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LIST OF CFR SECTIONS AFFECTED

1949–1963

This volume contains a compilation of the "List of Sections Affected" for all titles of the Code of Federal Regulations for the years 1949 through 1963. All sections of the CFR which have been expressly affected by documents published in the daily Federal Register are enumerated.

Reference to this list will enable the user to find the precise text of CFR provisions which were in force and effect on any given date during the period covered.

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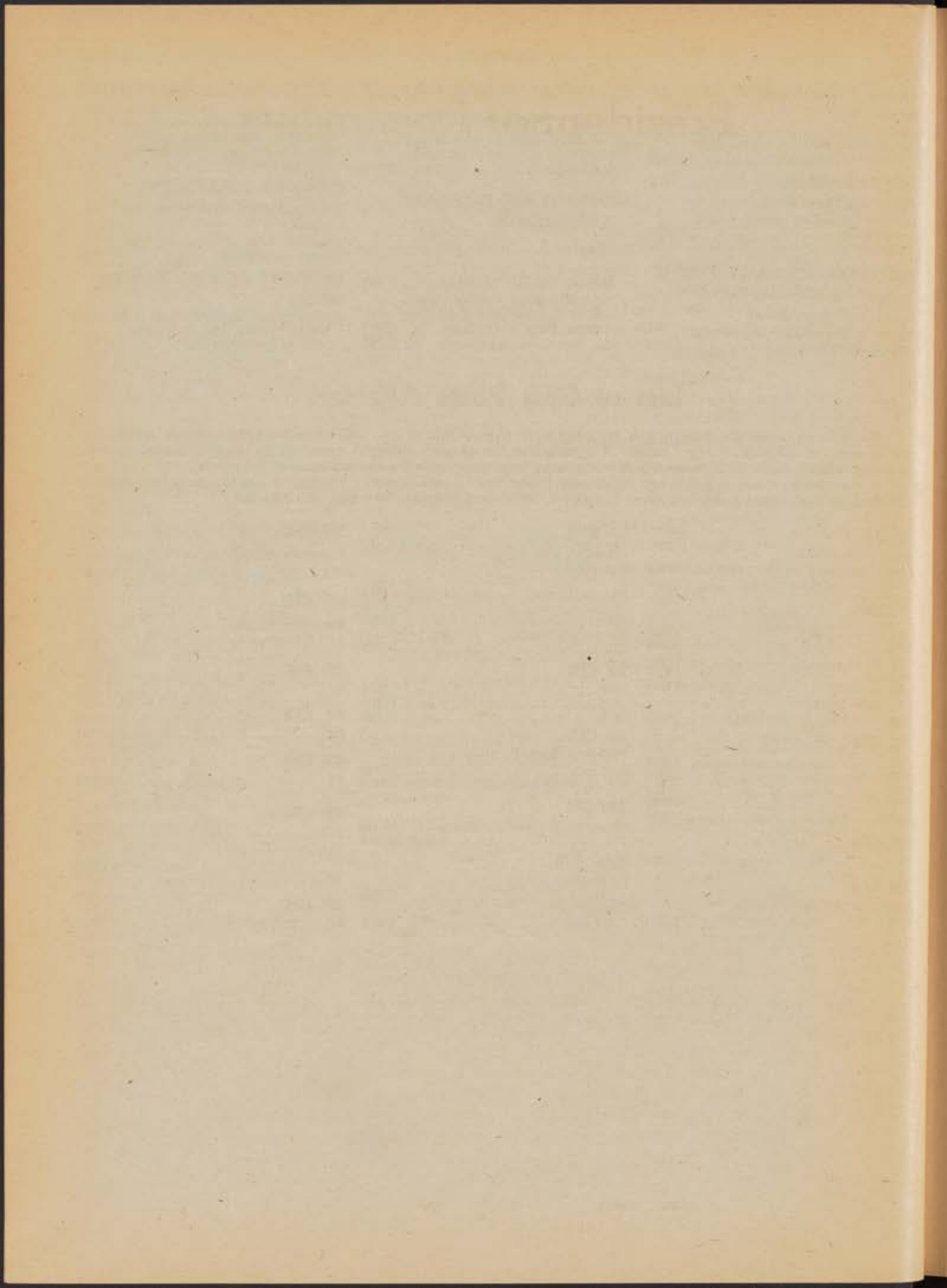

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Title 3—The President

EXECUTIVE ORDER 11616

Amending Executive Order No. 11491, Relating To Labor-Management Relations in the Federal Service

By virtue of the authority vested in me by the Constitution and statutes of the United States, including sections 3301 and 7301 of title 5 of the United States Code, and as President of the United States, Executive Order No. 11491[1] of October 29, 1969, relating to labor-management relations in the Federal service, is amended as follows:

1. Section 2(b) is amended by deleting the words "formal or".

2. Paragraph (2) of section 2(e) is amended to read as follows:

"(2) assists or participates in a strike against the Government of the United States or any agency thereof, or imposes a duty or obligation to conduct, assist, or participate in such a strike;"

3. Section 4(a) is amended to read as follows:

"(a) There is hereby established the Federal Labor Relations Council, which consists of the Chairman of the Civil Service Commission, who shall be chairman of the Council, the Secretary of Labor, the Director of the Office of Management and Budget, and such other officials of the executive branch as the President may designate from time to time. The Civil Service Commission shall provide administrative support and services to the Council to the extent authorized by law."

4. Section 6(a) is amended—

(a) by deleting the word "and" at the end of paragraph (3).

(b) by substituting for paragraph (4) the following:

"(4) decide unfair labor practice complaints and alleged violations of the standards of conduct for labor organizations; and"

(c) by adding at the end thereof the following:

"(5) decide questions as to whether a grievance is subject to a negotiated grievance procedure or subject to arbitration under an agreement."

5. Section 7(d) is amended to read as follows:

"(d) Recognition of a labor organization does not—

"(1) preclude an employee, regardless of whether he is in a unit of exclusive recognition, from exercising grievance or appellate rights established by law or regulations; or from choosing his own representative in a grievance or appellate action, except when presenting a grievance under a negotiated procedure as provided in section 13;

[1] 3 CFR 1969 Comp., p. 191; 34 F.R. 17605.

"(2) preclude or restrict consultations and dealings between an agency and a veterans organization with respect to matters of particular interest to employees with veterans preference; or

"(3) preclude an agency from consulting or dealing with a religious, social, fraternal, professional or other lawful association, not qualified as a labor organization, with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members.

"Consultations and dealings under subparagraph (3) of this paragraph shall be so limited that they do not assume the character of formal consultation on matters of general employee-management policy, except as provided in paragraph (e) of this section, or extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interests of other employees."

6. Section 7(f) is amended to read as follows:

"(f) Informal recognition or formal recognition shall not be accorded."

7. Section 8 is revoked.

8. Section 13 is amended to read as follows:

"Sec. 13. *Grievance and arbitration procedures.*

"(a) An agreement between an agency and a labor organization shall provide a procedure, applicable only to the unit, for the consideration of grievances over the interpretation or application of the agreement. A negotiated grievance procedure may not cover any other matters, including matters for which statutory appeals procedures exist, and shall be the exclusive procedure available to the parties and the employees in the unit for resolving such grievances. However, any employee or group of employees in the unit may present such grievances to the agency and have them adjusted, without the intervention of the exclusive representative, as long as the adjustment is not inconsistent with the terms of the agreement and the exclusive representative has been given opportunity to be present at the adjustment.

"(b) A negotiated procedure may provide for the arbitration of grievances over the interpretation or application of the agreement, but not over any other matters. Arbitration may be invoked only by the agency or the exclusive representative. Either party may file exceptions to an arbitrator's award with the Council, under regulations prescribed by the Council.

"(c) Grievances initiated by an employee or group of employees in the unit on matters other than the interpretation or application of an existing agreement may be presented under any procedure available for the purpose.

"(d) Questions that cannot be resolved by the parties as to whether or not a grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, may be referred to the Assistant Secretary for decision.

"(e) No agreement may be established, extended, or renewed after the effective date of this Order which does not conform to this section. However, this section is not applicable to agreements entered into before the effective date of this Order."

9. Section 14 is revoked.

10. Section 19(d) is amended to read as follows:

"(d) Issues which can properly be raised under an appeals procedure may not be raised under this section. Issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under that procedure or the complaint procedure under this section, but not under both procedures. Appeals or grievance decisions shall not be construed as unfair labor practice decisions under this Order nor as precedent for such decisions. All complaints under this section that cannot be resolved by the parties shall be filed with the Assistant Secretary."

11. Section 20 is amended to read as follows:

"SEC. 20. *Use of official time*. Solicitation of membership or dues, and other internal business of a labor organization, shall be conducted during the non-duty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management, except to the extent that the negotiating parties agree to other arrangements which may provide that the agency will either authorize official time for up to 40 hours or authorize up to one-half the time spent in negotiations during regular working hours, for a reasonable number of employees, which number normally shall not exceed the number of management representatives."

12. Section 21 is amended to read as follows:

"SEC. 21. *Allotment of dues*. (a) When a labor organization holds exclusive recognition, and the agency and the organization agree in writing to this course of action, an agency may deduct the regular and periodic dues of the organization from the pay of members of the organization in the unit of recognition who make a voluntary allotment for that purpose. Such an allotment is subject to the regulations of the Civil Service Commission, which shall include provision for the employee to revoke his authorization at stated six-month intervals. Such an allotment terminates when—

"(1) the dues withholding agreement between the agency and the labor organization is terminated or ceases to be applicable to the employee; or

"(2) the employee has been suspended or expelled from the labor organization.

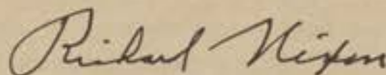
"(b) An agency may deduct the regular and periodic dues of an association of management officials or supervisors from the pay of members of the association who make a voluntary allotment for that purpose, when the agency and the association agree in writing to this course of action. Such an allotment is subject to the regulations of the Civil Service Commission."

13. Section 24 is amended by deleting "(a)" after the section heading; and by deleting subsections (b), (c), and (d).

14. Section 25(a) is amended to read as follows:

"(a) The Civil Service Commission, in conjunction with the Office of Management and Budget, shall establish and maintain a program for the policy guidance of agencies on labor-management relations in the Federal service and periodically review the implementation of these policies. The Civil Service Commission shall continuously review the operation of the Federal labor-management relations program to assist in assuring adherence to its provisions and merit system requirements; implement technical advice and information programs for the agencies; assist in the development of programs for training agency personnel and management officials in labor-management relations; and, from time to time, report to the Council on the state of the program with any recommendations for its improvement."

The amendments made by this Order shall become effective ninety days from this date. Each agency shall issue appropriate policies and regulations consistent with this Order for its implementation.



THE WHITE HOUSE,
August 26, 1971.

[FR Doc.71-12734 Filed 8-27-71; 9:11 am]

Rules and Regulations

Title 7—AGRICULTURE

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

[Lemon Reg. 495]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.795 Lemon Regulation 495.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on August 24, 1971.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period August 29 through September 4, 1971, is hereby fixed at 200,000 cartons.

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

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

Dated: August 26, 1971.

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

[FR Doc.71-12688 Filed 8-27-71;8:53 am]

PART 925—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN IDAHO AND IN MALHEUR COUNTY, OREG.

Expenses and Rate of Assessment and Carryover of Unexpended Funds

On August 3, 1971, notice of rule making was published in the FEDERAL REGISTER (36 F.R. 14269) regarding proposed expenses, the related rate of assessment for the fiscal period July 1, 1971, through June 30, 1972, and carryover of unexpended funds from the fiscal period ended June 30, 1971, pursuant to the marketing agreement and Order No. 925 (7 CFR Part 925) regulating the handling of fresh prunes grown in designated counties in Idaho and in Malheur County, Oreg. This notice allowed interested persons 10 days during which they could submit data, views, or arguments pertaining to these proposals. None were submitted. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Idaho-Malheur County, Oreg., Fresh Prune Marketing Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 925.211 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Idaho-Malheur County, Oreg., Fresh Prune Marketing Committee during the fiscal period July 1, 1971, through June 30, 1972, will amount to $5,870.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 925.41, is fixed at $0.01 per one-half bushel (30-pound) containers or equivalent quantity of fresh prunes.

(c) *Reserve.* Unexpended assessment funds, in excess of expenses incurred during the fiscal period ended June 30, 1971, shall be carried over as a reserve in accordance with the applicable provisions of §§ 925.42 and 925.203.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of fresh prunes grown in the designated production area are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all assessable prunes handled during the aforesaid period; and (3) such period began on July 1, 1971, and said rate of assessment will automatically apply to all such prunes beginning with such date.

