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HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

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FEDERAL REGISTER

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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.

Presidential Documents

Title 3—The President

PROCLAMATION 4053

Voluntary Overseas Aid Week and Human Development Month

By the President of the United States of America

A Proclamation

During this month of May 1971, we take grateful note of the twenty-five years of constructive leadership provided by the Advisory Committee on Voluntary Foreign Aid.

United States voluntary agencies, working in close association with the Advisory Committee, have through the years given needed assistance to promote economic and social development in over one hundred countries of the world.

The International Walk for Development, which has recently taken place, focused on the need to continue humanitarian assistance and economic development through voluntary action.

It is fitting that we commend the good will of the people of our country, manifested by our overseas programs of development and relief, and the humanitarian work and interest of these nonprofit service organizations.

To this end, the Congress has requested the President to designate the week beginning May 9, 1971, as Voluntary Overseas Aid Week and the month of May 1971 as Human Development Month.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning May 9, 1971, as Voluntary Overseas Aid Week and the month of May 1971 as Human Development Month.

I request the appropriate agencies of the Federal Government, and I urge all our people, to observe that week and month with activities which will give merited prominence to the significant contributions which our voluntary agencies are making to the well-being of peoples in other lands.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of May, in the year of our Lord nineteen hundred and seventy-one, and of the Independence of the United States of America the one hundred and ninety-fifth.

Richard Nixon

[FR Doc.71-6860 Filed 5-13-71;10:33 am]

Rules and Regulations

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 71-556]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

In § 76.2, in paragraph (e)(7) relating to the State of North Carolina, subdivision (ii) relating to Sampson County is deleted.

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

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

The amendment excludes a portion of Sampson County, N.C., from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2 (e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the excluded area.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 11th day of May 1971.

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

[FR Doc.71-6745 Filed 5-13-71;8:51 am]

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Administrative Instructions Prescribing Commuted Travel Time Allowances

Pursuant to the authority conferred upon the Director of the Animal Health Division by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1971 ed.), as amended January 22, 1971 (36 F.R. 1038) and April 3, 1971 (36 F.R. 6413), prescribing the commuted travel time that shall be included in each period of overtime or holiday duty, are hereby amended by adding to or deleting from the respective "lists" therein as follows:

OUTSIDE METROPOLITAN AREA

TWO HOURS

Add: Port of Cleveland, Ohio (when served from Columbus, Ohio).

THREE HOURS

Add: Port of Ashtabula, Ohio (when served from Columbus, Ohio).

(64 Stat. 561, 7 U.S.C. 2260)

These commuted travel time periods have been established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal Health Division.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Effective date. The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER. (5–14–71).

Done at Hyattsville, Maryland, this 11th day of May 1971.

R. S. SHARMAN,
Director, Animal Health Division, Agricultural Research Service.

[FR Doc.71-6746 Filed 5-13-71;8:51 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Authorization of Low Power Operation

On October 28, 1970, the Atomic Energy Commission published in the FEDERAL REGISTER proposed amendments to 10 CFR Part 2, Rules of Practice, and 10 CFR Part 50, Licensing of Production and Utilization Facilities (35 F.R. 16687). The purpose of the proposed amendments was to define the extent of preoperational activities which could be conducted prior to the issuance of an operating license for a nuclear power reactor (§ 50.35), to provide for authorization, by atomic safety and licensing boards, of low-power testing and operation under specified conditions (§ 50.57) and to provide for immediate effectiveness of initial decisions authorizing issuance of operating licenses (§ 2.764).

All interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments within 60 days after publication of the notice of proposed rulemaking in the FEDERAL REGISTER. All comments have been carefully considered. Upon consideration of the comments and other factors involved, the Commission has adopted the amendment to § 50.57 with the changes described below. The proposed amendment to § 2.764 providing for the immediate effectiveness of initial decisions authorizing the issuance of operating licenses was adopted and published by the Commission in the FEDERAL REGISTER on January 19, 1971 (36 F.R. 828).

The proposed amendment to § 50.35 pertaining to fuel loading under the construction permit has not been adopted. The comments received and further study by the Commission indicated that authority to load fuel under the construction permit would have little effect in reducing the time required for the completion of the licensing process and, further, that the authorization of fuel loading under the construction permit

might result in complications with respect to AEC licensing procedures.

The proposed amendment to § 50.57 to provide for authorization by atomic safety and licensing boards of low-power testing under specified conditions has been revised to provide specifically for authorization of operation below full power but going beyond low-power testing, defined as operation at not more than 1 percent of full power, and to make editorial changes. As in the case of low-power testing, atomic safety and licensing boards have had authority to grant such authorization in the past. Thus the change would merely clarify existing authority.

Some of the comments objected to the provision for authorizing low-power testing on the grounds (1) that the authorization would enable such testing to be done without opportunity for objection on the part of members of the public, and (2) that, if the completion of a preoperational testing program is to be the basis of the board's decision authorizing low-power operation, its nature, timing, duration and monitoring should be specified in the regulations, and the results be made available to all parties and members of the public.

The objection is based on a misconception of the intent and effect of the proposed regulation. Under the provisions of the Atomic Energy Act, the Commission is required to publish in the FEDERAL REGISTER a notice of intent to issue an operating license for a power reactor, testing facility, or fuel reprocessing plant. Such a notice would usually be published in connection with a full power license. If, pursuant to such notice, no hearing is requested by an interested party, the Commission may issue an operating license for the facility upon making the requisite findings under §§ 50.56 and 50.57 of 10 CFR Part 50. If a hearing is requested and held, no license to operate the facility at any power may be granted over the objection of any party unless the atomic safety and licensing board has made the required findings and issued an appropriate initial decision. Persons objecting either to low-power testing of a facility or to operation at full power may, if their interest is shown to be affected, be admitted as a party to the proceeding. The intent of the proposed amendment to § 50.57 is to provide explicitly for early consideration of facility testing in the event of a contested hearing on the issuance of a license for full power operation. Far from permitting the authorization of low-power operations without public knowledge or participation, the amendment of § 50.57 makes clear that such authorization is subject to a full review at a public hearing, with all legal rights and protections afforded to any party to the proceeding.

It should be noted that under AEC licensing procedures, preoperational testing is required to be completed before any operating license is issued, whether for low-power testing or full-power operation. The preoperational testing program is described in the final safety analysis report submitted by the applicant, a document on file for public inspection, and the results of such program are fully reviewed by the regulatory staff prior to the issuance of any license.

Some of the comments suggested, as an alternative to the proposed provision of authorization of low-power testing, that every applicant be required to have completed 6 months of low-power testing prior to issuance of the final operating license, such testing to be authorized at some point of time prior to the application for the operating license. Other comments suggested that the Commission expressly reserve the right to authorize low-power operations before the appointment of a hearing board. The Commission believes that, under the present statutory structure, low-power testing should be conducted under an operating license and that no operating license should be issued before a hearing is held if a request for a hearing by a person whose interest may be affected by the proceeding has been made.

Concern was also expressed that the effect of the proposed amendment to § 50.57 would be to permit the authorization of low-power testing without the consideration of environmental matters under the National Environmental Policy Act of 1969 (NEPA) as implemented by Appendix D of Part 50. Appendix D provides that in most cases the Detailed Statements at the operating license stage will be prepared only in connection with the first licensing action that authorizes full power operation of the facility. This provision is consistent with the requirements of NEPA that a Detailed Statement be prepared in connection with "major Federal actions significantly affecting the quality of the human environment." In any event the Detailed Statement required by the NEPA would be expected to be prepared by the time a hearing commences in a proceeding for the issuance of a facility operating license.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment of Title 10, Chapter 1, Code of Federal Regulations, Part 50 is published as a document subject to codification, to be effective 30 days after publication in the FEDERAL REGISTER.

A new paragraph (c) is added to § 50.57 to read as follows:

§ 50.57 Issuance of operating license.

* * * * *

(c) An applicant may, in a case where a hearing is held in connection with a pending proceeding under this section, make a motion in writing for an operating license authorizing low-power testing (operation at not more than 1 percent of full power for the purpose of testing the facility), and further operations short of full power operation.[1] Action on such a motion by the presiding officer shall be taken with due regard to the rights of the parties to the proceeding, including the right of any party to be heard to the extent that his contentions are relevant to the activity to be authorized. Prior to taking any action on such a motion which any party opposes, the presiding officer shall make findings on the matters specified in paragraph (a) of this section in the form of an initial decision with respect to the contested activity sought to be authorized. If no party opposes the motion, the presiding officer will issue an order pursuant to § 2.730(e) of this chapter, authorizing the Director of Regulation to make appropriate findings on the matters specified in paragraph (a) of this section and to issue a license for the requested operation.

(Sec. 161, 68 Stat. 948, as amended; 42 U.S.C. 2201)

Dated at Germantown, Md., this 3d day of May 1971.

For the Atomic Energy Commission.

F. T. HOBBS,
Acting Secretary of the Commission.

[FR Doc.71-6694 Filed 5-13-71;8:45 am]

[1] The Commission expects that the presiding officer will expeditiously consider and act upon requests for such authorizations when they are made.

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 71-SW-15; Amdt. 39-1206]

PART 39—AIRWORTHINESS DIRECTIVES

Aerostar Models 600 and 601 Airplanes

On some Aerostar Models 600 and 601 airplanes there have been reports of the overvoltage relays not being grounded, and in at least one case extensive damage was done to the electrical/electronic equipment onboard the airplane because the relay did not acuate and clear the overvoltage condition. Since this condition is likely to exist on other airplanes of the same type design an airworthiness directive is being issued to require an inspection to assure the overvoltage relays are properly grounded.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), section 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

AEROSTAR. Applies to all Model 600 and 601 airplanes certificated in all categories.

Compliance required within the next 10 hours' time in service after the effective date of this AD, unless already accomplished.

To assure all overvoltage relays are properly grounded, accomplish the following:

A. *On S/N 61-0001 and 60-0001 through 60-0005:*

(1) Inspect each overvoltage relay installation and assure that the overvoltage relay base and the aircraft structure are in direct contact.

(2) If the installation appears satisfactory from the inspection, use an ohmmeter to determine that low resistance continuity of less than one (1) ohm exists between the base of each overvoltage relay and the airplane structure.

(3) If a satisfactory ohmmeter indication is not achieved, ground the overvoltage relay base to the aircraft structure using good aircraft grounding practice.

B. *On all others:*

(1) Inspect each installation of the crimp wire terminal which connects to the overvoltage relay base and assure that the crimp terminal and relay base are in contact.

(2) If the results of the inspection are not satisfactory, rearrange the components as follows:

(a) Install the nylon bearing from the bottom side of the overvoltage relay base so that it isolates the overvoltage relay base from the aircraft structure.

(b) Install the crimp wire terminal over the nylon bearing so that it is in electrical contact with the overvoltage relay base.

(c) Install the AN960 washer over the nylon bearing so it is in contact with the crimp wire terminal.

(d) Install the two nylon washers on top of the AN960 washer and insert the NAS221 screw through the two nylon washers and the nylon bearing, and tighten the screw into the nut-plate provided.

(e) Assure that the nylon bearing is seated properly to prevent electrical contact of the crimp wire terminal, the AN960 washer, and the overvoltage relay base with the NAS221 screw and the aircraft structure.

(f) Repeat the above procedure for the opposite side of each overvoltage relay except for elimination of the crimp wire terminal.

(3) Using an ohmmeter, determine that low resistant continuity of one (1) ohm or less exists between the base of each overvoltage relay and the airplane structure with the respective alternator switch in the "on" position. Low resistance continuity should not exist with the respective alternator switch in the "off" position.

(4) If the existing installation of either overvoltage relay will not give a satisfactory check and cannot be changed as described above, accomplish an equivalent FAA approved modification.

If Aerostar Aircraft Corp. Service Bulletin No. S.B. 600-24 dated November 23, 1970, or a later FAA-approved revision, has been complied with and an appropriate entry made in the airplane's permanent maintenance record, the requirements of this AD will be considered satisfied.

This amendment becomes effective on May 14, 1971.

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

Issued in Fort Worth, Tex., on May 4, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-6734 Filed 5-13-71;8:50 am]

[Airspace Docket No. 71-SO-5]

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

Designation of Transition Area

On March 26, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 5709), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Tuskegee, Ala., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 22, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

TUSKEGEE, ALA.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Moton Field (lat. 32°27'50" N., long. 85°40'45" W.); within 3 miles each side of Tuskegee VOR 025° radial, extending from the 5.5-mile-radius area to 8.5 miles northeast of the VOR.

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

Issued in East Point, Ga., on May 3, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-6698 Filed 5-13-71;8:45 am]

[Airspace Docket No. 71-SO-43]

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

Alteration of Transition Area

On March 26, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 5709), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Cedartown, Ga., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., July 22, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the Cedartown, Ga., transition area is amended to read:

CEDARTOWN, GA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Cornelius Moore Field (lat. 34°01'20" N., long. 85°08'50" W.); within 3 miles each side of Rome, Ga., VOR 009° and 189° radials, extending from the 8.5-mile-radius area to 8.5 miles north of the VOR; excluding the portion within Rome, Ga., transition area.

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

Issued in East Point, Ga., on May 3, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-6699 Filed 5-13-71;8:45 am]

[Airspace Docket No. 71-SO-85]

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

Alteration of Control Zones

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Miami, Fla. (International Airport, Opa Locka Airport, and Tamiami Airport), Homestead, Fla., and Fort Lauderdale, Fla. (Executive Airport), control zones.

The above-named control zones are described in § 71.171 (36 F.R. 2055).

U.S. Standards for Terminal Instrument Procedures (TERPs), issued after extensive consideration and discussion with Government agencies concerned and affected industry groups, are now being applied to update the criteria for instrument approach procedures. The criteria for the designation of controlled airspace protection for these procedures were revised to conform to TERPs and achieve increased and efficient utilization of airspace.

Because of this revised criteria and the geographic coordinate refinements, it is necessary to alter the above-named control zone descriptions.

In consideration of the foregoing, notice and public procedure hereon are unnecessary and Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (36 F.R. 2055), the following control zones are amended to read:

MIAMI, FLA. (INTERNATIONAL AIRPORT)

Within a 5-mile radius of Miami International Airport (lat. 25°47'34" N. long. 80°17'10" W.); within 2 miles each side of Miami VORTAC 139° radial, extending from the 5-mile-radius zone to 10 miles southeast of the VORTAC; within 1.5 miles each side of Runway 9L ILS localizer west course, extending from the 5-mile-radius zone to 1 mile east of Portland RBN; within 1.5 miles each side of Runway 27L ILS localizer east course, extending from the 5-mile-radius zone to 1 mile west of Orange RBN; within 1.5 miles each side of Runday 27L ILS localizer west course, extending from the 5-mile-radius zone to 1 mile east of Miami VORTAC 161° radial.

HOMESTEAD, FLA.

Within a 5-mile radius of Homestead AFB (lat. 25°19'50" N., long. 80°23'00" W.); within 2 miles each side of the ILS localizer southwest course, extending from the 5-mile-radius zone to 1.5 miles northeast of the OM; within 1.5 miles each side of Homestead TACAN 055° radial, extending from the 5-mile-radius zone to 5 miles northeast of the TACAN.

In § 71.171 (36 F.R. 2055), the Miami, Fla. (Opa Locka Airport and Tamiami Airport), and Fort Lauderdale, Fla. (Executive Airport), control zones are amended as follows:

Miami, Fla. (Opa Locka Airport): "* * * lat. 25°54'55" N., long. 80°16'-40" W. * * *" is deleted and "* * * lat. 25°54'26" N., long. 80°16'48" W. * * *" is substituted therefor.

Miami, Fla. (Tamiami Airport): "* * * lat. 25°38'49" N. * * *" is deleted and "* * * lat. 25°38'51" N. * * *" is substituted therefor.

Fort Lauderdale, Fla. (Executive Airport): "* * * lat. 26°04'15" N. * * *" is deleted and "* * * lat. 26°04'26" N. * * *" is substituted therefor.

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

Issued in East Point, Ga., on May 4, 1971.

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

[FR Doc.71-6700 Filed 5-13-71;8:45 am]

[Airspace Docket No. 71-SO-86]

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

Alteration of Control Zone

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Kinston, N.C., control zone.

The Kinston control zone is described in § 71.171 (36 F.R. 2055) and is currently operational on a part-time basis from 0600 to 0030 hours, local time, daily.

Due to anticipated minor time variations in Piedmont Air Lines' operations at Kinston, it is necessary to alter the control zone description to permit flexibility in designating the effective hours of the control zone. Since this amendment imposes no additional burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.171 (36 F.R. 2055), the Kinston, N.C., control zone is amended to read:

KINSTON, N.C.

Within a 5-mile radius of Stallings Field (lat. 35°19'36" N., long. 77°37'02" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

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

Issued in East Point, Ga., on May 4, 1971.

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

[FR Doc.71-6701 Filed 5-13-71;8:45 am]

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1950—DEVELOPMENT AND PLANNING GRANTS FOR OCCUPATIONAL SAFETY AND HEALTH

Chapter XVII of Title 29, Code of Federal Regulations, is hereby amended by adding thereto a new part designated Part 1950. The new Part 1950 sets forth the procedures of the Secretary of Labor for applying section 23 of the Williams-Steiger Occupational Safety and Health Act of 1970 as it relates to grants to the several States under the provisions of subsections (a) and (b) thereof relating to grants for certain development and planning purposes with regard to occupational safety and health.

Since the rules involve the making of grants, the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Moreover, it is considered in the public interest to have rules of procedure available as soon as possible to permit the States to begin taking steps to apply for the grants involved under section 23, particularly for the development of plans for submission under section 18 of the Act, as provided in section 23(a)(2). However, interested persons are encouraged to petition for any amendments to the rules which they may consider appropriate.

The new Part 1950 shall be effective upon publication in the FEDERAL REGISTER (5-14-71).

The new Part 1950 reads as follows:

Sec.

AUTHORITY: The provisions of this Part 1950 issued under secs. 8(g), 23, 84 Stat. 1600, 1613.

§ 1950.1 Purpose and scope.

(a) The rules in this part contain the procedures for making grants to the several States for the purposes listed in section 23(a) (1), (2), and (3) and section 23(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590).

(b) Under section 23(a) of the Act, the Secretary is authorized to make grants to the States which have designated a State agency under section 18 of the Act to assist them—

(1) In identifying their needs and responsibilities in the area of occupational safety and health;

(2) In developing State plans under section 18; or

(3) In developing plans for—

(i) Establishing systems for the collection of information concerning the nature and frequency of occupational injuries and diseases;

(ii) Increasing the expertise and enforcement capabilities of their personnel engaged in occupational safety and health programs; or

(iii) Otherwise improving the administration and enforcement of State occupational safety and health laws, including standards thereunder, consistent with the objectives of the Act.

(c) Under section 23(b) of the Act, the Secretary is authorized to make grants to the States for experimental and demonstration projects consistent with the objectives set forth in section 23(a).

§ 1950.2 Definitions.

As used in this part and in grant instruments entered into pursuant to this part:

(a) "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands.

(b) "Assistant Secretary" means the Assistant Secretary for Occupational Safety and Health.

(c) "Act" means the Williams-Steiger Occupational Safety and Health Act of 1970.

§ 1950.3 Manner of submitting application.

(a) An application for a grant under this part shall be submitted in such manner and at such time as the Secretary may prescribe.[1] The application shall contain a budget and narrative plan of the manner in which the applicant intends to carry out the planning or development project and to carry out the provisions of this part, as more particularly described in the instructions for a grant.[1]

(b) An application must be submitted by a State agency designated by the Governor of a State.

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[1] Instructions may be obtained from the Regional Administrators of the Occupational Safety and Health Administration or the Regional Directors of the Bureau of Labor Statistics.

(c) Applications must be submitted before May 1, 1973.

§ 1950.4 Where to submit applications.

(a) Applications for grants under section 23(a)(3)(A) of the Act for the development of plans to establish systems for the collection of information concerning the nature and frequency of occupational injuries and diseases shall be submitted to the Commissioner of the Bureau of Labor Statistics, U.S. Department of Labor, Washington, D.C. 20210.

(b) Applications for grants for the remaining purposes of section 23(a) must be submitted to the Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, Washington, D.C. 20210. These include applications for grants to assist the States—

(1) In identifying their needs and responsibilities in the area of occupational safety and health;

(2) In developing State plans under section 18 of the Act;

(3) In developing plans (i) to increase the expertise and enforcement capabilities of the State's personnel engaged in occupational safety and health programs; or (ii) otherwise improving the administration and enforcement of State occupational safety and health laws, including standards thereunder, consistent with the objectives of the Act.

(c) Applications for grants under section 23(b) of the Act for experimental and demonstration projects consistent with the objectives of section 23(a)(3)(A) of the Act shall be submitted to the Commissioner of the Bureau of Labor Statistics. Applications for grants under section 23(b) of the Act for experimental and demonstration projects consistent with the objectives of the remainder of the provisions of section 23(a) shall be submitted to the Assistant Secretary for Occupational Safety and Health.

§ 1950.5 Action upon application.

(a) The Assistant Secretary or the Commissioner, as the case may be, shall proceed to pass upon each application for a grant within a reasonable time following its receipt. In passing upon each application, the Assistant Secretary or the Commissioner, as the case may be, shall consult with a representative of the Secretary of Health, Education, and Welfare designated for this purpose. Any recommendations of such representative as to approval or disapproval of an application shall be reduced to writing, and due regard shall be given to any such recommendations. In addition, the Commissioner shall from time to time consult with the Assistant Secretary to assure uniform application of section 23 of the Act and the provisions of this part.

(b) The applicant shall be notified of action taken on the application. The notice shall be accompanied by a brief statement of the grounds for any denial, except where there is an affirmation of a previous denial. In the event of a denial, the applicant may within a reasonable time request the Assistant Secretary or the Commissioner to reconsider his application. Such request shall be in writing. The request shall be considered with reasonable dispatch by the Assistant Secretary or the Commissioner. In his discretion the Commissioner or the Assistant Secretary may afford the applicant an opportunity for informal oral presentation concerning the request for reconsideration.

(c) It is the policy of the Secretary of Labor to encourage the submission of applications. To the extent practicable, the Commissioner and the Assistant Secretary shall provide technical assistance to any applicant in the preparation of an application and in the correction of any defective application.

(d) If a grant is made, the initial award shall set forth the amount of funds granted, and shall specify the period for which it is contemplated. It may provide that additional funds will be added at a later time, provided the activity is satisfactorily carried out and appropriations are available. Grantees may also be required to make separate application for continued support.

(e) Neither the approval of any project nor a grant award shall commit or obligate the Commissioner or the Assistant Secretary in any way to make any additional, supplemental, continuation or other award with respect to an approved project or portion thereof. But this provision shall not preclude the Commissioner or the Assistant Secretary from making upward adjustments to actual costs as to amounts awarded on a provisional basis, as provided in paragraph (d) of this section.

§ 1950.6 Federal share; matching requirements.

(a) Federal funds will be granted on the basis of project applications, and may be used to meet not more than 90 percent of the cost of the project.

(b) The non-Federal participation may be derived from a variety of sources, including (1) new State appropriations, and (2) existing funds and time of personnel used by the grantee agency for the project. Voluntary services or space donated to the State or the project by a third party may not be included as a grantee contribution. Grantee funds or services derived from other Federal funds may not be used to match the Federal funds available for the objectives in subsections (a) and (b) of section 23 of the Act.

§ 1950.7 Priorities in grant awards; criteria for unequal grants.

(a) In the award of grants under subsections (a) and (b) of section 23 of the Act, priority shall be assigned to grants under section 23(a)(2) for the development of State plans under section 18 of the Act.

(b) In the event the Federal share for each grant under section 23(a) or section 23(b) of the Act for all States is not the same, the differences among the States shall be on the basis of objective criteria which may be relevant to the type of grant involved, such as the population of a State, its civilian labor force, or costs in developing State standards for which there is an urgent need on the basis of priorities similar to those required of Federal standards under section 6(g) of the Act. The criteria which are used shall be described briefly in the making of the grant.

§ 1950.8 Grant agreement.

Each agreement shall be evidenced by a written notice of the grant awarded. The notice and any appendices thereto shall contain a statement of the objectives of the grant and the specific conditions applicable thereto. The notice of the application for the grant and the provisions of this part shall comprise the grant agreement.

§ 1950.9 General conditions.

(a) None of the funds granted by the Secretary or the matching funds of the State shall be used for any purpose inconsistent with the grant agreement.

(b) The State agency shall be considered to have an equitable obligation to administer the grant in the manner consistent with its objectives and conditions.

(c) The grant shall be administered in a manner consistent with the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4201–4233).

(d) In no case shall a grant agreement permit payment of the following:

(1) Cost of construction of buildings;

(2) Depreciation of existing buildings;

(3) Dues to societies, organizations, or federations;

(4) Entertainment costs;

(5) Consultants or other personnel paid from other Federal grant funds.

§ 1950.10 Nondiscrimination.

The State shall comply with the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) which provides that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance and to the implementing rules issued by the Secretary of Labor with the approval of the President (29 CFR Part 31).

§ 1950.11 Records, reports and audits.

The State agency shall maintain records and submit reports to the Regional Administrator in a manner consistent with the pertinent instructions.[1] Representatives of the Secretary and the Comptroller General of the United States may conduct audits and inspections of State agencies receiving Federal funds under this part.

§ 1950.12 Termination of grants.

(a) Whenever the Assistant Secretary or the Commissioner finds that a State agency has failed in a material respect to comply with the terms of the grant

[1] Instructions may be obtained from the Regional Administrators of the Occupational Safety and Health Administration.

agreement, he may, on reasonable notice and opportunity for hearing to the State agency, withhold further payments, and take such other action, including the termination of the grant agreement, as he finds appropriate to carry out the purposes of the Act. Noncancellable obligations of the State agency properly incurred prior to the receipt of any notice of termination will be honored. The State agency shall be promptly notified of such termination in writing and given the reasons therefor.

(b) A notice of hearing under this section shall be published in the FEDERAL REGISTER and the period of time between such publication and the date fixed for the hearing shall be not less than 20 days. The nature of the hearing shall be dependent upon the issues involved. When "adjudicatory" facts are in issue, an evidentiary hearing shall be provided. The notice of hearing shall prescribe the rules of the proceeding.

§ 1950.13 Delegation of authority.

The Assistant Secretary is delegated the general authority of the Secretary under section 23 of the Act and is empowered to subdelegate that authority to such officers and employees as he deems appropriate. The delegation to the Assistant Secretary includes the power to issue, amend, and repeal rules under this part. The Commissioner of the Bureau of Labor Statistics is delegated (and is empowered to subdelegate) the authority to approve grants under section 23(a)(3)(A) of the Act for the development of plans to establish systems for the collection of information concerning the nature and frequency of occupational injuries and diseases and to approve grants for experimental and demonstration projects consistent with the objectives of the aforementioned section 23(a)(3)(A). The Commissioner shall from time to time consult with the Assistant Secretary concerning the performance of the duties delegated to him to assure uniform application of section 23 of the Act and the provisions of this part.

Signed at Washington, D.C., this 10th day of May 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.71-6732 Filed 5-13-71;8:50 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

Gulf Intracoastal Waterway

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.180 governing the use, administration, and navigation of all waterways tributary to the Gulf of Mexico (except the Mississippi River, its tributaries, South and Southwest Passes and the Atchafalaya River) from St. Marks, Fla., to the Rio Grande is hereby amended in its entirety, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 207.180 All waterways tributary to the Gulf of Mexico (except the Mississippi River, its tributaries, South and Southwest Passes and the Atchafalaya River) from St. Marks, Fla., to the Rio Grande; use, administration, and navigation.

(a) The regulations in this section shall apply to:

(1) *Waterways.* All navigable waters of the U.S. tributary to or connected by other waterways with the Gulf of Mexico between St. Marks, Fla., and the Rio Grande, Tex. (both inclusive), and the Gulf Intracoastal Waterway; except the Mississippi River, its tributaries, South and Southwest Passes, and the Atchafalaya River above its junction with the Morgan City-Port Allen Route.

(2) *Locks and floodgates.* All locks, floodgates, and appurtenant structures in the waterways described in subparagraph (1) of this paragraph.

(3) *Bridges, wharves, and other structures.* All bridges, wharves, and other structures in or over these waterways.

(4) *Vessels.* The term "vessels" as used in this section includes all floating craft other than rafts.

(5) *Rafts.* The term "raft" as used in this section includes any and all types of assemblages of floating logs or timber fastened together for support or conveyance.

(b) Authority of District Engineers: The use, administration, and navigation of the waterways and structures to which this section applies shall be under the direction of the officers of the Corps of Engineers, U.S. Army, in charge of the respective districts, and their authorized assistants. The location of these Engineer Districts, and the limits of their jurisdiction, are as follows:

(1) *U.S. District Engineer, Mobile, Ala.* The St. Marks River, Fla., to and including the Pearl River, Mississippi and Louisiana; and the Gulf Intracoastal Waterway from Apalachee Bay, Fla., to mile 36.4 east of Harvey Lock.

(2) *U.S. District Engineer, New Orleans, La.* From Pearl River, Mississippi and Louisiana, to Sabine River, Louisiana and Texas; and the Gulf Intracoastal Waterway from mile 36.4 east of Harvey Lock, to mile 266 west of Harvey Lock.

(3) *U.S. District Engineer, Galveston, Tex.* The Sabine River, Louisiana and Texas, to the Rio Grande, Tex.; and the Gulf Intracoastal Waterway from mile 266 west of Harvey Lock, to Brownsville, Tex.

(c) Commercial statistics: Owners, agents, masters, or clerks of vessels using the waterways to which this section applies shall submit a report on vessel movements and the cargo carried. The report is required by section 11 of the River and Harbor Act of September 22, 1922 (42 Stat. 1043; 33 U.S.C. 555). The required information may be submitted on ENG Forms 3925 and 3925B. These forms will be furnished free of charge to the operators by any of the U.S. Engineer Districts listed in paragraph (b) of this section. If the operators choose not to submit the required information on these forms, they should contact the District Engineers to determine the information required.

(d) Locks and floodgates:

(1) The term "lock" as used in this section shall include locks, floodgates, and appurtenant structures, and the area designated as the lock area including the lock approach channels.

(2) Authority of lockmasters: The term "lockmaster" as used in this section means the official in charge of operating a lock or floodgate. The lockmaster is responsible for the immediate management and control of the lock and lock area and for the enforcement of all laws, rules, and regulations for the use of the lock. He is authorized to give all necessary and appropriate orders and instructions to every person in the lock area, whether navigating the lock or not; and no one shall cause any movement of any vessel within the lock area unless instructed to do so by the lockmaster or his duly authorized assistants. The lockmaster may refuse passage through the lock to any vessel which, in his judgment, fails to comply with the regulations of this section.

(3) Sound signals: Vessels desiring passage through a lock shall notify the lockmaster by three long and distinct blasts of a horn, whistle, or calls through a megaphone, when within a reasonable distance from the lock. When the lock is ready for entrance, the lockmaster shall reply with three long blasts of a horn, whistle, or calls through a megaphone. When the lock is not ready for entrance, the lockmaster shall reply by four or more short, distinct blasts of a horn, whistle, or calls through a megaphone (danger signal). Permission to leave the lock shall be indicated by the lockmaster by one long blast.

(4) Visual signals: Signal lights and discs shall be displayed at all locks as follows:

(i) From sunset to sunrise: One green light shall indicate the lock is open to approaching navigation; one red light shall indicate the lock is closed to approaching navigation.

(ii) From sunrise to sunset: Large discs, identical in color and number to the light signals prescribed in subdivision (i) of this subparagraph will be displayed from a mast on or near the lock wall.

(5) Radiophone: Locks will monitor continuously VHF-Channel 16 ("Safety and Calling" Channel) and/or AM-2738 kHz for initial communication with vessels. Upon arrival at a lock, a vessel equipped with a radiophone will immediately advise the lock by radio of its arrival so that the vessel may be placed on proper turn. Information transmitted or received in these communications shall in no way affect the requirements for use of sound signals or display of visual signals, as provided in subparagraphs (3) and (4) of this paragraph.

(6) Precedence at locks: The order of precedence for locking is:

(i) U.S. Government vessels, passenger vessels, commercial vessels, rafts, and pleasure craft.

(ii) The vessel arriving first at a lock will be locked through first. When vessels approach simultaneously from opposite directions, the vessel approaching at the same elevation as the water in the lock chamber will be locked through first. In order to achieve the most efficient utilization of the lock, the lockmaster is authorized to depart from the normal order of locking precedence, stated in subdivision (i) of this subparagraph, as in his judgment is warranted.

(iii) The lockage of pleasure boats, houseboats, or like craft may be expedited by locking them through with commercial craft (other than vessels carrying dangerous cargoes, as described in 46 CFR Part 146). If, after the arrival of such craft, no combined lockage can be made within reasonable time, not to exceed three other lockages, then separate lockage shall be made.

(7) Entrance to and exits from locks: No vessel or tow shall enter or exit from a lock before being signaled to do so. While awaiting turn, vessels or tows must not obstruct navigation and must remain at a safe distance from the lock, taking position to the rear of any vessel or tows that precede them; and rearranging the tow for locking in sections, if necessary. Masters and pilots of vessels or tows shall enter or exit from a lock with reasonable promptness after receiving the proper signal. Appropriate action will be taken to insure that the lock approaches are not obstructed by sections of a tow either awaiting lockage or already locked through. Masters of vessels shall provide sufficient men to assist in the locking operation when deemed necessary by the lockmaster. Care shall be taken to insure prompt and safe passage of the vessel without damage to the structure.

(8) Lockage and passage of vessels: Vessels or tows shall enter and exit from locks under sufficient control to prevent damage to the lock, gates, guide walls, fenders, or other parts of the structure. Vessels shall be equipped with and use suitable fenders and adequate lines to protect the lock and to insure safe mooring during the locking operation. Vessels shall not meet or pass anywhere between the gate walls or fender system or in the approaches to locks.

(9) Vessels prohibited from locks: The following vessels shall not be permitted to enter locks or approach channels:

(i) Vessels in a sinking condition.

(ii) Vessels leaking or spilling cargo.

(iii) Vessels not having a draft of at least three (3) inches less than the depth over the sills or breast walls.

(iv) Vessels having projection or cargo loaded in such a manner that is liable to damage the structure.

(v) Vessels having chains, links, or drags either hanging over the sides or ends or dragging on the bottom for steering or other purposes.

(vi) Vessels containing flammable or dangerous cargo must have the hatch covers in place and securely fastened.

(10) Number of lockages: Tows locking in sections will generally be allowed only two consecutive lockages if other vessels are waiting for lockage unless otherwise decided by the lockmaster. If other tows are waiting above and below a lock, lockages will be made both ways alternately whenever practicable.

(11) Mooring in locks:

(i) When in a lock, vessels and tows shall be moored where directed by the lockmaster by bow, stern, and spring lines to the snubbing posts or hooks provided for that purpose, and lines shall not be let go until the signal is given for the vessel to exit. Tying to the lock ladders is prohibited.

(ii) Mooring near the approaches to locks is prohibited except when the vessels or tows are awaiting lockage.

(12) Lock operating personnel: Vessels and tows using the locks may be required to furnish personnel to assist in locking through; however, the operation of the structure is the responsibility of the lockmaster, and personnel assisting in the lockage of the vessels and tows will follow the direction of the appropriate official on duty at the lock. No gates, valves or other accessories or controls will be operated unless under his direction.

