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Seven Sisters Queen City Field, Duval County, Tex.	([15])	....
CI71-483, B 12-18-70	Tamarack Petroleum Co., Inc. (Operator) et al.	Panhandle Eastern Pipe Line Co., North Hansford Tonkawa Field, Hansford County, Tex.	([15])	....
CI71-484, A 12-21-70	Prudhoe Production Inc. (Operator), et al., 301 First National Bank Bldg., McAllen, TX 78501.	Natural Gas Pipeline Co. of America, North Willamar Field, Willacy County, Tex.	24.25	14.65
CI71-485, A 12-21-70	Merchants Petroleum Co., 1636 West Eighth St., Los Angeles, CA 90017.	Equitable Gas Co., Henry District, Clay County, W. Va.	32.0	15.325
CI71-486, A 12-21-70	Samedan Oil Corp. et al., Post Office Box 909, Ardmore, OK 73401.	Michigan Wisconsin Pipe Line Co., North Lovedale Field, Harper County, Okla.	20.0	14.65
CI71-487, B 12-23-70	Exchange Oil & Gas Corp. (Operator) et al.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., South Tigre Lagoon Field, Iberia Parish, LA.	Depleted	....
CI71-489, A 12-23-70	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221.	Phillips Petroleum Co., West Panhandle Field, Gray County, Tex.	13.5	14.65
CI71-490, A 12-23-70 [16]	LVO Corp., Post Office Box 2848, Tulsa, OK 74101.	United Gas Pipe Line Co., Northwest Oakley-East Lake Verret Area, Assumption Parish, La.	[17] 20.0	15.025
CI71-491, B 12-28-70	Union Oil Co. of California, Post Office Box 7600, Los Angeles, CA 90054.	Cities Service Gas Co., Canfield Unit, Woodward Area, Woodward County, Okla.	Depleted	....

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI71-492 A 12-28-70	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Consolidated Gas Supply Corp., Sandy River District, McDowell County, W. Va.	32.0	15.325
CI71-494 A 12-21-70	Patrick A. Doheny et al., 136 El Camino, Beverly Hills, CA 90212.	Kansas-Nebraska Natural Gas Co., Inc., East Dune Ridge Field, Logan County, Colo.	10.0	16.4
CI71-495 (CI64-533) F 12-22-70	Texas Oil & Gas Corp. (successor to J. M. Huber Corp.), Fidelity Union Tower Dallas, TX 75201.	Northern Natural Gas Co., Laverne Field, Harper County, Okla.	[15] 17.0	14.65
CI71-496 (CI63-826) A 12-23-70 [19]	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221.	Cities Service Gas Co., Eureka Area, Grant and Alfalfa Counties, Okla.	12.75	14.65
CI71-497 B 12-29-70	The Superior Oil Co., Post Office Box 1521, Houston, TX 77001.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., South Bon Air Field, Calcasieu Parish, La.	Depleted	....
CI71-498 A 12-29-70	do	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Grand Isle Block 63 (Block 72 Field), Offshore Louisiana.	18.5 [20] 17.0	15.025
CI71-499 A 12-29-70 [21]	do	Tennessee Gas Pipeline Co., a division of Tenneco Inc., LacBlanc Field, Vermilion Parish, La.	[20] 18.5	15.025
CI71-500 A 12-29-70	do	Northern Natural Gas Co., Share Field, Ochiltree County, Tex.	18.5	14.65
CI71-501 A 12-30-70	Commonwealth Gas Corp., 801 Union Bldg., Charleston, WV 25325.	United Fuel Gas Co., Ripley and Union Districts, Jackson County, W.Va.	32.0	15.325
CI71-502 B 12-31-70	Bridwell Oil Co.	Texas San Juan Oil Corp., acreage in Jim Wells and Duval Counties, Tex.	Depleted	....
CI71-503 B 12-30-70	Phillips Petroleum Co. (Operator) et al., Bartlesville, OK 74004.	United Fuel Gas Co., Longview Field, Franklin Parish, La.	([22])	....
CI71-405 A 1-4-71	Harry Spooner, Jr., 411 Quachita National Bank Bldg., Monrce, LA 71201.	Mid Louisiana Gas Co., Monroe Field, Union Parish, La.	18.0	15.025

[1] Adds and deletes acreage by replacement of contract.
[2] Adds acreage acquired from Diamond Shamrock Corp., Docket No. G-19720.
[3] Pending—temporary authorization only granted.
[4] Rate being collected under temporary certificate.
[5] Well is incapable of delivering gas into Buyer's line.
[6] Deletes the Effie Batten tract. No sales have ever been made from subject acreage.
[7] Amendment filed to reflect change in operator. Also amends contract pricing provisions to provide for a rate of 19.5 cents per Mcf for gas produced from reservoirs discovered prior to Oct. 1, 1968, and a rate of 20 cents per Mcf for gas produced in newly dedicated acreage and from "newly discovered reservoirs" as defined in Opinion No. 567.
[8] Original application in Docket No. CI69-838 sought certificate of public convenience and necessity. Applicant now proposes to abandon service previously commenced pursuant to temporary authorization.
[9] Application erroneously assigned Docket No. CI71-488. Docket No. CI71-488 is canceled.
[10] Original application in Docket No. CI70-179 sought certificate of public convenience and necessity. Applicant now proposes to abandon service previously commenced pursuant to temporary authorization.
[11] Subject to upward and downward B.t.u. adjustment.
[12] Applicant is filing for certificate to cover its interests previously covered by Operator's certificates in Dockets Nos. G-5669 and CI60-658.
[13] Above the depth of Chase Group.
[14] Council Grove Formation.
[15] Well is no longer capable of producing gas in commercial quantities.
[16] Gas-well gas.
[17] Contract provides for rate of 27 cents per Mcf; however, Applicant states its willingness to accept a permanent certificate at 20 cents per Mcf.
[18] Subject to upward and downward B.t.u. adjustment. Rate in effect subject to refund in Dockets Nos. RI65-168 and RI68-121.
[19] Applicant is filing for certificate to cover its interest previously covered by Operator's certificate in Docket No. CI63-826.
[20] Contract provides for rate of 27.5 cents per Mcf; however, b/ letter filed Jan. 13, 1 71, applicant agreed to accept certificate at the applicable area rate.
[21] Casinghead gas.
[22] All dedicated acreage released from contract.

[FR Doc.71-1096 Filed 1-28-71;8:45 am]

[Docket No. E-7577]

MISSISSIPPI POWER & LIGHT CO.

Order Suspending Tendered Rate Schedules, Denying Petition for Rejection of Rate Filings, Granting Waiver of Notice Requirements, Providing for Hearing and Granting Intervention

JANUARY 21, 1971.

This order suspends for 1 day the operation of tendered rate schedules, orders a public hearing to be held on the lawfulness of those schedules, denies a petition for rejection of those rate filings, grants waiver of notice requirements, and permits intervention in this proceeding.

Mississippi Power & Light Co. (MP&L), a public utility subject to the jurisdiction of this Commission, filed on November 16, 1970, as rate schedule supplements, changes in rates for sales to its eight rural electric cooperative customers at each of 67 delivery points. MP&L proposes to replace the present rates REA-10 and REA-9 applicable to cooperatives by a new rate REA-11. The proposed rate schedule supplements are identified in the appendix attached hereto. The filings are proposed to become effective January 22, 1971.

The proposed rate contains an energy charge of 8.15 miles per kw.1hr. and continues a fuel adjustment clause similar to the one in the REA-10 rate. It is anticipated that the rate would provide increased revenues from the cooperatives of approximately $790,000 (13.7 percent) for the year ending January 1971 and of approximately $819,000 (13.9 percent) for the year ending January 1972.

MP&L contends that on the basis of a study utilizing test year 1969, its present rates to cooperatives produce a 4.39 percent rate of return while the proposed rates show a 5.81 percent return, still less than fully compensatory but within the Company's past policy of receiving lower rates of return from this class of customers in order to help economic development of rural areas.

MP&L initially proposed an effective date for the present filings of January 20, 1971. However, the original filing was not complete until December 22, 1970, at which time MP&L requested a waiver of the 60-day notice requirement of § 35.13(b)(4)(i) of the Commission's regulations in order for the filing to become effective on January 22, 1971, 30 days after completion of the filing. We will grant waiver of that notice requirement subject to the provisions of this order.