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

Dated: August 25, 1971.

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

[FR Doc.71-12679 Filed 8-27-71;8:51 am]

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Expenses and Rate of Assessment

On August 13, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 15125) regarding proposed expenses and the related rate of assessment for the period April 1, 1971, through March 31, 1972, pursuant to the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601674). After consideration of all relevant matters presented, including the

proposals set forth in such notice which were submitted by the Industry Committee (established pursuant to said amended marketing agreement and order) it is hereby found and determined that:

§ 926.211 Expenses and rate of assessment.

(a) Expenses: Expenses that are reasonable and likely to be incurred by the Industry Committee during the period April 1, 1971, through March 31, 1972, will amount to $29,720.

(b) Rate of assessment: The rate of assessment for said period, payable by each handler in accordance with § 926.46, is fixed at two cents ($0.02) per standard package or equivalent quantity of grapes.

(c) Terms used in the amended marketing agreement and this part shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and this part.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of Tokay grapes are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable Tokay grapes from the beginning of such period; and (3) such period began on April 1, 1971, and the rate of assessment herein fixed will automatically apply to all assessable grapes beginning with such date.

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

Dated: August 24, 1971.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable Division, Consumer and Marketing Service.

[FR Doc.71-12625 Filed 8-27-71;8:48 am]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Docket No. AO-361-A2-RO2; Milk Order 30]

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

FINDINGS AND DETERMINATIONS

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

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Chicago Regional marketing area. The hearing was held 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 (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) or more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Chicago regional marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. In § 1030.10 paragraph (c) is revised to read as follows:

§ 1030.10 Plant.

* * * * *

(c) "Supply plant" means a plant from which a Grade A fluid milk product is shipped or transshipped during the month to another plant. Such supply plant shall be equipped with storage capacity sufficient to hold the largest quantity of fluid milk product either received in the plant or shipped from the plant as a single load during the month, except no storage capacity shall be maintained in a plant at which only milk moved from the farm in a tank truck which is transferred and commingled in another tank truck with other milk for transshipment.

2. In § 1030.11 paragraph (b) the text through subparagraph (1)(i) plus subparagraph (5) is revised as follows:

§ 1030.11 Pool plant.

* * * * *

(b) A supply plant from which the quantity of fluid milk products (except filled milk) and condensed skim milk shipped or transshipped during the months in accordance with subparagraphs (1) and (2) of this paragraph is not less than the percentages specified in subparagraph (4) of this paragraph subject to subparagraphs (5), (6), (7), and (8) of this paragraph of the volume of Grade A milk received from dairy farmers and cooperative associations pursuant to § 1030.13(e), including producer milk diverted under § 1030.16. Such receipts shall be reduced by the disposition of packaged fluid milk products described in subparagraph (3) of this paragraph.

(1) Shipped or transshipped as fluid milk products to and physically unloaded into:

(i) Pool plants pursuant to paragraph (a) of this section to the extent of the quantity determined pursuant to subparagraph (5) of this paragraph;

* * * * *

(5) For the purpose of determining the percentage specified in subparagraph (4) of this paragraph the quantity of fluid milk products moved pursuant to subparagraph (1)(i) of this paragraph shall be a net quantity assignable at pool distributing plants computed by subtracting from the quantity of fluid milk products received from a supply plant, but not to exceed such quantity, the amounts described in subdivisions (i) and (ii) of this subparagraph. If fluid milk products are received from more than one supply plant such net quantity assignable shall be prorated among such supply plants in accordance with the total receipts from such plants.

(i) The quantity of fluid milk products in the form of bulk milk and skim milk transferred from the distributing plant to pool supply plants plus any such bulk shipments to nonpool plants as Class II milk, other than pursuant to § 1030.41 (b)(4), on the day of the receipt from the supply plant.

(ii) If milk is diverted from the distributing plant on the date of the receipt from the supply plant, the quantity so diverted, except any diversion of milk (not to exceed 3 days' prod ction of any individual producer) made because of an emergency situation such as a breakdown of trucking equipment or hazardous road conditions shall not be subtracted if such emergency is reported to the market administrator.

* * * * *

3. Section 1030.15 is revised as follows:

§ 1030.15 Producer.

"Producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority and whose milk is received at a pool plant or diverted pursuant to § 1030.16 except:

(a) A dairy farmer who is a government and has nonproducer status for the month pursuant to § 1030.9;

(b) A producer handler as defined in any order (including this part) issued pursuant to the Act; and

(c) A dairy farmer who is defined as a producer under the terms of another order issued pursuant to the Act whose milk is received at a pool plant as a diversion from an other order plant and is assigned pursuant to § 1030.46(a)(4)(ii) and the corresponding step of § 1030.46 (b).

4. Section 1030.16 is revised as follows:

§ 1030.16 Producer milk.

"Producer milk" means milk produced by producers which is:

(a) Received at a pool plant directly from producers, by being physically unloaded into processing facilities or a storage tank (including another tank truck in the case of a reload facility), and the shrinkage of skim milk and butterfat in milk received from producers' farms which was not unloaded in a pool plant. Such direct receipts from producers shall include the portion of a tank truck load of milk unloaded in a pool plant in the case where a portion of such load was first unloaded at another pool plant or diverted to a nonpool plant. The quantity of milk so received at each such plant shall be prorated over the total quantity of milk picked up at each producer's farm.

(b) Received by a handler pursuant to § 1030.13(h).

(c) Received at a pool plant from a cooperative association handler pursuant to § 1030.13(e). The utilization value of such milk at class prices shall be included in the receiving handler's net pool obligation pursuant to § 1030.70;

(d) Received by a cooperative association as a handler pursuant to § 1030.13(e) to the extent of the shrinkage of skim milk and butterfat received from producers' farms which was not received in a pool plant under paragraph (c) of this section. In applying §§ 1030.53 and 1030.82 such skim milk and butterfat shall be deemed to be received at the location of the pool plant to which delivery is normally made.

(e) Diverted from a pool plant to a nonpool plant subject to the conditions specified in this paragraph. Milk shall be eligible for diversion as producer milk only if the person producing such milk had delivered milk as producer milk to a pool plant prior to the diversion, and until the end of the first full month after his milk is first received in a pool plant the quantity of such producer's milk diverted shall not exceed the quantity received in a pool plant. Milk picked up at a producer's farm in a tank truck, to the extent it is unloaded at a nonpool plant, shall be subject to the conditions specified in this paragraph and if the tank truck contains milk from more than one producer the quantity subject to the conditions specified in this paragraph shall be prorated over the total quantity of milk picked up at each producer's farm. Milk so diverted shall be considered as received at the pool plant from which diverted in calculating the percentages specified in § 1030.11. The location price differentials pursuant to § 1030.82 shall be based on the zone location of the nonpool plant(s) where such milk is physically received, except in the case of a distributing plant, diverted milk of a producer shall be priced at the location of such plant if during the month not more than 4 days' production of such producer is diverted, or if the diverted milk is part of a tank truckload of milk that exceeds the milk storage capacity in such distributing plant. Diverted milk shall be limited as follows:

(1) Milk of a producer diverted for the account of the operator of the plant from which such milk is diverted in any of the months August through December which does not exceed the quantity of such producer's milk received in the pool plant;

(2) Milk of a producer diverted by a cooperative as a handler pursuant to § 1030.13(d) may not in any of the months August through December exceed the quantity of such producer's milk received in the pool plant from which it was diverted. To the extent that milk diverted by a cooperative as a handler during any month would result in the plant failing to qualify as a pool plant under § 1030.11 such diverted milk shall not be producer milk;

(3) Milk diverted to an other order plant shall be producer milk pursuant to this section only if it is not producer milk under such other order; and

(4) Milk of a producer diverted by a handler who fails to report the information required pursuant to § 1030.31(b)(4) shall not be considered producer milk pursuant to this paragraph.

5. In § 1030.30 subparagraph (3) of paragraph (a) is revised to read as follows:

§ 1030.30 Reports of receipts and utilization.

* * * * *

(a) * * *

(3) Fluid milk products received from pool plants of other handlers (or other pool plants, as applicable), including a separate statement of the net receipts from each supply plant computed pursuant to § 1030.11(b)(5), except during the months of January through July no such separate statement need be made if receipts from supply plants are from only plants that were pool plants during the prior months of August through December;

* * * * *

6. The cross references to paragraphs (a-1), (b), (c), and (d) of § 1030.16 are changed to paragraphs (b), (c), (d), and (e), respectively, wherever they appear throughout the order (namely in §§ 1030.31(b)(3), 1030.41(b), 1030.45(c), 1030.70, and 1030.88).

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

Effective date: October 1, 1971.

Signed at Washington, D.C., on August 25, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71-12678 Filed 8-27-71;8:51 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1427—COTTON

Subpart—Seed Cotton Loan Program Regulations

This subpart issued by the Commodity Credit Corporation contains the terms and conditions under which loans on seed cotton will be made available. It is impracticable to follow the notice of proposed rule making procedure with respect to this subpart because 1971-crop cotton is being harvested and it is essential that the program provided in this subpart be put into effect with respect to such cotton at the earliest possible time. Therefore, this subpart is being issued without following such proposed rule making procedure and shall be effective upon publication in the FEDERAL REGISTER (8-28-71).

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AUTHORITY: The provisions of this subpart issued under secs. 4, 5, 62 Stat. 1070, as amended; 15 U.S.C. 714b and c.

§ 1427.160 General statement.

The regulations in this subpart, including any amendments hereto, set forth the requirements with respect to recourse loans on eligible upland and American-Pima seed cotton of the 1971 crop. Recourse loans will be made available by CCC through county offices to eligible cotton producers and approved cotton cooperative marketing associations at approved locations.

§ 1427.161 Administration.

(a) *Responsibility*. The Commodity Loan and Service Division Agricultural Stabilization and Conservation Service, will administer the provisions of this subpart under the general supervision and direction of the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service, in accordance with program provisions and policy determined by the CCC Board of Directors and the President or Executive Vice President, CCC. In the field, the program in this subpart will be administered by the Agricultural Stabilization and Conservation State and county committees, and the New Orleans office.

(b) *Limitation of authority*. County executive directors, State and county committees, the New Orleans office, and employees thereof, do not have authority to waive or modify any of the provisions of the regulations in this subpart.

(c) *State committee*. The State committee may take any action authorized or required by the regulations in this subpart to be taken by the county committee which has not been taken by such committee. The State committee may also (1) correct or require a county committee to correct any action taken by such county committee which is not in accordance with the regulations in this subpart, or (2) require a county committee to withhold taking any action which is not in accordance with the applicable regulations in this subpart.

(d) *Executive Vice President, CCC*. No delegation herein to a State or county committee or the New Orleans office shall preclude the President or Executive Vice President, CCC, or his designee, from determining any question arising under the regulations in this subpart or from reversing or modifying any determination made by a State or county committee or the New Orleans office.

§ 1427.162 Availability of loans.

(a) *Locations*. Loans on eligible cotton shall be available only at locations where past experience and conditions make it feasible, subject to the approval of the President or Executive Vice President, CCC. A ginner who desires approval and desires to participate in the program shall submit an application for a determination of eligibility. An application form related questionnaire, and copies of these regulations shall be obtained from the Commodity Loan and Service Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture. Such applications must be filed not later than October 1, 1971, or by such later date as the President or Executive Vice President, CCC, may authorize to alleviate hardship.

(b) *Period of availability*. Loans will be available from the beginning of harvest through March 31, 1972.

§ 1427.163 Disbursement of loans.

(a) *Where to request loans*. Producers shall request loans at the local county office for the county where the cotton is stored.

(b) *Disbursement of loans*. Disbursement of each loan will be made by the county office of the county in which the cotton is stored by means of drafts drawn on CCC by the county office. Service charges shall be deducted from the loan proceeds. The producer or his agent shall not present the loan documents for disbursement unless the cotton is in existence and in good condition. If the cotton is not in existence and in good condition at the time of disbursement, the producer shall immediately return the draft issued in payment of the loan or, if the draft has been negotiated, shall promptly return the proceeds.

§ 1427.164 Eligible producer.

(a) *Producer*. An eligible producer is any individual, partnership, corporation, association, trust, estate, or other legal entity, a State or political subdivision thereof, or an agency of such State or political subdivision producing eligible upland or eligible American-Pima seed cotton in the capacity of landowner, landlord, tenant, or sharecropper. If eligible seed cotton is produced on a farm by a landlord and his share tenant or sharecropper, a loan may be obtained only as follows:

(1) If the seed cotton is divided among the producers entitled to share in such cotton, each landlord, tenant, or sharecropper may obtain a loan on his separate share.