(13) Waterway traffic data: To meet requirements for current data on waterway traffic and the trend of such traffic, all vessels transiting locks shall furnish such information as prescribed by the District Engineer. ENG Form 3102 for submitting this data can be obtained at any Federally operated lock.

(14) Lockage of rafts: Rafts shall be locked through as directed by the lockmaster. No raft will be locked that is not constructed in accordance with the requirements stated in paragraph (f) of this section. The person in charge of a raft desiring lockage shall register with the lockmaster immediately upon arriving at the lock and receive instructions for locking.

(15) Claiborne and Millers Ferry Locks, Alabama River: Claiborne Lock and Millers Ferry Lock will be operated eight (8) hours per day from 7 a.m. to 3 p.m., seven (7) days per week, until traffic volume increases require additional hours of operation. These locks will also be operated for passage of vessels and tows during off-duty hours when the lockmaster is given six (6) hours advance notice of the arrival of the vessel at the lock. Insofar as possible, vessels should schedule arrival at the locks during the operating hours.

(e) Waterways:

(1) A clear channel shall at all times be left open to permit free and unobstructed navigation by all types of vessels and tows normally using the various waterways covered by the regulations of this section.

(2) Fairway: The District Engineer may specify the width of the fairway required in the various waterways under his charge.

(3) Anchoring or mooring:

(i) Vessels or tows shall not anchor or moor in any of the land cuts or other narrow parts of the waterway, except in an emergency, or with permission of the District Engineer. Whenever it becomes necessary for a vessel or tow to stop in any such portions of the waterway, it shall be securely fastened to one bank and as close to the bank as possible. This shall be done only at such a place and under such conditions as will not obstruct or prevent the passage of other vessels or tows. Stoppages shall be only for such periods as may be necessary.

(ii) When tied up individually, all vessels and tows shall be moored by bow and stern lines. Tows shall be secured at sufficiently frequent intervals to insure their not being drawn away from the bank by winds, currents, or the suction of passing vessels. Lines shall be shortened so that the various barges in a tow will be as close together as possible.

(iii) Lights shall be displayed in accordance with provisions of the Federal Rules of the Road.

(iv) Whenever any vessel or tow is moored to the bank (subdivision (i) of this subparagraph) at least one crew member shall always remain on board to see that proper signals are displayed and that the vessel or tow is properly moored at all times.

(v) No vessel, regardless of size, shall anchor in a dredged channel or narrow portion of a waterway for the purpose of fishing if navigation is obstructed thereby.

(4) Speed: Speeding in narrow sections is prohibited. Official signs indicating limiting speeds shall be obeyed. Vessels shall reduce speed sufficiently to prevent damage when passing other vessels or structures in or along the waterway.

(5) Size, assembly, and handling of tows:

(i) On waterways 150 feet wide or less, tows which are longer than 1,180 feet, including the towing vessel, but excluding the length of the hawser, or wider than one-half the bottom width of the channel or 55 feet, whichever is less, will not be allowed, except when the District Engineer has given special permission or the waterway has been exempted from these restrictions by the District Engineer. Before entering any narrow section of the Gulf Intracoastal Waterway, tows in excess of one-half the channel width, or 55 feet, will be required to stand by until tows which are less than one-half the channel width or 55 feet wide have cleared the channel. When passing is necessary in narrow channels, overwidth tows shall yield to the maximum. Separate permission must be received from the District Engineer for each overlength or overwidth movement. In addition, the following exceptions are allowed:

(ii) Algiers Canal between the Mississippi River and Bayou Barataria, La., and on Harvey Canal, Gulf Intracoastal Waterway, mile 0 to mile 6 WHL, tows 74 feet in width will be allowed. Tows in excess of 55 feet wide desiring to move over Algiers Canal or Harvey Canal will

obtain clearance from the lockmaster at Algiers Lock or Harvey Lock, respectively, before entering the canal. Overwidth tows will report clearing Algiers or Harvey Canal to the respective lockmaster and will rearrange tows to conform to prescribed dimensions immediately upon leaving the canal. The lockmaster will withhold permission for additional tows over 55 feet wide until all previously authorized tows moving in the opposite direction have cleared the waterway.

(iii) Gulf Intracoastal Waterway—Between mile 6.2 EHL (Inner Harbor Navigation Canal Lock) and mile 33.6 EHL tows of 78 feet in width will be allowed.

(iv) Gulf Intercoastal Waterway—Between mile 33.6 EHL and the Mobile Bay Ship Channel, tows of 108 feet in width will be allowed if under 750 feet in length including the towboat but excluding the length of the hawser.

(v) Gulf Intracoastal Waterway—Mobile Bay Ship Channel to St. Marks, Fla., for tows made up of empty barges on the off or shallow side, a width of 75 feet will be allowed.

(vi) All vessels pulling tows not equipped with rudders in restricted channels and land cuts shall use two towlines, or a bridle on one towline, shortened as much as safety of the towing vessel permits, so as to have maximum control at all times. The various parts of a tow shall be securely assembled with the individual units connected by lines as short as practicable. In open water, the towlines and fastenings between barges may be lengthened so as to accommodate the wave surge. In the case of lengthy or cumbersome tows, or tows in restricted channels, the District Engineer may require that tows be broken up, and may require the installation of a rudder or other approved steering device on the tow in order to avoid obstructing navigation or damaging the property of others. Pushing barges with towing vessel astern, towing barges with towing vessel alongside, or pushing and pulling barges with units of the tow made up both ahead and astern of the towing vessel are permissible provided that adequate power is employed to keep the tows under full control at all times. No tow shall be drawn by a vessel that has insufficient power or crew to permit ready maneuverability and safe handling.

(vii) Vessels or tows shall not navigate through a drawbridge until the movable span is fully opened.

(6) Projections from vessels: Vessels or tows carrying a deck load which overhangs or projects over the side, or whose rigging projects over the side, so as to endanger passing vessels, wharves, or other property, shall not enter or pass through any of the narrow parts of the waterway without prior approval of the District Engineer.

(7) Meeting and passing: Passing vessels shall give the proper signals and pass in accordance with the Federal Rules of the Road. At certain intersections where strong currents may be encountered, sailing directions may be issued through navigation bulletins or signs posted on each side of the intersection.

(f) Rafts: The navigation regulations in this paragraph shall apply fully to the movement of rafts.

(1) Rafts will be permitted to navigate a waterway only if properly and securely assembled. Each raft shall be so secured as to prevent the loss or sinking of logs.

(2) All rafts shall carry sufficient men to enable them to be managed properly. It will be the responsibility of the owner to remove logs from the waterway that have broken loose from the raft.

(3) Building, assembling, or breaking up of a raft within a waterway may be permitted; however, the work must be done in an area that will not restrict the use of the waterway by other users. The work area must be cleared of loose logs so that they will not enter the waterway and become a hazard to navigation.

(g) Damage: Should any damage be done to a revetment, lock, floodgates, bridge, or other federally owned or operated structure, the master of the vessel shall report the accident to the nearest lockmaster or bridgetender as soon as possible after the accident. Damage to aids to navigation and to nonfederally owned bridges must be reported to the Commander, Eighth Coast Guard District, New Orleans, La.

(h) Marine accidents: Masters, mates, pilots, owners, or other persons using the waterways covered by this section shall report to the District Engineer at the earliest possible date any accident on the waterway which causes any vessel to become an obstruction to navigation. The information to be furished the District Engineer shall include the name of the vessel, its location, and the name and address of the owner. The owner of a sunken vessel shall properly mark the vessel as soon as practicable after sinking.

(i) Trespass on U.S. property:

(1) Trespass on or injury to waterway property of the United States is prohibited. No business, trading, or landing of freight, will be allowed on Government property without permission of the District Engineer.

(2) The District Engineer may establish policy pertaining to mooring, exchanging crews, loading and unloading supplies, and making emergency repairs in the vicinity of locks so long as navigation is not impeded thereby.

(j) Liability: The regulations of this section will not affect the liability of the owners and operators of vessels for any damage caused by their operations to the waterway or to the structures therein.

[Regs., Apr. 19, 1971, 1522-01—(Gulf Intracoastal Waterway)—ENGCW-ON] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General.

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.71-6714 Filed 5-13-71;8:49 am]

Title 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter II—Copyright Office, Library of Congress

PART 202—REGISTRATION OF CLAIMS TO COPYRIGHT

Deposit for Registration of Motion Pictures

Section 202.15 of Chapter II of Title 37 of the Code of Federal Regulations is amended by adding new paragraphs (c) and (d) reading as follows:

§ 202.15 Motion pictures (Classes L-M).

* * * * *

(c) *Deposit copies of motion pictures.* In the case of published motion pictures submitted for registration in Classes L or M, the requirement for deposit of "two complete copies of the best edition thereof then published" will be satisfied by the deposit of identical copies of that edition of the motion picture, from among any two or more editions in existence, that in the opinion of the Register of Copyrights most closely conforms to the established criteria of the Library of Congress with respect to the acquisition and retention of copies of motion pictures for its collections, as expressed in the Library of Congress acquisitions policy statement in effect at the time of the deposit. The Copyright Office will furnish to any person concerned, upon request, a copy of the pertinent Library of Congress acquisitions policy statement then in effect.

(d) *Videotape copies.* If otherwise qualified as a motion picture, a work published in the form of videotape copies may be registered in Class L or M. If a motion picture is published in both videotape and film copies, the requirement for deposit of "two complete copies of the best edition thereof then published" will be satisfied by the deposit of two identical film copies in accordance with paragraph (c) of this section. If a motion picture is published solely in the form of videotape copies, the deposit requirement will be satisfied by the deposit of two identical videotape copies accompanied by a set of photographic reproductions of portions of the videotape copies showing the title of the work, the copyright notice, the production, performance and other creativity credits, and two or more scenes from different sections of the work.

(Sec. 207, 61 Stat. 666; 17 U.S.C. 207)

Effective date. This amendment shall become effective on the date of its publication in the FEDERAL REGISTER (5-14-71).

ABRAHAM L. KAMINSTEIN,
Register of Copyrights.

Approved:

L. QUINCY MUMFORD,
Librarian of Congress.

[FR Doc.71-6710 Filed 5-13-71;8:46 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

PART 101–38—MOTOR EQUIPMENT MANAGEMENT

Use of Official U.S. Government Tags and Other Identification

This amendment provides a new agency code designation for the Office of Economic Opportunity and a revision of the requirement for display of U.S. Government tags to include two-wheeled vehicles. The unlimited exemptions from the requirement to display Government tags and other identification in § 101–38.602 are amended to (1) include motor vehicles of the Office of the Inspector General, Department of Agriculture; (2) delete the Bureau of Narcotics and the Intelligence Division of the U.S. Coast Guard from the Department of the Treasury as these organizational units have been transferred to other agencies; (3) include the motor vehicles operated by the Bureau of Narcotics and Dangerous Drugs in the Department of Justice; (4) include the motor vehicles operated by the Intelligence Staff of the U.S. Coast Guard in the Department of Transportation; and (5) show the current title of the Office of Emergency Preparedness. The limited exemptions from the requirement to display Government tags and other identification in § 101–38.603 are amended for motor vehicles of the Department of the Interior and the Federal Communications Commission to reflect current organizational titles. The reporting requirements for exempted vehicles are revised to provide for reports on an as required basis in lieu of periodic reports.

Subpart 101–38.3—Official Government Tags

1. Section 101–38.304–1 is amended by the deletion of code designation "JC" for the Office of Economic Opportunity and the addition of the following agency code designation:

§ 101–38.304–1 Code designations.

* * * * *

Economic Opportunity, Office of..... OEO

* * * * *

2. Section 101–38.305–1 is revised to read as follows:

§ 101–38.305–1 Display.

Each motor vehicle acquired for official purposes (except vehicles exempted by Subpart 101–38.6) shall display official U.S. Government tags mounted on the front and rear of the vehicle except two-wheeled vehicles which require rear tags only. Motor vehicles of the Department of Defense shall be governed by Subpart 101–38.5.

Subpart 101–38.6—Exemptions From Use of Official U.S. Government Tags and Other Identification

1. Section 101–38.602 is amended by revising §§ 101–38.602 (b), (f), (h), and (k) and adding new § 101–38.602(l) as follows:

§ 101–38.602 Unlimited exemptions.

* * * * *

(b) *Department of Agriculture.* Motor vehicles which the Forest Service, Agricultural Research Service, Consumer and Marketing Service, Packers and Stockyards Administration, and the Office of the Inspector General use in the conduct of investigative or law enforcement activities. These include designated agency-owned vehicles and vehicles obtained from the Interagency Motor Pool System.

* * * * *

(f) *Department of Justice.* All motor vehicles operated by the Bureau of Narcotics and Dangerous Drugs; the Federal Bureau of Investigation; the Border Patrol; and those vehicles operated in undercover law enforcement activities or investigative work by the Immigration and Naturalization Service, by the Bureau of Prisons and Jail Inspectors, and by the U.S. Marshals.

* * * * *

(h) *Department of the Treasury.* All motor vehicles operated by the U.S. Secret Service; the Intelligence Division, the Alcohol and Tobacco Tax Division, and Internal Security Division of the Internal Revenue Service; and the Office of Investigations of the Bureau of Customs.

* * * * *

(k) *Office of Emergency Preparedness.* Those motor vehicles which the Office of Emergency Preparedness uses in the conduct of security operations.

(l) *Department of Transportation.* All motor vehicles operated by the Intelligence Staff of the U.S. Coast Guard.

2. Sections 101–38.603(a)(1) and (3) are revised to read as follows:

§ 101–38.603 Limited exemptions.

(a) * * *

(1) *Department of the Interior.* Special officers of the Bureau of Indian Affairs, and the Division of Investigations, Office of Survey and Review, Office of the Assistant Secretary for Administration.

* * * * *

(3) *Federal Communications Commission.* Field Engineering Bureau.

* * * * *

3. Section 101–38.607 is revised to read as follows:

§ 101–38.607 Report of exempted motor vehicles.

Periodic reports of exempted motor vehicles under §§ 101–38.602 through 101–38.605 are not required; however, the head of each agency shall submit upon request a report in triplicate to the General Services Administration (TMM), Washington, DC 20405, showing the total number of motor vehicles exempted pursuant to Subpart 101–38.6.

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

Effective date. These regulations are effective upon publication in the FEDERAL REGISTER (5–14–71).

Dated: May 7, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71–6716 Filed 5–13–71;8:49 am]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER C—MEDICAL CARE AND EXAMINATIONS

PART 37—SPECIFICATIONS FOR MEDICAL EXAMINATIONS OF UNDERGROUND COAL MINERS

Autopsies of Coal Miners

On March 5, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 4420) to amend Part 37 of Title 42, Code of Federal Regulations by adding a new subpart. As proposed, the subpart set forth the conditions under which the Secretary will pay qualified pathologists for autopsies performed on underground miners. Section 203(d) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 843(d)) provides that upon the death of any active or inactive underground coal miner, the Secretary of Health, Education, and Welfare, after proper consent has been obtained, is authorized to pay for an autopsy to be performed on such a miner.

Interested persons were afforded the opportunity to participate in the rule making through the submission of comments. A number of comments were received and due consideration has been given to all material presented.

In light of the comments, a number of revisions have been made in the rules as proposed. Section 37.203(a)(2) provides that all measurements shall be in the metric system and specifies the technique for measuring the thicknesses of the ventricles. In addition, § 37.202(a) has been revised to provide that the pathologist who performs the autopsy under this program may not receive any payment from the miner's widow, his family, his estate, or from any Federal agency other than this Department. This revision clarifies that pathologists who receive general payment from a hospital for performing routine autopsies will be permitted to participate in the program. Finally, because the "Autopsy Manual" of the Armed Forces Institute of Pathology is out of print and in such limited supply, ALFORD will, on request, lend, rather than supply, pathologists with a copy.

In accordance with the reference to the effective date specified in the notice of proposed rule making, the regulations,

as set forth below, are hereby adopted effective on the date of their publication in the FEDERAL REGISTER (5–14–71).

Dated: May 10, 1971.

ELLIOT L. RICHARDSON,
Secretary.

Part 37 is amended by adding a new subpart as follows:

Sec.
37.200 Scope.
37.201 Definitions.
37.202 Payment for autopsy.
37.203 Autopsy specifications.
37.204 Procedure for obtaining payment.

AUTHORITY: The provisions of this subpart issued under the authority of sec. 508, 83 Stat. 803; 30 U.S.C. 957.

Subpart—Autopsies

§ 37.200 Scope.

The provisions of this subpart set forth the conditions under which the Secretary will pay pathologists to obtain results of autopsies performed by them on miners.

§ 37.201 Definitions.

As used in this subpart:

(a) "Secretary" means the Secretary of Health, Education, and Welfare.

(b) "Miner" means any individual who during his life was employed in any underground coal mine.

(c) "Pathologist" means (1) a physician certified in anatomic pathology or pathology by the American Board of Pathology or the American Osteopathic Board of Pathology, (2) a physician who possesses qualifications which are considered. "Board eligible" by the American Board of Pathology or American Osteopathic Board of Pathology, or (3) an intern, resident, or other physician in a training program in pathology who performs the autopsy under the supervision of a pathologist as defined in subparagraph (1) or (2) of this paragraph.

(d) "ALFORD" means the Appalachian Laboratory for Occupational Respiratory Diseases, Public Health Service, Department of Health, Education, and Welfare, Post Office Box 4257, Morgantown, WV 26505.

§ 37.202 Payment for autopsy.

(a) The Secretary will pay up to $200 to any pathologist who, after the effective date of the regulations in this part and with legal consent.

(1) Performs an autopsy on a miner and submits the findings and other materials to ALFORD in accordance with this subpart; and

(2) Receives no other specific payment, fee, or reimbursement in connection with the autopsy from the miner's widow, his family, his estate, or any other Federal agency.

(b) The Secretary will pay to any pathologist entitled to payment under paragraph (a) of this section and additional $10 if the pathologist can obtain and submits a good quality copy or original of a chest roentgenogram (posteroanterior view) made of the subject of the autopsy within 5 years prior to his death together with a copy of any interpretation made.

§ 37.203 Autopsy specifications.

(a) Every autopsy for which a claim for payment is submitted pursuant to this part:

(1) Shall be performed consistent with standard autopsy procedures such as those, for example, set forth in the "Autopsy Manual" prepared by the Armed Forces Institute of Pathology, July 1, 1960. (Technical Manual No. 8–300. NAVMED P–5065, Air Force Manual No. 160–19.) Copies of this document may be borrowed from ALFORD.

(2) Shall include:

(i) Gross and microscopic examination of the lungs, pulmonary pleura, and tracheobronchial lymph nodes;

(ii) Weights of the heart and each lung (these and all other measurements required under sec. 37.203(a)(2) shall be in the metric system);

(iii) Circumference of each cardiac valve when opened;

(iv) Thickness of right and left ventricles; these measurements shall be made perpendicular to the ventricular surface and shall not include trabeculations or pericardial fat. The rigrt ventricle shall be measured at a point midway between the tricuspid valve and the apex, and the left ventricle shall be measured directly above the insertion of the anterior papillary muscle;

(v) Size, number, consistency, location, description and other relevant details of all lesions of the lungs;

(vi) Level of the diaphragm;

(vii) From each type of suspected pneumoconiotic lesion, representative microscopic slides stained with hematoxylin eosin or other appropriate stain, and one formalin fixed, paraffin-impregnated block of tissue; a minimum of three stained slides and three blocks of tissue shall be submitted. When no such lesion is recognized, similar material shall be submitted from three separate areas of the lungs selected at random; a minimum of three stained slides and three formalin fixed, paraffin-impregnated blocks of tissue shall be submitted.

(b) Needle biopsy techniques shall not be used.

§ 37.204 Procedure for obtaining payment.

Every claim for payment under this subpart shall be submitted to ALFORD and shall include:

(a) An invoice (in duplicate) on the pathologist's letterhead or billhead indicating the date of autopsy, the amount of the claim and a signed statement that the pathologist is not receiving any other specific compensation for the autopsy from the miner's widow, his surviving next-of-kin, the estate of the miner, or any other source.

(b) Completed PHS Consent, Release and History Form (See Fig. 1). This form may be completed with the assistance of the pathologist, attending physician, family physician, or any other responsible person who can provide reliable information.

(c) Report of autopsy:

(1) The information, slides, and blocks of tissue required by this subpart.

(2) Clinical abstract of terminal illness and other data that the pathologist determines is relevant.

(3) Final summary, including final anatomical diagnoses, indicating presence or absence of simple and complicated pneumoconiosis, and correlation with clinical history if indicated.

FIGURE 1

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PUBLIC HEALTH SERVICE—NATIONAL COAL WORKERS' AUTOPSY STUDY

Consent, Release, and History Form Federal Coal Mine Health and Safety Act of 1969

I, _____, _____
(Name) (Relationship)
of _____, do hereby au-
(Name of deceased miner)
thorize the performance of an autopsy
(_____) on said de-
(Limitation, if any, on autopsy)
ceased. I understand that the report and certain tissues as necessary will be released to the United States Public Health Service and to _____
(Name of Physician securing autopsy)
I understand that any claims in regard to the deceased for which I may sign a general release of medical information will result in the release of the information from the Public Health Service. I further understand that I shall not make any payment for the autopsy.

Occupational and Medical History

1. Date of Birth of Deceased _____
(Month, Day, Year)
2. Social Security Number of Deceased _____ ____ _____.
3. Date and Place of Death _____,
(Month, Day, Year)
_____
(City, County, State)
4. Place of Last Mining Employment:
Name of Mine _____
Name of Mining Company _____
Mine Address _____
5. Last Job Title at Mine of Last Employment _____
(e.g., Continuous Miner Operator, motorman, foreman, etc.)
6. Job Title of Principal Mining Occupation (that job to which miner devoted the most number of years) _____
(e.g., Same as above)
7. Smoking History of Miner:
(a) Did he ever smoke cigarettes? Yes ____ No _____.
(b) If yes, for how many years? _____ Years.
(c) If yes, how many cigarettes per day did he smoke on the average? _____
(Number of)
Cigarettes per day.
(d) Did he smoke cigarettes up until the time of his death? Yes _____ No _____
(e) If no to (d), for how long before he died had he not been smoking cigarettes?
8. Total Years in Surface and Underground Employment in Coal Mining, by State (If known) _____, _____
(Years) (State)

9. Total Years in *Underground* Coal Mining Employment, by State (If known) _____, (Years)

_____, (State)

_____ (Signature)

_____ (Address)

_____ (Date)

Interviewer:

_____

[FR Doc.71-6730 Filed 5-13-71;8:50 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 71-487]

PART 0—COMMISSION ORGANIZATION

Field Engineering Bureau

Order. 1. The Commission has before it for consideration certain procedural changes in §§ 0.311(a) (6) and (10), 0.314, 0.316, and 0.318 of the rules, applicable to the operation of the Field Engineering Bureau. These changes, when implemented, will simplify the workload, eliminate duplication and make the rules conform with the practice.

2. At present, the following delegated authority is granted the Chief, Field Engineering Bureau, pursuant to § 0.311(a) of the Rules:

(6) To act on requests for a waiver of the English language provisions of §§ 13.22 and 13.23 of this chapter in the case of Spanish-speaking applicants in Puerto Rico and vicinity, and to issue licenses bearing appropriate restrictions to those applicants found qualified, and

(10) To act on requests for waiver of the written examination requirements of §§ 13.21 and 13.22 of this chapter and to authorize oral examination in lieu thereof.

3. The initial request for waiver in each instance is filed with the Engineer in Charge at the District Office, and the same is in turn forwarded to the Bureau Chief with a recommendation. Since the proposal made by the Engineer in Charge is based on the necessary inquiry and/or examination conducted at the District Office, the Bureau Chief with rare exception adopts the recommendation, and orders the granting of the appropriate relief by directing the Engineer in Charge to grant the license. Under the circumstances, the reassigning of these two delegations to the Engineers in Charge would in the first instance eliminate the duplication now present, but more important permit the applicant to receive the license in question without any unnecessary or unwarranted delay. The above two subparagraphs will therefore be deleted from § 0.311 of the rules and added as paragraphs (p) and (q) to § 0.314—Authority delegated to the Engineer in Charge. Section 0.316(b) will likewise be amended to afford the Marine Supervisors at Tampa, Fla., and San Pedro, Calif., delegated authority to waive the written examination as indicated in the newly added paragraph (q).

4. Section 0.318 of the rules now authorizes the operator examiner at the examination office in Gettysburg, Pa., to act on requests for waiver of the waiting time requirement for applicants who have failed a previous examination for amateur radio operator licenses. By Order released September 1, 1970, the amateur operator examining function of the Gettysburg Office was discontinued as of September 4, 1970, rendering obsolete the provisions of § 0.318 of the rules. The latter section will, therefore, be deleted.

5. The above amendments relate to internal Commission operation and hence, the prior notice, procedure, and effective date provisions of 5 U.S.C. 553 are not applicable. Authority for the adoption of the amendments is contained in sections 4(i), 5(d), and 303(r) of the Communications Act of 1934, as amended.

6. *Accordingly, it is ordered,* Effective May 20, 1971, §§ 0.311, 0.314, 0.316, and 0.318 are amended as indicated below.

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

Adopted: May 5, 1971.

Released: May 10, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]

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

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

§ 0.311 [Amended]

1. In § 0.311(a), the text of subparagraphs (6) and (10) is deleted and the word "[Reserved]" is substituted therefor.

2. Section 0.314 is amended by adding paragraphs (p) and (q) to read as follows:

§ 0.314 Authority delegated to the Engineers in Charge.

* * * * *

(p) To act on requests for a waiver of the English language provisions of §§ 13.22 and 13.23 of this chapter in the case of Spanish-speaking applicants in and around Puerto Rico and Miami, Fla., and to issue licenses bearing appropriate restrictions to those applicants found qualified.

(q) To act on requests for waiver of the written examination requirements of §§ 13.21 and 13.22 of this chapter and to authorize oral examination in lieu thereof.

3. Section 0.316(b) is amended by adding a reference to § 0.314(q) and reads as follows:

§ 0.316 Authority delegated to Marine Supervisors at marine offices, to engineers engaged in ship inspection duties at radio district offices, and to radio engineers at suboffices.

* * * * *

(b) The Marine Supervisor at the marine office of the Field Engineering Bureau at Tampa, Fla., is delegated authority to act upon matters set forth in § 0.314 (a), (d), (e), (g), (j), (k), (o), and (q). The Marine Supervisor at the marine office of the Field Engineering Bureau at San Pedro, Calif., is delegated authority to act upon matters set forth in § 0.314 (e), (g), (j), (k), (o), and (q), and to act upon applications for restricted radio-telephone operator permits and requests for provisional radio operator certificates related thereto.

* * * * *

§ 0.318 [Deleted]

4. Section 0.318 is deleted.

[FR Doc.71-6750 Filed 5-13-71;8:52 am]

[1] Commissioners Robert E. Lee and Wells absent.

[Docket No. 18940; FCC 71-502]

PART 74—EXPERIMENTAL, AUXILIARY, SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Operation of Low Power Relay Stations in Instructional Television Fixed Stations

Report and Order. 1. The Commission has before it for consideration its Notice of Proposed Rule Making, adopted August 5, 1970 (FCC 70-858) proposing to amend its rules so as to provide for the operation of low-power relay stations in the Instructional Television Fixed Service (ITFS). The Notice was based on petitions filed by the Jerrold Electronics Corp. (Jerrold) and the Solid State Division, Micro-Link Products (Micro-Link) of Varian Associates, respectively (RM-1599 and RM-1613).

2. Jerrold proposed the use of a low-power repeater or booster station to relay the ITFS signal while Micro-Link proposed the use of a low-power translator. Both petitioners stated that there is an urgent need for such low power relay stations to relay the ITFS signals to receiving locations that are shielded from direct reception by intervening obstructions, natural or manmade. Both alleged that this occurs frequently even though the receiving locations are located within the normal range of the ITFS transmitter. The use of tall towers is not feasible in most instances because of local ordinances, physical limitations, safety hazards, or financial considerations.

3. The notice, among other things, proposed that the ITFS rules provide for the use of either low-power boosters or low-power translators so that the ITFS licensee would have the choice of either technique to meet his needs; equipment with an output of 50 milliwatts or less would not need to be equipped with automatic gain control (AGC) circuitry but should be designed so that the rated output could not be exceeded; relay equipment could be used that would relay up to four channels; and each individual channel would not have to be turned off when unused, but the unit must be turned off when the last channel leaves the air. Comments were received from

(1) the Secretary of Education, Commonwealth of Pennsylvania (Penn.); (2) the Joint Council on Educational Telecommunications (JCET); (3) National Association of Educational Broadcasters (NAEB); (4) Varian's Solid State Division, Micro-Link Products; (5) Jerrold Electronics Corp.; and (6) the Chairman, Southeastern Wisconsin Committee for the Full Utilization of ITFS (Committee).

4. Penn., JCET, and Committee filed brief supporting comments stating that the proposed changes in the rules to permit the use of low-power relay stations would aid an ITFS licensee to provide a usable signal to receiving sites where presently the signal is either very low or nonexistant. NAEB supports the proposed rule making, but it feels that the 50 milliwatts per channel limit is too low. See paragraph 7, infra.

5. Jerrold states that it is now more optimistic about its capability of producing a low-cost device since the automatic shutoff need not apply until the last channel used leaves the air. Jerrold also suggests that the Commission consider for these low power relay stations the complete elimination of application procedures or a notification procedure, i.e., the licensee of an ITFS station would notify the Commission a number of days in advance of its intention to use a low power relay station(s). Jerrold urges that, since the addition of a relay station(s) would not change the channel(s) the licensee is already authorized and would not have the characteristics of a new or independent station, it would, among other things, ease the administrative load on both the licensee and the Commission.

6. Micro-Link supports the proposed rule making. It is concerned about the possibility of oscillation in a booster type of repeater where the input and the output are on the same frequency. It contends that from this standpoint the translator type repeater is safer, since it cannot oscillate and will not retransmit noise or weak signals below the threshold of the circuitry provided for automatic shutdown. Micro-Link is also concerned about the requirement that the equipment be designed so that the authorized output power of the transmitter cannot be exceeded by an increase in the input signal; it urges that the increase should be based on the rated output power of the unit, not on the maximum authorized power as was proposed in the notice. It is suggested that the output shall not rise more than 3 db above the rated output power (see paragraph 8, infra).

7. NAEB, as noted above, suggested that 50 milliwatts may not be sufficient power for the low-power translator or booster transmitter, as this limits the range to approximately a mile distance. This would result in continuous requests for exceptions where this type of equipment would be used. We do not agree; the reasoning behind this proposal was to provide a very low power relay station to relay the signals of an ITFS station around or over an obstruction where the receiving point was not visible from a radio frequency viewpoint, and not to relay the signal distances approaching that of the primary ITFS station. Further, if a licensee finds that he needs to relay the signals a greater distance in unusual cases, and, therefore, needs greater power, the rules presently allow higher power relay stations. Accordingly, we adhere to the 50 milliwatts per channel limitation as proposed in the notice of proposed rule making.

8. Micro-Link's assertion that the possibility of oscillation is greater in a booster type of relay station as opposed to the translator type is probably correct, if the input and output circuits are not carefully isolated. This is why the notice included the requirement that the isolation between the input and output circuits of the booster, including the receiving and transmitting antenna systems, shall be at least 20 db greater than the maximum overall gain of the booster amplifier. We believe that, if this requirement is adhered to, little trouble will result. However, if this proves to be a problem after practical use the question can then be taken up. Micro-Link suggests that the proposed requirement that the equipment be so designed that the authorized output power of the transmitter cannot be exceeded by an increase in the input signal (§ 74.950(f)(4)) should be based on the rated power of the equipment and not on the maximum power allowed to be used. Micro-Link argues that, if based on the authorized power, any relay device designed for a lower power than the maximum power could increase its output power when the input signal was raised over a very great range, but if the amount of power increase is based on the rated power of the equipment, a constant factor or tolerance could be used. It suggests that 3 db be used as the amount of permissible increase. We agree; the rule as adopted provides that the power output cannot increase more than 3 db above the rated power if the input signal is increased.

9. Jerrold supports the proposed rule making. As already noted, it suggests that the Commission consider substantial simplification or elimination of the application procedures which a prospective user of these low-power relay stations would ordinarily be required to follow; it urges a notification procedure whereby the licensee of an ITFS station would notify the Commission a number of days in advance of its intention to use the low-power relay station, since in most cases, the stations area already licensed, the channels are already authorized, and that the points of reception have been designated. It also observes that in most cases the areas needing the help of the low-power relay station would not be discovered until after the system has been authorized, and that the assistance of the low-power relay station would be needed on an emergency basis.

10. A mere notification procedure cannot be used because of two basic reasons: under section 301 of the Communications Act of 1934, as amended, the Commission is required to license the use of all transmitters; and Part 17's requirements in connection with antenna towers as possible hazards to air navigation. In the latter respect there will be cases when the height of an existing structure will be increased or a new structed be erected to provide antenna support for these relay stations receiving and transmitting antenna and the Federal Aviation Administration must be notified and Part 17 of the Commission's rules must be met. In the circumstances, the Commission must have more control than a mere notification procedure. However, the Commission also desires as simple a procedure as possible for licensing procedures in order to impose as little a burden as possible on both the prospective licensee and the Commission staff. Accordingly, we have concluded that it woud be desirable to handle the authorizations of the low-power relay stations in the same manner as the response stations for this service. We are modifying FCC Form 330P to add a "section VII," which will be used to list the site of the low-power relay station with the necessary associated information. A vertical plan view of each relay installation showing the pertinent tower, receiving and transmitting antenna heights will be attached. A new applicant will file the complete Form 330P, as modified, while an existing licensee will merely apply to modify his present license by filing sections I, III, and VII. One copy of section VII will be returned to the applicant as the authorization with the appropriate antenna markings requirements where necessary. This is to be kept at the main ITFS station; a photocopy of the appropriate page of section VII shall be posted at the relay station location to indicate that the transmitter is authorized. The provisions of §§ 74.967 and 74.981(a)(5) concerning antenna tower painting, and lighting requirements, and logging requirements, shall apply to low-power relay stations when applicable.

11. In the view above, it appears that there is a need for the use of simple low-power relay stations (translators or boosters) to relay the signals of an ITFS station to receiving locations which are shielded from direct reception by intervening obstructions. Therefore, we are amending our rules to permit the use of these low-power stations.

12. Editorial changes are being made in §§ 74.933(a)(2) and 74.934(a)(5) so that these sections will refer to the correct renumbered section of the rules.

13. Form 330P, revised along the lines indicated above, is approved by the Commission at this time and forwarded to the Office of Management and Budget for its required review and approval. It will then be duplicated and will be generally available in the fairly near future.

14. *Accordingly, it is ordered,* That effective June 22, 1971, and pursuant to authority contained in sections 4(i) and 303 (g) and (r) of the Communications Act of 1934, as amended, subpart I of part 74 of the Commission's rules and regulations is amended as set forth below.

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

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

Adopted: May 5, 1971.

Released: May 10, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] BEN F. WAPLE,
Secretary.

1. In § 74.932, paragraph (c) is amended to read:

§ 74.932 Eligibility and licensing requirements.

* * * * *

(c) An application for a new instructional television fixed station or for changes in the facilities of an existing station shall specify the location of the transmitter, all proposed receiving installations, response transmitters, and any relay transmitters which will be under the control of or will be equipped for reception by the applicant. If reception is also intended at unspecified locations, i.e., if power is deliberately radiated to locations or areas so that voluntary reception will be possible, the applications shall include a complete statement as to the purpose of such additional reception.