Notice of the filing was given by publication in the FEDERAL REGISTER on December 8, 1970 (35 F.R. 18643), stating that any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1970, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure.

In addition to preliminary protests from several individual cooperative customers, the Commission received on December 22, 1970, a joint "Protest and Petition to Intervene and for Rejection of Rate Schedules Submitted for Filing" from the Company's eight cooperative customers.[1] The petitioners inter alia (1) request intervention in the proceeding; (2) assert that the tendered rate schedules are unlawful under the Federal Power Act because they will produce an excessive return to the Company; (3) allege that the fuel clause in the proffered rate schedules conflicts with the requirements of § 35.14(a)(1) of the Commission's regulations; (4) assert that the proposed increase in rates to the cooperatives is greater than that imposed upon the Company's retail rate customers; (5) request the Commission to reject the tendered rate schedules on the ground that MP&L has currently effective fixed rate contracts which preclude unilateral rate increase filings by the Company; and (6) petition for such further relief as may be appropriate. In a response thereto filed January 8, 1971, following an extension of time by the Commission's Secretary, MP&L denies the allegations that the rate filings would produce an excessive return and that the fuel clause contained therein is not just or reasonable as well as petitioners' contention that provisions of the Company's present contracts with the cooperatives bar the proposed rate increase filings.

Examination of the cooperatives' joint protest and petition and MP&L's answer thereto indicates that certain issues

[1] The cooperative customers are Capital E.P.A., Coahoma E.P.A., Delta, E.P.A., Magnolia E.A., Southern Pine E.P.A., Southwest Mississippi E.P.A., Twin County E.P.A., and Yazoo Valley E.P.A. (Petitioners).

raised therein should be determined on the basis of an evidentiary hearing record. However, our examination of the data filed by MP&L in support of its proposed increased rates and charges does not warrant suspension of those tendered rate schedule supplements for the full 5-month statutory period. Accordingly, we shall suspend the tendered rate schedule supplements for 1 day and direct that a public hearing be held on the lawfulness thereof.

Insofar as the joint petition requests rejection of the rate filings, petitioners contend essentially that their currently effective rate agreements with MP&L do not provide for unilateral rate change filings by the Company and therefore such filings are not valid. F.P.C. v. Sierra Pacific Power Co., 350 U.S. 348 (1956). In its answer MP&L maintains that the contracts do not fix a specific rate and points to the following provision in the contract for support:

SECTION 3. *Rate.* Association shall pay Company for electric power and energy furnished hereunder for its own use and for resale directly to ultimate consumers in accordance with Rate Schedule REA-10, attached hereto and made a part hereof.

Service shall be taken and paid for under and in accordance with said rate schedule as provided above or such other effective superseding rate schedule as may be authorized by duly constituted regulatory authority. Either party may seek authorization through regulatory procedures for such change as may be necessary to make any schedule used for billing just and reasonable.

The Company indicates that the contracts prior to the Sierra case supra contained no provision for any rate other than the particular rate specified therein.

Construing the above provision in the context of the entire rate agreement as here consummated, we conclude that the provisions of these rate contracts contemplate changes in the rates and charges specified therein by or with the approval of this Commission. Hence, they do not constitute fixed rate contracts. See United Gas Pipeline Company v. Memphis Light, Gas and Water Division, et al., 358 U.S. 103 (1958). We shall deny the petition for rejection of the proffered rate filings.

The Commission finds:

(1) The tendered rate schedule filings designated in the Appendix attached hereto may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful under the Federal Power Act.

(2) Good cause has been shown to grant MP&L's request for waiver of the 60-day provision of § 35.13(b)(4) of the Commission's regulations under the Federal Power Act.

(3) It is necessary and appropriate for the purposes of the Federal Power Act, particularly sections 205, 206, 301, 307, 308, and 309 thereof, that the Commission enter upon a hearing concerning the lawfulness of the tendered filings and that the tendered filings be suspended and the use thereof be deferred and a public hearing be initiated in accordance with the procedures set forth below, all as hereinafter provided.

(4) Participation by the aforementioned petitioners for intervention in this proceeding may be in the public interest.

The Commission orders:

(A) MP&L's request for waiver of the 60-day provision of § 35.13(b)(4) of the Commission's regulations under the Federal Power Act is hereby granted to permit the tendered filing to take effect 30 days after completion of the filing subject to the provisions of this order.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act and pursuant to the Commission's rules of practice and procedure, a public hearing shall be convened at the offices of the Federal Power Commission in Washington, D.C., concerning the lawfulness of MP&L's rate schedules identified in the appendix hereto.

(C) Pending such hearing and decision thereon, the tendered rate schedules designated in the appendix attached hereto are hereby suspended and the use thereof deferred until January 23, 1971. On that day those filings shall take effect in the manner prescribed by the Federal Power Act, and MP&L, subject to further orders of the Commission, shall charge and collect the increased rates and charges set forth in those filings for all power sold and delivered thereunder.

(D) MP&L shall file with the Commission and serve on all parties, on or before February 23, 1971, its case-in-chief in support of the subject rate schedules, including testimony of witnesses and exhibits. Cross-examination of MP&L's case-in-chief shall commence on March 30, 1971, at 10 a.m., e.s.t., in a hearing room at the offices of the Federal Power Commission, 441 G Street NW., Washington, DC. If any party believes that a prehearing conference would serve to expedite the proceeding, he may file with the Chief Examiner or the designated Presiding Examiner, on or before February 5, 1971, a motion for a prehearing conference, including a statement of how the proceeding would be expedited thereby and a proposed agenda for the conference. In the event that a prehearing conference is scheduled, the Presiding Examiner is authorized to reschedule the date for the commencement of cross-examination if such reschedule is found necessary for the orderly procedure of this hearing. All further procedural dates shall be as ordered by the Presiding Examiner.

(E) MP&L shall refund at such times and in such manner as may be required by final order of the Commission the portion of the increased rates and charges found by the Commission in this proceeding not justified, together with interest at the New York prime rate on January 23, 1971, from the date of payment until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all the amounts received by reason of the increased rates and charges effective as of January 23, 1971, for each billing period; and shall report (original and one copy) in writing and under oath, to the Commission monthly, for each billing period, the billing determinants of electric energy sold and delivered under the subject rate schedules, and the revenues resulting therefrom as computed under the rates in effect immediately prior to January 23, 1971, and under the rates and charges made effective by this order, together with the differences in the revenues so computed.

(F) Capital Electric Power Association, Coahoma Electric Power Association, Delta Electric Power Association, Magnolia Electric Power Association, Southern Pine Electric Power Association, Southwest Mississippi Electric Power Association, Twin County Electric Power Association, and Yazoo Valley Electric Power Association are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however*, That participation of such interveners shall be limited to the matters affecting asserted rights and interests specifically set forth in the petitions to intervene: *And provided further*, That the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any orders entered in this proceeding.

(G) Unless otherwise ordered by the Commission, MP&L shall not change the terms or provisions of the subject rate schedules or of its presently effective rate schedules until this proceeding has been terminated or until the period of suspension has expired.

(H) Notices of intervention and petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before February 12, 1971, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.37).

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

MISSISSIPPI POWER & LIGHT COMPANY

FPC RATE SCHEDULE DESIGNATIONS

EACH FPC RATE SCHEDULE SUPPLEMENT DESIGNATED BELOW IS THE COMPANY'S RATE SCHEDULE REA-11, FILED DECEMBER 22, 1970.

Designations		Customer	Delivery point
Supplement No.: to—	Rate schedule No.		
1	215	Capital EPA [1]	Bovina.
1	155	do [1]	Byram.
1	156	do [1]	Canton.
1	157	do [1]	Clinton.
1	164	do [1]	Crystal Springs.
1	158	do [1]	Flora.
1	159	do. [1]	Flowood.
1	160	do. [1]	North Jackson Sub.
1	217	do. [1]	Northwest Jackson Sub.
1	161	do. [1]	Utica.
1	162	do. [1]	Vicksburg.
1	163	do. [1]	West Jackson Sub
1	165	Coahoma EPA	Clarksdale.
1	166	do	Darling.
1	168	do	Lula.