(2) If the seed cotton is not divided, all producers having a share in the seed cotton may obtain a joint loan on such cotton.

(b) *Estates and trusts*. A receiver of an insolvent debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate of a ward or an incompetent person, and trustees of a trust estate shall be considered to represent the insolvent debtor, the deceased person, the ward or incompetent person, and the beneficiaries of a trust, respectively, and the production of the receiver, executor, administrator, guardian, or trustee shall be considered to be the production of the person he represents. Loan documents executed by any such person will be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(c) *Eligibility of minors*. A minor who is otherwise an eligible producer shall be eligible for a loan only if he meets one of the following requirements: (1) The right of majority has been conferred on him by court proceedings or by statute; (2) a guardian has been appointed to manage his property and the applicable loan documents are signed by the guardian; (3) any note signed by the minor is cosigned by a financially responsible person; or (4) a bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had he been an adult.

(d) *Approved cooperative*. A cooperative marketing association which is approved by the Executive Vice President, CCC, pursuant to Part 1425 of this chapter, to obtain loan(s) on a crop of cotton, may obtain loans on eligible production of such crop on behalf of its members. The term "producer" as used in this subpart and on applicable forms shall refer both to an eligible producer as defined in paragraphs (a), (b), and (c) of this section and to an approved cooperative marketing association unless the content otherwise requires.

§ 1427.165 Eligible seed cotton.

Upland and American-Pima seed cotton produced by eligible producers is eligible cotton if it meets the following requirements:

(a) Such cotton must be tendered for a loan within the availability period of § 1427.162 and must be cotton of the 1971 crop.

(b) Upland cotton must have been produced by a "cooperator" as defined in section 408(b) of the Agricultural Act of 1949, as amended, on a farm determined to be in compliance with the set aside payment requirements of the Upland Cotton Program as prescribed in Parts 718, 722, and 791 of this title and any amendments thereto. American-Pima cotton must have been produced by a "cooperator" as defined in section 408(b) of the Agricultural Act of 1949, as amended on a farm determined to be in compliance with price support payment requirements of the Extra Long Staple Cotton Program as prescribed in Parts 718, 722, and 791 of this title and any amendments thereto.

(c) Such cotton must be in existence and in good condition.

(d) The producer tendering the cotton for loan must have the legal right to pledge it as security for a loan.

(e) If such cotton was produced on land owned by the Federal Government pursuant to a lease, permit, or other right of possession, it must not have been produced in violation of the provisions thereof. Such cotton must not have been produced on land owned by the Federal Government which is being occupied without lease, permit, or right of possession.

(f) The producer tendering such cotton must not have previously sold and repurchased such cotton or placed it under CCC loan and redeemed it.

(g) The beneficial interest in the cotton must be in the producer tendering the cotton for a loan and must have always been in him or in him and a former producer whom he succeeded before it was harvested. To meet the requirements of succession to a former producer, the right, responsibilities, and interest of the former producer with respect to the farming unit on which the cotton was produced shall have been substantially assumed by the person claiming succession. Mere purchase of the crop prior to harvest without acquisition of any additional interest in the farming unit shall not constitute succession. The county committee shall determine whether the requirements with respect to succession have been met. A producer shall not be considered to have divested himself of the

beneficial interest in the cotton if he enters into a contract to sell, or gives an option to buy his cotton, if, under the contract or option, he retains control and risk of loss of and title to the cotton, and retains control of its production. If price support is made available through an approved cooperative marketing association, the beneficial interest in the cotton must always have been in the producer members who delivered the cotton to the approved cooperative or its member cooperatives or must always have been in them and former producers whom they succeeded before the cotton was harvested. Cotton so delivered to a cooperative marketing association shall not be eligible for price support if the producer members who delivered the cotton to the cooperative or its member cooperatives do not retain the right to share in the proceeds from the cotton as provided in Part 1425 of this chapter.

(h) If the person tendering the cotton for a loan is a landowner, landlord, tenant, or sharecropper, the cotton must be his separate share of the crop and must not have been acquired by him directly or indirectly from a landowner, landlord, tenant or sharecropper, or have been received in payment of fixed or standing rent.

(i) The cotton must be stored in identity preserved lots in approved storage meeting requirements of § 1427.171.

§ 1427.166 Insurance.

The cotton must be insured at the full market value against loss or damage by fire, lightning, windstorm, cyclone, and tornado.

§ 1427.167 Liens.

If there are any liens or encumbrances on the cotton, waivers that will fully protect the interest of CCC must be obtained even though the liens or encumbrances are to be satisfied from the loan proceeds, except in the case of approved cooperatives who agree to hold CCC harmless from liability to prior lienholders. In lieu of waiving his prior lien on the cotton tendered as security for a loan, a lienholder may execute a Lienholder's Subordination Agreement (Form CCC-864) with CCC in which he subordinates his security interest to the rights of CCC in the cotton. A fraudulent representation as to prior liens or otherwise will render the producer liable under the civil frauds statutes and subject him and any other person who causes the fraudulent representation to be made to criminal prosecution under the provisions of the Commodity Credit Corporation Charter Act.

§ 1427.168 Forms, authorizations and other documents.

The documents to be delivered by producers in connection with each loan shall be as follows: A Note, Chattel Mortgage and Security Agreement, any required lien waiver or subordination agreement, and such other documents as required by CCC.

§ 1427.169 Loan rate and quality.

(a) *Loan rate.* The loan rate applicable to each quality of seed cotton placed under loan shall be the loan rate as specified in the applicable crop supplement to this Part 1427, Cotton Loan Program Regulations for that quality of cotton in the county where stored.

(b) *Quality.* The quality to be used in determining the loan rate shall be the estimated quality of lint cotton in each lot of seed cotton as determined by the county office, except that if a control sample of the lot of cotton is classed by a USDA Board of Cotton Examiners the quality for the lot shall be the quality shown on the Form 1 or Form 3 classification card issued for the control sample.

§ 1427.170 Quantity for loan.

(a) *Quantity.* The quantity of lint cotton in each lot of seed cotton tendered for loan shall be determined by the county office by multiplying the weight or estimated weight of the seed cotton by the lint turnout factor determined in accordance with paragraph (b) of this section.

(b) *Lint turnout factor.* The lint turnout factor for any lot of seed cotton shall be the percentage determined by the county committee representative during the initial inspection of the lot. If a control portion of the lot is weighed and ginned, the lint turnout factor determined for the portion of cotton ginned will be used for the lot. If a control portion is not weighed and ginned, the lint turnout factor shall not exceed 32 percent for machine picked cotton and 22 percent for machine stripped cotton.

(c) *Maximum quantity for loan.* Loans shall not be made on more than a percentage established by the county committee or the quantity of lint cotton determined as provided in this section. If the seed cotton is weighed, the percentage to be used shall not be more than 95 percent. If the quantity is determined by measurement, the percentage to be used shall not be more than 90 percent. The percentage to be used in determining the maximum quantity for any loan may be reduced below such percentages by the county committee when determined necessary to protect the interests of CCC on the basis of one or more of the following risk factors: (1) Condition or suitability of the storage site or structure, (2) condition of the cotton, (3) location of the storage site or structure, and (4) other factors peculiar to individual farms or producers which relate to the preservation or safety of the loan collateral. Loans may be made on a lower percentage basis at the producer's request.

§ 1427.171 Approved storage.

Approved storage shall consist of storage located on or off the producer's farm (excluding public warehouses) which is determined by a county committee representative to afford adequate protection against loss or damage and which is located within a reasonable distance, as determined by CCC, of an approved gin. If the cotton is stored off the producer's farm, the producer must furnish satisfactory evidence that he has the authority to store the cotton on such property and that the owner of such property has no lien for such storage against the cotton.

§ 1427.172 Loan service fee.

A producer shall pay a loan service of $8 for each loan disbursed. This fee is not refundable.

§ 1427.173 Interest rate.

Loans shall bear interest at the same rate as that announced for form A cotton loans in a separate notice published in the FEDERAL REGISTER.

§ 1427.174 Restrictions in use of agents.

A producer shall not delegate to any person (or his representative) who has any interest in storing, processing, or merchandising any seed cotton eligible for loans under these regulations, authority to exercise on behalf of the producer any of the producer's rights or privileges under this program or any note, chattel mortgage and security agreement or other instrument executed in obtaining loans under such program, unless the person (or his representative) to whom authority is delegated is serving in the capacity of a farm manager for the producer. Any delegation of authority given in violation of this paragraph shall be without force and effect and shall not be recognized by CCC.

§ 1427.175 Setoffs.

(a) *Facility and drying equipment loans.* If any installment or installments on any loan made by CCC on farm storage facilities or drying equipment are due and payable under the provisions of the note evidencing such loan out of any amount due the producer under the regulations in this subpart, the amount due the producer, after deduction of applicable fees and charges and amounts due prior lienholders, shall be applied to satisfy the amounts due and payable on such installment(s).

(b) *Producers listed on county claim control record.* If the producer is indebted to CCC or to any other agency of the United States and such indebtedness is listed on the county claim control record, amounts due the producer under the regulations in this subpart, after deduction of amounts due and payable on farm storage facilities or drying equipment and other amounts provided in paragraph (a) of this section, shall be applied as provided in the Secretary's Setoff Regulations, Part 13 of this title, to such indebtedness.

(c) *Producer's right.* Compliance with the provisions of this section shall not deprive the producer of any right he would otherwise have to contest the justness of the indebtedness involved in the setoff action, either by administrative appeal or by legal action.

§ 1427.176 Loss or damage to the cotton.

The producer is responsible for any loss in quantity or quality of the cotton under loan.

§ 1427.177 Maturity.

Loans on seed cotton are due and payable on May 31, 1972, or upon such

earlier date as CCC may make written demand for payment in order to be in a position to conform to State or local quarantine regulations or for other reasons.

§ 1427.178 Settlement.

(a) *Release of chattel mortgage.* The chattel mortgage shall not be released until the loan has been satisfied in full. After satisfaction of a loan, the county executive director shall release the chattel mortgage.

(b) *Repayment of loan.* A producer may, at any time prior to May 31, 1972, obtain release of all or any part of the loan cotton by paying the amount of the loan thereon, plus interest and charges, to CCC.

(c) *Removal of loan cotton.* A producer shall not remove from storage any cotton covered by a chattel mortgage until he has received prior written approval from the county committee for removal of such cotton. Any such approval shall be subject to the terms and conditions set out in the approval form. If a producer obtains such approval, he may remove such cotton from storage, have it ginned, and sell the seed cotton or the lint cotton and cottonseed obtained therefrom. If the seed cotton is removed from storage, the loan, interest, and charges thereon must be satisfied not later than 30 days after the date the county office authorizes the removal action or the loan maturity, whichever is earlier. If the seed cotton or lint cotton is sold, the loan, interest, and charges must be satisfied immediately. A producer (except a cooperative) may obtain a form A loan on the lint cotton, but the loan, interest, and charges on the seed cotton must be satisfied out of the proceeds of the form A loan. An approved cooperative must repay the seed cotton loan, interests, and charges before pledging the cotton for a form G loan. Any such removal from storage shall not be deemed to constitute a release of CCC's security interest in the cotton or to release the producer from liability for the loan, interest, and charges if full payment of such amount is not received by the county office.

(d) *Cotton going out of condition.* If, either before or after maturity the producer discovers that the cotton is going out of condition or is in danger of going out of condition, the producer shall immediately so notify the county office and confirm such notice in writing. If the county committee determines that the cotton is going out of condition or is in danger of going out of condition, the county committee will call for repayment of the loan on or before a specified date. If the producer does not repay the loan or have the cotton ginned and obtain a form A loan on the lint cotton produced therefrom within the period as specified by the county committee, the cotton shall be considered abandoned.

(e) *Need for removal from storage.* If the producer has control of the storage site and if he subsequently loses control of the storage site or there is danger of flood or damage to the cotton or storage structure making continued storage of the cotton unsafe, the producer shall immediately either repay the loan or move the cotton to the nearest approved gin for ginning and shall, at the same time, inform the county office. If the producer does not do so, the cotton shall be considered abandoned.

§ 1427.179 Fraud and unlawful disposition.

The making of any fraudulent representation by a producer in the loan documents, in obtaining a loan, or in connection with settlement, or the unlawful disposition of any portion of the cotton by him, shall render the producer subject to criminal prosecution or action under civil frauds statutes under Federal law.

§ 1427.180 Foreclosure.