2. In § 74.933, paragraph (a)(2) is amended to read:

§ 74.933 Remote control operation.

(a) * * *

(2) An operator meeting the requirements of § 74.966 shall be on duty at the remote control position and in actual charge thereof at all times when the station is in operation.

* * * * *

3. In § 74.934, paragraph (a)(5) is amended to read:

§ 74.934 Unattended operation.

(a) * * *

(5) Where the antenna supporting structure of an unattended station is required to have aeronautical hazard markings pursuant to the provisions of Part 17 of this chapter, the licensee shall provide for inspection and logging of observations of such markings as required by §§ 17.47 and 17.49 of this chapter.

* * * * *

4. In § 74.950, paragraph (f) is amended to read:

§ 74.950 Equipment performance and installation.

* * * * *

(f) Transmitting apparatus (translators and boosters) used solely for relaying signals received from other ITFS stations and operating in the manner described in § 74.934(a)(2) shall meet the following requirements before being type accepted by the Commission.

(1) The frequency converter and associated amplifiers shall be so designed that the electrical characteristics of a standard television signal introduced into the input terminals will not be significantly altered by passage through the apparatus except as to frequency and amplitude. The overall response of the apparatus within its assigned channel when operating at its rated power output and measured at the output terminals, shall provide a smooth curve, varying within limits separated by no more than 4 decibels: *Provided, however*, That means may be provided to reduce the amplitude of the aural carrier below those limits, if necessary to prevent intermodulation which would mar the quality of the retransmitted picture or result in emissions outside of the assigned channel.

(2) The suppression of emissions appearing outside of the assigned channel shall comply with § 74.936 (b) and (c).

(3) The local oscillator employed in the frequency converter shall maintain its operating frequency within 0.02 percent of its rated frequency when subjected to variations in ambient temperature between minus 30° and plus 50° centigrade and variations in powerline voltage between 85 percent and 115 percent of the rated supply voltage.

(4) The apparatus shall contain automatic circuits which will maintain peak visual power output constant within 2 decibels when the strength of the input signal is varied over a range of 30 decibels and which will not permit the peak visual power output to exceed the maximum rated power output under any conditions. If a manual adjustment is provided to compensate for different average signal intensities, provision shall be made for determining the proper setting for the control. If improper adjustment of the control could result in improper operation a label bearing a suitable warning shall be affixed at the adjustment control: *Provided, however*, That apparatus with an output of 50 milliwatts peak visual power per channel or less need not comply with this paragraph, provided the equipment is so designed that the rated output power of the transmitter cannot be exceeded by more than 3 dB by an increase in the input signal.

(5) The apparatus shall be equipped with automatic controls which will place it in a nonradiating condition when no signal is being received on the input channel, either due to absence of a transmitted signal or failure of the receiving portion of the relay transmitter. In the case of equipment (translators or boosters) of 50 milliwatts peak visual power per channel or less relaying more than one channel it shall be turned off in the absence of the last signal to be relayed. The automatic control may include a time delay feature to prevent interruptions in the operation of the relay transmitter caused by fading or other momentary failures of the incoming signal.

(6) The tube(s) or transistor(s) employed in the final radio frequency amplifier shall be of the appropriate power rating to provide the rated power output of the relay transmitter. The normal operating constants for operation at the rated power output shall be specified. The apparatus shall be equipped with suitable meters or meter jacks so that appropriate voltage and current measurements may be made while the apparatus is in operation.

(7) Boosters used in this service shall comply with all the provisions of this paragraph except with subparagraph (3). However, in addition, the isolation between the input and output circuits of the booster, including the receiving and transmitting antenna systems shall be at least 20 decibels greater than the maximum overall gain of the booster amplifier. Boosters may use opposite antenna polarization of the input and output antennas.

5. In § 74.982, paragraph (e) is amended to read:

§ 74.982 Station identification.

* * * * *

(e) Where an instructional television fixed station is operating as a relay for signals originating at a station operated by some other licensee, its call sign may be transmitted by the originating station, if suitable arrangements can be made with the other licensee, or means shall be provided for the transmission of the call sign by the relay transmitter itself. Low power relay stations, authorized by § 74.950(f)(4) will not be assigned individual call signs. Station identification will be accomplished by the retransmission of the call sign of the primary station.

[FR Doc.71-6751 Filed 5-13-71;8:52 am]

[1] Commissioners Robert E. Lee and Wells absent.

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[Docket No. 11017; Amdt. 7C-3]

PART 7—PUBLIC AVAILABILITY OF INFORMATION

Appendix C—Federal Aviation Administration

ADDITION OF ADDRESSES OF NEW REGIONAL OFFICES

The purpose of this amendment to Appendix C of Part 7 of the regulations of the Office of the Secretary of Transportation (49 CFR Part 7) is to add the names and addresses of the four new regional offices established recently.

Effective April 2, 1971, four new FAA regions were established in conformance with the President's objective for establishing uniform boundaries among Federal agencies. Correspondence and inquiries related to services and activities transferred to the New England, Great Lakes, Rocky Mountain, and Northwest Regions should be addressed as designated in Appendix C to Part 7 as supplemented by this amendment.

The establishment and realignment of the new FAA regions was accomplished by a notice from the Administrator (36

F.R. 5928) which also clarifies the realignment of regional boundaries.

Notice and public procedure hereon are not required since these amendments relate to agency organization and management and merely reflect the addition of regional offices to facilitate the means by which the public may make requests for identifiable records.

In consideration of the foregoing, paragraph 2 of Appendix C of Part 7 of the regulations of the Office of the Secretary of Transportation is amended effective May 14, 1971, to read as follows:

APPENDIX C—FEDERAL AVIATION ADMINISTRATION

* * * * *

2. *Document inspection facilities.* * * *

New England Region, 154 Middlesex Street, Burlington, MA 01803.
Great Lakes Region, 3166 Des Plaines Avenue, Des Plaines, IL 60018.
Rocky Mountain Region, 10255 East 25th Avenue, Aurora, CO 80010.
Northwest Region, FAA Building, Boeing Field, Seattle, WA 98108.

* * * * *

(Sec. 9, Department of Transportation Act, 49 U.S.C. 1657, 5 U.S.C. 552; § 7.1(c) of the regulations of the Office of the Secretary of Transportation, 49 CFR 7.1(c))

Issued in Washington, D.C., on May 5, 1971.

C. W. WALKER,
Acting Administrator.

[FR Doc.71-6697 Filed 5-13-71;8:45 am]

Title 50—WILDLIFE AND FISHERIES

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

SUBCHAPTER F—AID TO FISHERIES

PART 250—FISHERIES LOAN FUND PROCEDURES

Pursuant to authority vested in the Secretary of Commerce by section 4 of the Fish and Wildlife Act of 1956, as amended (84 Stat. 829; 16 U.S.C. 742c), and Reorganization Plan No. 4 of 1970, Fisheries Loan Fund Procedures are revised.

This revision effects appropriate changes in organization references necessitated by enactment of Reorganization Plan No. 4 of 1970. This revision effects no other changes.

This Part 250 will be more readily understood if revised in its entirety.

This revision is exempt from the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 553). This revision strictly reflects reorganizational changes and is not of a restricting nature. There is, therefore, no practical reason to publish a notice of proposed rulemaking.

This revision is effective upon publication in the FEDERAL REGISTER (5-14-71).

Issued at Washington, D.C., pursuant to authority delegated to me by the Secretary of Commerce on October 24, 1970 (35 F.R. 208).

HOWARD W. POLLOCK,
Acting Administrator.

APRIL 29, 1971.

Sec.

AUTHORITY: The provisions of this Part 250 issued under 70 Stat. 1121, as amended; 16 U.S.C. 742c, as amended, and Reorganization Plan No. 4 of 1970.

§ 250.1 Definition of terms.

For the purposes of this part, the following terms shall be construed, respectively, to mean and to include:

(a) *Secretary.* The Secretary of Commerce or his authorized representative.

(b) *Person.* Individual, association, partnership or corporation, any one or all as the context requires.

(c) *State.* Any State, the territories and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

(d) *Fishery.* A segment of the commercial fishing industry engaged in the catching of a single species or a group of species of fish or shellfish. Any species other than those comprising the fishery must be caught incidentally while fishing for and using gear designed for the capture of the species comprising the fishery.

(e) *No economic hardship to efficient vessel operators.* The determination that operation of a proposed vessel will not cause economic hardship to efficient vessel operators already operating in that fishery shall be made by the Secretary, taking into consideration the condition of the fishery, the efficiency of the commercial fishing vessels and gear being operated in that fishery compared with the proposed commercial fishing vessel, the prospects of the market for the species comprising the fishery and the degree and duration of any anticipated economic hardship.

(f) *Act.* The Fish and Wildlife Act of 1956, as amended.

§ 250.2 Purposes of loan fund.

The broad objective of the fisheries loan fund created by the Fish and Wildlife Act of 1956, as amended, is to provide financial assistance which will aid the commercial fishing industry to bring about a general upgrading of the condition of both commercial fishing vessels and gear thereby contributing to more efficient and profitable fishing operations.

(a) Under section 4 of the Act, the Secretary is authorized, among other things:

(1) To make loans for financing and refinancing of the cost of purchasing, constructing, equipping, maintaining, repairing or operating new or used commercial fishing vessels or gear.

(2) Subject to the specific limitations in this section, to consent to the modification, with respect to the rate of interest, time of payment of any installment of principal, or security, of any loan.

(b) All financial assistance granted by the Secretary must be for one or more of the purposes set forth in paragraph (a) of this section.

§ 250.3 Interpretation of loan authorization.

The terms used in the Act to describe the purposes for which loans may be granted are construed to be limited to the meanings ascribed in this section.

(a) *Commercial fishing vessel or gear.* The words "commercial fishing vessel or gear" mean vessels (documented under the flag of the United States, if required) or gear of any size or type used for the catching of fish or shellfish for commercial purposes such as marketing or processing the catch.

(b) *Purchasing new or used commercial fishing vessels or gear.* The words "purchasing new or used commercial fishing vessels or gear" mean the purchase of commercial fishing vessels or gear.

(c) *Constructing new or used commercial fishing vessels or gear.* The words "constructing new or used commercial fishing vessels or gear" mean the construction of new commercial fishing vessels or gear or reconstruction of used vessels or gear for commercial fishing.

(d) *Equipping new or used commercial fishing vessels or gear.* The words "equipping new or used commercial fishing vessels or gear" mean the purchase or installation of parts, machinery, or other items incident to outfitting of commercial fishing vessels or gear.

(e) *Maintaining new or used commercial fishing vessels or gear.* The words "maintaining new or used commercial fishing vessels or gear" mean the normal and routine upkeep of commercial fishing vessels or gear.

(f) *Repairing new or used commercial fishing vessels or gear.* The words "repairing new or used commercial fishing vessels or gear" mean the restoration or replacement of any worn or damaged part of commercial fishing vessels or gear.

(g) *Operating new or used commercial fishing vessels or gear.* The words "operating new or used commercial fishing vessels or gear" mean all phases of activity directly related to the operation of commercial fishing vessels or gear in catching of fish or shellfish.

§ 250.4 Qualified loan applicants.

(a) Any citizen or national residing or conducting business in any State shall be deemed to be a qualified applicant for such financial assistance if such citizen or national:

(1) Owns, operates, or will own a commercial fishing vessel or gear used, or to be used, directly in the conduct of fishing operations, irrespective of the type, size, power, or other characteristics of such vessel or gear and can demonstrate

to the satisfaction of the Secretary that he has the ability, experience, resources and other qualifications necessary for successful operation of the commercial fishing vessel or gear which he proposes to operate; or

(2) Is a fishery marketing cooperative engaged in marketing all catches of fish or shellfish by its members pursuant to contractual or other enforceable arrangements which empower the cooperative to exercise full control over the conditions of sale of all such catches and disburse the proceeds from all such sales.

(b) Applications for financial assistance cannot be considered if the loan is to used for:

(1) Any phase of a shore operation.

(2) Refinancing (i) existing loans that are not secured by a commercial fishing vessel or gear, or (ii) debts which are not maritime liens within the meaning of subsection P of the Ship Mortgage Act of 1920, as amended (46 U.S.C. 971).

(3) Refinancing (i) existing mortgages or secured loans on commercial fishing vessels or gear, or (ii) debts secured by maritime liens, except in those instances where the Secretary deems such refinancing to be desirable in carrying out the purpose of the Act.

(4) Repair or purchase of commercial fishing vessels or gear where such commercial fishing vessels or gear are not offered as collateral for the loan by the applicant.

(5) Financing a new business venture in which the controlling interest is owned by a person or persons who are not currently engaged in commercial fishing.

§ 250.5 Basic limitations.

Applications for financial assistance may be considered only where there is evidence that the credit applied for is not otherwise available on reasonable terms (a) from applicant's bank of account, (b) from the disposal at a fair price of assets not required by the applicant in the conduct of his business or not reasonably necessary to its potential growth, (c) through use of the personal credit and/or resources of the owner, partners, management, affiliates, or principal stockholders of the applicant, or (d) from other known sources of credit. The financial assistance applied for shall be deemed to be otherwise available on reasonable terms unless it is satisfactorily demonstrated that proof of refusal of the desired credit has been obtained from the applicant's bank: *Provided*, That if the amount of the loan applied for is in excess of the legal lending limit of the applicant's bank or in excess of the amount that such bank normally lends to any one borrower, then proof of refusal should be obtained from a correspondent bank or from any other lending institution whose lending capacity is adequate to cover the loan applied for. Proof of refusal of the credit applied for must contain the date, amount, and terms requested. Bank refusals to advance credit will not be considered the full test of unavailability of credit and, where there is knowledge or reason to believe that credit is otherwise available on reasonable terms from sources other than such banks, the loan applied for cannot be granted notwithstanding the receipt of written refusals from such banks.

§ 250.6 Purchase or construction loans.

When the Secretary determines that an application is eligible on its face for the purchase or construction of a new or used commercial fishing vessel that will not replace an existing commercial fishing vessel, a notice shall be published in the FEDERAL REGISTER that such application is being considered and giving all interested parties a period of 30 days to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery. If such evidence is received, the Secretary will evaluate it along with such other evidence as may be available to him before making a determination that the contemplated operation of the vessel will or will not cause such economic injury or hardship. The foregoing procedure shall not apply in cases where the applicant seeks to replace a commercial fishing vessel lost or destroyed within 2 years of the date of the application.

§ 250.7 Applications.

(a) Any person desiring financial assistance from the fisheries loan fund shall make application to the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, DC 20235, on a loan application form furnished by that Service except that, in the discretion of the Secretary, an application made other than by use of the prescribed form may be considered if the application contains information deemed to be sufficient. Such application shall indicate the purposes for which the loan is to be used, the period of the loan, and the security to be offered.

(b) The amount of loan requested in an application may be limited from time to time in order to prevent the exhaustion of funds available for loans and to assure that these funds will assist the largest number of applicants possible. Until further notice, no applications for loans from the Fisheries Loan Fund will be accepted for more than $40,000.

§ 250.8 Processing of loan applications.

If it is determined, on the basis of a preliminary review, that the application is complete and appears to be in conformity with established rules and procedures, a field examination shall be made. Following completion of the field investigation the application will be forwarded with an appropriate report to the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235.

§ 250.9 Approval of loans.

The Secretary will evidence his approval of the loan by issuing a loan authorization covering the terms and conditions relating to the loan. Documents executed in connection with a loan shall be in a form and substance approved by the Secretary. Any modification of the terms and conditions of a loan following its execution must be agreed to in writing by the borrower and the Secretary.

§ 250.10 Interest.

The rate of interest on all loans which may be granted is fixed at 8 percent per annum.

§ 250.11 Maturity.

The period of maturity of any loan which may be granted shall be determined and fixed according to the circumstances but in no event shall the date of maturity so fixed exceed a period of 10 years except in the case where a loan is for all or part of the costs of constructing a new commercial fishing vessel in which event the maturity may be 14 years.

§ 250.12 Security.

Loans shall be approved only upon the furnishing of such security or other reasonable assurance of repayment as the Secretary may require. The proposed collateral for a loan must be of such a nature that, when considered with the integrity and ability of the management, and the applicant's past and prospective earnings, repayment of the loan will be reasonably assured.

§ 250.13 Books, records, and reports.

The Secretary shall have the right to inspect such books and records of the applicant as the Secretary may deem necessary and to request periodic reports.

§ 250.14 Insurance required.

(a) If insurance of any type is required on property under the terms of a loan authorization or mortgage it must be in a form approved by the Secretary and obtained from an underwriter, satisfactory to the Secretary, which meets at least one of the following requirements:

(1) An underwriter licensed by an insurance regulatory agency of a State to write the particular form of insurance being written.

(2) A foreign insurance company or club operating in the United States that has deposited funds in an amount and manner satisfactory to the Secretary in a bank chartered under the laws of a State or the United States of America, or in a trust fund satisfactory to the Secretary, which funds are solely for the payment of insurance claims of U.S. vessels.

(3) A reciprocal or interinsurance exchange licensed by an insurance regulatory agency of a State to write the particular form of insurance being written.

(4) An insurance pool composed entirely of owners and operators of commercial fishing vessels.

(b) Any underwriter (including a company, club, or pool) writing such insurance shall furnish reasonable financial or operating data as the Secretary may require to determine the standing and responsibility of said underwriter.

§ 250.15 Penalties on default.

Unless otherwise provided in the loan documents, failure on the part of a borrower to conform to the terms and conditions of any of the loan documents will be deemed grounds upon which the Secretary may cause any one or all of the following steps to be taken:

(a) Discontinue any further disbursements from the escrow funds.

(b) Take possession of any or all collateral given as security for the loan including the commercial fishing vessel or gear for which the funds were borrowed.

(c) Take legal action against the borrower or the security, including foreclosure.

(d) Declare the entire amount of the loan immediately due and payable.

[FR Doc.71-6715 Filed 5-13-71;8:49 am]

Title 7—AGRICULTURE

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

[Peach Reg. 1]

PART 918—FRESH PEACHES GROWN IN GEORGIA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of fresh peaches grown in the State of Georgia, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendation of the Industry Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that this regulation will tend to effectuate the declared policy of the act with respect to shipments of fresh peaches grown in the State of Georgia.

(2) The recommendation of the Industry Committee embodies its appraisal of the crop and the marketing outlook for 1971. Restrictions should be made effective on May 14, 1971, to prevent peaches smaller than 1¾ inches in diameter from being marketed. Some of the earlier maturing varieties are now reaching maturity and such peaches are generally smaller than later varieties. Commencing May 24, 1971, the size restrictions should prevent the shipment of peaches smaller than 1⅞ inches in diameter, in that, other varieties of peaches which normally attain a larger size will be maturing and will be available for market. The regulation with respect to grade is designed to provide consumers with good quality fruit consistent with the overall general quality of the crop. Hence, the regulation specifies a minimum of 85 percent U.S. No. 1 grade, except for peaches marketed in adjacent markets. The exception with respect to peaches in bulk shipped to destinations in adjacent markets follows the custom and pattern of prior years and is designed to provide those markets with peaches of lower grade, size, and quality without requiring inspection thereof, as contemplated by the provisions of said marketing agreement and order providing for such exceptions.

(3) It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective time of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than May 14, 1971. The committee held an open meeting on May 6, 1971, after giving due notice thereof, to consider supply and market conditions for fresh peaches grown in Georgia, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such peaches. Shipments of the early varieties of the current crop of peaches are expected to begin on or about May 14, 1971, and this regulation should be applicable, insofar as practicable, to all shipments of such peaches in order to effectuate the declared policy of the act; and compliance with this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

§ 918.313 Peach Regulation 1.

(a) Order. (1) During the period May 14, 1971, through August 31, 1971, no handler shall ship (except peaches in bulk to destinations in the adjacent markets) any peaches which do not grade at least 85 percent U.S. No. 1 quality: *Provided,* That peaches with well healed hail marks, split pits that are not scored as serious damage, and not more than 1 percent decay may be shipped if they otherwise meet the requirements of this subparagraph.

(2) During the period May 14, 1971, through May 23, 1971, no handler shall ship (except peaches in bulk to destinations in the adjacent markets) any peaches which are smaller than 1¾ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1¾ inches in diameter.

(3) During the period May 24, 1971, through August 31, 1971, no handler shall ship (except peaches in bulk to destinations in the adjacent markets) any peaches which are smaller than 1⅞ inches in diameter, except that not more than 10 percent, by count, of such peaches in any bulk lot or any lot of packages, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1⅞ inches in diameter.

(b) The inspection requirement contained in § 918.64 of this part shall not be applicable to any shipment of peaches in bulk to destinations in the adjacent markets during the period specified in paragraph (a) (1) of this section.

(c) The maturity regulations contained in § 918.400 of this part are hereby suspended with respect to shipments of peaches to destinations other than in the adjacent markets during the period specified in paragraph (a) (1) of this section.

(d) When used herein, the terms "handlers," "adjacent markets," "peaches," "peaches in bulk," and "ship" shall have the same meaning as when used in the aforesaid amended marketing agreement and order, and the terms "U.S. No. 1" and "diameter" shall have the same meaning as when used in the revised U.S. Standards for Peaches (7 CFR 51.1210–51.1223).

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

Dated: May 12, 1971.

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

[FR Doc.71-6831 Filed 5-13-71;8:58 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 **List of designated areas.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Alaska	Kenai Peninsula Borough.	Remainder				May 14, 1971.
California	Los Angeles	Hawaiian Gardens.	I 06 037 1552 02	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Hawaiian Gardens City Hall, 12134 Tilbury St., Hawaiian Gardens, CA 90716.	Do.
Do	Ventura	Port Hueneme				Do.
Colorado	Boulder	Unincorporated areas.				Do.
Florida	Pinellas	Belleair	I 12 103 0200 02	Department of Community Affairs, State of Florida, 309 Office Plaza, Tallahassee, FL 32301. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.	Town of Belleair Town Hall, 901 Ponce de Leon Rd., Belleair, Clearwater, FL 33516.	Do.
Do	do	Belleair Beach	I 12 103 0201 02	do	Municipal Building, City of Belleair Beach, 444 Causeway Blvd., Belleair Beach, FL 33535.	Do.
Do	do	Belleair Shore	I 12 103 0202 02	do	Office of the Mayor-Commissioner, 1740 Gulf Blvd., Belleair Shore, FL 33535.	Do.
Do	do	Dunedin	I 12 103 0860 03 I 12 103 0860 04	do	Planner's Office, City Hall, 750 Milwaukee Ave., Dunedin, FL 33528.	Do.
Do	do	North Redington Beach.	I 12 103 2236 02	do	Municipal Office Bldg., 190 173d Ave., St. Petersburg, FL 33708.	Do.
Do	do	Safety Harbor	I 12 103 2680 03 I 12 103 2680 04	do	Office of the City Clerk, City Hall, 700 Main St., Safety Harbor, FL 33572.	Do.
Do	do	St. Petersburg Beach.	I 12 103 2740 02	do	Municipal Bldg., 7701 Boca Ciega Dr., St. Petersburg, FL 33706.	Do.
Do	do	South Pasadena	I 12 103 2873 02	do	Town Hall, Town of South Pasadena, South Pasadena, FL 33707.	Do.
Do	do	Tarpon Springs	I 12 103 2960 02	do	City Manager's Office, Post Office Box 715, Tarpon Springs, FL 33589.	Do.
Do	Volusia	Unincorporated areas.				Do.
Do	do	Holly Hill				Do.
Do	do	New Smyrna Beach				Do.
Idaho	Blaine	Unincorporated areas.				Do.
Illinois	Rock Island	do				Do.
Iowa	Woodbury	Sioux City				Do.
Minnesota	Mower	Austin	I 27 099 0290 06 through I 27 099 0290 10	Division of Waters, Soils, and Minerals, Minnesota Conservation Department, 345 Centennial Bldg., St. Paul, MN. 55101. Minnesota Insurance Department, R-210 State Office Bldg., St. Paul, MN 55101.	Office of the City Engineer, Municipal Bldg., 500 Northeast 4th Ave., Austin, MN 55912.	Do.
Oklahoma	Canadian	El Reno				Do.
Pennsylvania	Cumberland	Carlisle				Do.
Do	Washington	Monongahela				Do.
Texas	Orange	Unincorporated areas.	I 48 361 0000 02 through I 48 361 0000 12	Texas Water Development Board, 301 West 2d St., Austin, TX 78711. Texas State Board of Insurance, 1110 San Jacinto St., Austin, TX 78701.	Office of the County Engineer, Room 107, Courthouse, Orange, Tex. 77630.	Do.
Wisconsin	Ozaukee	do				Do.
Do	Trempealeau	do				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: May 14, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-6762 Filed 5-13-71;8:47 am]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of flood hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
***	***	***	***	***	***	***
Alaska	Kenai Peninsula Borough.	Remainder				May 14, 1971.
California	Los Angeles	Hawaiian Gardens.	H 06 037 1552 02	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Hawaiian Gardens City Hall, 12134 Tilbury St., Hawaiian Gardens, CA 90716.	Sept. 25, 1970.
Do	Ventura	Port Hueneme				May 14, 1971.
Colorado	Boulder	Unincorporated areas.				Do.
Florida	Pinellas	Belleair	H 12 103 0200 02	Department of Community Affairs, State of Florida, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.	Town of Belleair Town Hall, 901 Ponce de Leon Rd., Belleair, Clearwater, FL 33516.	July 17, 1970.
Do	do	Belleair Beach	H 12 103 0201 02	do	Municipal Bldg., City of Belleair Beach, 444 Causeway Blvd., Belleair Beach, FL 33535.	June 27, 1970.
Do	do	Belleair Shore	H 12 103 0202 02	do	Office of the Mayor-Commissioner, 1740 Gulf Blvd., Belleair Shore, FL 33535.	Aug. 11, 1970.
Do	do	Dunedin	H 12 103 0860 03 H 12 103 0860 04	do	Planner's Office, City Hall, 750 Milwaukee Ave., Dunedin, FL 33528.	Oct. 13, 1970.
Do	do	North Redington Beach.	H 12 103 2236 02	do	Municipal Office Bldg., 190 173d Ave., St. Petersburg, FL 33708.	May 22, 1970.
Do	do	Safety Harbor	H 12 103 2680 03 H 12 103 2680 04	do	Office of the City Clerk, City Hall, 700 Main St., Safety Harbor, FL 33572.	Aug. 27, 1970.
Do	do	St. Petersburg Beach.	H 12 103 2740 02	do	Municipal Bldg., 7701 Boca Ciega Dr., St. Petersburg, FL 33706.	May 22, 1970.
Do	do	South Pasadena	H 12 103 2873 02	do	Town Hall, Town of South Pasadena, South Pasadena, Fla 33707.	June 16, 1970.
Do	do	Tarpon Springs	H 12 103 2960 02	do	City Manager's Office, Post Office Box 715, Tarpon Springs, FL 33589.	Aug. 6, 1970.
Do	Volusia	Unincorporated areas.				May 14, 1971.
Do	do	Holly Hill				Do.
Do	do	New Smyrna Beach.				Do.
Idaho	Blaine	Unincorporated areas.				May 14, 1971.
Illinois	Rock Island	do				Do.
Iowa	Woodbury	Sioux City				Do.
Minnesota	Mower	Austin	H 27 099 0290 06 through H 27 099 0290 10	Division of Waters, Soils, and Minerals, Minnesota Conservation Department, 345 Centennial Bldg., St. Paul, Minn. 55101. Minnesota Insurance Department, R-210 State Office Bldg., St. Paul, MN 55101.	Office of the City Engineer, Municipal Bldg., 500 Northeast 4th Ave., Austin, MN 55912.	Sept. 25, 1970.
Oklahoma	Canadian	El Reno				May 14, 1971.
Pennsylvania	Cumberland	Carlisle				Do.
Do	Washington	Monongahela				Do.
Texas	Orange	Unincorporated areas.	H 48 361 0000 02 through H 48 361 0000 12	Texas Water Development Board, 301 West 2d St., Austin, TX 78711. Texas State Board of Insurance, 1110 San Jacinto St., Austin, TX 78701.	Office of the County Engineer, Room 107, Courthouse, Orange, Tex. 77630.	Nov. 6, 1970.
Wisconsin	Ozaukee	do				May 14, 1971.
Do	Trempealeau	do				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: May 14, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-6763 Filed 5-13-71;8:47 am]

Proposed Rule Making

POST OFFICE DEPARTMENT

[39 CFR Ch. I]

INTERNATIONAL POSTAL SERVICE

Proposed Changes in Rates and Fees

In a notice published in the daily issue of May 4, 1971 (36 F.R. 8331) the Department announced changes in certain postal rates and fees effective May 16, 1971.

In addition to changes in various domestic rates of postage and fees for domestic services, changes were announced in rates for the categories of international mail and in fees for the international services shown in Tables F–I and F–II in that notice. These changes were made in order to preclude international postage rates and charges from falling below domestic rates for corresponding mail categories and services. That notice also noted that subsequent revisions of international rates attributable to provisions of the Universal Postal Union Convention would be announced at a later date.

The Universal Postal Union (UPU) Convention adopted at the Congress in Tokyo in November, 1969 becomes effective July 1, 1971. It prescribes a new rate structure for surface UPU mail and contains provisions allowing further international rate and fee increases.

To the extent that the proposed rate and fee revisions are not directly required by the UPU Convention, or to keep international rates at a level not below domestic rates and fees for corresponding domestic rate categories and services, they are designed to produce revenues necessary to provide adequate cost coverages for the various categories of international mail and international services.

The Postal Service proposes to change postal rates and fees for the categories of international mail and for the international services in the tables set out below to the levels shown therein, effective July 1, 1971.

To allow a better understanding of certain changes in rates there are also set out below under the heading "Miscellaneous Changes" certain other matters relating to international mail categories that will become effective July 1, 1971 pursuant to the UPU Convention.

Changes in rates and fees pursuant to 39 U.S.C. 505, and the international conventions and bilaterial agreements entered into pursuant thereto, involve a foreign affairs function within the meaning of 5 U.S.C. 553, and 5 U.S.C. 553 likewise will not apply to establishment of international postal rates and fees by the U.S. Postal Service when it commences operations July 1, 1971. Nevertheless, the Post Office Department desires to receive the written data, views, and arguments of interested persons on the proposed changes. Such materials should be submitted to the Director, Office of Postal Rates, Finance and Administration Department, Post Office Department, Washington, D.C. 20260 on or before June 2, 1971.

PROPOSED RATES AND FEES AND MISCELLANEOUS CHANGES

I. *Canada and Mexico*—A. *Regular surface rates.*

1. Letter mail. 8 cents per ounce up to 12 ounces; eighth zone priority mail rates for heavier weights.

2. Small packets. 8 cents for the first 2 ounces and 2 cents for each additional ounce.

3. Parcel post. $1.20 for the first 2 pounds and 35 cents for each additional pound or fraction.

B. *Exceptional surface rates.*

Ounces	Books and sheet music	Publishers' second class	Publishers' controlled circulation
2	$0.14	$0.03	$0.05
4	.14	.05	.07
8	.14	.08	.11
16	.17	.13	.20
32	.21	.21	.34
64	.36	.36	.58
Each additional 32 ounces	.18	.18	.29

C. *Air mail.* Air parcel post (to Mexico only).—$1.23 first 4 ounces; 24 cents each additional 4 ounces or fraction.

II. *Countries other than Canada and Mexico*—A. *Regular surface rates.*

1. Letter mail, printed matter and small packets.

Ounces	Letter mail	Printed matter	Small packets
1	$0.15[1]	$0.08	$0.15
2	.26	.08	.15
4	.34	.12	.15
8	.76	.19	.29
16	1.44	.33	.48
32	2.40	.57	.86
64	3.84	.96	
Each additional 32 ounces		.48	

[1] Post and postal cards 10 cents.

2. Parcel post.

(i) Central America, the Caribbean Islands, Bahamas, Bermuda, and St. Pierre and Miquelon: $1.20 for the first 2 pounds and 35 cents for each additional pound or fraction.

(ii) All other countries: $1.30 for the first 2 pounds and 40 cents for each additional pound or fraction.

B. *Exceptional surface rates.* 1. Postal Union of the Americas and Spain (PUAS) Countries.

Ounces	Books and sheet music [1]	Publishers' second class	Publishers' controlled circulation
2	$0.14	$0.03	$0.05
4	.14	.05	.07
8	.14	.08	.11
16	.17	.13	.20
32	.21	.21	.34
64	.36	.36	.58
Each additional 32 ounces	.18	.18	.29

[1] Except Spain and Spanish possessions.

2. All other countries.

Ounces	Books and sheet music	Publishers' second class	Publishers' controlled circulation
2	$0.14	$0.04	$0.07
4	.14	.06	.01
8	.14	.10	.10
16	.17	.17	.24
32	.28	.28	.35
64	.48	.48	.58
Each additional 32 ounces	.24	.24	.29

C. *Air Mail.* 1. Letter Mail.

(i) Central America, South America, the Caribbean islands, Bahamas, Bermuda, and St. Pierre and Miquelon: 17 cents per half ounce.

(ii) All other countries: 21 cents per half ounce.

2. Aerogrammes and Post Cards.—15 cents each.

3. Parcel Post. Individual country rates increased 10 percent.

III. *Special service fees*—A. *Customs clearance and delivery.* The fee on dutiable postal union mail other than small packets will be increased to 35 cents. The fee on dutiable small packets and parcel post will be increased to 70 cents.

B. *Return receipts for registered or insured mail.* The fee will be increased to 20 cents if the receipt is requested at time of mailing and to 40 cents if it is requested after mailing.

C. *Request for recall or change of address.* The fee will be increased to 60 cents.

D. *Inquiries.* The fee will be increased to 30 cents.

IV. *Miscellaneous changes.* A. "The Samples of Merchandise" class of postal union mail will be discontinued. Articles formerly transmitted under that classification must be mailed as "Small Packets," or they may be mailed in "Letter Packages" or as parcel post. In conjunction with the discontinuance of "Samples of Merchandise, Combination Packages, and Grouped Articles" are likewise being discontinued.

B. The maximum weight limit for printed matter to P.U.A.S. countries is being established at 22 pounds, and the

minimum weight limit for direct sacks of prints addressed to one addressee lowered to 22 pounds to all countries.

C. The "8-ounce merchandise package" service to Canada is being discontinued.

(5 U.S.C. 301, 39 U.S.C. 501, 505; CF. 39 U.S.C. 101(d), 401, 403, 404(2), and 407)

DAVID A. NELSON,
General Counsel.

[FR Doc.71-6826 Filed 5-13-71;8:53 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1036]

MILK IN EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Notice of Proposed Suspension of Certain Provisions of Order

Correction

In F.R. Doc. 71-6426 appearing on page 8524 in the issue of Friday, May 7, 1971, the second provision proposed to be suspended should read as follows:

2. § 1036.41(c)(6)(vii), "and bulk cream"; and

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-WE-31]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Sacramento, Calif. (Mather AFB) control zone.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Boulevard, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Boulevard, Los Angeles, CA 90045.

Due to the decommissioning of the Mather AFB TVOR and LOM, the control zone extension described on the 055° T (037° M) bearing of the Mather LOM is no longer required.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.171 (36 F.R. 2055) the description of the Sacramento, Calif. (Mather AFB), control zone is amended to read as follows:

SACRAMENTO, CALIF. (MATHER AFB)

Within a 5-mile radius of Mather AFB (latitude 38°33'10" N., longitude 121°18'05" W.) within 2 miles each side of the Mather TACAN 048° radial, extending from the 5-mile radius zone to 7 miles northeast of the TACAN, excluding the portion subtended by a chord drawn between the points of intersection of the Mather AFB 5-mile radius zone with the Sacramento, Calif. (McClellan AFB) 5-mile radius zone.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif., on May 4, 1971.