See footnote at end of table.

MISSISSIPPI POWER & LIGHT COMPANY

FPC RATE SCHEDULE DESIGNATIONS

EACH FPC RATE SCHEDULE SUPPLEMENT DESIGNATED BELOW IS THE COMPANY'S RATE SCHEDULE REA-11, FILED DECEMBER 22, 1970.

Designations		Customer	Delivery point
Supplement No.: to—	Rate schedule No.		
1	210	do	Marks.
1	170	do	Shelby.
1	169	do	Sunflower.
1	171	do	Tunica.
1	172	do	Walls.
1	220	Delta EPA	Carrollton.
1	173	do	Cleveland.
1	174	do	Greenville.
1	175	do	Greenwood.
1	176	do	Indianola.
1	177	do	Inverness.
1	219	do	Itta Bena.
1	208	do	Minter City.
1	214	do	Moorhead.
1	178	do	Pace.
1	179	do	Schlater.
1	209	do	Shaw.
1	180	do	West.
1	181	do	Winona.
1	182	Magnolia EPA	Brookhaven.
1	184	do	Fernwood.
[2] 2	213	do	Jayess.
1	185	do	Liberty.
1	186	do	Norfield.
1	218	do	Progress.
1	188	do	Tylertown.
1	125	Southern Pine EPA.	Florence.
1	124	do	Hazlehurst.
[3] 4	56	do	Magee 115 kV.
1	126	do	Magee 13 kV.
1	123	do	Silver Creek.
1	189	Southwest Mississippi EPA.	Brookhaven.
1	190	do	Crosby.
1	191	do	Lorman.
[2] 2	212	do	Natchez.
1	192	do	Port Gibson.
1	207	do	Roxie.
1	216	do	Utica.
1	194	do	Washington.
1	195	do	Woodville.
1	196	Twin County EPA.	Belzoni.
2	197	do	Greenville.
1	198	do	Hollandale.
1	199	do	Leland.
1	200	do	Onward.
1	201	do	Rolling Fork.
1	202	Yazoo Valley EPA.	Anchorage.
1	203	do	Lexington.
1	204	do	Pickens.
1	205	do	Redwood.
1	206	do	Yazoo City.
1	211	do	Little Yazoo.

[1] Electric Power Association.
[2] Supersedes Supplement No. 1.
[3] Supersedes Supplement No. 3.

[FR Doc.71-1143 Filed 1-28-71;8:45 am]

FEDERAL RESERVE SYSTEM

SOUTHERN BANKSHARES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Southern Bankshares, Inc., Richmond, Va., for approval of acquisition of voting shares of the successor by merger to Williamsburg National Bank, Williamsburg, Va.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), the application of Southern Bankshares, Inc., Richmond, Va. (Applicant), a one-bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares (except directors' qualifying shares) of a new national bank into which would be merged Williamsburg National Bank, Williamsburg, Va. (Bank). [The application was filed as one to become a bank holding company pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956. Due to Applicant's ownership of 100 percent of the voting shares of Southern Bank and Trust Co., Richmond, Va., and to the Bank Holding Company Act Amendments of 1970 (Public Law 91-607, 84 Stat. 1760), Applicant became a bank holding company by operation of law on December 31, 1970, and the Board, therefore, treats the application as one by such a company to acquire an additional bank.] The new bank has significance only as a means of acquiring all of the shares of the bank to be merged into it. Accordingly, the proposed acquisition of the shares of the successor organization is treated as a proposed acquisition of the shares of Bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Virginia Commissioner of Banking and to the Comptroller of the Currency and requested their views and recommendations. The Commissioner and the Deputy Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on November 19, 1970 (35 F.R. 17808), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration, the Board finds that:

Applicant presently controls one banking subsidiary, acquired on April 30, 1970. This institution, Southern Bank and Trust Co. (Southern Bank), is located in Richmond, Va., and is the State's 11th largest banking organization, controlling deposits of $94.6 million, representing 1.3 percent of total commercial bank deposits in the State. (All banking data are as of June 30, 1970, adjusted to reflect holding company acquisitions approved by the Board to date.)

Southern Bank with control of 6.2 percent of total deposits in the Richmond market area, is the fifth largest of 13 banks in that market. Upon acquisition of Bank (deposits of $6.8 million), Applicant would continue to rank 11th among the State's largest banking organizations and would increase its control over total State deposits to 1.4 percent.

Bank operates one office in Williamsburg and is, by a substantial margin, the smaller of the two banks operating in the Williamsburg banking market. Its competitor, a subsidiary of the State's largest banking organization, holds five times as many deposit dollars as Bank.

Bank is located 51 miles from Southern Bank and there appears to be no existing competition between the two. Further, in view of the distance separating the two, the presence of two intervening, sparsely settled counties, and the fact that Virginia law would preclude either bank from branching de novo into the area served by the other, there is little likelihood of such competition developing in the future.

Based upon the record, the Board concludes that consummation of the proposal would have no adverse effect on competition in any relevant area. The banking factors as they relate to Applicant and both its present and proposed subsidiary are satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the communities to be served lend some weight toward approval of the application; although the banking needs of the Williamsburg area appear adequately served, affiliation with Applicant would enhance Bank's ability to participate in the expected growth of the area by increasing Bank's lending capabilities and enabling it to provide computer and specialized financial and trust services. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved; *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such time be extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[1] January 22, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-1218 Filed 1-28-71;8:46 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regulations, Temporary Regulation E-14]

PURCHASE OF PASSENGER VEHICLES

Procedures To Be Followed

Correction

In F.R. Doc. 71-934 appearing at page 1172 of the issue for Saturday, January 23, 1971, the following changes should be made:

[1] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, and Brimmer. Absent and not voting: Governor Sherrill.

1. On page 1173 in paragraph 8, the figure "19" in the 19th line is corrected to read "10".

2. On page 1174 the last entry for "Wheelbase min" in Table II now reading "411" is corrected to read "114".

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

FREEMAN COAL MINING CORP.

Application for Renewal Permit; Notice of Opportunity for Public Hearing

Application for a Renewal Permit for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.^{3}) has been accepted for consideration as follows:

(1) ICP Docket No. 11112, Freeman Coal Mining Corp., Crown Mine, USBM ID No. 11 00604 0, Farmersville, Montgomery County, Ill., Section ID No. 009 (2 Main East off Main South).

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, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JANUARY 26, 1971.

[FR Doc.71-1317 Filed 1-28-71;8:46 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30-C (Region VI), Amdt. 1]

REGIONAL DIVISION CHIEFS, ET AL.

Delegation of Authority To Conduct Program Activities in Region VI

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30-C, 35 F.R. 2840, as amended, (35 F.R. 15033 and 35 F.R. 17156) Delegation of Authority No. 30-C (Region VI), 35 F.R. 5440, is hereby amended by revising Item I.A.2.b., Item I.B.1., Item I.J., Item II.A.2.b., Item III. A.2.b., Item IV., Item V., and Item VI., and deleting Item VII., to read as follows:

I. *Regional Division Chiefs, Regional Counsel, and Staffs*—A. *Chief and Assistant Chief, Financing Division.* * * *

2. * * *

b. To approve displaced business loans and coal mine health and safety loans up to $350,000 (SBA share) and to decline them in any amount.

* * * * *

B. *Supervisory Loan Officers (Financing Division).* 1. To approve or decline business, disaster, displaced business, and coal mine health and safety loans not exceeding $50,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

* * * * *

J. *Chief, Procurement and Management Assistance Division.* 1. To take all necessary actions in connection with the administration and management of grants, agreements, and contracts executed by the Associate Administrator for Procurement and Management Assistance under the authority granted in section 406 of the Economic Opportunity Amendments of 1967, except changes, amendments, modifications, or termination of the original grant, agreement, or contract.

* * * * *

II. *District Directors*—A. *Financing Program.* * * *

2. * * *

b. To approve or decline displaced business loans and coal mine health and safety loans up to $350,000 (SBA share).

