federal register

TUESDAY, JUNE 22, 1971
WASHINGTON, D.C.

Volume 36 ■ Number 120
Pages 11843–11894

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.

(Continued inside)

FEDERAL REGISTER

Area Code 202 Phone 962-8626

Published daily, Tuesday through Saturday (no publication on Sundays, Mondays, or on the day after an official Federal holiday), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., Ch. 15), under regulations prescribed by the Administrative Committee of the Federal Register, approved by the President (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended (44 U.S.C. 1510). The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER or the CODE OF FEDERAL REGULATIONS.

Contents

(Continued on next page)

List of CFR Parts Affected

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

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

3 CFR

PROCLAMATION:

4061 11847

7 CFR

730 11849

PROPOSED RULES:

1063 (2 documents) 11864, 11865
1070 11865
1078 11865
1079 11865

12 CFR

545 (2 documents) 11854
556 11854
747 11855

14 CFR

PROPOSED RULES:

61 11865
71 (3 documents) 11866, 11867

19 CFR

1 11849
9 11850

PROPOSED RULES:

1 11864

24 CFR

PROPOSED RULES:

200 11869

26 CFR

PROPOSED RULES:

1 11864

39 CFR

61 11850
62 11850

46 CFR

310 11851

49 CFR

571 11852

PROPOSED RULES:

567 11868
571 11868

Presidential Documents

Title 3—The President

PROCLAMATION 4061

National Postal Service Day

By the President of the United States of America

A Proclamation

For nearly two hundred years the people of this country have been served by a national post office. When America was growing, and our people were pushing the frontier out across the land, the United States Post Office helped bind our people together in one nation.

As the nation has grown and its needs have changed, the Post Office has grown and changed to meet those new needs. The Postal Reorganization Act of 1970 is a part of this change, heralding a new United States Postal Service. The new Service will provide management and methods appropriate to a great and vital communications system in the twentieth century. Behind the new Service, as from the beginning, the high ideals of public service and fidelity to the public well-being, which for so long has distinguished the Post Office, will continue.

On July 1, 1971, the United States Postal Service will begin operation as an independent establishment of the executive branch of the United States Government. It is appropriate to set aside that day to give recognition to the contributions made through the years by the men and women of the Post Office who have served the Nation so faithfully and to mark the inauguration of the United States Postal Service.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate Thursday, July 1, 1971, as National Postal Service Day.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of June, in the year of our Lord nineteen hundred seventy-one, and of the Independence of the United States of America the one hundred ninety-fifth.

Richard Nixon

[FR Doc.71-8846 Filed 6-21-71;10:03 am]

Rules and Regulations

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 8]

PART 730—RICE

Subpart—Regulations for Determination of Acreage Allotments for 1969 and Subsequent Crops of Rice

MISCELLANEOUS AMENDMENTS

On pages 8261 and 8262 of FEDERAL REGISTER of May 1, 1971 (36 F.R. 8261) was published a notice of proposed rule making to issue amendments to the regulations for determination of acreage allotments for 1969 and subsequent crops of rice.

Interested persons were given 30 days after publication of the notice in which to submit written data, views, or recommendations with respect to the proposed amendments.

After consideration of the views and recommendations received, the proposed amendments, as issued in the notice, are adopted with the following additions:

1. A basis and purpose paragraph is added preceding the amendments.

2. An authority clause is added immediately following the amendments.

3. An effective date provision is added immediately following the authority clause.

Signed at Washington, D.C., on June 15, 1971.

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

Basis and purpose. The amendments herein are issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended.

The purpose of these amendments is to (1) remove the reference to the adjustment in allotment to meet cropland limitations, (2) clarify the planting requirements with respect to allotment acreage acquired by a producer who is not a member of the transferor's family, and (3) provide that a producer who has withdrawn from the production of rice in favor of a producer other than a family member may acquire allotment and related history acreage from a partnership in which he is a partner when such partnership is dissolved.

The Subpart—Regulation for determination of Acreage Allotments for 1969 and Subsequent Crops of Rice (33 F.R. 14520), as amended, is amended as follows:

1. Section 730.62 is amended by revising paragraph (b)(13) thereof to read as follows:

§ 730.62 Definitions.

* * * * *

(b) * * *

(13) "Rice acreage planted and considered planted on a farm" means the sum of the farm rice acreage and any allotment acreage which is (i) preserved under the provisions of part 719 of this chapter, Reconstitution of Farms, Allotments, and Bases, and (ii) underplanted in the current year to deplete stored excess rice produced in a prior year as provided in § 730.30(h).

* * * * *

2. Section 730.67 is amended by revising paragraph (b)(3) thereof to read as follows:

§ 730.67 Establishment of preliminary allotments for old producers.

* * * * *

(b) * * *

(3) For a farm to which subparagraph (1) of this paragraph is not applicable, if less than 75 percent of the farm allotment (before reapportionment) is planted in the year for which the rice history acreage is being determined and in each of the 2 immediately preceding years, the rice history acreage will be the smaller of the farm allotment before reapportionment or the sum of:

(i) Rice acreage determined for the farm.

(ii) Acreage preserved under the provisions of Part 719 of this chapter.

(iii) Acreage underplanted in the current year to deplete stored excess rice produced in a prior year.

* * * * *

3. Section 730.76 is amended by revising the second and third sentences of paragraph (b)(3)(ii) thereof and changing the period at the end of paragraph (c) to a colon and adding a proviso to read as follows:

§ 730.76 Succession of interest in producer allotments.

* * * * *

(b) * * *

(3) * * *

(ii) * * * If the transferee fails to comply with this minimum planting provision, the transfer shall become invalid and the county committee shall reduce the transferee's allotment, for the crop year immediately following the year of such failure, by the percentage that the acquired acreage is of the allotment, including the acquired acreage for which there is failure to comply, established for the producer for the year of acquisition. The rice history acreages credited to the transferee for each year of the period the transfer was in effect shall be reduced by the same percentage that the allotment is reduced. * * *

* * * * *

(c) * * * *Provided, further,* That a producer who has withdrawn from the production of rice under the provisions of paragraph (b)(3) of this section may acquire allotment and related history acreage from a partnership in which he is a partner when such partnership is dissolved as provided in paragraph (b)(4) of this section.

4. Section 730.78 is amended by revising paragraph (b)(3) thereof to read as follows:

§ 730.78 Establishment of preliminary allotments for old farms.

* * * * *

(b) * * *

(3) For a farm to which subparagraph (1) of this paragraph is not applicable if less than 75 percent of the farm allotment (after release and before reapportionment) is planted in the year for which the rice history acreage is being determined and in each of the 2 immediately preceding years, the rice history acreage will be the smaller of the farm allotment before release and before reapportionment or the sum of:

(i) Acreage released for reapportionment.

(ii) Rice acreage determined for the farm.

(iii) Acreage preserved under the provisions of Part 719 of this chapter.

(iv) Acreage underplanted in the current year to deplete stored excess rice produced in a prior year.

* * * * *

§ 730.79 [Amended]

5. Section 730.79 is amended by deleting paragraph (e) thereof.

(Secs. 353, 375, 52 Stat. 61, as amended, 66, as amended; 7 U.S.C. 1353, 1375)

Effective date. Thirty days after publication in the FEDERAL REGISTER.

[FR Doc.71-8735 Filed 6-21-71;8:47 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 71-157]

PART I—GENERAL PROVISIONS

Changes in Customs District of Cleveland, Ohio (Region IX)

JUNE 11, 1971.

An increase in Customs activities at the airports servicing the Toledo, Ohio, area, as well as the dispersion of trucking company terminals, has made it desirable and necessary to extend the existing port limits of Toledo, Ohio.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President in Executive Order No. 10289, September 17, 1951 (3 CFR Ch. 11), and pursuant to authorization provided by Treasury Department Order No. 190, Rev. 7 (34 F.R. 15846), the geographical limits of the Customs port of Toledo, Ohio, in the Cleveland, Ohio, Customs district (Region IX), as described in T.D. 54137, are extended to include additional townships in the counties of Lucas and Wood, State of Ohio. The limits of the port of Toledo as extended are described as follows:

The Customs port of entry of Toledo, Ohio, in the Customs district of Cleveland, Ohio (Region IX), shall include all the territory within the corporate limits of the cities of Toledo, Ottawa Hills, Maumee, and Oregon, and the townships of Springfield, Swanton, and Monclova, all located in Lucas County, Ohio; also included shall be the territory within the towns of Rossford and Northwood, and the townships of Perrysburg and Lake, all located in Wood County, Ohio.

Section 1.2(c) of the Customs Regulations is amended by deleting "(including the territory described in T.D. 54137)" in the column headed "Ports of Entry" and inserting in lieu thereof "(including the territory described in T.D. 71-157)."

(80 Stat. 379, sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended, R.S. 251, as amended, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 1, 2, 66, 1624)

This Treasury Decision shall become effective 30 days after publication in the FEDERAL REGISTER.

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

[FR Doc.71-8745 Filed 6-21-71;8:48 am]

PART 9—IMPORTATIONS BY MAIL

Sealed Letters of Foreign Origin Suspected of Containing Merchandise

On February 3, 1970, notice of proposed rule making regarding amendment of the regulations relating to sealed letters of foreign origin suspected of containing merchandise was published in the FEDERAL REGISTER (35 F.R. 2410).

All data, views, or arguments received in response to that notice have been duly considered, and a new section prohibiting Customs officers or employees from reading correspondence without a search warrant has been added.

The amendments as proposed and the new section are hereby adopted as follows:

In Part 9, a new § 9.0 is added to read as follows:

§ 9.0 Definition.

As used in this part, "package," "parcel post shipment," "mail parcel," "parcel post," "parcel," "mail shipments," and "mail" shall include envelopes, sealed or unsealed, arriving in the international mail.

In § 9.2(b) the last sentence is amended to read as follows:

§ 9.2 Treatment of mail importations at offices of first receipt and at offices of examination.

* * * * *

(b) * * * Upon receipts at the distribution post offices, the dispatches shall be opened and the mail given customs treatment.

Section 9.5 is amended to read as follows:

§ 9.5 Dutiable merchandise, prohibited merchandise, merchandise imported contrary to law arriving in international mail.

When, upon customs examination, a parcel or envelope from abroad is found to contain merchandise subject to duty or internal-revenue tax, and the parcel or envelope is not accompanied by an appropriate customs declaration and commercial invoice or statement of value required by § 9.1, or is found to contain material prohibited importation or imported contrary to law, the merchandise is subject to seizure and forfeiture. Under the authority contained in section 618, Tariff Act of 1930, any forfeiture of merchandise subject to duty or internal-revenue tax (other than material prohibited importation) so incurred is hereby mitigated to an amount equal to 10 percent of the loss of revenue which was or might have been sustained, provided there is no evidence indicating to the district director of customs that failure to properly declare the merchandise was due to willful negligence or an intent to defraud the revenue. If there is any such evidence, or if for any other reason the district director believes that it would not be in the interest of the United States to grant this relief, the matter shall be reported to the Bureau of Customs for instructions. When the shipment does not exceed $250 in value, Customs Form 3419 or 5119 shall be used for the entry of the merchandise and the duty, any internal-revenue tax, and the amount of the mitigated forfeiture shall be entered as separate items thereon. If a parcel or envelope for which a mail fine entry has been issued in accordance with the foregoing provision is undeliverable, it will be returned to the district director of customs at the port where the mail entry was issued, for disposition in accordance with § 9.12(d) relating to articles subject to seizure. The addressee or sender may file a petition with the district director at the port where the mail fine entry was issued for relief from the forfeiture incurred and for release of the seized merchandise to the addressee or sender.

(Sec. 1, 62 Stat. 716, sec. 618, 46 Stat. 757; 18 U.S.C. 545, 19 U.S.C. 1618)

§ 9.12 [Amended]

In § 9.12(d), the first sentence is amended to read as set forth below and the last two sentences of paragraph (e) are deleted:

Except for lottery matter, all mail shipments containing articles which are prohibited importation, and all mail shipments containing articles subject to seizure as being imported contrary to law, shall be immediately taken and held by customs officers for appropriate treatment under the customs laws.

A new § 9.13 is added to Part 9 to read as follows:

§ 9.13 Reading of correspondence prohibited.

No customs officer or employee may read or authorize or allow any other person to read any correspondence contained in sealed letter mail of foreign origin (Universal Postal Union mail) unless a search warrant has been obtained in advance from an appropriate judge or U.S. magistrate which authorizes such action.

(80 Stat. 379, R.S. 3061, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 482, 1624)

Effective date. These amendments shall become effective 30 days after their date of publication in the FEDERAL REGISTER.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved: June 3, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-8743 Filed 6-21-71;8:48 am]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 61—CUSTOMS

PART 62—SEALED LETTERS BELIEVED TO CONTAIN PROHIBITED MATTER

Sealed Articles Believed To Contain Dutiable or Prohibited Matter

By notice of proposed rule making published in the FEDERAL REGISTER on February 3, 1970 (35 F.R. 2410), the Post Office Department invited public comments concerning proposed amendments to its regulations governing the customs treatment of sealed articles, including letters and letter packages, originating outside the customs territory of the United States, which are believed to contain prohibited or dutiable matter. Simultaneously with the publication of this notice, the Bureau of Customs, Department of the Treasury, published a notice of proposed rule making (35 F.R. 2410-11), proposing complementary amendments to Customs Regulations.

Existing regulations provide that, before sealed articles of foreign origin which are believed to contain prohibited or dutiable matter may be opened, the consent of the addressee must be obtained, unless the article is endorsed by the sender to permit opening. If the consent is not given, the article is returned to its sender if known. The administration of these regulations with respect to

articles believed to contain matter prohibited because obscene, has been suspended since January 21, 1971, because of doubts as to validity of their enforcement in the light of the decision of the Supreme Court in Blount v. Rizzi, 400 U.S. 410 (1971). The Commissioner of Customs, moreover, has stated that the long recognized authority of the Bureau of Customs to open sealed letters arriving in the international mail has been inhibited by the presence of these regulations.

In lieu of the current procedures, the proposed amendments provide for the submission directly to customs officials for customs treatment, including examination, of all articles of mail originating outside the customs territory of the United States which are believed to contain prohibited or dutiable matter. The proposed amendments do not authorize the opening of any sealed article by a postal officer or employee.

Comments on the Post Office Department's proposed amendments have been received. After careful consideration of these comments, the Department has determined to adopt the amendments as proposed subject to the minor changes. These changes are: (1) Certain mail addressed to international organizations which are entitled by statute to privileges and immunities is added as an additional category of mail exempt from customs examination, (2) the extent of the exemption from examination for mail addressed to foreign diplomats is clarified and restated, and (3) the categories of mail exempt from examination are designated by number. In addition the section and part numbers of the regulations affected vary from those shown in the Notice of Proposed Rulemaking as a result of the recodification of the international mail regulations (36 F.R. 4117).

Accordingly, the following amendments are made to Title 39 CFR: 1. Section 61.1 *What is subject to examination* is amended to read as follows:

§ 61.1 What is subject to examination.

All mail originating outside the customs territory of the United States is subject to customs examination, except (a) mail addressed to Ambassadors and Ministers (Chiefs of Diplomatic Missions) of foreign countries, (b) letter mail known or believed to contain only correspondence or documents addressed to diplomatic missions or the officers thereof, or international organizations designated by the President as public international organizations pursuant to the International Organizations Immunities Act, and other mail addressed to such international organizations pursuant to instructions issued by the Department of the Treasury, and (c) mail known or believed to contain only official documents addressed to officials of the U.S. Government.

2. Section 61.2 *Separation points* is amended to read as follows:

§ 61.2 Separation points.

(a) *Exchange offices.* Mail believed to contain matter liable to customs duty or believed to contain prohibited matter is submitted immediately to local customs officers, except when exchange offices are authorized to redispatch such mail to designated distribution offices for customs treatment thereat. Exchange offices which redispatch matter to be submitted to customs officers will attach Label 81, a reusable pink slotted tag, bearing the words, "This sack contains mail Supposed Liable to Customs Duty," to the label holders or hasps of sacks or pouches.

(b) *Distribution offices.* Distribution offices will submit such mail to customs officers as soon as possible after receipt. The reusable tags, Label 81, removed from sacks containing this mail will be returned periodically to the postmasters at New York, New Orleans, San Francisco, Seattle, or Miami, as may be appropriate from a geographical standpoint.

(c) *Priority treatment of airmail.* Airmail articles receive preferential customs treatment and are submitted to customs separately from surface mail. Upon return from Customs, dispatch will be by air if it will expedite delivery.

3. In § 61.3 *Examination*, delete present paragraphs (a), (b), and (c) and insert in lieu thereof the following:

§ 61.3 Examination.

(a) *Registered mail.* The postmaster or other designated postal employee must be present when registered articles and registered parcels are opened by customs officers for examination. After customs treatment, the customs officer will repack and reseal the articles and parcels.

(b) *Extraction of samples for advisory information.* Should a customs officer wish to obtain advisory information from a local trade expert or the Customs Information Exchange, U.S. Customshouse, Bowling Green, New York, N.Y. 10004, permit him to extract a sample of the contents. The customs officer will furnish the postal official with two copies of Customs Form 6423, one for enclosure in the importation and the other for the post office files. If the sample is to be forwarded to New York, dispatch it under official registration to the New York Postmaster for delivery to the Customs Information Exchange.

* * * * *

4. Section 6.14. *Repacking*, is amended to read as follows:

§ 61.4 Repacking.

(a) *Responsibility of customs and postal employees.* Customs employees have responsibility for resealing or repacking mail of foreign origin following customs examinations. Postal employees accepting mail which has been in customs custody for examination must determine from external inspection whether it can safely bear further handling and transportation. Customs employees are responsible for restoring mail that is not in satisfactory condition. Employees may be held responsible when damage occurs as a result of negligence or improper handling.

(b) *Customs shipments in bad order.* Shipments found to be in bad order in transit or at the delivery office must be reconditioned by postal employees. Note bad order and evidence of rifling or damage on the address side of the wrapper over the signature of the employee.

5. Part 62—"Sealed Letters Believed to Contain Prohibited Matter" is revoked.

Effective date. These amendments shall become effective on the 30th day following publication in the FEDERAL REGISTER.

(R.S. 3061; sec. 305, 46 Stat. 688, as amended; 5 U.S.C. 301; 19 U.S.C. 482, 1305(a); 39 U.S.C. 501)

DAVID A. NELSON,
General Counsel.

[FR Doc.71-8744 Filed 6-21-71;8:48 am]

Title 46—SHIPPING

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER H—TRAINING

[General Order 87, Rev., Amdt. 5]

PART 310—MERCHANT MARINE TRAINING

Subpart A—Regulations and Minimum Standards for State Maritime Academies and Colleges

ENTRANCE, ENROLLMENT, AND ALLOWANCES

Effective upon the date of publication in the FEDERAL REGISTER (6-22-71) Subpart A of this part is amended as follows:

1. Amend subparagraph (4) of § 310.6 (a) to read as follows:

§ 310.6 Entrance requirements.

(a) * * *

(4) Be not less than 17 years of age and not have reached his 22d birthday in the year appointed to the school. The schools may admit students outside these age limits but such students will not be entitled to consideration for the Federal subsistence, uniform, and textbook allowance.

* * * * *

2. Revise § 310.7 to read as follows:

§ 310.7 Enrollment and uniform, textbook, and subsistence allowance.

(a) For classes entering the academies located in Maine, Massachusetts, New York, Texas, and California in fiscal year 1972, and each fiscal year thereafter, the number of students to be selected on entry to receive allowances for uniforms, textbooks, and subsistence shall be specified from time to time in writing by the Maritime Administration. Students selected to be paid allowances as aforesaid on entry will continue to be paid allowances subject to the terms of this Subpart A during their attendance but there will be no substitution for students removed or dropped from the list of those originally selected for receiving allowances. Such notification shall be given by the Maritime Administration on or prior to January 1 of each calendar year

with regard to the new class to enter during that class year. The rate to be paid will be under the conditions stated in Public Law 85–672 (section (6) of the Maritime Academy Act of 1958 (46 U.S.C. 1385)). All outstanding agreements with the schools listed above shall be considered as modified in accordance with the provision of this paragraph. The selection of those entering students as aforesaid will be in accordance with the criteria established by the academies individually with the prior approval of the Maritime Administration. The Great Lakes Maritime Academy will come within these procedures beginning with the class entering in fiscal year 1973.

(b) Each cadet who has been admitted to a school, who has met the requirements set forth in § 310.6, and who has applied for and has been enrolled in the U.S. Maritime Service shall be entitled to consideration for a uniform, textbook, and subsistence allowance at a rate and under the conditions stated in Public Law 85–672. (Section (6) of the Maritime Academy Act of 1958 (46 U.S.C. 1385)): *Provided*, That Congress has appropriated necessary funds for this purpose. Upon enrollment in the U.S. Maritime Service each cadet shall be required to take an oath or affirmation of allegiance to the United States of America and execute a Nonsubversive Activities and No-Strike Affidavit, Form MA–527.

(c) The uniform, textbook, and subsistence allowance will be paid monthly and will be paid directly to the school concerned, upon the presentation of a statement containing the names of each cadet selected by the Academy (within the quotas furnished pursuant to paragraph (a) of this section) to be paid the allowance and showing the number of days each was present during the month, or absent, under the provisions of § 310.8. For new cadets admitted to the schools the statement supporting the first voucher for payment shall certify that the cadets have met the entrance requirements in § 310.6. The statement shall also contain such other information as may be required by the Administrator. The voucher submitted for the payments of this allowance shall contain a certification by the Superintendent of the respective school that payment of the voucher will be used to assist in defraying the cost of the uniform, textbook, and subsistence of each cadet on the basis of the amount entitled to him as reflected by attached Daily Attendance Report. No cadet will be granted a uniform, textbook, and subsistence allowance for any time during which he is absent without leave or for absence due to a condition not in line of duty.

(d) For the fiscal year commencing on July 1, 1966, and each fiscal year thereafter, if it appears that the amount of money appropriated by Congress under 6(a) of the Act for said year shall not be sufficient to make payments at the maximum rate, not in excess of $600 per academic year per cadet, then the Administrator, after consultation with the schools, may determine the exact rate to be paid at each school for the remainder of the fiscal year.

(e) For the fiscal year commencing on July 1, 1971, and each fiscal year thereafter, the uniform, textbook, and subsistence allowance will be provided in accordance with the conditions of this § 310.7 and the existing agreements with the schools are modified to conform thereto, as provided in article 11 of said agreements relating to renewal of agreement.

(Sec. 101, 49 Stat. 1985, 46 U.S.C. 1101; Public Law 85–672, 72 Stat. 622, 46 U.S.C. 1381)

Dated: June 17, 1971.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,
Secretary, Maritime Administration.

[FR Doc.71–8749 Filed 6–21–71;8:48 am]

Title 49—TRANSPORTATION

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Dockets Nos. 1–9, 1–10; Notice 5]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Exterior Protection on Passenger Cars

The purpose of this notice is to respond to petitions requesting reconsideration of Motor Vehicle Safety Standard No. 215, Exterior Protection, issued April 9, 1971 (35 F.R. 7218). The petitions are denied in part and granted in part. To the extent that changes to the standard in response to petitions have been found to add to the performance requirements, they are included in a notice of proposed rule making published in this issue of the FEDERAL REGISTER (36 F.R. 11868).

Subsequent to issuance of the standard, petitions for reconsideration were submitted by Chrysler, American Motors, Fiat, Japanese Automobile Manufacturer's Association, Peugeot, Ford, General Motors, Center for Auto Safety, Volkswagen, DeTomaso, and Mr. Jack R. Fenton, a member of the California State Assembly. In issuing this notice, the NHTSA has reviewed each of the issues raised in the petitions.

Few petitioners took issue with the fixed barrier impact requirement effective January 1, 1972. Two European manufacturers requested that the frontal speed be lowered to 2½ m.p.h. No supporting data were submitted, however. The NHTSA continues to regard a 5-m.p.h. impact as an appropriate measure of frontal protection and the petitions are denied. Among the domestic manufacturers, American Motors requested that the license plate lamps be exempted from the protective criteria of S5:3.1, on the grounds that the best location for the license plate lamps is in a bumper insert that is difficult to insulate from shock. Since the license plate lamps have little bearing on operational safety, and their protection would in some cases require a disproportionate degree of design alteration, the request appears reasonable and the license plate lamps are exempted from the protection criteria.

The pendulum impact test requirements, effective September 1, 1973, were the subject of a divergent group of comments. With its multiple impacts at varying heights at 5 m.p.h. in the front and 4 m.p.h. in the rear, the pendulum test imposes two basic requirements: The management of the total energy of the pendulum, and the configuration of the front and rear surfaces in order to accommodate the pendulum's impact ridge.

Because of the limited width of the pendulum, as compared to a fixed collision barrier, the energy imparted by the pendulum to the portion of the vehicle it strikes is roughly equivalent to the energy transmitted to that portion during a barrier test at the same speed. The rear 4-m.p.h. pendulum test therefore approximates the energy level of a 4-m.p.h. barrier test and represents an appreciable increase over the 2½ m.p.h. rear barrier test required in 1972. General Motors requested a postponement of the 4-m.p.h. requirement to 1975 to minimize the costs of retooling necessary to meet the increased requirements. It has been determined that early adoption of the 4-m.p.h. pendulum test is desirable, and the requested postponement is therefore denied. In light of the responses to the rulemaking, the NHTSA is considering additional rulemaking to increase the pendulum speed, as well as the barrier speed, to 5 m.p.h. for rear impacts. This course of action is advocated in petitions by the Ford Motor Co., The Center for Auto Safety, and Mr. Fenton, and is proposed in a notice published in this issue of the FEDERAL REGISTER (36 F.R. 11868).

A number of petitions stated that the width and aggressiveness of bumpers that can withstand 5-m.p.h. corner impacts will create safety problems in various types of impact situations, and that the overall balance of vehicle protection and crash-worthiness would be better served by setting the impact requirements for the vehicle corners at a somewhat lower level. Review of the available information indicates that this position has merit, and an adjustment is therefore made in the speed of corner impacts, from 5 m.p.h. in the front and 4 m.p.h. in the rear, to 3 m.p.h. at both front and rear.

The impact ridge on the pendulum test device performs the vital functions of assuring basic uniformity in bumper height and of limiting the surface angularity that contributes to underride and override. The NHTSA adheres to its finding that the impact ridge is a reasonable and practicable means of assuring the desired protection. It appears, however, that the shape of the ridge as the standard was issued—its cross section an

equilateral triangle with a rounded apex—could produce some undesirable side effects. Petitioners argued that this relatively narrow and sharp ridge unjustifiably restricts the use of resilient materials and energy-absorbing designs that represent the most effective methods of meeting the objectives of the standard. Petitioners variously requested that contact with the plane behind the ridge be permitted, or that the impact ridge be broadened, thereby reducing its tendency to indent the vehicle's surface.

Upon review, it has been determined that a broadening of the ridge is desirable, both because of the greater latitude allowed in the selection of resilient materials, and because of other effects on the size and shape of the bumper. Several petitions argued that the present standard requires a manufacturer to design an excessively wide bumper in order to meet the protective criteria under the full range of vehicle weights and manufacturing tolerances. A broader impact ridge would alleviate this problem, and should also reduce the penetration of the license plate opening that was seen as a problem by some manufacturers. The NHTSA has determined that most of the meritorious requests in the petitions can be satisfied by the adoption of a broader impact ridge. The pendulum design suggested by the Ford Motor Co. has been found to have considerable merit, and the standard is therefore amended to incorporate impact ridge dimensions similar to those requested by Ford. To the extent that the remaining petitions relating to bumper height and shape are not satisfied by this amendment, they are denied. The Chrysler request to limit corner testing to 20-inch height is premised on difficulties that are partially alleviated by the modification of the ridge, and the petition in that respect is accordingly denied.

General Motors requested that the height range for the pendulum test be changed to 18 to 22 inches, from the present 16-to-20-inch specification. On review of all available information, NHTSA has determined that such a change would not be desirable, and the petition is denied. It should be noted, however, that the amended design of the impact face retains the 3-inch separation between the upper edge of the ridge and Plane B, so that manufacturers may design bumpers extending some distance above the 20-inch level.

In response to requests to clarify the sequence of testing in effect September 1, 1973, S5.2 is amended to make it clear that the pendulum tests are to precede the barrier tests. Other minor adjustments have been made in the protective criteria to make it clear that the vehicle's hood, trunk, and doors—and not just their latching systems—must be operable in the normal manner (S5.3.2), and to substitute the more general term "leaks" in S5.3.4 in place of the term "open joints."

The petition from the Center for Auto Safety suggested the addition of further protective criteria to ensure substantially complete vehicle protection. A notice proposing such additional criteria is published in today's issue of the FEDERAL REGISTER (36 F.R. 11868). The Center also requested the addition of requirements limiting the acceleration imparted to occupants during impacts. The Ford Motor Co. also suggested that the NHTSA consider rulemaking relating to limits on occupant acceleration, and indicated that it intended to submit data on the subject in September of 1971. Although review of the available information does not indicate that occupant accelerations will be significantly increased in vehicles conforming to the standard, the NHTSA is aware of the issue and will consider further rulemaking on the subject if subsequent data reveals a problem.

In consideration of the foregoing, Motor Vehicle Safety Standard No. 215, Exterior Protection, in § 571.21 of Title 49, Code of Federal Regulations, is amended as follows:

1. S5.2 is amended to read:

S5.2 Vehicles Manufactured on or after September 1, 1973. Each vehicle manufactured on or after September 1, 1973, shall meet the protective criteria of S5.3.1 through S5.3.5, under the conditions of S6., during and after impacts by a pendulum-type test device in accordance with the procedures of S7.1 and S7.2 followed by impacts into a fixed collision barrier in accordance with S5.1.