LEE E. WARREN,
Acting Director, Western Region.

[FR Doc.71-6702 Filed 5-13-71;8:45 am]

[14 CFR Part 139]

[Docket No. 10607; Notice 71-14]

AIRPORT OPERATING CERTIFICATES

Notice of Proposed Rule Making

The Federal Aviation Administration is considering the issue of regulations to provide for the issue of airport operating certificates to airports serving air carriers certificated by the Civil Aeronautics Board, and minimum safety standards for the operation of these airports. The rules now proposed would be placed in a new Part 139 of the Federal Aviation Regulations that would apply to airports that regularly serve scheduled air carriers operating large aircraft (other than helicopters).

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20590. All communications received on or before July 13, 1971, will be considered by the Administrator before taking action upon the proposed rule. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

As stated in the advance notice of proposed rule making (Notice 70-39, issued Sept. 23, 1970; 35 F.R. 15022), section 51 of the Airport and Airway Development Act of 1970 added to the Federal Aviation Act of 1958 a new section 612 that authorizes the Administrator to issue airport operating certificates to airports serving air carriers certificated by the Civil Aeronautics Board, and to establish minimum safety standards for the operation of those airports. Under section 612 such terms, conditions, and limitations as are reasonably necessary to assure safety in air transportation must be prescribed, including those relating to the installation, operation, and maintenance of adequate air navigation facilities, and to the operation and maintenance of adequate safety equipment. Any person desiring to operate an airport of the kind involved may apply to the Administrator for an airport operating certificate, and the Administrator is directed to issue the certificate if he finds, after investigation, that that person is properly and adequately equipped to conduct a safe operation. The 1970 Act also added to section 610(a) of the Federal Aviation Act of 1958 a provision prohibiting any person from operating an airport of the kind involved without an airport operating certificate, or in violation of the terms of the certificate. This prohibition is effective May 21, 1972.

The FAA has met three times with representatives of the airport industry and associations of persons using airports as air carriers and flight crewmembers, twice before and once after issuing Notice 70-39, to discuss the minimum safety standards that should be established for the operation of the airports involved. At those conferences a number of airport elements, conditions, equipment, and activities were discussed, for which specific minimum safety standards appeared to be necessary for the proper implementation of FAA's responsibilities under section 612 of the Act.

Approximately 40 comments were received in response to Notice 70-39. Due consideration has been given to all of these comments.

General and certification. This notice proposes, in Subpart A, provisions on applicability, inspection authority of the Administrator, and amendment of certificates and operations manuals.

In response to Notice 70-39, comments were submitted concerning the application of the proposed rule to such airports as alternate or military airports serving air carriers certificated by the Civil Aeronautics Board, and to airports serving charter flights made by those air carriers that usually operate in air transportation on a regular basis. Some commentators asserted that the rules should be applied only to airports serving "scheduled air carriers," or to airports with "regularly

scheduled air carrier service," or to "scheduled interstate air carrier airports." However, there is no statutory basis for excluding any "airports serving air carriers certificated by the Civil Aeronautics Board," and the exception of any of such airports from the requirements to be imposed rests upon a showing of the existence of reasons why granting an exception would be in the public interest, and either why the exception would not adversely affect safety in air transportation or how action to be taken by the airport would provide a level of safety equal to that provided by the rules of general applicability.

In the light of all these considerations, the rules proposed for this part apply only to airports that regularly serve scheduled air carriers operating large aircraft (aircraft of more than 12,500 pounds, maximum certificated takeoff weight), other than helicopters. Further rules will be developed, as soon as possible and in such depth as will comply with the legislative mandate, as to all other airports serving air carriers certificated by the Civil Aeronautics Board. In addition, action will be taken to amend Parts 121 and 127 of the Federal Aviation Regulations to prohibit operations by air carriers, after May 20, 1972, into airports that do not hold airport operating certificates.

Although the FAA intends to issue separate regulations covering its aviation security program, the FAA recognizes that it may be necessary to reevaluate some of the safety requirements proposed herein (§ 139.67—Public Protection) in the light of broad overall studies now being made concerning the effects of certain security deficiencies on airport safety.

Subpart B would provide appropriate provisions stating who is entitled to an airport operating certificate; the contents, required accompanying documents, and place of submission of an application for a certificate; the contents of a certificate; duration of a certificate—without time limit; waivers where the Administrator finds that they would be in the public interest and that an equivalent level of safety in air transportation would be provided by alternate means; deviations in emergencies; and qualified personnel required.

Operations manual. In response to Notice 70–39, a number of commentators stated their views as to a document—now called "operations manual"—in which the airport operator would show the FAA how it complies with the certification eligibility standards prescribed by the regulations. These commentators uniformly endorsed the concept, with such suggestions as that the procedure should be used to classify airports, that the rules themselves should be tailored to airports on an individual basis, or even that the airport should develop its own standards and methods for compliance and place these in the manual.

Now proposed is a Subpart C, whose rules would require each applicant to prepare and submit, with its application for a certificate, an operations manual. The manual would identify the means and procedures the applicant would use to meet the proposed certification and operations rules, as well as the duties and responsibilities of operations personnel in conducting the operations of the airport. Appropriate provisions would cover the required contents of the operations manual, and would require the certificate holder to keep the manual current at all times, as well as to maintain a copy that would be available for inspection by the Administrator.

Certification: eligibility. Most of the comments submitted concerned the 18 airport elements, conditions, equipment, and activities in Notice 70–39 for which the views of all interested persons were solicited on what minimum safety standards should be established. The thrust of the comments, and the course of action now proposed for certification purposes on each item (Subpart D), as a result of these comments, the meetings mentioned above, and further consideration of the matter, are as follows:

1. *Pavement areas.* The bulk of the commentators favored rule making as to (a) cleanliness, and as to (b) identifying and marking unserviceable and construction areas and closing them to operations. Some opposition to rule making as to (c) serviceability and effectiveness of pavement areas for braking action involved questions on whether measurement standards for braking action would be involved, and what would be the relation between subitems (c) and (d)—provision for a measurement of coefficient of friction, in view of the fact that weather conditions can change rapidly and alter braking action quickly. Actually, the intended thrust of (c) was to require removal of pavement contaminants such as rubber, soot, snow, and slush as promptly as possible to preserve a good braking surface.

A number of commentators opposed a requirement for a measurement of coefficient of friction, asserting that the FAA should make the measurements; the requirement is not needed for nonhub and small hub locations; and there is no satisfactory device, and the requirement is not appropriate before such a device is developed. However, it is considered that measurement of runway slipperiness is essential, and that information thereon will be valuable for defining not only day-to-day slipperiness characteristics but also those associated with changing weather conditions. This requirement of periodic measurement and reporting is therefore now proposed, as an operations rule, although the standard is limited for application to airports serving turbojet powered aircraft. However, this action would not be required until FAA-approved equipment for measuring is available.

Most of the commentators strongly opposed a requirement for antihydroplaning runway surfaces, on the grounds that it would be very expensive to groove runways; flyovers (overflights) may be a better alternative than grooving; grooving may not be the only methodology available; this would not be required on every size airport; and a number of locations have limited rainfall and seldom (if ever) have hydroplaning conditions. In the light of these considerations this requirement is not presently being proposed in this notice. However, airport conditions that lead to aircraft skidding will be carefully evaluated, and in appropriate instance a requirement to provide antihydroplaning surfaces may be developed for particular locations.

Subitem (b) under item 1—identifying and marking unserviceable and construction areas and closing them to operations, was also referred to or implicit in item 2—safety areas, and item 3—marking and lighting of runways, taxiways, and aprons, in Notice 70–39. This matter is now proposed as an individual item, for the sake of clarity and emphasis and to preclude redundancy.

Notice 70–39 identified (item 10) drainage systems to minimize ponding of water on operating surfaces, safety areas, and extended runway safety areas. Several of the commentators suggested that drainage could concurrently be combined with the items on pavement areas and safety areas. This suggestion has been adopted. Other commentators agreed with the need to limit ponding, but believed it would be difficult to state a standard. In this notice, the matter of ponding is treated as precisely and concisely as possible in the certification rules on both pavement areas (§ 139.43) and safety areas (§ 139.45), as well as in the additional operating rule on the former (§ 139.83).

As proposed, the certification rules for pavement areas (§ 139.43) would require a showing of compliance with specified standards concerned with pavement roughness, stone aggregate used for top course of surface treatment, and elevation of pavement lips.

2. *Safety areas.* Most of the comments received on this item favored rule making. Some commentators suggested that safety areas should be properly defined or standardized. Other commentators suggested confining the rules in this area to draining and erosion, or limiting required marking to landing strips. In addition to defining safety areas, this notice proposes requiring a showing (§ 139.45) of absence of ruts and other variations from normal grade exceeding 6 inches; absence of unneeded objects; and presence of an adequate storm sewer system or capability of the topography to allow direct runoff of water. The proposed additional operations rules (§ 139.85) would require appropriate moving of snowdrifts and placing of snow banks.

3. *Marking and lighting of runways, taxiways, and aprons.* The majority of the commentators favored rule making on this item. One commentator assumed that the installation of standby power would be necessary to obtain lighting reliability. Actually, most of the larger airports have some type of standby power, and the FAA has established standby

power requirements for key airport facilities. Another commentator asserted that pilots need training to recognize the different elements of marking. However, this is a matter of airman certification. Other commentators requested that the standard not be related to candela measurement and that lighting requirements be related to a specific number of night operations. However, numbers are considered irrelevant in this regard—facilities must be as well maintained for one flight as for many. Several commentators recommended consideration of the number of lights that may be extinguished at any one time, and a distinction between VFR and IFR lighting. However, in airport certification it must be recognized that aircraft operations and limitations thereon are considered in other rules; thus, these recommendations are addressed elsewhere.

Under proposed § 139.47, it would be necessary to show that any of the listed kinds of lights is in operable condition; the existence of a sufficient supply of emergency lights for any main runway lighting; the operable condition of any guidance lights installed with taxiway lighting systems; and design, adjustment, or shielding of surface lighting so as not to blind or hinder air traffic control or aircraft operations.

4. *Fire and rescue facilities, and extinguishing agents.* The commentators, recognizing the legislative mandate on firefighting and rescue equipment, stressed such factors as making the rules flexible in their specifications or tailored to individual airports; keeping the rules within narrow limits, especially for non-hub airports; considering neighborhood capabilities; and treating the matter in advisory circulars instead of in the rules. Most of the commentators expressed concern for the costs associated with purchasing, operating, and manning firefighting and rescue equipment, particularly at the smaller airports. Commentators also exhibited basic disagreement as to the demonstrated worth of firefighting and rescue systems in terms of both actual number of verified success missions (lives saved) and situations that were potentially catastrophic but were never reported as anything more than incidents because of prompt and effective response. In the light of all of the relevant considerations, a firefighting and crash rescue study contract was entered into for the purpose of acquiring pertinent information and recommendations from an independent professional organization.

The minimum safety standards now proposed have been developed from an extensive study of existing firefighting and rescue equipment at airports, industry data, National Fire Protection Association publications, a 1967 FAA comprehensive test program conducted at 32 airports serving air carriers, the British airport licensing standards, recommendations of the ICAO Rescue and Fire Fighting Panel, crashworthiness developments in aircraft, and the information and recommendations of the independent contractor mentioned above. These standards, proposed in § 139.49, would require firefighting and rescue equipment classified into five "Index" levels based upon length of the aircraft (that is in general related to the number of occupants) served by the particular airport, and numbers of scheduled departures. Also required would be sufficient, trained personnel to man the firefighting and rescue equipment, and a 3-minute response-time capability of all required equipment to reach each relevant portion of the airport. Additional provisions would concern marking and lighting vehicles, and their protection against freezing temperatures.

5. *Handling and storage of dangerous material.* As included in Notice 70–39, this item was intended to include the control, storage, and handling of fuels. A majority of the commentators asserted that rule making in this area was unnecessary, or that other controls—specifically Part 103 of the Federal Aviation Regulations—cover the matter. However, Part 103 prescribes rules for loading and carrying dangerous articles. It does not regulate ground handling of hazardous materials. Proposed rule making (§ 139.51), now under the heading "Handling and storing hazardous articles and materials", separately covers handling of hazardous materials that are aircraft cargo and handling of other hazardous materials.

6. *Traffic and wind direction indicators.* Some of the commentators felt that these items were needed at small or non-controlled airports only, or not needed at all. Other commentators approved of their inclusion in the rule making. It is considered that traffic and wind direction indicators should be an airport responsibility. It is therefore proposed (§ 139.53) that there must be wind direction indicators, and also segmented circle traffic pattern indicators where the airport has no air traffic control tower.

7. *Emergency plan.* Most of the commentators favored the concept of having an emergency plan if kept as simple as possible, particularly for smaller airports or limited according to numbers of operations and types of aircraft using the airport. Now proposed is an emergency plan (§ 139.55) sufficiently detailed to provide adequate guidance to all concerned, that provides instructions for response to aircraft incidents and accidents, bomb incidents, structural fires, natural disasters, sabotage and other unlawful interference with operations, and radiological incidents or nuclear attack. The plan would be required to provide also for medical services, crowd control, removal of disabled aircraft, emergency alarm systems, mutual aid, and a description of control tower functions relating to emergency actions. In addition, the applicant would need to show it has coordinated its emergency plan, in writing, with law enforcement and all other interested persons, and that all airport personnel having duties and responsibilities under its emergency plan are familiar with their assignments and are properly trained.

8. *Self-inspection program.* Most of the commentators favored a self-inspection program. It is proposed in this notice (§ 139.57) that the applicant for certification must show it is equipped and capable of conducting routine daily safety inspections of the airport, and additional inspections in case of the existence of unusual conditions such as during periods of construction and immediately after any incident or accident. The applicant also would be required to show that it has qualified inspection personnel, and operative communications system, and a reporting system to insure prompt corrective actions for unsafe conditions on the airport. In addition, operations rules (§ 139.91) are proposed that would require conducting safety inspections, and maintaining (and keeping for at least 2 years) a record of each of these inspections.

9. *Ground vehicles.* Most of the commentators favored requiring communications between emergency vehicles and control tower, and guidance for operation of airport maintenance and other authorized vehicles on and in the vicinity of aircraft movement areas. However, some objection was stated against requiring two-way radio communications for all vehicles. It is proposed (§ 139.59) that the applicant must show that it has appropriate procedures for the orderly operation of ground vehicles on the airport; that there must be two-way radio communications between tower and all ground vehicles operating on usable runways and taxiways (or escort vehicles with that communication capability, for maintenance or service vehicles without it, when operating on runways, taxiways, aprons, parking areas, or safety areas); and adequate other procedures for other vehicles when operating on aprons, parking areas, or safety areas. On airports with control towers, there must be means by which the firefighting and rescue personnel may be promptly alerted, as well as provisions for continuing communications with vehicles after they leave the fire station. Prearranged signals would be required where there is no tower.

10. *Drainage systems.* As stated above, this item listed in Notice 70–39 is now proposed as a part of the rules concerned with items on pavement areas and safety areas.

11. *Control tower visibility.* Commentators generally opposed the inclusion of this item, asserting that it would create a duplication of effort or that it might lead to moving towers—something that the FAA should pay for. However, it is considered that the matter has sufficient importance to justify rule making. Proposed § 139.61 accordingly would require an applicant for an airport operating certificate for an airport with a control tower to show (a) that the final approaches to each runway, and all parts of the traffic pattern and aircraft landing areas, have clear line of sight from the tower; and (b) that each taxiway connecting with a usable runway is directly and sufficiently visible from the tower to allow positive control of all traffic

thereon at all times. Provision would be made that when an applicant cannot comply with item (a) acceptability of an obstructed condition would be determined through an FAA aeronautical study.

12. *Airport lights.* This item is now proposed as a part of the rules concerned with marking and lighting of runways, thresholds, and taxiways (§ 139.47). The comments generally favored the inclusion of this item.

13. *Obstructions.* The commentators largely asserted the need to confine any rule making to obstructions located on the airport, and a feeling that it was the responsibility of the FAA alone to handle the obstructions problem. However, it is considered that the airport operator has the responsibility of showing that each object on the airport that is identified as an obstruction in Part 77 of the Federal Aviation Regulations is adequately lighted and marked.

14. *Air navigation facilities on airport.* Some commentators felt that this is not a proper item for certification purposes, or that rule making should be confined to inspection to see if navaids work, or that the matter should be one for the FAA. Other commentators favored rule making with assertions that it should be confined to such matters as on-airport interference or "normal security." It is proposed (§ 139.65) that the applicant be required to show that it has procedures for preventing the construction of facilities on the airport that would derogate the signal generated by a navaid thereon, and that is has established protection for all navaids on the airport against vandalism and theft. In this connection, it should be noted that Part 171 of the Federal Aviation Regulations also includes provisions for the maintenance and security of privately owned navaids.

15. *Line of sight along and between runways.* Most of the commentators asserted that this item was unnecessary, properly a matter of airport design only, or a matter that would require substantial use of waiver procedures. After further consideration, the FAA has determined that this matter need not be proposed for rule making at the present time. It is covered for new runways by new airport design standards. It can be solved as an operational problem by air carrier personnel at airports without air traffic control towers. The matter of line of sight on existing runways at airports with air traffic control towers is handled by the controllers.

16. *Security fencing:* Some commentators opposed this item, asserting that the cost is prohibitive, or that in any event fencing could not be made deer-proof in some places without causing obstruction. Other commentators were in favor of this item, especially if the measures required were related to the airport involved or to places where needed. It is proposed (§ 139.67—Public protection) that the applicant for an airport operating certificate must show that it has on the airport adequate devices in operable condition, and procedures, for protection against inadvertent or unauthorized entry of persons or animals into aircraft operations areas.

17. *Smoke control.* Most of the commentators opposed this item, asserting that smoke control is unachievable, especially if the source is beyond the airport. Similarly, the commentators who did favor this item asserted that the matter must be confined to control of smoke originating on the airport. It has been determined that it would be unreasonable to expect airport operators to attempt to provide controls concerned with smoke originating off the airport. Furthermore, this is basically a pollution problem handled under other programs. Accordingly, the item has been dropped as an item for rule making at the present time.

18. *Bird hazard control.* Several commentators favored this item generally with the suggestion that it should be confined to airports where actually needed. Other commentators opposed the item on the grounds that there is no presently known method of control, especially as to migratory birds. However, it is considered appropriate to require (§ 139.69) that the applicant show it has established instructions and procedures for the prevention or removal of factors on the airport that attract or may attract birds to the airport or its vicinity, and for notification of bird hazards to the air carrier users of the airport. Provision would be made to relieve the applicant of this burden if the Administrator finds that a bird hazard does not exist or is not likely to exist.

19. *Airport condition assessment and reporting.* As a result of the meetings with the airport industry and associations of persons using airports, the public comments received in response to Notice 70–39, and further consideration of the matter, an item on airport condition assessment and reporting (actually first covered by item 8 of Notice 70–39) is now proposed (§ 139.71). This provision would require the applicant to show it has appropriate procedures for identifying, assessing, and disseminating information to air carrier users of the airport concerning conditions on and in the vicinity of the airport that affect or may affect the safe operation of aircraft. These procedures would cover construction or maintenance work on pavement or safety areas; rough or wavy portions of pavement or safety areas; the presence and depth of snow, slush, ice, or water on runways or taxiways; the presence of snow drifted or piled on or next to those areas; the presence of parked aircraft or other objects on or next to those areas; the failure or irregular operation of all or part of the airport lighting system; and coefficient of friction measurements. The requirements on disseminating information to air carrier users of the airport would not in any way affect the existing NOTAM procedures.

20. *Identifying, marking, and reporting construction and other unserviceable areas.* As stated under item 1 above, this matter is now proposed as an individual item for rule making. As proposed (§ 139.73), the applicant would be required to show it has procedures for conspicuously identifying all construction areas and other unserviceable pavement and safety areas by marking and lighting them; for routing, marking, and lighting all construction equipment and construction roadways; and for warning air carrier users of the airport as to the existence of closed deceptive, or hazardous construction areas or other unserviceable areas.

The areas now proposed for certification eligibility therefore fall into 16 areas, and each of these is treated separately for certification purposes, in proposed Subpart D—Certification: Eligibility.

Operations rules. In addition to the rules of proposed Subpart D for certification eligibility, a Subpart E—Operations, is also proposed. Section 139.81 would require each person operating an airport for which an airport operating certificate has been issued under Subpart C to operate, maintain, and provide personnel, facilities, equipment, systems, and procedures at least equal in condition, quality, and quantity to the standards currently required for the issue of its airport operating certificate for that airport. In addition, the operator would be required to comply with the additional operations rules of Subpart E. The latter, in §§ 139.83 through 139.93, contain additional rules (respectively as to pavement areas, safety areas, cleaning and replacing lighting items, airport firefighting and rescue equipment and service, self-inspection, and maintenance of approach and other imaginary surfaces) for required action by the airport operator after certification.

Thus, as to pavement areas (§ 139.83), the operator would be required to promptly repair specified cracks, holes, or rough areas; remove snow and other foreign substances and deposits; clean after the use of chemical solvents; use salt-free sand, if any; and prevent ponding of a specified character. In addition, the operator of an airport serving turbojet powered aircraft would be required, at least once each 3 months, to measure runway slipperiness characteristics, and report its findings to each air carrier user of the airport with that kind of aircraft. Similar evaluation and reporting would be required as to any significant change of coefficient of friction or slipperiness characteristics caused by resurfacing, accumulation of rubber deposits, repair, or other circumstances. As to measurement of coefficient of friction, however, as stated above it is anticipated that any final rule issued pursuant to this notice will require this action only after the FAA has approved the type of equipment for measurement.

As to safety areas (§ 139.85), the operator would be required to take the stated appropriate action as to snowdrifts and positioning of snow banks.

As to lighting items (§ 139.87), the operator would be required to clean or replace each item of lighting, as shown necessary upon self-inspections.

As to airport firefighting and rescue service (§ 139.89), the operator would be required to provide the prescribed firefighting and rescue equipment and service during all periods of scheduled aircraft operations; provide cover against freezing for equipment; and take certain prescribed action when required vehicles become inoperable.

As to self-inspection (§ 139.91), the operator would be required to continuously review its self-inspection program; conduct safety inspections at least once each day whenever else needed, as specified; and maintain (and keep for at least 2 years) a record of each required inspection.

As to approach and other imaginary surfaces described in Part 77 of the Federal Aviation Regulations (§ 139.93), the operator would be required to insure, by controlling the construction of objects on the airport, that those surfaces are maintained at least to the condition existing at the time of certification of the airport, except to the extent that further penetration of any of those surfaces is determined to be acceptable to the Administrator through an FAA aeronautical study.

Several commentators on Notice 70–39 suggested that airport managers should be certificated, as well as airports. However, this matter is not an essential factor in the rule making now proposed.

Commentators on Notice 70–39 and at the industry meetings also proposed several additional items, that have not been included in this notice for the following reasons:

1. *Standards for length, width, and strength of runways.* Principal considerations throughout the development of the airport certification program have been that airport design standards would provide safety for the airports covered by this notice, through the controls of the airport development aid program (ADAP); and that aircraft operational controls would assure that their operations are matched to the capacity of the airport. In the light of these considerations, in the judgment of the FAA, the airport certification program need not include standards for length, width, and strength of runways.

2. *Runway overrun and underrun criteria.* Paved overruns and underruns are not considered to be the practical and economical answer to the problem of an aircraft's inadvertently leaving the runway. Runway length and surface texture should provide for aircraft operation within the runway limits. Airport standards call for cleared, graded, and compacted areas extending beyond the ends of runways, rather than paved areas. The FAA encourages the development of this extended safety area at the end of both new and existing runways. In each instance, the project carries a high Federal grant aid priority. Also, operations rules are designed to match the performance of aircraft with the dimensions of the airport used. These rules require that performance data be provided to show the limit that must be proposed upon the operating weight of an aircraft to insure that aircraft operations can be accomplished safely within the effective length of a given runway.

3. *Requirement for airport traffic control tower, ILS at each airport, or, a VASI and REILS for runways without ILS.* The criteria for each of these items are based on operational requirements at the individual airports. Establishment of the items normally is the responsibility of the Federal Government, not that of the airport operator, and Federal programs provide the funds for them, with their scheduling primarily dependent upon the availability of funds.

4. *Noise zoning.* Noise control is covered by other FAA programs.

5. *Secondary airport electric power source.* A high degree of safety in this regard is provided by the Continuous Power Airports Program, the voluntary providing of standby power for many facilities at other airports, and the availability of alternate airports. Since power problems at an airport can be safely met by limiting operations at that airport or closing the airport during a power emergency, and notifying the users, it appears that regularity of aircraft operations, rather than safety, is the basis for any further standby power requirements.

6. *Adequate snow removal equipment.* The requirement of removal of snow from pavement areas and safety areas is proposed by this notice. The type of equipment remains the responsibility of the airport operator, since provisions of a realistic minimum level of adequacy can not be specifically established.

This rule-making action is proposed under the authority of sections 313(a), 609, 610(a), and 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1429, 1430; Public Law 91–258, 84 Stat. 234, 235).

In consideration of the foregoing, it is proposed to amend Title 14 of the Code of Federal Regulations by adding the following new Part 139.

Issued in Washington, D.C., on May 10, 1971.

CHESTER G. BOWERS,
Director, Airports Service, AS–1

PART 139—CERTIFICATION AND OPERATIONS: AIRPORTS SERVING CAB-CERTIFICATED SCHEDULED AIR CARRIERS OPERATING LARGE AIRCRAFT (OTHER THAN HELICOPTERS)

Subpart A—General

Subpart B—Certification

Subpart C—Operations Manual

Subpart D—Certification: Eligibility

Subpart E—Operations

Subpart A—General

§ 139.1 Applicability.

(a) This part prescribes rules governing the certification and operation of airports regularly serving scheduled air carriers that hold certificates of public convenience and necessity issued by the Civil Aeronautics Board and operate large aircraft (other than helicopters).

(b) As used in this part:

(1) "Air carrier user" means a scheduled air carrier holding a certificate of public convenience and necessity issued by the Civil Aeronautics Board and operating large aircraft (other than helicopters).

(2) "Certificated airport" means an airport that has been certificated under Subpart B of this part.

§ 139.3 Certification: general.

After May 20, 1972, no person may operate an airport serving CAB-certificated air carriers in any State of the United States, the District of Columbia, or any territory or possession of the United States, without or in violation of an airport operating certificate for that airport, or in violation of this part or the approved operations manual for that airport.

§ 139.5 Inspection authority.

Each applicant for an airport operating certificate, and each certificate holder for or operator of a certificated airport, shall allow the Administrator, at any time, to make any inspection or test to

determine its compliance with the Federal Aviation Act of 1958, the Federal Aviation Regulations, the certificate, and the approved operations manual, and the eligibility of the certificate holder to continue to hold its certificate.

§ 139.7 Amendment of certificate.

(a) The Administrator may amend any airport operating certificate issued under this part—

(1) Upon application by the certificate holder, if the Administrator determines that safety in air transportation and the public interest allows the amendment; or

(2) Under section 609 of the Federal Aviation Act of 1958 (49 U.S.C. 1429) and Part 13 of this chapter if the Administrator determines that safety in air transportation and the public interest requires the amendment.

(b) An applicant for an amendment to an airport operating certificate must file its application with the FAA Airport field office in whose area the airport is located, at least 15 days before the proposed effective date of that amendment, unless a shorter filing period is allowed by that office.

(c) At any time within 30 days after receiving from the appropriate FAA Airport field office a notice of refusal to approve the application for amendment, the certificate holder may petition the Administrator personally to reconsider the refusal to amend.

§ 139.9 Amendment of operations manual.

(a) The Administrator may amend any operations manual issued under this part—

(1) Upon application by the certificate holder, if the Administrator determines that safety in air transportation and the public interest allows the amendment; or

(2) If the Administrator determines that safety in air transportation and the public interest requires the amendment.

(b) In the case of an amendment under paragraph (a)(2) of this section, the Administrator notifies the certificate holder, in writing, fixing a reasonable period (but not less than 7 days) within which the certificate holder may submit written information, views, and arguments on the amendment. After considering all relevant material presented, the Administrator notifies the certificate holder of any amendment adopted, or rescinds the notice. The amendment becomes effective not less than 30 days after the certificate holder receives notice of it, unless the certificate holder petitions the Administrator personally to reconsider the amendment, in which case its effective date is stayed pending a decision by the Administrator. If the Administrator finds that there is an emergency requiring immediate action with respect to safety in air transportation, that makes the procedure in this paragraph impracticable or contrary to the public interest, he may issue an amendment, effective without stay, on the date the holder receives notice of it. In such a case, the Administrator incorporates the finding, and a brief statement of the reasons for it, in the notice of the amended certificate or operations manual to be adopted.

(c) An applicant for an amendment to its operations manual must file its application with the appropriate FAA Airport field office in whose area the airport is located, at least 15 days before the proposed effective date of that amendment unless a shorter filing period is allowed by that office.

(d) At any time within 30 days after receiving from the appropriate FAA Airport field office a notice of refusal to approve the application for amendment, the certificate holder may petition the Administrator personally to reconsider the refusal to amend.

Subpart B—Certification

§ 139.11 Issue of certificate.

An applicant for the issue of an airport operating certificate under this subpart is entitled to a certificate if—

(a) It regularly serves air carrier users; and

(b) The Administrator, after investigation, finds that the applicant is properly and adequately equipped and able to conduct a safe operation in accordance with this part, and approves the operations manual submitted with the application.

§ 139.13 Application for certificate.

(a) Each applicant for the issue of an airport operating certificate under this subpart must submit its application on a form and in the manner prescribed by the Administrator, accompanied by its operations manual prescribed by Subpart C of this part, to the appropriate FAA Airport field office in whose area the applicant proposes to establish or has established its airport. Each applicant whose airport is in operation before (effective date of this part) must submit its application no later than (60 days after effective date of this part). Each applicant whose airport is not in operation before (effective date of this part) must submit its application at least 90 days before the date of intended operations.

(b) Each application submitted under paragraph (a) of this section must contain a signed statement showing—

(1) The name and address of the airport;

(2) The name and address of the owner of the airport; and

(3) The name and address of the operator of the airport.

(c) Each operations manual submitted under paragraph (a) of this section must be prepared in accordance with and contain the information prescribed by, §§ 139.31 and 139.33, respectively, of this Part.

§ 139.15 Contents of certificate.

Each airport operating certificate issued under this subpart contains—

(a) The names of the airport and of the owner and operator of the airport:

(b) The kinds of operations authorized for use by the certificate;

(c) Airport limitations; and

(d) Any other item that the Administrator determines is necessary to cover a particular situation.

§ 139.17 Duration of certificate.

(a) An airport operating certificate issued under this subpart is effective until it is surrendered or the Administrator suspends, revokes, or otherwise terminates it.

(b) The Administrator may suspend or revoke an airport operating certificate under section 609 of the Federal Aviation Act of 1958 and the applicable procedures of Part 13 of this chapter for any cause that, at the time of suspension or revocation, would have been grounds for denying an application for a certificate.

§ 139.19 Waivers and deviations.

(a) The Administrator may by an appropriate provision in or amendment to the operations manual waive, in whole or in part, compliance with any requirement of Subpart D or E of this part if—

(1) Application for the waiver is filed at least 30 days before operations under the waiver are proposed; and

(2) The Administrator finds that the waiver is in the public interest and that an equivalent level of safety in air transportation will be provided by alternate means proposed by the applicant or certificate holder.

(b) In emergency conditions the Administrator may authorize deviations for operations if those conditions require the transportation of persons or supplies for the protection of life or property and he finds that a deviation is necessary for the expeditious conduct of the operation.

§ 139.21 Personnel required.

Each applicant for an airport operating certificate under this subpart must show that it has sufficient qualified personnel employed by it to provide the highest degree of safety in its operations.

Subpart C—Operations Manual

§ 139.31 Preparation and maintenance.

(a) Each applicant for an airport operating certificate must prepare and submit for approval by the Administrator, with its application for a certificate, its operations manual identifying—

(1) The means and procedures the applicant uses to meet the certification and operations rules prescribed by this part; and

(2) The duties and responsibilities of operations personnel in conducting the operations of the airport.

(b) Each certificate holder shall keep its operations manual current at all times after it is approved.

(c) Each certificate holder shall maintain at least one complete copy of its approved operations manual at its principal operations office, and shall make it available for inspection upon the reasonable request of the Administrator.

§ 139.33 Contents.

(a) Each operations manual required by § 139.31 must—

(1) Include all of the information necessary to show the means and procedures, in detail, used to comply with each certification and operations rule prescribed by Subpart D or E of this part;

(2) Include instructions and information necessary to allow the personnel concerned with operating the airport to perform their duties and responsibilities with the highest degree of safety;

(3) Include operational lines of succession;

(4) Include airport familiarization, such as gridmaps, terrain features, traffic patterns, runway identification, obstructions, and taxiways;

(5) Include separate descriptions of aircraft operations areas and other areas;

(6) Include appropriate references to Federal Aviation Regulations;

(7) Include a current utility layout plan for the airport, and procedures for avoidance of interruption or failure of utility facilities or navaids during construction work;

(8) Be in a form that is easy to revise;

(9) Have the date of the last revision on each page concerned; and

(10) Not be contrary to any Federal regulation or the applicable airport operating certificate.

(b) The operator of each certificated airport shall require its airport personnel to comply with the operations manual prescribed by paragraph (a) of this section in the performance of their duties and responsibilities.

Subpart D—Certification: Eligibility

§ 139.41 Eligibility requirements: general.

To be eligible for an airport operating certificate, an applicant must—

(a) Comply with the applicable requirement of Subparts A, B, and C of this part; and

(b) Comply with each applicable section of this subpart.

§ 139.43 Pavement areas.

The applicant for an airport operating certificate must show that, for runway pavement areas on its airport—

(a) Runway pavement roughness does not vary more than one inch when measured with a 16-foot straight edge parallel to or at right angles to centerlines;

(b) Stone aggregate used for top course of surface treatment or seal coat of runway pavement does not exceed one-quarter inch in size; and

(c) Pavement lips do not exceed 3 inches difference in elevation between full strength pavement (runway, taxiway, or apron) and adjacent shoulders.

§ 139.45 Safety areas.

(a) The applicant for an airport operating certificate must show that on its airport—

(1) No safety area has any rut, depression, hump, or variation from the normal grade exceeding 6 inches;

(2) No object is located in a safety area, except objects that must be maintained in safety areas because of their functions and that are constructed on frangibly mounted supporting structures of minimum practical height; and

(3) To prevent ponding, it has a storm sewer system sufficient to adequately handle the drainage or the topography of the airport allows direct runoff of water.

(b) As used in this section, "safety areas" are the following:

(1) "Runway safety area" a cleared, drained, graded, and (usually) turfed area abutting the edges of the usable runway and a symmetrical rectangle located about and extending at least 200 feet beyond the runway.

(2) "Taxiway safety area" a cleared, drained, graded, and (usually) turfed area abutting the edges of the taxiway and symmetrically located about the taxiway.

(3) "Extended runway safety area" where provided, a rectangular area along the extended runway centerline, that begins 200 feet outward from the end of the usable runway.

§ 139.47 Marking and lighting runways, thresholds, and taxiways.

(a) The applicant for an airport operating certificate must show that any items of runway, taxiway, and threshold lighting listed in this paragraph that it has on its airport are in operable condition.