* * * * *

III. *District Division Chiefs, District Counsel, and Staffs*—A. *Chief, Financing Division.* * * *

2. * * *

b. To approve or decline displaced business loans and coal mine health and safety loans up to $350,000 (SBA share).

* * * * *

IV. *Branch Manager (Reserved).*

V. The specific authority delegated herein, indicated by double asterisk (**), cannot be redelegated.

VI. The authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: January 10, 1971.

L. H. HUDSPETH,
Acting Regional Director,
Region VI.

[FR Doc.71-1231 Filed 1-28-71;8:47 am]

TARIFF COMMISSION

[TEA-W-66 and TEA-W-67]

WORKER'S PETITIONS FOR DETERMINATION OF ELIGIBILITY TO APPLY FOR ADJUSTMENT ASSISTANCE

Notice of Investigations

On the basis of petitions filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the production and maintenance workers at two plants of Mattel, Inc., located in the City of Industry and Hawthorne, Calif., the U.S. Tariff Commission, on January 22, 1971, instituted investigations under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with the toys, dolls, models, and game produced at such plants are 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 their workers.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigations; *Provided,* Such request is filed within 10 days after publication of the notice in the FEDERAL REGISTER.

The petitions filed in this case are available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in room 437 of the Customhouse.

Issued: January 26, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-1234 Filed 1-28-71;8:47 am]

[TEA-W-58 thru TEA-W-65]

WORKER'S PETITIONS FOR DETERMINATION OF ELIGIBILITY TO APPLY FOR ADJUSTMENT ASSISTANCE

Notice of Investigations

On the basis of petitions filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers of—

TEA-W-58, Smith Shoe Corp., Newmarket, N.H.
TEA-W-59, Bella Mia Footwear Manufacturing Corp., Brooklyn, N.Y.
TEA-W-60, TEA-W-61, Kalmon Shoe Manufacturing Co., St. Louis, Mo.
TEA-W-62, Deb Shoe Co., Inc., Washington, Mo.
TEA-W-63, Wolff Shoe Manufacturing Co., Rolla, Mo.
TEA-W-64 Wolff Shoe Manufacturing Co., St. Louis, Mo.
TEA-W-65 Johnson, Stephens, and Shinkle Co., Vandalia, Ill.

The U.S. Tariff Commission, on the 22d day of January 1971, instituted investigations under 301(c)(2) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear produced by the aforementioned firms are being imported into the United States in such inceased quantities as to cause, or to threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firms.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of

the investigation; *Provided,* Such request is filed within 10 days after publication of the notice in the FEDERAL REGISTER.

The petitions filed in this case are available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in room 437 of the Customhouse.

Issued: January 26, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.71-1233 Filed 1-28-71;8:47 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JANUARY 26, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42118—*Chlorine from Point Comfort, Tex.* Filed by Southwestern Freight Bureau, agent (No. B-210), for interested rail carriers. Rates on chlorine, in tank carloads, as described in the application, from Point Comfort, Tex., to Anniston, Ala.

Grounds for relief—Water-truck competition.

Tariff—Supplement 146 to Southwestern Freight Bureau, agent, tariff ICC 4773.

FSA No. 42119—*Methanol (methyl alcohol) to Kingsport, Tenn.* Filed by O. W. South, Jr., agent (No. A6219), for interested rail carriers. Rates on methanol (methyl alcohol), in tank carloads, as described in the application, from Pace, Fla., to Kingsport, Tenn.

Grounds for relief—Market competition.

Tariff—Supplement 52 to Southern Freight Association, agent, tariff ICC S-832.

FSA No. 42120—*Phosphate rock to Horn, Mo.* Filed by O. W. South, Jr., agent (No. A6221), for interested rail carriers. Rates on phosphate rock, crude (other than ground phosphate rock) in carloads, as described in the application, from Occidental, Fla., to Horn, Mo.

Grounds for relief—Market competition.

Tariff—Supplement 132 to Southern Freight Association, agent, tariff ICC S-658.

By the Commission.

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

[FR Doc.71-1240 Filed 1-28-71;8:48 am]

[Notice 235]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 25, 1971.

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 2962 (Sub-No. 44 TA), filed January 20, 1971. Applicant: A & H TRUCK LINE, INC., 1111 East Louisiana Street, Evansville, IN 47717. Applicant's representative: Robert H. Kinker, 711 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier,* by motor vehicle, over regular 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 commodities requiring special equipment) serving the plantsite of Grinnell Corp., Welded Products Division, located near Princeton in Caldwell County, Ky., as an off-route point in connection with carrier's regular route operations, for 180 days. NOTE: Applicant states it intends to tack with MC 2962 and interline at all gateway points. Supporting shipper: Grinnell Corp., 260 West Exchange Street, Providence, RI. Send protests to: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 102817 (Sub-No. 15 TA) (Correction), filed January 11, 1971, and published FEDERAL REGISTER issue January 20, 1971, and republished in part as corrected this issue Applicant: PERKINS FURNITURE TRANSPORT, INC., 1202 North Pennsylvania Street, Indianapolis, IN 46202. Applicant's representative: John E. Lesow, 3737 North Meridian Street, Indianapolis, IN 46208. NOTE: The purpose of this partial republication is to include the State of Minnesota as a destination State, which was inadvertently omitted in previous publication, the rest of application remains the same.

No. MC 106743 (Sub-No. 10 TA), filed January 20, 1971. Applicant: LOFTIN'S TRANSFER & STORAGE CO., INC., Post Office Drawer 1568, 4081 Ross Clark Circle, NW., Dothan, AL 36301. Applicant's representative: Richard S. Richard, 57 Adams Avenue, Montgomery, AL 36104. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, between points in De Kalb County, Ga., on the one hand, and, on the other, points in Catoosa, Chattooga, Dade, Dawson, Murray, Rabun, Towns, and Whitfield Counties, Ga., Restriction: Said operations are restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized. Said operations are restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shipper: Department of the Army, Office of the Judge Advocate General, Washington, D.C. 20310, Attention: Curtis L. Wagner, Jr., Chief, Regulatory Law Office. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, AL 35203.

No. MC 112822 (Sub-No. 181 TA), filed January 20, 1971. Applicant: BRAY LINES INCORPORATED, Post Office Box 1191, 1401 North Little Street, Cushing, OK 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: *Petroleum and petroleum products,* in containers, from the Kansas City, Kans.-Mo., commercial zone to points in Texas, south of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 380 to Post, Tex., and thence along U.S. Highway 84 to junction U.S. Highway 281 at Evant, Tex., and on and west of a line beginning at Evant and extending along U.S. Highway 281 to the United States-Mexico international boundary line at or near Hidalgo, Tex., for 180 days. Supporting shipper: J. LeeRoy Smith, Rate Analyst, Petroleum Products, Phillips Petroleum Co., Bartlesville, Okla. 74004. 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, OK 73201.

No. MC 113267 (Sub-No. 253 TA), filed January 20, 1971. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts, articles distributed by meat packinghouses,* as set forth in sections A and C, *Descriptions*

in *Motor Carrier Certificates*, 61 M.C.C. 209 and 766 and (2) *foodstuffs* in mixed shipments with meat and meat products, from plantsite and warehouse facilities of Geo. A. Hormel & Co., Fort Dodge, Iowa, to Fresno and San Francisco, Calif., for 150 days. Supporting shipper: Geo. A. Hormel & Co., Post Office Box 800, Austin, MN 55912. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, IL 62704.

No. MC 113514 (Sub-No. 108 TA), filed January 20, 1971. Applicant: SMITH TRANSIT, INC., 1200 Simons Building, Dallas, TX 75201. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, TX 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid silicate of soda*, in bulk, from Dallas, Tex., to Denver, Colo., for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Diamond Shamrock Chemical Co., 610 Euclid Avenue, Cleveland, OH 44114. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 513 Thomas Building, 1314 Wood Street, Dallas, TX 75202.