2. S5.3.1 is amended to read:

S5.3.1 Each lamp or reflective device, except license plate lamps, shall be free of cracks and shall comply with the applicable visibility requirements of section S4.3.1.1 of Motor Vehicle Safety Standard No. 108. The aim of each headlamp shall be adjustable in accordance with the applicable requirements of Standard No. 108.

3. S5.3.2 is amended to read:

S5.3.2 The vehicle's hood, trunk, and doors shall be operable in the normal manner.

4. S5.3.4 is amended to read:

S.53.4 The vehicle's exhaust system shall have no leaks or constrictions.

5. S7.2.5 is amended to read:

S7.2.5 Impact each corner at 3 m.p.h.

6. Figures 1 and 2 are amended as set forth below and on p. 11854.

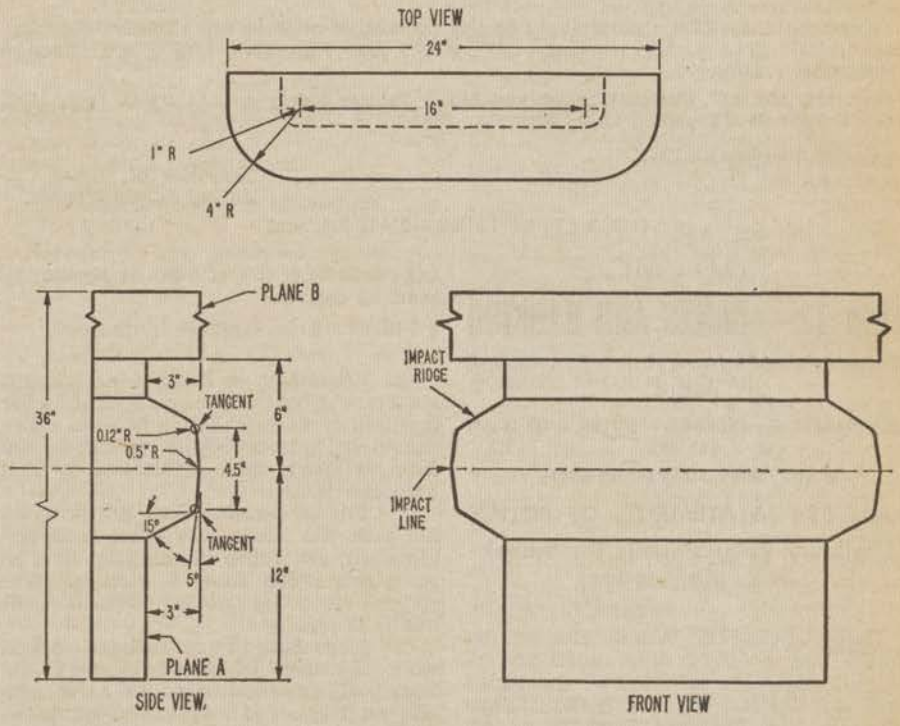


FIGURE I

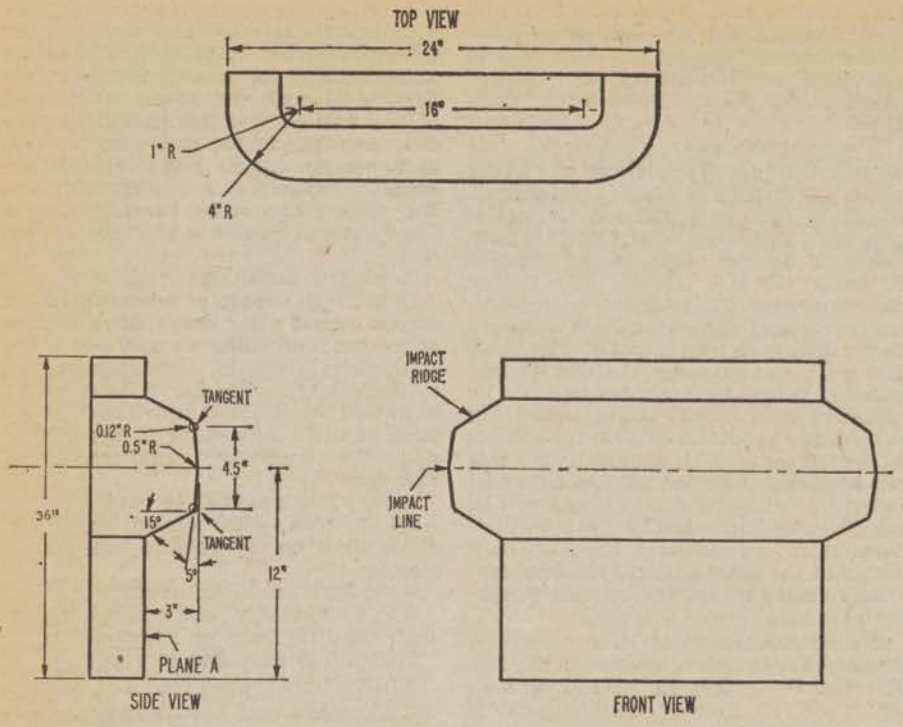


FIGURE 2

Effective date. The amendments to the protective criteria are effective September 1, 1972. The amendments to S5.2, S7.2.5 and Figures 1 and 2 are effective September 1, 1973.

(Secs. 103, 108, 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1397, 1407; delegation of authority at 49 CFR 1.51)

Issued on June 15, 1971.

DOUGLAS W. TOMS,
Acting Administrator.

[FR Doc.71-8677 Filed 6-21-71;8:45 am]

[No. 71-591]

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 545—OPERATIONS

PART 556—STATEMENTS OF POLICY

Eligibility Requirements for Branch Office Applications

JUNE 15, 1971.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend Parts 545 and 556 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Parts 545, 556) for the purpose of permitting exceptions in certain circumstances from a requirement which must be met by a Federal savings and loan association to be eligible to have a branch office application considered by the Board. Accordingly, the Federal Home Loan Bank Board hereby amends said Parts 545 and 556 as follows, effective June 22, 1971:

1. Said Part 545 is amended by revising paragraph (b) of § 545.14 thereof to read as follows:

§ 545.14 Branch office.

* * * * *

(b) *Eligibility.* A Federal association shall be eligible to have an application for permission to establish a branch office considered and processed only if, at the date on which such application is filed with the Board:

(1) The association does not have on file with the Board any other such application, excluding any applications as to which more than 4 months have elapsed since the date of publication of notice thereof;

(2) More than 12 months have elapsed since the date of disapproval by the Board of an application to serve any substantial part of the same savings service area, as determined by the Supervisory Agent, but this requirement shall be applicable only if the association has filed two applications to serve any substantial part of such savings service area within the 12 months preceding such date of disapproval and both such applications have been disapproved by the Board;

(3) The sum of the applicant association's reserves and surplus is equal to at least 3 percent of its savings accounts;

(4) The association submits in support of its application evidence giving reasonable assurance, in the judgment of the Supervisory Agent, that the proposed branch office, if approved, will be opened within 12 months after the date of approval by the Board, or, if the proposed branch office is to be located in a shopping center having not less than 400,000 square feet of shopping space, within 36 months after the date of approval by the Board:

Provided, however, That the Board may, with respect to particular applications or classes of applications, determine to consider and process applications without regard to the eligibility requirement contained in subparagraph (1) of this paragraph.

2. Said Part 556 is amended by adding a new subdivision (iii) to subparagraph (4) of paragraph (b) of § 556.5 thereof to read as follows:

§ 556.5 Establishment of Federal savings and loan associations and branch office and mobile facilities of such associations.

* * * * *

(b) *Policy on approval of branch office and mobile facilities.* * * *

(4) * * *

(iii) In addition to permitting special treatment under the proviso to paragraph (b) of § 545.14 for applications for branches to serve certain low-income, innercity areas, the Board may permit the consideration and processing of branch office applications for all Federal associations serving particular geographical areas, e.g., State, county, or city, upon recommendation by the Supervisory Agent that the eligibility requirements of subparagraph (1) of § 545.14(b) could cause a competitive hardship to such associations. Following approval by the Board of such a recommendation by a Supervisory Agent, branch office applications from such Federal associations may be considered and processed with such frequency as the Board may determine to be appropriate for the particular geographical area.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that, since the above amendments grant exemption, the Board hereby finds that notice and public procedure on said amendments are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and the Board also finds, for the same reason, that publication for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of the amendments is unnecessary; and the Board hereby provides that the amendments shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.71-8750 Filed 6-21-71;8:49 am]

Chapter VII—National Credit Union Administration

PART 747—RULES OF PRACTICE AND PROCEDURE

On May 8, 1971, notice of proposed rule making regarding rules of practice and procedure in hearings held pursuant to section 206 of title II of the Federal Credit Union Act, 84 Stat. 1003, Public Law 91-468, was published in the FEDERAL REGISTER, 36 F.R. 8591-8599. After consideration of all such relevant matter as was presented by interested persons, the regulation as so proposed is hereby adopted, subject to the following changes:

1. In § 747.4, paragraph (d), line 10, change "Secretary" to "Administrator".

2. Section 747.5 is changed as follows:

a. In line 5, change "consented" to "admitted".

b. In lines 5 and 6, delete all after the word "the" and add: "facts as alleged and consented to the relief sought".

3. In § 747.6, paragraph (b), line 3, insert the words "in accordance" following the word "conducted".

4. In § 747.6, paragraph (b)(7), line 3, change "advisory" to "adversary".

5. In § 747.6, paragraph (g), line 11, after the word "or" insert the following: ", with the consent of the party afforded the hearing,".

6. In § 747.7, paragraph (g), lines 27 and 28, change "definition" to "deposition".

7. In § 747.9, paragraph (e), line 9, change "official" to "special".

8. In § 747.19, paragraph (b), line 9, change "in" to "is".

9. In § 747.34, line 7, after the word "to" insert the following: "cause insolvency or substantial dissipation of assets or earnings of the credit union or".

Effective date. This regulation is effective June 25, 1971.

HERMAN NICKERSON, Jr.,
Administrator.

JUNE 17, 1971.

AUTHORITY: The provisions of this Part 747 are issued under sec. 209, 85 Stat. 1014, Public Law 91-468.

Subpart A—Rules of Practice Applicable to All Hearings

§ 747.1 Scope.

(a) This subpart prescribes rules of practice and procedure followed by the National Credit Union Administration in hearings held pursuant to the provisions of section 206 of the Federal Credit Union Act pertaining to (1) involuntary termination of the insured status of any insured credit union, (2) the issuance of cease-and-desist orders against any insured credit union or any credit union any of the member accounts of which are insured, and (3) the issuance of orders removing or suspending from office and/or prohibiting from further participation in the credit union's affairs, any director, officer or committee member of an insured credit union or any other person participating in the conduct of the affairs of such a credit union.

(b) In connection with any proceeding involving an insured State-chartered credit union, or any director, officer, committee member, or other person participating in the conduct of its affairs, the Administrator will provide the appropriate State supervisory authority with timely notice of his intent to institute the proceeding and the grounds therefor. Unless within such time as the Administrator deems appropriate in the light of the circumstances of the case which time will be specified in the notice) satisfactory corrective action is effectuated by action of the State supervisory authority, the Administration will proceed as provided herein. No credit union or other party who is the subject of any notice or order issued by the Administrator under this Part shall have standing to raise the requirements of this subsection as ground for attacking the validity of any such notice or order.

§ 747.2 Appearance and practice before the Administration.

(a) *Power of attorney and notice of appearance.* Any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth, or the District of Columbia may represent others before the Administration upon filing with the Administrator a written declaration that he is currently qualified as provided by this paragraph, and is authorized to represent the particular party on whose behalf he acts. Any other person desiring to appear before or transact business with the Administration in a representative capacity may be required to file with the Administrator a power of attorney showing his authority to act in such capacity, and he may be required to show to the satisfaction of the Administrator that he has the requisite qualifications. Attorneys and representatives of parties to proceedings shall file a written notice of appearance with the Administrator or with the trial examiner.

(b) *Summary suspension.* Contemptuous conduct at an argument before the Administrator or at a hearing before a trial examiner shall be ground for exclusion therefrom and suspension for the duration of the argument or hearing.

§ 747.3 Notice of hearing.

Whenever a hearing is ordered by the Administrator in any proceeding pursuant to section 206 of the Federal Credit Union Act, a notice of hearing shall be given by the Administrator to the party afforded the hearing and to the appropriate supervisory authority. Such notice shall state the time, place, and nature of the hearing, the trial examiner, and the legal authority and jurisdiction under which the hearing is to be held, and shall contain a statement of the matters of fact or law constituting the grounds for the hearing, and shall be delivered by personal service, by registered or certified mail to the last known address, or other appropriate means, sufficiently in advance of the date set for the hearing to comply with the provisions of section 206 of the Federal Credit Union Act. The term "party" means a person or agency named or admitted as a party, or any person or agency who has filed a written request and is entitled as of right to be admitted as a party; but a person or agency may be admitted for a limited purpose.

§ 747.4 Answer.

(a) *When required.* In any notice of hearing issued by the Administrator, the Administrator may direct the party or parties afforded the hearing to file an answer to the allegations contained in the notice, and any party to any proceeding may file an answer. Except where a different period of not less than 10 days after service of a notice of hearing is specified by the Administrator, a party directed to file an answer, or a party who elects to file an answer, shall file the same with the Administrator within 20 days after service upon him of the notice of hearing.

(b) *Requirements of answer; effect of failure to deny.* An answer filed under this section shall specifically admit, deny, or state that the party does not have sufficient information to admit or deny each allegation in the notice of hearing. A statement of lack of information shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. When a party intends to deny only a part or a qualification of an allegation, he shall specify so much of it as is true and shall deny only the remainder.

(c) *Admitted allegation.* If a party filing an answer under this section elects not to contest any of the allegations of fact set forth in the notice of hearing, his answer shall consist of a statement that he admits all of the allegations to be true. Such an answer shall constitute a waiver of hearing as to the facts alleged in the notice, and together with the notice will provide a record basis on which the trial examiner shall file with the Administrator his recommended decision containing his findings of fact, conclusions of law, and proposed order. Any such party may, however, upon service of the recommended decision, findings, conclusions, and proposed order of the trial examiner, file exceptions thereto within the time provided in § 747.11(a).

(d) *Effect of failure to answer.* Failure of a party to file an answer required by this section within the time provided shall be deemed to constitute a waiver of his right to appear and contest the allegations of the notice of hearing and to authorize the trial examiner, without further notice to the party, to find the facts to be as alleged in the notice and to file with the Administrator a recommended decision containing such findings and appropriate conclusions. The Administrator or the trial examiner may, for cause shown, permit the filing of a delayed answer after the time for filing the answer has expired.

(e) *Opportunity for informal settlement.* Any interested party may at any time submit to the Administrator, for consideration, written offers or proposals for settlement of a proceeding, without prejudice to the rights of the parties. No such offer or proposal, or counteroffer or proposal, shall be admissible in evidence over the objection of any party in any hearing in connection with such proceeding. The foregoing provisions of this section shall not preclude settlement of any proceeding through the regular adjudicatory process by the filing of an answer as provided in this section, or by submission of the case to the trial examiner on a stipulation of facts and an agreed order.

§ 747.5 Failure to appear.

Where an answer is not required and the credit union fails to appear at the hearing by a duly authorized representative, the credit union shall be deemed to have admitted to the facts as alleged and consented to the relief sought.

§ 747.6 Conduct of hearings.

(a) *Selection of trial examiner.* Any hearing shall be held before the Administrator or a trial examiner selected by the Civil Service Commission and designated by the Administrator and, unless otherwise provided in the notice of hearing, shall be conducted as hereinafter provided.

(b) *Authority of trial examiner.* All hearings governed by this part shall be conducted in accordance with the provisions of chapter 5 of Title 5 of the United States Code. The trial examiner designated by the Administrator to preside at any such hearing shall have complete charge of the hearing, and he shall have the duty to conduct it in a fair and impartial manner and to take all necessary action to avoid delay in the disposition of proceedings. Such examiner shall have all powers necessary to that end, including the following:

(1) To administer oaths and affirmations;

(2) To issue subpenas and subpenas duces tecum, as authorized by law, and to revoke, quash, or modify any such subpena;

(3) To receive relevant evidence and to rule upon the admission of evidence and offers of proof;

(4) To take or cause depositions to be taken;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel;

(6) To hold conferences for the settlement or simplification of issues or for any other proper purpose; and

(7) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adversary proceeding, except that a trial examiner shall not have power to decide any motion to dismiss the proceedings or other motion which results in final determination of the merits of the proceedings.

Without limitation on the foregoing provisions of this paragraph, the trial examiner shall, subject to the provisions of this part, have all the authority of section 556(c) of Title 5 of the United States Code.

(c) *Prehearing conference.* The trial examiner may, on his own initiative or at the request of any party, direct counsel for all parties to meet with him at a specified time and place prior to the hearing, or to submit suggestions to him in writing, for the purpose of considering any or all of the following:

(1) Simplification and clarification of the issues;

(2) Stipulations, admissions of fact and of the contents, and authenticity of documents;

(3) Matters of which official notice will be taken; and

(4) Such other matters as may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

Such conferences shall, at the request of any party, be recorded and at the conclusion thereof the trial examiner shall enter in the record an order which recites the results of the conference. Such order shall include the examiner's rulings upon matters considered at the conference, together with appropriate directions to the parties, if any; and such order shall control the subsequent course of the proceedings, unless modified at the hearing to prevent manifest injustice. Except as authorized by law, the trial examiner shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate, nor be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions. No officer, employee, or agent engaged in the performance of investigative or prosecuting functions in any case shall, in that case or a factually related case, participate or advise in the decision of the trial examiner except as a witness or counsel in the proceedings.

(d) *Attendance at hearings.* A hearing shall ordinarily be private and shall be attended only by the parties, their representatives or counsel, witnesses while testifying, and other persons having an official interest in the proceedings: *Provided, however,* That on written request by a party or representatives of the Administrator, or on the Administrator's own motion, the Administrator, in his discretion and to the extent permitted by law, may permit other persons to attend or may order the hearing to be public.

(e) *Transcript of testimony.* Hearings shall be recorded and transcripts will be available to any party upon payment of the cost thereof, and, in the event the hearing is public, shall be furnished on similar payment to the other interested persons. A copy of the transcript of the testimony taken at any hearing, duly certified by the reporter, together with all exhibits, all papers and requests filed in the proceedings, and any briefs or memoranda of law theretofore filed in the proceeding, shall be filed with the Administrator, who shall transmit the same to the trial examiner. The Administrator shall promptly serve notice upon each of the parties of such filing and transmittal. The trial examiner shall have authority to rule upon motions to correct the record.

(f) *Order of procedure.* The counsel for the Administration shall open and close.

(g) *Continuances and changes or extension of time and changes of place of hearing.* Except as otherwise expressly

provided by law, the Administrator may, by the notice of hearing or subsequent order, provide time limits different from those specified in this part, and the Administrator may, on his own initiative or for good cause shown, change or extend any time limit prescribed by these rules or, with the consent of the party afforded the hearing, change the time and place for beginning any hearing hereunder. The trial examiner may continue or adjourn a hearing from time to time and, as permitted by law or agreed to by parties, from place to place. Extensions of time for making any filing or performing any act required or allowed to be done within a specified time in the course of a proceeding may be granted by the trial examiner for good cause shown.

(h) *Call for further evidence, oral argument, briefs, reopening of hearing.* The trial examiner may call for the production of further evidence upon any issue, may permit oral argument and submission of briefs at the hearing and, upon appropriate notice, may reopen any hearing at any time prior to the certification of his recommended decision to the Administrator. The Administrator shall render his decision within 90 days after the parties have been notified pursuant to § 747.14 that the case has been submitted to the Administrator for final decision, unless within such 90-day period the Administrator shall order that such notice be set aside and the case reopened for further proceedings.

§ 747.7 Subpenas.

(a) *Issuance.* The trial examiner, or in the event he is unavailable, the Administrator, shall issue subpenas at the request of any party, requiring the attendance of witnesses or the production of documentary evidence at any designated place of hearing; except that where it appears to the trial examiner or the Administrator that the subpena may be unreasonable, oppressive, excessive in scope, or unduly burdensome, the party seeking the subpena may be required, as a condition precedent to the issuance of the subpena, to show general relevance and reasonable scope of the testimony or other evidence sought. In the event the trial examiner or the Administrator, after consideration of all the circumstances, determines that the subpena or any of its terms are unreasonable, oppressive, excessive in scope, or unduly burdensome, he may refuse to issue the subpena, or issue it only upon such conditions as fairness requires.

(b) *Motion to quash.* Any person to whom a subpena is directed may, prior to the time specified therein for compliance but in no event more than 5 days after the date of service of such subpena, with notice to the party requesting the subpena, apply to the trial examiner, or if he is unavailable, to the Administrator, to revoke, quash, or modify such subpena, accompanying such application with a statement of the reasons therefor.

(c) *Service of subpena.* Service of a subpena upon a person named therein shall be made by delivering a copy of the subpena to such person and by tendering the fees for 1 day's attendance and the mileage as specified in paragraph (d) of this section, except that when a subpena is issued at the instance of the Administrator fees and mileage need not be tendered at the time of service of the subpena. If service is made by a U.S. marshal, or his deputy, or an employee of the Administration, such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereto, describing the manner in which service is made, and return such affidavit on or with the original subpena. In case of failure to make service, reasons for the failure shall be stated on the original subpena. The original subpena, bearing or accompanied by the required return, affidavit or statement, shall be returned without delay to the trial examiner.

(d) *Attendance of witnesses.* The attendance of witnesses and the production of documents pursuant to a subpena, issued in connection with a hearing provided for in this part, may be required from any State or in any territory at any designated place where the hearing is being conducted. Witnesses subpenaed in any proceeding under this part shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

(e) *Depositions.* The Administrator or trial examiner, by subpena or subpena duces tecum, may order evidence to be taken by deposition in any proceeding at any stage thereof. Such depositions may be taken by the trial examiner or before any person designated by the Administrator or trial examiner and having power to administer oaths. Unless notice is waived, no deposition shall be taken except after at least 5 days' notice to the parties to the proceeding.

(f) *Application and order to take oral deposition.* Any party desiring to take the oral deposition of a witness, in connection with any hearing provided for in this part, shall make application in writing to the trial examiner or, in the event he is unavailable, to the Administrator, setting forth the reasons why such depositions should be taken, the name and address of the witness, the matters concerning which the witness is expected to testify, its relevance, and the time when, the place where, and the name and address of the person before whom, it is desired the deposition be taken. A copy of such application shall be served upon every other party to the proceeding by the party making such application. Upon showing that (1) the proposed witness will be unable to attend or may be prevented from attending the hearing because of age, sickness, or infirmity, or will otherwise be unavailable at the hearing, (2) his testimony will be material, and (3) the taking of the deposition will not result in any undue burden to any other party or in undue delay of the proceeding, the trial examiner or the Administrator may, in his discretion, by such subpena or subpena duces tecum, order the oral deposition to be taken. Such subpena will name the witness whose deposition is to be taken and specify the time when, the place where and the person before whom the witness is to testify, but such time and place, and the person before whom the deposition is ordered to be taken, may or may not be the same as those named in the application. Notice of the issuance of such subpena shall be served upon each of the parties a reasonable time, and in no event less than 5 days, in advance of the time fixed for the taking of the deposition.

(g) *Procedure on deposition; objections.* Each witness testifying upon oral deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. Objections to questions or evidence shall be in short form, stating the grounds of objection relied upon; but the person taking the deposition shall not have the power to rule upon questions of competency or materiality or relevance of evidence. Failure to object to questions or evidence shall not be deemed a waiver except where the ground of the objection is one which might have been obviated or removed if presented at that time. The questions propounded and the answers thereto, together with all objections made (but not including argument or debate) shall be recorded by the person taking the deposition, or under his direction. The deposition shall be subscribed by the witness, unless the parties by stipulation waived the signing or the witness is ill or cannot be found or refused to sign, and certified as a true and complete transcript thereof by the person taking the deposition. If the deposition is not subscribed to by the witness, the person taking the deposition shall state this fact on the record and the reason therefor. Such person shall promptly send the original and two copies of such deposition, together with the original and two copies of all exhibits, by registered mail to the Administrator unless otherwise directed in the order authorizing the taking of the deposition. Interested parties shall make their own arrangements with the person taking the deposition for copies of the testimony and the exhibits.

(h) *Introduction as evidence.* Subject to appropriate rulings on such objections to questions of evidence as were noted at the time the deposition was taken or as would be valid were the witness personally present and testifying (except objections waived under paragraph (g) of this section), the deposition or any part thereof may be read in evidence by any party to the proceeding. Only such part or the whole of a deposition as is received in evidence shall constitute a part of the record of the proceeding upon which a decision may be based.

(i) *Payment of fees.* Witnesses whose oral depositions are taken shall be entitled to the same fees as are paid for like services in the district courts of the United States. Fees of persons taking such depositions and the fees of the reporter shall be paid by the person upon whose application the deposition was taken.

(j) *Judicial enforcement.* Any party to proceedings under this part may apply to the United States District Court for

the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena or subpena duces tecum issued pursuant to this part, and such courts shall have jurisdiction and power to order and require compliance therewith.

§ 747.8 Rules of evidence.

(a) *Evidence.* Every party shall have the right to present his case or defense by oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

(b) *Objections.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds relied upon, and the transcript shall not include argument thereon except as ordered, allowed, or requested by the trial examiner. Rulings on objections and on any other matters shall be a part of the transcript. Failure to object to admission or exclusion of evidence or to any ruling shall be considered a waiver of such objection.

(c) *Official notice.* All matters officially noticed by the trial examiner shall appear on the record.

§ 747.9 Motions.

(a) *In writing.* An application or request for an order or ruling not otherwise specifically provided for in this part shall be made by motion. After a trial examiner has been designated and before the filing with the Administrator of his recommended decision, such applications or requests shall be addressed to and filed with the trial examiner. At all other times motions shall be addressed to and filed with the Administrator. Motions shall be in writing, except that a motion made at a session of a hearing may be made orally upon the record unless the trial examiner directs that it be reduced to writing. All written motions shall state with particularity the order or relief sought and the grounds therefor.

(b) *Objections.* Within 5 days after service of any written motion, or within such other period as may be fixed by the trial examiner or the Administrator, any party may file a written answer or objection to such motion. The moving party shall have no right to reply, except as permitted by the trial examiner or the Administrator. As a matter of discretion, the trial examiner or the Administrator may waive the requirements of this section as to motions for extensions of time, and may rule upon such motions ex parte.

(c) *Oral argument.* No oral argument will be heard on motions except as otherwise directed by the trial examiner or the Administrator. Written memoranda or briefs may be filed with motions or answers or objections thereto, stating the points and authorities relied upon in support of the position taken.

(d) *Rulings on motions.* Except as otherwise provided in this part, the trial examiner shall rule upon all motions properly addressed to him and upon such other motions as the Administrator directs, except that if the trial examiner finds that a prompt decision by the Administrator on a motion is essential to the proper conduct of the proceeding, he may refer that motion to the Administrator for decision. The Administrator shall rule upon all motions properly submitted to him for decision.

(e) *Appeal from rulings on motions.* All motions and answers or objections thereto and rulings thereon shall become a part of the record. Rulings of a trial examiner on any motion may not be appealed to the Administrator prior to his consideration of the trial examiner's recommended decision, findings, and conclusions except by special permission of the Administrator; but they shall be considered by the Administrator in reviewing the record. Requests to the Administrator for special permission to appeal from such rulings of the trial examiner shall be filed promptly, in writing, and shall briefly state the grounds relied upon. The moving party shall immediately serve a copy thereof on every other party to the proceeding.

(f) *Continuation of hearing.* Unless otherwise ordered by the trial examiner or the Administrator, the hearing shall be continued pending the determination of any motion by the Administrator.

§ 747.10 Proposed findings and conclusions and recommended decision.

(a) *Proposed findings and conclusions by parties.* Each party to a hearing shall have a period of 15 days after service of the Administrator's notice of the filing and transmittal of the record as provided in § 747.6(e), or such further time as the trial examiner for good cause shall determine, to file with the trial examiner proposed findings of fact, conclusions of law, and orders which may be accompanied by a brief or memorandum in support thereof. Such proposals shall be supported by citation of those statutes, decisions, and other authorities which may be relevant and by page references to appropriate parts of the record. All such proposals, briefs, and memoranda shall become a part of the record.

(b) *Recommended decision and filing of record.* The trial examiner shall, within 30 days after the expiration of the time allowed for the filing of proposed findings, conclusions, and order, or within such further time as the Administrator for good cause shall determine, file with and certify to the Administrator for decision the entire record of the hearing, which shall include his recommended decision, findings of fact, conclusions of law, and proposed order, the transcript, exhibits (including on request of any of the parties any exhibits excluded from evidence or tenders of proof), exceptions, rulings, and all briefs and memoranda filed in connection with the hearing. Promptly upon such filing the Administrator shall serve upon each party to the proceeding a copy of the trial examiner's recommended decision, findings, conclusion and proposed order. The provisions of this paragraph and § 747.11 shall not apply, however, in any case where the hearing was held before the Administrator.

§ 747.11 Exceptions.

(a) *Filing.* Within 15 days after service of the recommended decision, findings, conclusions, and proposed order of the trial examiner, or such further time as the Administrator for good cause shall determine, any party (other than a party who has not filed an answer in accordance with paragraphs (a) and (d) of § 747.4, unless no answer was required of such party by the Administrator) may file with the Administrator exceptions thereto or any part thereof, or to the failure of the trial examiner to make any recommendation, finding, or conclusion, or to the admission or exclusion of evidence, or other ruling of the trial examiner, supported by such brief as may appear advisable.

(b) *Waiver.* Failure of a party to file exceptions to the recommended decision, findings, conclusions, and proposed order of the trial examiner or any portion thereof, or to his failure to adopt a proposed finding or conclusion, or to the admission or exclusion of evidence or other ruling of the trial examiner, within the time prescribed in paragraph (a) of this section, shall be deemed a waiver of objection thereto.

§ 747.12 Briefs.