Any seed cotton pledged to CCC as security for loan which is abandoned or which has not been removed from storage by loan maturity may be removed from storage by CCC and ginned and the resulting lint cotton warehoused for the account of CCC. The lint cotton and cottonseed may be sold, at such time, in such matter, and upon terms as CCC may determine at public or private sale. CCC may become the purchaser of the whole or any part of such cotton and cottonseed. If the proceeds are less than the amount due on the loan (including interest, ginning charges, and any other charges incurred by CCC), the producer shall be liable for such difference. Any overplus remaining from the proceeds received therefrom, after deducting from such proceeds the amount of the loan, interest, ginning charges, and any other charges, shall be paid to the producer or his personal representative without right of assignment to or substitution of any other person.

§ 1427.181 Definitions.

As used in the regulations in this subpart, and in all instructions, forms, and documents in connection therewith, the words and phrases listed in this section shall have the meaning assigned to them herein unless the content or subject matter otherwise requires:

(a) *General.* The following words or phrases: "Person", "State committee", "State executive director", "county committee", "county executive director", and "farm", respectively, shall each have the same meaning as the definitions of such term in the Regulations Governing Reconstitution of Farms, Allotments, and Bases, Part 719 of this title and any amendments thereto.

(b) *CCC.* The term "CCC" shall mean Commodity Credit Corporation.

(c) *New Orleans office.* The term "New Orleans office" shall mean the New Orleans Agricultural Stabilization and Conservation Service Commodity Office, 120 Marais Street, New Orleans, LA 70112.

(d) *County committee.* The term "county committee" shall mean only the county committee and not its representative.

(e) *County office.* The term "county office" shall mean the Agricultural Stabilization and Conservation county office.

(f) *Chattel mortgage.* The term "chattel mortgage" means any security instrument which secures a loan under this subpart.

(g) *Charges.* The term "charges" means all fees, costs, and expenses incident to insuring, carrying, handling, storing, ginning, conditioning, and marketing the cotton and cottonseed and otherwise protecting the interest in the loan collateral of CCC or the producer.

(h) *Representative of the county committee and county committee representative.* The terms "representative of the county committee" and "county committee representative" means a member of the county committee, the county executive director, or a person designated by the county executive director to act in his behalf.

(i) *Seed cotton.* The term "seed cotton" shall mean cotton which has not passed through the ginning process.

(j) *Lint cotton.* The term "lint cotton" shall mean cotton which has passed through the ginning process.

Effective date: Upon publication in the FEDERAL REGISTER (8-28-71).

Signed at Washington, D.C., on August 23, 1971.

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

[FR Doc.71-12628 Filed 8-27-71;8:48 am]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Y]

SIMPLIFICATION OF PROCEDURES

The Board of Governors has under continuing review its procedures for the discharge of its supervisory responsibilities. This is imperative in the area of bank holding companies, where the number of applications for the Board's approval of the formation of bank holding companies has increased substantially following the 1970 amendments to the Bank Holding Company Act. The Board is also experiencing an increase in the number of requests for its approval of nonbanking activities pursuant to section 4(c)(8) of the Act.

In the Board's judgment, one-bank holding company formations normally present no significant issues. The Board believes that the questions that arise can generally be handled by the Reserve Bank of the district in which the holding company's bank is located, and that, because of the absence of significant issues, publication of a formal order and statement in one-bank holding company formation cases generally serves no useful purpose. Accordingly, the Board has delegated the bulk of its authority to approve the formation of one-bank holding com-

panies to the Reserve Banks and has dispensed with the publication of an order and statement in cases approved by a Reserve Bank.

In May, the Board adopted procedures under which holding companies may engage in activities that the Board has determined, on the basis of a rulemaking proceeding under section 4(c)(8) of the act, are closely related to banking. Those procedures differ depending on whether the activity is to be engaged in de novo or through acquisition of a going concern. The former requires a holding company to publish notice of its proposal in a local newspaper; the latter requires a formal application, in addition to such a notice.

The Board has reexamined those procedures in the light of suggestions made during the course of its recent rulemaking proceedings to implement section 4(c)(8). It has concluded that the procedures adopted in May are unnecessary when the balance of the public interest factors the Board is required to consider in approving holding company activities or acquisitions on the basis of section 4(c)(8) will usually be favorable. Consistently with that view, the Board has exempted from those procedures the following activities, subject to certain conditions:

(1) Operating a finance company with assets of less than $10 million.

(2) Engaging in activities the Board has determined are closely related to banking that are shifted from within the structure of a bank in the holding company system to the holding company or a nonbanking subsidiary.

(3) Engaging de novo in all kinds of insurance agency activities the Board has recently determined to be closely related to banking, except in cases where the holding company must demonstrate that the community in which the insurance is to be sold has inadequate insurance agency facilities.

These exemptions are set forth in § 222.4(b)(3) below and become effective September 1, 1971. For supervisory reasons and to assure that there is no misunderstanding with respect to the scope of activities that may be engaged in without complying with the procedures of § 222.4(b)(1) and (2), a holding company is required to notify its Reserve Bank 45 days before shifting assets from a bank or engaging in insurance agency activities.

The Board's action with respect to insurance agency activities is based on its experience under the provisions of section 4(c)(8) before the 1970 amendments, its conclusion that the Congress by the 1970 amendments did not place into question the propriety of the Board's earlier determinations, its view of its authority with respect to the public interest factors of the present law as indicated above, the fact that the approach of its recent determination relating to insurance agency activities as closely related to banking is similar to its approach under the former section 4(c)(8), and its evaluation of the record of the recent rulemaking proceeding relating to insurance agency activities.

To accomplish the actions described above, the Board has amended its regulations as follows:

PART 222—BANK HOLDING COMPANIES

1. Section 222.3(b) of Regulation Y is amended to read as follows:

§ 222.3 Acquisition of bank shares or assets.

* * * * *

(b) *Action on applications.* Applications under this section are processed in accordance with the procedures specified in the Act and in § 262.3 of the Board's rules of procedure (Part 262 of this chapter). Any application for the Board's approval of the formation of a company that controls only one bank may be consummated 45 days after the company has been informed by its Reserve Bank that its application has been accepted, unless the company is notified to the contrary within that time or is permitted to consummate the transaction at an earlier date.

* * * * *

2. Section 222.4(b) is amended by adding subparagraph (3) to read as follows:

§ 222.4 Nonbanking activities.

* * * * *

(b) * * *

(3) *Simplified procedures.* (i) The procedures of subparagraphs (1) and (2) of this paragraph shall not apply with respect to a holding company or a subsidiary thereof engaging in the following:

(*a*) Making, acquiring, or servicing loans or other extensions of credit for personal, family, or household purposes if the commencement or expansion of such activity does not involve an acquisition of assets of $10 million or more (or the acquisition of shares of a company having such assets) except that (*1*) no holding company may acquire more than $50 million in assets in any calendar year under the provisions of this clause, (*2*) within 30 days after consummation of such an acquisition, the holding company informs its Reserve Bank of the acquisition (in substantially the same form as F.R. Y–4B), and (*3*) whenever necessary to effectuate the purposes of the Act, the Board may require suspension or discontinuation of any action taken, or divestiture of any acquisition made, on authority of this provision and may withdraw such authority with respect to any particular holding company;

(b) Engaging in activities described in paragraph (a) of this section that are shifted from a bank in the holding company system and were engaged in by the bank either de novo or as a result of a merger transaction described in and approved by a Federal supervisory agency pursuant to section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), 45 days after the holding company has informed its Reserve Bank of its proposal to shift such activity (in substantially the same form as F.R. Y–4B), unless the company is notified to the contrary within that time or is permitted to consummate the transaction at an earlier date.

(ii) The procedures of subparagraph (1) of this paragraph shall not apply with respect to a holding company or a subsidiary thereof engaging de novo as insurance agent or broker with respect to the types of insurance listed in subdivisions (i), (ii), and (iii)(*a*) of paragraph (a)(9) of this section, 45 days after the holding company has informed its Reserve Bank of its proposal to engage in such activity (in substantially the same form as F.R. Y–4B), unless the company is notified to the contrary within that time or is permitted to consummate the transaction at an earlier date.

* * * * *

PART 262—RULES OF PROCEDURE

3. Section 262.3(f)(1) and (4) of the rules of procedure is amended to read as follows:

§ 262.3 Applications.

* * * * *

(f) *Bank holding company and merger applications.* * * *

(1) The Board issues each week a list that identifies holding company and merger applications received during the preceding week. Notice of receipt of each holding company application is published in the FEDERAL REGISTER.

* * * * *

(4) Except with respect to actions taken pursuant to delegated authority, the Board's action on an application is embodied in an order that indicates the votes of members of the Board and (i) states the reasons for the Board's action or (ii) is accompanied by a separate Statement of the reasons for the Board's action. Both the order and any accompanying statement are released to the press. Normally, the statement is issued at the time of issuance of the order. Where that is practicable, the statement is issued as promptly as possible. Each such order is published in the FEDERAL REGISTER, and each order and statement are published in the Federal Reserve Bulletin.

* * * * *

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

4. Section 265.2 of the Rules Regarding Delegation of Authority is amended by adding paragraph (f)(22) to read as follows:

§ 265.2 Specific functions delegated to Board employees and Federal Reserve Banks.

* * * * *

(f) Each Federal Reserve Bank is authorized, as to member banks or other indicated organizations headquartered in its district:

* * * * *

(22) Under the provisions of section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842), to approve the

acquisition by a company of a controlling interest in the voting shares of one bank, if (i) no objection to the proposed acquisition has been made by the bank's supervisory authority, (ii) no significant policy issue is raised by the proposal as to which the Board apparently has not had an opportunity to express its views, and (iii) neither the holding company nor any of its subsidiaries or affiliates is engaged in any activities other than those specifically permissible for bank holding companies by either the Act or Part 222 of this chapter (Regulation Y).

The provisions of section 553 of title 5, United States Code, relating to notice and public participation and to deferred effective dates, were not followed in connection with the adoption of these amendments. The Board found that the issues presented were adequately explored in conjunction with its notice of proposed rule making published in the FEDERAL REGISTER on January 29, 1971 (36 F.R. 1430) and concluded that further proceedings relating to this matter would serve no useful purpose.

Effective date. These amendments are effective as to applications filed with the Reserve Banks on or after September 1, 1971.

By order of the Board of Governors, August 19, 1971.

[SEAL] NORMAND BERNARD,
Assistant Secretary.

[FR Doc.71-12615 Filed 8-27-71;8:49 am]

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 71-841]

PART 526—LIMITATIONS ON RATE OF RETURN

PART 531—STATEMENTS OF POLICY

Certificate Accounts

AUGUST 20, 1971.

Resolved, that the Federal Home Loan Bank Board considers it advisable to amend Parts 526 and 531 of the regulations for the Federal Home Loan Bank System (12 CFR Parts 526, 531) for the purpose of (1) removing the percentage-of-savings limitations on certificate accounts of less than $100,000, and (2) adding a statement of policy concerning distribution of certificate account maturities. Accordingly, on the basis of such consideration and for such purposes, the Federal Home Loan Bank Board hereby amends said Parts 526 and 531 as follows, effective August 28, 1971:

1. Part 526 is amended by revoking paragraph (b) of § 526.5 and by revising subparagraphs (2) and (3) of paragraph (a) to read as follows:

§ 526.5 Maximum rate of return payable on certificate accounts of less than $100,000.

(a) *Maximum rates.* * * *

(2) *Maximum rate of 5.75 percent.* Except as is otherwise provided in this section or § 526.5-1, a member institution may pay a return at a rate not in excess of 5.75 percent per annum on any certificate account of $1,000 or more having a fixed or minimum term or qualifying period of not less than 1 year.

(3) *Maximum rate of 6 percent.* Except as is otherwise provided in this section or § 526.5-1, a member institution may pay a return at a rate not in excess of 6 percent per annum on any certificate account of $5,000 or more having a fixed or minimum term or qualifying period of not less than 2 years.

* * * * *

(b) [Revoked]

2. Part 531 is amended by adding a new § 531.7, immediately after § 531.6 thereof, to read as follows:

§ 531.7 Distribution of certificate account maturities.

(a) This is a statement of the Federal Home Loan Bank Board's policy concerning distribution of certificate account maturities. Section 526.5 of this subchapter no longer contains any percentage-of-savings limitations on certificate accounts of less than $100,000. Such limitations were removed by the Board, effective August 28, 1971, to provide for greater flexibility in the management of savings by member institutions. However, member institutions should continue to avoid having substantial amounts of certificate accounts maturing within a relatively short period of time.