No. MC 128375 (Sub-No. 58 TA), filed January 21, 1971. Applicant: CRETE CARRIER CORPORATION, Box 249, 1444 Main, Crete, NE 68333. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is marketed by home products distributors*, from the warehouse and storage facilities used by the Amway Corp. in the commercial zone of Atlanta, Ga., to points in Alabama, Georgia, Tennessee, North Carolina, South Carolina, Virginia, and West Virginia, under continuing contract with the Amway Corp. Restricted to traffic having a prior movement from Ada, Mich., in Interstate Commerce by private or contract carrier, for 180 days. Supporting shipper: Michael LaMonde, Traffic Manager, Amway Corp., 7575 East Fulton Road, Ada, MI 49301. Send protests to: District Supervisor Max H. Johnston, Interstate Commerce Commission, Bureau of Operations, 315 Federal Building and Courthouse, Lincoln, NE 68508.

No. MC 135113 (Sub-No. 1 TA) (Correction) filed December 10, 1970, and published FEDERAL REGISTER issue December 24, 1970, and republished in part as corrected this issue. Applicant: BLUE EAGLE TRUCK LINES, INC., Post Office Box 446, Highland Park, IL 60035. Applicant's representative: Stephen L. Jennings, Seyfarth, Shaw, Fairweather and Geraldson, 111 West Jackson Boulevard, Chicago, IL 60604. NOTE: The purpose of this partial republication is to show applicant's correct name and include the return movements in (a) and (b). The rest of the application remains the same.

No. MC 135113 (Sub-No. 1 TA) (Correction), filed January 5, 1971, and published FEDERAL REGISTER issue January 14, 1971, and republished in part as corrected this issue. Applicant: WELLINGTON REALTY CORP. (Transportation Division), Post Office Box 244, Madison, GA 30650. Applicant's representative: Archie B. Culbreth, Suite 417, 1252 West Peachtree Street NW, Atlanta, GA 30309. NOTE: The purpose of this partial republication is to make various corrections as follows, (1) should show "cotton yarn" in lieu of cotton yard; (2) should show "Louisville, Ky.", in lieu of Louisiana, Ky., and bronze or steel wire, in lieu of broze or steel wire, and (14) should show "used by Wellington Book Co., Inc. at or near East Rutherford, N.J., and Wellington Book-West, Inc., at or near Montebello, Calif.," The rest of the application remains the same.

No. MC 135153 (Sub-No. 3 TA), filed January 20, 1971. Applicant: GREAT OVERLAND, INC., Post Office Box 1417, Dodge City, KS 67801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as defined by the Commission (except those commodities in bulk and hides), from Dodge City, Kans., to points in Connecticut, Maryland, Massachusetts, New Jersey, Pennsylvania, Rhode Island, and Washington, D.C., for 150 days. Supporting shipper: Hyplains Dressed Beef, Inc., Box 539, Dodge City, KS 67801. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, KS 67202.

No. MC 135216 TA (Correction), filed January 12, 1971, and published FEDERAL REGISTER issue January 20, 1971, and republished in part as corrected this issue. Applicant: LEROY DENEAU, Route 1, Chana, IL 61015. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. NOTE: The purpose of this partial republication is to include household goods as defined by the Commission, commodities in bulk, which was inadvertently omitted in previous publication. The rest of publication remains the same.

No. MC 135239 TA, filed January 19, 1971. Applicant: SAM H. WILLIAMS, doing business as WILLIAMS TRANSFER & STORAGE, Post Office Box 6, Leesville, LA 71446. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to shipments having a prior or subsequent movement beyond the below named points, in containers, and further restricted to pickup and delivery service incidental to and in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments, between points in Louisiana parishes, Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Lafayette, Natchitoches, Sabine, St. Landry, Vermilion, and Vernon and points in Angelina, Jasper, Nacogdoches, Newton, Orange, Sabine, San Augustine, and Shelby Counties, Tex., for 180 days. Supporting shippers: Columbia Export Packers, Inc., 19032 South Vermont Avenue, Torrance, CA 90502; Imperial Household Shipping Co., Inc., 9674 Fourth Street North, Post Office Box 20124, St. Petersburg, FL 33702; and Davidson Forwarding Co., 3180 V Street NE., Washington, DC 20018. Also, Department of Defense, contract handling household goods for Fort Polk, La. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room T-4009, Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 135241 TA, filed January 20, 1971. Applicant: KENNETH M. ALLISON, doing business as ALLISON TRUCKING, 10025 Southwest Boones Ferry Road, Portland, OR 97219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum sheets*, from Spokane, Wash., to South El Monte, Calif.; (2) *overseas storage boxes*, from South El Monte, Calif., to points in Washington and Oregon; and (3) *lumber* from points in Washington, and Oregon to South El Monte, Calif., for 180 days. Supporting shipper: California Equipment Co., 9657 East Rush Street, Post Office Box 3245, South El Monte, CA 91733. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 120 Southwest Fourth Avenue, Portland, OR 97204.

By the Commission.

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

[FR Doc.71-1237 Filed 1-28-71;8:48 am]

[Notice 236]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 26, 1971.

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 52861 (Sub-No. 22 TA), filed January 22, 1971. Applicant: WILLS TRUCKING, INC., 2535 Center Street, Cleveland, OH 44113. Applicant's representative: David L. Pemberton, 88 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, from Huron, Ohio, to Ecorse, Mich., and return, for 180 days. Supporting shipper: The Federal Lime & Stone Co., Tower East Building, Cleveland, OH 44122. Send protests to: District Supervisor Baccei, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 109172 (Sub-No. 8 TA), filed January 21, 1971. Applicant: NATIONAL TRANSFER, INC., doing business as 4100 East Marginal Way South, Seattle WA 98134. Applicant's representative: George Kargianis, 2120 Pacific Building, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cargo containers*, empty and *general cargo containers*, loaded, between points in King and Pierce Counties, Wash., on the one hand, and, Oregon and points in Oregon and Washington on the other, for 180 days. NOTE: Applicant states it does intend to tack the authority held in MC 109172. Supporting shippers: American Mail Line, 1010 Washington Building, Seattle, WA 98101; Geo. S. Bush & Co., Inc., 259 Colman Building, Seattle, WA 98104; Japan Line (U.S.A.) Ltd., 2220 Pacific Building, Seattle, WA 98104; McClary, Swift & Co., Inc., 909 Western Avenue, Seattle, WA 98104; Northland Marine Lines, Inc., 653 Northwest 41st Street, Seattle, WA 98107; North Star Forwarding Co., 1102 Southwest Massachusetts Street, Seattle, WA 98134; Williams, Dimond & Co., 1515 Pacific Building, Seattle, WA 98104. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, WA 98101.

No. MC 111284 (Sub-No. 2 TA), filed January 22, 1971. Applicant: Q & R MOTOR SERVICE CO., 2701 West Clay Street, St. Charles, MO 63301. Applicant's representative: B. W. LaTourette, Jr., 1850 Railway Exchange Building, 611 Olive Street, St. Louis, MO 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fresh meats, meat products, meat byproducts*, as described in section A to appendix I in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (2) *packinghouse products, cheese, dairy products, foodstuffs and food products*, all requiring temperature control and (3) *advertising or display material* used in connection with display and sale of such commodities, (1) between points in the St. Louis, Mo.-East St. Louis, Ill. commercial zone, as defined by the Commission and points in Missouri upon the following highways and within an area bounded as follows: Commencing at the confluence of the Missouri and Mississippi Rivers; thence northerly along the Mississippi River to its intersection with the Missouri-Iowa State line; thence westerly along the Missouri-Iowa State line to its intersection with the Missouri-Nebraska State line; thence southerly along the Missouri-Nebraska State line to its intersection with the Missouri-Kansas State line; thence southerly along the Missouri-Kansas State line to its intersection with U.S. Highway 54; thence easterly along U.S. Highway 54 to Junction U.S. Highway 71; thence southerly along U.S. Highway 71 to Camp Clark, Mo.; thence returning northerly along U.S. Highway 71 to Junction U.S. Highway 54; thence easterly along U.S. Highway 54 to junction Missouri Highway 42; thence easterly along Missouri Highway 42 to junction Missouri Highway 17; thence northwesterly along Missouri Highway 17 to junction Missouri Highway 52; thence northwesterly along Missouri Highway 52 to junction U.S. Highway 54; thence easterly along U.S. Highway 54 to its intersection with the Missouri River; thence easterly along the Missouri River to its confluence with the Mississippi River, the point of beginning of this description and (2) between points in the St. Louis, Mo.-East St. Louis, Ill. commercial zone as defined by the Commission and those points in Kansas within the Kansas City, Mo.-Kansas City, Kans. commercial zone as defined by the Commission, for 150 days. Supporting shippers: Hautly Cheese Co., Inc., 5130 Northrup Avenue, St. Louis, MO 63110. Krey Packing Co., St. Louis, MO 63107. Frigo Chees Corp., Post Office Box 5147, Kansas City, KS 66119. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 114389 (Sub-No. 15 TA), filed January 22, 1971. Applicant: GALE B. ALEXANDER, 120 South Ward Street, Ottumwa, IA 52501. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages*, from South Bend, Ind., to Ottumwa, Iowa; with return of *empty containers*, for 180 days. Supporting shipper: Mutt Harris Distributing Co., Ottumwa, Iowa 52501. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, IA 50309.