(a) *Contents.* All briefs shall be confined to the particular matters in issue. Each exception or proposed finding or conclusion which is briefed shall be supported by a concise argument or by citation of such statutes, decisions or other authorities and by page references to such portions of the record or recommended decision of the trial examiner as may be relevant. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief with appropriate references to the transcript.

(b) *Reply briefs.* Reply briefs may be filed with the Administrator within 10 days after service of briefs and shall be confined to matters in original briefs of opposing parties. Further briefs may be filed only with the permission of the Administrator.

(c) *Delays.* Briefs not filed on or before the time fixed in this subpart will be received only upon special permission of the Administrator.

§ 747.13 Oral argument before the Administrator.

Upon its own initiative, or upon the written request of any party made within the time prescribed for the filing of exceptions, a brief in support thereof, or a reply brief, if any, for oral argument on the findings, conclusions, and recommended decision of the trial examiner, the Administrator, if he considers that

justice will best be served, may order the matter to be set down for oral argument before him. Oral argument before the Administrator shall be recorded unless otherwise ordered by the Administrator.

§ 747.14 Notice of submission to the Administrator.

Upon the filing of the record with the Administrator, and upon the expiration of the time for the filing of exceptions and all briefs, including reply briefs or any further briefs permitted by the Administrator and upon the hearing of oral argument by the Administrator if ordered by the Administrator, the Administrator shall notify the parties that the case has been submitted to him for final decision.

§ 747.15 Decision of the Administrator.

Appropriate members of the staff of the National Credit Union Administration, who are not engaged in the performance of investigative or prosecuting functions in the case, or in a factually related case, may advise and assist the Administrator in the consideration of the case and in the preparation of appropriate documents for its disposition. Copies of the decision and order of the Administrator shall be furnished to the parties to the proceedings, the credit union involved, and to the appropriate State supervisory authority, in the case of a State-chartered credit union.

§ 747.16 Filing papers.

Recommended decisions, exceptions, briefs and other papers required to be filed with the Administrator in any proceedings shall be filed with the Administrator, National Credit Union Administration, 1325 K Street NW., Washington, DC 20456. Any such papers may be sent to the Administrator by mail but must be received in the office of the Administrator in Washington, D.C., or post marked by a post office, within the time limit for such filing.

§ 747.17 Service.

(a) *By the Administrator.* All documents or papers required to be served by the Administrator upon any party afforded a hearing shall be served by him or his duly authorized representative. Such service, except for service upon counsel for the Administration, shall be made by personal service or by registered mail, addressed to the last known address as shown on the records of the Administration, on the attorney or representative of record of such party, provided that if there is no attorney or representative of record, such service shall be made upon such party at the last known address as shown on the records of the Administration. Such service may also be made in such other manner reasonably calculated to give actual notice as the Administrator may by regulation or otherwise provide.

(b) *By the parties.* Except as otherwise expressly provided in this Part, all documents or papers filed in a proceeding under this part shall be served by the party filing the same upon the attorneys or representatives of record of all other parties to the proceeding, or, if any party is not so represented, then upon such party. Such service may be made by personal service or by registered or certified mail addressed to the last known address of such parties, or their attorneys or representatives of record. All such documents or papers shall, when tendered to the Administrator or trial examiner for filing, show that such service has been made.

(c) Copies of any notice or order served by the Administrator upon any State-chartered credit union or any director, officer, or committee member thereof or other person participating in the conduct of its affairs, pursuant to the provisions of this part, shall also be sent to the appropriate State supervisory authority having supervision of such credit union.

§ 747.18 Copies.

Unless otherwise specifically provided in the notice of hearing, an original and seven copies of all documents and papers required or permitted to be filed or served upon the Administrator under this part, except the transcript of testimony and exhibits, shall be furnished to the Administrator.

§ 747.19 Computing time.

(a) *General rule.* In computing any period of time prescribed or allowed by this part, the date of the act, event or default from which the designated period of time begins to run is not to be included. The last day so computed shall be included, unless it is a Saturday, Sunday or legal holiday in the District of Columbia, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor such legal holiday. Intermediate Saturdays, Sundays, and legal holidays shall be included in the computation unless the time within which the act is to be performed is 10 days or less in which event Saturdays, Sundays, and legal holidays shall not be included.

(b) *Service by mail.* Whenever any party has the right or is required to do some act or take some proceeding, within a period of time prescribed in this part, after the service upon him of any document or other paper of any kind, and such service is made by mail, 3 days shall be added to the prescribed period from the date when the matter served is deposited in the U.S. mail.

§ 747.20 Documents in proceedings confidential.

Unless and until otherwise ordered by the Administrator, the notice of hearing, the transcript, the recommended decision of the trial examiner, exceptions thereto, proposed findings or conclusions, the findings and conclusions of the Administrator and other papers which are filed in connection with any hearing shall not be made public, and shall be for the confidential use only of the Administrator, the trial examiner, the parties and appropriate authorities.

§ 747.21 Formal requirements as to papers filed.

(a) *Form.* All papers filed under this subpart shall be printed, typewritten, or otherwise reproduced. All copies shall be clear and legible.

(b) *Signature.* The original of all papers filed by a credit union shall be signed by an officer thereof, and if filed by another party shall be signed by said party, or by the duly authorized agent or attorney of the credit union or other party, and in all such cases shall show the signer's address. Counsel for the Administration shall sign the original of all papers filed by him.

(c) *Caption.* All papers filed must include at the head thereof, or on a title page, the name of the Administration, the name of the party, and the subject of the particular paper.

Subpart B—Rules and Procedures Applicable to Proceedings for the Involuntary Termination of Insured Status

§ 747.22 Scope.

Under the authority of section 206 of the Federal Credit Union Act, the Administrator of the National Credit Union Administration may terminate the insured status of an insured credit union upon the grounds set forth therein and enumerated in § 747.23. The procedure for terminating the insured status of an insured credit union as therein prescribed will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart A of this part.

§ 747.23 Grounds for termination of insurance.

Whenever the Administrator determines that an insured credit union is engaging or has engaged in unsafe or unsound practices in conducting the business of that credit union, or is in an unsafe or unsound condition to continue operations as an insured credit union, or in violating or has violated an applicable law, rule, regulation, order, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by the credit union, or is violating or has violated any written agreement entered into with the Administrator, the Administrator shall serve upon the insured credit union a statement with respect to such practices or conditions or violations for the purpose of securing the correction thereof. In the case of an insured State-chartered credit union, the Administrator shall send a copy of such statement to the appropriate State supervisory authority, if any, having supervision of such credit union.

§ 747.24 Notice of intention to terminate insured status.

Unless correction of the practices, condition, or violations set forth in the statement prescribed in § 747.23 is made within 120 days after service of such

statement or within such shorter period of not less than 20 days after such service as the Administrator shall require in any case where he determines that the insurance risk with respect to such credit union could be unduly jeopardized by further delay or as the appropriate State supervisory authority shall require in the case of an insured State-chartered credit union, the Administrator, if he determines to proceed further, shall give to the credit union not less than 30 days written notice of his intention to terminate the status of the credit union as an insured credit union. Such notice shall contain a statement of the facts constituting the alleged unsafe or unsound practices or conditions or violations and shall fix a time and place for a hearing thereon which shall be a date not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or later date is set by the Administrator at the request of the credit union.

§ 747.25 Order terminating insured status.

If, upon the record of the hearing held pursuant to § 747.24, the Administrator shall find that any unsafe or unsound practice or condition or violation specified in the notice has been established and has not been corrected within the time prescribed under § 747.24 in which to make such corrections, the Administrator may issue and serve upon the credit union an order terminating its status as an insured credit union on a date subsequent to the date of such finding and subsequent to the expiration of the time specified in the notice.

§ 747.26 Consent to termination of insured status.

Unless the credit union appears at the hearing designated in the notice of hearing by a duly authorized representative, it shall be deemed to have consented to the termination of its status as an insured credit union. In the event the credit union fails to so appear at such hearing, the trial examiner shall forthwith report the matter to the Administrator and the Administrator may thereupon issue an order terminating the credit union's insured status.

§ 747.27 Notice of termination of insured status.

Prior to the effective date of the termination of the insured status of an insured credit union under sections 206(a) or 206(b) of the Federal Credit Union Act and at such time as the Administrator shall specify, the credit union shall mail to each member at his last address of record on the books of the credit union and publish in not less than two issues of a local newspaper of general circulation and shall furnish the Administration with proof of publication of notice of such termination of insured status. The notice shall be as follows:

NOTICE

(Date)

1. The status of the ----------, as an insured credit union under the provisions of the Federal Credit Union Act, will terminate as of the close of business on the -- day of ----------, ----;

2. Any deposits made by you after that date, either new deposits or additions to existing accounts, will not be insured by the National Credit Union Administration;

3. Accounts in the credit union on the -- day of ----------, ----, up to a maximum of $20,000 for each member, will continue to be insured, as provided by the Federal Credit Union Act, for one (1) year after the close of business on the -- day of ----------, ----: Provided, however, That any withdrawals after the close of business on the -- day of ----------, ----, will reduce the insurance coverage by the amount of such withdrawals.

(Name of Credit Union)

(Address)

§ 747.28 Duties after termination.

(a) After the termination of the insured status of any credit union under sections 206(a) or 206(b) of the Federal Credit Union Act, insurance of its member accounts to the extent they were insured on the effective date of such termination, less any amounts thereafter withdrawn which reduce the accounts below the amount covered by insurance on the effective date of such termination, shall continue for a period of one (1) year but no shares issued by the credit union or deposits made after the date of such termination shall be insured by the National Credit Union Administration.

(b) The credit union shall continue to pay premiums to the Administrator during such period and the Administrator shall have the right to examine such credit union from time to time during such period. Such credit union shall, in all other respects, be subject to the duties and obligations of an insured credit union during such one (1) year period. If such credit union is closed for liquidation within such one (1) year period, the Administrator shall have the same powers and rights with respect to such credit union as in the case of an insured credit union.

Subpart C—Rules and Procedures Applicable to Proceedings Relating to Cease-and-Desist Orders

§ 747.29 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Administrator with a view to ordering an insured credit union or any credit union any of the member accounts of which are insured to cease and desist from practices and violations described in section 206 of the Federal Credit Union Act and enumerated in § 747.30. The procedures for issuing such orders prescribed in section 206 of said Act will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart A of this part.

§ 747.30 Grounds for Cease-and-Desist Orders.

If, in the opinion of the Administrator, any insured credit union or any credit union any of the member accounts of which are insured, is engaging or has engaged, or the Administrator has reasonable cause to believe that such credit union is about to engage, in an unsafe or unsound practice in conducting the business of such credit union, or is violating or has violated, or the Administrator has reasonable cause to believe that such credit union is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by such credit union, or any written agreement entered into with the Administrator, the Administrator may issue and serve upon such credit union a notice of charges in respect thereof.

§ 747.31 Notice of charges and hearing.

The notice referred to in § 747.30 will contain a statement of the facts constituting the alleged unsafe or unsound practices or violation or violations and will fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the credit union. Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or a later date is set by the Administrator at the request of the credit union. Unless the credit union shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease-and-desist order.

§ 747.32 Issuance of order.

In the event of such consent referred to in § 747.31, or if upon the record made at any such hearing, the Administrator finds that any unsafe or unsound practice or violation specified in the notice of charges has been established, the Administrator may issue and serve upon the credit union an order to cease and desist from any such practice or violation. Such order may, by provisions which may be mandatory or otherwise require the credit union and its directors, officers, committee members, employees, and agents to cease and desist from the same and, further, to take affirmative action to correct the conditions resulting from any such practice or violation.

§ 747.33 Effective date.

A cease-and-desist order will become effective at the expiration of 30 days after service of such order upon the credit union concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and will remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.

§ 747.34 Temporary cease-and-desist order.

Whenever the Administrator determines that the unsafe or unsound practices or violations or threatened violations specified in the notice of charges served upon the credit union pursuant to § 747.30, or the continuation thereof,

is likely to cause insolvency or substantiol dissipation of assets or earnings of the credit union or otherwise seriously prejudice the interests of its insured members, the Administrator may issue a temporary order requiring such credit union to cease and desist from any such practice or violation.

§ 747.35 Effective date of temporary order.

Such order will become effective upon service upon the credit union and, unless set aside, limited, or suspended by a court in proceedings authorized under section 206(f)(2) and § 747.36, shall remain effective and enforceable pending the completion of the administrative proceedings held pursuant to such notice and until such time as the Administrator dismisses the charges specified in such notice, or if a cease-and-desist order is issued against the credit union pursuant to § 747.30, until the effective date of any such order.

§ 747.36 Injunctive procedure.

(a) *By the credit union.* Within 10 days after the credit union concerned has been served with a temporary cease-and-desist order pursuant to § 747.34, such credit union may apply to the U.S. district court for the judicial district wherein the principal office of the credit union is located, or to the U.S. District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the credit union under § 747.30 and such court shall have jurisdiction to issue such injunction.

(b) *By the Administrator.* In the case of a violation or threatened violation of, or failure to obey, a temporary cease-and-desist order, the Administrator may apply to the U.S. district court, or the U.S. court of any territory, within the jurisdiction of which the principal office of the credit union is located for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

Subpart D—Rules and Procedures Applicable to Proceedings Relating to Suspension and Removal Orders

§ 747.37 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Administrator to suspend or remove directors, officers, committee members of an insured credit union, or any other person participating in the affairs of such credit union, and/or prohibit such person from further participation in the conduct of the affairs of such credit union, upon the grounds set forth in section 206 of the Federal Credit Union Act and enumerated in this subpart. The procedures for issuing such orders prescribed in section 206 of said Act will be followed and hearings required thereunder will be conducted in accordance with the rules and procedures set forth in this subpart and Subpart A of this part.

§ 747.38 Grounds for removal order.

(a) Whenever, in the opinion of the Administrator, any director, officer, or committee member of an insured credit union has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the credit union, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director, officer, or committee member and the Administrator determines that the credit union has suffered or will probably suffer substantial financial loss or other damage or that the interests of its insured members could be seriously prejudiced by reason of such violation, practice or breach of fiduciary duty and that such violation, practice, or breach of fiduciary duty is one involving personal dishonesty on the part of such director, officer, or committee member, the Administrator may serve upon such director, officer, or committee member a written notice of his intention to remove him from office.

(b) Whenever, in the opinion of the Administrator, any director, officer, or committee member of an insured credit union, by conduct or practice with respect to another insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to continue as a director, officer, or committee member, and, whenever, in the opinion of the Administrator, any other person participating in the conduct of the affairs of an insured credit union, by conduct or practice with respect to such credit union or other insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to participate in the conduct of the affairs of such insured credit union, the Administrator may serve upon such director, officer, committee member, or other person a written notice of his intention to remove him from office and/or to prohibit his further participation in any manner in the conduct of the affairs of such credit union.

§ 747.39 Grounds for suspension order.

In respect to any director, officer, or committee member of an insured credit union or any other person referred to in § 747.38 (a) or (b), the Administrator may, if he deems it necessary for the protection of the credit union or the interests of its insured members, by written notice to such effect served upon such director, officer, committee member, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the credit union.

§ 747.40 Effective date of suspension order.

Such suspension and/or prohibition which is subject to the notice prescribed in § 747.39 of this subpart, shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by § 747.43 of this subpart, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under § 747.38 (a) or (b) of this subpart and until such time as the Administrator shall dismiss the charges specified in such notice, or, if an order of removal and/or prohibition is issued against the director, officer, committee member, or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the credit union of which he is a director, officer, or committee member or in the conduct of whose affairs he has participated.

§ 747.41 Notice of intention to remove and hearing.

A notice of intention to remove a director, officer, committee member, or other person from office and/or to prohibit his participation in the conduct of the affairs of an insured credit union will contain a statement of the facts constituting the grounds therefor and will fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice unless an earlier or a later date is set by the Administrator at the request of (a) such director, officer, committee member, or other person, and for good cause shown or (b) the Attorney General of the United States. Unless such director, officer, committee member, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal and/or prohibition.

§ 747.42 Issuance of removal order and effective date.

(a) In the event of such consent referred to in § 747.41, or if upon the record made at any such hearing the Administrator shall find that any of the grounds specified in such notice has been established, the Administrator may issue such orders of suspension or removal from office and/or prohibition from participation in the conduct of the affairs of the credit union as he may deem appropriate.

(b) Any such order shall become effective at the expiration of 30 days after service upon such credit union and the director, officer, committee member, or other person concerned (except in the case of an order issued upon consent which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.

§ 747.43 Stay of suspension or prohibition.

Within 10 days after any director, officer, committee member, or other person

has been suspended from office and/or prohibited from participation in the conduct of the affairs of an insured credit union under section 206 of the Federal Credit Union Act and as set forth in this subpart, such director, officer, committee member or other person may apply to the U.S. district court for the judicial district in which the principal office of the credit union is located, or the U.S. District Court for the District of Columbia, for a stay of such suspension and/or prohibition pending the completion of the administrative proceedings pursuant to the notice served upon such director, officer, committee member, or other person under section 206 of said Act and as set forth in this subpart, and such court shall have jurisdiction to stay such suspension and/or prohibition.

§ 747.44 Suspension and removal where felony involved.

(a) *Suspension.* Whenever any director, officer, or committee member of an insured credit union, or other person participating in the conduct of the affairs of such credit union, is charged in any complaint authorized by a U.S. attorney or in any information or indictment, with the commission of or participation in a felony involving dishonesty or breach of trust, the Administrator may, by written notice served upon such director, officer, committee member, or other person suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. Such a suspension and/or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Administrator.

(b) *Removal.* In the event that a judgment of conviction with respect to such offense is entered against such director, officer, committee member, or other person, and at such time as such judgment is not subject to further appellate review, the Administrator may issue and serve upon such director, officer, committee member, or other person an order removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Administrator. A copy of such order shall also be served upon such credit union, whereupon such director, officer, or committee member shall cease to be a director, officer, or committee member of such institution.

(c) A finding of not guilty or other disposition of the charge shall not preclude the Administrator from thereafter instituting proceedings to remove such director, officer, committee member, or other person from participation in the affairs of the credit union pursuant to section 206 of the Federal Credit Union Act and as set forth in this subpart.

§ 747.45 Remainder of board of directors.

(a) If at any time, because of the suspension of one or more directors pursuant to this subpart, there shall be on the board of directors of a Federal credit union less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors.

(b) In the event all of the directors of a Federal credit union are suspended pursuant to this subpart, the Administrator shall appoint persons to serve temporarily as directors in their place pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the credit union and their respective successors have been elected by the members at an annual or special meeting and have taken office.

(c) Directors appointed temporarily by the Administrator pursuant to paragraph (b) of this section, shall, within 30 days following their appointment, call a special meeting for the election of new directors, unless during such 30 day period (1) the regular annual meeting is convened, or (2) the suspensions giving rise to the appointment of temporary directors are terminated.

Subpart E—Judicial Review; Penalty; Definitions

§ 747.46 Judicial review.

(a) Judicial review of any order issued by the Administrator in accordance with his decision after any hearing under this part shall be as provided in this subpart. Unless a petition for review is timely filed in a court of appeals of the United States as provided in paragraph (b) of this section, and thereafter until the record in the proceeding has been filed as so provided in said subparagraph, the Administrator may at any time, upon such notice and in such manner as he may deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Administrator may modify, terminate, or set aside any such order with permission of the court.

(b) Any party to such proceeding, or any person required by an order issued under this part to cease and desist from any of the practices or violations stated in such order, may obtain a review of any order served pursuant to the final decision of the Administrator (other than an order issued with the consent of the credit union or the director, officer, committee member, or other person concerned or an order issued under § 747.44) by filing in the court of appeals of the United States for the circuit in which the principal office of the credit union is located or in the U.S. Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Administrator be modified, terminated, or set aside.

(c) A copy of such petition shall be forthwith transmitted by the clerk of the court to the Administrator, and thereupon the Administrator shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(d) Upon the filing of such petition, such court shall have jurisdiction. Such jurisdiction shall, upon the filing of the record, be exclusive to affirm, modify, terminate, or set aside, in whole or in part, the order of the Administrator, except as provided in the last sentence of paragraph (a) of this section. Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

(e) The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Administrator.

§ 747.47 Judicial enforcement.

The Administrator may, in his discretion, apply to the U.S. district court, or the U.S. court of any territory within the jurisdiction of which the principal office of the credit union is located, for the enforcement of any effective and outstanding notice or order issued under this part, and such courts shall have jurisdiction and power to order and require compliance therewith. However, except as otherwise provided in this part, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this part or to review, modify, suspend, terminate, or set aside any such notice or order.

§ 747.48 Penalty.

Any director, officer, or committee member, of an insured credit union or of a credit union any of the member accounts of which are insured, or any other person against whom there is outstanding and effective any notice or order (which has become final) served upon such director, officer, committee member, or other person under Subpart D of this part and who (a) participates in any manner in the conduct of the affairs of the credit union involved, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote, any proxies, consents, or authorizations in respect of any voting rights in such credit union, or (b) without the prior written approval of the Administrator votes for a director, serves or acts as a director, officer, committee member, or employee of any credit union, shall, upon conviction, be fined not more than $5,000 or imprisoned for not more than 1 year, or both.

§ 747.49 Expenses and attorney's fees.

Any court having jurisdiction of any proceeding instituted under this part by any insured credit union or a director, officer, or committee member thereof, may allow to any such party such reasonable expenses and attorney's fees as

it deems just and proper, and such expenses and fees shall be paid by the credit union or from its assets.

§ 747.50 Definitions.

(a) *Final.* As used in this part, the terms "cease-and-desist order which has become final" and "order which has become final" means a cease-and-desist order, or an order issued by the Administrator with the consent of the credit union or the director, officer, committee member, or other person concerned, or with respect to which no petition for review of the action of the Administrator has been filed and perfected in a court of appeals pursuant to § 747.46, or with respect to which the action of the court in which said petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in § 747.46, or an order issued under § 747.44.

(b) *Violation.* As used in this part, the term "violation" includes, without limitation, any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(c) *Place of hearing.* Any hearing provided for in this part shall be held in the Federal judicial district or in the territory in which the principal office of the credit union is located, unless the party afforded the hearing consents to another place.

[FR Doc.71-8741 Filed 6-21-71;8:48 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Part 1]

DISTRICT OF ANCHORAGE, ALASKA

Notice of Proposed Designation of a Customs Port of Entry

JUNE 11, 1971.

In order to provide better Customs service in the Anchorage, Alaska, Customs district, it is considered desirable to establish a Customs port of entry at a location to be known as "Alcan," in the vicinity where Alaska Highway No. 2 crosses the international boundary between the State of Alaska and the Yukon Territory. Therefore, notice is hereby given that under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), which was delegated to the Secretary of the Treasury by the President by Executive Order No. 10289, September 17, 1951 (3 CFR, Ch. 11), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 7 (34 F.R. 15846), it is proposed to designate a Customs port of entry in the Anchorage, Alaska, Customs district (Region VIII) to be known as "Alcan."

The geographical limits of the proposed port of entry of Alcan will include all the area within the boundaries of sec. 25, T. 10 N., R. 23 E. of the Copper River Meridian, in the State of Alaska.

Data, views, or arguments with respect to the proposed designation of the above-described Customs port of entry may be addressed to the Commissioner of Customs, Washington, D.C. 20226. To insure consideration of such communications, they must be received in the Bureau not later than 20 days from the date of publication of this notice in the FEDERAL REGISTER. No hearing will be held.

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

[FR Doc. 71-8746 Filed 6-21-71;8:48 am]

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Character of Total Distributions From Qualified Plans Paid After December 31, 1969

Correction

In F.R. Doc. 71-8140 appearing at page 11442 in the issue of Saturday, June 12, 1971, the following changes should be made:

1. In § 1.402(a)-1:

a. The word "rate" appearing in the 15th line of paragraph (a)(1)(ii) should read "date".

b. The ninth line of paragraph (a)(6)(i) reading "death after such separation from the" should read "death or other separation from the service, or death after such separation from".

c. The word "at" in the 21st line of paragraph (a)(6)(ii) should read "as".

d. The word "individuals" in the fourth from last line of paragraph (a)(6)(ii) should read "individual".

e. The third from last line of paragraph (a)(6)(ii) should be deleted.

2. In § 1.402(a)-2:

a. The word "insure" in the fifth line of paragraph (b)(2)(ii)(c) should read "inure".

b. The 13th line of example 3 in paragraph (b)(4)(ii) reading "×((\$60,000 − \$20,000 − \$45,000)÷(\$60,000 ÷ \$20,-" should read "×((\$60,000−\$20,000−\$45,-000)÷(\$60,000−\$20,-".

c. In paragraph (b)(5)(ii) example (ii) the 11th line reading "\$6,240 [\$25,000 ×(\$15,000 − \$2,000)÷((\$15,000" should read "\$6,240 [\$24,000×(\$15,000 −\$2,000)÷((\$15,000", and the partial equation in the 14th and 15th lines reading "[\$26,000×(\$15,000−\$2,000)÷(\$15,-000+\$45,000)−\$10,000)]" should read "[\$26,000 ×(\$15,000−\$2,000)÷((\$15,000 +\$45,000)−\$10,000))]".

d. In the third from last line of paragraph (b)(6) the partial figure reading "\$32,000÷\$50,000))" should read "(\$32,000÷\$50,000))".

e. The citation reading "§ 1.404(a)-(1)" appearing in the fifth line of the undesignated paragraph in paragraph (c)(2) should read "§ 1.404(a)-1".

f. In paragraph (ii) of example 2 in paragraph (c)(4) the 12th line reading "×(\$12,000÷(\$6,000+\$12,000)]. Under para-" should read "×(\$12,000÷(\$6,000 +\$12,000))]. Under para-".

g. The partial figure reading "(zero)]" in the 14th line of paragraph (ii) of example 5 in paragraph (c)(4) should read "(zero))]".

h. In paragraph (ii) of example 7 in paragraph (c)(4) the eighth line reading "\$9,600 (\$10,000−\$400)) and the post-1969" should read ", \$9,600 (\$10,000 −\$400), and the post-1969" and the 11th line reading "(\$20,000 (\$11,000+\$9,000)) over the net em-" should read ", \$20,000 (\$11,000+\$9,000), over the net em-".

i. In the third line of paragraph (ii) of example 1 in paragraph (d)(2) the partial figure at the end of the line reading "\$23,515 (\$72,000" should read "\$23,515 ((\$72,000".

j. In the first line of paragraph (ii) of example 2 in paragraph (d)(2) the citation reading "subdivision (ii)" should read "subdivision (iii)".

k. The word "goss" appearing in the sixth line of paragraph (e)(3) should read "gross".

l. In paragraph (ii) of example 2 in paragraph (e)(5) the sixth line reading "(\$8,500×0.40×1) or \$5,678, \$8,500 ×0.40" should read "(\$8,500×0.40×1) or \$5,678 (\$8,500×0.40".

m. The word "it" appearing in the fourth line of paragraph (f)(1) should be deleted.

3. In § 1.6041-2(b) the 21st through 24th lines should be deleted and the following should be inserted to read "In addition, every trust described in § 501 (c)(17) which makes one or more payments (including separation and sick and accident benefits) totaling".

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1063]

MILK IN QUAD CITIES-DUBUQUE MARKETING AREA

Notice of Proposed Suspension of Certain Provisions of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Quad Cities-Dubuque marketing area is being considered for the months of July and August 1971.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

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

The provisions proposed to be suspended are as follows:

In § 1063.14 the proviso which reads *"Provided,* That in any of the months of July through January milk diverted from the farm of a producer on more than the number of days that the milk was delivered to a pool plant from such farm during the month shall not be deemed to have been received by the diverting handler."

The proposed suspension would permit unlimited diversion of producer milk during the months of July and August.

The suspension action is requested by Mississippi Valley Milk Producers Association, Inc., to accommodate the handling of reserve milk of the market. The association claims that unless the suspension action is taken much of the reserve milk supply will be moved from farms to pool plants and then reshipped to manufacturing plants rather than being moved directly from farms to manufacturing plants.

Signed at Washington, D.C., on June 17, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-8747 Filed 6-21-71;8:48 am]

[7 CFR Parts 1063, 1070, 1078, 1079]

[Docket Nos. AO-105-A34, AO-229-A25, AO-272-A19, AO-295-A23]

MILK IN QUAD CITIES-DUBUQUE AND CERTAIN OTHER MARKETING AREAS

Notice of Extension of Time for Filing Exceptions to Recommended Decision on Proposed Amendments to Tentative Marketing Agreements and to Orders

Notice is hereby given that the time for filing exceptions to the recommended decision with respect to the proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Quad Cities-Dubuque, Cedar Rapids-Iowa City, North Central Iowa, and Des Moines, Iowa, marketing areas which was issued June 4, 1971 (36 F.R. 11211) is hereby extended to June 28, 1971.

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

Signed at Washington, D.C., on June 17, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-8748 Filed 6-21-71;8:48 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 61]

[Docket No. 10916; Notice No. 71-8A]

SECOND-IN-COMMAND QUALIFICATIONS AND PILOT-IN-COMMAND PROFICIENCY CHECKS

Supplemental Notice of Proposed Rule Making

On March 18, 1971, the Federal Aviation Administration published a notice of proposed rule making (Notice 71-8; 36 F.R. 5247) proposing to adopt experience and qualification requirements for pilots serving as second in command, and a proficiency check for pilots in command, of U.S. registered civil aircraft type certificated for more than one required pilot. The proposals cover operations conducted under Part 91 and not pursuant to the certification or operating rules of Parts 121, 123, 127, 133, 135, or 137 of the Federal Aviation Regulations.

An examination of the comments received indicate that several items require further explanation, and in some cases, changes in the proposals made in the notice. Accordingly, the FAA is issuing this supplemental notice of proposed rule making, and requests that interested persons review their comments in the light of the following discussion, and if appropriate, submit additional comments.

All comments with respect to this supplemental notice received on or before September 20, 1971, will be considered by the Administrator before taking action on the proposed rule change. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20590. All comments will be available, both before and after the closing date for comments, for examination by interested persons.