(b) In conducting examinations of member institutions whose accounts are insured by the Federal Savings and Loan Insurance Corp., the Board's examiners will review the maturity structure of each institution's certificate accounts. Supervisory action may be taken if the institution has an undue "bunching" of certificate account maturities in any month. Generally, there will be no supervisory objection if the amount of certificate accounts maturing in any month does not exceed 5 percent of the institution's total savings accounts outstanding at the end of its most recent distribution period for regular accounts.

(c) Since a substantial amount of certificate accounts will mature during the first quarter of 1972, member institutions should consider the advisability of entering into agreements with holders of such certificate accounts, prior to maturity thereof, to extend such accounts for varying time periods. However, member institutions should bear in mind that the time period from the date of any such extension to the extended maturity date must equal or exceed the minimum terms or qualifying periods specified for such accounts in § 526.5(a) of this subchapter.

(Sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended; sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1425b, 1437. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that, since affording notice and public procedure on the above amendment would delay it from becoming effective for a period of time and since it is in the public interest that the amendment become effective as soon as possible, the Board hereby finds that notice and public procedure thereon are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and, since the amendment relieves restriction, publication of such amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof is not required; and the Board hereby provides that such amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary.

[FR Doc.71-12635 Filed 8-27-71;8:49 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10465; Amdt. 39-1281]

PART 39—AIRWORTHINESS DIRECTIVES

S.N.I.A.S. Sud Model S.E. 210, MK. VI-R "Caravelle" Airplanes

A proposal to amend Part 39 of the Federal Aviation regulations to include an airworthiness directive requiring installation of a fluid overheat detection system in the Green and Blue hydraulic system on S.N.I.A.S. Sud Model SE.210 MK. VI-R "Caravelle" airplanes was published in the FEDERAL REGISTER 35 F.R. 12213.

Interested persons have been afforded an opportunity to participate in the making of the amendment. The one comment received in response to the notice of proposed rule making has been fully considered. The commentator questioned the necessity for the issuance of an AD in view of its satisfactory service experience with its airplane, and stated that nuisance warnings have been experienced on some airplanes in which the proposed detection systems have been installed. Notwithstanding the satisfactory service experience of the commentator, an undetected overheat condition can occur and the FAA has determined that the AD is necessary. With respect to the nuisance warnings, this problem has been corrected by raising the setting of the overheat sensor to 90° C. This setting is incorporated in Revision 10 to Sud-Caravelle Service Bulletin No. 29-70, and the Service Bulletin reference in the AD has been changed accordingly.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

SOCIETE NATIONAL INDUSTRIELLE AEROSPATIALE (S.N.I.A.S.). Applies Sud Model SE.210, MK. VI-R "Caravelle" airplanes.

To prevent a possible fire due to unnoticed overheating of a hydraulic system, within

the next 500 hours' time in service after the effective date of this AD, unless already accomplished, incorporate S.A. Modification 1262 by installing a Green and Blue Hydraulic System Fluid Overheat Detection System in accordance with Sud Service-Caravelle Bulletin No. 29-70, Revision 10, dated October 12, 1970, or later SGAC-approved issue or an FAA-approved equivalent.

This amendment becomes effective September 27, 1971.

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

Issued in Washington, D.C., on August 23, 1971.

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

[FR Doc.71-12622 Filed 8-27-71;8:48 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter I—Commodity Exchange Authority (Including Commodity Exchange Commission), Department of Agriculture

PART 140—ORGANIZATION, FUNCTIONS, AND PROCEDURES OF THE COMMODITY EXCHANGE AUTHORITY

Headquarters Office and Commodity Exchange Act

The statement of organization, functions, and procedures of the Commodity Exchange Authority, published at 32 F.R 9648 and amended at 34 F.R. 321 and 34 F.R. 8107, is hereby amended as follows:

1. Section 140.1 is revised to read as follows:

§ 140.1 Headquarters office.

(a) *General.* The headquarters office of the Commodity Exchange Authority is located in the Administration Building, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, DC 20250.

(b) *Office of the Administrator.* Under the supervision of the Secretary of Agriculture and the general direction of the Assistant Secretary of Agriculture for Marketing and Consumer Services, the Administrator formulates, directs, and supervises the execution of the policies governing the activities of the Commodity Exchange Authority; administers and is responsible for the enforcement of the Commodity Exchange Act, the orders of the Commodity Exchange Commission, and the orders and regulations of the Secretary of Agriculture promulgated under the Commodity Exchange Act. The Administrator has final authority to issue calls and requests for information in connection with the administration of the Commodity Exchange Act, as provided in regulations promulgated thereunder (Parts 1-21 of this chapter). The Administrator is assisted by the Associate Administrator, who participates in the policy formation and general administration of the Agency and has primary responsibility for directing the operations of the regional offices, the Assistant Administrator, who aids in the overall operations of the Agency, and by three division directors, each of whom has nationwide responsibility to the Administrator for the overall development, guidance and review of programs in his area of jurisdiction, registration and audit, compliance or trading.

(c) *Registration and Audit Division.* The division reviews and evaluates new applications for registration as futures commission merchant and floor broker; determines eligibility for registration through fitness checks; analyzes financial reports of futures commission merchants, who are not members of exchanges with approved financial requirements programs to determine whether they meet minimum financial standards; and approves or recommends disapproval of applications for initial registration. It provides technical leadership, guidance, and review to a national program of minimum financial requirements for futures commission merchants; and reviews and recommends approval or disapproval of minimum financial standards established by contract markets. It provides technical leadership, guidance, and review to a national program of audits of the books and records of futures commission merchants to assure proper segregation of customers' margins and equities and to determine compliance with minimum financial standards, recordkeeping and other requirements of the Act and regulations. It provides technical leadership, guidance and review to the supervision of contract markets' enforcement of their own rules pertaining to minimum financial standards and related reporting requirements approved by the Secretary of Agriculture. It provides technical leadership, guidance, and review to the conduct of periodic audits of clearing associations of contract markets to assure proper segregation of customers' margins, proper investment of customers' funds, and compliance with recordkeeping requirements. It develops and recommends program policies, procedures and standards for registration and audit programs and prepares regulations to effect them. It reviews results of fitness checks of established registrants and their key personnel and in cases where derogatory information has been developed, makes recommendations on disposition.

(d) *Compliance Division.* The division provides technical leadership, guidance, and review to a national program of compliance investigations of alleged or apparent violations of the Act and regulations. It provides technical leadership, guidance, and review to a national program of supervision of contract markets' enforcement of their own rules relating to contract terms and other trading requirements. It reviews regions' reports of investigations of alleged or apparent violations of the Act and regulations which have been submitted to the Headquarters office with recommendations for action and submits findings and recommendations to the Administrator for appropriate action. It reviews rules and proposed rules submitted by commodity exchanges with their applications for designation as contract markets to determine whether they meet the requirements of the Act and regulations and recommends to the Administrator acceptance or rejection of applications. It provides technical assistance to the Office of the General Counsel in the preparation of administrative complaints and in the review and analysis of evidence for presentation at administrative hearings. It provides assistance to the Department of Justice in the preparation of criminal information or indictments and in the review and analysis of evidence for presentation to grand juries and in criminal proceedings. It prepares regulations to eliminate abusive practices or practices which interfere with the efficiency of the futures trading system.

(e) *Trading Division.* The division conducts economic analyses of future trading to develop and support enforcement policies and procedures. It develops and coordinates economic research projects on regulated commodities conducted by colleges. It provides technical guidance and coordinates economic analyses conducted by the regions. It conducts studies of commodity markets and futures trading to determine the need for new or revised speculative limits. It provides technical leadership, guidance, and review to a national program of enforcement of speculative limits. It provides technical leadership, guidance, and review to the operation of a national reporting system on commodity futures trading; and develops and prepares reporting system regulations, instructions, and procedures. It provides technical leadership, guidance, and review to a national program of surveillance and analysis of the market operations of large traders, commodity brokers, and others, including marketwide position and trading surveys. It prepares economic and statistical reports on futures market developments for administrative use and publications. It maintains a reference file of permanent historical records on trading activities including statistical information on trading, open contracts futures prices, deliveries, cost of delivery, and carrying charges. It conducts analyses of price, price variability, and price relationships in cash and futures markets. It analyzes applications of processors and manufacturers who desire to qualify under the anticipatory hedging provisions of the Act.

2. Section 140.2 is revised to read as follows:

§ 140.2 Regional offices.

The Central Region office is located at Room A-1, Board of Trade Building, 141 West Jackson Boulevard, Chicago, IL 60604, and is responsible for enforcement of the Commodity Exchange Act and administration of the programs of the

Agency in the States of Illinois, Indiana, Michigan, Ohio, and Wisconsin. The office is responsible for the supervision of trading on the Chicago Board of Trade, the Chicago Mercantile Exchange, the Chicago Open Board of Trade, the Memphis Board of Trade Clearing Association, and the Milwaukee Grain Exchange. The Western Region office is located at Room 356, Board of Trade Building, 4800 Main Street, Kansas City, MO 64112, with a suboffice at Room 510, Grain Exchange Building, Fourth Street and Fourth Avenue South, Minneapolis, MN 55415, and is responsible for enforcement of the Commodity Exchange Act and administration of the programs of the Agency in the States of Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. The office is responsible for the supervision of trading on the Duluth Board of Trade, the Kansas City Board of Trade, the Merchants' Exchange of St. Louis, the Minneapolis Grain Exchange, the New Orleans Cotton Exchange, the Northern California Grain Exchange, the Portland Grain Exchange, and the Seattle Grain Exchange. The Eastern Region office is located at Room 2101, 61 Broadway, New York, NY 10006, and is responsible for enforcement of the Commodity Exchange Act and administration of the programs of the Agency in the States of Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia. The office is responsible for the supervision of trading on the Citrus Associates of the New York Cotton Exchange, Inc., the Commodity Exchange, Inc., the International Commercial Exchange, the New York Cotton Exchange, the New York Mercantile Exchange, the New York Produce Exchange, and the Wool Associates of the New York Cotton Exchange, Inc.

3. Section 140.10 (a), (b), and (e) is revised to read as follows:

§ 140.10 Commodity Exchange Act.

(a) The basic objective of the Commodity Exchange Act (42 Stat. 998, as amended, 7 U.S.C. 1 et seq.), is to protect and facilitate commerce in commodities designated by the Act that are the subject of transactions involving the sale thereof on boards of trade (commodity exchanges) for future delivery and known as "futures." These commodities are: Wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, millfeeds, butter, eggs (including shell eggs, frozen whole eggs, frozen plain egg whites, and frozen plain egg yolks), Irish potatoes, wool, wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil, and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock (including live cattle and live hogs), livestock products (including frozen boneless beef, frozen pork bellies, frozen skinned hams, steer carcass beef, and hides), and frozen concentrated orange juice.

(b) The functions and procedures of the Commodity Exchange Authority under this statute are designed to prevent price manipulation and corners; prevent dissemination of false and misleading crop and market information to influence prices; protect hedgers and other users of the commodity futures markets against cheating and fraud; insure the benefits of membership privileges on contract markets to cooperative associations of producers; insure trust-fund treatment of margin moneys and equities of hedgers and other traders and prevent the misuse of such funds by futures commission merchants; establish minimum financial standards for futures commission merchants; establish fitness requirements for futures commission merchants and floor brokers; require contract markets to enforce their trading rules and contract terms; and provide general information to the public regarding trading operations on contract markets.

* * * * *

(e) The Commodity Exchange Authority enforces limits on speculative transactions and positions established by the Commodity Exchange Commission; reviews crop and market news and reports; analyzes cash-commodity transactions; cooperates with control committees of contract markets; observes floor trading; investigates alleged and apparent violations of the Act; conducts special market surveys; investigates contract market delivery practices and procedures; audits books and records of futures commission merchants; analyzes futures commission merchants' financial statements; conducts analyses and appraisals of futures trading, cash-futures relationships, and price movements; and compiles and publishes reports and other informational material relating to operations on commodity exchanges. Reporting forms required of clearing members of contract markets, futures commission merchants and foreign brokers, traders, and merchants, processors, and dealers may be procured from any regional office.

* * * * *

(Public Law 89-554, Sept. 6, 1966, 80 Stat. 383, Public Law 90-23, sec. 1, June 5, 1967, 81 Stat. 54, 5 U.S.C. 552; 25 F.R. 3926, 29 F.R. 339, 7 CFR 1.201; 29 F.R. 16210, sec. 40; 29 F.R. 16210, sec. 125, as amended at 33 F.R. 17856)

This amendment shall become effective upon publication in the FEDERAL REGISTER (8-28-71).