(1) Runway and taxiway items:

(i) Elevated runway and taxiway lights.

(ii) Apron edge taxiing lights.

(iii) Category II and Category III lighting (when approved and installed).

(iv) Taxiway centerline lights.

(2) Rotating airport beacon.

(3) Obstruction lights.

(4) Approach aid lighting owned by the applicant: SAVASI, REILS, and VASI–2, each properly aimed; and MALS giving proper guidance to the user.

An airport lighting item is considered inoperable if, during periods of use, it fails to adequately illuminate its area or creates a lighting effect that misleads or confuses the user.

(b) The applicant must also show that it has on its airport a sufficient supply of emergency lights, conveniently available for installation on at least the main runway (if lighted) in case of failure of the primary lighting system.

(c) The applicant must also show that any taxiway lights and guidance signs installed on its airport are in operable condition.

(d) The applicant must also show that all surface apron, vehicle parking, roadway, and building illumination lighting on its airport is so designed, adjusted, or shielded as not to blind or hinder air traffic control or aircraft operations.

(e) The applicant must also show that any of the following marking on its airport is clearly visible and in good condition:

(1) Runway centerline, threshold, touchdown zone, and designation marking.

(2) Taxiway centerline marking.

(3) Markings indicating ILS critical areas.

(4) Holding lines for Category II operations and for taxiways.

§ 139.49 Airport firefighting and rescue equipment and service.

The applicant for an airport operating certificate must show that it has on its airport, during air carrier user operations, at least the firefighting and rescue equipment with the vehicle response-time capability and trained personnel prescribed in this section.

(a) The applicant must show that it has at least the required firefighting and rescue equipment assigned to the appropriate following index. Each index applies to the departure of at least one large aircraft operated by an air carrier user. However, if the applicant shows that it serves, or expects to serve, fewer than an average of five scheduled departures per day of such aircraft, the required firefighting and rescue equipment assigned to the next lower index applies, except as provided in the flush paragraph in paragraph (a) (1) of this section.

(1) *Index No. I: aircraft no more than 90 feet long.* One light weight vehicle providing at least either 500 pounds of dry chemical extinguishing agents, or 450 pounds of dry chemical and 50 gallons of water for aqueous film forming foam (AFFF) production.

However, when at the time of application the applicant shows that it serves or expects to serve Index No. II turbine engine powered aircraft, but fewer than an average of five scheduled departures per day, a light weight vehicle providing at least 500 gallons of water and 300 pounds of dry chemical is required for an Index No. I airport.

(2) *Index No. II: aircraft more than 90 and not more than 126 feet long.* One light weight vehicle with the dry chemical requirement for Index No. I, and one additional self-propelled fire extinguishing vehicle. The total quantity of water for foam production required for this Index is 1,500 gallons.

(3) *Index No. III: aircraft more than 126 and not more than 160 feet long.* One light weight vehicle with the dry chemical requirement for Index No. I, and two additional self-propelled fire extinguishing vehicles. The total quantity of water for foam production required for this Index is 3,000 gallons.

(4) *Index No. IV: aircraft more than 160 and not more than 200 feet long.* One light weight vehicle and the dry chemical requirement for Index No. I, and two additional self-propelled fire extinguishing vehicles. The total quantity of water for foam production required for this Index is 4,000 gallons.

(5) *Index No. V: aircraft more than 200 feet long.* One light weight vehicle with the dry chemical requirement for Index No. I, and two additional self-propelled fire extinguishing vehicles. The total quantity of water for foam production required for this index is 6,000 gallons.

(b) Except as provided in paragraph (a) (1) of this section, when at the time

of application the applicant shows that it serves or expects to serve fewer than an average of five scheduled departures per day, the required firefighting and rescue equipment assigned to the next lower index applies. However, the requirements may not fall below those prescribed in paragraph (a) (1) for Index No. I.

(c) The quantity of water specified in paragraph (a) (1), or in subparagraph (2), (3), (4), or (5) of paragraph (a) of this section is exclusive of any foam concentrate. The quantity may be reduced by one-third when used in conjunction with aqueous film forming foam (AFFF).

(d) Each firefighting and rescue vehicle carrying under 4,000 gallons of water and used at Indexes II through V airports must be capable of discharging one complete charge of agent in not less than 1¾ minutes nor more than 2¼ minutes with all discharge orifices open. Each vehicle carrying 4,000 or more gallons of water must be capable of discharging at a minimum rate of at least 1,800 gallons per minute.

(e) An airport in Index No. II, III, IV, or V may replace up to 30 percent of the water specified with additional dry chemical above the basic amount specified for each index. Two and eight-tenths pounds of dry chemical is considered the equivalent of 1 gallon of water for this purpose.

(f) The applicant must show by a demonstration run that the firefighting and rescue vehicles required by the applicable Index can as a group reach any portion of the airport used for landing, takeoff, or surface maneuvering of aircraft within 3 minutes from the time of the alarm to the time of initial agent application.

(g) The applicant must show that each item of required firefighting and rescue equipment is appropriately marked and lighted to insure rapid and positive identification. Each emergency vehicle used on an aircraft operations area must have either a flashing red or a flashing red and white beacon. The color of each vehicle must insure contrast with the background environment for easy identification.

(h) The applicant must show that it has the capability to—

(1) Operate and maintain all required firefighting and rescue equipment in operable condition;

(2) Provide cover for all required firefighting and rescue equipment if the airport is located in a geographical area subject to prolonged temperature below 33° Fahrenheit; and

(3) Alert and maintain communications with firefighting and rescue personnel of any existing or impending emergency that requires, or might require, their use.

(i) The applicant must show that it has in its employ, provided with appropriate protective clothing, sufficient qualified firefighting and rescue personnel to insure at least 85 percent of the required maximum agent discharge rate of its firefighting equipment, and to perform any rescue services that may be required.

(j) The applicant must show that its firefighting and rescue personnel are sufficiently trained to insure that the personnel are familiar with the operation of the firefighting and rescue equipment and understand the basic principles of firefighting, rescue techniques, and first aid treatment.

§ 139.51 Handling and storing hazardous articles and materials.

(a) The applicant for an airport operating certificate must show that it (or its tenant on the airport), as the cargo handling agent, has adequate controls and procedures listed herein to protect property and persons on the airport during the handling and storing of hazardous articles and materials that are or are intended to be aircraft cargo while they are on the airport. These articles and materials include flammable liquids and solids, corrosive liquids, compressed gases, and magnetized or radioactive materials. The following controls and procedures are required:

(1) Designated personnel to receive and handle hazardous articles and materials.

(2) Assurance from the shipper that the cargo can be handled safely, including any special handling procedures required for safety.

(3) Provision of special areas for storage while on the airport.

(b) The applicant for an airport operating certificate must show that it (or its tenant), as the fueling agent, has a sufficient number of trained personnel and procedures for safely storing, dispensing, and otherwise handling fuel, lubricants, and oxygen on the airport (other than articles and materials that are or are intended to be aircraft cargo), including—

(1) Grounding and fire protection;

(2) Public protection;

(3) Control of access to storage areas; and

(4) Marking and labeling storage tanks and tank trucks, including identification of specific types and fuel octane designations.

§ 139.53 Traffic and wind direction indicators.

The applicant for an aircraft operating certificate must show that it has on the airport the following:

(a) Wind direction indicators, including wind tees or wind socks, lighted and installed to provide appropriate wind direction information.

(b) Segmented circle traffic pattern indicators, if the airport has no air traffic control tower.

§ 139.55 Emergency plan.

(a) The applicant for an airport operating certificate must show that it has an emergency plan that insures immediate response to all emergencies and other unusual conditions in order to minimize the possibility and extent of personal and property damage on the airport. The plan must be sufficiently detailed to provide adequate guidance to all concerned.

(b) The emergency plan must provide for the following:

(1) Instructions for response to—

(i) Aircraft incidents and accidents;

(ii) Bomb incident procedures including designated parking areas for the aircraft involved;

(iii) Structural fires;

(iv) Natural disasters;

(v) Sabotage and other unlawful interference with operations; and

(vi) Radiological incidents or nuclear attack.

(2) Medical services.

(3) Crowd control.

(4) Removal of disabled aircraft.

(5) Emergency alarm systems.

(6) Mutual assistance with other local safety and security agencies.

(7) A description of control tower functions relating to emergency actions.

(c) The applicant must show that before applying it has coordinated its emergency plan, in writing, with law enforcement and firefighting and rescue agencies, medical resources, the principal tenants at the airport, and all other interested persons.

(d) The applicant must show that all airport personnel having duties and responsibilities under its emergency plan are familiar with their assignments and properly trained.

§ 139.57 Self-inspection program.

The applicant for an airport operating certificate must show that—

(a) It is equipped and capable of conducting safety inspections of its airport daily, and additionally when unusual conditions exist thereon such as during periods of construction and immediately after any incident or accident;

(b) It has qualified inspection personnel to make the inspections;

(c) It has an operative communications system to insure reliable and rapid communications between its airport personnel and users; and

(d) It has a reporting system to insure prompt corrective actions for unsafe conditions on the airport.

§ 139.59 Ground vehicles.

(a) The applicant for an airport operating certificate must show that it has appropriate procedures and arrangements for the orderly operations of ground vehicles on the airport covering vehicles, operator licenses, visible identification, speed, passenger occupancy, right-of-way, parking, and training for operators of vehicles.

(b) The applicant also must show that it provides the applicable following communications system in operable condition:

(1) For an airport with an air traffic control tower—

(i) Except as provided in subdivision (ii) of this subparagraph, two-way radio communications between the tower and all ground vehicles operating on usable runways or taxiways;

(ii) Escort vehicles equipped with two-way radio communications with the tower, to accompany a maintenance or service ground vehicle without those

communications, when operating on runways or taxiways;

(iii) Adequate other procedures to govern the movement of all ground vehicles when operating on aprons, parking areas, or safety areas, and;

(iv) Prearranged signals for the movement of ground vehicles operated on any other area where aircraft operations take place.

(2) For an airport without an air traffic control tower, adequate procedures to control ground vehicles through prearranged signs or signals.

§ 139.61 Control tower visibility.

(a) Except as provided in paragraph (b) of this section, the applicant for an airport operating certificate for an airport with an air traffic control tower must show that—

(1) The final approaches to each runway, and all parts of the traffic pattern and aircraft landing areas, are within clear line of sight from the tower; and

(2) Each taxiway connecting with a usable runway is within sufficiently clear line of sight from the tower to allow postive control of all traffic thereon at all times.

(b) Where an applicant cannot comply with paragraph (a) (1) or (2) of this section the acceptability, to the Administrator, of an obstruction condition is determined through an FAA aeronautical study.

§ 139.63 Obstructions.

The applicant for an airport operating certificate must show that each object in any area within its authority that is identified as an obstruction in Part 77 of this chapter, is adequately lighted and marked.

§ 139.65 Protection of navaids.

The applicant for an airport operating certificate must show that—

(a) It has procedures for preventing the construction of facilities on its airport that would derogate the signal generated by a navaid thereon; and

(b) It has established protection of all navaids on its airport against vandalism and theft.

§ 139.67 Public protection.

The applicant for an airport operating certificate must show that it has on the airport adequate devices in operable condition and procedures for protection against inadvertent or unauthorized entry of persons or animals into any area where aircraft are operated.

§ 139.69 Bird hazard reduction.

The applicant for an airport operating certificate must show that it has established instructions and procedures for—

(a) The prevention or removal of factors on the airport that attract, or may attract, birds to the airport or its vicinity; and

(b) Notification of bird hazards to the air carrier users of the airport.

However, the applicant need not show that it has established the instructions and procedures required by this section if the Administrator finds that a bird hazard does not exist and is not likely to exist.

§ 139.71 Airport condition assessment and reporting.

(a) The applicant for an airport operating certificate must show that it has appropriate procedures for identifying, assessing, and disseminating information to air carrier users of the airport, in addition to Notices to Airmen, concerning conditions on and in the vicinity of its airport that affect, or may affect, the safe operation of aircraft.

(b) The procedures prescribed by paragraph (a) of this section must cover the following conditions:

(1) Construction or maintenance work on pavement or safety areas.

(2) Rough or wavy portions of pavement or safety areas.

(3) The presence and depth of snow, slush, ice, or water on runways or taxiways.

(4) The presence of snow drifted or piled on, or next to, runways or taxiways.

(5) The presence of parked aircraft or other objects on, or next to, runways or taxiways.

(6) The failure or irregular operation of all or part of the airport lighting system, including the approach, threshold, runway, taxiway, and obstruction lights operated by the operator of the airport.

(7) Coefficient of friction measurements.

§ 139.73 Identifying, marking, and reporting construction and other unserviceable areas.

(a) The applicant for an airport operating certificate must show that it has appropriate procedures for the following:

(1) Conspicuously identifying all construction areas and other unserviceable pavement and safety areas by marking and lighting them.

(2) Routing, marking, and lighting all construction equipment and construction roadways.

(3) Identifying and marking any area made unserviceable by interruption or failure of utility facilities or navaids.

(b) The applicant must show that it has procedures for warning air carrier users of the airport, by appropriate communications, as to the existence of closed, deceptive, or hazardous construction areas or other unserviceable areas or facilities.

Subpart E—Operations

§ 139.81 Operations rules: general.

Each person operating an airport for which an airport operating certificate has been issued under Subpart B of this part shall—

(a) Operate, maintain, and provide personnel, facilities, equipment, systems, and procedures at least equal in condition, quality, and quantity to the standards currently required for the issue of the airport operating certificate for that airport; and

(b) Comply with the additional rules of this subpart.

§ 139.83 Pavement areas.

(a) The operator of each certificated airport shall—

(1) Promptly repair each crack, hole, or rough area in a runway pavement area on the airport that exceeds 3 inches measured in width or depth;

(2) Promptly, and as completely as practical, remove from runway pavement areas on the airport all snow, ice, slush, standing water, mud, dust, sand, loose aggregate, rubber deposits, or other contaminents;

(3) Clean the chemical solvents off any runway pavement area on the airport immediately after the solvent is used to remove a rubber deposit;

(4) Where sand is used on ice on a runway pavement area on the airport, use only salt-free sand that adheres to the snow or ice sufficiently to minimize aircraft engine ingestion of the sand;

(5) Promptly prevent any ponding exceeding 2 inches in depth on a runway pavement area caused by draining along runway edges; and

(6) Promptly prevent ponding, on paved taxiways and aprons, that has a depth or other dimension that would obscure markings so as to mislead traffic thereon.

(b) The operator of each certificated airport serving turbojet powered aircraft shall measure runway slipperiness characteristics for normally expected seasonal variations of runway conditions including dry, wet, flooded, or snow-, slush-, or ice-covered runways.

(1) The operator shall take these measurements for each usable runway at least once in each 3-month period.

(2) The operator shall report its findings after each measurement to each air carrier user of the airport operating turbojet powered aircraft.

(3) The operator shall promptly evaluate, and report its findings to each air carrier user of the airport operating turbojet powered aircraft, as to any deterioration of coefficient of fraction or slipperiness characteristics caused by resurfacing, accumulation of rubber deposits, repair, or other circumstance.

§ 139.85 Safety areas.

The operator of each certificated airport shall move any drifted snow and position any snow bank off usable runway surfaces, in height so regulated that all aircraft propellers, engine pods, and wingtips will clear snowdrifts and snowbanks when the aircraft's most critical landing gear is located at any point along the full strength edge of the runway, taxiway, or apron area.

§ 139.87 Cleaning and replacing lighting items.

The operator of each certificated airport shall clean or replace each item of lighting on its airport as shown necessary upon self-inspections.

§ 139.89 Airport firefighting and rescue equipment and service.

(a) The operator of each certificated airport shall at all times comply with the following:

(1) It shall provide its required firefighting and rescue equipment and service during all periods of scheduled aircraft operations.

(2) It shall provide cover for all required firefighting equipment when the airport is located in a geographical area subject to prolonged temperature below 33° F.

(3) When any required firefighting or rescue vehicle becomes inoperable, it shall provide appropriate replacement equipment within 8 hours thereafter. However, if appropriate replacement equipment is not available within that period, it shall promptly issue a Notice to Airmen. When a Notice to Airmen is issued, and the service level is not restored within 72 hours after the vehicle becomes inoperable, the operator shall, until that service level is restored, limit the air carrier user operations on the airport to the requirements of the index (no lower than Index No. I) prescribed in § 139.49 that provides the protection capability of the remaining equipment and promptly notify the air carrier users accordingly.

(b) If the operator serves or expects to serve any large aircraft operated by an air carrier user that falls within a higher Index, it shall operate and maintain the required firefighting equipment assigned to that higher index prescribed in § 139.49 of this part.

(c) If the operator serves or expects to serve fewer than an average of five scheduled departures per day of large aircraft within an index, operated by air carrier users, it may operate and maintain the required firefighting equipment assigned to the next lower index prescribed in § 139.49.

§ 139.91 Self-inspection.

(a) The operator of each certificated airport shall continuously review its self-inspection program to insure that prompt and accurate corrective action is taken to eliminate unsafe conditions on the airport.

(b) The operator shall—

(1) Conduct a safety inspection of the airport at least once each day; and

(2) Conduct an additional safety inspection whenever required by the circumstances, pertinent to construction, to rapidly changing meteorological conditions, to and immediately after any incident or accident, or to any other unusual condition of the airport.

(c) The operator shall maintain, and keep for at least two years, a record of each inspection prescribed by paragraph (b) of this section that shows the conditions found and any corrective action taken.

§ 139.93 Maintenance of approach and other imaginary surfaces.

The operator of each certificated airport shall, by controlling the construction of objects in any area within its authority, insure that the approach and other imaginary surfaces described in Part 77 of this chapter are maintained at least to the condition existing at the time of certification of the airport, except to the extent that further penetration of any of those surfaces is determined to be acceptable to the Administrator through an FAA aeronautical study.

[F.R. Doc. 71-6709 Filed 5-13-71; 8:46 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[Ex Parte No. 266 (Sub-No. 1)]

INVESTIGATION INTO THE SCOPE OF FREIGHT FORWARDER TERMINAL AREAS

Notice of Proposed Rule Making

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 29th day of April 1971.

This proceeding is directed to an examination into and consideration of the scope of the terminal areas within which motor vehicle transfer, collection, or delivery services may be performed by or on behalf of freight forwarders subject to part IV of the Interstate Commerce Act, which motor vehicle service would be exempt from economic regulation under part II of the statute pursuant to the provisions of section 202(c) of the Act, with a view toward determining whether the territorial extent of such terminal areas should be extended with or without the imposition of appropriate terms, conditions, or limitations. In Ex Parte No. 266, Investigation into the Status of Freight Forwarders, decided January 19, 1971, we considered in detail the condition of the forwarding industry and concluded that the time had come to alter certain traditional concepts relative to this mode of transportation. Thus, in our major finding, we indicated our support of proposed legislation that would enable freight forwarders to enter into negotiated rate arrangements with railroads. It was also recognized that another way in which forwarding as a mode of transportation might be revitalized would be by a general expansion of the terminal areas within which they perform transfer, collection, or delivery services.

Freight forwarders assemble the small shipments of many shippers and consolidate them into carload, truckload, or other volume lots at so-called concentration points. They then ship this consolidated traffic by common carrier to the general vicinity of its ultimate destination, where the truckload or carload lots are broken down and the individual shipments are delivered to the ultimate consignees. The forwarder makes its profit on the spread between the higher less-than-carload or less-than-truckload rate it charges its customers and the lower truckload or carload rate it pays the underlying carrier performing the actual movement of the goods.

Except to the limited extent indicated below, the Interstate Commerce Act does not allow forwarders to use their own equipment to perform any transportation services. Rather, they must rely upon the service of for-hire common carriers by rail, motor, and water subject respectively to parts I, II, and III of the Act. Thus, traditionally, the forwarders use for-hire motor carriers for the assembly and distribution of individual shipments, and employ the more efficient and economical volume services of rail carriers for the line-haul movement of the consolidated traffic. The single exception to the above rule is that, within their terminal area, the forwarders may operate their own equipment, or hire the services of another as their agent or under contractual arrangement, for the performance of collection, delivery, or transfer services. See section 202(c) of the Act, 49 U.S.C. 302(c). The forwarders have always complained, however, of the high cost of using for-hire motor transportation, especially for assembly and distribution. The authority to negotiate lower rates for such services (section 409 of the Act, 49 U.S.C. 1009) appears to have improved this situation only slightly. The result has been that forwarders have limited the territories which they serve principally to those areas in and around major production and consumption centers, largely to the exclusion of many outlying points.

Our report in Ex Parte No. 266 (pp. 139–145 of the preliminary print) considered the possible advantages of allowing forwarders to operate their own equipment within wider territories. Initially, it would appear that their expenses would be reduced and that they could therefore offer their services to outlying points within a broader territory and to more shippers. The result might be improved services to the public with concomitant increases in forwarders' (and through them, railroads') participation in the transportation of small shipments traffic.

Our report noted, however, that many of those who might be most directly, and adversely, affected by an expansion of freight forwarder terminal areas were not parties to Ex Parte No. 266 and might not have received adequate notice that such action might result. Therefore, in order to accord all interested parties an opportunity to express their positions and to protect their interests, and to allow us to consider in depth all possible ramifications of such action, it was determined that the issues relating to the territorial expansion of forwarder terminal areas should be considered in a separate proceeding. It is for this purpose that the instant investigation and rulemaking proceeding is instituted.

It is ordered, That based upon the foregoing explanation and good cause appearing therefor, a proceeding be, and it is hereby, instituted under the authority of parts II and IV of the Interstate Commerce Act, and more specifically sections 202(c) (1) and (2), 204(a) (1),

(6), and (7), and 403 (a) and (e) thereof, and 5 U.S.C. 553 and 559 (the Administrative Procedure Act), to inquire into the scope of the terminal areas within which motor vehicle transfer, collection, and delivery services may be performed by or on behalf of freight forwarders subject to part IV of the Act, which motor vehicle services would be exempt from economic regulation under part II of the statute pursuant to the provisions of section 202(c) of the Act, with a view toward determining whether the territorial extent of such terminal areas should be extended with or without the imposition of appropriate terms, conditions, or limitations.

It is further ordered, That no oral hearings be scheduled for the receiving of testimony in this proceeding unless a need therefor should later appear, but that carriers or any other interested persons may participate in this proceeding by submitting for consideration written statements of facts, views, and arguments on the subjects mentioned above, or any other subjects pertinent to this proceeding.

It is further ordered, That any person intending to participate in this proceeding by submitting initial statements or reply statements shall notify this Commission, by filing with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, on or before June 10, 1971, the original and one copy of a statement of his intention to participate; that this Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties to this proceeding, upon whom copies of all statements must be filed; and that at the time of the service of the service list this Commission will fix the time within which initial statements and replies must be filed.

And it is further ordered, That a copy of this notice and order be served upon all parties to the original proceeding in Ex Parte No. 266, and mailed to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation; that a copy be posted in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and that a copy be delivered to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-6705 Filed 5-13-71;8:45 am]

Notices

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 13]

SALES OF CERTAIN COMMODITIES

Monthly Sales List

The CCC Monthly Sales List for the fiscal year ending June 30, 1971, published in 35 F.R. 10922, is amended as follows:

1. Section 33 entitled "Linseed Oil (Raw) Unrestricted Use Sales", is amended by the insertion of the following sentence after the first sentence:

For May the price will be $0.1120 per pound.

Signed at Washington, D.C., on May 6, 1971.

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

[FR Doc.71-6747 Filed 5-13-71;8:51 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. Sub-B-13]

BAY STATE TRAWLER CORP.

Notice of Hearing, Transfer of Fishery

MAY 11, 1971.

Bay State Trawler Corp., has applied for permission to transfer the operations of the 124-foot length overall fishing vessel "Bay State", constructed with the aid of a fishing vessel construction-differential subsidy, from the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), to the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), herring, and lobsters.

Notice is hereby given pursuant to the provisions of the U.S. Fishing Fleet Improvement Act, as amended (46 U.S.C. 1401 et seq.) and Notice and Hearing on Subsidies (50 CFR Part 257) and Reorganization Plan No. 4 of 1970, that a hearing in the above-entiled proceedings will be held on June 17, 1971, at 11 a.m., d.s.t., in Hearing Room B, 11th floor, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA. Any person desiring to intervene must file a petition of intervention with the Director, National Marine Fisheries Service, Interior Building, Washington, DC 20235, as prescribed in 50 CFR Part 257 at least 10 days prior to the date set for the hearing. If such petition of intervention is granted, the place of the hearing may be changed to a field location. Telegraphic notice will be given to the parties in the event of such a change along with the new location.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[FR Doc.71-6764 Filed 5-13-71;8:47 am]

[Docket No. Sub-B-12]

BOAT CAMDEN, INC.

Notice of Hearing Transfer of Fishery

MAY 11, 1971.

Boat Camden, Inc., has applied for permission to transfer the operations of the 83-foot 9½-inch length overall fishing vessel "Navigator" constructed with the aid of a fishing vessel construction-differential subsidy, from the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), to the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), flounders, scallops, and lobsters.

Notice is hereby given pursuant to the provisions of the U.S. Fishing Fleet Improvement Act, as amended (46 U.S.C. 1401 et seq.) and Notice and Hearing on Subsidies (50 CFR Part 257) and Reorganization Plan No. 4 of 1970, that a hearing in the above-entitled proceedings will be held on June 17, 1971, at 11 a.m., d.s.t., in Hearing Room B, 11th floor, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA. Any person desiring to intervene must file a petition of intervention with the Director, National Marine Fisheries Service, Interior Building, Washington, DC 20235, as prescribed in 50 CFR Part 257 at least 10 days prior to the date set for the hearing. If such petition of intervention is granted, the place of the hearing may be changed to a field location. Telegraphic notice will be given to the parties in the event of such a change along with the new location.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[FR Doc.71-6765 Filed 5-13-71;8:47 am]

[Docket No. Sub-B-6]

BOSTON FISHING BOAT CO., INC.

Notice of Hearing Transfer of Fishery

MAY 11, 1971.

Boston Fishing Boat Co., Inc., has applied for permission to transfer the operations of the 124-foot length overall fishing vessel "Massachusetts", constructed with the aid of a fishing vessel construction-differential subsidy, from the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), to the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), herring, and lobsters.

Notice is hereby given pursuant to the provisions of the U.S. Fishing Fleet Improvement Act, as amended (46 U.S.C. 1401 et seq.) and Notice and Hearing on Subsidies (50 CFR Part 257) and Reorganization Plan No. 4 of 1970, that a hearing in the above-entitled proceedings will be held on June 17, 1971, at 11 a.m., d.s.t., in Hearing Room B, 11th floor, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA. Any person desiring to intervene must file a petition of intervention with the Director, National Marine Fisheries Service, Interior Building, Washington, DC 20235, as prescribed in 50 CFR Part 257 at least 10 days prior to the date set for the hearing. If such petition of intervention is granted, the place of the hearing may be changed to a field location. Telegraphic notice will be given to the parties in the event of such a change along with the new location.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[FR Doc.71-6766 Filed 5-13-71;8:47 am]

[Docket No. Sub-B-2]

JACOBSEN FISHING CO., INC.

Notice of Hearing Transfer of Fishery

MAY 11, 1971.

Jacobsen Fishing Co., Inc., has applied for permission to transfer the operations of the 94-foot 5-inch length overall fishing vessel "Poseidon", constructed with the aid of a fishing vessel construction-differential subsidy, from the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), to the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), flounders, scallops, and lobsters.

Notice is hereby given pursuant to the provisions of the U.S. Fishing Fleet Improvement Act, as amended (46 U.S.C. 1401 et seq.) and Notice and Hearing on Subsidies (50 CFR Part 257) and Reorganization Plan No. 4 of 1970, that a hearing in the above-entitled proceedings will be held on June 17, 1971, at 11 a.m., d.s.t., in Hearing Room B, 11th floor, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA. Any person desiring to intervene must file a petition of intervention with the Director, National Marine Fisheries Service, Interior Building, Washington, DC 20235, as prescribed in 50 CFR Part 257 at least 10 days prior to the date set for the hearing. If such petition of intervention is granted, the place of the hearing may be changed to a field location. Telegraphic notice will be given to the parties in the event of such a change along with the new location.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[FR Doc.71-6767 Filed 5-13-71;8:47 am]

[Docket No. Sub-B-1]

THOMAS B. LARSEN

Notice of Hearing Transfer of Fishery

MAY 11, 1971.

Thomas B. Larsen has applied for permission to transfer the operations of the 73-foot 7-inch length overall fishing vessel "Venus", constructed with the aid of a fishing vessel construction-differential subsidy, from the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), to the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), flounders, and lobsters.

Notice is hereby given pursuant to the provisions of the U.S. Fishing Fleet Improvement Act, as amended (46 U.S.C. 1401 et seq.) and Notice and Hearing on Subsidies (50 CFR Part 257) and Reorganization Plan No. 4 of 1970, that a hearing in the above-entitled proceedings will be held on June 17, 1971, at 11 a.m., d.s.t., in Hearing Room B, 11th floor, Balston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA. Any person desiring to intervene must file a petition of intervention with the Director, National Marine Fisheries Service, Interior Building, Washington, DC 20235, as prescribed in 50 CFR Part 257 at least 10 days prior to the date set for the hearing. If such petition of intervention is granted, the place of the hearing may be changed to a field location. Telegraphic notice will be given to the parties in the event of such a change along with the new location.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[FR Doc.71-6768 Filed 5-13-71;8:47 am]

[Docket No. Sub-B-7]

STAGAN CORP.

Notice of Hearing Transfer of Fishery

MAY 11, 1971.

Stagan Corp., has applied for permission to transfer the operations of the 79-foot 2-inch length overall fishing vessel "Commonwealth", constructed with the aid of a fishing vessel construction-differential subsidy, from the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), to the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), flounders, and lobsters.

Notice is hereby given pursuant to the provisions of the U.S. Fishing Fleet Improvement Act, as amended (46 U.S.C. 1401 et seq.) and Notice and Hearing on Subsidies (50 CFR Part 257) and Reorganization Plan No. 4 of 1970, that a hearing in the above-entitled proceedings will be held on June 17, 1971, at 11 a.m., d.s.t., in Hearing Room B, 11th floor, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA. Any person desiring to intervene must file a petition of intervention with the Director, National Marine Fisheries Service, Interior Building, Washington, DC 20235, as prescribed in 50 CFR Part 257 at least 10 days prior to the date set for the hearing. If such petition of intervention is granted, the place of the hearing may be changed to a field location. Telegraphic notice will be given to the parties in the event of such a change along with the new location.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[FR Doc.71-6759 Filed 5-13-71;8:47 am]

[Docket No. Sub-B-11]

ST. NICHOLAS, INC.

Notice of Hearing Transfer of Fishery

MAY 11, 1971.

St. Nicholas, Inc., has applied for permission to transfer the operations of the 90-foot 4-inch length overall fishing vessel "St. Nicholas", constructed with the aid of a fishing vessel construction-differential subsidy, from the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), to the fishery for groundfish (cod, cusk, haddock, hake, pollock, and ocean perch), whiting, and shrimp.

Notice is hereby given pursuant to the provisions of the U.S. Fishing Fleet Improvement Act, as amended (46 U.S.C. 1401 et seq.) and Notice and Hearing on Subsidies (50 CFR Part 257) and Reorganization Plan No. 4 of 1970, that a hearing in the above-entitled proceedings will be held on June 17, 1971, at 9:30 a.m., d.s.t., in Hearing Room B, 11th floor, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, VA. Any person desiring to intervene must file a petition of intervention with the Director, National Marine Fisheries Service, Interior Building, Washington, DC 20235, as prescribed in 50 CFR Part 257 at least 10 days prior to the date set for the hearing. If such petition of intervention is granted, the place of the hearing may be changed to a field location. Telegraphic notice will be given to the parties in the event of such a change along with the new location.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[FR Doc.71-6770 Filed 5-13-71;8:00 am]

[Docket No. C-348]

CARL C. BURLESCI

Notice of Loan Application

MAY 10, 1971.

Carl C. Burlesci, Box 331-B, Route 2, Fort Bragg, CA 95437, has applied for a loan from the Fisheries Loan Fund to aid in financing the construction and equipping of a new 54-foot length overall steel vessel to engage in the fishery for salmon, albacore, Dungeness crab, and sablefish.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[FR Doc.71-6737 Filed 5-13-71;8:51 am]

[Docket No. C-347]

PAUL VINCENT DUENSING

Notice of Loan Application

MAY 10, 1971.

Paul Vincent Duensing, 2075 33d Avenue, San Francisco, CA 94116, has applied for a loan from the Fisheries Loan Fund to aid in financing the construction and equipping of a new 40-foot length overall steel vessel to engage in the fishery for salmon, albacore, and Dungeness crab.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief,
Division of Financial Assistance.

[FR Doc.71-6736 Filed 5-13-71;8:51 am]

Office of the Secretary

[Department Organization Order 1-1; Amdt. 1]

MISSION AND ORGANIZATION

This material amends the material appearing at 35 F.R. 19704 of December 29, 1970.

The attached chart shall be substituted for the chart attached to Department Organization Order 1-1, dated December 15, 1970. (A copy of the organization

chart is on file with the original of this document with the Office of the Federal Register.)

Effective date: May 3, 1971.

LARRY A. JOBE,
Assistant Secretary for Administration.

[FR Doc.71-6706 Filed 5-13-71;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

COMMISSIONER OF FOOD AND DRUGS

Redelegation by the Assistant Secretary for Health and Scientific Affairs

The Redelegation of Authority to the Commissioner of Food and Drugs published at 35 F.R. 606-607, January 16, 1970, and 35 F.R. 3000-3001, February 13, 1970, is amended to delete the function relating to the interstate transportation of etiologic agents, which is being transferred to the Health Services and Mental Health Administration.

Accordingly, paragraph 3 is amended to read as follows:

3. Functions pertaining to sections 301, 311, 314, and 361 of the Public Health Service Act (42 U.S.C. 241, 243, 246, and 264) which relate to pesticides, product safety, interstate travel sanitation (except interstate transportation of etiologic agents under 42 CFR 72.25), milk and food service sanitation, shellfish sanitation, and poison control.

Effective date. This order is effective on the date of publication in the FEDERAL REGISTER (5-14-71).

Approved: May 5, 1971.

ROGER O. EGEBERG, M.D.,
Assistant Secretary for Health and Scientific Affairs.

Authorized for publication: May 10, 1971.

RONALD BRAND,
Deputy Assistant Secretary for Management.

[FR Doc.71-6707 Filed 5-13-71;8:46 am]

Public Health Service

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15953, Oct. 30, 1968 et seq.) is hereby amended with regard to section 3-C, *Delegations of Authority*, as follows:

After the subparagraph numbered (13) of the paragraph entitled *Specific delegations*, add a new subparagraph reading:

(14) The functions under the Public Health Service Regulations (42 CFR 72.25) relating to the interstate transportation of etiologic agents.

Approved: May 5, 1971.

ROGER O. EGEBERG,
Assistant Secretary for Health and Scientific Affairs.

Authorized for publication: May 10, 1971.

RONALD BRAND,
Deputy Assistant Secretary for Management.