No. MC 117765 (Sub-No. 117 TA), filed January 22, 1971. Applicant: HAHN TRUCK LINE, INC., 5315 Northwest Fifth Street, Post Office Box 75267, Oklahoma City, OK 73107. Applicant's representative: R. E. Hagan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverages* (nonalcoholic), in containers, from plantsite of Shasta Beverages, Lenexa, Kans., to points in Illinois, for 180 days. Supporting shipper: Shasta Beverages, Murray H. Crossen, 9901 Wilmer Road, Lenexa, KS 66215. 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, OK 73102.

No. MC 123389 (Sub-No. 10 TA), filed January 22, 1971. Applicant: CROUSE CARTAGE COMPANY, Post Office Box 151, Carroll, Iowa 51401. Applicant's representative: William S. Rosen, 630 Osborn Building, St. Paul, MN 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts*, from Storm Lake, Iowa; to points in Inidana, Kansas, Maryland, Michigan, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, and the District of Columbia for 180 days. Supporting shipper: Hygrade Food Products Corp., 11801 Mack Avenue, Detroit, MI 48214. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 304, Post Office Building, Sioux City, IA 51101.

No. MC 127505 (Sub-No. 40 TA), filed January 22, 1971. Applicant: RALPH H. BOELK, doing business as BOELK TRUCK LINES, Route 2, Mendota, IL 61342. Applicant's representative: Walter J. Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractor cabs*, from Rock Falls, Ill., to Farmington, Pontiac, Taylor, and Utica, Mich., for 180 days. Supporting shipper: Northeast Tractor Cab Co., 804 East 11th Street, Rock Falls, IL 61071. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 133700 (Sub-No. 4 TA), filed January 22, 1971. Applicant: DUCKETT TRANSFER COMPANY, INC., 74 Meadow Road, Asheville, NC 28803. Applicant's representative: McGuire Baley & Wood, Post Office Box 748, Asheville, NC 28802. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Orange juice*, in bulk, from Brooksville, Fla., to Asheville, N.C., under a continuing contract with Gerber Products Company of Asheville, N.C., for delivery to Gerber's Asheville, N.C., processing plant, for 180 days. Supporting shipper: Gerber Products Co., Post Office Box 2689, Asheville, NC 28802. Send protests to: Jack K. Huff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 316 East Morehead, Suite 417 (BSR Building) Charlotte, NC 28202.

No. MC 134677 (Sub-No. 1 TA), filed January 22, 1971. Applicant: J. P. NOONAN TRANSPORTATION, INC., Linden Street, Brockton, Mass. 02401.

Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline*, in bulk, in tank vehicles, from Tiverton, R.I., to points in Massachusetts, for 180 days. Supporting shipper: P & H Trust, 551 Washington Street, Abington, MA 02351. Send protests to: John B. Thomas, Interstate Commerce Commission, Bureau of Operations, J. F. Kennedy Building, Room 2211-B, Government Center, Boston, MA 02203.

No. MC 135244 TA, filed January 22, 1971. Applicant: NUTRITION PLUS, INC., 1000 Hillcrest Road, Wayne, NE 68787. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, from Malvern, Iowa, to points in Burt, Cummings, Dakota, Dixon, Thurson, and Wayne Counties, Nebr., for 180 days. Supporting shipper: Standard Chemical Manufacturing Co., Malvern, Iowa. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Room 304 Federal Building, Sioux City, IA 51101.

No. MC 135246 TA, filed January 22, 1971. Applicant: JIMBO, INC., 3810 Westheimer, Suite 410, Houston, TX 77027. Applicant's representative: Everett Hutchinson, 1140 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Crude borate rock* (in bulk) from the site of the Tenneco Oil Co. installation located approximately 28 miles northwest of Death Valley junction, Inyo County, Calif., to the Tenneco Oil Co. plantsite located approximately 15 miles south of Lathrop Wells, Nye County, Nev.; and (2) *Calcium Borate* (in bulk) from the plantsite of the Tenneco Oil Co. plantsite located approximately 15 miles south of Lathrop Wells, Nye County, Nev., to points in California and Nevada, for 180 days. Supporting shipper: Tenneco Oil Co. (Lewis McKinley, Jr., Traffic Manager), Post Office Box 2511, Houston, TX 77001, for 180 days. Supporting shipper: Tenneco Oil Co. (Lewis McKinley, Jr., Traffic Manager), Post Office Box 2511, Houston, TX 77001. Send protests to: District Supervisor John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, TX.

By the Commission.

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

[FR Doc.71-1238 Filed 1-28-71;8:48 am]

[Accounting Series Circular No. 144—Rev.]

PENN CENTRAL TRANSPORTATION CO. ET AL.

Accounting Series Circular

JANUARY 25, 1971.

On January 8, 1971, the Bureau of Accounts issued Accounting Series Circular No. 144—Revised, instructing the railroads to write off certain accounts receivable due from the Penn Central Transportation Co. and other railroads in bankruptcy in their 1970 accounts.

Upon consideration of petitions filed with Division 2 seeking rescission or postponement of the Circular, the Division has decided to stay the implementation of said Circular until all interested parties have expressed their views and comments.

In the circumstances, all carriers may proceed to close their accounts for the year 1970 without giving effect to the requirements of the Circular.

In view of the status of the Penn Central Transportation Co. reorganization proceedings at this time, it is presumed that the receivables in question will be transferred to account 741, Other Assets, in the 1970 accounts.

Any party desiring to make representation in favor of or against the Circular may do so through submission of written data, views or comments for consideration. An original and five copies of any such representation must be filed with the Secretary of the Interstate Commerce Commission, Washington, D.C. 20423, within 45 days after publication of this notice in the FEDERAL REGISTER. The Commission will consider all such responses and representations before deciding this matter, after which appropriate action will be taken.

Service of this notice shall be made on all carriers by railroad which are affected hereby and notice thereto shall be given the general public by depositing a copy of this notice in the Office of the Secretary of the Commission at Washington, D.C., and by filing the notice with the Director, Office of the Federal Register.

By the Commission, division 2.

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

[FR Doc.71-1239 Filed 1-28-71;8:50 am]

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PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social and Rehabilitation Service

•

PRACTICE AND PROCEDURE FOR HEARINGS TO STATES ON CONFORMITY OF PUBLIC ASSISTANCE PLANS TO FEDERAL REQUIREMENTS

Title 45—PUBLIC WELFARE

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

PART 213—PRACTICE AND PROCEDURE FOR HEARINGS TO STATES ON CONFORMITY OF PUBLIC ASSISTANCE PLANS TO FEDERAL REQUIREMENTS

The regulations in this part were published in the FEDERAL REGISTER on July 29, 1970 (35 F.R. 12182), and made effective upon publication. Although the notice of proposed rule making was dispensed with, due to the nature and urgency of the regulations, the submission of comments, suggestions, and objections were invited.