Issued: August 24, 1971.

ALEX C. CALDWELL,
Administrator,
Commodity Exchange Authority.

[FR Doc.71-12627 Filed 8-27-71;8:48 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 17—BAKERY PRODUCTS

Bread and Rolls, or Buns; Standard of Identity

In the matter of amending the standard of identity for bread to permit sodium stearoyl-2-lactylate to be listed as an optional ingredient:

A notice of proposed rule making in the above-identified matter was based on a petition submitted by C. J. Patterson Co., Kansas City, Mo., and was published in the FEDERAL REGISTER of April 20, 1971 (36 F.R. 7466). One comment was received in response to the notice, and this comment favored the proposal.

Having considered the comment received and other relevant information, the Commissioner concludes that it would promote honesty and fair dealing in the interest of consumers to adopt the proposal as set forth below. Accordingly, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sections 401, 701, 52 Stat. 1046, 1055, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371), and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered,* That § 17.1(a)(15) be revised to read as follows:

§ 17.1 Bread, white bread, and rolls, white rolls, or buns, white buns; identity; label statement of optional ingredients.

(a) * * *

(15) Polysorbate 60, calcium stearoyl-2-lactylate, lactylic stearate, sodium stearyl fumarate, succinylated monoglycerides, sodium stearoyl-2-lactylate, ethoxylated mono- and diglycerides, alone or in combination, complying with the provisions of §§ 121.1030, 121.1047, 121.1048, 121.1183, 121.1195, 121.1211, and 121.1221, respectively, of this chapter; but the total quantity of such ingredient or combination is not more than 0.5 part for each 100 parts by weight of flour used.

* * * * *

Due to cross references, the above amendment to the standard for bread and rolls, or buns (§ 17.1), upon becoming effective, will have the effect of providing for optional use of sodium stearoyl-2-lactylate in enriched bread and enriched rolls or enriched buns (§ 17.2), in milk bread and milk rolls or milk buns (§ 17.3), in raisin bread and raisin rolls or raisin buns (§ 17.4), and in whole wheat bread, graham bread, entire wheat bread, and whole wheat rolls, graham rolls, entire wheat rolls, or whole wheat buns, graham buns, entire wheat buns (§ 17.5).

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file

with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested; the objections must state the issues for the hearing and such objections must be supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. All documents shall be filed in six copies.

Effective date. This order shall become effective 60 days after its date of publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended, 70 Stat. 919, 72 Stat. 948; 21 U.S.C. 341, 371)

Dated: August 23, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-12638 Filed 8-27-71;8:52 am]

PART 25—DRESSINGS FOR FOOD

French Dressing Identity Standard; Confirmation of Effective Date of Order Listing Xanthan Gum as an Optional Ingredient

In the matter of amending the identity standard for french dressing (21 CFR 25.2) by listing xanthan gum complying with the requirements of 21 CFR 121.1224 as an optional emulsifying ingredient:

No objections were filed in response to the order concerning the above-identified amendment which was published in the FEDERAL REGISTER of May 18, 1971 (36 F.R. 9010).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055-56 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that the amendment promulgated by the subject order (§ 25.2(c)(1)) became effective July 17, 1971.

Dated: August 18, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-12654 Filed 8-27-71;8:53 am]

SUBCHAPTER C—DRUGS

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Diethylstilbestrol

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (42 162V) filed by Elanco Products Co. providing for the safe and effective use of a liquid diethylstilbestrol premix in the manufacture of finished dry feeds for cattle at the currently approved levels. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135e.18 is amended by revising paragraph (c) to read as follows:

§ 135e.18 Diethylstilbestrol.

* * * * *

(c) *Approvals.* In dry premix, levels of 2 grams (0.44 percent) and 10 grams (2.2 percent) of diethylstilbestrol per pound have been granted, and, in liquid premix, levels of 20 grams (4.4 percent) and 40 grams (8.8 percent) of diethylstilbestrol per pound have been granted for use in manufacturing finished feeds within the currently approved use levels of 5-20 milligrams per head per day; for sponsor see code No. 014 in § 135.501(c) of this chapter.

* * * * *

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (8-28-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: August 17, 1971.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.71-12641 Filed 8-27-71;8:52 am]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Erie National Wildlife Refuge, Pa.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (8-28-71).

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

PENNSYLVANIA

ERIE NATIONAL WILDLIFE REFUGE

Public hunting of hares, rabbits, woodchucks, raccoons, squirrels, grouse, quail, pheasants, skunks, opossums, foxes, and crows is permitted on portions of the Erie National Wildlife Refuge, Pa. Copies of a map delineating the open hunting areas are available at refuge headquarters, Guys Mills, Pa., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

Hunting shall be in accordance with all applicable State regulations governing hunting of small game, furbearers, foxes, and crows, during the period September 1, 1971 through March 15, 1972, subject to the following special condition:

(1) That portion of the refuge situated between Pennsylvania Routes 27 and 173 is closed to hunting with firearms from September 1, 1971 through November 25, 1971.

The provisions of this special regulation supplement the regulations governing hunting of wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through March 15, 1972.

RICHARD E. GRIFFITH,
Regional Director, Bureau of Sport Fisheries and Wildlife.

AUGUST 24, 1971.

[FR Doc.71-12611 Filed 8-27-71;8:47 am]

PART 32—HUNTING

J. Clark Salyer National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (8-28-71).

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

NORTH DAKOTA

J. CLARK SALYER NATIONAL WILDLIFE REFUGE

Public hunting of deer with bow and arrow on the J. Clark Salyer National Wildlife Refuge, N. Dak., is permitted from August 27 through November 7 and December 3 through December 31, 1971, only on the area designated by signs as open to hunting. This open area, comprising 31,542 acres, is delineated on a map available at the refuge headquarters, Upham, N. Dak., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer with bow and arrow, subject to the following conditions:

Hunters are requested to obtain a registration card which will be issued by asking for them, either in person or by mail, from the Refuge Headquarters, Upham, N. Dak. 58789.

Hunting is by foot only. Vehicles are to remain on established refuge roads only.

All hunters must exhibit their hunting licenses, game and vehicle contents to Federal and State officers upon request.

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

CHARLES S. PECK,
Acting Refuge Manager, J. Clark Salyer National Wildlife Refuge, Upham, N. Dak.

AUGUST 23, 1971.

[FR Doc.71-12612 Filed 8-27-71;8:47 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18927; RM-1525]

PART 73—RADIO BROADCAST SERVICES

Television Stations' Access to Programs of More Than One National Network; Correction

Erratum. In the matter of amendment § 73.658 of the Commission's rules to limit television stations' access to the programs of more than one national network. (Petition of Triangle Telecasters, Inc., WRDU-TV, Durham, N.C.)

The memorandum Opinion and Order, FCC 71-776, in the above matter, adopted July 28, 1971, and published in the FEDERAL REGISTER on August 7, 1971, 36 F.R. 14640, is corrected to indicate in footnote 23: "Commissioners Bartley and Wells dissenting; Commissioner Johnson absent".

Released: August 24, 1971.

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

[FR Doc.71-12663 Filed 8-27-71;8:50 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter IV—Government National Mortgage Association, Department of Housing and Urban Development

[Docket No. R-71-140]

PART 1600—GENERAL

Offices

Section 1600.9 is amended by deleting the old address for the FNMA Philadelphia Regional Office and substituting the new address. As amended, the last paragraph of § 1600.9 reads:

§ 1600.9 Offices.

* * * * *

Philadelphia, Pa. 19103, 5 Penn Center Plaza: Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands, Virginia, and West Virginia.

(Sec. 309, 82 Stat. 540; 12 U.S.C. 1723a; Bylaws of the Association, 35 F.R. 2606, Feb. 5, 1970)

Issued at Washington, D.C., August 24, 1971.

WOODWARD KINGMAN,
President, Government National Mortgage Association.

[FR Doc.71-12624 Filed 8-27-71;8:48 am]

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

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

§ 1914.4 List of designated areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Arkansas	Sebastian	Fort Smith	I 05 131 1370 08 through I 05 131 1370 14	Arkansas Soil and Water Conservation Commission, Room 151, State Capitol Bldg., Little Rock, AR 72201. Arkansas Insurance Department, 400 University Tower Bldg., Little Rock, AR 72204.	City Clerk's Office, Municipal Bldg., City of Fort Smith, Fort Smith, Ark. 72901.	Aug. 27, 1971.
California	Del Norte	Lower Klamath River Watershed, Zone 4.	I 06 015 0000 02	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Del Norte County Flood Control District, Courthouse, Crescent City, Calif. 95531.	Do.
Do	Lake	Lakeport				Do.
Do	Sonoma	Remainder of unincorporated areas.				Do.
Florida	Nassau	Fernandina Beach.				Do.
Illinois	Jo Daviess	Galena				Do.
Louisiana	Acadia Parish	Crowley				Do.
Maine	Androscoggin	Auburn				Do.
Missouri	Boone	Columbia	I 29 019 1800 06 through I 29 019 1800 25	Water Resources Board, Post Office Box 271, Jefferson City, MO 65101. Division of Insurance, Post Office Box 690, Jefferson City, MO 65101.	Office of the City Clerk, Municipal Bldg., Columbia, Mo. 65201.	Do.
Oklahoma	Rogers	Claremore	I 40 131 0990 03 through I 40 131 0990 10	Oklahoma Water Resources Board, 2241 Northwest 40th St., Oklahoma City, OK 73112. Oklahoma Insurance Department, Room 408, Will Rogers Memorial Bldg., Oklahoma City, Okla. 73105.	Metropolitan Area Planning Commission, City of Claremore, Rogers County, Rogers County Courthouse, Post Office Box 904, Claremore, OK 74017.	Do.
Rhode Island	Providence	Cranston	I 44 007 0050 08 through I 44 007 0050 14	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, R.I. 02903. Rhode Island Insurance Division, 169 Weybosset St., Providence, RI 02903.	City Planning Commission Office, Room 311, City Hall, 829 Park Ave., Cranston, RI 02910.	Do.
Texas	Calhoun	Fort Lavaca	I 48 057 5460 05 through I 48 057 5460 12	Texas Water Development Board, Post Office Box 12386, Austin, TX 78701. Texas Insurance Department, 1110 San Jacinto St., Austin, TX 78701.	Office of the City Secretary, City Hall, Fulton St., Port Lavaca, TX 77979.	Do.
Do	Hays	San Marcos	I 48 209 6170 03 through I 48 209 6170 10	do	Utilities and Tax Office, City Hall, San Marcos, Tex. 78666	Do.
West Virginia	Logan	Chapmanville	I 54 045 0470 02 I 54 045 0470 03	West Virginia Insurance Department, 1800 Washington St. East, Charleston, WV 25305.	Office of the Recorder, Town of Chapmanville, Chapmanville, W. Va. 25508.	Do.

(National Flood Insurance Act of 1968, title XIII, Housing and Urban Development Act of 1968, effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and designation of Acting Federal Insurance Administrator effective Aug. 13, 1971)

Issued: August 27, 1971.

BERNARD V. PARRETTE,
Acting Federal Insurance Administrator.