[FR Doc.71-6708 Filed 5-13-71;8:46 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CERTAIN HUD EMPLOYEES IN REGION IV (ATLANTA)

Designation as Contracting Officer and Redelegation of Authority for Disaster Relief Functions

Each of the following named employees of the Department of Housing and Urban Development, Region IV (Atlanta), is hereby designated a contracting officer and authorized to enter into and administer procurement contracts required within the region, and make related determinations, except determinations under section 302(c) (11), (12), and (13) of the Federal Property Administrative Services Act (41 U.S.C. 252(c) (11), (12), and (13)), and except contracting for mobile homes, with respect to major-disaster relief functions assigned to the Department by the Director, Office of Emergency Preparedness, pursuant to the Disaster Relief Act of 1970 (84 Stat. 1744), Executive Order 11575, and OEP regulations codified in 32 CFR Parts 1709, 1710, and 1715:

1. Robert J. Ingram, Sr.
2. Thomas F. Murphy

(Delegation of authority by the Assistant Secretary for Renewal and Housing Management effective Aug. 3, 1970, 36 F.R. 1549, Feb. 2, 1971)

Effective date: This redelegation shall be effective as of February 22, 1971, for Robert J. Ingram, Sr., and as of March 8, 1971, for Thomas F. Murphy.

CHAS. C. ADAMS,
Acting Regional Administrator, Region IV (Atlanta).

[FR Doc.71-6713 Filed 5-13-71;8:46 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-366]

GEORGIA POWER CO.

Notice of Receipt of Application for Construction Permit and Facility License; Time for Submission of Views on Antitrust Matters

Georgia Power Co., 270 Peachtree Street NW., Atlanta, GA 30303, pursuant to the Atomic Energy Act of 1954, as amended, has filed an application dated July 24, 1970, for authorization to construct and operate a boiling water nuclear power reactor at the Edwin I. Hatch site on the south side of the Altamaha River in northwestern Appling County, about 11 miles north of Baxley, Ga.

The proposed reactor, designated by the applicant, as the Edwin I. Hatch Nuclear Plant Unit 2 is designated for initial operation at approximately 2,436 megawatts thermal with a gross electrical output of approximately 817 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after April 30, 1971.

A copy of the application and the amendments thereto are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Office of the Appling County Commissioners, County Courthouse, Baxley, GA.

Dated at Bethesda, Md., this 17th day of April 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director, Division of Reactor Licensing.

[FR Doc.71-5668 Filed 4-29-71;8:45 am]

[Dockets Nos. 50-387, 50-388]

PENNSYLVANIA POWER AND LIGHT CO.

Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matter

Pennsylvania Power and Light Co., 901 Hamilton Street, Allentown, PA 18101, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed an application dated March 23, 1971, for authorization to construct and operate two single-cycle, forced circulation, boiling water nuclear reactors at its site, located in Salem Township, Luzerne County, Pa. The proposed site consists of 1,522 acres and is located on the west bank of the Susquehanna River, approximately 15 miles southwest of Wilkes-Barre, Pa.

Each unit of the proposed nuclear facility, designated by the applicant as the Susquehanna Steam Electric Station, Units 1 and 2, is designed for initial operation at approximately 3,293 megawatts (thermal) with a net electrical output of approximately 1,100 megawatts.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after May 7, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street

NW., Washington, DC, and in the Osterhout Free Library, 71 South Franklin Street, Wilkes-Barre, PA.

Dated at Bethesda, Md., this 30th day of April 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-6319 Filed 5-7-71;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23382; Order 71-5-46]

AIRBORNE FREIGHT CORP.

Order of Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of May 1971.

By tariff revisions [1] filed April 12, 1971, and marked to become effective May 13, 1971, Airborne Freight Corp. (Airborne), an airfreight forwarder, proposes to reduce its airport-to-airport specific commodity rates on automobile, tractor, and truck parts from Detroit to Los Angeles and San Francisco, subject to minimum weights of 5,000, 10,000, and 12,500 pounds. The proposed rates effect reductions ranging from 6 to 18 percent of Airborne's currently applicable specific commodity rate subject to a minimum weight of 3,000 pounds.

A complaint requesting suspension and investigation has been filed by United Air Lines, Inc. (United). The complaint variously asserts, inter alia, that the forwarder has presented no justification; that the proposed rates would undercut the direct carrier rates or leave insufficient margins of profit; and that Airborne intends to use chartered aircraft for the proposed movements, thus injuring scheduled carriage, which is now in difficulty.

The rates proposed would be as much as 14 percent below United's lowest applicable rate, and according to the latter, would result in subjecting to "diversionary rate-cutting" nearly 8 million pounds of this type of traffic, earning $1.5 million of gross revenues annually. In the foregoing circumstances and upon consideration of all relevant factors, the Board finds that the proposed rates may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and should be investigated. Airborne has submitted no support of its filing and consequently the Board has no basis upon which to reach a different conclusion.

We shall, however, permit the rates to become effective pending investigation. The yields from the proposal would range between 17.1 and 20.1 cents per ton-mile. While the proposal would effect reductions below United's rate, the Board does not conclude that the reductions would be of such a magnitude as to warrant suspension.

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 subject to the minimum weights of 5,000 pounds, 10,000 pounds, and 12,500 pounds applicable to Commodity Group Number 140 from Detroit, Mich., to Los Angeles, Calif., and from Detroit, Mich., to San Francisco, Calif., on 36th and 37th Revised Pages 38-A and 10th and 11th Revised Pages 38-C of Airborne Freight Corp.'s CAB No. 9, including subsequent revisions and reissues thereof, and rules, regulations, and practices affecting such rates, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, rules, regulations, and practices affecting such rates;

2. The proceeding herein, Docket 23382, be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated;

3. The complaint of United Air Lines, Inc. in Docket 23308 is dismissed, except to the extent granted herein; and

4. Copies of this order shall be served upon Airborne Freight Corp. and United Air Lines, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-6740 Filed 5-13-71;8:51 am]

[1] Revisions to Airborne Freight Corp.'s Tariff CAB No. 9 (Pacific Air Freight, Inc. series).

[Docket No. 23256]

FLYING TIGER LINE, INC.

Notice of Prehearing Conference

Various rate changes proposed by the Flying Tiger Line, Inc.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 1, 1971, at 10 a.m., e.d.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Richard M. Hartsock.

Requests for information and evidence, proposed statements of issues, proposed procedural dates shall be submitted by counsel for the Bureau of Economics on or before May 24, 1971, and by the parties named in order 71-4-17 on or before May 28, 1971.

Dated at Washington, D.C., May 10, 1971.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[FR Doc.71-6739 Filed 5-13-71;8:51 am]

[Docket No. 22392]

PIEDMONT AVIATION, INC.

Notice of Prehearing Conference

Piedmont application for deletion of Blacksburg - Radford - Pulaski, Virginia.

Notice is hereby given that a prehearing conference in the above-mentioned matter is assigned to be held on June 3, 1971, at 10 a.m., e.d.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC., before Examiner Joseph L. Fitzmaurice.

Requests for information and evidence, proposed statements of issues, and proposed procedural dates shall be submitted by counsel for the Bureau of Operating Rights on or before May 24, 1971, and by other parties on or before May 28, 1971.

Dated at Washington, D.C., May 10, 1971.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[FR Doc.71-6738 Filed 5-13-71;8:51 am]

[Docket No. 23282; Order 71-5-5]

SOUTHERN AVIATION, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority, May 4, 1971.

The Postmaster General filed a notice of intent April 13, 1971,[1] pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 49.89 cents per great circle aircraft mile for the transportation of mail by aircraft between Kansas City, Mo., and Lawton, Okla., via Tulsa and Oklahoma City, Okla., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft 18 aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmasted 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:

[1] Notice of service on Braniff Airways, Inc., was filed Apr. 19, 1971.

[2] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

The fair and reasonable final service mail rate to be paid to Southern Aviation, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 49.89 cents per great circle aircraft mile between Kansas City, Mo., and Lawton, Okla., via Tulsa and Oklahoma City, Okla., based on five round-trips per week flown with Beechcraft 18 aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Southern Aviation, Inc., the Postmaster General, American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Frontier Airlines, Inc., Ozark Air Lines, Inc., Trans World Airlines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Southern Aviation, Inc;

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

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

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

5. This order shall be served on Southern Aviation, Inc., the Postmaster General, American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Frontier Airlines, Inc., Ozark Air Lines, Inc., and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-6741 Filed 5-13-71;8:51 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 16495]

APPLICATIONS FOR DOMESTIC COMMUNICATIONS SATELLITE FACILITIES ACCEPTED FOR FILING FOR CONSIDERATION; CORRECTION

APRIL 28, 1971.

The FCC Public Notice entitled as set forth above, dated April 13, 1971, and published at 36 F.R. 8083, is corrected with respect to the entries listed below:

SPACE STATIONS

17-DSS-P-71, 18-DSS-P-71—Western Tele-Communications, Inc. (New).

The second sentence is corrected to read, "Each satellite will have six transponders with receive frequencies in the 5925-6425 MHz band and transmit frequencies in the 3700-4200 MHz band; * * *."

EARTH STATIONS

6-DSE-P-71—American Telephone & Telegraph Co. (New) (Hawley, Pa.).

Reference to "two 95-105 foot antennas" is corrected to "three 95-105 foot antennas."

9-DSE-P-71—American Telephone & Telegraph Co. (New) (Brazos, Tex.)

The second sentence is corrected to read, "Parameters same as 6-DSE-P-71 except for only two 95-105 foot antennas."

10-DSE-P-71—American Telephone & Telegraph Co. (New) (Woodbury, Ga.).

The second sentence is corrected to read, "Parameters same as 6-DSE-P-71 except for only two 95-105 foot antennas."

61-DSE-P-71 — Western Tele-Communications, Inc. (New) (Sleepy Hollow, Calif.).

In the last sentence of the first paragraph, "20.3 dBw/4kHz" is corrected to read "—1.7 dBw/4kHz."

In the second paragraph, "17.6 dBw/4kHz" is corrected to read "—4.4 dBw/4kHz."

62-DSE-P-71 — Western Tele-Communications, Inc. (New) (Morrison, Colo.).

In the second sentence, "19.3 dBw/4kHz" is corrected to read, "—2.7 dBw/4kHz" and "15.6 dBw/4kHz" is corrected to read, "—6.4 dBw/4kHz."

63-DSE-P-71 — Western Tele-Communications, Inc. (New) (Marengo, Ill.).

In the second sentence, "20.3 dBw/4kHz" is corrected to read "—1.7 dBw/4kHz" and "18.6 dBw/4kHz" is corrected to read "—3.4 dBw/4kHz."

64-DSE-P-71 — Western Tele-Communications, Inc. (New) (Sugar Loaf, N.Y.).

In the second sentence, "31.3 dBw/4kHz" is corrected to read "+9.3 dBw/4kHz" and "24.6 dBw/4kHz" is corrected to read "+2.6 dBw/4kHz."

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

[FR Doc.71-6749 Filed 5-13-71;8:52 am]

[Docket Nos. 19068-19070; FCC 71R-148]

EDWARD G. ATSINGER III, ET AL.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Edward G. Atsinger III, Owensboro, Ky., Docket No. 19068, File No. BP-18067; Gary H. Latham and Wells T. Lovett, doing business as L and L Broadcasting Co., Owensboro, Ky., Docket No. 19069, File No. BP-18475; Bayard Harding Walters, trading as Hancock County Broadcasters, Hawesville, Ky., Docket No. 19070, File No. BP-18490; for construction permits.

1. The above-captioned mutually exclusive applications were designated for consolidated hearing under various issues by Commission Order, FCC 70-1133, 35 F.R. 17004, published November 4, 1970. Owensboro-On-The-Air, Inc. (WVJS), licensee of Station WVJS, Owensboro, Ky., was made a party to the proceeding. Presently before the Review Board are two petitions to enlarge issues, filed concurrently on November 19, 1970, and supplemental petitions to enlarge issues, filed November 24 and December 11, 1970,[1] by WVJS against Edward G. Atsinger III (Atsinger) and Gary H. Latham and Wells T. Lovett, doing business as L and L Broadcasting Co. (L & L).[2] Petitioner requests the addition of §§ 1.526, 1.522(a), 1.580(c), diligence and financial qualifications issues against Atsinger, and site availability issues against Atsinger and L & L.

RULE 1.526 ISSUE

2. Petitioner first requests an issue to determine whether Atsinger has failed to maintain a full and complete public file of its application, as required by § 1.526 of the Commission's rules.[3] In support, WVJS attaches the affidavit of Carl T. Davis who states that his inspection of the Atsinger application revealed that four (4) amendments on file with the Commission were not included in the applicant's public file. Included among those amendments not on file were the applicant's revised programing proposal and his ascertainment of community problems showing, as originally filed and updated. Atsinger's failure to include the foregoing amendments in its file, argues petitioner, effectively precluded public

[1] Petitioner concedes the untimeliness of its Dec. 11, 1970, supplemental petition but claims newly uncovered information and reasonable diligence in support of its plea for acceptance. In the absence of objection to the acceptance of the petition and for good cause shown, the Board will consider the supplemental petition on its merits.

[2] Also before the Review Board for consideration are: (a) opposition, filed Jan. 8, 1971, by Atsinger; (b) opposition, filed Jan. 8, 1971, by L & L; (c) comments, filed Jan. 8, 1971, by the Broadcast Bureau; and (d) replies, filed Feb. 17, 1971, by WVJS.

[3] Section 1.526 requires all applicants for new broadcast facilities to maintain for public inspection a file in the community to which the station is proposed to be licensed.

scrutiny of the applicant's proposal and constitutes a violation of § 1.526.

3. In opposition, Atsinger attaches the affidavit of Ruth M. Cheatham, a secretary in the Owensboro law office where Atsinger's public file is located. She states that, through an "oversight", certain portions of the Atsinger application were placed in a file other than that made available for public inspection. Atsinger suggests that had Mr. Davis only commented on the missing amendments and requested assistance, a search could have been undertaken and the amendments discovered and made available. In any event, argues Atsinger, such an oversight is best characterized as "minor" and insufficient to warrant an enlargement of issues. In its comments, the Broadcast Bureau urges the addition of a § 1.526 issue, concluding that the missing amendments constituted "very material information" and, under the circumstances, the public would have been unable adequately to inform itself as to Atsinger's efforts to ascertain and program for the community's needs. In reply, WVJS notes that Atsinger does not deny that the questioned amendments were missing from the public file. Moreover, WVJS characterizes as immaterial and irrelevant Mr. Davis' failure to request assistance concerning the missing amendments; in limiting his search to the public file, Mr. Davis was reviewing the station proposal as would an average member of the public who is without information as to the number and nature of amendments that should be on file.

4. In light of the undisputed facts summarized above, we will grant petitioner's request to add a § 1.526 issue against Atsinger. Initially, the Board notes the Atsinger's attached affidavit admits that "several days subsequent" to Mr. Davis' visit the "misplaced Amendments" were "discovered" and moved "from the private file of Atsinger to the public file * * *." Thus, the violation of § 1.526 was patent and incontrovertible. Atsinger's reliance on Louis Vander Plate, 15 FCC 2d 285, 14 RR 2d 760 (1968), in mitigation is misplaced; that case, unlike the instant situation, concerned the notice requirements of Rule 1.594 rather than the file content requirements of § 1.526(a)(1). Furthermore, in Vander Plate, the entire file was unavailable for inspection at either the office indicated in the public notice or where the applicant allegedly kept the public file. Consequently, Vander Plate never faced the issue of an available but incomplete file, and in no way suggested, as does Atsinger, that a member of the public, once provided with the applicant's presumably complete file, has a duty to inquire whether amendments not in the public file may yet exist and be available elsewhere. Furthermore, the Board is unwilling to characterize Atsinger's failure as "minor." Cf. Media, Inc., 22 FCC 2d 875, 18 RR 2d 1175 (1970). On the contrary, the Board agrees with WVJS and the Bureau that the material concededly missing from the applicant's public file was of a material and significant nature. See Report and Order, Records of Broadcast Licensees, 30 F.R. 4543, 4544, 4 RR 2d 1664, 1669 (1965). Therefore, the Board will add an issue to determine whether Atsinger's complete application was on public file as required by Rule 1.526. See Centreville Broadcasting Company —— FCC 2d ——, ——, 21 RR 2d 216, 226–227 (1971); North American Broadcasting Company, Inc., 15 FCC 2d 984, 15 RR 2d 367 (1969). Although the Board does not regard this isolated violation as significant enough to warrant inquiry regarding Atsinger's requisite qualifications (see Media, Inc., supra), the Board nevertheless will add an issue to determine the effect of Atsinger's violation, if any, on his comparative qualifications. See Jacksonville Broadcasting Co., 26 FCC 2d 929, 20 RR 2d 626 (1970), reconsideration dismissed FCC 71R–138, released May 3, 1971.

RULE 1.522(a) ISSUE

5. WVJS contends that Atsinger violated § 1.522(a) by failing to serve petitioner or its legal counsel with copies of two amendments (dated May 8, 1969, and September 30, 1970) after WVJS filed its petition to deny in this proceeding.[4] In its comments, the Broadcast Bureau urges that the service requirements of § 1.522(a) not be disregarded, and that a waiver of noncompliance not be considered, in the absence of a very strong showing of extenuating circumstances. In opposition, Atsinger argues that there is reasonable assurance that the amendments, in fact, were served on counsel for WVJS. In support, Atsinger attaches the affidavit of Elizabeth Jatman, a secretary in the office of Atsinger's legal counsel, attesting to the ordinary business practice of counsel to "always" serve petitioners with amendments to any application; and with respect to the September 30, 1970, amendment, Miss Jatman, under oath, specifically recalls mailing two copies to counsel for WVJS. Atsinger admits that it cannot prove service in this instance, but notes that its other amendments were received by WVJS and concludes that there is reasonable assurance that the two amendments in question also were served. In reply, WVJS notes that, unlike Atsinger's other amendments, the two amendments in question apparently were submitted by Atsinger without a cover letter from counsel certifying service on counsel for WVJS. Accordingly, petitioner reiterates its claim of failure of service and urges that the factual controversy be resolved in hearing.

6. Petitioner's request for the addition of a § 1.522(a) issue will be denied. It does not appear that serious prejudice has resulted from the alleged failure to serve the above-mentioned amendments: WVJS, by virtue of its independent examination of the Atsinger application on file with the Commission, admits that it is aware of the contents of the September 30, 1970, amendment updating the applicant's financial proposal; and, regarding the allegedly unserved May 8, 1969 amendment concerning the applicant's proposal to install an auxiliary power generator, the Board is of the opinion that it is of such minor and insubstantial effect on the overall engineering proposal as to be of no serious prejudice to petitioner. Furthermore, assuming the validity of petitioner's allegation, it is not improbable that the failure to serve copies of the two amendments was an inadvertent and isolated incident. In this connection, the affidavit of Elizabeth Jatman (paragraph 5, supra) indicates that the amendments could have been lost in the mail. Accordingly, the Board concludes that the violation alleged, even if true, was without serious prejudice to petitioner; was isolated and apparently inadvertent; and, therefore, does not warrant adding the issue requested. Martin Lake Broadcasting Co., 23 FCC 2d 199, 19 RR 2d 24 (1970).[5]

RULE 1.580(c) ISSUE

7. In support of its requested § 1.580 (c) issue, petitioner alleges that Atsinger's initial notice of application, published February 23, and March 1, 1968, in the Owensboro Messenger and Inquirer, failed to comply with the requirement that an applicant filing any application or amendment shall cause to be published a notice of such filing at least twice a week for 2 consecutive weeks within the 3-week period immediately following the tendering for filing of such application or amendment; furthermore, argues petitioner, Atsinger's republication of such notice on March 27, 29, and April 3 and 5, 1968, was untimely and failed to conform with the requirements of the Commission's rule.

8. In its comments, the Broadcast Bureau urges denial of the requested issue on the grounds that Atsinger's initial noncompliance with § 1.580(c) was insubstantial since no harm to the public has been shown and, moreover, Atsinger's republication sufficiently obviates the need for an issue. In opposition, Atsinger attaches a copy of his February 13, 1968, letter instructing the Owensboro newspaper to publish a notice of the Atsinger filing twice a week for 2 consecutive weeks. According to Atsinger, the newspaper failed to publish the notice as instructed, publishing it twice for 1 week instead of 2. When this fact was brought to his attention, Atsinger explains, he sent instructions to

[4] Section 1.522(a) provides in pertinent part:

* * * any application may be amended as a matter of right prior to the adoption date of an order designating such application for hearing, merely by filing the appropriate number of copies of the amendment in question duly executed * * *. If a petition to deny (or to designate for hearing) has been filed, the amendment shall be served on petitioner.

[5] WVJS urges the Board to rely on Marvin C. Hanz, 22 FCC 2d 147, 18 RR 2d 830 (1970), where the Board added a § 1.522 issue. However, in Hanz, the noncompliance was admitted, repeated, and recurred despite specific warnings to the applicant; while, in the instant situation, it is contested, isolated, and ostensibly inadvertent. In the Board's opinion, therefore, petitioner's reliance on Hanz is misplaced.

have the newspaper rerun the notice according to § 1.580(c) requirements, resulting in republication of the notice on March 27, 29, and April 3 and 5, 1968. In reply, petitioner alleges that Atsinger's letter of instruction to the newspaper, dated 1 week after the application was filed, was sent too late to obtain publication pursuant to § 1.580(c) requirements, even if Atsinger's instructions had been followed. In any event, argues petitioner, Atsinger patently did not comply with the requirements of the rule; consequently, an appropriate issue should be added.[6]

9. The Board can find no injury caused by Atsinger's conduct either to the petitioner or to the public. Moreover, the Board can find no wrongdoing in Atsinger's conduct regarding the public notice of the filing of his application; on the contrary, Atsinger promptly had the notice republished when informed that his earlier instructions had not been followed. The Board is of the opinion, then, that the notice given was adequate to apprise the public of Atsinger's filing and in substantial compliance with § 1.580(c); therefore, the requested issue will not be added. See James B. Childress, FCC 65–210, 4 RR 2d 764 (1965); Royal Broadcasting Co., Inc. (KHAI), 4 FCC 2d 857, 8 RR 2d 639 (1966). Cf. Reeves Broadcasting Corp., 8 FCC 2d 448, 10 RR 2d 259 (1967).

DILIGENCE ISSUE

10. Based on its allegations requesting §§ 1.526, 1.522(a), and 1.580(c) issues against Atsinger, WVJS urges the Review Board to add an issue to determine whether Atsinger's conduct demonstrates such a pattern of carelessness or disregard for Commission regulations that he lacks the requisite qualifications to be a Commission licensee. Provided the Review Board enlarges the issues previously requested by petitioner, the Broadcast Bureau would support the addition of requisite and/or comparative qualifications issues. Atsinger opposes the addition of a qualifications issue, relying on his discussion and affidavits opposing the addition of §§ 1.526, 1.522(a), and 1.580(c) issues to demonstrate the absence of any basis upon which to make a qualifications inquiry. In reply, WVJS reiterates its characterization of Atsinger's conduct as careless and susceptible of a basic qualifications inquiry.

11. Petitioner's requested issue, based on Atsinger's alleged lack of diligence or ineptness, will be denied. It is well established that diligence or ineptness issues will be added only where an applicant's conduct has concerned relevant matters of major significance, and where the conduct was disclosed a pattern of carelessness and inadvertence. See Folkways Broadcasting Co., Inc., 26 FCC 2d 175, 20 RR 2d 528 (1970). The Review Board's addition of a Rule 1.526 issue (and the concomitant denial of requested §§ 1.522 and 1.580 issues) does not indicate that there has been a "pattern" or carelessness and inability on the part of Atsinger to observe Commission regulations; nor is it of such "major significance" as to require the addition of a disqualifying issue. See North American Broadcastng Co., Inc., supra. Furthermore, petitioner's request may be characterized as one for a cumulative disqualifying issue based on a combination of any or all of the foregoing matters; therefore, it is inappropriate where only a single issue has been added and will be denied as merely a repetitive request. See National Broadcasting Co., Inc. (KNBC), 21 FCC 2d 195, 18 RR 2d 74 (1970). Cf. Hanz, supra.

FINANCIAL QUALIFICATIONS ISSUE

12. In his financial amendment filed September 30, 1970, Atsinger estimates his total first-year costs to be $67,043. Atsinger proposes to meet this requirement with $11,000 in net existing capital, $50,000 in loans (including a $35,000 loan from Charles C. and Viola A. Knagenhelm), and $8,207 in deferred credit. WVJS, in its petition, questions the availability of the Knagenhelm loan and further alleges that Atsinger's available net existing capital is substantially less than the $11,000 indicated. In support of its allegation regarding the Knagenhelm loan, petitioner avers that, in addition to the instant $35,000 commitment, the Knagenhelms committed themselves previously to lend Atsinger $35,000 to construct an AM station (WKBQ) at Garner, N.C. (BP–16631, Docket No. 17176). Thus, the Knagenhelms' commitment to Atsinger totals $70,000, and, since their financial statement allegedly fails to specify its liabilities as current or long term, petitioner argues that the addition of a financial issue is warranted to determine whether the Knagenhelms have sufficient liquid assets to meet their commitment. Regarding the applicant's "existing capital," petitioner claims that, aside from $6,000 in cash, Atsinger's anticipated retirement annuities, inter alia, cannot be considered as readily available sources of funds and, absent substantiation, do not meet the Commission's definition of liquid and current assets. Petitioner concludes that Atsinger's available net existing capital totals $3,386.01 ($6,000 in cash less $2,613.99 in short-term liabilities), rather than $11,000, and, therefore, Atsinger's proposal is underfinanced. The Broadcast Bureau concludes that, aside from $6,000 in cash, Atsinger's other assets do not meet the Commission's definition of liquid and current, and, furthermore, the Knagenhelms' failure to earmark assets or set priorities between its two loan commitments, and their failure to specify whether liabilities are current or long term, warrant the addition of the requested financial issue.

13. In opposition, Atsinger attaches separate affidavits of himself, his wife, and two retirement system managers, Arthur J. Wiedel of the Los Angeles Unified School District, and Thomas L. Stevens of the Los Angeles Community College District, indicating that retirement annuity funds in excess of $6,000 belonging to Atsinger and his wife will be withdrawn upon grant of the Atsinger application. In response to the challenged availability of the Knagenhelm Loan, Atsinger attests that the earlier loan to construct WKBQ has been made and partially repaid; that no further money is required since WKBQ is operating at a profit; that while the Knagenhelms also cosigned a lease agreement for Atsinger as security for another loan, the outstanding balance is only $16,000; and that the Knagenhelm balance sheet shows more than sufficient liquid assets to cover both the $16,000 balance secured by the lease agreement and the instant $35,000 commitment.[7] In reply, petitioner concedes that Atsinger has shown the availability of $9,386.01 in net existing capital ($12,000 in cash and retirement annuities, less $2,613.99 in short-term liabilities), and total available funds of $67,693.01 to meet anticipated first-year expenses of $67,043.00 for an apparent cushion of $650.01. Nevertheless, petitioner renews its request for a financial issue, based on the "thinness" of Atsinger's financial cushion.[8] Furthermore, petitioner contends that the Knagenhelms have not yet provided personally a breakdown as to current and long-term liabilities; consequently, petitioner concludes that it is not possible to determine whether there is sufficient liquidity to finance the $35,000 loan commitment, as well as to cover the $16,000 lease agreement, if necessary.

14. It is well settled that, where an applicant has shown that he will have funds available in excess of the amount required to construct and operate, a financial issue will not be added. Cleveland Broadcasting, Inc., 2 FCC 2d 139, 6 RR 2d 879 (1965). Petitioner concedes that Atsinger has shown the availability of cash and retirement annuities sufficient to provide $9,386.01 in net existing capital. Although this amount is less than the $11,000 indicated in the applicant's proposal, petitioner has submitted no information to support its allegation that the lesser amount of existing capital results in Atsinger's proposal being underfinanced; on the contrary, petitioner concedes that Atsinger's proposal shows a financial cushion of $650.01.

[6] Petitioner's further allegation, raised initially in its supplemental pleading and repeated in its reply, that Atsinger failed to comply with the notice requirements of § 1.594 (a) and (g), has been rendered moot by the Hearing Examiner's waiver thereof in an Order, FCC 70M–1788, released Jan. 5, 1971.

[7] Parenthetically, Atsinger claims that the Knagenhelm liability of $51,182 in favor of California Federal Savings is long term rather than short term.

[8] Petitioner's allegation that Atsinger's loans payable to teacher's credit unions should not be considered "Long Term," even though designated as such, will not be considered by the Board since it is raised for the first time in a reply pleading. See § 1.294(c) of the Commission's rules; and Lorenzo W. Milam & Jeremy D. Lansman, FCC 64R–561, 4 RR 2d 463, 466, and the cases cited therein. In any event, petitioner's allegation is based on surmise and suspicion, totally without factual or evidential support, and inadequate on its merits.

Accordingly, no substantial question regarding Atsinger's financial proposal is raised. Petitioner's attack on the availability of the Knagenhelm loan is correspondingly infirm. The Review Board cannot accept petitioner's conclusion that, on the basis of the Knagenhelms' financial statement, it is impossible to determine whether their statement shows sufficient liquidity to meet their commitments. Assuming the Knagenhelms' liabilities to be current rather than long-term (a fact denied by Atsinger in his opposition pleading) their balance sheet still shows net assets in excess of $155,000 (including $75,044.25 in stocks), which are more than adequate to accommodate the Knagenhelms' commitments to the applicant.[*] In view of all the foregoing circumstances, the addition of a financial issue is not warranted.

SITE AVAILABILITY ISSUES

15. In support of its requested site availability issues against Atsinger and L & L, petitioner attaches the affidavits of Robert M. Hoskins, Secretary-Treasurer of the Owensboro (Daviess County) Metropolitan Planning Commission, and Jerry Chapman, Planning Director of the city of Owensboro, who claim that local zoning regulations restrict towers in the locations proposed by Atsinger and L & L to a height of 72 feet, and that, in Mr. Hoskins' opinion, under no circumstances could an applicant obtain authorization to construct a tower exceeding that height. Since Atsinger and L & L propose tower heights of 221 feet and 197 feet, respectively, and since a member of the Metropolitan Planning Commission has indicated that waiver or variance of the mentioned zoning regulations will not be authorized, petitioner contends that "reasonable assurance" does not exist that the tower sites proposed by Atsinger and L & L are adequate. Although petitioner claims that the issue is warranted on this ground alone, WVJS contends that yet another zoning regulation bars construction of the tower proposed by L & L. According to petitioner, L & L's proposed site is located 16,700 feet from the Owensboro-Daviess County Airport and, therefore, within the jurisdiction of the Kentucky Airport Zoning Commission whose regulations would restrict L & L's tower height to no more than 190.5 feet. In support thereof, petitioner attaches the notarized statement of John E. O'Brien, consulting engineer.

16. The Broadcast Bureau, Atsinger, and L & L oppose the addition of the requested issues. The Bureau argues that the opinion of one member of the Planning Commission is no indication of what the full Planning Commission might decide and, citing Big Chief Broadcasting Co. of Lawton, Inc., 20 FCC 2d 127, 17 RR 2d 620 (1969), the Bureau submits that precedent and policy dictate that zoning questions be left to local zoning authorities, absent a reasonable showing that the applicant will be unable to obtain approval of his site location. With respect to the L & L application, the Bureau also rejects petitioner's second contention, i.e., the alleged violation of the Kentucky Airport Zoning Commission's regulations. The Bureau asserts that no statement of the Airport Commission's disapproval has been submitted and, even if it were, L & L could reduce its antenna height up to 15 feet (well within the required height of 190.5 feet) without any significant effect on its proposed coverage.

17. In his opposition, Atsinger attaches the affidavit of Garland W. Howard, an attorney formerly with the Owensboro-Daviess County Zoning Commission, claiming that, in his opinion, the applicant can be reasonably assured that a waiver of the 72 foot height restriction can be obtained, and that the opinion of Mr. Hoskins, a member of the Planning Commission for only 3 months, is in no way conclusive of the final judgment of the full 10-member Commission. Relying on the Review Board's policy of leaving zoning questions to local zoning authorities (citing El Camino Broadcasting Corp., 12 FCC 2d 329, 330, 12 RR 2d 1057, 1059 (1968)), Atsinger submits that the conflicting affidavits reflect merely a difference of opinion and, in such circumstances, the Review Board consistently has refused to add site availability issues, citing Lester H. Allen, 20 FCC 2d 478, 17 RR 2d 914 (1969).

18. L & L characterizes the Hoskins affidavit as hastily prepared, lacking in specificity, and in no way determinative of the full Planning Commission's ultimate conclusion. L & L expresses confidence that the full Planning Commission, when presented with the facts, will approve L & L's proposed site. In support, L & L directs the Board's attention to the affidavit of Charles J. Kamuf, attorney for the Owensboro-Daviess County Metropolitan Planning Commission, which states that some members of the Planning Commission, after being informed of the nature of the Hoskins affidavit, expressed disapproval of individual members issuing such statements and directed the execution of an affidavit by Mr. Kamuf clarifying the Commission's position that no prejudgment had been made concerning any application which might be filed in the future regarding the construction of a radio tower on land located in the area proposed by L & L. Regarding petitioner's allegations concerning the Airport Commission's regulations, L & L argues that Federal law preempts the field of air navigation hazards and that L & L's FAA clearance of May 27, 1969, constitutes adequate approval of its site and is dispositive of that question. In any event, and without abandoning its contention of Federal preemption, L & L claims that its proposed tower will conform fully with requirements of the Kentucky Airport Zoning Commission. As evidence of such conformity, L & L attaches an Airport Commission notice, dated December 14, 1970, ostensibly constituting approval by such commission of the L & L proposed site. In reply, WVJS maintains that it has made a reasonable showing that Atsinger and L & L will be unable to secure zoning approval to construct its proposed towers; accordingly, petitioner renews its requests for site availability issues.

19. The Review Board will deny petitioner's requests for site availability issues. The Commission consistently has held that it does not require absolute assurance of the availability of a proposed site; rather it requires only that an applicant have "reasonable assurance" that its proposed site will be available. See Marvin C. Hanz, 21 FCC 2d 420, 18 RR 2d 310 (1970). It is also well established that zoning questions should be left to local zoning authorities and that issues inquiring into such matters will not be specified, absent a reasonable showing that the applicant will be unable to obtain approval of his plans from the local authorities. See Lester H. Allen, supra; Big Chief Broadcasting Co. of Lawton, Inc., supra. In the Board's opinion, petitioner's affidavits expressing the opinion of one of a 10-member zoning commission do not constitute a "reasonable showing" that Atsinger and L & L will be unable to obtain zoning approval of their proposed sites. Manifestly so where, as here, L & L has attached an affidavit indicating that Hoskins' opinion does not represent the full Commission's judgment. At best, there is simply a difference of opinion between petitioner and the applicants as to the probable action of the local zoning authority. The Review Board repeatedly has held that such a difference of opinion is insufficient to warrant the addition of a site availability issue. See, e.g., Ward L. Jones, 7 FCC 2d 831, 9 RR 2d 1062 (1967). In light of L & L's attached, and unchallenged, FAA clearance and Kentucky Airport Zoning Commission approval, the Board believes that petitioner's second ground also fails to constitute a "reasonable showing" that L & L will be unable to obtain zoning approval for its proposed site.

20. *Accordingly, it is ordered*, That the petition to enlarge issues and the supplemental petition to enlarge issues, filed November 19 and December 11, 1970, respectively, by Owensboro-On-The-Air, Inc. (WVJS), are granted to the extent indicated, and are denied in all other respects; and

21. *It is further ordered*, That the petition to enlarge issues and the supplement to petition to enlarge issues, filed November 19 and November 24, 1970, by Owensboro-On-The-Air, Inc. (WVJS), are denied; and

22. *It is further ordered*, That the issues in this proceeding are enlarged to include the following issue: To determine whether Edward G. Atsinger III has made available for public inspection a complete copy of his application pursuant to § 1.526(a)(1) of the rules and, if not, the effect thereof on the applicant's comparative qualifications to be a Commission licensee; and

[*] Regarding the Knagenhelm loan to Atsinger to construct Station WKBQ, the Review Board notes that Atsinger's claim that such loans has been made and partially repaid has been neither challenged nor contradicted by the petitioner. WKBQ's license was granted by the Commission on Feb. 13, 1968.