Several commentators recommended that credit for maneuvers performed in a simulator be given toward the pilot-in-command proficiency check requirements of proposed § 61.47a. In recognition of rapidly developing simulator technology, the FAA agrees that such a proposal is appropriate at this time. Accordingly, it is proposed to permit credit for maneuvers performed in a simulator or training device toward the proficiency check proposed in § 61.47a. As proposed, credit would be given for those maneuvers prescribed in proposed § 61.47a (b)(1) (i), (ii), and (iv), and (b)(2) and referenced in paragraph (c) of § 61.47a, and which are permitted by the proficiency check provisions of Appendix F to Part 121 to be performed in a simulator (visual or nonvisual) or a training device. However, as will be noted, in the case of a type rating, as prescribed in § 61.47a(b)(1) (iii), simulator credit is only permitted toward a type rating issued in conjunction with training received in an approved Part 121 training program, of which simulators are an integral part.

As proposed, the simulator or training device to be used in connection with §§ 61.47, 61.47a, and 61.47b must be approved for the particular maneuver. In this regard, interested persons should consult Advisory Circular 121-14 which prescribes an acceptable means for approval of such equipment.

As proposed in the notice, pilots complying with the requirements of §§ 61.47, 61.47a, and 61.47b would have been permitted to serve in the capacity for which they were qualifying on a flight under day VFR or day IFR, if, as pertinent here, the flight began and ended at the same airport with no landings or takeoffs made elsewhere. Upon reexamination of this provision the FAA believes that the prohibition against takeoffs or landings at an airport other than the departure airport is too restrictive. Accordingly, it is proposed to permit takeoffs and landings to be made at airports other than the departure airport. In addition, the provision has been clarified to indicate that no persons nor property may be carried on such flights, other than those persons or that property which are necessary to the pilot's compliance with the proposed requirements in §§ 61.47, 61.47a, and 61.47b.

In addition, it is proposed to amend the proposal regarding the military proficiency check prescribed in § 61.47a(b)(2), in recognition of the fact that, as worded, the check would have been required in an aircraft type certificated for more than one pilot. Inasmuch as the concept of type certification does not apply to military aircraft, this proposal as amended, would permit the check to be conducted in a military aircraft in which the military requires more than one pilot to be used.

Several corporate aviation commentators voiced concern over the proposal to authorize FAA designated flight examiners to give the pilot in command the proficiency check proposed in § 61.47a. The view was expressed that the extent of the proposals would make it impossible for the FAA to designate enough examiners (in addition to FAA inspectors) to conduct the proposed checks. In this regard, the agency does not anticipate difficulty in the designation of enough pilot examiners to meet the needs of all aspects of general aviation. It should be noted that such designees would be limited to giving the proficiency checks proposed herein. In making the designations, the FAA will examine the particular needs of various areas and make the necessary appointments accordingly.

In consideration of the foregoing, it is proposed to amend Part 61 of the Federal Aviation Regulations as follows:

1. By amending paragraph (a) of § 61.47 to read as follows:

§ 61.47 Recent experience.

(a) No person may act as pilot in command of an aircraft carrying passengers, nor of an aircraft certificated for more than one required pilot flight crewmember, unless within the preceding 90 days, he has made at least five takeoffs and five landings to a full stop in an aircraft of the same category, class, and type. This paragraph does not apply to operations requiring an airline transport pilot certificate, nor to operations conducted under Part 135 of this chapter. For the purpose of meeting the requirements of this paragraph, a person may act as pilot in command of a flight under day VFR or day IFR, if no persons or property, other than as necessary for his compliance hereunder, are carried.

* * * * *

2. By adding the following sections immediately after § 61.47:

§ 61.47a Pilot-in-command proficiency check: operation of aircraft requiring more than one required pilot.

(a) Except as provided in paragraph (e) of this section (12 months after the effective date of this section), no person may act as pilot in command of an aircraft that is type certificated for more than one required pilot crewmember unless he has satisfactorily completed the proficiency checks or flight checks prescribed in paragraphs (b) and (c) of this section.

(b) Except as provided in paragraph (d) of this section, since the beginning of the 12th calendar month before the month in which a person acts as pilot in command of an aircraft that is type certificated for more than one required pilot crewmember he must have—

(1) Completed one of the following proficiency or flight checks in an aircraft that is type certificated for more than one required pilot crewmember:

(i) A proficiency check given to him by an FAA inspector or a designated pilot examiner which includes the maneuvers, procedures, and standards required for the original issuance of a type rating for the aircraft used in the check;

(ii) A pilot in command proficiency check given to him in accordance with the provisions for that check under Part 121, 123, or 135 of this chapter. However, in the case of a person acting as pilot in command of a helicopter he may also complete a proficiency check given to him in accordance with Part 127 of this chapter;

(iii) A flight test required for an aircraft type rating;

(iv) An initial or periodic flight check required for a pilot examiner or check pilot; or

(2) Completed a military proficiency check required for pilot in command and instrument privileges in an aircraft which the military requires to be operated by more than one pilot.

(c) Except as provided in paragraph (d) of this section, since the beginning of the 24th calendar month before the month in which a person acts as pilot in command of an aircraft that is type certificated for more than one required pilot crewmember he must have completed one of the proficiency checks or flight checks prescribed in paragraph (b) of this section in the particular type aircraft in which he is to serve as pilot in command.

(d) The maneuvers and procedures required for the checks and test prescribed in paragraphs (b)(1) (i), (ii), and (iv) of this section, paragraph (b)(1)(iii) of this section in the case of type ratings obtained in conjunction with a Part 121 of this chapter training program, paragraph (b)(2), of this section and paragraph (c) of this section, may be performed in a simulator or training device if—

(1) The maneuver or procedure is authorized by Appendix F to Part 121 of this chapter to be performed in a simulator or training device; and

(2) The simulator or training device has been approved for the particular maneuver or procedure.

(e) This section does not apply to persons conducting operations subject to Parts 121, 123, 127, 133, 135, and 137 of this chapter.

(f) For the purpose of meeting the proficiency check requirements of paragraphs (b) and (c) of this section, a person may act as pilot in command of a flight under day VFR or day IFR if no persons or property, other than as necessary for his compliance thereunder, are carried.

(g) If a pilot takes the proficiency check required by paragraph (a) of this section in the calendar month before, or the calendar month after, the month in which it is due, he is considered to have taken it in the month it is due.

§ 61.47b Second-in-command qualifications: operation of aircraft requiring more than one required pilot.

(a) Except as provided in paragraph (d) of this section (90 days after the effective date of this section), no person may act as second in command of an aircraft type certificated for more than one required pilot flight crewmember, unless he holds—

(1) At least a current private pilot certificate with appropriate category and class ratings; and

(2) An appropriate instrument rating in the case of flight under IFR.

(b) Except as provided in paragraph (d) of this section (90 days after the effective date of this section), no person may serve as second in command of an aircraft type certificated for more than one required pilot flight crewmember unless, since the beginning of the 12th calendar month before the month in which he serves, he has, with respect to that type aircraft:

(1) Familiarized himself with all information concerning the aircraft's powerplant, major components and systems, major appliances, performance and limitations, standard and emergency operating procedures, and the contents of the approved airplane flight manual.

(2) Performed and logged—

(i) Three takeoffs and three landings to a full stop as the sole manipulator of the flight controls; and

(ii) Engine-out procedures and maneuvering with an engine out while executing the duties of a pilot in command. This requirement may be satisfied in an aircraft simulator acceptable to the Administrator.

For the purpose of meeting the requirements of subparagraph (2) of this paragraph, a person may act as second in command of a flight under day VFR or day IFR, if no persons or property, other than as necessary for his compliance thereunder, are carried.

(c) If a pilot complies with the requirements in paragraph (b) of this section in the calendar month before, or the calendar month after, the month in which compliance with those requirements is due, he is considered to have complied with them in the month they are due.

(d) This section does not apply to a pilot who meets the pilot-in-command proficiency check requirements of § 61.47a nor to operations conducted under Parts 121, 123, 127, 133, 135, and 137 of this chapter.

These amendments are proposed under the authority of sections 313(a), 314, and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1355, and 1421), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 16, 1971.

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

[FR Doc.71-8704 Filed 6-21-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SW-28]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter controlled airspace in the Bartlesville, Okla., terminal area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. 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 Chief, Air Traffic Division. 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.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

A new VOR/DME instrument approach procedure to serve Runway 35 has been developed for Phillips Airport, Bartlesville, Okla. Alterations are also being made to the Bartlesville, Okla., control zone and transition areas to conform to Standard Terminal Instrument Procedures (TERPs) criteria.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.171 (36 F.R. 2055), the Bartlesville, Okla., control zone is amended to read:

BARTLESVILLE, OKLA.

Within a 5-mile radius of the Phillips Airport (latitude 36°45'46" N., longitude 96°00'38" W.), excluding the area north of latitude 36°46'00" N. and east of longitude 95°58'30" W. This control zone is effective during the specific dates and times established in advance by a Notice of Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

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

BARTLESVILLE, OKLA.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Phillips Airport (latitude 36°45'46" N., longitude 96°00'38" W.); within 5 miles each side of the Bartlesville VORTAC 176° radial extending from the 9-mile radius to 21½ miles south of the VORTAC; and within 3½ miles each side of the Bartlesville VORTAC 354° radial extending from the 9-mile radius to 12 miles north of the VORTAC; that airspace which lies within the State of Kansas extending upward from 1,200 feet above the surface within 9½ miles west and 4½ miles east of the 354° radial of the Bartlesville VORTAC extending from the VORTAC to 18½ miles north of the VORTAC.

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

Issued in Fort Worth, Tex., on June 8, 1971.

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

[FR Doc.71-8705 Filed 6-21-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-RM-2]

TRANSITION AREA

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 Shelby, Mont., transition area.

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.

The Federal Aviation Administration proposes to modify the current ADF instrument approach procedure to Shelby Airport. The revised procedure (NDB Rwy. 23) will utilize the 043° T (023° M) bearing from the Shelby RBN for the final approach course and procedure turn. The airspace requirements have been reviewed in accordance with the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPs). As a result of the review it has been determined that the transition area must be altered to provide controlled airspace protection for the proposed instrument procedure.

The 700-foot portion of the transition area will provide controlled airspace protection for aircraft executing the proposed procedure while operating between 1,500 feet and 700 feet above the surface. The 1,200-foot portion is required for transitioning from Cut Bank, Mont., VORTAC direct to Shelby RBN and for the procedure turn area.

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

In § 71.181 (36 F.R. 2140) the description of the Shelby, Mont., transition area is amended to read as follows:

SHELBY, MONT.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Shelby Airport (latitude 48°32'26" N., longitude 111°52'30" W.) and within 3 miles each side of the 043° bearing from Shelby Airport extending from the 6-mile-radius area to 8.5 miles northeast of the airport; that airspace extending upward from 1,200 feet above the surface within 5 miles each side of a direct course between the Cut Bank, Mont., VORTAC and the Shelby Airport, extending from the airport to 7 miles east of the VORTAC and within 4.5 miles southeast and 9.5 miles northwest of the 043° bearing from the Shelby Airport, extending from the airport to 18.5 miles northeast of the airport.

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

Issued in Denver, Colo., on June 11, 1971.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.71-8706 Filed 6-21-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-RM-1]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amendments to Part 71 of the Federal Aviation Regulations that would alter the description of Lewistown, Mont., control zone and transition area.

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 amendments. 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 proposals 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.

The airspace requirements for Lewistown, Montana, have been reviewed in accordance with the U.S. Standard for Terminal Instrument Procedures (TERPs). As a result of the review, it has been determined that minor changes in the descriptions of the control zone and transition area are required.

The control zone and 700-foot portion of the transition area are required to provide controlled airspace protection for aircraft executing those portions of prescribed instrument procedures below 1,500 feet above the surface. The 1,200-foot portion of the transition area is required for aircraft executing the procedure turn and holding procedures.

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

In § 71.171 (36 F.R. 2055) the description of the Lewiston, Mont., control zone is amended to read as follows:

LEWISTOWN, MONT.

Within a 5-mile radius of the Lewistown Municipal Airport (latitude 47°02'39" N., longitude 109°28'15" W.) and within 1.5 miles each side of the Lewistown VORTAC 090° radial, extending from the 5-mile-radius zone to the VORTAC.

In § 71.181 (36 F.R. 2140) the description of the Lewistown, Mont., transition area is amended to read as follows:

LEWISTOWN, MONT.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Lewistown, Mont., Municipal Airport (latitude 47°02'39" N., longitude 109°28'15" W.) and within 4 miles each side of the Lewistown VORTAC 289° radial, extending from the 7-mile-radius area to 10.5 miles west of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 4.5 miles north and 9.5 miles south of the Lewistown VORTAC 289° radial, extending from the VORTAC to 18.5 miles west of the VORTAC, and within 5 miles north and 8 miles south of the Lewistown VORTAC 109° radial, extending from the VORTAC to 7 miles east of the VORTAC.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Denver, Colorado, on June 11, 1971.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.71-8707 Filed 6-21-71;8:46 am]

National Highway Traffic Safety Administration

[49 CFR Part 567]

[Docket 71-14; Notice 1]

CERTIFICATION LABEL

Proposed Vehicle Identification Number

This notice proposes the addition of a vehicle identification number to the certification label required for vehicles manufactured in two or more stages.

A revision of 49 CFR Part 567, the regulation governing certification of motor vehicles under the National Traffic and Motor Vehicle Safety Act, was published on April 14, 1971 (36 F.R. 7054), to be effective January 1, 1972. As published, this regulation did not include a requirement for a vehicle identification number on the label specified for vehicles manufactured in two or more stages (§ 567.5). It has been suggested by some final-stage manufacturers that such a number would be useful for identification of the vehicles that they complete. Such a requirement would make the labeling requirements for multistage vehicles more consistent with those for other vehicles contained in § 567.4.

Accordingly, it is proposed that the existing subparagraph (8) in paragraph (a) of 49 CFR 567.5 be renumbered (9), and that a new subparagraph be inserted: "(8) Vehicle identification number."

Proposed effective date: January 1, 1972.

Interested persons are invited to submit written data, views, and arguments concerning the proposed standard. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on July 22, 1971, will be considered, and will be available for examination in the docket room at the above address both before and after the closing date. To the extent possible, comments filed after the closing date will be considered by the Administration. However, the rulemaking action may proceed at any time after the date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

This notice of proposed rulemaking is issued under the authority of sections 103, 112, 114, and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1401, 1402, 1407, and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

ROBERT L. CARTER,
Acting Associate Administrator, Motor Vehicle Programs.

JUNE 16, 1971.

[FR Doc.71-8733 Filed 6-21-71;8:47 am]

[49 CFR Part 571]

[Dockets Nos. 1-9, 1-10; Notice 6]

FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Exterior Protection—Passenger Cars

The purpose of this notice is to propose that Motor Vehicle Safety Standard No. 215, Exterior Protection, revised and republished in this issue of the FEDERAL REGISTER (36 F.R. 11852), be amended to require 5-m.p.h. barrier and pendulum impacts for rear surfaces, to require the vehicle's engine to be operating during barrier testing, and to require that there be no damage to any portion of the vehicle such that any safety-related aspect of performance is adversely affected.

The standard as published on April 16, 1971, requires a barrier test a 5 m.p.h. for the front of a vehicle and 2½ for the rear, effective September 1, 1972, and an additional pendulum test at 5 m.p.h. for the front and 4 m.p.h. for the rear, effective September 1, 1973. As indicated upon issuance of the standard, the September 1, 1973, requirements have been under review to determine whether refinements or additions would be appropriate. This review, and information contained in the petitions for reconsideration of the standard, have indicated the desirability and feasibility of upgrading the requirements for the rear surfaces of passenger cars. Accordingly, it is proposed that the longitudinal pendulum and barrier tests on rear surfaces be at 5 m.p.h. effective September 1, 1973.

The test conditions specified in the standard do not require the vehicle's engine to be operating. To more accurately represent the conditions under which a moving vehicle is likely to crash, and to detect possible hazards inherent under these conditions, it is proposed that a new section S6.3 be added to § 571.21 reading as follows:

S6.3 *Barrier test condition.* During a barrier impact, the vehicle's engine is operating at idling speed.

The standard as issued contains requirements for protection from damage of particular vehicle systems, viz., the lighting, latching, fuel, cooling, and exhaust systems. It appears that other safety-related vehicle systems, such as the suspension, steering, or braking systems, could be adversely affected by a low-speed impact. It is intended that the vehicle "bumper" systems be required to protect the vehicle, in these low-speed impacts, from all damage that affects safe operation; purely cosmetic damage would be excepted. It is therefore proposed that another requirement be added to § 571.21 in the form of a new section S5.3.5, reading as follows:

S5.3.5 There shall be no damage to any other portion of the vehicle such that any aspect of performance that relates to motor vehicle safety is adversely affected.

The present section S5.3.5 would be renumbered S5.3.6, and the references in section S5.1 and S5.2 would be changed to "S5.3.1 through S5.3.5" and "S5.3.1 through S5.3.6," respectively.

Proposed effective date. September 1, 1973.

Interested persons are invited to submit written data, views, and arguments concerning the proposed standard. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on August 1, 1971, will be considered, and will be available for examination in the docket room at the above address both before and after the closing date. To the extent possible, comments filed after the closing date will be considered by the Administration. However, the rulemaking action may proceed at any time after the date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

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

Issued on June 15, 1971.

ROBERT L. CARTER,
Acting Associate Administrator,
Motor Vehicle Programs.

[FR Doc.71-8678 Filed 6-21-71;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Housing Administration

[24 CFR Part 200]

[Docket No. R-71-118]

AFFIRMATIVE MARKETING GUIDELINES

Notice of Proposed Rule Making

In accordance with the President's Statement on Federal Policies Relative to equal Housing Opportunity, issued June 11, 1971, the Department proposes to amend Chapter II of Title 24 of the Code of Federal Regulations to add a new Subpart M entitled "Affirmative Marketing Guidelines." This proposed subpart, issued pursuant to title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1; title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608; and Executive Order 11063, 27 F.R. 11527, is intended to promote a condition in which individuals of similar income levels in the same housing market area have available to them a similar range of choices in housing, regardless of the individuals' race, color, religion, or national origin.

Interested persons are invited to participate in the making of the proposed rule by submitting written data, views, or statements with regard to the proposed regulations. Communications should be filed in triplicate with the above docket number and title and should be filed in triplicate with the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. All relevant material received on or before July 22, 1971, will be considered by the Secretary before taking action on the proposal. Copies of comments submitted will be available during business hours, both before and after the specified closing date, at the above address, for examination by interested persons.

The proposed Subpart M reads as follows:

Subpart M—Affirmative Marketing Guidelines

§ 200.600 Purpose.

The purpose of this subpart is to set forth the Department's equal opportunity guidelines for affirmative marketing under FHA subsidized and unsubsidized housing programs.

§ 200.605 Authority.

The regulations in this subpart are issued pursuant to Executive Order 11063, 27 F.R. 11527; title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1; and title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608.

§ 200.610 Policy.

It is the policy of the Department to administer its FHA housing programs affirmatively, so as to achieve a condition in which individuals of similar income levels in the same housing market area have a like range of housing choices available to them regardless of their race, color, religion, or national origin. Each sponsor of a proposed project or subdivision shall pursue affirmative fair housing marketing policies in the solicitation of eligible buyers and tenants.

§ 200.615 Requirements.

Each sponsor shall meet the following requirements:

(a) Carry out an affirmative program to attract applicants of all races. Such a program shall typically involve publicizing the availability of housing opportunities, including advertising in minority media if minority publications or other media are available in the area from which the market potential will be drawn. All advertising shall include either the Department-approved Equal Housing Opportunity logo or slogan and all advertising depicting persons shall depict persons of majority and minority races.

(b) Maintain a nondiscriminatory hiring policy in recruiting from both minority and majority races for staff engaged in the sale or rental of properties.

(c) Instruct all employees and agents in the policy of nondiscrimination and fair housing.

(d) Specifically inform local housing authorities and relocation agencies of the development of projects and subdivisions and data pertinent thereto.

(e) Specifically solicit eligible buyers or tenants reported to the sponsor by the Area or Insuring Office.

(f) Prominently display in the sales or rental office of the project or subdivision, and include in any printed material used in connection with sales or rentals, information concerning its nondiscriminatory fair housing policy.

The affirmative fair housing marketing requirements, as set forth in subparagraphs (a) through (f) of this section, shall apply, as of the effective date of this policy, to all subdivisions, multifamily projects and mobile home parks of 25 or more lots, units, or spaces, hereafter developed under FHA subsidized and unsubsidized housing programs.

§ 200.620 Affirmative fair housing marketing plan.

Each sponsor of a project of subdivision shall provide on a form to be supplied by the Department information indicating his affirmative fair housing marketing plan to comply with the requirements set forth above.

§ 200.625 Notice of housing opportunities.

Upon request, the Director of each Area or Insuring Office shall provide monthly a list of all projects or subdivisions covered by this subpart on which commitments have been issued during the preceding 30 days to all interested individuals and groups.

§ 200.630 Compliance.

Sponsors failing to comply with the requirements of this subpart will make themselves liable to sanctions authorized by statute or regulation.

GEORGE W. ROMNEY,
Secretary of Housing and
Urban Development.

[FR Doc.71-8728 Filed 6-21-71;8:47 am]

Notices

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Organization Order 25-5B; Amdt. 1]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Organization and Functions

The following amendment to the order was issued by the Secretary of Commerce, effective April 14, 1971. This material amends the material appearing at 36 F.R. 5922 of March 31, 1971.

Department Organization Order 25-5B of March 5, 1971 is hereby amended as follows:

1. SEC. 4. *Assistant Administrator for Administration and Technical Services.* The following is added to the end of paragraph .01: "and special reproduction and distribution services for administrative and technical data."

2. SEC. 5. *Assistant Administrator for Plans and Programs.* a. The listing in paragraph .01 is changed to read:

Oceanic Division.
Solid Earth Division.
Atmospheric and Space Division.

b. A new paragraph .03 is added to read:

.03 The Programs Division shall provide guidance and direction to NOAA Primary Organization Elements in the development, implementation, and maintenance of effective performance planning and programing throughout NOAA and shall afford the Administrator, Deputy, and Associates a primary source of program review, advice, and assistance in establishing the future direction, goals, and objectives of NOAA programs. It shall be responsible for the development of realistic integrated 5-year programs and compatible financial plans, and for the continuing evaluation of NOAA program performance against the developed program plans, goals, and objectives. This division shall be responsible for implementation of the NOAA Management Improvement Program and shall develop instructions, review inputs from program managers, and prepare reports on performance effectiveness, cost reductions, and reprograming. It shall also be responsible for monitoring program impacts of NOAA manpower ceilings and allocations and for developing and maintaining sets of comprehensive illustrated briefings covering NOAA programs, for use by the Administrator, Deputy, and Associates in presentations in and out of the Government.

c. Paragraph .03 is renumbered .04 and changed to read:

.04 The Office of Special Studies shall provide policy guidance for NOAA's major program areas, applying such planning factors as forecasts of technological advances, technological assessment, user needs, and NOAA resource capacity and availability. The Office shall conduct technical and socio-economic studies required in developing the policy framework within which the programs of NOAA are carried out.

3. SEC. 14. *National Ocean Survey.*

a. In paragraph .02 the title Office of Geodesy and Photogrammetry is changed to "Office of National Geodetic Survey."

b. The following is deleted from the end of paragraph .05: "and provide printing, reproduction, and distribution services for all components of NOAA."

Effective: April 14, 1971.

LAWRENCE E. IMHOFF,
Acting Assistant Secretary for Administration.

[FR Doc.71-8698 Filed 6-21-71;8:45 am]

[Dept. Organization Order 45-1; Amdt. 1]

ECONOMIC DEVELOPMENT ADMINISTRATION

Organization and Functions

This material amends the material appearing at 35 F.R. 14472 of September 15, 1970.

Department Organization Order 45-1, dated August 31, 1970, is hereby amended as follows:

1. SEC. 5. *Deputy Assistant Secretary for Economic Development Planning.* This section is revised to read:

.01 The Deputy Assistant Secretary for Economic Development Planning is the principal adviser to the Assistant Secretary on matters of development planning. Through the offices reporting to him, he shall:

a. Coordinate and direct EDA economic development planning activities relating to regions, districts (including economic development centers), redevelopment areas, and other areas of substantial need;

b. Formulate and recommend to the Assistant Secretary standards and criteria for administration of economic development planning by Regional Offices;

c. Inform the Deputy Assistant Secretary for Policy Coordination of significant developments and problems affecting interagency and intergovernmental development planning for districts and areas;

d. Recommend designation of economic development districts, economic development centers, redevelopment areas, and title I areas which fulfill the statutory criteria;

e. Conduct an annual review of the areas and districts designated for assistance under the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121) (the "Act"), and recommend such modifications or terminations of eligibility as may be appropriate;

f. Provide economic data, analyses and studies, and planning grants to development districts and areas; and

g. Recommend technical assistance proposals for areas and districts.

.02 The Deputy Assistant Secretary for Economic Development Planning shall direct and supervise the following organization elements:

a. The Office of Planning and Program Support which shall:

1. Have prime responsibility for coordinating the preparation, review and approval of EDA-developed planning documents;

2. Develop analyses and recommended strategies of economic development, including a system of priorities for EDA's financial assistance, for areas and districts;

3. Develop economic development planning systems that reflect EDA objectives and respond to local and regional problems and potentials;

4. Develop the methods and techniques needed to evaluate established planning systems including the ability of local representatives to understand and utilize the planning system as well as the compatibility of locally developed plans with annual agency objectives;

5. Participate in the development of budgetary requirements and coordinate with the Office of Administration and Program Analysis in the allocation of resources among Regional Offices as well as among EDA programs;

6. Provide information and special services on domestic and international regional development planning;

7. Provide guidance to Regional Offices on the application of economic development planning techniques and systems to the specific problems of the region;

8. Advise and assist Regional Offices in implementing economic planning activities after the formal designation of economic development districts and areas;

9. Guide Regional Offices in assisting development organizations to prepare Overall Economic Development Programs (OEDPs);

10. In coordination with Regional Offices, provide guidance to economic development district and area organizations on the techniques and methods of economic analysis;

11. Formulate planning and development policies and procedures for guiding the preparation and submission of district and area OEDPs, including the establishment of policies and standards for their review by Regional Offices;

12. Initiate suspension of the receipt and processing of all applications for assistance from areas and districts which

fail to submit acceptable OEDP progress reports;

13. Evaluate services, efficient existing capacity, and competitive producers for use in making determinations on excess capacity, pursuant to section 702 of the Act; and

14. Identify industries which have demonstrated growth trends for the purpose of relating those industries to agency plans.

b. The Office of Economic Research which shall:

1. Direct and conduct a program of internal and external economic research designed to meet both planning and operating needs and concerned with economic development problems and opportunities for geographical subdivisions (e.g., regions, development districts, redevelopment areas, etc.);

2. Arrange for and monitor EDA-sponsored research conducted by other elements of the Department, other Government agencies, or private organizations;

3. Encourage and stimulate research and data collection on economic development, both in and out of Government;

4. Review, evaluate, integrate, and disseminate (a) the results of research sponsored by EDA, and (b) current methodological and other research findings wherever generated that are relevant to EDA's objectives and programs;

5. Maintain a central reference collection of economic development materials; and

6. Study and evaluate the effects of Government policies on subnational economic development.

c. The Office of Development Organizations which shall:

1. Design and direct a program to establish multicounty development districts in consultation and with the assistance and cooperation of EDA Regional Offices, and with the concurrence of the States affected;

2. Initiate policy guidelines and criteria concerning the development district and area organizations for use by other elements of EDA, and by appropriate State and local agencies;

3. Evaluate and approve proposed area and district economic development organizations;

4. Assist Regional Office efforts to organize economic development districts, including the recruitment of staff;

5. Development and recommended model administrative budgets, reporting procedures, and job specifications for use by area and district economic development organizations;

6. Establish policies and standards for the review of progress reports by Regional Offices in cooperation with the Office of Planning Program Support;

7. Design a system of records to indicate progress as compared to planned objectives on all grants made under section 301(b) of the Act and assist Regional Offices in implementing system;

8. Provide guidelines to Regional Offices in order to administer planning grants made under the Act to State, district, and area agencies;

9. Evaluate and recommend candidates for appointments to professional staff positions in economic development districts in cooperation with the Regional Offices;

10. Review Regional Office recommendations for the designation and/or termination of economic development districts and economic development centers;

11. Promptly advise interested Federal, State, and local agencies of all changes affecting the eligibility status of existing or proposed economic development districts;

12. Prepare and distribute maps and related materials showing organizational and designation status of economic development districts;

13. Determine whether an area meets the statistical criteria to qualify as a redevelopment area or a title I area;

14. Recommend changes in the qualification status of redevelopment areas and title I areas;

15. Recommend designation or change in the designation status of redevelopment or title I areas;

16. Conduct an annual review of area eligibility and recommend termination of areas no longer eligible for designation; and

17. Recommend minor adjustments to boundaries of redevelopment areas.

2. SEC. 13. *Economic Development Regional Offices.* Paragraph .02 is revised to read:

.02 Each Regional Director for the EDA programs in his region, shall:

a. Assist designated areas and districts in organizing, staffing, and funding for economic planning through the development of (OEDPs);

b. Assist local communities in the development of applications for financial assistance to meet the needs of areas and districts serviced by the Regional Office; and

c. Process applications for economic development assistance, monitor and service approved projects, including appropriate public works construction projects and, when appropriate, liquidate projects.

Effective: June 1, 1971.

LAWRENCE E. IMHOFF,
Acting Assistant Secretary for Administration.

[FR Doc.71-8699 Filed 6-21-71;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 6146; Docket No. FDC-D-308; NDA 5-914 etc.]