[FR Doc.71-12482 Filed 8-27-71;8:45 am]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

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

§ 1915.3 List of flood hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Arkansas	Sebastian	Forth Smith	H 05 131 1370 08 through H 05 131 1370 14	Arkansas Soil and Water Conservation Commission, Room 151, State Capitol Bldg., Little Rock, AR 72201. Arkansas Insurance Department., 400 University Tower Bldg., Little Rock, AR 72204.	City Clerk's Office, Municipal Bldg., City of Fort Smith, Fort Smith, Ark. 72901.	Dec. 29, 1970.
California	Del Norte	Lower Klamath River Watershed, Zone 4.	H 06 015 0000 02	Department of Water Resources, Post Office Box 388, Sacramento, CA 95802. California Insurance Department, 107 South Broadway, Los Angeles, CA 90012, and 1407 Market St., San Francisco, CA 94103.	Del Norte County Flood Control District, Courthouse, Crescent City, Calif. 95531.	Sept. 2, 1970.
Do.	Lake	Lakeport				Aug. 27, 1971.
Do.	Sonoma	Remainder of unincorporated areas.				Do.
Florida	Nassau	Fernandina Beach.				Do.
Illinois	Jo Daviess	Galena				Do.
Louisiana	Acadia Parish	Crowley				Do.
Maine	Androscoggin	Auburn				Do.
Missouri	Boone	Columbia	H 29 019 1800 06 through H 29 019 1800 25	Water Resources Board, Post Office Box 271, Jefferson City, MO 65101. Division of Insurance, Post Office Box 690, Jefferson City, MO 65101.	Office of the City Clerk, Municipal Bldg., Columbia, Mo. 65201	July 11, 1970.
Oklahoma	Rogers	Claremore	H 40 131 0990 03 through H 40 131 0990 10	Oklahoma Water Resources Board, 2241 Northwest 40th St., Oklahoma City, OK 73112. Oklahoma Insurance Department, Room 408, Will Rogers Memorial Bldg., Oklahoma City, Okla. 73105.	Metropolitan Area Planning Commission, City of Claremore, Rogers County, Rogers County Courthouse, Post Office Box 904, Claremore, OK 74017.	Nov. 6, 1970.
Rhode Island	Providence	Cranston	H 44 007 0050 08 through H 44 007 0050 14	Rhode Island Statewide Planning Program, Room 123-A, The State House, Providence, R.I. 02903. Rhode Island Insurance Division, 169 Weybosset St., Providence, RI 02903.	City Planning Commission Office, Room 311, City Hall, 829 Park Ave., Cranston, RI 02910	Sept. 9, 1970.
Texas	Calhoun	Port Lavaca	H 48 057 5460 05 through H 48 057 5460 12	Texas Water Development Board, Post Office Box 12386, Austin, TX 78701. Texas Insurance Department, 1110 San Jacinto St., Austin, TX 78701.	Office of the City Secretary, City Hall, Fulton St., Port Lavaca, TX 77979.	Oct. 23, 1970.
Do.	Hays	San Marcos	H 48 209 6170 03 through H 48 209 6170 10	do	Utilities and Tax Office, City Hall, San Marcos, Tex. 78666.	Oct. 13, 1970.
West Virginia	Logan	Chapmanville	H 54 045 0470 02 H 54 045 0470 03	West Virginia Insurance Department, 1800 Washington St. East, Charleston, WV 25305.	Office of the Recorder, Town of Chapmanville, Chapmanville, W. Va. 25508.	Feb. 9, 1971.

(National Flood Insurance Act of 1968, title XIII, Housing and Urban Development Act of 1968, effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969; and designation of Acting Federal Insurance Administrator effective Aug. 13, 1971)

Issued: August 27, 1971.

BERNARD V. PARRETTE,
Acting Federal Insurance Administrator.

[FR Doc.71-12483 Filed 8-27-71;8:45 am]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 75—MANDATORY SAFETY STANDARDS, UNDERGROUND COAL MINES

Standards for Preventing Explosions From Explosive Gases Other Than Methane and Procedures for Testing Accumulations of Such Gases

Pursuant to the authority vested in the Secretary of the Interior under section 101(a) of the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173; 30 U.S.C. 801), and in accordance with section 317(t) of the Act which requires that the Secretary propose standards for preventing explosions from explosive gases other than methane and for testing accumulations of such gases, there was published in the FEDERAL REGISTER for March 9, 1971 (36 F.R. 4548), a notice of proposed rulemaking setting forth proposed amendments to Part 75, Subchapter O, Chapter I, Title 30, Code of Federal Regulations, which prescribed maximum allowable concentrations for explosive gases other than methane and specified the air sampling procedures to be followed by the Secretary and each operator of an underground coal mine in testing for the accumulation of such gases.

Interested persons were afforded a period of 30 days from the date of publication of the notice in which to submit written comments, suggestions, or objections to the proposed amendments. No written comments, suggestions, or objections were submitted. Therefore, the proposed amendments are hereby adopted without change and are set forth as follows:

§ 75.301-5 Explosive gases other than methane; maximum allowable concentrations.

Notwithstanding the provisions of § 75.301-2, for the purpose of preventing explosions from gases other than methane, the following gases shall not be allowed to accumulate in excess of the concentrations listed below:

(a) Carbon monoxide (CO)—2.5 volume per centum.

(b) Hydrogen (H_2)—.80 volume per centum.

(c) Hydrogen sulfide (H_2S)—.80 volume per centum.

(d) Acetylene (C_2H_2)—.40 volume per centum.

(e) Propane (C_3H_8)—.40 volume per centum.

(f) MAPP (methyl acetylene-propylene-propodiene)—.30 volume per centum.

§ 75.301-6 Explosive gases other than methane; air sampling by the Secretary; general.

Air samples shall be taken periodically by an authorized representative of the Secretary in each underground coal mine, and such samples shall be analyzed to determine the concentration of explosive gases other than methane which may be present.

§ 75.301-7 Explosive gases other than methane; analysis of air samples; notice of violation; control measures and additional samplings requirements.

(a) Where the analysis of air samples taken pursuant to § 75.301-6 shows that the accumulation of any explosive gas is in excess of the limit prescribed for such gas, the Secretary shall issue a written notice to the operator that he is in violation of § 75.301-5, and each such notice of violation shall specify the accumulation of explosive gas which exceeds the maximum allowable concentrations prescribed.

(b) Upon receipt of a notice of violation issued pursuant to paragraph (a) of this section, the operator shall immediately institute ventilation or other control measures in the mine so that the air shall contain less than the maximum allowable concentration of explosive gas prescribed in § 75.301-5.

(c) (1) During the first calendar month following receipt of a notice of violation, and during each calendar month thereafter, until otherwise advised in writing by the Coal Mine Health and Safety District Manager for the district in which the mine is located, the operator shall take one air sample in each area of the mine in which excessive concentrations of explosive gas were shown to be present after analyses conducted in accordance with this section.

(2) Air samples taken in accordance with subparagraph (1) of this paragraph shall be promptly transmitted for analysis to:

Gas Analysis Services, Health and Safety Technical Support Center, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, PA 15213.

(3) Air samples transmitted in accordance with the provisions of this section shall be clearly marked for identification and include a specific description of the location in the mine from which they were taken.

§ 75.301-8 Potential explosion hazards; control measures; air sampling by the operator; requirements.

(a) Where explosive gases other than methane have been (1) accidentally or inadvertently released in excessive amounts, or (2) where other potential explosion hazards are known by the operator to exist in the mine due to the liberation or presence of an excessive amount of explosive gas other than methane, the operator shall immediately notify the Coal Mine Health and Safety District Manager for the district in which the mine is located of the potential explosion hazard which is present in the mine, and promptly institute ventilation or other control measures to reduce the accumulation of such gases.

(b) Where potential explosion hazards exist due to the presence of excessive amounts of explosive gas other than methane, the operator shall promptly institute an air sampling program which includes frequent periodic samples to determine the concentration of explosive gas in any area of the mine where such gases are known to be present, and he shall continue to take such samples for the entire period during which such potential explosion hazard exists.

(c) (1) Air samples taken in accordance with the provisions of paragraph (b) of this section shall be promptly transmitted for analysis to:

Gas Analysis Services, Health and Safety Technical Support Center, Bureau of Mines, 4800 Forbes Avenue, Pittsburgh, PA 15213.

(2) Air samples transmitted in accordance with the provisions of this section shall be clearly marked for identification and include a specific description of the location in the mine from which they were taken.

Effective date. These amendments shall become effective upon date of publication in the FEDERAL REGISTER (8-28-71).

MITCHELL MELICH,
Acting Secretary of the Interior.

AUGUST 9, 1971.

[FR Doc.71-12609 Filed 8-27-71;8:48 am]

Chapter III—Board of Mine Operations Appeals, Department of the Interior

PART 301—PROCEDURES UNDER FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

Hearings and Appeals Procedures

The purpose of these amendments is to note the applicability of the Department Hearings and Appeals Procedures in 43 CFR Part 4 to hearings, appeals and other review procedures under the Federal Code Mine Health and Safety Act of 1969.

1. The table of contents, the cross reference immediately preceding the text of 30 CFR Part 301, and the regulations formerly contained in 30 CFR Part 301, are deleted, and a new § 301.1, reading as follows, is added:

§ 301.1 Cross reference.

For special rules applicable to hearings, appeals and other review procedures relating to mine health and safety, within the jurisdiction of the Board of Mine Operations Appeals, Office of Hearings and Appeals, see Subpart F of Part 4 of Subtitle A—Office of the Secretary of the Interior, of title 43 of the Code of Federal Regulations. Subpart A of Part 4 and all of the general rules in Subpart B of Part 4 not inconsistent with the special rules in Subpart F of Part 4 are also applicable to such hearings, appeals, and other review procedures.

(Sec. 508, Public Law 91-173, 83 Stat. 803, 30 U.S.C. section 957)

These amendments are effectuated as final rule making, having been previously proposed in notice of rule making published in the FEDERAL REGISTER on

March 27, 1971 (36 F.R. 5795-800). They shall be effective as of September 1, 1971.

Dated: August 24, 1971.

W. T. PECORA,
Acting Secretary of the Interior.

[FR Doc.71-12631 Filed 8-27-71;8:48 am]

Title 43—PUBLIC LANDS: INTERIOR

Subtitle A—Office of the Secretary of the Interior

PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Subpart F—Special Rules Applicable to Mine Health and Safety Hearings and Appeals

PROCEDURES UNDER FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

There was published in the FEDERAL REGISTER on March 27, 1971 (36 F.R. 5795-5800), a proposed revision of procedural rules governing hearings, appeals and other review procedures under the Federal Coal Mine Health and Safety Act of 1969. The regulations in the proposed rulemaking were numbered to conform with the present numbering of special rules applicable to hearings, appeals and other review procedures relating to mine health and safety within the jurisdiction of the Board of Mine Operations Appeals of the Office of Hearings and Appeals, contained in subpart F of 43 CFR Part 4, and the notice of rulemaking stated that the final rulemaking would be placed within that subpart of 43 CFR Part 4.

Interested persons were given 45 days in which to participate in the rulemaking through submission of written comments, suggestions, or objections. Comments have been received and studied, and appropriate changes have been made. The Department expresses its sincere appreciation to those who took the time to make suggestions and comments.

Certain commentors requested greater time be allowed for filing pleadings. Where practicable, the time has been lengthened from that previously proposed. Parties are reminded that extensions are available on an individual case basis.

The rules have been modified to clarify the procedures for an interlocutory appeal. Under these procedures a party must first seek certification by the examiner and then seek permission of the Board of Mine Operations Appeals. However, the grant or denial of certification by the examiner is in no way binding upon the Board.

The provisions applicable to burden of proof have been amended to clearly set forth the Government's burden in proving the violation of a mandatory health or safety standard.

The proposed revision is adopted, as modified herein, and the regulations are recodified into subpart F of Department Hearings and Appeals Procedures in 43 CFR Part 4, with appropriate renumbering and editorial changes as necessary.

These procedural rules have been revised in accordance with experience gained to date under the Act. The rules provide for expeditious treatment where needed and offer summary procedures which enable operators and others to receive a decision on the merits without a protracted and possibly expensive hearing. New changes will be proposed as new experience dictates.

In order to permit parties and counsel to familiarize themselves with the new rules, they will not become effective until September 1, 1971.

Dated: August 24, 1971.

W. T. PECORA,
Acting Secretary of the Interior.

1. The statement of authority pertaining to regulations in subpart F—Special Rules Applicable to Mine Health and Safety Hearings and Appeals, which appears immediately below the heading to subpart F, is amended to include a reference to the United States Code citation pertaining to authority of the Secretary of the Interior to issue regulations under the Federal Coal Mine Health and Safety Act of 1969. As amended, the statement reads:

AUTHORITY: The provisions of this subpart F issued pursuant to sec. 508, Public Law 91-173, 83 Stat. 803, 30 U.S.C. sec. 957; and sec. 9, Public Law 89-577, 80 Stat. 777, 30 U.S.C. sec. 728.

2. The table of contents and the regulations under the center heading "Procedures Under Federal Coal Mine Health and Safety Act of 1969," within subpart F—Special Rules Applicable to Mine Health and Safety Hearings and Appeals, are revised to read as hereinafter set forth:

GENERAL

Sec.
4.505 Scope and construction.
4.506 Definitions.
4.507 Parties.
4.508 Filing and form of documents.
4.509 Service.
4.510 Motions.
4.511 Consolidation of proceedings.
4.512 Withdrawal of pleading.
4.513 Intervention.
4.514 Expedition of proceedings.
4.515 Waiver of right to hearing and initial decision; decision by Board.

INVESTIGATIONS PURSUANT TO SECTION 104(H) OF THE ACT

4.520 How initiated.
4.521 Participation by interested parties.
4.522 Application for hearing on abatement.

REVIEW OF ORDERS AND NOTICES

4.530 Initiation of proceedings.
4.531 Answer.
4.532 Contents of application and answer.
4.533 Review of subsequent order or notice.