23. *It is further ordered*, That the burden of proceeding with the introduction of the evidence under the issue added herein shall be on Owensboro-On-The-Air, Inc. (WVJS), and the burden of proof shall be on Edward G. Atsinger, III.

Adopted: May 7, 1971.

Released: May 11, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[10]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-6752 Filed 5-13-71;8:52 am]

[Docket No. 18369 etc.; FCC 71R-147]

HOWARD L. BURRIS ET AL.

Memorandum Opinion and Order Modifying Issues

In regard applications of Howard L. Burris, Warren, Ohio, Docket No. 18369, File No. BP-17574; Eugene J. Davis, doing business as Davis Enterprises, Parma, Ohio, Docket No. 19114, File No. BP-18611; North East Communications Corp., Parma, Ohio, Docket No. 19115, File No. BP-18612; for construction permits.

1. This proceeding, involving the mutually exclusive applications of Howard L. Burris (Burris) for a new standard broadcast station in Warren, Ohio, and Davis Enterprises (Davis) and North East Communications Corp. (North East) for a new standard broadcast station in Parma, Ohio, was designated for hearing by Commission Order, 27 FCC 2d 290, 36 F.R. 637, published January 15, 1971. Among the issues specified were financial issues against Burris and Davis to determine the sources of additional funds, and against Burris alone to determine how much of the $80,000 listed as available resources is still available. Presently before the Review Board is a petition to enlarge issues, filed February 16, 1971, by North East, requesting the addition of cost estimate issues against both Burris and Davis, and an availability of funds issue against Davis.[1]

DAVIS

2. In support of its request for a cost estimate issue against Davis, North East first points out that Davis' estimated cost of construction and operation, originally set at $39,900 have jumped to $87,385, out of which $3,500 has been budgeted for "other items". However, North East insists there are other expenses which Davis may incur: since Davis proposes an elaborate directional array, it must obtain a proof of performance which might run up to $10,000[2]; it must pay a grant fee; and it must pay hearing, travel, and transcript costs. Nowhere in its application, asserts petitioner, is it apparent that Davis considered such items. Next, as the basis for an availability of funds issue, petitioner states that since September 1969, Davis has represented that he has available a $20,000 bank loan and $40,000 in cash while his assets consist only of the $40,000, and personal and real property valued at $50,000. Petitioner alleges that to meet the costs Davis has already incurred, it may have spent part of the $40,000; therefore, contends North East, there is reason to believe that Davis does not now possess the full $40,000. Petitioner thus urges the addition of an issue to determine whether the $40,000 is in fact still available.

3. Davis opposes the petition to enlarge issues on the grounds that the petition was filed more than 2 weeks late and does not include a demonstration of good cause; and because the petition is not sufficiently supported by affidavits. The Broadcast Bureau, in its comments, expresses the view that petitioner's allegations are "totally void of substance", and asserts that petitioner makes only general allegations regarding costs. Therefore, it also urges denial of petitioner's request. In reply, North East explains that the filing of its petition was late because it had been misled into believing that an extension of time had been requested on its behalf by counsel for Burris; immediately after being notified that such request was not made, North East states, it filed the instant petition. Returning to the substance of its petition, North East submits the affidavit of its consulting engineer wherein he verifies the estimated cost of $10,000 for the proof of performance. North East therefore concludes that its requested issues are warranted.

4. Initially, the Review Board is of the opinion that good cause exists for the late filing of the petition. The petition was apparently filed immediately after North East realized that an extension of time had not been requested, and no prejudice to other parties has been alleged. Nevertheless, we find North East's allegations devoid of merit. First, regarding Davis' cost of construction estimates, we agree with the Broadcast Bureau that petitioner's allegations are general and unsupported, except with regard to the proof of performance, and there is no indication that Davis' cost estimates are insufficient to cover that item. Next, North East's assertion that Davis has failed to adequately provide for other items such as the grant fee and travel costs is purely speculative and unsupported by affidavits. See WPIX, Inc., 22 FCC 2d 960, 18 RR 2d 1196 (1970). Finally, with respect to the request for an availability of funds issue, petitioner has failed to demonstrate that the source of funds heretofore expended was the $40,000 in cash. Therefore, in view of the foregoing, North East's petition, as it applies to Davis, will be denied.

BURRIS

5. In support of its request for a financial issue against Burris, North East points out that Burris, in his application which was filed in 1966, listed $80,000 as available resources and estimated $62,197 for construction costs and $48,000 for first-year operating costs for his proposed station. However, petitioner asserts that Burris has altered his engineering proposal to such a degree that his estimated cost of construction must also have increased[3]; nevertheless, in spite of this greater cost, contends North East, Burris has not changed his estimated expenses. Further, North East claims that Burris appears not to have considered in his estimated $5,000 for "other items" the increased costs since the filing of his application, which was initially uncontested. These costs, North East states, include the newly instituted grant fee and the increased legal and engineering expenses over those expected. Therefore, North East insists, an issue must be added to determine the basis for the estimated costs of construction and first-year operation and the adequacy of such estimations.

6. The Broadcast Bureau, in its comments, states that while it does not believe that Burris' engineering amendment constitutes a "drastic change" in his proposal, the proposed new equipment will considerably increase the cost of construction. Therefore, the Bureau supports North East's request and suggests an enlargement of the already specified financial issue directed against Burris. However, the Bureau expresses the view that the remaining allegations regarding extra costs incurred by Burris are without merit, and therefore it urges denial of this request.

7. Regarding the request for a financial issue based on Burris' alleged increased cost of construction, the Review Board is of the opinion that Burris' failure to detail the cost of such equipment warrants inquiry at hearing. Thus, the facts that Burris' costs were formulated in 1966, and that his engineering proposal has been substantially altered without any change of his estimated costs raise a substantial question as to the validity of the estimates.[4] North American Broadcasting Co., 15 FCC 2d 984, 15 RR 2d 367, 374 (1969). However, we do not believe that the cost estimates issue should include an inquiry into Burris' estimated costs of "other items". North East's assertions that such costs have increased are unsupported by affidavits of persons having personal knowledge of the facts as required by § 1.229 (c) of the Commission's rules; and we have no basis on which to assume the rise of such costs. See Almardon Incorporated of Florida, 16 FCC 2d 395, 15 RR 2d 600 (1969). Therefore, in view of the

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[10] Board member Nelson absent.

[1] Also before the Board for consideration are: (a) Comments, filed Feb. 26, 1971, by the Broadcast Bureau; (b) opposition, filed Mar. 2, 1971, by Davis; and (c) reply, filed Mar. 10, 1971, by North East.

[2] A grant of Davis' application is conditioned upon successful proof of performance.

[3] North East alleges that examples of the increased costs are a phase monitor, which will cost approximately $5,000, and Austin transformers rather than normal lighting chokes.

[4] The Board notes that in the affidavit attached to North East's reply to Davis' opposition, petitioner's consulting engineer avers that the alleged cost of the phase monitor was supplied by him.

foregoing, the Board will add a cost estimate issue against Burris relating solely to alleged increased costs of construction.

8. *Accordingly, it is ordered,* That the petition to enlarge issues, filed February 16, 1971, by North East Communications Corp., is granted to the extent indicated herein, and is denied in all other respects; and

9. *It is further ordered,* That existing Issue 6 in this proceeding is modified to include the following:

(a) To determine the basis of the applicant's estimated equipment costs, and whether these costs are reasonable;

10. *It is further ordered,* That existing Issues 6(a), 6(b), and 6(c), as originally designated, are renumbered to read 6(b), 6(c), and 6(d).

Adopted: May 7, 1971.

Released: May 11, 1971.

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

[FR Doc.71-6753 Filed 5-13-71;8:52 am]

[Dockets Nos. 11227, 17588; FCC 71-484]

CITY OF NEW YORK MUNICIPAL BROADCASTING SYSTEM

Memorandum Opinion and Order Enlarging and Revising Issues

In regard application of City of New York Municipal Broadcasting System (WNYC), New York, N.Y., for special service authorization to operate additional hours from 6 a.m., e.s.t., to sunrise New York, N.Y., and from sunset Minneapolis, Minn., to 10 p.m., e.s.t., Docket No. 11227, File No. BSSA-226; In regard application of City of New York Municipal Broadcasting System (WNYC), New York, N.Y., for construction permit, Docket No. 17588, File No. BP-16148.

1. The Commission has before it for consideration: An application, filed February 7, 1968, by Midwest Radio-Television, Inc., licensee of Station WCCO, Minneapolis, Minn., for review of a Review Board Memorandum Opinion and Order (FCC 68R-21, 11 FCC 2d 287) modifying the issues in the above-captioned proceeding; oppositions thereto filed February 19, 1968, by the City of New York Municipal Broadcasting System, licensee of Station WNYC, New York City, N.Y., and by the Broadcast Bureau, respectively; and WCCO's reply to oppositions filed March 1, 1968. The Commission also has before it a partial opposition to the application for review filed February 12, 1968, by Strauss Broadcasting Group, Inc., licensee of Station WMCA, New York City, N.Y., and reply thereto filed February 20, 1968, by WCCO.

2. Station WCCO is the dominant class I-A station operating on the clear channel frequency 830 kc., with 50 kw. of power, unlimited time. Station WNYC is a class II limited time station licensed to operate on the frequency 830 kc., with 1 kw. of power, during the period from sunrise in New York City to sunset in Minneapolis, Minn., using directional antenna. WNYC has also had a Special Service Authorization (SSA) since 1943 to operate additional hours from 6 a.m. (e.s.t.) to sunrise New York City, and from sunset Minneapolis to 10 p.m. (e.s.t.). This proceeding involves an application by WNYC for extension of its SSA (BSSA-226) and an application by it for construction permit to increase power from 1 to 50 kw., change transmitter site, directionalize antenna array, and operate specified hours from 6 a.m. (e.s.t.) to 10 p.m. (e.s.t.) (BP-16148).

3. By Memorandum Opinion and Order (FCC 67-825, adopted July 12, 1967, 8 FCC 2d 1047) we designated WNYC's 50 kw. application for hearing in the pending proceeding on its application for extension of SSA (Docket No. 11227) and modified the issues in that proceeding by specifying 11 substantially new issues involving both applications.

4. As the result of a petition filed by WCCO with the Review Board requesting the addition, revision and deletion of issues, the Review Board [1] by Memorandum Opinion and Order (11 FCC 2d 287) added an ascertainment of needs (Suburban Broadcasters) issue to determine whether WNYC has adequately ascertained the needs and interests of the new areas proposed to be served by its 50 kw. application; added an issue to determine whether and to what extent WNYC-FM can be utilized to meet presunrise and postsunset needs and requirements of the areas proposed to be served by WNYC's 50 kw. proposal; denied WCCO's request for an alternate facilities issue to inquire into the question of possible use of lower power and/or alternative transmitter sites and the question of possible use of alternative frequencies; denied WCCO's request for deletion of issue 7 (programing issue), or, in the alternative revision of that issue; and revised issue 4 in this proceeding to include a determination whether WNCY's 50 kw. proposal would seriously prejudice future consideration of the 830 kc. class I-A channel, as well as the 820 and 840 kc. class I-A channels specified by the Commission.

5. In its application for review, WCCO requests that the Commission review the Board's action regarding the following issues: utilization of FM; alternative facilities; programing issue 7; and ascertainment of needs.

UTILIZATION OF WNYC-FM ISSUE

6. WCCO contends that the FM utilization issue should have been drafted broadly enough to include both the 1 kw. SSA application as well as the 50 kw. application. WCCO notes that in discussing the appropriateness of an FM issue, the Board said that, in light of the unusual nature of the "subject applications", an issue would be added to determine whether and the extent to which WNYC-FM could be utilized to meet the presunrise and postsunset needs of the areas proposed to be served by the WNYC "AM operations", and that the issue as drafted was limited only to WNYC's 50 kw. proposal, without any explanation as to why the language should be so limited. WCCO contends that the FM utilization issue has direct pertinency to the 1 kw. SSA application since the application seeks an extension of authority to operate WNYC additional hours presunrise and postsunset, and since the issue specified by the Board is directed to whether WNYC-FM can meet the "presunrise and postsunset needs and requirements".

7. In its opposition, WNYC incorporates the arguments advanced by it before the Review Board, wherein it contended that there is a fundamental difference between AM and FM services and that FM service is not an adequate substitute for AM service; and that since the Commission has specified issues on which to determine the AM application on its merits, any issue or evidence relative to FM is irrelevant. The Broadcast Bureau contends that there is no need for an FM issue because the issues specified (3, 7, and 8) are sufficiently broad to permit the adduction of evidence to determine whether WNYC-FM could be used to meet whatever needs exist for additional hours of operation for WNYC's AM facility, but that if the Board's premise for adding the FM issue is accepted as correct, there is no basis for restricting the inquiry solely to the 50 kw. proposal.

8. The Commission believes that the availability of WNYC-FM as a possible alternative means of meeting whatever needs may exist for additional presunrise and postsunset hours of operation for WNYC is a proper matter for consideration in this proceeding with respect to both the application for extension of SSA and the application for regular authority to operate with 50 kw. during the additional hours in question. In our decision in the WOI case,[2] we expressly considered the availability of WOI-FM as an alternative means of presenting presunrise programing. In that case evidence as to FM service was allowed without a special issue. In this case, however, since the Board has ordered a limited FM issue, we shall leave that issue standing, and enlarge the issue to include the WNYC SSA extension application.

ALTERNATIVE FACILITIES

9. WCCO contends that one of the major areas in which the Review Board

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[5] Board Member Nelson absent.

[1] Board Member Berkemeyer dissenting to the addition of any ascertainment of needs issue since these questions are encompassed within the existing issues; Board Member Slone issuing statement of additional views; Board Member Kessler concurring and dissenting in part with statement; Board Member Nelson not participating.

[2] Iowa State University of Science and Technology (WOI), 19 FCC 2d 36, at 48 (1969).

split 2 to 2 was on the question whether the issues should be enlarged to permit consideration of whether the particular 50 kw. proposal submitted by WNYC was the best and most efficient way in which it might operate full time, or whether there are alternative modes of operation for that station which would better fulfill the objectives of section 307(b) of the Act and the Commission's report and order in the Clear Channel case.

10. WCCO contends that the Board erred in denying its request for an alternative facilities issue which would inquire into the question of possible lower power and/or alternative transmitter sites and the question of possible alternative frequencies. The Board denied the requested alternative transmitter issue because it felt that the question of alternative transmitter sites and lower power had been specifically considered by us in paragraph 10 of our designation order (8 FCC 2d at 1050). The Board denied the requested alternative frequencies issue on the basis of the Commission's consistent policy of not allowing hypothetical alternatives to be injected into hearing procedures. We find that the Board committed no reversible error in denying the requested alternative facilities issue on the grounds stated.

11. WCCO claims that an alternative facilities issue should be added in this case because the case is one involving both rulemaking and adjudication, and, therefore, broader issues and greater flexibility of proof are required. WCCO relies primarily on the KOB case.[3] WCCO contends that the KOB case stands for the proposition that both alternative frequencies and alternative antenna design proposals may be considered in an appropriate case and that the instant proceeding is such a case. WCCO further contends that while the Commission has been narrowing the Beaumont[4] doctrine generally so as to limit the alternate proposals which may be considered in the ordinary adjudicatory case, this is not an ordinary case since it involves rulemaking as well as adjudication.

12. We believe that WCCO misconceives the nature of this proceeding. This proceeding does not involve both rulemaking and adjudication. The KOB case involves a proceeding to determine which of several modes of operation on one of two frequencies, namely 770 kc. and 1030 kc., would best serve the public interest, as a permanent operating assignment for Station KOB, and the designation order contained a specific issue to determine whether § 3.25 (now § 73.25) of the Commission's rules should be amended so as to permit the operation of Station KOB in a manner contemplated by the issues (16 RR 765, 766–69). That case obviously involved both rulemaking and adjudication.

13. In the instant proceeding, however, no amendment of the rules is involved. Section 3.25 (now § 73.25) was amended by the Commission in the clear channel rulemaking proceeding in Docket No. 6741, by adding Note 2 to that section in order to permit the filing of an application for presunrise and postsunset hours of operation on 830 kc. in New York City on a regular basis, depending on the outcome of the adjudicatory proceeding on the WNYC SSA application in Docket No. 11227. As stated by the Commission on its designation order in this proceeding (paragraph 16), "In adopting note 2 to § 73.25 (then § 3.25) the Commission sought to provide for an ultimate regularization, one way or another, of WNYC's operating schedule." (8 FCC 2d at 1051).

14. It is urged that, because of the unique status of 830 kc. and the type of assignment proposed by WNYC, WNYC should be required to make a showing that there are no other sites available from which it could provide service to New York City, afford greater protection to WCCO, and operate with a power and a directional antenna pattern which would have minimum impact upon the future use of 830 kc. both day and night. (See additional views of Board Member Slone (11 FCC 2d at 305, 308–9) and statement of Board Member Kessler concurring and dissenting in part (11 FCC 2d 303).)

15. As stated in our memorandum opinion and order accepting WNYC's 50 kw. application for filing, we found that the engineering data submitted in support of the application indicated that the 50 kw. directional proposed operation during presunrise and postsunset hours would not increase radiation (above present SSA values) during nighttime hours toward the 0.5 mv/m 50 percent secondary service area of WCCO, and that, since WNYC had met the test of no increase in interference to WCCO, consideration would be given to the proposal on the merits. We also found that the proposed daytime operation involved no increase in radiation toward the 0.1 mv/m groundwave contour of WCCO. We said that we had examined the contentions made by WNYC for proposing a 50 kw. daytime operation from the proposed site and believed them to be accurate, and we found, therefore, that the public interest would be served by consideration of the proposal on the merits. (1 FCC 2d 1370, at 1373–4). In designating the application for hearing, we said: "The issues specified in this order have been designed to give WCCO full opportunity to submit evidence, in hearing, as to the alleged undesirability of a grant of the WNYC daytime proposal." (8 FCC 2d at 1050–51.)

16. Since the WNYC 50 kw. proposals have been found acceptable for consideration on their merits, we believe it desirable to adhere to our consistent policy of considering the proposals made "without regard to possible superior proposals which might have been advanced." (WKYR, Inc., 1 RR 2d 314, 317.) As stated in the WKYR case, supra, "The introduction of a standard which requires comparison of hypothetical alternatives would impose upon our processes a burden of impossible magnitude." (1 RR 2d at 317.)

PROGRAMING ISSUE

17. WCCO requests the Review Board to delete issue 7 (programing issue) or, in the alternative, to revise the last portion thereof seeking to determine "whether and to what extent WCCO's programing, during the hours of interference to it from WNYC, would meet special needs and interests of those areas in which such interference would occur." The Board denied the request on the ground that the matter had been considered by the Commission in its designation order (paragraph 11), and that it did not have the authority to undo what the Commission had done. Board Member Kessler dissented, stating that she would delete the last portion of the issue as being inconsistent with the role of a clear channel station in providing a program reception service to its broad secondary service area. Board Member Slone concurred in her views.

18. We do not agree with WCCO that programing should not be considered in this proceeding. However, in view of the circumstance of this case, we shall reexamine the appropriateness of the programing issue as presently framed. Regarding the need for revision of the issue, WCCO contends that by definition a class I–A station is one designed to render a primary and secondary service over an extended area and at relatively long distances (§ 73.21(a)(1) of the rules); that the basic "need" which a clear channel station is supposed to serve is that of providing a reception service at night to underserved rural populations which generally live at considerable distance from the city in which the class I–A station is located; that, in view of this, it is wrong to frame an issue which assumes that the class I–A station can, or should, cater to the "special needs and interests" of this distant secondary service area; and that such phraseology implies that the class I–A station can and should ascertain what are the special (local) needs of the many communities and states within its secondary service area and should evolve a program service to meet both the transmission and reception needs of each.

19. Upon review and reexamination of this matter, we believe the last portion of issue 7 as presently framed does not properly reflect the function of a class I–A clear channel station in rendering a skywave program reception service to its broad secondary area. We believe that the issue as to WCCO's program service to the areas and populations affected by interference from WNYC should be restored to the form in which it was first specified in issue 3 of the Commission's original designation order in this proceeding (FCC 54–1463, released Dec. 6, 1954), namely, "to determine the nature and character of the program service now being rendered by Station WCCO to such areas and populations." This will make the WCCO program issue

[3] Albuquerque Broadcast Co. (KOB), 16 RR 765 (1958).

[4] Beaumont Broadcasting Corp. v. FCC, 202 F 2d 306, 7 RR 2149 (1952).

in this case consistent with the KFI program issue specified in the WOI case, supra, which sought to determine the "nature and character" of the program service being rendered by clear channel station KFI to the areas and populations affected by interference from the presunrise operation of station WOI.[5] Issues 2 and 7 will be so revised.

20. The ultimate issue in this proceeding (issue 11) is to determine, in the light of the evidence adduced with respect to the other issues, which, if either, of the WNYC applications should be granted. This is not a comparative hearing between WNYC and WCCO. WCCO is not an applicant. WNYC is the applicant, and as such, properly has the burden of establishing that its proposed presunrise and postsunset program service would serve special needs and requirements of the populations and areas proposed to be served by it and, further that the public interest would be served by such proposed program service, in the light of the nature and character of WCCO's program service to the areas and populations affected by interference from WNYC.[6] Paragraph 11 of our Memorandum Opinion and Order (8 FCC 2d at 1050) is modified accordingly.

ASCERTAINMENT OF NEEDS

21. WCCO contends that the Board correctly added an ascertainment of needs issue with regard to WNYC's 50 kw. proposal, but erred in not adding a similar issue with regard to the 1 kw. SSA application because there is no logical basis for distinguishing between the two applications. The Board said that in view of the fact the applicant had made a prior survey to effectuate its current programing; that its proposed programing was essentially the same as its present programing; and that it had constantly and continually maintained contact with various phases of New York life through the operation of the station, no Suburban Broadcasters question was raised as to the present SSA areas covered and no issue would be added.

22. Contrary to WCCO's contention, we believe that there is a logical basis for distinguishing between the SSA and the 50 kw. applications. WNYC's special service authorization was originally granted and thereafter extended on the basis of an unusual and temporary need. An application for extension of the special service authorization (filed on FCC Form 317) obviously does not require an ascertainment of community problems, needs and interests in the usual sense contemplated by our Primer.[7] It should be noted that our designation order contains a specific issue (issue 8) to determine whether or not there is any unusual or temporary need for the requested special service authorization, and if there is, the nature and extent thereof. Under the circumstances, we find no merit in WCCO's request for an ascertainment of needs issue regarding the SSA extension application.

23. In paragraph 79 of our above Report and Order adopting the Primer, we stated that, "applicants in pending hearing cases may amend their applications if deemed necessary in view of our action here, within ninety (90) days of the release of the Report and Order or such further time as the presiding tribunal may allow for cause shown." In view of the ascertainment of needs issue added by the Board with regard to the new areas proposed to be served by WNYC's 50 kw. application, WNYC will be allowed a period of 90 days from the release date of this Memorandum Opinion and Order in which to amend its application if such amendment is deemed necessary or warranted.

PARTIAL OPPOSITION OF WMCA

24. The partial opposition to WCCO's application for review, which was filed by Strauss Broadcasting Group, Inc., licensee of station WMCA, New York City, will be dismissed on the ground that WMCA is not a party to this proceeding, and therefore, lacks standing to file such document.

25. *Accordingly, it is ordered:*

(1) That the application for review filed February 7, 1968, by Midwest Radio-Television, Inc. (WCCO), is granted to the extent indicated, but is denied in all other respects; and that the partial opposition to the application for review filed February 12, 1968, by Strauss Broadcasting Group (WMCA), is dismissed;

(2) That issue (b) added by the Review Board in its Memorandum Opinion and Order (11 FCC 2d 287, at 303), is enlarged as follows:

(b) To determine whether and to what extent WNYC–FM can be utilized to meet presunrise and postsunset needs and requirements of the areas proposed to be served by its 50 kw. proposal and by the proposal contained in its application for extension of SSA.

(3) That issue 2 specified in our designation order (8 FCC 2d 1047, at 1053) is revised as follows:

2. To determine whether the proposals of the city of New York Municipal Broadcasting System would cause objectionable interference to station WCCO, or any other existing standard broadcast stations, and if so, the nature and extent thereof, the areas and populations affected thereby, and the availability of other primary and secondary service to such areas and populations, and the nature and character of the program service now being rendered by station WCCO to such areas and populations.

(4) That issue 7 specified in our designation order (8 FCC 2d 1047, at 1054) is revised as follows:

7. To determine the type and character of the program service proposed to be rendered by Station WNYC and whether and to what extent WNYC's daytime and nighttime proposed programing would serve special needs and requirements of the populations and areas proposed to be served.

(5) That, in accordance with the provisions of paragraph 79 of our Report and Order adopting the Primer on Ascertainment of Community Problems (FCC 71-176, released Feb. 23, 1971), WNYC shall have 90 days from the release date of this Memorandum Opinion and Order in which to amend its 50 kw. application (BP–16148, Docket No. 17588).

Adopted: May 5, 1971.

Released: May 11, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[8]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-6754 Filed 5-13-71;8:52 am]

[5] See Issue No. 3 in the WOI case, 19 FCC 2d 36, at 42 (1969).

[6] See WOI case, 19 FCC 2d 36, at 45–50 (1969).

[7] Report and Order, Primer on Ascertainment of Community Problems by Broadcast Applicants, FCC 71–176, released Feb. 23, 1971.

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 328]

ALBERT F. MAURER CO.

Order of Revocation

By letter dated April 6, 1971, Albert F. Maurer Co. (Anna E. Kaegi d.b.a) 353 Bourse Building, Philadelphia, PA, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 328 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before May 5, 1971.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Albert F. Maurer Co. (Anna E. Kaegi d.b.a) has failed to furnish a surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised sec. 7.04(g) (dated 9–29–70).

It is ordered, That the Independent Ocean Freight Fordwarder License of Albert F. Maurer Co. (Anna E. Kaegi d.b.a) be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License of Albert F. Maurer Co. (Anna E. Kaegi d.b.a) be and is hereby revoked effective May 5, 1971.

[8] Commissioners Robert E. Lee and Wells absent; Commissioner Johnson concurring in the result.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Albert F. Maurer Co. (Anna E. Kaegi d.b.a).

AARON W. REESE,
Managing Director.

[FR Doc.71-6755 Filed 5-13-71;8:52 am]

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS AND PUBLIC GRAIN ELEVATOR OF NEW ORLEANS, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Cyrus C. Guidry, Port Counsel, Board of Commissioners of the Port of New Orleans, Post Office Box 60046, New Orleans, LA 70160.

Agreement No. T-590-4, between the Board of Commissioners of the Port of New Orleans (Port) and the Public Grain Elevator of New Orleans, Inc. (Elevator), modifies the basic agreement which provides for the lease of the Public Grain Elevator at New Orleans. The purpose of the modification is to renew and extend the basic lease, as modified, under the same rental terms and to make certain minor changes. The changes cover (1) advance notice for canceling the agreement, (2) liability for damages, and (3) insurance coverage.

Dated: May 11, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-6756 Filed 5-13-71;8:52 am]

FAIRSEA SHIPPING CORP. AND SITMAR CRUISES, INC.

Notice of Application for Performance Certificate

Security for the protection of the public; indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 C.F.R. Part 540):

Fairsea Shipping Corp. and Sitmar Cruises, Inc., c/o Shipping Management, S.A.M., 27 Boulevard d'Italie, Monte Carlo, Monaco.

Dated: May 10, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-6758 Filed 5-13-71;8:52 am]

FAIRSEA SHIPPING CORP. AND SITMAR CRUISES, INC.

Notice of Application for Casualty Certificate

Security for the protection of the public; financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Fairsea Shipping Corp. and Sitmar Cruises, Inc., c/o Shipping Management, S.A.M., 27 Boulevard d'Italie, Monte Carlo, Monaco.

Dated: May 10, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-6757 Filed 5-13-71;8:52 am]

FAIRWIND SHIPPING CORP. AND SITMAR CRUISES, INC.

Notice of Application for Casualty Certificate

Security for the protection of the public; financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Fairwind Shipping Corp. and Sitmar Cruises, Inc., c/o Shipping Management, S.A.M., 27 Boulevard d'Italie, Monte Carlo, Monaco.

Dated: May 10, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-6759 Filed 5-13-71;8:52 am]

FAIRWIND SHIPPING CORP. AND SITMAR CRUISES, INC.

Notice of Application for Performance Certificate

Security for the protection of the public; indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Fairwind Shipping Corp. and Sitmar Cruises, Inc. c/o Shipping Management, S.A.M. 27 Boulevard d'Italie, Monte Carlo, Monaco.

Dated: May 10, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-6760 Filed 5-13-71;8:52 am]

FEDERAL POWER COMMISSION

[Dockets Nos. RI71-1009, etc.]

CONTINENTAL OIL CO., ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

MAY 6, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are

[1] Does not consolidate for hearing or dispose of the several matters herein.

suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf* Rate in effect	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI71-1009	Continental Oil Co	332	2	El Paso Natural Gas Co. (acreage in San Juan County, N. Mex.) (San Juan Basin).	$320	4-9-71		6-10-71	13.0	14.0	
	do	334	2	El Paso Natural Gas Co. (Blanco Field, San Juan County, N. Mex.) (San Juan Basin).	380	4-9-71		6-10-71	13.0	14.0	
RI71-1010	Mobil Oil Corp	470	1	Transwestern Pipeline Co. (Barstow (Fusselman) Field, Ward County, Tex., Permian Basin).	24,926	4-8-71		6-9-71	[18] 22.0	[18] 26.6159	
RI71-1011	Chevron Oil Co., Western Division.	34	5	Northern Natural Gas Co. (Yates Field, Pecos County, Tex., Permian Basin).	1,178	4-13-71		7-2-71	[18] 15.0	[18] 16.0240	RI69-681.
RI71-1012	Humble Oil & Refining Co.	130	[1] 8	Transcontinental Gas Pipe Line Corp. (Thibodaux Field, Lafourche Parish) (Southern Louisiana).	13,231	4-12-71		5-28-71	22.375	[2] 26.0	RI71-700.
RI71-1013	American Petrofina Co. of Texas et al.	48	[4] 17	Transcontinental Gas Pipe Line Corp. (Greta Field, Refugio County, Tex., RR. District No. 2).		4-9-71	5-10-71	[16] Accepted			
	do	48	18	do	7,533	4-9-71		[10] 6-10-71	11.04125	[3] 19.0	
	do			do		4-9-71	[12] 5-10-71	[10] 6-10-71 [10] 10-10-71		[4] 21.0 [5] 25.0	
RI71-1014	Bass Enterprises Production Co. et al.	1	3	Southern Natural Gas Co. (Gwinville Field, Jefferson Davis and Simpson Counties, Miss.).	33,400	4-14-71	5-15-71	10-15-71	[8 9] 20.0	[6] 22.0	RI60-280.
RI71-1015	Continental Oil Co	138	30	Tennessee Gas Pipe Line Co., a division of Tenneco Inc. (West Delta Area, Offshore Louisiana) (Disputed and State).	94,825	4-14-71		5-30-71	[11] 19.5 20.5	[2] 22.375	RI71-833.
RI71-1016	Roy R. Gardner, et al.	3	2	Tennessee Gas Pipe Line Co., a division of Tenneco Inc. (Bruce Field, Mata Gorda County, Tex., RR. District No. 3).	18,068	4-12-17		6-13-71	[13 15] 16.22928	[13 15] 18.23678	RI70-732.
RI71-1017	Signal Oil & Gas Co	34	1	Lone Star Gas Co. (Carter and Love Counties, Oklahoma Other Area).	39,600	4-7-71		6-8-71	[18] 16.75	[14 15] 18.4	RI70-1664.

*Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Applicable to gas from reservoirs discovered on or after Oct. 1, 1968.
[2] Increase resulting from termination of moratorium in Southern Louisiana pursuant to Order No. 413, as amended.
[3] For gas from reservoirs discovered prior to Sept. 28, 1960.
[4] For gas from reservoirs discovered from Sept. 28, 1960, to June 17, 1970.
[5] For gas from reservoirs discovered on or after June 17, 1970.
[6] Agreement dated Dec. 31, 1970, provides among other things for extension of contract term and for renegotiated rates specified therein.
[7] Based on the assumption that all gas will be sold at 19 cents, which may or may not be true as the gas may be sold at one, two, or three rates.
[8] The effective rate and proposed rate for low pressure gas is 19.5 cents, respectively.
[9] For high pressure gas.
[10] With respect to the increases to 19 cents and 21 cents. A 5-month suspension from May 10, 1971, is applicable to the proposed increase to 25 cents.
[11] Pertains to gas produced from the West Delta Blocks 44, 45, and 54 under the basic contract.
[12] Expiration of statutory notice period.
[13] Includes 0.21931 cent reimbursement to seller for seller's cost of dehydration.
[14] Filing from initial certified rate to initial contract rate.
[15] The pressure base is 14.65 p.s.i.a.
[16] Accepted to become effective on the date shown in the "Effective Date" column. The acceptance of the agreement filed by American Petrofina Co. of Texas et al. is subject to the conditions prescribed elsewhere in this order.

The agreement filed by American Petrofina in addition to providing for the proposed increased rate involved here also provides for future escalation to any higher area ceiling or settlement rate prescribed by the Commission. The provisions relating to the area rate do not conform with § 154.93 (b–1) of the Commission's regulations. Consistent with Commission action taken on similar filings not in conformity with § 154.93(b–1), the agreement is accepted for filing upon expiration of statutory notice with the condition that the provisions relating to the area rate will only apply upon the Commission's approval of a just and reasonable rate, or settlement rate, in an applicable area rate proceeding, for gas of comparable quality and vintage. Additionally such agreement is accepted for filing only insofar as it pertains to the reserves specified therein and the increase is limited to gas produced from such reserves. Also, respondent is advised that the acceptance of such agreement does not constitute any authorization to abandon any acreage covered by the original contract which is not covered by this agreement.

All of the Southern Louisiana increases are suspended for a period ending 45 days from the respective dates of filing or 1 day from the requested or contractually due dates, whichever is later, consistent with prior Commission action on Southern Louisiana increase exceeding the area rates set forth in Opinions Nos. 546 and 546–A. The proposed increased rates in areas outside southern Louisiana which exceed the corresponding rate limitation for increased rates in southern Louisiana are suspended for 5 months upon expiration of statutory notice period. All of the other increases are suspended for periods ending 61 days from the respective dates of filings or for 1 day from the requested or contractually due dates, whichever is later.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61–1, as amended (18 CFR Chapter I Part 2 § 2.56).

[FR Doc.71-6664 Filed 5-13-71;8:45 am]

[Docket No. RI71–1018]

HOUSTON NATURAL GAS PRODUCTION CO., ET AL.

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

MAY 6, 1971.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A below.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission

enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Ch. I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
R171-1018..	Houston Natural Gas Production Co. et al.	11	[1] 8	Texas Eastern Transmission Corp. (Yoward Field, Bee County, Tex., RR. District No. 2).		4-7-71	5-8-71	[3] Accepted			
	do		[2] 9	do	$794	4-7-71		6-7-71	10.96821	[2] 16.0	

*The pressure base is 14.65 p.s.i.a.