CERTAIN ANTIHISTAMINES FOR PARENTERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation

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

1. Dimetane-Ten Injectable and Dimetane-100 Injectable containing brompheniramine maleate, marketed by A. H. Robins Co., Inc., 1407 Cummings Drive, Richmond, Virginia 23220 (NDA 11-418).

2. Chlor-Trimeton Maleate Injection containing chlorpheniramine maleate, marketed by Schering Corp., 1011 Morris Avenue, Union, New Jersey 07083 (NDA 8-794 and NDA 8-826).

3. Ambodryl Hydrochloride Steri-Vial containing bromodiphenhydramine hydrochloride, marketed by Parke, Davis and Co., Joseph Campau Avenue at the River, Detroit, Mich. 48232 (NDA 9-304).

4. Benadryl Ampoules and Steri-Vials containing diphenhydramine hydrochloride, marketed by Parke, Davis and Co. (NDA 9-486 and NDA 6-146).

5. Pyribenzamine Hydrochloride Injectable solution containing tripelennamine hydrochloride, marketed by Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, New Jersey 07901 (NDA 5-914).

6. Histadyl Injection containing methapyrilene hydrochloride; marketed by Eli Lilly and Co., Post Office Box 618, Indianapolis, Indiana 46206 (NDA 6-340).

7. Phenergan Injection containing promethazine hydrochloride; marketed by Wyeth Laboratories, Division American Home Products Corp., Post Office Box 8299, Philadelphia, Pa. 19101 (NDA 8-857).

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

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

Brompheniramine Maleate; Chlorpheniramine Maleate, Bromodiphenhydramine Hydrochloride, Diphenhydramine Hydrochloride, Tripelennamine Hydrochloride, Methapyrilene Hydrochloride, Promethazine Hydrochloride.

A. *Effectiveness classification.* 1. The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes that:

a. These drugs are effective or probably effective for the indications described in the labeling conditions below. The indications for which they are regarded as probably effective are: local edema and pruritis associated with nonpoisonous insect bites; severe uncomplicated urticaria resistant to oral antihistamines; and for the control of local reactions resulting from a fixed maintenance dose of an antigen in allergic hyposensitization therapy.

b. These drugs lack substantial evidence of effectiveness when labeled for: The prevention or reduction in severity of

the sequelae of oral surgery; the potentiation of CNS depressants to allow dosage reduction; histamine headache and migraine including allergic migraine; Meniere's disease; nocturnal leg cramps or leg cramps of pregnancy; allergic or other conditions not specifically stated; tissue preservation; functional dysmenorrhea; and as an antitussive.

2. The Food and Drug Administration further concludes that:

a. *Diphenhydramine hydrochloride injection* is:

(1) Effective for the active treatment of motion sickness; and in parkinsonism (including drug-induced) when oral therapy is impossible or contraindicated in the elderly unable to tolerate more potent agents, in mild cases in other age groups or in combination with centrally acting anticholinergic agents; and

(2) Probably effective in intractable insomnia and insomnia predominant in certain medical disorders when oral therapy is impossible.

b. *Promethazine hydrochloride injection* is:

(1) Effective for the active treatment of motion sickness; preoperative, postoperative and obstetric (during labor) sedation; the prevention and control of nausea and vomiting associated with certain types of anesthesia and surgery; sedation and relief of apprehension and to produce light sleep from which the patient can be easily aroused; as an adjunct to anesthesia and analgesia when given intravenously along with meperidine in special surgical situations (e.g., repeated bronchoscopy, opthalmic surgery and poor risk patients); and as an adjunct to analgesics for the control of postoperative pain; and

(2) Probably effective in intractable insomnia and insomnia predominant in certain medical disorders when oral therapy is impossible; and for the control of the more severe or hazardous nausea and vomiting of pregnancy.

3. Except for the indications described or referenced above, all of these drugs are regarded as possibly effective for their other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* These preparations are in sterile aqueous solution form suitable for parenteral administration.

2. *Labeling conditions.* a. The labels bear the statement "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with al requirements of the Act and regulations. Their labeling bears adequate information for safe and effective use of the drugs and is in accord with the effectiveness classifications, the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970, and, where applicable the Academy comments. The "Indications" sections are as follows:

INDICATIONS

The injectable form of this drug is indicated for the following conditions when use of the oral form of the drug is impractical:

Amelioration and prevention of allergic reactions to blood or plasma in patients with a known history of such reactions.

In anaphylaxis as an adjunct to epinephrine and other standard measures after the acute symptoms have been controlled.

For other uncomplicated allergic conditions of the immediate type when oral therapy is impossible or contraindicated.

Control of local reactions resulting from a fixed maintenance dose of an antigen in allergic hyposensitization therapy.

Severe uncomplicated urticaria resistant to oral antihistamines.

Local edema and pruritus associated with nonpoisonous insect bites.

Add For Diphenhydramine Hydrochloride Only:

Active treatment of motion sickness.

For use in parkinsonism (including drug-induced), when oral therapy is impossible or contraindicated, as follows:

Parkinsonism in the elderly who are unable to tolerate more potent agents.

Mild cases of parkinsonism in other age groups.

In other cases of parkinsonism in combination with centrally acting anticholinergic agents.

Intractable insomnia and insomnia predominant in certain medical disorders when oral therapy is impossible.

Add For Promethazine Hydrochloride Only:

Active treatment of motion sickness.

Preoperative, postoperative and obstetric (during labor) sedation.

Prevention and control of nausea and vomiting associated with certain types of anesthesia and surgery.

As an adjunct to analgesics for the control of postoperative pain.

For sedation and relief of apprehension and to produce light sleep from which the patient can be easily aroused.

Intravenously in special surgical situations, such as repeated bronchoscopy, ophthalmic surgery, and poor risk patients, with reduced amounts of meperidine as an adjunct to anesthesia and analgesia.

Intractable insomnia and insomnia predominant in certain medical disorders when oral therapy is impossible.

Control of the more severe or hazardous nausea and vomiting of pregnancy.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed as described in paragraphs (a)(1) (i), (ii), and (iii) of the notice of July 14, 1970. Biologic availability data for a drug administered by the intravenous route are not required.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is intended to be marketed, as described in paragraph (a)(3)(ii) of that notice. Biologic availability data for a drug administered by the intravenous route are not required.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" section above) and possibly effective (not included in the "Indications" section), continued use as described in paragraphs (c), (d), (e), and (f) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order would cause any related drug for human use offered for the indications for which substantial evidence of effectiveness is lacking to be a new drug for which an approved new drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing, together with a well-organized and full-factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under

uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

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

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

A copy of the NAS–NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Press Relations Office (CE–200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 6146, directed to the attention of the following appropriate office, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

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

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

Requests for Hearing (identify with Docket No.): Hearing Clerk, Office of General Counsel (GC–1) Room 6–62, Parklawn Building.

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

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

Dated: May 25, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–8717 Filed 6–21–71;8:46 am]

[DESI 8983; Docket No. FDC–D–299; NDA's 9–372, 9–373]

CERTAIN GANGLIONIC BLOCKING AGENTS

Drugs for Human Use; Drug Efficacy Study Implementation

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

1. Ansolysen Tablets containing pentolinium tartrate; Wyeth Laboratories, Inc., Post Office Box 8299, Philadelphia, Pa. 19101 (NDA 9–373).

2. Ansolysen Injection containing pentolinium tartrate; Wyeth Laboratories, Inc. (NDA 9–372).

3. Ostensin Tablets containing trimethidinium methosulfate; Wyeth Laboratories, Inc. (NDA 11–489).

4. Inversine Hydrochloride Tablets containing mecamylamine hydrochloride; Merck Sharp & Dohme, Division of Merck & Co., Inc., West Point, Pa. 19486 (NDA 10–251).

5. Arfonad for Intravenous Infusion containing trimethaphan camsylate; Hoffmann-LaRoche, Inc., 340 Kingsland Avenue, Nutley, N.J. 07110 (NDA 8–893).

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

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

I. PENTOLINIUM TARTRATE TABLETS

A. *Effective classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that this drug is:

1. Effective for the management of moderately severe or severe essential hypertension, and in uncomplicated cases of malignant hypertension.

2. Lacking in substantial evidence of effectiveness for posttraumatic and postoperative urinary retention.

B. *Form of drug.* Pentolinium tartrate preparations are in tablet form suitable for oral administration.

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

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

INDICATIONS

For the management of moderately severe or severe essential hypertension and in uncomplicated cases of malignant hypertension.

II. PENTOLINIUM TARTRATE FOR INJECTION

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

1. Effective in the short term (acute) management of moderately severe, or severe essential hypertension, and in uncomplicated cases of malignant hypertension in which adequate response has not been obtained by oral administration.

2. Lacking in substantial evidence of effectiveness for posttraumatic and postoperative urinary retention and for use intravenously in hypertensive emergencies.

B. *Form of drug.* Trimethidinium methosulfate preparations are in tablet form suitable for oral administration.

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

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

INDICATIONS

For the management of moderately severe or severe essential hypertension and in uncomplicated cases of malignant hypertension.

IV. MECAMYLAMINE HYDROCHLORIDE TABLETS

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence and concludes that this drug is effective in treatment of moderately severe to severe essential hypertension and uncomplicated cases of malignant hypertension.

B. *Form of drug.* Mecamylamine hydrochloride preparations are in tablet form suitable for oral administration.

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

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

INDICATIONS

For the management of moderately severe to severe essential hypertension and in uncomplicated cases of malignant hypertension.

V. TRIMETHAPHAN CAMSYLATE FOR INTRAVENOUS INFUSION

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that this drug is effective for the production of controlled hypertension during surgery; for the short term (acute) control of blood pressure in hypertensive emergencies; in the emergency treatment of pulmonary edema in patients with pulmonary hypertension associated with systemic hypertension.

B. *Form of drug.* Trimethaphan camsylate preparations are in sterile aqueous solution form, when diluted, for intravenous infusion.

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

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

INDICATIONS

For the production of controlled hypotension during surgery. For the short term (acute) control of blood pressure in hypertensive emergencies. In the emergency treatment of pulmonary edema in patients with pulmonary hypertension associated with systemic hypertension.

VI. MARKETING STATUS

Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER, July 14, 1970 (35 F.R. 11273), as follows:

A. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug, when administered other than by the intravenous route, in the formulation which is marketed, as described in paragraphs (a)(1) (i), (ii), and (iii) of the notice of July 14, 1970.

B. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed for administration other than by the intravenous route, as described in paragraph (a)(3)(ii) of that notice.

C. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

VII. OPPORTUNITY FOR A HEARING

A. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in Paragraph I.A., and II.A. of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order would cause any related drug for human use offered for the indications for which substantial evidence of effectiveness is lacking to be a new drug for which an approved new drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

B. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

C. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing, together with a well-organized and full-factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

D. A hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 8983, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

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

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

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

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

Dated: May 25, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-8718 Filed 6-21-71;8:46 am]

[DESI 60105]

PENICILLIN FOR INHALATION

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Penicillin G Potassium Aerohalor, containing potassium penicillin G; Abbott Laboratories, Inc., 14th and Sheridan Road, North Chicago, Illinois 60064 (NDA 60-105).

Preparations containing penicillin are subject to the antibiotic procedures pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act.

The Academy commented that penicillin may, in some instances, be effective in treating a variety of pulmonary infections; however, penicillin is a sensitizing drug and since inhalation therapy has been accompanied by severe allergic reactions, there is little reason to keep the drug in the therapeutic armamentarium.

The Food and Drug Administration has considered the Academy's report, as well as other available information, and concludes that there is a lack of substantial evidence that the effectiveness of penicillin for inhalation therapy is sufficient to justify its use in view of the known serious hazards associated with such use.

Accordingly, the Commissioner of Food and Drugs intends to initiate proceedings to amend the antibiotic drug regulations (21 CFR Part 146) in order to delete from the list of drugs acceptable for certification or release the above listed drug and any similar drug for inhalation therapy in man.

Prior to initiating such action, however, the Commissioner invites all in-

terested persons who might be adversely affected by removal of these drugs from the market to submit pertinent data bearing on the proposal within 30 days following the date of publication of this announcement in the FEDERAL REGISTER. To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

This announcement of the proposed action and implementation of the Academy's report for this drug is made to give notice to persons who might be adversely affected by removal of this or similar drugs from the market.

A copy of the Academy's report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 60105 and be directed to the attention of the Drug Efficacy Study Implementation Project Office (BD-5), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-51, as amended; 59 Stat. 463, as amended; 21 U.S.C. 352, 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 5, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-8719 Filed 6-21-71;8:46 am]

MORTON INTERNATIONAL, INC.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1A2688) has been filed by Morton International, Inc., 110 North Wacker Drive, Chicago, Ill. 60606, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of glycine as a flavor-masking agent for saccharin in sugar substitutes for table use.

Dated: June 16, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-8716 Filed 6-21-71;8:46 am]

MONSANTO CO.

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1B2685) has been filed by Monsanto Co., 1101 17th Street NW., Washington, D.C. 20036, proposing that § 121.2502 *Nylon resins* (21 CFR 121.2502) be amended to provide for the safe use in food-contact articles of a new nylon resin manufactured from nylon 66 resins and resins obtained by the condensation of hexamethylene diamine and terephthalic acid.

Dated: June 16, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-8700 Filed 6-21-71;8:45 am]

[DESI 10761]

CERTAIN ANTISEBORRHEIC DRUGS CONTAINING CADMIUM SULFIDE FOR TOPICAL USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Capsebon Suspension containing cadmium sulfide, marketed by The Dow Chemical Co., Box 10, Zionsville, Indiana 46077 (NDA 10-761).

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

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that cadmium sulfide is probably effective for the treatment of seborrheic dermatitis of the scalp.

B. *Marketing status.* 1. The indication for which the drug is described in paragraph A above as probably effective may continue to be used for 12 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing such drug without approval may obtain and submit to the Food and Drug Administration data to provide substantial evidence of effectiveness. In addition, data including adequate toxicity studies on cadmium sulfide should be presented, because cadmium poisoning can be subtle.

2. At the end of the 12-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness of the drug for such uses. The conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken or if the studies do not provide substantial evidence of effectiveness, procedures will be initiated to withdraw approval of the new drug application for the drug, pursuant to the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act. Withdrawal of approval of the application will cause any such drug on the market to be a new drug for which an approval is not in effect.

3. Within 60 days from publication hereof in the FEDERAL REGISTER, the holder of any approved new drug application for such drug is requested to submit a supplement to his application to provide for revised labeling as needed, which, taking into account the comments of the Academy, furnishes adequate information for safe and effective use of the drug, is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970 (21 CFR 3.74), and recommends use of the drug for the probably effective indication as follows:

INDICATIONS

For the treatment of seborrheic dermatitis of the scalp.

The above named holder of the new-drug application for this drug has been mailed a copy of the NAS-NRC report. Any interested person may obtain a copy of this report by writing to the office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 10761 and be directed to the attention of the appropriate office named below and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

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

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

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

Requests for NAS-NRC reports: Press Relations Office (CE-200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

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

Dated: May 6, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-8701 Filed 6-21-71;8:45 am]

[DESI 10837]

CERTAIN ANTICHOLINERGIC DRUGS

Drugs for Human Use; Drug Efficacy Study Implementation

Certain anticholinergic drugs containing prochlorperazine maleate and isopropamide iodide; oxyphencyclimine

hydrochloride and meprobamate; oxyphencyclimine hydrochloride and hydroxyzine hydrochloride; tridihexethyl chloride and meprobamate; and propantheline bromide and thiopropazate hydrochloride.

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

1. Combid Spansule Capsules, containing prochlorperazine maleate and isopropamide iodide; Smith, Kline, and French Laboratories, 1500 Spring Garden Street, Philadelphia, Pa. 19101 (NDA 11-162).

2. Daritran Tablets, containing oxyphencyclimine hydrochloride and meprobamate; Chas. Pfizer and Co., 235 East 42d Street, New York, N.Y. 10017 (NDA 12-070).

3. Enarax 5 Tablets and Enarax 10 Tablets, containing oxyphencyclimine hydrochloride and hydroxyzine hydrochloride; Chas. Pfizer and Co. (NDA 11-784).

4. Milpath-200 Tablets and Milpath-400 Tablets, containing meprobamate and tridihexethyl chloride; Wallace Laboratories, Half Acre Road, Cranbury, N.J. 08512 (NDA 11-043).

5. Pathibamate-200 Tablets and Pathibamate-400 Tablets, containing tridihexethyl chloride and meprobamate; Lederle Laboratories Division, American Cyanamid Co., Pearl River, N.Y. 10965 (NDA 10-837).

6. Pro-Banthine with Dartal Tablets, containing propantheline bromide and thiopropazate hydrochloride; G. D. Searle and Co., Post Office Box 5110, Chicago, Ill. 60680 (NDA 11-368).

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

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that these drugs are possibly effective as adjunctive therapy in peptic ulcer and in the irritable bowel syndrome (irritable colon, spastic colon, mucous colitis, functional gastrointestinal disorders); functional diarrhea; drug induced diarrhea; ulcerative colitis, and urinary bladder spasm and urethral spasm (i.e., smooth muscle spasm). In addition, oxyphencyclimine and meprobamate preparations are possibly effective for dysmenorrhea.

These drugs lack substantial evidence of effectiveness for their other labeled indications.

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

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

3. The notice "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273) describes in paragraphs (d), (e), and (f) the marketing status of a drug labeled with those indications for which it is regarded as possibly effective.

A copy of the Academy's report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE-200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 10837, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

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

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

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

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

Dated: May 3, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-8702 Filed 6-21-71;8:45 am]

[DESI 12329]

GUANETHIDINE SULFATE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Ismelin Sulfate Tablets containing guanethidine sulfate; marketed by Ciba Pharmaceutical Co., 556 Morris Avenue, Summit, New Jersey 07901 (NDA 12-329).

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

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

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that guanethidine sulfate is effective for:

a. The treatment of severe hypertension either alone or as an adjunct.

b. The treatment of renal hypertension, including that secondary to pyelonephritis, renal amyloidosis, and renal artery stenosis.

B. *Form of drug.* Guanethidine sulfate preparations are in tablet form suitable for oral administration.

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

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

INDICATIONS

1. For the treatment of severe hypertension either alone or as an adjunct.

2. For the treatment of renal hypertension, including that secondary to pyelonephritis, renal amyloidosis, and renal artery stenosis.

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

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

b. Updating information as needed to make the application current.

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

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

b. 60 days for updating information.

3. Marketing of the drug may continue until the supplemental applications submitted in accord with the preceding subparagraphs 1 and 2 are acted upon, provided that within 60 days after the date of this publication, the labeling of this preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described in this announcement.

E. *New applications.* 1. Any other person who distributes or intends to distribute such drug which is intended for the conditions of use for which it has been shown to be effective, as described under paragraph A above, should submit a new drug application containing full information required by the new drug application form FD-356H (21 CFR 130.4 (c)). Such applications should include proposed labeling which is in accord with the labeling conditions described herein.

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

a. Within 60 days from the date of publication of this announcement in the FEDERAL REGISTER, the labeling of such preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described herein.

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

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

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

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

A copy of the Academy's report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number DESI 12329, directed to the attention of the following appropriate office, and addressed (unless otherwise specified) to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

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

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

Requests for NAS-NRC report: Press Relations Office (CE-200), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

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

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

Dated: May 5, 1971.

SAM D. FINE,
Associated Commissioner for Compliance.

[FR Doc.71-8703 Filed 6-21-71;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-111]

ACTING AREA DIRECTOR, SAN FRANCISCO AREA OFFICE, REGION IX (SAN FRANCISCO)

Designation

The officials appointed to the following listed positions in the San Francisco Area Office, Region IX (San Francisco), are hereby designated to serve as Acting Area Director, San Francisco Area Office, Region IX (San Francisco) during the absence of the Area Director, with all powers, functions, and duties redelegated or assigned to the Area Director: *Provided*, That no official is authorized to serve as Acting Area Director unless all other officials whose titles precede his in this designation are unable to act by reason of absence:

1. Deputy Area Director;
2. Director, Production Division;
3. Director, Housing Services and Property Management Division;
4. Area Counsel.

(Delegation and redelegation of authority to take final action with respect to certain positions and employees effective as of May 4, 1969)

Effective as of the 21st day of September 1970.

ANDREW J. BELL III,
Acting Regional Administrator, Region IX.

[FR Doc.71-8709 Filed 6-21-71;8:46 am]

[Docket No. D-71-112]

ACTING AREA DIRECTOR, LOS ANGELES AREA OFFICE, REGION IX (SAN FRANCISCO)

Designation

The officials appointed to the following listed positions in the Los Angeles Area Office, Region IX (San Francisco), are hereby designated to serve as Acting Area Director, Los Angeles Area Office, Region IX (San Francisco) during the absence of the Area Director, with all powers, functions, and duties redelegated or assigned to the Area Director: *Provided*, That no official is authorized to serve as Acting Area Director unless all other officials whose titles precede his in this designation are unable to act by reason of absence:

1. Deputy Area Director;
2. Director, Production Division;
3. Director, Housing Services and Property Management Division;
4. Area Counsel.

This designation supersedes the designation of Acting Area Director, Southwest Area Office at Los Angeles, at 34 F.R. 14039, September 4, 1969.

(Delegation and redelegation of authority to take final action with respect to certain positions and employees effective as of May 4, 1969)

Effective as of the 21st day of September 1970.

ANDREW J. BELL III,
Acting Regional Administrator, Region IX.

[FR Doc.71-8710 Filed 6-21-71;8:46 am]

ATOMIC ENERGY COMMISSION

URANIUM HEXAFLUORIDE

Charges, Enriching Services, Specifications, and Packaging; Revisions

The U.S. Atomic Energy Commission (AEC) hereby announces revisions to the notice entitled, "Uranium Hexafluoride: Base Charges, Use Charges, Special Charges, Table of Enriching Services, Specifications, and Packaging", as published in the FEDERAL REGISTER on November 29, 1967 (32 F.R. 16289), and as amended in 35 F.R. 13547, August 25, 1970, and in 36 F.R. 4563, March 9, 1971 (referred to herein as the notice).

1. Table 4 of the notice is revised to read as follows:

TABLE 4.—CHARACTERISTICS OF AEC UF_6 CONTAINERS

Container		Material of construction	Nominal length [1] (ins.)	Nominal diameter (ins.)	Approximate tare weight (lbs.)	Capacity (lbs. UF_6)	Minimum loading (lbs. UF_6)
Type	Model No.						
14-ton	48F	Steel	150	48	5,200	27,030	[3] 21,000
10-ton	48A	do	121	48	4,500	21,030	[2] 14,000
2.5-ton	30A	do	82	30	1,400	4,950	[2] 2,300
2.5-ton	30B	do	82	30	1,400	5,020	[2] 2,300
12-inch (MD)	12A	Monel or nickel	54	12	185	460	55
8-inch	8A	do	57	8	120	255	55
5-inch	5A	do	36	5	55	55	11
Harshaw	2S	do	11	3.5	4	4.9	1
1.5-inch	1S	do	12	1.3	2	1	45 grams
Hoke tube	HT	Nickel	8	0.3	1	15 grams	1 gram

[1] Overall length with valve cap (if any) in place.
[2] Minimum quantity which permits safe handling with UF_6 in liquid state.
[3] For receipts by AEC—Upon request lesser quantities of product may be put in cylinders.

2. Table 5 of the notice is revised to read as follows:

TABLE 5—LOADING LIMITS ON UF_6 CONTAINERS[1]

Assay[2] (Wt. % U^{235})	Maximum quantity per container, pounds UF_6						
	48F	48A	30A	30B	12A	8A	5A
1 or less	27,030	21,030	4,950	5,020	460	255	55
Above 1 to 5	Not used	Not used	4,950	5,020	460	255	55
Above 5 to 12.5	Not used	Not used	Not used	Not used	Not used	255	55
Above 12.5	Not used	Not used	Not used	Not used	Not used	Not used	55

[1] The loading limits for cylinders 5A through 48F have been established at 95 percent of the UF_6 required to fill the container at 250° F. (maximum permissible operating temperature for cylinders in UF_6 service). The loading limit on containers Model Nos. 2S, 1S, and Hoke Tube, as shown in Table No. 4, is the rated capacity of each without U^{235} assay limitation. Containers loaded to these limits may require special precautions in storage and shipment to avoid the possibility of nuclear interaction with adjacent containers or with neutron moderators and reflectors.

[2] Indicated maximum assays for these containers are those currently approved by the AEC and Department of Transportation in accordance with the terms of a specific license or DOT permit. Higher assays may be loaded if the container and shipping procedure are specifically approved for such higher assays by the AEC and the DOT.

3. Table 6 of the notice is revised to read as follows:

TABLE 6—UF_6 PACKAGING AND HANDLING CHARGES

Container model No.	Assay range (Wt. % U^{235})	Maximum lot size per composite (number cylinders)[1]	Charges (dollars)[2]			
			Routine variation		Special variation	
			First cylinder	Each additional cylinder	First cylinder	Each additional cylinder
48F, 48A	1 and less[3]	1	650	NA	795	NA
30A, 30B	4.5 and less	4	565	410	715	425
30A, 30B	Above 4.5 to 5	1	565	NA	715	NA
12A	5 and less	10	325	165	490	NA
8A	12.5 and less	6	250	140	345	NA
5A	All enrichments	6	250	140	345	NA
2S, 1S, HT	do	1	145	NA	235	NA

[1] Samples representing a number of containers up to the maximum listed are combined in a composite sample for analysis. Unless specifically requested otherwise, the AEC will composite to the maximum extent possible.

[2] Charges shown for routine variation from requested assay are based on compositing of containers for analytical measurement where applicable. This is indicated by a cost in the column "Each additional cylinder." Charges shown for special variation from requested assay are based on single container measurements except withdrawals into 48A containers not exceeding 4.5 percent may be transferred into 30A or 30B containers for shipment, and withdrawals into 48A and 30A or 30B containers not exceeding 4.5 percent and 5 percent, respectively, may be transferred into 12A containers for shipment. If certification of minor isotopes (U^{234} and U^{236}) is required, an additional charge will be imposed for each composite group or individual container depending upon which is applicable.

Charges for depleted UF_6 of unspecified assay, furnished in 30A or 30B and larger containers, are: 48A and 48F containers, $320 each; and 30A or 30B containers, $195 each. These charges will also apply to other cylinders of similar capacity. These charges apply only to routine measurement precision and do not include cleaning or pressure testing the containers. If special analytical precision is requested, the charge will be the same as for enriched material.

Cleaning and pressure testing of customer-furnished cylinders are the customer's responsibilities. In the event the AEC determines that customer-furnished cylinders received for filling require cleaning and pressure testing and the AEC agrees to perform such services additional charges will be imposed.

Packaging and handling charges do not include costs for any necessary palletizing, shoring, or securing of containers on the transporting vehicle, replacment of valves, or container modifications. When these services are provided at an AEC installation, additional costs will be imposed.

[3] If weight percent of U^{235} is increased, costs will remain as indicated.

NA—Not applicable.

Effective date. This notice is effective upon publication in the FEDERAL REGISTER (6-22-71).

Dated at Washington, D.C., this 15th day of June, 1971.

UNITED STATES ATOMIC ENERGY COMMISSION,
W. B. McCOOL,
Secretary of the Commission.

[FR Doc.71-8658 Filed 6-21-71;8:45 am]

[Docket No. 50-267]

PUBLIC SERVICE COMPANY OF COLORADO

Notice of Availability of Draft Detailed Statement and Applicant's Environmental Report and Request for Comments From State and Local Agencies

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that the Public Service Company of Colorado has submitted an environmental report, dated December 1970, which discusses environmental considerations relating to the proposed operation of the Fort St. Vrain Nuclear Generating Station and that the Commission's regulatory staff has prepared a draft detailed statement on such environmental considerations dated June 7, 1971. Copies of both the report and draft statement have been placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and in the Greeley Public Library, City Complex Building, Greeley, Colo. 80631.

The Commission hereby requests comments on the proposed action, the draft statement and the applicant's report from State and local agencies of any affected State (with respect to matters within their jurisdiction), which are authorized to develop and enforce environmental standards. If the Commission is not provided with comments by any State or local agency within 60 days of the publication of this notice in the FEDERAL REGISTER, the Commission will presume that the agency has no comments to make.

Copies of the applicant's report dated December 1970, the draft statement dated June 7, 1971, and available comments thereon of Federal agencies (whose comments are being separately requested by the Commission) will be supplied to such State and local agencies upon request addressed to the Director, Division of Radiological and Environmental Protection, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Bethesda, Md., this 12th day of June 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc. 71-8715 Filed 6-21-71;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22628; Order 71-6-87]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fare Matters

Issued under delegated authority June 16, 1971.

By Order 71-6-20, action was deferred, with a view toward eventual approval, on an agreement adopted by Traffic Conference 1 of the International Air Transport Association (IATA). The agreement would establish 7/30-day round-trip excursion fares from Ciudad Juarez/Monterrey (Mexico) to Los Angeles.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71-6-20 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 22444 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8734 Filed 6-21-71;8:47 am]

[Docket No. 22162]

COUNTY OF SULLIVAN, STATE OF NEW YORK AND SULLIVAN COUNTY AIRPORT COMMISSION

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on July 7, 1971, at 10 a.m., local time, in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit to the examiner and other parties (1) proposed statements of issues; (2) proposed stipulations; (3) requests for

information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before June 25, 1971, and the other parties on or before July 2, 1971. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights.

Dated at Washington, D.C., June 16, 1971.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[FR Doc.71-8736 Filed 6-21-71;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19004, 19005; FCC 71R-194]

LAFOURCHE VALLEY ENTERPRISES, INC. AND SOUL BROADCASTERS

Memorandum Opinion and Order Enlarging Issues

In regard applications of Lafourche Valley Enterprises, Inc., Donaldsonville, La., Docket No. 19004, File No. BPH-6801; Soul Broadcasters, Donaldsonville, La., Docket No. 19005, File No. BPH-6954; for construction permits.