As a result of such comments and of experience in the conduct of hearings, the regulations are revised to clarify:

1. The limitations on suspension of rules (§ 213.4);

2. That the time limits apply to scheduling rather than to the actual carrying out of the hearing (§ 213.12);

3. That an issue may be complied with, and removed from the proceedings, either in whole or in part (§ 213.14(c) (1) and (2) and (d));

4. That individuals or groups requesting participation must serve copies of the petition on all parties of record and such parties shall have 5 days to file comments thereon (§ 213.15(b) (2) and (3));

5. That the presiding officer has authority to continue a hearing, subject to statutory time limitations on hearings under section 1116(a)(2) of the Social Security Act (§ 213.22(a)(1));

6. That the Administrator shall serve copies of the recommended findings and the proposed decision on each party and each amicus (§ 213.32(b)(1));

7. That the requirement in § 213.32 (c) applies only to hearings pursuant to § 201.6(a) of this chapter;

8. The effective date of the Administrator's decision on withholding of Federal funds (new § 213.33).

Accordingly, Part 213 is revised to read as set forth below, effective on date of publication in the FEDERAL REGISTER (1-29-71):

Subpart A—General

Sec.
213.1 Scope of rules.
213.2 Records to be public.
213.3 Use of gender and number.
213.4 Suspension of rules.
213.5 Filing and service of papers.

Subpart B—Preliminary Matters—Notice and Parties

213.11 Notice of hearing or opportunity for hearing.
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Sec.
213.21 Who presides.
213.22 Authority of presiding officer.
213.23 Rights of parties.
213.24 Evidentiary purpose.
213.25 Evidence.
213.26 Exclusion from hearing for misconduct.
213.27 Unsponsored written material.
213.28 Official transcript.
213.29 Record for decision.

Subpart D—Posthearing Procedures, Decisions

213.31 Posthearing briefs.
213.32 Decisions following hearing.
213.33 Effective date of Administrator's decision.

AUTHORITY: The provisions of this Part 213 issued under sec. 1102, 49 Stat. 647, 42 U.S.C. 1302.

Subpart A—General

§ 213.1 Scope of rules.

(a) The rules of procedure in this part govern the practice for hearings afforded by the Department to States pursuant to § 201.4 or § 201.6 (a) or (b) of this chapter, and the practice relating to decisions upon such hearings. These rules may also be applied to hearings afforded by the Department to States in other Federal-State programs for which Federal administrative responsibility has been delegated to the Service.

(b) Nothing in this part is intended to preclude or limit negotiations between the Department and the State, whether before, during, or after the hearing, to resolve the issues which are, or otherwise would be, considered at the hearing. Such negotiations and resolution of issues are not part of the hearing, and are not governed by the rules in this part, except as expressly provided herein.

§ 213.2 Records to be public.

All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in the docket in any proceeding may be inspected and copied in the office of the SRS Hearing Clerk. Inquiries may be made at the Central Information Center, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201.

§ 213.3 Use of gender and number.

As used in this part, words importing the singular number may extend and be applied to several persons or things, and vice versa. Words importing the masculine gender may be applied to females or organizations.

§ 213.4 Suspension of rules.

Upon notice to all parties, the Administrator or the presiding officer, with respect to matters pending before him and within his jurisdiction, may modify or waive any rule in this part upon determination that no party will be unduly prejudiced and the ends of justice will thereby be served.

§ 213.5 Filing and service of papers.

(a) All papers in the proceedings shall be filed with the SRS Hearing Clerk, in an original and two copies. Originals only of exhibits and transcripts of testimony need be filed.

(b) All papers in the proceedings shall be served on all parties by personal delivery or by mail. Service on the party's designated attorney will be deemed service upon the party.

Subpart B—Preliminary Matters—Notice and Parties

§ 213.11 Notice of hearing or opportunity for hearing.

Proceedings are commenced by mailing a notice of hearing or opportunity for hearing from the Administrator to the State. The notice shall state the time and place for the hearing, and the issues which will be considered, and shall be published in the FEDERAL REGISTER.

§ 213.12 Time of hearing.

The hearing shall be scheduled not less than 30 days nor more than 60 days after the date notice of the hearing is furnished to the State.

§ 213.13 Place.

The hearing shall be held in the city in which the regional office of the Department is located or in such other place as is fixed by the Administrator in light of the circumstances of the case, with due regard for the convenience and necessity of the parties or their representatives.

§ 213.14 Issues at hearing.

(a) The Administrator may, prior to a hearing under § 201.6 (a) or (b) of this chapter, notify the State in writing of additional issues which will be considered at the hearing, and such notice shall be published in the FEDERAL REGISTER. If such notice is furnished to the State less than 20 days before the date of the hearing, the State or any other party, at its request, shall be granted a postponement of the hearing to a date 20 days after such notice was furnished, or such later date as may be agreed to by the Administrator.

(b) If, as a result of negotiations between the Department and the State, the submittal of a plan amendment, a change in the State program, or other actions by the State, any issue is resolved in whole or in part, but new or modified issues are presented, as specified by the Administrator, the hearing shall proceed on such new or modified issues.

(c)(1) If at any time, whether prior to, during, or after the hearing, the Administrator finds that the State has come into compliance with Federal requirements on any issue, in whole or in part, he shall remove such issue from the proceedings in whole or in part, as may be appropriate. If all issues are removed, he shall terminate the hearing.

(2) Prior to the removal of any issue from the hearing, in whole or in part, the Administrator shall provide all parties other than the Department and the State (see § 213.15(b)) with the statement of his intention, and the reasons therefor, and a copy of the proposed State plan provision on which the State and he have

settled, and the parties shall have opportunity to submit in writing within 15 days, for the Administrator's consideration and for the record, their views as to, or any information bearing upon, the merits of the proposed plan provision and the merits of the Administrator's reasons for removing the issue from the hearing.

(d) The issues considered at the hearing shall be limited to those issues of which the State is notified as provided in § 213.11 and paragraph (a) of this section, and new or modified issues described in paragraph (b) of this section, and shall not include issues or parts of issues removed from the proceedings pursuant to paragraph (c) of this section.

§ 213.15 Request to participate in hearing.

(a) The Department and the State are parties to the hearing without making a specific request to participate.

(b) (1) Other individuals or groups may be recognized as parties, if the issues to be considered at the hearing have caused them injury and their interest is within the zone of interests to be protected by the governing Federal statute.

(2) Any individual or group wishing to participate as a party shall file a petition with the SRS Hearing Clerk within 15 days after notice of the hearing has been published in the FEDERAL REGISTER, and shall serve a copy on each party of record at that time, in accordance with § 213.5(b). Such petition shall concisely state (i) petitioner's interest in the proceeding, (ii) who will appear for petitioner, (iii) the issues on which petitioner wishes to participate, and (iv) whether petitioner intends to present witnesses.

(3) Any party may, within 5 days of receipt of such petition, file comments thereon.

(4) The presiding officer shall promptly determine whether each petitioner has the requisite interest in the proceedings and shall permit or deny participation accordingly. Where petitions to participate as parties are made by individuals or groups with common interests, the presiding officer may request all such petitioners to designate a single representative, or he may recognize one or more of such petitioners to represent all such petitioners. The presiding officer shall give each petitioner written notice of the decision on his petition, and if the petition is denied, he shall briefly state the grounds for denial.

(c) (1) Any interested person or organization wishing to participate as amicus curiae shall file a petition with the SRS Hearing Clerk before the commencement of the hearing. Such petition shall concisely state (i) the petitioner's interest in the hearing, (ii) who will represent the petitioner, and (iii) the issues on which petitioner intends to present argument. The presiding officer may grant the petition if he finds that the petitioner has a legitimate interest in the proceedings, that such participation will not unduly delay the outcome and may contribute materially to the proper disposition of the issues. An amicus curiae is not a party but may participate as provided in this paragraph.

(2) An amicus curiae may present a brief oral statement at the hearing, at the point in the proceedings specified by the presiding officer. He may submit a written statement of position to the presiding officer prior to the beginning of a hearing, and shall serve a copy on each party. He may also submit a brief or written statement at such time as the parties submit briefs, and shall serve a copy on each party.

Subpart C—Hearing Procedures

§ 213.21 Who presides.

(a) The presiding officer at a hearing shall be the Administrator or, at his discretion a hearing examiner assigned under 5 U.S.C. 3105 or 3344.

(b) The designation of the presiding officer shall be in writing. A copy of the designation shall be served on all parties.

§ 213.22 Authority of presiding officer.