[1] Letter agreement dated Mar. 5, 1971, which provides for extension of contract term and for a price of 14 cents from Apr. 1, 1971, to Feb. 5, 1976 and 15 cents thereafter, service agreement dated Mar. 5, 1971, whereby Texa Easterns agrees to pay Houston Natural 2 cents per Mcf for compression.

[2] Increase to contract rate. This rate is reduced by 5.90 cents per Mcf for compression and gathering services performed by third party.

[3] Accepted to become effective upon expiration of the statutory notice period.

The proposed increased rate exceeds the applicable area price level for increased rates set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR Chapter I Part 2 § 2.56). Pursuant to Order No. 423 the proposed rate is suspended for 61 days from the date of filing.

[FR Doc.71-6665 Filed 5-13-71;8:45 am]

[Docket No. CP71-258]

ALABAMA-TENNESSEE NATURAL GAS CO.

Notice of Application

MAY 10, 1971.

Take notice that on April 27, 1971, Alabama-Tennessee Natural Gas Co. (applicant), Post Office Box 918, Florence, AL 35630, filed in Docket No. CP71-258 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and metering facilities for the sale and delivery of natural gas on an interruptible basis to Tennessee Valley Authority (TVA), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to construct and operate 1.04 miles of 16-inch pipeline and 0.95 mile of 10¾-inch pipeline extending from a point adjacent to the Delta-Portland line of Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), to a gas turbine powerplant under construction by the TVA in Colbert County, Ala., and to operate said facilities to sell and deliver natural gas to TVA. Applicant states that the proposed sale to TVA will not require an increase in the presently authorized maximum daily quantity of natural gas purchased from Tennessee. The estimated cost of the facilities proposed herein is $395,000, which cost applicant states will be financed from funds on hand and short-term bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-6717 Filed 5-13-71;8:49 am]

[Docket No. CP71-80]

ATLANTIC SEABOARD CORP.

Notice of Petition To Amend

MAY 11, 1971.

Take notice that on April 27, 1971, Atlantic Seaboard Corp. (petitioner), Post Office Box 1273, Charleston, WV 25325, filed in Docket No. CP71-80 a petition to amend the Commission's order issued January 6, 1971 (45 FPC ——), as amended, issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act, by authorizing the construction and operation of certain natural gas compressor and pipeline facilities, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of January 6, 1971, authorized, inter alia, the construction and operation of 7.9 miles of 36-inch pipeline loop in Randolph County, W. Va., and the addition of a 3,165 horsepower compressor unit at the Loudoun Compressor Station in Loudoun County, Va. Petitioner states that the construction of 7.9 miles of 36-inch loop as an extension of 6.5 miles of 36-inch loop immediately downstream from the Cleveland Compressor Station in Upshur County, W. Va., in lieu of the previously authorized loop line, will provide identical pipeline capacity without opposition from landowners. Petitioner also proposes to install two 1,100 horsepower compressor units at the Loudoun Compressor Station in lieu of the 3,165 horsepower unit previously authorized. Petitioner states that it has been unable to locate a 3,165 horsepower unit which would be compatible with the performance of the existing 1,100 horsepower units at said station and that the two 1,100 horsepower units proposed as a substitute will generate sufficient capacity to meet petitioner's peak day requirements for the 1971-72 heating season.

Any person desiring to be heard or to make any protest with reference to said erating certificate must show that it has June 1, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.17-6718 Filed 5-13-71;8:49 am]

[Docket No. CP71-164]

CITY OF DE QUEEN, ARK., AND LOUISIANA-NEVADA TRANSIT CO.

Notice of Extension of Time

MAY 5, 1971.

On April 20, 1971, Louisiana-Nevada Transit Co. (Louisiana-Nevada) filed a motion requesting an extension of time within which to submit case-in-chief evidence, and a postponement of the hearing. On April 23, 1971, Ideal Basic Industries, Inc., an intervenor, filed a telegram concurring in the motion. On April 27, 1971, the city of De Queen, Ark. (De Queen), filed an answer stating that counsel for De Queen and Louisiana-Nevada have agreed, subject to Commission approval, that all parties be given until May 25, 1971, to file their respective case-in-chief, and that the hearing be postponed to June 15, 1971.

Upon consideration, notice is hereby given that the time is extended to and including May 25, 1971, within which each party shall file with the Commission and serve on all other parties and Commission staff the proposed evidence comprising its case-in-chief including any prepared testimony of witnesses and exhibits. The hearing is postponed, to commence at 10 a.m., e.d.s.t., on June 15, 1971, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-6719 Filed 5-13-71;8:49 am]

[Docket No. E-7477]

KANSAS CITY POWER & LIGHT CO.

Notice of Application

MAY 10, 1971.

Take notice that on March 10, 1971, Kansas City Power & Light Co. (applicant) filed a supplemental application seeking authority pursuant to section 204 of the Federal Power Act to increase to $50 million the amount of short-term, unsecured promissory notes authorized to be issued under the Commission's order of June 13, 1969, in Docket No. E-7477, of which aggregate amount a maximum of $25 million may be in the form of commercial paper, and to extend to not later than December 31, 1972, the final maturity date of said notes. In that order, the Commission authorized applicant to issue up to $40 million short-term promissory notes, of which aggregate amount up to $20 million could be in the form of commercial paper, with final maturities not later than December 31, 1971.

Applicant is incorporated under the laws of the State of Missouri with its principal business office at Kansas City, Mo., and authorized to do business in the State of Kansas.

The interest rate applicable to the promissory notes will be, in the case of demand notes issued to commercial bank, the prime rate in effect at the time of issuance; in the case of notes issued to commercial paper dealers, the market rate (or discount rate) at the date of issuance for commercial paper of comparable quality and of the particular maturity sold to commercial paper dealers; and in the case of commercial paper placed directly with regular purchasers of such commercial paper for their own accounts, the market rate (or discount rate) at the date of issuance for commercial paper of comparable quality and of the particular maturity placed directly by the issuer thereof. The applicant contemplates the issuance of promissory notes, including the "roll-over" of commercial paper promissory notes, without further application of this Commission, at any time and from time to time, each of such notes to have a maturity date of not later than December 31, 1972.

The proceeds will be used to finance in part applicant's construction program to December 31, 1972. The increase in authorization to $50 million and the extension of 1 year to December 31, 1972, will allow applicant more freedom in selecting the appropriate times under market conditions to fund its short-term debt.

Any person desiring to be heard or to make any protest with reference to the application should, on or before May 20, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-6720 Filed 5-13-71;8:49 am]

[Docket No. RP71-112]

MICHIGAN-WISCONSIN PIPE LINE CO.

Notice of Proposed Changes in Rates and Charges

MAY 11, 1971.

Take notice that on April 29, 1971, Michigan-Wisconsin Pipe Line Co. (Michigan-Wisconsin) tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1, and First Revised Volume No. 2, to become effective June 1, 1971. The proposed rate changes, which are reflected in all of the rate schedules, would increase charges for jurisdictional sales and services by approximately $40,061,069 annually, based on sales for the 12 months ended January 31, 1971, as adjusted.

Michigan-Wisconsin has submitted two sets of proposed tariff sheets to its Second Revised Volume No. 1: (1) Revised Tariff Sheets, which contain a purchased gas adjustment clause under which increases and decreases in its cost of purchased gas would automatically be reflected in periodic adjustments to its resale rates and (2) Alternate Revised Tariff Sheets, which do not contain such a clause. Michigan-Wisconsin requests waiver of § 154.38(d) of the Commission's regulations to permit the Revised Tariff Sheets containing the purchased gas adjustment clause to become effective. If the Commission does not grant such waiver, Michigan-Wisconsin requests that the Alternate Revised Tariff Sheets be accepted for filing, and that a hearing be specifically provided for this issue.

Michigan-Wisconsin states that the proposed changes are necessary because of increases in its cost of embedded debt, purchased gas, labor, supplies, and other operating expenses, and because of its proposed return to normalized accounting with liberalized depreciation. Michigan-Wisconsin further states that because it does not propose to change its historic revenue pattern, the rate increase is applied pro rata to each component of the presently effective rate schedule. The proposed rates include a claimed rate of return of 8¾ percent.

Copies of the filing were served on Michigan-Wisconsin's customers and interested State commissions.

Any person desiring to be heard or to make any protest with reference to this filing should on or before May 24, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as parties in any hearing therein

must file petitions to intervene in accordance with the Commission's rules. The tender is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-6721 Filed 5-13-71;8:49 am]

[Docket No. CP71-267]

NUECES INDUSTRIAL GAS CO.

Notice of Application

MAY 10, 1971.

Take notice that on May 6, 1971, Nueces Industrial Gas Co. (applicant), Post Office Drawer 521, Corpus Christi, TX 78403, filed in Docket No. CP71-267 an application pursuant to section 7(c) of the Natural Gas Act and pursuant to Order No. 431 in Docket No. R-418 for a limited-term certificate of public convenience and necessity, with pregranted abandonment, authorizing the operation of certain facilities for the sale of emergency gas to Transcontinental Gas Pipe Line Corp. (Transco), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has been advised by Transco that the latter has an existing gas supply emergency on its system and that unless Transco receives emergency gas supplies of the type proposed herein, it will be required to employ procedures for curtailment of firm service.

Applicant seeks a limited-term certificate with pregranted abandonment to sell up to a maximum daily volume of 250,000 Mcf of natural gas to Transco for a 1-year period commencing May 11, 1971, or as soon thereafter as the requisite certificate authorization is issued herein. Gas will be sold at a rate of 33.5 cents per Mcf.

Applicant will make this emergency sale to Transco at an existing point of connection between the two companies' systems upstream of Transco's Station 05 in Bee County, Tex., and such other points as may be mutually agreeable and as required for Transco to receive the gas into its existing system.

Applicant states that its business is restricted entirely to intrastate operations (Texas), except for the emergency deliveries herein proposed, and that it will be solely intrastate in character upon the expiration of such emergency deliveries. Therefore, it requests that the certificate requested herein be issued expressly subject to the following conditions:

(1) The certificate issued herein be limited to authorization of the proposed sale to Transco and facilities necessary to make such sale;

(2) The Commission waive its accounting and other reporting requirements with respect to applicant for the term of the limited-term certificate sought herein. Applicant will be willing to report the volumes sold to Transco pursuant to the requested authorization;

(3) The jurisdictional status of the facilities and operations of independent producers and other suppliers from whom applicant purchases gas and the sales by such independent producers and other suppliers be not affected during the term of the limited-term certificate;

(4) With the exception of the sale to be certificated herein, all of applicant's existing facilities, its operation of such facilities, and its sales from its system are and will continue to be exempt from Commission regulation, and the nonjurisdictional status of all of applicant's existing and proposed purchases of natural gas, and the nonjurisdictional status of applicant's existing sales from its system, will not be rendered jurisdictional or otherwise affected by Commission regulation by the certificate issued for the sale contemplated herein.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 21, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-6722 Filed 5-13-71;8:49 am]

[Docket No. CP71-259]

TEXAS GAS TRANSMISSION CORP.

Notice of Application

MAY 11, 1971.

Take notice that on April 29, 1971, Texas Gas Transmission Corp. (applicant), Post Office Box 1160, Owensboro, KY 42301, filed in Docket No. CP71-259 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain loop line facilities in Lafayette Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to construct and operate 8.12 miles of 30-inch loop pipeline on its Eunice-Thibodaux supply line in Southern Louisiana. Applicant states that this proposed loop will complete the looping of its line from the Lafayette Compressor Station in Lafayette Parish, La., to the Eunice Compressor Station in Acadia Parish, La., and will give greater flexibility in meeting emergencies and declines in deliverability in Northern Louisiana. The estimated cost of the facilities proposed herein is $2,152,600. Applicant states that no new sales or service are proposed as a result of the authorization sought herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 1, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commissions rules.

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

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

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-6724 Filed 5-13-71;8:49 am]

[Docket No. RP71-100]

TRUNKLINE GAS CO.

Order Providing for Hearing and Suspending Proposed Tariff Sheets

MAY 10, 1971.

Trunkline Gas Co. (Trunkline) on April 9, 1971, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1[1] to become effective on May 13, 1971.[2] The proposed tariff sheets provide for: (1) A single tariff sheet, Original Sheet No. 3-A, containing the rates applicable to the different rate schedules of Trunkline's FPC Gas Tariff; (2) An addition to the General Terms and Conditions of Trunkline's FPC Gas Tariff of two new sections, section 16, Priority in Service and section 17, Curtailment and Interruption.

The first proposed change listed above is to introduce simplicity and administrative ease in subsequent proceedings involving changes of rates. Presently, Trunkline's FPC Gas Tariff is structured so that the particular rate applicable to each rate schedule is stated on the tariff sheets that constitute the rate schedule. The proposed change provides for statement of rates applicable to each rate schedule on a single tariff sheet and will permit Trunkline to modify all or any number of its rates by the filing of a single tariff.

The second proposed change listed above would add two new sections, to provide for priority of service and a method for effecting curtailments or interruptions of gas deliveries under varying types of circumstances including force majeure, gas supply deficiency and operating or remedial conditions.

Proposed section 16, Priority of Service, provides when in Trunkline's judgment it is necessary to curtail or discontinue deliveries from its system to one or more of its customers, the ascending order of priorities shall be as follows unless conditions existing at the time make the same impracticable: (1) Interruptible Service rendered by Trunkline; (2) Large Volume Firm Service consisting of deliveries under the P-1, P-2, G-1, G-2 Rate Schedules and any firm direct industrial service rendered by Trunkline; and (3) Small Volume Firm Service consisting of deliveries to customers whose contract demand is 4,000 Mcf or less under the SG-1 and SG-2 Rate Schedules.

Proposed section 17, Curtailment and Interruption provides for curtailment or discontinuance of deliveries by Trunkline under force majeure, gas supply deficiency, and operating and remedial situations, all of which situations and the manner of curtailment under each are defined therein. In addition section 17 provides for billing procedures in the event of compliance as well as in the event of noncompliance by its customers to a curtailment order by Trunkline made pursuant to the proposed tariff provisions.

The proposed sections 16 and 17 providing for priority of service and curtailment and interruption present complicated issues which may require development in evidentiary procedings. The proposed additions to the general terms and conditions of the tariff in their particulars have not been shown to be justified and their operation may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The proposed revised tariff sheets[3] providing for the statement of rates applicable to each rate schedule on a single tariff sheet propose a change wholly ministerial in nature and one which presents no substantive issues under the provisions of the Natural Gas Act.

The Commission finds:

It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed Fourth Revised Sheet No. 21 and Original Sheets Nos. 21-A, 21-B, and 21-C of the General Terms and Conditions of Trunkline's FPC Gas Tariff and that such tariff sheets be suspended and the use thereof be deferred as herein provided.

The Commission orders:

Pending hearing and decision thereon, Trunkline's proposed Fourth Revised Sheet No. 21 and Original Sheets Nos. 21-A, 21-B, and 21-C, are hereby suspended and the use thereof is deferred for 60 days, until July 12, 1971, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-6725 Filed 5-13-71;8:50 am]

[1] 10th Revised Sheet No. 1; Original Sheet No. 3-A; 13th Revised Sheet No. 4; 9th Revised Sheet No. 5-A; 12th Revised Sheet No. 6-A; 11th Revised Sheet No. 6-B; 8th Revised Sheet No. 6-C; 12th Revised Sheet No. 7; 11th Revised Sheet No. 9; 10th Revised Sheet No. 9-D; 10th Revised Sheet No. 9-F; 11th Revised Sheet No. 9-G; 9th Revised Sheet No. 9-P; 7th Revised Sheet No. 9-R; 7th Revised Sheet No. 9-AE; 5th Revised Sheet No. 9-AF; 4th Revised Sheet No. 21; Original Sheet No. 21-A; Original Sheet No. 21-B, and Original Sheet No. 21-C.

[2] By letter filed with the Commission on May 3, 1971, Trunkline requested an effective date of June 12, 1971.

[3] 10th Revised Sheet No. 1; Original Sheet No. 3-A; 13th Revised Sheet No. 4; 9th Revised Sheet No. 5-A; 12th Revised Sheet No. 6-A; 11th Revised Sheet No. 6-B; 8th Revised Sheet No. 6-C; 12th Revised Sheet No. 7; 11th Revised Sheet No. 9; 10th Revised Sheet No. 9-D; 10th Revised Sheet No. 9-F; 11th Revised Sheet No. 9-G; 9th Revised Sheet No. 9-P; 7th Revised Sheet No. 9-R; 7th Revised Sheet No. 9-AE; 5th Revised Sheet No. 9-AF.

[Docket No. CP71-266]

UNION LIGHT, HEAT AND POWER CO.

Notice of Application

MAY 10, 1971.

Take notice that on May 6, 1971, The Union Light, Heat & Power Co. (applicant), Post Office Box 960, Cincinnati, OH 45201, filed in Docket No. CP71-266 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of liquefied natural gas (LNG) in interstate commerce to the Fort Hill Natural Gas Authority (Fort Hill), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant requests authorization for the sale, during the calendar year 1971, of 160,000 gallons of LNG (equivalent to approximately 13,333 Mcf of vaporous gas) to Fort Hill for resale and distribution in Easley, S.C., and environs. Applicant also seeks authorization to sell, thereafter, between 100,000 and 400,000 gallons of LNG (approximately equivalent to between 8,333 Mcf and 33,332 Mcf of vaporous gas) annually to Fort Hill. Applicant states that the proposed sale will be made pursuant to its FPC Rate Schedule LNG-1 and that Fort Hill will furnish its own transportation for the LNG from applicant's plant to Easley, S.C.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 21, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant

of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-6727 Filed 5-13-71;8:50 am]

[Project No. 696]

UTAH POWER & LIGHT CO.

Notice of Application for New License for Constructed Project

MAY 11, 1971.

Public notice is hereby given that application for new license has been filed under section 15 of the Federal Power Act (16 U.S.C. 791a, 825r) by Utah Power & Light Co. (correspondence to: S. G. Baucom, Post Office Box 899, Salt Lake City, UT 84110) for its constructed American Fork Project No. 696 located on American Fork Creek in Utah County, Utah. The project affects lands of the United States within the Uinta National Forest. The original license expired June 30, 1970, and the project is presently operating under an annual license.

The constructed project consists of: (1) A concrete overflow type diversion dam controlled by flashboards; (2) an intake structure with a tainter gate; (3) a steel pipe conduit from the intake structure to the powerhouse; (4) a brick powerhouse with concrete foundation containing one 950 kw. generating unit; (5) a 12.5 kv. transmission line from the powerhouse to a point near the former Lower Fork Plant, where it connects to the applicant's interconnected distribution system, and a 110-volt control line from the plant to the intake for automatic operation; and (6) appurtenant facilities.

According to the application, the project is located entirely on National Forest lands, the U.S. Forest Service has developed picnic and camp areas upstream from the project, and the applicant does not have any plans for development of recreation facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 28, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.17-6726 Filed 5-13-71;8:50 am]

NATIONAL GAS SURVEY EXECUTIVE ADVISORY COMMITTEE

Order Designating an Additional Member

MAY 10, 1971.

The Federal Power Commission by orders issued April 6, 1971, established an Executive Advisory Committee of the National Gas Survey.

1. Membership. An additional member to the Executive Advisory Committee, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Richard L. O'Shields, President, Panhandle Eastern Pipe Line Co.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-6728 Filed 5-13-71;8:50 am]

[Docket No. E-7629]

PACIFIC POWER & LIGHT CO.

Notice of Application

MAY 11, 1971.

Take notice that on April 27, 1971, Pacific Power & Light Co. (applicant), a corporation organized under the laws of the State of Maine and qualified to transact business in the States of Oregon, Wyoming, Washington, California, Montana, and Idaho, with its principal business office at Portland, Oreg., filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of not to exceed $105 million in principal amount at any one time outstanding of unsecured promissory notes (1) pursuant to a credit agreement with certain banks ($45 million), (2) pursuant to a Line of Credit ($20 million), and (3) in the form of Commercial Paper ($40 million).

(1) Notes in the sum of not to exceed $45 million in aggregate principal amount at any one time outstanding would be issued under a Credit Agreement dated as of June 30, 1971 (Credit Agreement), between applicant and the 14 banks listed in section 1 thereof. Under such Credit Agreement applicant would have the right to make borrowings and reborrowings from each bank and each bank would be obligated to make loans to applicant from time to time during the period from June 30, 1971, to December 31, 1972. Each note so issued would be dated the date of the borrowing evidenced thereby, mature 11 months after its date or on December 31, 1972, whichever is earlier, and bear interest at a rate per annum equivalent to the prime commercial rate of interest charged by the respective banks from time to time. In consideration of the commitment of the several banks to make loans, applicant would pay to each bank on the last day of each quarter beginning with September 30, 1971, and ending with December 31, 1972, an amount computed at the rate of one-half of 1 percent per annum on the daily average unused amount which such bank was obligated to lend during the calendar quarter then ended. Applicant reserves the right to surrender all or any part of the credit extended by the banks under the Credit Agreement and to prepay, without penalty, the whole or any part of notes outstanding thereunder, any partial payments to be in an aggregate amount of not less than $1 million.

(2) Unsecured promissory notes in an aggregate principal amount of not to exceed $20 million at any one time outstanding would be issued by applicant to evidence borrowings under lines of credit extended by the 14 banks named in section 1 of the Credit Agreement. Each note so issued would be dated the date of issuance, have a maturity of not more than 90 days from the date thereof, and all notes issued pursuant to said Line of Credit would mature not later than June 30, 1972.

(3) Unsecured promissory notes in an aggregate principal amount of not to exceed $40 million at any one time outstanding would be issued and sold by applicant to one or more commercial paper dealers. Each note issued as commercial paper would be dated the date of issuance, have a maturity of not more than 270 days from the date thereof and be discounted at the rate prevailing at the time of issuance for commercial paper of comparable quality and maturity.

Proceeds from the borrowings to be made under the Credit Agreement, the Line of Credit, and in the form of Commercial Paper would be used (1) in the further financing of applicant's construction expenditures for 1971, now estimated at approximately $120 million and (2) to pay installments of $5 million each due June 30, 1971, and December 31, 1971, under applicant's $35 million term Credit Agreement dated April 1, 1968. The balance of funds required for construction is expected to come from internally generated cash. Further permanent financing in addition to Serial Preferred Stock having an aggregate par value of $30 million to be issued in June of 1971 is to be undertaken late in 1971 or early in 1972, but the amounts and types of securities and the exact timing of issuance have not yet been determined.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 20, 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. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-6723 Filed 5-13-71;8:49 am]

NATIONAL GAS SURVEY COORDINATING COMMITTEE

Order Establishing Committee and Designating Its Membership and Chairmanship

MAY 10, 1971.

The Federal Power Commission hereby determines that the establishment of the National Gas Survey Coordinating Committee is in the public interest and establishes this committee in accordance with the provisions of the Commission's order issued February 23, 1971, 36 F.R. 3851.

1. Purpose. The Coordinating Committee shall perform a liaison function between the National Gas Survey, as constituted by Commission staff members, and advisory committees which are now established or may hereafter be established. In this capacity, the Coordinating Committee shall (a) assist in the implementation of requests for information or studies recommended by the National Gas Survey, the Executive Advisory Committee, the various Technical Advisory Committees and such other committees as may be established, (b) establish such work schedule priorities as it considers necessary for the implementation of such requests, (c) initiate assignments to the various committee or committees for the collection of information and (d) assist in such other ways as it may from time to time be called upon to act in a liaison capacity.

In accordance with the provisions of section 6(e) of Executive Order No. 11007 (27 F.R. 1875), neither the Executive Advisory Committee, the respective Technical Advisory Committees, the Coordinating Committee, nor such other committee or committees as may be established shall be permitted to receive, compile or discuss data or reports showing the current or projected nonpublic commercial operations of identified business enterprises. Data or reports of a nonpublic nature that are requested from identified business enterprises shall be submitted directly to the Director of the National Gas Survey, or to such person on his staff as designated by the Director, and such data or reports will be composited with that submitted by other identified business enterprises and reported on a composite basis and the provisions of section 8(b) of the Natural Gas Act (15 U.S.C. 717(g)) and the Freedom of Information Act (5 U.S.C. 552(b)(4)) shall apply.

2. Membership. The Chairman, Secretary, and other members of the Coordinating Committee, as selected by the Chairman of the Commission with the approval of the Commission, are designated in the appendix hereto.

3. The following paragraphs of the aforementioned Order issued February 23, 1971 are hereby incorporated by reference:

"3. Conduct of Meetings.
"4. Minutes.
"5. Secretary of the Committee.
"6. Location and Time of Meetings.
"7. Advice and Recommendations Offered by the Committee.
"8. Duration of the Committee."

The Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER in accordance with the provisions of the Office of Management and Budget Circular No. A-63.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

APPENDIX—NATIONAL GAS SURVEY COORDINATING COMMITTEE

Chairman—Thomas H. Jenkins, Director, National Gas Survey.
Secretary—Stephen A. Wakefield, Federal Power Commission.
Members:
1. William M. Elmer, Chairman—EAC.*
2. Richard C. Young, Deputy to Mr. Elmer.
3. James F. Simes, Secretary—EAC.
4. Myron A. Wright, Member—EAC, Vice Chairman—Supply—TAC.**
5. William T. Slick, Jr., Deputy to Mr. Wright.
6. Paul J. Root, FPC Survey Coordinating Representative and Secretary—Supply—TAC.
7. Willis A. Strauss, Member—EAC, Vice Chairman—Transmission—TAC.
8. Ferdinand Gagne, Deputy to Mr. Strauss.
9. Thomas H. Jenkins, Acting FPC Survey Coordinating Representative and Secretary—Transmission—TAC.
10. George J. Tankersley, Member—EAC, Vice Chairman—Distribution—TAC.
11. Ralbern H. Murray, Deputy to Mr. Tankersley.
12. Kenneth B. Lucas, FPC Survey Coordinating Representative and Secretary—Distribution—TAC.

[FR Doc.71-6729 Filed 5-13-71;8:50 am]

FEDERAL RESERVE SYSTEM

SOUTHWEST BANCSHARES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Southwest Bancshares, Inc., Houston, Tex., for approval of acquisition of more than 51 percent of the voting shares of The Village National Bank, Houston, Tex.

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 Southwest Bancshares, Inc., Houston, Tex. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of more than 51 percent of the voting shares of The Village National Bank, Houston, Tex. (Bank), a proposed new bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Comptroller offered no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on March 26, 1971 (36 F.R. 5754), 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 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 mangerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant directly or indirectly controls two subsidiary banks and has an interest of less than 25 percent of the voting shares in six other Texas banks.[1] Applicant's two subsidiary banks control total deposits of $602 million, which constitutes 11.3 percent of total bank deposits in the Houston SMSA and 2.6 percent of State deposits. The total group of banks in which Applicant has an interest control 12.9 percent of total deposits in the SMSA and Applicant is the third largest banking organization in the market. Applicant's acquisition of a proposed new bank would have no immediate effect on concentration of banking resources.

Applicant's two closest affiliated banks are located 8 and 9 miles from Bank's proposed site. There are four banks located within Bank's proposed service area, all of them more than 3 miles from Bank's proposed location. No existing competition would be eliminated by consummation of the proposal, nor would significant potential competition be foreclosed or would there be adverse effects on any competing banks.

The financial and managerial resources and prospects of Applicant and the banks within its group are satisfactory and consistent with approval of the application. Considerations concerning convenience and needs of the communities to be served lend some weight toward approval, due to the benefits to be derived from the existence of an additional banking facility in the community. It is the Board's judgment that the proposed transaction 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

* Executive Advisory Committee.
** Technical Advisory Committee.

[1] All banking data are as of June 30, 1970.

above, that said application be and hereby is approved: *Provided*, That the acquisition 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: *And provided further*, That (c) The Village National Bank shall be opened for business not later than 6 months after the date of this order. The periods described in (b) and (c) hereof may be extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[1] May 10, 1971.

[SEAL] ELIZABETH L. CARMICHAEL,
Assistant Secretary.

[FR Doc.71-6735 Filed 5-13-71;8:50 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 4.3-A for Disaster No. 802]

DISASTER COORDINATOR

California Earthquake Disaster

I. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Financial Assistance in Delegation of Authority No. 4, Revision 2 (35 F.R. 13234), as amended (35 F.R. 16759, 36 F.R. 653, and 36 F.R. 8537), there is hereby redelegated to the Disaster Coordinator for the California Earthquake Disaster, Disaster No. 802, the following authority:

A. *Administrative Services (for purpose of disaster operations only):*

1. To contract for supplies, materials and equipment, printing, transportation, communications, space, and special services for the Agency.

2. To enter into contracts for supplies and services pursuant to Delegation of Authority No. 410, dated March 26, 1962 (27 F.R. 3017), from the Administrator of the General Services Administration to the heads of executive agencies.

II. The authority delegated herein may be redelegated.

III. All authority delegated hereon may be exercised by any Small Business Administration employee designated as acting disaster coordinator, California Earthquake Disaster.

Effective date: April 19, 1971.

JACK EACHON, Jr.
Associate Administrator for Financial Assistance.

[FR Doc.71-6761 Filed 5-13-71;8:53 am]

[1] Voting for this action: Chairman Burns and Governors Mitchell, Maisel, Brimmer, and Sherrill. Absent and not voting: Governors Robertson and Daane.

DEPARTMENT OF LABOR

Office of the Secretary

ADVISORY COUNCIL ON EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

Recommendations for Appointment

Section 14 of the Welfare and Pension Plans Disclosure Act Amendments of 1962 (76 Stat. 40, 41, 29 U.S.C. 308e) provides for the establishment of an "Advisory Council on Employee Welfare and Pension Benefit Plans" which is to consist of 13 members to be appointed as follows: One from the insurance field, one from the corporate trust field, two from management, four from labor, and two from other interested groups, all of whom are to be appointed by the Secretary from among persons recommended by organizations in the respective groups. The additional three representatives are to be appointed from the general public by the Secretary. The prescribed duties of the Council are to advise the Secretary with respect to the carrying out of his functions under the Welfare and Pension Plans Disclosure Act, as amended, and to submit to the Secretary recommendations with respect thereto. The Council is required to meet at least twice each year and at such other times as the Secretary requests.

To assure continuity in the handling of the business of the Council, a rotation system is provided whereby the 2-year terms of approximately half the members expire each year. The groups represented by the members whose terms expire on June 30, 1971, are as follows: Labor (2), the insurance field (1), management (1), the public (1), and other interested groups (1). Appointments of new members will be for terms beginning July 1, 1971.

Accordingly, notice is hereby given that any organization desiring to recommend persons for appointment to the "Advisory Council on Employee Welfare and Pension Benefit Plans" may submit recommendations to the Secretary of Labor, 14th and Constitution Avenue NW., Washington, DC 20210, on or before June 15, 1971. The recommendation may be in the form of a letter, resolution, or petition, signed by an authorized official of the organization. Each recommendation shall identify the candidate by name, occupation, or position, and address. It shall specify the field or group which he would represent for purposes of section 14 of the Act, and whether he is available and would accept.

Signed at Washington, D.C., this 10th day of May 1971.

W. J. USERY, Jr.,
Assistant Secretary for Labor-Management Relations.

[FR Doc.71-6731 Filed 5-13-71;8:50 am]

INTERSTATE COMMERCE COMMISSION

[Notice 689]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 11, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72527. By order of May 7, 1971, the Motor Carrier Board, on reconsideration, approved the transfer to Pease & Keifer, Inc., doing business as Rojo Limited, Gardena, Calif., of Certificate No. MC-42473, issued to Aall Quote Industries, Inc., Poco Rivera, Calif., authorizing the transportation of: General commodities, with exceptions between specified points and areas in California. R. Y. Schureman, attorney, 1545 Wilshire Boulevard, Los Angeles, CA 90017.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-6742 Filed 5-13-71;8:51 am]

[Notice 689-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

MAY 11, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 279), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72733. By order of May 7, 1971, Division 3, acting as an Appellate Division approved the transfer to Christie's Warehouse & Transfer, Incorporated, Hartford, Conn., of a portion of the operating rights in certificate No. MC-32571 issued May 20, 1943, to S. Rashba & Sons, Inc., New Haven, Conn., authorizing the transportation of machinery between New Haven, Conn., and points in Connecticut within 40 miles thereof, on the one hand, and, on the other, New York, N.Y., Boston, Mass., and Providence, R.I. Thomas W. Murrett, 342 North Main Street, West Hardford, CT 06117, attorney for applicants.

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

[FR Doc.71-6743 Filed 5-13-71;8:51 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

MAY 11, 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. 42196—*Barley and oats from specified points in Montana.* Filed by North Pacific Coast Freight Bureau, Agent (No. 71-3), for interested rail carriers parties to its tariff ICC 1117. Rates on barley, feed grade, or oats, feed grade, in carloads, as described in the application, from specified points in Montana, to Hermiston and Hinkle, Oreg., and Midvale and Walla Walla, Wash.

Grounds for relief—Private motor competition.

AGGREGATE OF INTERMEDIATES

FSA No. 42197—*Barley and oats from specified points in Montana.* Filed by North Pacific Coast Freight Bureau, Agent (No. 71-4), for interested rail carriers parties to Uniform Freight Classification 10, ICC No. 6, and its tariff ICC 1117. Rates on barley, feed grade, or oats, feed grade, in carloads, as described in the application, from specified points in Montana, to Hermiston and Hinkle, Oreg., and Midvale and Walla Walla, Wash.

Grounds for relief—Maintenance of depressed rates published to meet private truck competition without use of such rates as factors in constructing combination rates.

By the Commission.

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

[FR Doc.71-6744 Filed 5-13-71;8:51 am]

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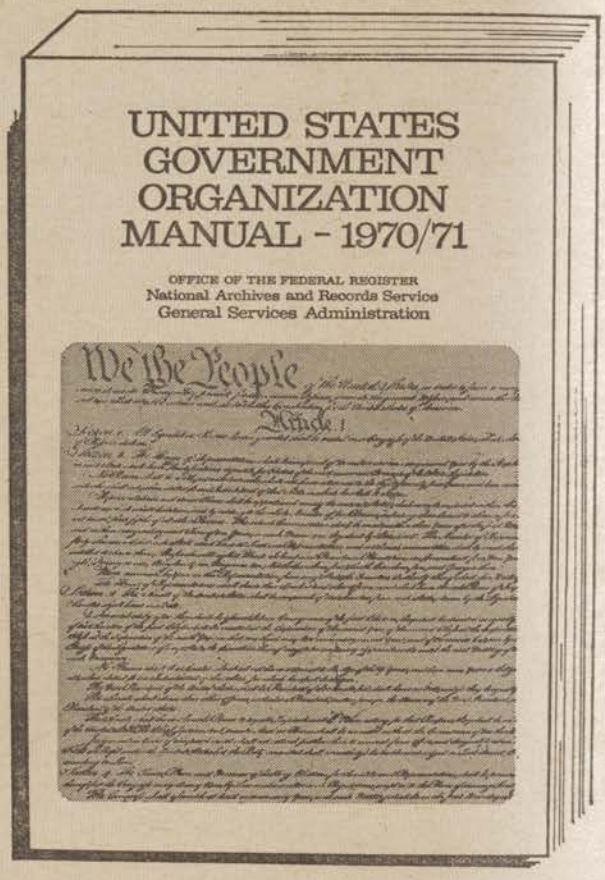

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