1. This proceeding, designated for hearing by Commission order, FCC 70-996, 35 F.R. 14742, published September 22, 1970, involves the mutually exclusive applications of Lafourche Valley Enterprises, Inc. (Lafourche) and Soul Broadcasters (Soul) for authority to construct a new Class A FM broadcast facility at Donaldsonville, La. Presently before the Review Board for consideration is a petition to enlarge issues, filed October 7, 1970, by Soul, seeking addition of the following issue: To determine whether the estimates of construction and operating costs submitted by Lafourche Valley are realistic and, if not, whether in light of realistic estimates Lafourche Valley has demonstrated the availability of sufficient funds to defray cash requirements for construction and first year of operation.[1]

2. Based upon "[A]dvice of people in the business, consultations with experienced professionals—quotation from [equipment] manufacturer", Lafourche, in its application as filed July 18, 1969, indicated construction costs of $22,110[2] and first-year operating costs of $25,000,[3] totalling $47,110. To meet these expenditures, the Lafourche application reflected the availability of $48,300, comprised of $3,300 in existing capital and $45,000 in stockholder subscriptions. Soul challenges the applicant's financial proposal, contending that an increase in either the price of the broadcast equipment to be purchased by Lafourche or the interest rate to be applied under the equipment credit proposal, both of which are assertedly subject to change, would dissipate Lafourche's apparent financial cushion. Petitioner also alleges that Lafourche has failed to provide for such necessary construction costs as legal and engineering fees, freight charges and sales taxes, and that the applicant's estimate for first-year operating costs has been understated by $3,240 to $7,400.[4] In support of its latter contention, Soul submits an affidavit of its majority partner, Roth E. Hook, in which the affiant sets forth his extensive standard and FM radio broadcast experience in the region, including that derived from the ownership and supervision of daytime-only Station WSLG in Donaldsonville, La. Based upon his experience, Hook projects an annual salary expense of $24,000 for the five-man staff proposed by Lafourche,[5] details a number of operating expenses, which he contends are necessary and essential to Lafourche's proposed operation, and states that a realistic estimate of the applicant's first-year operating costs would total $32,400, rather than the $25,000 figure proffered by Lafourche. Finally, petitioner attacks the availability of the applicant's stated resources, arguing that the $3,300 in existing capital, which is reflected on the Lafourche June 1, 1969, balance sheet, cannot be relied upon without as showing as to liquidity of this asset.

3. The Broadcast Bureau supports the addition of a financial issue, contending that Lafourche has not demonstrated the availability of sufficient funds to meet its costs of construction and initial operation. Of the $3,300 identified as existing capital, the Bureau regards only $600—the amount specified in section III, paragraph 3(a), of the Lafourche application as cash on deposit in the Citizens Bank and Trust Company of Thibodaux, La.—as an available asset upon which the applicant can readily rely. The Bureau thus points out that Lafourche's available resources fall more than $1,500 below the applicant's stated costs, even if the professional fees, for which Lafourche has not budgeted, are not added to its cost estimates.[6] In addition, the Bureau contends that the financial statements of several Lafourche stockholders, who have subscribed for $30,000 of the $45,000 in stock subscriptions which the applicant claims is available, do not reflect sufficient net liquid assets to enable the stockholders to satisfy their respective subscription agreements.[7]

4. In opposition, Lafourche maintains that the Soul petition is based purely on speculation and conjecture. Petitioner's contentions concerning the reasonableness of the applicant's cost estimates for the first year of operation are discounted by Lafourche since the Hook affidavit is not supported by a factual showing that the claimed increases are either required or necessary. Lafourche also contends that the interest rate under its equipment credit proposal has been negotiated and is as specified in the letter from its equipment supplier, which was submitted with its application; that the legal and engineering fees incident to the prosecution of its application have been discussed and that payment of such fees will not alter its financial position; and that its account in the Citizens Bank and Trust Co. reflects a cash balance of $4,000 on deposit.[8] Lafourche further al-

---

[1] Other related pleadings before the Board are: (a) Comments, filed Oct. 21, 1970, by the Broadcast Bureau; (b) opposition, filed Oct. 30, 1970, by Lafourche; and (c) reply, filed Nov. 12, 1970, by Soul. On Jan. 12, 1971, Lafourche filed a motion to hold petition to enlarge in abeyance until an amendment to its application could be submitted to the Hearing Examiner. The amendment was tendered on Jan. 27, 1971, at which date, Lafourche sought leave to withdraw the aforementioned motion. On Jan. 27, 1971, Lafourche also filed a motion for leave to file an attached supplement to its Oct. 30, 1970, opposition pleading. The motion is not opposed by the parties herein and the supplementary material is relevant to the matters in question. Accordingly, the Review Board will accept and consider the additional material, including Soul's comments on the Lafourche supplement, which pleading was filed on Feb. 26, 1971. In light of our action herein, the Board will also dismiss as moot the motion for expedited consideration, filed Mar. 25, 1971, by Lafourche.

[2] Included in this sum are: (a) Land building lease expenses of $1,200; (b) equipment installation charges (the only cost item specified under "other items") of $1,000; (c) downpayment under a proposed credit arrangement with Lafourche's equipment supplier of $8,500; and (d) 14 monthly principal and interest payments under the equipment credit proposal of $11,410.

[3] On Sept. 18, 1969, the Commission revised the financial qualifications section (section III) of FCC Form 301. See Public Notice, No. 8472. Effective Oct. 15, 1969, applicants filing FCC Form 301 were required to use the revised section III, which, at paragraph 1(b), calls for a complete itemization of the applicant's cost of operation for the first year. The Lafourche application, however, does not contain a breakdown of the individual cost items comprising the $25,000 budgeted for the first year's operation, since the application was filed prior to the revision of section III and since such specificity was not required by the provisions of the former section III.

[4] Soul's estimate includes a $1,200 operational expense for first-year land and building rental; however, this expense has apparently been provided for in the applicant's construction cost estimates. See note 2, supra. Accordingly, the Board has appropriately adjusted petitioner's projections.

[5] Hook avers that the minimum monthly salary expense for the various daytime only stations, with which he has been associated, has averaged $1,800 and that Lafourche's full-time operation (126 hours per week) will modestly require an additional $200 per month expenditure.

[6] Without a specific, documentary showing that the operating costs described by the affiant, Roth E. Hook, represent either absolute minimum costs in the Donaldsonville market or expenses to be necessarily incurred by Lafourche, the Broadcast Bureau does not view the applicant's estimate of $25,000 for first-year operating costs as unreasonable.

[7] Specifically, the Bureau refers to Warren L. Authement, who has entered into a $10,000 subscription agreement, and Joseph R. Brock, Vernon E. Toups, Donald Peltier, and Paul LaBlanc, who have individually agreed to purchase 50 shares of stock ($5,000) in the corporate applicant. As also noted by the Bureau, none of these stockholders' financial statements, except for that of Paul LaBlanc, is dated.

[8] A letter from an officer of the bank is submitted in support of the latter contention.

leges that the balance sheets of its stockholders, which were submitted with its application, cannot now be contested since the Commission, at the time of designation, must have considered and found them to be adequate.[9]

5. Subsequent to the filing of Soul's reply pleading, Lafourche tendered with the Hearing Examiner an amendment to the financial portion of its application.[10] The amendment, which was accepted by the Hearing Examiner (FCC 71M–470, released Mar. 30, 1971), disclosed that Lafourche has obtained a $15,000 line-of-credit from the Citizens Bank and Trust Co.;[11] that the $4,000 on deposit with that bank was derived from the January 11, 1971, distribution of 40 shares of stock pursuant to the subscription agreements with several Lafourche stockholders; and that an additional 20 shares of the corporate applicant's stock ($2,000) had been similarly distributed between July 28, 1969 and May 19, 1970.[12] Under the applicant's revised plan of financing, the funds obtained from the above distributions have and will continue to be used solely to defray the cost of prosecuting the Lafourche application and, thus, will not be available to meet the applicant's expected costs of construction and initial operation. It is the contention of the applicant, however, that the availability of the $15,000 bank line-of-credit answers all the questions heretofore raised concerning its financial ability to construct and operate the proposed facility. On the other hand, petitioner states that the $54,000 apparently available to Lafourche, i.e., $39,000 in stockholder subscriptions ($45,000 less $6,000 from the prior stock calls) and a $15,000 bank line-of-credit, is not sufficient to meet the total cost estimate of $54,510 ($22,110 for the stations' construction and $32,400 for its operation during the first year), which was realistically projected by Soul.[13] See paragraph 2, supra. On February 20, 1971, Lafourche and Soul entered into an agreement whereby the Soul application would be dismissed in return for reimbursement of up to $4,500 for the reasonable and prudent expenses incurred by Soul in the preparation and prosecution of its application.[14] Under the terms of the proposed agreement, Lafourche will pay Soul $2,000 at the time the Soul application is dismissed and $2,500 at the time a grant of the Lafourche application becomes final.

6. The Review Board believes that an inquiry pertaining to the financial qualifications of Lafourche is warranted. Soul, through the affidavit of Roth E. Hook, an experienced broadcaster in the region, who has peculiar knowledge of the Donaldsonville market, has raised serious questions concerning the reasonableness of Lafourche's $25,000 for first-year operating costs.[15] In the affiant's opinion, $7,400 more than the applicant has budgeted may be required to operate the proposed station during the first year. No satisfactory answer to the questions raised by Soul has been proffered by the applicant, which neither particularized its operating cost estimate nor adequately rebutted petitioner's showing.[16] See James B. Francis, 17 FCC 2d 596, 16 RR 2d 55 (1969). Nor did Lafourche attempt to identify those experienced individuals with whom it allegedly consulted concerning its cost estimates. Compare Lester H. Allen, 17 FCC 2d 439, 16 RR 2d 19 (1969). Assuming that the applicant's first-year operating costs will be the amount alleged by petitioner (see Century Broadcasting Co., Inc., 4 FCC 2d 332, 8 RR 2d 76 (1966)), it appears that, as noted by Soul, the amended Lafourche application does not reflect sufficient available funds to meet the applicant's expected cost of construction and initial operation. See paragraph 5, supra. This deficiency is even more apparent when the $4,500, which Lafourche would pay to Soul for the dismissal of its application, is added to Lafourche's expected costs. See Sandern of Iowa, Inc., 26 FCC 2d 136, 20 RR 2d 495 (1970). In addition, any interest payments during the station's first year of operation which may be required under the $15,000 bank loan (see note 11, supra), would further increase the deficit between Lafourche's available resources and its expected costs. The Review Board will, therefore, add appropriate financial issues concerning the basis of Lafourche's estimated cost of initial operation and the availability of sufficient additional funds to enable the the applicant to construct and operate the proposed station for 1 year.

7. An issue will also be specified by the Board to determine whether Warren L. Authement, Donald Peltier, Joseph R. Brock, Vernon E. Toups, and Paul LaBlanc can meet their respective stock subscription agreements with Lafourche.[17] See note 7, supra. Since there is no identification or itemization of the stocks and bonds listed on the balance sheets of Toups and LaBlanc, these assets cannot be regarded as liquid (see Lamar Life Broadcasting Company, supra), and the remaining liquid asset ($1,000 cash) is not sufficient to enable them to meet their respective subscription commitments. Viewing Brock's "home loan" liability as a wholly current obligation, since his balance sheet does not specify whether any part of the $25,000 liability is long-term (see Cowles Florida Broadcasting, Inc. (WESH–TV), FCC 71–237, 36 F.R. 4901, released Mar. 10, 1971), this subscriber's only readily identifiable liquid asset ($1,000 bank cash) does not exceed his current liabilities. The balance sheets of Authement and Peltier, which have not been updated with respect to partial execution of their subscription agreements (see paragraph 5, supra), reflect deficiencies similar to those discussed above and do not indicate the availability of sufficient net liquid assets to satisfy their revised commitments. See Cowles Florida Broadcasting, Inc. (WESH–TV), supra; Vista Broadcasting Company, Inc., 18 FCC 2d 636, 16 RR 2d 838 (1969).

8. In the Report and Order adopting § 1.65, the Commission stated that an applicant is required to report "a change of circumstance * * * sufficiently altering

[9] In reply, Soul reiterates the contentions previously described and maintains that Lafourche has failed to refute the serious allegations directed to its financial proposal.

[10] The amendment was also submitted to the Board as part of the supplement to Lafourche's opposition pleading. See note 1, supra.

[11] The loan commitment letter, which is dated January 22, 1970, and signed by the bank's vice president, indicates the bank's willingness to lend the applicant a sum not to exceed $15,000 upon the personal endorsements of all of the Lafourche stockholders with the interest rate and terms of repayment to be determined at the time the funds are disbursed. The signatory, however, has stated the bank's willingness to defer repayments of principal until the station has been in operation for 1 year. Submitted with the bank's commitment letter is a statement from seven of the corporate applicant's eight stockholders, reflecting their willingness to endorse the loan.

[12] By letter, submitted with the aforementioned amendment, Warren L. Authement, the corporate applicant's president, acknowledges that Lafourche should have timely informed the Commission of the above stock distributions, but disclaims any intentional wrongdoing either by the applicant or by its counsel, who allegedly was not informed of the stock calls prior to the filing of the Lafourche opposition pleading.

[13] By Order, FCC 71R–54, released Feb. 16, 1971, the Review Board permitted Soul to address itself to the matters set forth in Lafourche's supplemented opposition pleading.

[14] A joint request, which seeks approval of the agreement, and documents relating thereto, are presently before the Hearing Examiner for consideration. See Hearing Proceedings—Presiding Officer Authority, 26 FCC 2d 331, 20 RR 2d 1613 (1970).

[15] Soul's assertions concerning the likelihood of increases in the applicant's equipment costs and interest rate under the equipment credit proposal lack the specificity and supporting documentation required by § 1.229(c). See RKO General, Inc. (WNAC–TV), 24 FCC 2d 240, 19 RR 2d 533 (1970). Similarly, no issue is warranted with respect to the professional fees and other costs incident to the prosecution of the Lafourche application since the sums, which Lafourche has expended and earmarked to satisfy these necessary expenses, appear reasonable and have not been challenged by petitioner.

[16] Under the *Ultravision* standard, applicants are not generally required to show the basis for their estimates of operating costs; however, "if * * * the estimate of operating costs is unrealistic, or if it is contested, then a detailed breakdown of the estimate will be required." See Suspension of Policy and Institution of Inquiry or Rulemaking Concerning the Ultravision Standard, 9 FCC 2d 26, 28, 10 RR 2d 1757, 1760 (1967).

[17] The mere fact that the balance sheets of these subscribers were before the Commission at the time of designation does not preclude the Board from now considering the ability of each subscriber to meet his respective stock subscription commitment, since there was no "thorough consideration" of this matter in the designation order. See Lamar Life Broadcasting Company, 26 FCC 2d 112, 20 RR 2d 509 (1970).

[its] financial status * * * as to be pertinent to [its] financial qualifications." FCC 64–1037, 3 RR 2d 1622, 1625 (1964). That Lafourche has repeatedly been remiss in this regard is conceded. Between July 28, 1969, and January 22, 1970, 12 shares of the corporate applicant's stock were issued pursuant to the outstanding subscription agreements and $1,200 was derived therefrom. These funds, however, were not applied to satisfy costs for which Lafourche had initially budgeted in its application; rather the $1,200—and, apparently, the $3,300 in existing capital which was reflected on Lafourche's balance sheet submitted with its application (see paragraph 2 and 3, supra)—was used to meet the expenses incident to the prosecution of the Lafourche application. The applicant's partial depletion of the funds to be derived from the stock subscriptions without a corresponding reduction in its estimated expenses was a change of circumstance highly pertinent to its financial qualifications, since it placed Lafourche's total available resources at a figure below its stated costs. Compare Mace Broadcasting Co., 25 FCC 2d 621, 19 RR 2d 1135 (1970). Thus, Lafourche's failure to promptly apprise the Commission of the material change in its financial status,[18] as well as the applicant's continued silence with respect to the additional stock calls which occurred on May 19, 1970, and January 11, 1971, assume particular significance and raise serious questions concerning the applicant's character qualifications, which can best be resolved in hearing. See Virginia Broadcasters, 15 FCC 2d 1004, 15 RR 2d 487 (1969); Vernon Broadcasting Co., 12 FCC 2d 946, 13 RR 2d 245 (1968). Therefore, the Review Board will, on its own motion, add an appropriate issue to this proceeding. We will also include, sua sponte, an issue to determine whether all of the corporate applicant's stockholders are willing, as apparently required by the lending bank (see note 11, supra), to personally endorse the applicant's proposed $15,000 loan. See Seaborn Rudolph Hubbard, 15 FCC 2d 690, 14 RR 2d 1039 (1968); Vernon Broadcasting Co., supra.

9. *Accordingly, it is ordered,* That the motion for expedited consideration, filed March 25, 1971, by Lafourche Valley Enterprises, Inc., is dismissed as moot; and

10. *It is further ordered,* That the motion for leave to withdraw "motion to hold petition to enlarge issues in abeyance", filed January 27, 1971, by Lafourche Valley Enterprises, Inc., is granted, and the aforementioned motion, filed January 12, 1971, is dismissed; and

11. *It is further ordered,* That the motion for leave to file supplement to opposition to petition to enlarge issues, filed January 27, 1971, by Lafourche Valley Enterprises, Inc., is granted, and the attached supplement is accepted; and

12. *It is further ordered,* That the petition to enlarge issues, filed October 7, 1970, by Soul Broadcasters, is granted to the extent indicated below, and is denied in all other respects; and

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

(a) To determine with respect to Lafourche Valley Enterprises, Inc., the basis of its estimated costs of operation during the first year and whether such estimates are reasonable;

(b) To determine whether the following stockholders of Lafourche Valley Enterprises, Inc., Warren L. Authement, Donald Peltier, Joseph R. Brock, Vernon E. Toups, and Paul LaBlanc, have available sufficient net liquid assets to enable them to meet their respective stock subscription agreements with the applicant;

(c) To determine whether all of the stockholders of Lafourche Valley Enterprises, Inc., are willing to personally endorse the applicant's proposed bank loan and, if not, the effect thereof upon the availability of the proposed loan;

(d) To determine whether Lafourche Valley Enterprises, Inc., has available sufficient additional funds, without reliance on revenue, to construct and operate its proposed station for 1 year;

(e) To determine, in light of the foregoing subissues, whether Lafourche Valley Enterprises, Inc., is financially qualified;

(f) To determine if Lafourche Valley Enterprises, Inc., has failed to comply with the requirements of § 1.65 of the Commission's rules and, if so, the effect thereof upon the applicant's basic or comparative qualifications to be a Commission licensee.

14. *It is further ordered,* That the burdens of proceeding and proof under the issues added herein shall be on Lafourche Valley Enterprises, Inc.

Adopted: June 16, 1971.

Released: June 18, 1971.

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

[FR Doc.71–8725 Filed 6–21–71;8:47 am]

[Dockets Nos. 19258, 19259]

GARRETT BROADCASTING SERVICE AND WRBN, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Leroy Garrett, trading as Garrett Broadcasting Service (WEUP) Huntsville, Ala., has: 1600 kc., 5 kw., Day, requests: 1600 kc., 500 w., 5 kw.–LS, DA–N, U, Docket No. 19258, File No. BP–18295; WRBN, INC. (WRBN), Warner Robins, Ga., has: 1600 kc., 1 kw., Day, requests: 1600 kc., 500 w., 1 kw.–LS, DA–N, U, Docket No. 19259, File No. BP–18409; for construction permits.

1. The Commission has before it for consideration (i) the above-captioned applications for unlimited time operation; (ii) a petition to dismiss the WRBN proposal filed by Leroy Garrett; (iii) a petition for waiver of the Commission's multiple-ownership rules filed June 8, 1970, by WRBN; and (iv) pleadings in opposition and reply to the petition for waiver. The applications are mutually exclusive in that a grant of the Garrett application would raise WRBN's RSS nighttime limitation (above that received from existing stations) to such an extent that it would fail to cover a substantial portion of Warner Robins.

2. The petition to dismiss is predicated on the fact that addition of nighttime service to WRBN's daytime operation would result in that licensee operating two full-time stations in the same market (WRBN, Inc., also being the licensee of a companion FM station). On February 26, 1971, however, the Commission adopted its Memorandum Opinion and Order, 28 FCC 2d 662, modifying the multiple-ownership rules. As a result, ownership of two full-time aural facilities in the same market is no longer prohibited. Thus, the aforementioned petitions are now moot.

3. Examination of Leroy Garrett's engineering exhibits indicates that the proposed 5 mv/m contour would not encompass the entire city of Huntsville and the 25 mv/m contour may not cover the business district as required by §§ 73.30 (c) and 73.188(b)(1) of the rules. Garrett has requested a waiver of those rules but since the deficiencies appear substantial, the Commission believes that the matter should be explored further in hearing. Accordingly, appropriate issues will be included.

4. WRBN has also requested a waiver of § 73.30(c) because its nighttime limitation contour does not quite cover the entire city of Warner Robins due to interference from existing stations. Examination of the applicant's data, however, indicates that the contour will provide 99.5 percent of the requisite coverage. In light of the minimal nature of this deficiency, the proposal appears to be in substantial compliance with the rule. Thus, a waiver is warranted.

5. The financial portion of WRBN's application shows that $16,660 will be needed to finance the proposed changes. This total consists of: lease payments on equipment $8,560; miscellaneous expense $5,550; and interest on loan $2,550. To meet this requirement, the applicant relies on a $30,000 bank loan. Since the bank loan commitment letter is no longer current, however, an appropriate issue will be specified.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

[18] While the corporate applicant, through the statement of its president, claims a lack of knowledge of its responsibility, under § 1.65, to notify the Commission of these stock calls and their effect upon its financial status, it appears to have been sufficiently aware of the change in its financial condition to have secured additional financing for its proposal on Jan. 22, 1970.

7. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from the proposals and the availability of other primary aural service (1 mv/m or greater in the case of FM) to such areas and populations.

(2) To determine whether the proposed operation of station WEUP would provide 5 mv/m coverage to the entire city of Huntsville, Ala., as required by § 73.30(c) of the rules, and, if not, whether circumstances exist which warrant a waiver of said section.

(3) To determine whether the proposed operation of station WEUP would provide 25 mv/m coverage to the main business district of Huntsville, Ala., as required by § 73.188(b)(1) of the rules, and, if not, whether circumstances exist which warrant a waiver of said section.

(4) To determine with respect to the application of WRBN, Inc., whether its proposed $30,000 bank loan is still available, the terms and conditions of the loan, and, in light thereof, whether the applicant is financially qualified.

(5) To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient, and equitable distribution of radio service.

(6) To determine, in the light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

8. *It is further ordered,* That the request for waiver of the city coverage requirements by WRBN is granted to the extent indicated in paragraph 4, above.

9. *It is further ordered,* That the petition to dismiss, filed by Leroy Garrett and the petition for waiver of the multiple-ownership rules filed by WRBN, Inc., are dismissed as moot.

10. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

11. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: June 9, 1971.

Released: June 17, 1971.

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

[FR Doc.71-8726 Filed 6-21-71;8:47 am]

[Dockets Nos. 19100, 19101]

LOS ANGELES UNIFIED SCHOOL DISTRICT AND VIEWER SPONSORED TELEVISION FOUNDATION

Memorandum Opinion and Order Enlarging Issues

In regard applications of Los Angeles Unified School District, Los Angeles, Calif., Docket No. 19100, File No. BPET-306; Viewer Sponsored Television Foundation, Los Angeles, Calif., Docket No. 19101, File No. BPET-325; for construction permit for new noncommercial educational television broadcast station (Channel 58).

1. This proceeding, involving the mutually exclusive applications of Los Angeles Unified School District (School District) and Viewer Sponsored Television Foundation (Viewer), for a new noncommercial educational television broadcast station to operate on reserved Channel *58 at Los Angeles, Calif., was designated for hearing by Commission order, FCC 70-1241, 26 FCC 2d 566, released December 4, 1970, 35 F.R. 18693, published December 9, 1970. A third application designated herein, that of Community Television of Southern California (Community), was dismissed with prejudice by the Hearing Examiner by order, FCC 71M-164, released January 29, 1971. Presently before the Review Board is a motion to enlarge issues, filed December 28, 1970, by Community seeking the addition of issues to determine whether School District will have available sufficient funds to construct and operate the proposed station and whether it will have available funds for the production or broadcast of "non-instructional" programs.[2]

2. In support of its request for an availability of funds issue, Community avers that the source of funds for School District's first-year of operation, estimated by School District as not to exceed $500,000, is a commitment from the Board of Education of the Los Angeles Unified School District (hereinafter referred to as the Board of Education).[3] However, insists movant, this "commitment" cannot be considered an appropriation because no funds have yet been set aside; and while the Board of Education has at one time spent nearly $500,000 a year for instructional television (ITV), it now spends almost nothing.[3] Thus, maintains Community, the Board of Education's commitment to provide operational funds can no longer be met by the continuation of an existing appropration, but must come from funds diverted from other uses at a time when the Board of Education does not have adequate resources to continue its regular programs at the desired levels. Therefore, concludes Community, an issue is warranted to determine whether the Board of Education can supply annual funds to operate the television station. As a basis for its second requested issue, Community argues that even if the Board of Education were able to demonstrate that it had sufficient financial resources to operate the proposed station, such funds are restricted by California statute to the operation of television facilities "* * * for use in providing instructional services, which the governing Board [of Education] * * * is otherwise authorized to provide, and * * * necessary services in connection therewith * * *."[4] Thus, movant maintains, such educational television facilities (ETV) can be used for transmitting community educational programs only when such use does not require the expenditures of any additional public funds. Therefore, since public funds may not be used for programs intended for viewing by the general public, Community asserts that an inquiry is necessary to determine whether School District has sufficient sources of funds for general public programing.

---

[1] Commissioners Burch, chairman; Robert E. Lee and Houser absent.

[2] Also before the Board for consideration are: (a) Opposition, filed Feb. 1, 1971, by Los Angeles; (b) opposition, filed Feb. 1, 1971, by the Broadcast Bureau; and (c) comments, filed Feb. 11, 1971, by Viewer. On Feb. 5, 1971, School District filed a petition for leave to file a supplement to its opposition; since there is no objection to this request and since good cause for such filing has been shown, the petition will be granted and the supplement will be accepted.

[3] According to School District's application, the Board of Education is the governing body of the School District, which is an independent school district deriving its funds from its taxing authority.

[3] The latter statement is supported by the affidavit of Maynard E. Orme, Director of Educational Services of Community Television of Southern California, wherein he avers that the Board of Education no longer provides funds for the broadcast of instructional programs and that the staff for television program production has been reduced to two individuals.

[4] Section 892.6, California Education Code. The remainder of the section, a copy of which is attached to Community's motion, reads as follows:

When television transmitting facilities owned, leased or operated by the governing board of a school district * * * or a nonprofit corporation operating an educational television station, are not in use for providing instructional services or teachers'-in-service educational services, such facilities may be used for transmitting community educational television programs if such use does not require the expenditure of any additional public funds of a school district or a county superintendent of schools.

3. The School District opposes Community's motion. In regard to the first-year operating expenses, respondent submits the affidavits of L. Curtis Washington, clerk of the Board of Education, and George E. McMullen, Budget Director, which reaffirm the $500,000 commitment. Washington states that a resolution has been passed by the Board of Education which directs its staff to include the money "in the 1970–1971 Budget year 'or appropriate budget year thereafter'." McMullen avers that the Board of Education has $436,169,524 a year for general operating expenses and explains that in view of pressing financial problems, the Board cannot tie up the money while School District's application is being considered. School District therefore asserts that it will have available the necessary funds to operate its educational station for 1 year. As to Community's argument that School District lacks statutory authority to use any of the $500,000 for noninstructional programs, School District contends that since its application has been on file with the Commission, no one has questioned or challenged its authority to make such expenditures, and that this is a matter of state law which the Commission has always been reluctant to decide, citing Home Service Broadcasting Company, 21 FCC 2d 168, 18 RR 2d 63 (1970). Respondent then submits the affidavits of two persons which support its position. Jerry E. Halverson, legal advisor to the Board of Education, states that the programs proposed in the School District application may be funded from monies derived from the Board of Education's taxing authority. This opinion is supported, continues Halverson, by the fact that three existing California educational television stations,[5] which are also subject to § 892.6, broadcast programs other than "instructional services or teacher-in-service educational services." In his affidavit, John D. Maharg, counsel for the county of Los Angeles, states that, in his opinion, the funds derived from the Board's taxing authority may be used for programs proposed by School District.

4. The Broadcast Bureau opposes the addition of the first requested issue, arguing that Community's allegation is based on conjecture and that it has not been shown that the Board of Education will not have the $500,000 available or that it has withdrawn its commitment. Nevertheless, the Bureau believes that the California law does raise a serious question as to whether School District is empowered to use any part of the $500,000 for noninstructional programs. The Bureau does not, therefore, "oppose" the addition of the requested issue "whether School District will have available funds for the production or broadcast of noninstructional programs." The Bureau, however, suggests that this inquiry could be included under the already specified comparative issue which was designated to determine "whether other factors in the record demonstrate that one applicant will provide a superior educational television broadcast service" or under issues 3 and 4 which involve consideration of a share-time arrangement among qualified applicants.

5. In its comments, Viewer does not address itself to the requested availability of funds issue. Instead, Viewer refers (a) to the California statute permitting the use of a television station operated by a school district for transmitting "community educational television programs if such use does not require the expenditure of any additional public funds of a school district * * *." (note 4); and (b) to the legal opinions offered by School District indicating that state funds may be used for the programs proposed by School District in its application. Without challenging these legal opinions, it is Viewer's position that they do not meet the crucial question, viz., the ability of the School District to provide programing for the entire Los Angeles community. In this connection, Viewer points out that the legal opinions relied upon by the School District do not set forth what restrictions would be imposed upon the School District's publicly financed program services by the applicable statute. In conclusion, it is Viewer's position that the hearing issues in this case should definitely be enlarged to enable the Commission to make a determination as to (a) whether under the applicable California code there will be any restrictions upon the program service which the School District can provide to the entire Los Angeles community, if it relies solely on tax support; (b) whether the School District's proposed program service is consonant with the restrictions set forth in the applicable section of the California code; (c) whether, if the School District's proposed program schedule cannot be supported by taxes, the School District will have available funds for the production of those programs which do not meet the restrictions of the applicable California code; and (d) how the School District will meet the educational and cultural needs of the entire Los Angeles community if it operates pursuant to the restrictions placed upon it by the applicable section of the California code.