(a) The presiding officer shall have the duty to conduct a fair hearing, to avoid delay, maintain order, and make a record of the proceedings. He shall have all powers necessary to accomplish these ends, including, but not limited to, the power to:

(1) Change the date, time, and place of the hearing, upon due notice to the parties. This includes the power to continue the hearing in whole or in part. In hearings pursuant to section 1116(a) (2) of the Social Security Act (see § 201.4 of this chapter), changes of time are subject to the requirements of the statute.

(2) Hold conferences to settle or simplify the issues in a proceeding, or to consider other matters that may aid in the expeditious disposition of the proceeding.

(3) Regulate participation of parties and amici curiae and require parties and amici curiae to state their position with respect to the various issues in the proceeding.

(4) Administer oaths and affirmations.

(5) Rule on motions and other procedural items on matters pending before him.

(6) Regulate the course of the hearing and conduct of counsel therein.

(7) Examine witnesses.

(8) Receive, rule on, exclude or limit evidence.

(9) Fix the time for filing motions, petitions, briefs, or other items in matters pending before him.

(10) If the presiding officer is the Administrator, make a final decision.

(11) If the presiding officer is a hearing examiner, certify the entire record including his recommended findings and proposed decision to the Administrator.

(12) Take any action authorized by the rules in this part or in conformance with the provisions of 5 U.S.C. 551–559.

(b) The presiding officer does not have authority to compel by subpena the production of witnesses, papers, or other evidence.

(c) If the presiding officer is a hearing examiner, his authority pertains to the issues of compliance by a State with Federal requirements which are to be considered at the hearing, and does not extend to the question of whether, in case of any noncompliance, Federal payments will not be made in respect to the entire State plan or will be limited to categories under or parts of the State plan affected by such noncompliance.

§ 213.23 Right of parties.

All parties may:

(a) Appear by counsel or other authorized representative, in all hearing proceedings.

(b) Participate in any prehearing conference held by the presiding officer.

(c) Agree to stipulations as to facts which will be made a part of the record.

(d) Make opening statements at the hearing.

(e) Present relevant evidence on the issues at the hearing.

(f) Present witnesses who then must be available for cross-examination by all other parties.

(g) Present oral arguments at the hearing.

(h) Submit written briefs, proposed findings of fact, and proposed conclusions of law, after the hearing.

§ 213.24 Evidentiary purpose.

The hearing is directed to receiving factual evidence and expert opinion testimony related to the issues in the proceeding. Argument will not be received in evidence; rather it should be presented in statements, memoranda, or briefs, as determined by the presiding officer. Brief opening statements, which shall be limited to statement of the party's position and what he intends to prove, may be made at hearings.

§ 213.25 Evidence.

(a) *Testimony.* Testimony shall be given orally under oath or affirmation by witnesses at the hearing. Witnesses shall be available at the hearing for cross-examination by all parties.

(b) *Stipulations and exhibits.* Two or more parties may agree to stipulations of fact. Such stipulations, or any exhibit proposed by any party, shall be exchanged at the prehearing conference or otherwise prior to the hearing if the presiding officer so requires.

(c) *Rules of evidence.* Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the presiding officer. A witness may be cross-examined on any matter material to the proceeding without regard to the scope of his direct examination. The presiding officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to

examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues.

§ 213.26 Exclusion from hearing for misconduct.

Disrespectful, disorderly, or contumacious language or contemptuous conduct, refusal to comply with directions, or continued use of dilatory tactics by any person at the hearing before a presiding officer shall constitute grounds for immediate exclusion of such person from the hearing by the presiding officer.

§ 213.27 Unsponsored written material.

Letters expressing views or urging action and other unsponsored written material regarding matters in issue in a hearing will be placed in the correspondence section of the docket of the proceeding. These data are not deemed part of the evidence or record in the hearing.

§ 213.28 Official transcript.

The Department will designate the official reporter for all hearings. The official transcripts of testimony taken, together with any stipulations, exhibits, briefs, or memoranda of law filed therewith shall be filed with the Department. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the Department and the reporter. Upon notice to all parties, the presiding officer may authorize corrections to the transcript which involve matters of substance.

§ 213.29 Record for decision.

The transcript of testimony, exhibits, and all papers and requests filed in the proceedings, except the correspondence section of the docket, including rulings and any recommended or initial decision shall constitute the exclusive record for decision.

Subpart D—Posthearing Procedures, Decisions

§ 213.31 Posthearing briefs.

The presiding officer shall fix the time for filing posthearing briefs, which may contain proposed findings of fact and conclusions of law, and, if permitted, reply briefs.

§ 213.32 Decisions following hearing.

(a) If the Administrator is the presiding officer, he shall, when the time for submission of posthearing briefs has expired, issue his decision within 60 days.

(b) (1) If a hearing examiner is the presiding officer, he shall, when the time for submission of posthearing briefs has expired, certify the entire record, including his recommended findings and proposed decision, to the Administrator. The Administrator shall serve a copy of the recommended findings and proposed decision upon all parties, and amici, if any.

(2) Any party may, within 20 days, file with the Administrator exceptions to the recommended findings and proposed decision and a supporting brief or statement.

(3) The Administrator shall thereupon review the recommended decision and, within 60 days of its issuance, issue his own decision.

(c) If the Administrator concludes that a State plan does not comply with Federal requirements, he shall also, in the case of a hearing pursuant to § 201.6(a) of this chapter, specify whether further payments will not be made to the State or whether, in the exercise of his discretion, payments will be limited to categories under or parts of the State plan not affected by such noncompliance. The Administrator may ask the parties for recommendations or briefs or may hold conferences of the parties on this question.

(d) The decision of the Administrator under this section shall be the final decision of the Secretary and shall constitute "final agency action" within the meaning of 5 U.S.C. 704 and a "final determination" within the meaning of section 1116(a)(3) of the Act and § 213.7. The Administrator's decision shall be promptly served on all parties, and amici, if any.

§ 213.33 Effective date of Administrator's decision.

If, in the case of a hearing pursuant to § 201.6(a) of this chapter, the Administrator concludes that a State plan does not comply with Federal requirements, his decision that further payments will not be made to the State, or payments will be limited to categories under or parts of the State plan not affected, shall specify the effective date for the withholding of Federal funds. The effective date shall not be earlier than the date of the Administrator's decision and shall not be later than the first day of the next calendar quarter. The provisions of this section may not be waived pursuant to § 213.4.

Dated: January 6, 1971.

JOHN D. TWINAME,
Administrator, Social and Rehabilitation Service.

Approved: January 21, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-1169 Filed 1-28-71;8:45 am]

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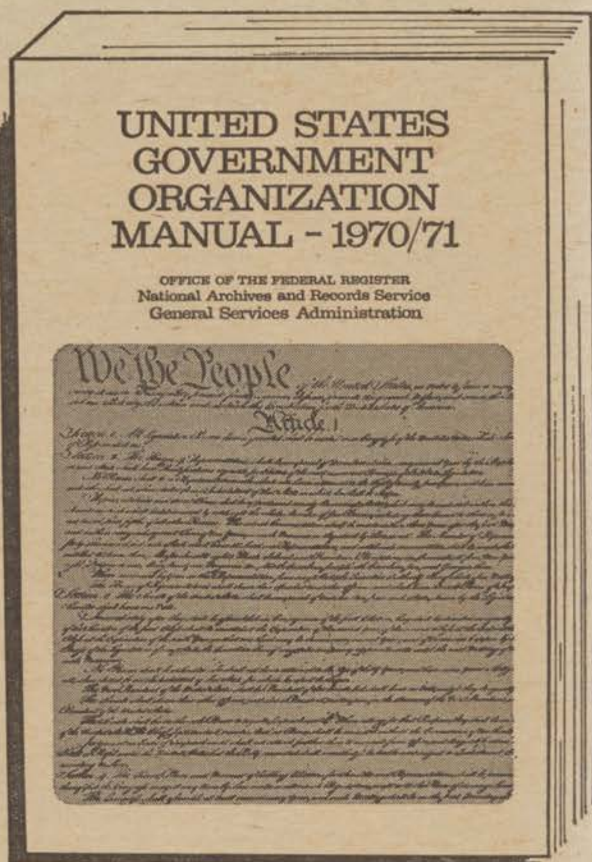

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