6. We will deny the subject motion insofar as it attempts to challenge the School District's financial qualifications, per se. In short, it is our view that movant has not seriously challenged the availability of state funds in the approximate amount of $500,000 to the School District for its first year's operational expenses. In this connection, we note that funds have actually been set aside for the construction costs of this proposed station,[6] and that the Board of Education has also made a commitment of the availability of not more than $500,000 for operational first year costs. Where funds have been actually set aside for construction, it would appear inconsistent and illogical for a state authority to waste such an expensive facility by not subsequently effectuating whatever budgetary adjustments may be required in order to appropriate needed funds for its operation. Hence, we believe that School District's "commitment" constitutes a reasonable showing of the availability of State funds for its first year operational costs. The Commission has consistently held that the financial standard to be met by noncommercial educational broadcast applicants is less stringent than the standard applicable to commercial applicants—all that is required is a reasonable showing of financial qualifications. NTA Television Broadcasting Corp., 22 RR 273, 291 (1961); SRC, Inc., 21 FCC 2d 901, 18 RR 2d 714, 749 (1970).

7. We turn now to the unique and novel questions concerning the provision of the California Code as posed by the Broadcast Bureau (paragraph 4) and by Viewer (paragraph 6). Simply stated, these questions resolve themselves into the following issue: Whether School District is interdicted by § 892.6 of the California Code (note 4) from producing and/or financing and/or telecasting community educational programs with public funds (i.e., State or any subdivision). In this connection, we have noted School District's objectives, goals, and proposed program service as set forth in its application and amendments thereto. And it appears clear from its objectives, goals, and proposals that School District is essentially proposing specialized ETV/ITV programing. On the basis of the "title" of its programs which are described as "Diversified programs for adults," it cannot be determined from the information in its application whether these programs include the vital local public affairs area, or whether they are of a different type or scope. We have further noted that although School District does not rely upon the availability of Federal funds for construction or first year operational costs, it has, nevertheless, applied for a Federal grant under title III of the Elementary and Secondary Education Act, Public Law 80–10, known as PACE. See, SRC, supra, note 10, for a discussion of PACE. It has also applied to the Department of Health, Education, and Welfare (HEW) for a matching Federal grant under section 392 (ETV Act) of the Communications Act of 1934, as amended. See, SRC, supra, note 9, for a discussion of the ETV Act, and of pertinent HEW's regulations implementing that Act.

8. Briefly described, the ETV Act, which is administered by the HEW, provides for financial assistance of matching grants for construction to qualified[7] noncommercial applicants. Sec-

[5] These stations are educational television Stations KCSM, San Mateo, Calif.; KTEH, San Jose, Calif.; and KVCR, San Bernardino, Calif.

[6] See page 2 of Amendment of School District's application filed on Dec. 19, 1969, with the Commission.

[7] HEW regulations prescribe the eligibility or qualification requirements. See, SRC, supra, note 9.

tions 396–399 of the Communications Act (Public Broadcasting Act) provides for additional and other types of Federal financial assistance to noncommercial educational broadcasting stations through the Corporation for Public Broadcasting; its legislative history makes clear that Congress in providing for such financial assistance did so in significant part because of the contribution which noncommercial educational stations can make in serving local needs, particularly in the public affairs area. Indeed, the Congress specifically declared in providing for such financing assistance that one of the purposes is "to encourage noncommercial educational radio and television broadcast programing which will be responsive to the interests of people both in particular localities and throughout the United States * * *." (Section 396(a)(4) of the Communications Act of 1934, as amended.) The House Report, in commenting on the initial financial assistance states (H. Rept. No. 572, 90th Cong., first sess., p. 10 (1967)):

> * * * the rewards which are reasonably to be expected from this seed program cannot be measured in money alone. Who can estimate the value to a democracy of a citizenry that is kept fully and fairly informed as to the important issues of our times and whose children have access to programs which make learning a pleasure.

The Senate Report in the next year also points up the consideration that * * * public broadcasting can be * * * a vital public affairs medium—bringing in depth many aspects of community and political life; * * * a means of examining and solving the social and economic problems of American life today." (Sen. Rept. No. 91–167, 91st Cong., first session, p. 7 (1969)).

9. Similarly, we believe Commission statements in its Fifth Report on Fostering Expanded Use of UHF Television Channels, 2 FCC 2d 527, 6 RR 2d 1643 (1966), demonstrate the relevancy and materiality of the question presented here (paragraph 7) in the comparative context of this proceeding. There, the Commission stated:

> We are aware that many educational broadcast stations in operation today do engage in such nonbroadcast [instructional] activity and by so doing secure the economic support needed to permit even limited cultural and educational broadcasting. We permit this because we are vitally interested in the ultimate development of educational television into a true broadcasting service. We look forward to the day when educational broadcasting stations will not have to rely largely upon revenue obtained in payment for classroom instruction. (paragraph 43)
>
> * * * It is obvious that there are not a sufficient number of channels either reserved or unreserved to provide every college, university, and public or parochial school system with a private broadcasting channel. The channels reserved for educational use are intended to serve the educational and cultural broadcast needs of the entire community to which they are assigned. All parts of the educational community can contribute something to that goal. If educational broadcasting is to take its rightful place in the overall broadcasting system, some form of cooperative use of educational channels must be worked out. (Paragraph 41)
>
> NAEB argues that only two reserved channels in the larger cities are insufficient to meet the requirements of educational interests for providing instructional, training, and broadcasting service. We agree. It is our purpose in this proceeding to provide to the extent possible for the broadcasting needs of educational interests. Private radio services such as the Instructional Television Fixed Service and the Business Radio Service, along with wired distribution systems, are expected to take care of many of the needs of these interests * * *. Television broadcast stations are intended to serve the general public. The transmission of classroom instruction, course material to enrolled students, training material for persons engaged in business or professional occupations, and similar subject material contributes little to the choice of programs available to the general public, and the diversion of broadcast channels to such uses * * * deprives the general public of cultural and educational broadcasting * * *. (Paragraph 43)

10. On the basis of the foregoing authorities and principles, it is evident that in the comparative context of this proceeding, as well as with respect to the "share-time issue,"[8] a significant comparative distinction between the two noncommercial applicants here may relate (a) to the extent to which each has the ability to use this proposed facility as an outlet for community local expression, including the vital public affairs area;[9] and (b) to the extent to which each proposes to do so during its first year and thereafter. For there can be no doubt that every State is, of course, free either to support or refuse to support community educational broadcasting by a school district. Cf. State of Maine, supra.

11. For all of the reasons detailed above, we believe that the issue posed in paragraph 7, supra, in the comparative context of this proceeding, must be resolved on a complete and proper record. Obviously, the Board cannot dispose of these questions raised by the instant petition by means of the responsive pleadings filed by the School District which ignore the patent ambiguities on the face of the Code provision (note 4). Moreover, there is no merit to School District's position that since its application has been on file with the Commission, no one has questioned or challenged its authority to make such expenditures for noninstructional programing, and that this is a matter of State law which the Commission has always been reluctant to decide. As the Board stated in SRC, supra:

> We need not, and do not, detail the enormous unexplained gaps between these state laws and applicant's arresting theory, because we would prefer to abstain from interpreting state law. Nevertheless, to ignore state law requirements which are clear and unequivocal * * * [or patently ambiguous] provides no sound basis for decision.
>
> * * * this Commission is not a court to determine the local laws of 50 States, and is indeed ill-equipped without the enormous expenditure of time and effort expended in the instant case, to investigate such State law. Nor, in the nature of things, can an adversary be presumed to have the intimate knowledge of these State statutes.

12. Similarly, we find that School District's legal opinions and references to the programing of other noncommercial educational stations beg the issue raised (paragraph 7) in the comparative context of this proceeding. As pointed out (paragraph 9) by the excerpts of the Commission's statements in its Fifth Report, supra, there is no doubt that the Commission (a) is aware that many educational broadcast stations in operation today engage in what may be termed as predominantly institutional instructional activity and by so doing secure the economic support needed to permit even limited cultural and educational broadcasting; and (b) permits such limited use because it is vitally interested in the ultimate development of educational television into a true broadcasting service, and hopes that such limited instructional use will be expanded to include programming aimed at a broad spectrum of com-

---

[8] We have noted with interest the Hearing Examiner's Memorandum Opinion and Order (FCC 71M–428), released Mar. 18, 1971, setting forth his views with respect to the share-time issue. As we indicated above, we believe that the question presented (paragraph 7) is relevant to the share-time issue, as well as to the comparative issue, and we have imposed (paragraph 12, infra) the burden of proof and burden of proceeding with appropriate evidence on the School District.

[9] The memorandum of the Commission as Amicus Curiae, filed by its General Counsel, in case No. 989, in the Supreme Judicial Court of the State of Maine, in State of Maine v. University of Maine, 266 A2d 863 (1970), sets forth a full discussion of the scheme of the Communications Act for the regulation of political and public affairs broadcasting, the Supreme Court's decision in Red Lion Broadcasting Co. v. F.C.C., 395 U.S. 367, Report on Editorializing by Broadcast Licensees, 13 F.C.C. 1246, Farmers Union v. WDAY, 360 U.S. 525, and the Congressional intent with respect to section 396(a)(4) of the Communications Act (Public Broadcasting Act). After such discussion, the Memorandum reads, in pertinent part as follows: "In sum, it is clear from the Communications Act, the rules, policies and decisions of the Commission; the words of the Congress; and the decisions of the Supreme Court that 'there is a twofold duty laid down by the (Commission) for its broadcasters: The broadcaster must give adequate coverage to public issues * * * and coverage must be fair in that it accurately reflects the opposing views * * *' It is equally clear that the same twofold duty applies to all broadcasters without regard to whether theirs are commercial stations or noncommercial educational stations. In only one relevant respect are noncommercial educational broadcasters subjected to a different requirement of statute or policy: Section 399 of the Communications Act, 47 U.S.C. 399, prohibits such licensees from expressing their own personal views on controversial issue or political candidates."

munity interests and problems.[10] However, we are not here dealing with the issue raised (paragraph 7) in relationship to School District's basic threshold qualifications or to the Commission's permissive sanction of the use of some existing noncommercial educational stations on a limited basis. Instead, we are here involved in a proceeding requiring comparative consideration of two competing noncommercial educational applicants where this issue (paragraph 7) is relevant and material to a determination of the comparative issue as to which applicant will provide a "superior educational television broadcast service," as well as to the share-time issue, and must be faced and resolved on the basis of a competent and complete record. For these reasons, the comparative and share-time issues in this proceeding are enlarged to include the following issues:

(a) Whether School District is interdicted by § 892.6 of the California Code from producing and/or financing and/or telecasting community educational programs with the use of State funds, with particular regard to:

(1) The meaning of the language "additional public funds" in the Code provision as construed by State authorities of appropriate jurisdiction;[11] and

(2) The definition of the term "community educational" programing, as used in the Code provision, by State authorities of appropriate jurisdiction, including the type and nature of programs within this definition; and

(b) In the event certain types of community educational programs are restricted from being produced and/or financed and/or telecast with the use of State funds.

(1) The effect, if any, of such restrictions or limitations on School District's proposed programing for its first year, and its future programing thereafter; and

(2) Whether School District has reasonable assurance of the availability of other funds.

Since the evidence required to be adduced with respect to these issues is peculiarly within the knowledge of the School District, or at the least, more readily within its grasp, the burden of proof and the burden of proceeding with the evidence is placed upon the School District.

13. *Accordingly, it is ordered,* That the petition for leave to file supplement to the "opposition" pleading of the Los Angeles Unified School District, filed February 5, 1971, by Los Angeles Unified School District, is granted and the supplement is accepted; and that the motion to enlarge issues, filed December 28, 1970, by Community Television of Southern California, is granted to the extent indicated by the enlargement of the comparative and share-time issues in this proceeding as indicated at paragraph 12, above, and is denied in all other respects.

Adopted: June 15, 1971.

Released: June 17, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[12]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-8727 Filed 6-21-71;8:47 am]

FEDERAL POWER COMMISSION

[Docket No. CP71-299, etc.]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Applications

JUNE 18, 1971.

Take notice that on June 15, 1971, Great Lakes Gas Transmission Co. (applicant), 1 Woodward Avenue, Detroit, MI 48226, filed concurrently in Docket No. CP71-299 an application for a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act authorizing the construction and operations of facilities and the transportation of natural gas for and on behalf of Northern Natural Gas Co. (Northern), in Docket No. CP71-300 an application for authorization to import natural gas from Canada pursuant to section 3 of the Natural Gas Act, and in Docket No. CP71-301 an application for a permit pursuant to Executive Order No. 10485 authorizing the construction, operation, maintenance, and connection of natural gas facilities to be constructed on the international boundary between Canada and the United States, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Specifically, applicant proposes to construct facilities to connect its existing pipeline system with the facilities of Consolidated Pipe Lines Co. at the international boundary near Emerson, Manitoba; to use these facilities to import up to 390,000 Mcf of natural gas per day, purchased by Northern from one of its Canadian affiliates, Consolidated Natural Gas Co.; and to construct certain pipeline and compression facilities to transport initially up to 331,800 Mcf of natural gas per day for Northern to a point of interconnection between the facilities of applicant and Northern near Carlton, Minn. The pipeline and compression facilities necessary to enable applicant to perform this transportation service for Northern include:

(1) Approximately 168.7 miles of 36-inch loop line;

(2) A 12,500-horsepower compressor unit at applicant's St. Vincent Compressor Station, Kittson County, Minn.;

(3) Certain modifications to existing compressor units at Stations 2, 3, 4, and 5, all of which are located in Minnesota;

(4) Certain measurement and interconnection facilities to be located near Carlton, Minn.; and

(5) Certain connection facilities to be constructed at the international boundary near Emerson, Manitoba.

Applicant states that the estimated cost of the facilities proposed herein is $44,285,000, which cost will be financed by the use of bank loans, internally generated funds and the issuance of common stock. Applicant also states that these applications are submitted as an alternative to a proposal by Northern which is pending before the Commission in Docket No. CP70-69, et al.

In support of these applications, Great Lakes states that the alternative proposed herein would enable Northern to realize substantial cost savings while providing greater volumes of natural gas. The estimated savings in the cost of facilities employed before 1979 is approximately $11 million, while the costs of the additional facilities necessary after 1979 will reduce this amount to approximately $7 million. The estimated unit saving per Mcf for the first 3 years of operation will range from 2.38 cents per Mcf to 2.71 cents per Mcf. The estimated annual saving which should be realized by Northern ranges from $2,628,000 to $2,993,000. Applicant also states that because its system is already installed and the right-of-way has been prepared for pipeline construction, the construction proposed herein will have a minimal effect on the national environment as compared to the effect of clearing and grading a new pipeline right-of-way, as proposed by Northern.

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 applications should on or before June 28, 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

[10] The Memorandum of the Commission as Amicus Curiae filed by its General Counsel in State of Maine, supra, in this respect reads, as follows: "Noncommercial broadcasters have responded to the Congressional mandate. Significantly, the Report of the Educational Television Stations Conference on Programming Goals for 1970, p. 1, noted that 'expanded TV presentation of local government affairs and local issues coupled with active citizen participation relating to these issues, tops the list of 1970 program priorities expressed by managers of America's public TV stations.' It is thus manifest that the mandate of the Act that the noncommercial educational broadcaster render full service to the public 'in the larger and more effective use of radio' (47 U.S.C. 303(g)) is significant not simply because the same affirmative burdens of political and other controversial issue coverage are placed on noncommercial educational broadcasters as on commercial licensees, but also because the noncommercial educational stations have already shown themselves to be a most appropriate vehicle for this area of communications."

[11] For example, is the School District interdicted from using any part of the $500,000 of State funds now committed for first year's operating expenses for the production and/or financing and/or telecasting of community educational programs, or may the School District, in its discretion, use any part, or all, of this $500,000 for community educational programing.

[12] Review Board Members Berkemeyer and Pincock concurring in result.

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 the application in Docket No. CP71-299 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,
Secretary.

[FR Doc.71-8831 Filed 6-21-71;8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-4692]

FAS INTERNATIONAL, INC.

Order Suspending Trading

JUNE 15, 1971.

The common stock, 2 cents par value and the 5 percent convertible subordinated debentures due 1989 of FAS International, Inc., being traded on the New York Stock Exchange, Inc., pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of FAS International, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities is required in the public interest and for protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 16, 1971, through June 25, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8708 Filed 6-21-71;8:45 am]

TARIFF COMMISSION

[TEA-W-96]

WARWICK ELECTRONICS, INC.

Workers' Petition for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers of the Zion, Ill., manufacturing plant of the Warwick Electronics, Inc., the U.S. Tariff Commission, on June 16, 1971, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with phonographs and radio-phonograph and radio-phonograph-tape player combinations produced by said plant are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number of proportion of the workers or such manufacturing plant.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: June 17, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-8742 Filed 6-21-71;8:48 am]

[TEA-W-96]

WORKERS' PETITION FOR DETERMINATION OF ELIGIBILITY TO APPLY FOR ADJUSTMENT ASSISTANCE

Notice of Hearing

The U.S. Tariff Commission has ordered a hearing in connection with the investigation instituted on June 16, 1971 under section 301(c)(2) of the Trade Expansion Act of 1962 on petition filed on behalf of the workers of the Zion, Ill., manufacturing plant of the Warwick Electronics, Inc. The hearing will be held at 10 a.m., e.d.s.t., on July 7, 1971, in the Hearing Room, Tariff Commission Building, Eighth and E Street NW., Washington, DC. Appearances at the hearing should be entered in accordance with section 201.13 of the Tariff Commission's rules of practice and procedure (19 CFR 201.13).

Issued: June 18, 1971.

By order of the Commission:

KENNETH R. MASON,
Secretary.

[FR Doc.71-8845 Filed 6-21-71;9:35 am]

INTERSTATE COMMERCE COMMISSION

[Notice 315]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 16, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2310 (Sub-No. 5 TA), filed June 9, 1971. Applicant: SIGNAL TRANSPORT, INC., Post Office Box 681, 620 Boston Street, La Porte, IN 46350. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the plant and warehouse sites of Kraftco Corp. and its division, Kraft Foods, at or near Champaign, Ill., to Cleveland, Akron, Ashtabula, Canton, Dennison, Massillon, Maple Heights, Solon, Warrensville Heights, Bedford Heights, Evendale, Woodlawn, and West Carroll-

ton, Ohio, and Covington, Ky., for 150 days. Supporting shipper: Kraft Foods, Division of Kraftco Corp. 505 Sacramento Boulevard, Chicago, IL. Send protests to: Acting District Supervisor John Ryden, Interstate Commerce Commission, Bureau of Operations, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 18121 (Sub-No. 13 TA) (Correction), filed April 29, 1971, published FEDERAL REGISTER issue of May 15, 1971, corrected and republished as corrected this issue. Applicant: ADVANCE TRANSPORTATION COMPANY, 2115 South First Street, Milwaukee, WI 53207. Applicant's representative: Robert M. Kaske, 2017 Wisteria Road, Rockford, IL 61107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment), between points in Chicago, Ill., and the commercial zone, and points in Racine and Kenosha Counties, Wis., for 180 days. NOTE: Applicant states it intends to tack the authority in MC 18121. Supporting shippers: Rubber Rollers Mfg., Union Grove, Wis.; Keystone, Ferrule & Nut Corp., Burlington, Wis.; Lavelle Rubber Manufacturing Corp., Burlington, Wis.; Bardon Rubber Products Co., Inc., Union Grove, Wis.; and Grave Gear Corp., Union Grove, Wis. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203. The purpose of this republication is to include the tacking, which was inadvertenly omitted in previous publication.

No. MC 30867 (Sub-No. 178 TA), filed June 10, 1971. Applicant: CENTRAL FREIGHT LINES, INC., Post Office Box 238, 303 South 12th Street, Waco, TX 76703. Applicant's representative: Phillip Robinson, 904 Lavaca, Austin, TX. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission in 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), (1) between Dallas, Marshall, Longview, and Tyler, Tex., as follows: From Dallas, over interstate Highway 20 to Marshall, over U.S. Highway 80 to Longview and from junction Interstate Highway 20 and U.S. Highway 69, to Tyler, Tex., thence over U.S. Highway 271 to junction U.S. Highway 271 and Interstate Highway 20 and return over the same routes, serving all intermediate points except intermediate points between Dallas and Terrell, including Terrell, Tex., and the off route point of Canton, Tex.; (2) between Tyler and Beaumont, Tex., over U.S. Highway 69 and return over the same route serving all intermediate points; (3) between Marshall, Tex., over U.S. Highway 59 to Tenaha, Tex., thence from Tenaha, over U.S. Highway 96, via Center, St. Augustine and Jasper, Tex., to Beaumont and return over the same route, serving all intermediate points; (4) between Houston and Longview, Tex., as follows:

From Houston, over U.S. Highway 59 to Nacogdoches, Tex., thence over U.S. Highway 259 to Longview and return over the same route, serving all intermediate points and the off-route point of Kilgore; (5) between Bryan and Caldwell, Tex., as follows: From Byran, over Texas Highway 21 to Caldwell and return over the same route, serving all intermediate points; (6) between Byran and San Augustine, Tex., as follows: From Byran, over Texas Highway 21 to Alto, Tex., thence over Texas Highway 21 to Nacogdoches, Tex., thence over Texas Highway 21 to San Augustine and return over the same route serving no intermediate points except Alto and Nacogdoches, Tex., and serving the termini and Alto and Nacogdoches, Tex., for the purpose of performing a joinder of said proposed routes with other routes; (7) between Corsicana and Tyler, Tex., as follows: From Corsicana, over Texas Highway 31 to Tyler and return over the same route, serving no intermediate points, and (8) between Dallas and Jacksonville, Tex., as follows: From Dallas, over U.S. Highway 175 to Jacksonville and return over the same route serving no intermediate points. The applicant proposes to tack and coordinate the proposed additional services, with all services now authorized in intrastate commerce under certificates No. 2627, 2054, 4337, and 4336 and with all services authorized in interstate and foreign commerce under Docket No. MC 30867 and all subs thereunder. NOTE: Applicant does propose to tack and coordinate with the above with all presently held authority. Supported by: There are approximately 233 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: H. C. Morrison, Sr., Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 21445 (Sub-No. 22), filed June 10, 1971. Applicant: GENE MITCHELL CO., 1106 Division Street, West Liberty, IA 52776. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, and *articles distributed by meat packinghouses*, as described in sections A and C, appendix I, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and warehouse facilities of Swift & Co. located at Marshalltown, IA, to points in Boone, Cook, De Kalb, Du Page, Kane, Kankakee, Kendell, Lake, McHenry, and Will Counties, Ill., and Lake and Porter Counties, Ind. for 180 days. Restricted to traffic originating at and destined to the points named above. Supporting shipper: Swift Fresh Meats Co., 115 West Jackson Boulevard, Chicago, IL 60604. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Fourth and Perry Streets, Davenport, IA 52801.

No. MC 29910 (Sub-No. 103 TA), filed June 9, 1971. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Applicant's representative: Thomas Harper, Sr., Post Office Box 43, Fort Smith, AR. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition roofing shingles, asbestos siding, and asphalt cement*, from the plantsite of Bird Roofing Co., Shreveport, La., to points in Missouri, for 180 days. Supporting shipper: Bird & Son, Post Office Box 72, Shreveport, LA 71102. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 31600 (Sub-No. 651 TA), filed June 10, 1971. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, MA 02154. Applicant's representative: Frank Hand (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed ingredients*, dry, in bulk, in tank vehicles, from ports of entry on the international boundary line between the United States and Canada at or near Ivy Lea, Messena, Niagara Falls, and Ogdensburg, N.Y., Baldwinsville, N.Y.; and Decatur, Ill., to Woburn, Mass., and *return of refused or rejected shipments*, for 180 days. Supporting shipper: Litpon Pet Foods, Inc., 209 New Boston Street, Woburn, MA 01801. Send protests to: James F. Martin, Jr., Assistant Regional Director, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Building, Government Center, Boston, Mass. 02203.

No. MC 52657 (Sub-No. 683 TA), filed June 9, 1971. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, IL 60620. Applicant's representative: S. J. Zangri (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* (other than those designed to be drawn by passenger automobiles), in initial truckaway service, from Delta, Ohio, to Barksdale AFB, La.; Hamilton AFB, Calif.; Duluth International Airport, Minn.; Kingsley Field, Oreg.; Otis AFB, Mass.; Ent AFB, Colo.; Wright Patterson AFB, Ohio; Hill AFB, Utah; Kelly AFB, Tex.; Columbus AFB, Miss.; Lackland AFB, Tex.; Mather AFB, Calif.; Sheppard AFB, Tex.; McCornell AFB, Kans.; George AFB, Calif.; Cannon AFB, N. Mex.; Bergstrom AFB, Tex.; Myrtle Beach AFB, S.C.; England AFB, La.; McChord AFB, Wash.; Norton AFB,

Calif.; Travis AFB, Calif.; Aberdeen, Md.; Rock Island, Ill.; Joliet, Ill.; Baraboo, Wis.; Shreveport, La.; Anniston, Ala.; Chambersburg, Pa.; Flagstaff, Ariz.; Texarkana, Tex.; Savanna, Ill.; Romulus, N.Y.; Herlong, Calif.; and Tooele, Utah, for 180 days. Supporting shipper: Edward Swaney, Vice President and General Manager, Rogers Brothers Corp., 100 Orchard Street, Albion, PA 16401. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 210 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 103993 (Sub-No. 639 TA), filed June 7, 1971. Applicant: MORGAN DRIVE AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Ralph H. Miller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, in sections on undercarriages, from Marshville, N.C., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Festival Homes of North Carolina, Inc., Marshville (Union County), N.C. Send protests to: Acting District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, Room 240, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 117167 (Sub-No. 3 TA), filed June 9, 1971. Applicant: WHEELER'S TOWING & SERVICE, INC., 5050 L Street, Omaha, NE 68117. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrecked, disabled, inoperative, stolen, abandoned, and repossessed motor vehicles and cargo, trailers*, by use of wrecker equipment only, between Omaha, Nebr., and Council Bluffs, Iowa, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), and (2) *wrecked, disabled, inoperative, stolen, abandoned, and repossessed motor vehicles* (except automobiles), in truckaway service, between Omaha, Nebr., and Council Bluffs, Iowa, on the one hand, and, on the other, all points in the United States (except Alaska and Hawaii), for 180 days. Supported by: There are approximately 13 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 117940 (Sub-No. 50 TA), filed June 9, 1971. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: M. James Levitus (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meats and packinghouse products*, from the plantsite and storage facilities of Robel Beef Packers, Inc., in St. Cloud and South St. Paul, Minn., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia, for 180 days. Supporting shipper: Robel Beef Packers, Inc., St. Cloud, Minn. 56301. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 128196 (Sub-No. 6 TA), filed June 10, 1971. Applicant: KARL ARTHUR WEBER, Phoenix, Ariz. 85009. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood building materials*, from California, Oregon, and Washington, on the one hand, and, on the other, points in New Mexico, Texas, Oklahoma, Arkansas, and Louisiana, and on return *gypsum board and gypsum products*, from Texas, New Mexico, and Utah, to points in Arizona, California, Nevada, and Oregon, for 180 days. Supporting shippers: Mid-Sierra Lumber Sales, 375 West Hazelton, Stockton, CA; American Forest Products, Post Office Box 1, Hurst, TX; 76053; Lee R. Slaughter Lumber Co., Post Office Box 20038, Dallas, TX 75220. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 128273 (Sub-No. 98 TA), filed June 9, 1971. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189, 121 Humboldt Street, Fort Scott, KS 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toys and recreational equipment*, from Bossier City, La., to points in California, Arizona, Nevada, Utah, Colorado, Idaho, Montana, Washington, Oregon, and Florida, for 180 days. Supporting shipper: Gym Dandy, Inc., 415 Hamilton Road, Bossier City, LA 71010. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 129695 (Sub-No. 2 TA), filed June 9, 1971. Applicant: HAWKEYE TRUCKING COMPANY, Rural Route No. 4, Northwest 66th and Toni Drive, Des Moines, IA 50313. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Explosives, nitrocarbonitrate, and blasting caps*, from Falling Water, W. Va., to points in Iowa, for 150 days. Supporting shipper: Quick Supply Co., 6620 Northwest Tonie Drive, Des Moines, IA 50313. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 134426 (Sub-No. 2 TA), filed June 9, 1971. Applicant: ROBERT E. McCORT, 7032 Barkwood Drive, Jacksonville, FL 32211. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boat trailers, and accessories*, designed to be pulled by passenger automobiles, from Jacksonville, Fla., to points in Georgia, Alabama, South Carolina, North Carolina, and Tennessee, for 180 days. Supporting shipper: Gator Trailers Corp., 1925 East Beaver Street, Post Office Box 51, Station G, Jacksonville, FL 32206. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 135145 (Sub-No. 1 TA), filed June 10, 1971. Applicant: LUTHER TRANSFER & WAREHOUSE CO., INC., 1841 Industrial Avenue, Post Office Box 1009, San Angelo, TX 76901. Applicant's representative: Robert L. Strickland, 715 Frost Bank Building, San Antonio, Tex. 78205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods and unaccompanied baggage*, between points and areas between Del Rio, Tex., on the one hand, and, on the other, places in the counties of Val Verde, Edwards, Kinney, and Maverick Counties, Tex., which are within 25-mile radius of Del Rio, Tex., and points and areas between Coke, Coleman, Concho, Crane, Crockett, Irion, Kimble, Menard, Reagan, Runnels, Schleicher, Sutton, Tom Green, Upton Counties, Tex., restricted to transportation of traffic having a prior or subsequent movement in containers beyond points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic for the U.S. Government, for 180 days. Supporting shipper: Department of the Army, Office of the Judge Advocate General, Washington, D.C. 20310. Send protests to: H. C. Morrison, Sr., Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 135224 (Sub-No. 2 TA), filed June 9, 1971. Applicant: ALPCO TRANSPORTATION COMPANY, INC., 4910 West Knollwood, Tampa, FL 33614. Applicant's representative: Robert E. Tate, Post Office Box 517, Evergreen, AL 36401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wooden louvered doors and blinds*, from the plantsite of American Louvered Product Co. at Tampa, Fla., to points in that part of Minnesota on and east of a line beginning at the United States-Canadian boundary line and extending south along the western boundary of Itasca and Koochiching Counties, to the point where the western boundary of

Itasca County is intersected by the Mississippi River, thence along the Mississippi River to the eastern boundary of Minnesota and all points in and east of Wisconsin, Illinois, Kentucky, Tennessee and Mississippi; (2) *materials and supplies,* used in the manufacture of wooden louvered doors and blinds, from all points in that part of Minnesota on and east of a line beginning at the United States-Canadian boundary line and extending south along the western boundaries of Koochiching and Itasca Counties to the point where the western boundary of Itasca County is intersected by the Mississippi River, thence along the Mississippi River to the eastern boundary of Minnesota and all points in and east of Wisconsin, Illinois, Kentucky, Tennessee, and Mississippi to the plantsite of American Louvered Products Co. at Tampa, Fla., for 180 days. Supporting shipper: American Louvered Products Co., 4910 West Knollwood, Tampa, FL 33614. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 135379 (Sub-No. 4 TA) (Correction), filed May 28, 1971, published FEDERAL REGISTER June 7, 1971, corrected and republished in part as corrected this issue. Applicant: EASTERN TRANSPORT, INC., 320 Stiles Street, Linden, NJ 07036. Applicant's representative: George A. Olsen, Traffic Consultant, 69 Tonnele Avenue, Jersey City, NJ 07306. NOTE: The purpose of this partial republication is to include the (Sub-No. 4 TA), which was inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 135634 (Sub-No. 1 TA), filed June 7, 1971. Applicant: JOSEPH M. HANEY, Sr., doing business as J. H. HANEY TRUCKING CO., 4754 Mahoning Avenue, Youngstown, OH 44515. Applicant's representative: C. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Tail and exhaust pipes, tail and exhaust hangers and clamps; brake parts; and mufflers,* from the plantsite of Midas-International Corp., Chicago, Ill., to points in the Lower Peninsula of Michigan, Ohio, and Erie, Pittsburgh, New Castle, and Beaver Falls, Pa., for 150 days. Supporting shipper: Midas-International Corp., 4101 West 42d Place, Chicago, IL 60632. Send protests to: G. H. Baccei, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 135667 TA, filed June 10, 1971. Applicant: JIM McAVOY, doing business as JIM McAVOY & SONS WRECKER & TOWING SERVICE, Box 38, St. Michaels, AR 86511. Applicant's representative: Lynn W. Mitton, Box 10, Window Rock, AZ 86515. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Wrecked, damaged, disabled, abandoned, seized, repossessed, stolen, and replacement motor vehicles, including automobiles, trucks, busses, trailers, mobile homes, campers, and sports trailers;* between points in Apache, Navajo, and Conconino Counties, Ariz.; Kane and San Juan Counties, Utah; and McKinley and San Juan Counties, N. Mex., for 180 days. Supporting shippers: Ted Radcliffe, Manager, Fed Mart T.B.A., Window Rock, Ariz. 86515; Lafie Bennett, Chief of Police, Navajo Police Department, Window Rock, Ariz. 86515; Paul Yogerst, Kayenta, Ariz. 86033; George Condry, Greasewood T.P., Ganado, Ariz. 86505; Alvin W. Jack, Toiso Trading Post, Lukachukai, Ariz. 86507; William L. Damon, doing business as Damon Freight Lines, Window Rock, Ariz. 87515. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427 Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 135668 TA, filed June 10, 1971. Applicant: OSCAR T. SIMPKINS, JR., doing business as SIMPKINS TRUCKING COMPANY, 2109 Simpkins Road, Raleigh, NC 27603. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Newsprint,* from Catawba, S.C., and Augusta, Ga., to Raleigh, N.C., for 180 days. Supporting shipper: The News and Observer-The Raleigh Times, Raleigh, N.C. 27601. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 26896, Raleigh, NC 27611.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8737 Filed 6-21-71;8:47 am]

[Notice 316]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 17, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 31600 (Sub-No. 650 TA), filed June 9, 1971. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: Frank Hand (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Portland cement* from Providence, R.I., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, for 180 days. Supporting shipper: Marquette Cement Manufacturing Co., 20 North Wacker Driver, Chicago, IL 60606. Send protests to: James F. Martin, Jr., Assistant Regional Director, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Federal Building, Government Center, Boston, Mass. 02203.

No. MC 114533 (Sub-No. 227 TA) (Amendment), filed May 10, 1971, published FEDERAL REGISTER issue May 25, 1971, amended and republished as amended, this issue. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). NOTE: The purpose of this partial republication is to add the restriction against service between Rockford, Ill., and Monroe, Wis., the rest of the application remains the same.

No. MC 113670 (Sub-No. 4 TA), filed June 9, 1971. Applicant: LEWIS PRICE, 4200 75th Street, Des Moines, IA 50322. Applicant's representative: Larry D. Knox, 4044 Southeast 14th Street, Des Moines, IA 50320. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Clay pipe and fittings,* from Des Moines, Iowa, to points in Kansas, for 180 days. Supporting shipper: Can-Tex Industries, Post Office Box 3510, Des Moines, IA 50322. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 128616 (Sub-No. 2 TA) (Correction), filed May 26, 1971, published FEDERAL REGISTER, issue of June 5, 1971, in No. MC 114533 Sub-No. 228 TA, and republished as corrected this issue. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except coins, currency, and

negotiable securities) as are used in the conduct and operations of Banks and Banking institutions, between Joplin, Mo., on the one hand, and, and on the other, (1) points in Benton, Washington, and Carroll Counties, Ark., (2) points in Labette, Crawford, Montgomery, Cherokee, Neosho, and Bourbon Counties, Kans., and (3) points in Ottawa, Delaware, and Tulsa Counties, Okla., for 180 days. Supporting shipper: First National Bank & Trust Co. of Joplin, Joplin, Mo. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604. NOTE: The purpose of this correction is to show that applicant now seeks to conduct operations as a Contract carrier, rather than as a common carrier. The Application has also been reassigned No. MC 128616 (Sub. No. 2).

No. MC 117565 (Sub-No. 41 TA), filed June 10, 1971. Applicant: MOTOR SERVICE COMPANY, INC., 237 South Fifth Street, Post Office Box 417, Coshocton, OH 43812. Applicant's representative: John R. Hafer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in truckaway service, from Kent, Ohio, to points within the United States (except Hawaii), for 180 days. Supporting shipper: Cortez Corp., 777 Stow Avenue, Kent, OH 44240. Send protests to: Frank L. Calvary, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 255 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 118142 (Sub-No. 38 TA), filed June 9, 1971. Applicant: M. BRUENGER & CO., INC., 6330 North Broadway, Wichita, KS 67219. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, dry acids, and chemicals, in bulk, and liquid commodities) in bulk, in tank vehicles, from Holton, Kans., to points in Louisiana, Mississippi, Alabama, Florida, Georgia, and Tennessee, for 180 days. Supporting shipper: Aristo Kansas Meat Packers, a division of Aristo Foods, Inc., Holton, Kans. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 126276 (Sub-No. 50 TA), filed June 10, 1971. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, IL 60463. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from Edison, N.J., and Rockford, Ill., to Collierville, and Memphis, Tenn., for 150 days. Supporting shipper: National Can Corp., 5959 South Cicero Avenue, Chicago, IL 60638. Send protests to: District Supervisor Robert G. Anderson, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 135553 (Sub-No. 2 TA), filed June 10, 1971. Applicant: ANDERSEN, INC., Post Office Box 3427, 1618 College Avenue, Fredericksburg, VA 22401. Applicant's representative: William H. Andersen (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fresh or frozen bacon*, from Dogue, Va., to Baltimore, Md.; Landover, Md.; Philadelphia, Pa.; Washington, D.C.; White River Junction, Vt.; to points in Bergen, Burlington, Essex, Hudson, Middlesex, Suffolk, and Union Counties, N.J.; and New York,; (2) *frozen pork skins*, from Dogue, Va., to Winchester, Mass.; and (3) *fresh or frozen pork bellies*, from Jersey City, N.J.; Philadelphia, Pa.; and Buffalo, N.Y.; Dogue, Va.; for 150 days. NOTE: Applicant states it does intend to tack the authority in MC 135553. Supporting shipper: White Packing Co., Inc., 2011 Eighth Street, North Bergen, NJ 07047. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10–502 Federal Building, Richmond, Va. 23240.

No. MC 135582 (Sub-No. 1 TA) (Correction), filed May 31, 1971, published FEDERAL REGISTER issue June 15, 1971, corrected and republished in part as corrected this issue. Applicant: JAMES BOND TRUCKING COMPANY, INC., 12 East Hidalgo Street., Phoenix, AZ 85040. Applicant's representative: Earl Carroll, 363 North First Avenue, Phoenix, AZ 85003. NOTE: The purpose of this partial republication is to include the (Sub-No. 1 TA) which was inadvertently omitted in previous publication. The rest of the application remains the same.

MOTOR CARRIER OF PASSENGERS

No. MC 82007 (Sub-No. 5 TA), filed June 8, 1971. Applicant: SAMUEL COOPER GREGG, Yorklyn, Del. 19736. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter service, from points in Pennsylvania, on and south of U.S. Highway 1 Bypass, U.S. Highway 1, the junction of U.S. Highway 1 and Pennsylvania Highway 52, and Pennsylvania Highway 52 points in Maryland, New Jersey, New York, Virginia, Delaware, and the District of Columbia and return, for 180 days. NOTE: Applicant states it does intend to tack the authority in MC–82007. Supporting shippers: Automobile Club of Chester County, West Chester, Pa.; Wm. W. Fahey, Post No. 491, American Legion, Kennett Square, Pa.; K. A. U. Little League, Kennett, Pa.; Thomas Kelly & Sons, Inc., Kennett Square, Pa.; Kennett Optimist Club, Kennett Square, Pa.; Lincoln University, Lincoln University, Pa.; John F. Lynch, Inc., Kennett Square, Pa.; Robert H. Marke, Avondale, Pa.; West Grove-Avondale Rotary Club, Avondale, Pa.; Avondale Fire Co., Auxiliary, Avondale, Pa. Send protest to: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 227 Old Post Office Building, Salisbury, Md. 21801.

By the Commission.

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

[FR Doc.71-8738 Filed 6-21-71;8:47 am]

[Notice 705]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 17, 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–72906. By order of June 15, 1971, the Motor Carrier Board approved the transfer to Pack Transport, Inc., Salt Lake City, Utah 84117, of the portion of the operating rights in certificate No. MC–32038 issued October 18, 1955, to Smith Bros. Moving Service, Inc., Baker, Oreg., authorizing the transportation of building materials, between Baker, Oreg., on the one hand, and, on the other, points in Idaho. Max D. Eliason, Post Office Box 2602, Salt Lake City, UT 84110, attorney for applicants.

No. MC–FC–72937. By order of June 15, 1971, the Motor Carrier Board approved the transfer to Ross Trucking, Inc., Amherst, S. Dak., of certificates Nos. MC–123538 and MC–123538 (Sub-No. 1), issued to Clayton Ross, doing business as Ross Trucking, Amherst, S. Dak., authorizing the transportation of: Feed and fertilizer, between specified points and areas in Minnesota and South Dakota. L. R. Gustafson, attorney, Britton, S. Dak.

No. MC–FC–72941. By order of June 15, 1971, the Motor Carrier Board approved the transfer to Eschenbach & Rodgers Trucking, Inc., Scranton, Pa., of permits No. MC–1, MC–1 (Sub-No. 1), MC–1

(Sub-No. 3), and MC-1 (Sub-No. 4), issued to Eschenbach & Rodgers, Inc., authorizing the transportation of: Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and equipment, materials, and supplies, in connection therewith, and certain specified paper and products, between specified points in New York, New Jersey, Delaware, and Pennsylvania. Joseph T. McDonald, attorney, Connell Building, Scranton, Pa. 18503.

No. MC-FC-72943. By order of June 15, 1971, the Motor Carrier Board approved the transfer to Dubrey's Express, Inc., Cohoes, N.Y., of certificate of registration No. MC-120007 (Sub-No. 1), issued November 22, 1963, to M & R Trucking, Inc., Albany, N.Y., evidencing a right to engage in transportation in interstate commerce as described in certificate No. 1793 dated September 29, 1959, issued by the New York Public Service Commission. John J. Brady, 75 State Street, Albany, NY 12207, attorney for applicants.

No. MC-FC-72945. By order of June 15, 1971, the Motor Carrier Board approved the transfer to Leonard Jackson, doing business as L. M. Jackson and Sons, Daleville, Ind., of certificate No. MC-119522 (Sub-No. 3), issued to McLain Trucking, Inc., Muncie, Ind., authorizing the transportation of: Marble and granite monuments, from Muncie, Ind., to points in Indiana, specified counties in Illinois, and Ohio, and designated points in Kentucky. Donald W. Smith, attorney, 900 Circle Tower, Indianapolis, IN 46204.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8739 Filed 6-21-71;8:47 am]

SKYLINE EXPRESS, INC., ET AL

Assignment of Hearings

JUNE 17, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 125285 Sub 7, Skyline Express, Inc., now assigned July 12, 1971, at St. Paul, Minn., will be held in Court Room No. 4, 316 Roberts Street, instead of Room 767.

MC 114211 Sub. 131, Warren Transport, Inc., application dismissed.

MC 125808 Sub 5, Aaacon Auto Transport, Inc., assigned July 12, 1971, at New York, N.Y., canceled and application dismissed.

MC 14321 Sub 7, Engle Brothers, Inc. Extension—40 States, assigned August 10, 1971, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC 2962 Sub 43, A. & H. Truck Line, Inc., assigned September 13, 1971, on the Fourth Floor, West End, State Office Building, Clinton and High Streets, Frankfort, Ky.

MC 14624 Sub 1, Cecil O'Nan, doing business as Tri-State Express, assigned September 28, 1971, on the Fourth Floor, West End, State Office Building, Clinton and High Streets, Frankfort, Ky.

MC 134817 Sub 1, Owenton Express, Inc., now assigned September 21, 1971, on the Fourth Floor, West End, State Office Building, Clinton and High Streets, Frankfort, Ky.

MC 118959 Sub 95, Jerry Lipps, Inc., assigned June 22, 1971, at Washington, D.C., canceled and application dismissed.

MC 107295 Sub 473, Pre-Fab Transit Co., assigned July 26, 1971, at Columbus, Ohio, in Room 4, State Office Building, 65 South Front Street.

MC 107295 Sub 475, Pre-Fab Transit Co., assigned July 28, 1971, at Columbus, Ohio, in Room 4, State Office Building, 65 South Front Street.

MC 107295 Sub 478, Pre-Fab Transit Co., assigned July 29, 1971, at Columbus, Ohio, in Room 4, State Office Building, 65 South Front Street.

MC 47126 Sub 5, Suburban Transit, Inc., assigned July 26, 1971, at Cleveland, Ohio, postponed indefinitely.

MC 134546, William Koch, now assigned June 21, 1971, at Phoenix, Ariz., canceled and application dismissed.

MC-F-11051, Denver Midwest Motor Freight, Inc.—Control & Merger—Premier Trucking Service Co., now assigned July 12, 1971, at Sioux City, Ia., canceled and reassigned for hearing on July 12, 1971, in the Continental Room, Continental Tower Motor Hotel, 2121 Douglas Street, Omaha, Nebr.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8740 Filed 6-21-71;8:48 am]

CUMULATIVE LIST OF PARTS AFFECTED—JUNE

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during June.

3 CFR

	Page
PROCLAMATIONS:	
4057	10769
4058	10839
4059	11077
4060	11791
4061	11847
EXECUTIVE ORDERS:	
May 27, 1913 (revoked in part by PLO 5064)	11098
3406 (see PLO 5074)	11732
6704 (revoked by PLO 5079)	11733
11513 (amended by EO 11597)	11501
11596	11079
11597	11501
11598	11711
11599	11793
PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:	
Reorganization Plan No. 1 of 1971	11181

5 CFR

	Page
213	**10771**, 10948, 11081, 11270-11271, 11633, 11713

5 CFR—Continued

	Page
PROPOSED RULES:	
300	11817
772	11817

7 CFR

	Page
51	10771
55	10937, 11795
56	10937
59	10841
70	10937
215	10937
225	11633
719	11271, 11802
722	10772
725	10772, 11559
730	11633, 11849
760	11279
777	11019
905	11281, 11561
908	10721, 10733, 11019, 11205, 11509, 11633
910	10773, 10937, 11019, 11421, 11509, 11802
911	10721
915	11509
916	11206
917	11803
919	11206

7 CFR—Continued

	Page
922	11713, 11714
923	11020
944	10774, 11804
946	11714
953	10841
959	10938
1090	10775
1098	10775, 11511
1103	10775, 11511
1104	10775, 11511
1106	10775, 11511
1421	10777, 11081, 11714
1464	11634
1488	11081
PROPOSED RULES:	
201	11451
909	11103
911	11655, 11735
915	11043, 11735
917	10979, 11103, 11737
921	11104
944	10740
999	11519
1030	11352
1032	11352
1040	11455
1046	11352

7 CFR—Continued

Page

PROPOSED RULES—Continued

1049 ... 11352
1050 ... 11352
1062 ... 11352
1063 ... 11211, 11864, 11865
1070 ... 11211, 11865
1078 ... 11211, 11865
1079 ... 10879, 11211, 11865
1094 ... 10980
1099 ... 11352
1125 ... 11655
1136 ... 11104

8 CFR

103 ... 11634
204 ... 11635
212 ... 11635
214 ... 11635
238 ... 11636
242 ... 11636
245 ... 11636
299 ... 11636
316a ... 11636
336 ... 11636
343b ... 11636
499 ... 11637

PROPOSED RULES:

211 ... 11296
235 ... 11735
242 ... 11296
299 ... 11735

9 CFR

74 ... 10841
76 ... 10842, 10843, 11020, 11421, 11422, 11508, 11589, 11637, 11638
79 ... 10844
310 ... 11639
314 ... 11639
318 ... 11639
325 ... 11639
331 ... 11720

10 CFR

1 ... 11589
40 ... 10938
50 ... 11423
115 ... 11423
150 ... 10938

PROPOSED RULES:

50 ... 11113

12 CFR

222 ... 10777, 10778, 11805
265 ... 10778, 10779
505 ... 11185
527 ... 11596
541 ... 10722, 11281
545 ... 10722, 10723, 11281, 11854
556 ... 10723, 11854
561 ... 10724
563 ... 10724, 10939, 11428
564 ... 11512
582 ... 10725
582b ... 10725
672 ... 11428
673 ... 11428
741 ... 10844
747 ... 11855
748 ... 10940, 11512

PROPOSED RULES:

545 ... 11818
703 ... 11672
741 ... 11603

13 CFR

Page

PROPOSED RULES:

121 ... 11525, 11526

14 CFR

39 ... 10779, 10780, 10946, 11185, 11186, 11428, 11512, 11640, 11721
71 ... 10781, 10946, 10947, 11081, 11187, 11188, 11429, 11513, 11597, 11640–11642, 11721–11723, 11806
73 ... 11430, 11723
75 ... 10781, 11081, 11806–11807
97 ... 11021, 11430, 11642
302 ... 11643
374 ... 11189, 11807
376 ... 11644

PROPOSED RULES:

1 ... 11218
39 ... 10801, 10984, 11303, 11522
43 ... 11218
47 ... 10801
61 ... 11865
71 ... 10741, 10802, 10984, 11218–11222, 11523, 11524, 11601–11602, 11668–11670, 11749, 11750, 11815, 11866, 11867
73 ... 11816
75 ... 10984
91 ... 11218
93 ... 11670
121 ... 11456
241 ... 11750
249 ... 10803
296 ... 11816
297 ... 11816
371 ... 10803
399 ... 10806

15 CFR

370 ... 10845
371 ... 11808
372 ... 10845
373 ... 10845
376 ... 11808
379 ... 10846

PROPOSED RULES:

1200 ... 10980

16 CFR

1 ... 11082
13 ... 11281–11291, 11597
500 ... 10781
501 ... 10846, 11082

17 CFR

240 ... 11513
270 ... 11645

18 CFR

101 ... 11431
104 ... 11431
105 ... 11431
154 ... 11579
201 ... 11431
204 ... 11432
205 ... 11432

19 CFR

1 ... 11849
9 ... 11850
10 ... 10726, 10727, 11581
13 ... 10727
16 ... 10727
22 ... 10847
54 ... 10727

19 CFR—Continued

Page

PROPOSED RULES:

1 ... 11864
153 ... 11526

20 CFR

01 ... 11432
3 ... 11432
25 ... 11433
405 ... 10848

PROPOSED RULES:

422 ... 10880

21 CFR

1 ... 11022, 11723
2 ... 10728, 11433
3 ... 11022, 11514, 11723
8 ... 11645
28 ... 10781
121 ... 10728, 10479, 11646, 11723, 11724, 11811
130 ... 11022, 11723
135 ... 11724
135a ... 10947, 11724
135b ... 10850, 10947
135e ... 11190
135g ... 11811
141 ... 11515
141b ... 11725
145 ... 11516
146 ... 11022, 11516, 11723
146b ... 11725
146d ... 11726
148 ... 11516
148b ... 11292
148k ... 11292
148q ... 11811
148w ... 11433
149v ... 11434
151g ... 11516
191 ... 11190
420 ... 10851, 11293, 11517, 11726, 11727

PROPOSED RULES:

1 ... 11217
3 ... 11521
121 ... 10983, 11742
125 ... 11521
130 ... 10983
135g ... 11742
141a ... 11742
146a ... 11742
146c ... 11742
146e ... 11742
191 ... 11044

24 CFR

17 ... 11024
60 ... 10781
200 ... 10781
1914 ... 11083, 11269, 11728
1915 ... 11083, 11270, 11729

PROPOSED RULES:

8 ... 11296
76 ... 11744
200 ... 11869
241 ... 11815
1909 ... 11109
1910 ... 11109

25 CFR

PROPOSED RULES:

131 ... 11043

26 CFR

Page

1 ... 10729, 10730, 10851, 11025, 11032, 11084, 11190, 11434, 11730, 11864
3 ... 10948
301 ... 10782, 11025, 11503, 11730

PROPOSED RULES:

1 ... 10787, 10953, 11100, 11442, 11451, 11864
13 ... 10787, 11451
45 ... 11451
53 ... 10968, 11034, 11655
143 ... 10968, 11655

28 CFR

0 ... 10862, 10863

29 CFR

7 ... 10863
20 ... 11505
50 ... 10865
51 ... 10865
602 ... 11434
603 ... 10866
612 ... 10866
615 ... 11561
697 ... 11561

PROPOSED RULES:

202 ... 11044
1902 ... 11738

30 CFR

PROPOSED RULES:

231 ... 11815

31 CFR

316 ... 10949
500 ... 11441

PROPOSED RULES:

102 ... 11208
103 ... 11208

32 CFR

809d ... 11196
819a ... 11196
1801 ... 11505
1802 ... 11581

33 CFR

2 ... 10949
117 ... 11087, 11434
204 ... 10730
207 ... 10730

PROPOSED RULES:

117 ... 10779–10801, 11045, 11455, 11667

36 CFR

PROPOSED RULES:

7 ... 10877–10879

39 CFR

Ch. I ... 11505
61 ... 11850
62 ... 11850
171 ... 10783

39 CFR—Continued

Page

951 ... 11562
952 ... 11562
953 ... 11566
954 ... 11567
955 ... 11569
956 ... 11572
957 ... 11575
958 ... 11578

41 CFR

1–1 ... 11435
1–4 ... 11199
3–1 ... 11582
3–30 ... 11582
5A–72 ... 11088
9–1 ... 11646
9–3 ... 11095
9–5 ... 11646
9–16 ... 11095
14–1 ... 11506
29–3 ... 11647
60–6 ... 10868
101–19 ... 11199
101–26 ... 10950, 11438
101–30 ... 10950
101–35 ... 10951
101–47 ... 11438

PROPOSED RULES:

3–4 ... 11599

42 CFR

54 ... 10874, 10875, 11295
72 ... 11025
481 ... 10731

43 CFR

PUBLIC LAND ORDERS:

64 (revoked by PLO 5067) ... 11098
639 (amended by PLO 5074) ... 11732
1556 (revoked in part by PLO 5066) ... 11098
1703 (revoked in part by PLO 5063) ... 11098
2052 (revoked by PLO 5075) ... 11732
3920 (see PLO 5074) ... 11732
4582 (see PLO 5072) ... 11731
4962 (see PLO 5072) ... 11731
5010 (corrected by PLO 5080) ... 11733
5045 (corrected by PLO 5071) ... 11731
5062 ... 11097
5063 ... 11098
5064 ... 11098
5065 ... 11098
5066 ... 11098
5067 ... 11098
5068 ... 11099
5069 ... 11730
5070 ... 11730
5071 ... 11731
5072 ... 11731
5073 ... 11731
5074 ... 11732
5075 ... 11732
5076 ... 11732
5077 ... 11732
5078 ... 11732
5079 ... 11733
5080 ... 11733

45 CFR

Page

117 ... 11200
120 ... 10951
206 ... 10783

46 CFR

11 ... 11653
146 ... 11733
251 ... 11033, 11099
310 ... 11851
381 ... 10739
531 ... 11439

PROPOSED RULES:

146 ... 11302
512 ... 10985

47 CFR

0 ... 11440
2 ... 11587
21 ... 11144
73 ... 10784
74 ... 10876, 11587
83 ... 11440
87 ... 11587
89 ... 11587
91 ... 11588
93 ... 11588

PROPOSED RULES:

13 ... 11225
25 ... 10806
73 ... 10741, 10806, 11225, 11818
74 ... 11818
83 ... 10807

49 CFR

172 ... 10732
173 ... 10732, 10952, 11734
176 ... 10733
177 ... 10784
178 ... 10733, 10785
179 ... 10733
391 ... 11205
571 ... 10733, 10736, 11508, 11852
1002 ... 11293
1033 ... 10785

PROPOSED RULES:

171 ... 11304
172 ... 11304
173 ... 10882, 11224, 11304, 11670
174 ... 11304
175 ... 11304
177 ... 10882, 11304
178 ... 10882, 11224, 11524, 11670
192 ... 10885
228 ... 11303
391 ... 11223
393 ... 11046
395 ... 10802
567 ... 11868
571 ... 11750, 11868
Ch. X ... 10741, 10742
1056 ... 11671
1100 ... 10808
1332 ... 10886

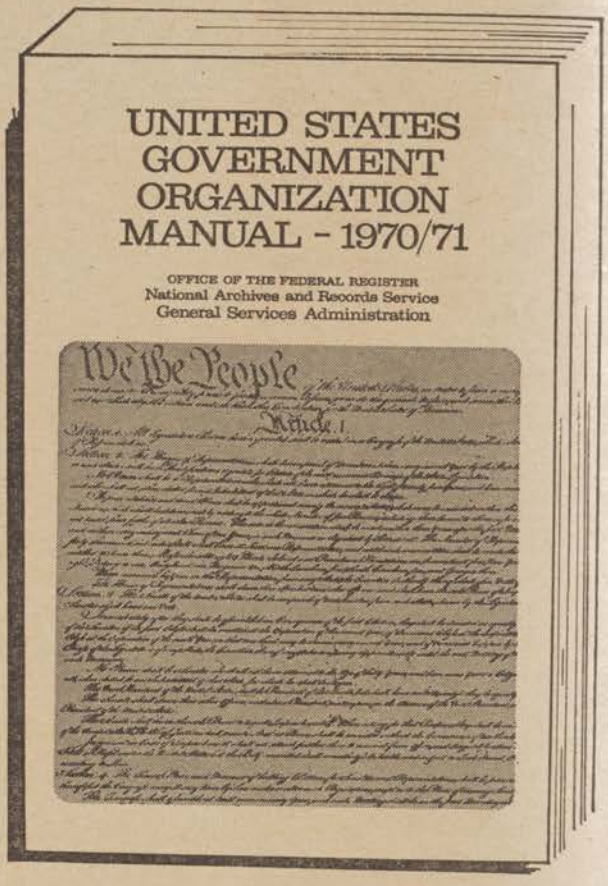
50 CFR

32 ... 11099
253 ... 10736
254 ... 10737
280 ... 11441

LIST OF FEDERAL REGISTER PAGES AND DATES—JUNE

Pages	*Date*
10715–10762	June 2
10763–10832	3
10833–10929	4
10931–11011	5
11013–11070	8
11071–11173	9
11175–11261	10
11263–11413	11
11415–11494	12
11495–11551	15
11553–11625	16
11627–11704	17
11705–11784	18
11785–11842	19
11843–11894	22

know your government



UNITED STATES GOVERNMENT ORGANIZATION MANUAL 1970/71

presents essential information about Government agencies (updated and republished annually). Describes the creation and authority, organization, and functions of the agencies in the legislative, judicial, and executive branches. This handbook is an indispensable reference tool for teachers, students, librarians, researchers, businessmen, and lawyers who need current official information about the U.S. Government. The United States Government Organization Manual is the official guide to the functions of the Federal Government, published by the Office of the Federal Register, GSA.

$3.00 per copy. Paperbound, with charts

Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402