ASSESSMENT OF CIVIL PENALTIES

4.540 How initiated.
4.541 Contest of penalty.
4.542 Content of answer to penalty assessment.
4.543 Failure to answer.
4.544 Assessment of penalty.

PETITION FOR MODIFICATION OF APPLICATION OF MANDATORY SAFETY STANDARDS

Sec.
4.550 Who may file.
4.551 Form of petition.
4.552 Procedure.

APPLICATION FOR COMPENSATION OR FOR REVIEW OF DISCHARGE OR ACTS OF DISCRIMINATION UNDER SECTION 110 OF THE ACT

4.560 Who may file.
4.561 When to file.
4.562 Contents of application.
4.563 Answer.

APPLICATION FOR TEMPORARY RELIEF

4.570 Procedure.
4.571 Contents of application.
4.572 Limitations.

HEARINGS

4.580 Hearings to be conducted by Examiners.
4.581 Assignment of Examiners.
4.582 Powers of Hearing Examiners.
4.583 Notice of hearing; appearances.
4.584 Depositions.
4.585 Interrogatories and production of documents.
4.586 Subpenas; witness fees.
4.587 Burden of proof.
4.588 Waiver of evidentiary presentation.
4.589 Evidence.
4.590 Summary decision of Examiner.
4.591 Certification of interlocutory ruling.
4.592 Proposed findings, conclusions and orders.
4.593 Initial decision.
4.594 Effect of initial decision.
4.595 Certification of record.

APPEALS TO THE BOARD

4.600 Notice of appeal.
4.601 Briefs.
4.602 Interlocutory appeals.
4.603 Remand.
4.604 Reconsideration.
4.605 Final decisions.

PROCEDURES UNDER FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969

GENERAL

§ 4.505 Scope and construction.

(a) The procedures and rules of practice set forth herein shall govern investigation pursuant to section 104(h) of the Act, applications for review under section 105 of the Act, assessment of civil penalties under section 109 of the Act, applications under section 110 of the Act, and petitions for modification of the application of mandatory safety standards under section 310(c) of the Act.

(b) These rules shall be liberally construed to secure the just, prompt and inexpensive determination of all proceedings consistent with adequate consideration of the issues involved.

§ 4.506 Definitions.

As used in these rules:

(a) The term "Act" means the Federal Coal Mine Health and Safety Act of 1969, 83 Stat. 742, 30 U.S.C., secs. 801-960.

(b) The terms "Secretary," "operator," "person," "agent," "miner," "coal mine," "imminent danger," and "mandatory health or safety standard," have the meanings set forth in section 3 of the Act.

(c) The term "notice of violation" means a notice issued under sections

104 (b), (c), or (i) of the Act or any modification thereof.

(d) The term "withdrawal order" means an order issued under section 104 of the Act.

(e) The term "Bureau" means Bureau of Mines of the Department of the Interior.

(f) The term "Office of Hearings and Appeals" means the Office of Hearings and Appeals of the Department of the Interior.

(g) The term "Board" means the Board of Mine Operations Appeals within the Office of Hearings and Appeals.

(h) The term "Examiner" means a hearing examiner in the Office of Hearings and Appeals appointed under Section 3105 of Title 5 of the United States Code.

(i) The term "Associate Solicitor" means the Associate Solicitor, Division of Mine Health and Safety, Department of the Interior, or his delegate.

(j) The term "representative of miners" means a person or organization designated by a group of miners to act as their representative for purposes of the Act.

§ 4.507 Parties.

(a) All persons indicated in the Act as parties to administrative review proceedings under the Act shall be considered statutory parties. Such statutory parties include:

(1) In all but penalty, compensation or discrimination proceedings, the Bureau of Mines as represented by the Solicitor, the operator of the mine, any representative of miners;

(2) In a penalty proceeding under section 109 of the Act, the Bureau and the party against whom the penalty is sought to be assessed;

(3) In a compensation action under section 110 of the Act, the miners and operator affected; and

(4) In a discrimination action under section 110 of the Act, the miner, miners, or representative of miners who claim discrimination and the operator affected.

(b) Any other person claiming a right of participation as an interested party or otherwise seeking to intervene in a proceeding may become a party upon petition to the Examiner or the Board and the granting of such petition.

(c) Where a person who is a statutory party, as described above, has not filed a pleading on or before the time permitted for the filing of an initial responsive pleading, except in a penalty proceeding that person shall no longer be considered a party to the proceeding unless otherwise ordered by the Examiner or the Board. Such person shall not thereafter be entitled to participate as a party in such proceedings and shall not thereafter be entitled to service of further pleadings or documents in the proceeding, unless the Examiner or the Board for good cause shown permits such person to intervene in the proceeding.

§ 4.508 Filing and form of documents.

(a) *Where to file.* All initial pleadings or documents in a proceeding described in these rules shall be filed with the Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203. Where a proceeding has been assigned to an Examiner, the parties will be notified of the name and address of the Examiner assigned to the case and thereafter all further documents shall be filed with the Examiner, Office of Hearings and Appeals, at the address designated. Any person not notified of the Examiner's address should file pleadings at the address of the Office of Hearings and Appeals. If the case is before the Board, all further pleadings should be filed with the Board of Mine Operations Appeals, 4015 Wilson Boulevard, Arlington, VA 22203.

(b) *Number of copies.* Except as otherwise provided in these rules, a party shall furnish an original and two copies of all pleadings, briefs, petitions, applications and other documents required or permitted to be filed.

(c) *Caption, title and signature.* (1) The documents filed in any proceeding brought under the Federal Coal Mine Health and Safety Act of 1969 shall be captioned in the name of the operator of the mine to which the proceeding relates and in the name of the mine. After a docket number has been assigned to the proceeding by the Office of Hearings and Appeals, the caption shall contain such docket number. The caption may include other information appropriate for identification of the proceeding, including any Bureau identification number.

(2) After the caption each such document shall contain a title which shall be descriptive of the document and which shall identify the party by whom the document is submitted.

(3) The original of all documents filed shall be signed at the end by the party submitting the document or, if the party is represented by an attorney, by such attorney. The address of the party or the attorney shall appear beneath the signature.

§ 4.509 Service.

(a) Copies of all documents filed in any proceeding described in these rules and copies of all notices pertinent to such proceeding shall be served on all other persons made parties to the proceeding under § 4.507. Interested parties are given notice of proceedings under §§ 4.520 and 4.550 by posting such document on the bulletin board at the office of the mine affected and by publication in the FEDERAL REGISTER.

(b) Documents by which any proceeding is initiated shall be served on each other party personally or by registered or certified mail, return receipt requested. All subsequent documents may be served personally or by first-class mail. Service by mail is complete upon mailing.

(c) Whenever a party is represented by an attorney who has signed any document filed on behalf of such party or otherwise entered an appearance on behalf of such party, service thereafter shall be made upon the attorney.

(d) Any party initiating a proceeding under these rules shall file proof of service in the form of a return receipt where service is by registered or certified mail, or an acknowledgment by the party served or a verified return where service is made personally. A certificate of service shall accompany all other documents filed by a party in any proceeding.

§ 4.510 Motions.

Each motion filed with the Examiner or the Board during the pendency of any proceeding shall be in writing and shall contain a short and plain statement of the grounds upon which it is based. A statement in opposition to the motion may be filed by any party within 10 days after the date of service. Unless ordered or permitted by the Examiner or the Board, oral argument on motions will not be heard. The examiner or the Board may permit oral motions during the course of proceedings.

§ 4.511 Consolidation of proceedings.

The Examiner or the Board may at any time order a proceeding described in these rules consolidated with any other such proceeding then pending before the Office of Hearings and Appeals which involves the same applicant or similar issues of law or fact.

§ 4.512 Withdrawal of pleading.

A party may withdraw a pleading at any stage of a proceeding without prejudice.

§ 4.513 Intervention.

A petition for leave to intervene may be filed at any stage of a proceeding. In the discretion of the Examiner or the Board a person may be denied intervention in a matter in which he could have participated as a party but failed to avail himself of the opportunity to do so. The petition must set forth the interest of the petitioner in the proceeding and show that the petitioner's participation will assist in the determination of the issues in question. The Examiner or the Board may grant or deny petitions for intervention or may permit intervention limited to a particular stage of the proceeding.

§ 4.514 Expedition of proceedings.

(a) Before the Examiner: At any time after the commencement of a proceeding a party may move the Examiner to expedite the hearing and decision of the case. Such motion shall be in writing and accompanied by supporting documents that establish the party's claim of exigent circumstances warranting expedition. Service of such motions, where possible, shall be by personal delivery to all parties; otherwise, service shall be by telegraphic communication followed by registered or certified mail. All parties to the proceeding in which the application is filed shall have 3 days from the date of receipt of the application to file an answer. Upon filing of a motion to expedite, the Office of Hearings and Appeals shall promptly present the motion to the Examiner assigned to the proceeding, or where no assignment has been made, shall promptly assign the proceed-

ing to an Examiner and present the motion to him. The Examiner shall promptly review the motion and may advance the matter on his calendar and order such expedition of the proceeding, including expedited schedules for pleadings, prehearing conference and a hearing, as he deems appropriate: *Provided*, A hearing on the merits of the case shall not be scheduled with less than 5 days' notice to the parties unless all parties to the proceeding consent to an earlier hearing.

(b) Before the Board: A party taking an appeal to the Board may move the Board to expedite the appeal. Such motion shall be in writing and specifically state the grounds for requesting expedited proceedings. All parties to the proceeding in which the application is filed shall have 3 days from the date of receipt of the application to file an answer. The Board shall promptly review such motion, including any opposing papers, and may, if it deems such action to be appropriate, advance the appeal on its calendar and order such other expedition as may be appropriate, including an abbreviated schedule for briefing or oral argument.

(c) Where time is of the essence and expedited proceedings are requested under this section periods of time for filing applications, answers or responses, as provided elsewhere in these rules, may be waived to the extent required to fulfill the overall objectives of the Act and when the ends of justice would be served.

§ 4.515 Waiver of right to hearing and initial decision; decision by Board.

(a) Any person entitled to a hearing and initial decision by an Examiner under the Act may waive such right in writing. Such waiver may be included in a pleading or may be separately filed. Where parties are directed by any rule in these regulations to file a responsive pleading on or before a specified time, any party who fails to file such responsive pleading by the time specified, shall be deemed to have waived his right to a hearing and initial decision. Unless all parties to a proceeding who are entitled to a hearing and initial decision unequivocally waive, or are deemed to have waived, such right, a hearing will be instituted.

(b) Where all the parties entitled to a hearing and initial decision under the Act waive such right, or are deemed to have done so, the case shall be promptly referred to the Board for decision. However, where the Board determines that factual issues remain which are not resolved by stipulation of the parties and which require certain findings of fact for proper decision, the case shall be referred to the Hearings Division for hearing on such issues and findings as the Board may designate or the Board may remand the case in its entirety for hearing and initial decision.

INVESTIGATIONS PURSUANT TO SECTION 104(h) OF THE ACT

§ 4.520 How initiated.

Investigation pursuant to section 104(h) of the Act shall be initiated whenever the Bureau files with the Office of Hearings and Appeals the notice provided in section 104(h)(1) of the Act. Such notice and findings shall be served by the Bureau on the operator of the affected mine and on any representative of miners at such mine.

§ 4.521 Participation by interested parties.

(a) The operator of the mine affected and the authorized representative of miners shall have 30 days from service to answer the 104(h) notice and present any information relating to that notice and request a public hearing.

(b) Any interested person desiring to request a public hearing or otherwise participate in the 104(h) proceeding shall within 30 days of posting of the 104(h) notice in accordance with section 107(a) of the Act, file with the Office of Hearings and Appeals a petition to intervene and serve a copy of the petition on the Bureau, the operator and any representative of miners at the affected mine.

(c) The petition to intervene shall comply with the applicable requirements and shall contain a short and plain statement of: (1) The petitioner's claimed interest in the matter; (2) the petitioner's position with respect to each of the findings set forth in the notice; (3) a request for public hearing where desired; and (4) the action which petitioner contends should be taken as a result of the notice.

(d) Participation in the investigation by interested parties, including the operator of the mine affected and any authorized representative of miners, may be denied or limited for failure to file an answer or petition to intervene within the time herein provided.

§ 4.522 Application for hearing on abatement.

(a) Where pursuant to section 104(h)(2) of the Act an order has been issued requiring an operator to withdraw persons from any part of a mine, any interested person (whether or not such person has previously participated in the investigation) may file an application for a hearing on the issue of whether the conditions upon which such order was based have been abated.

(b) The applicant shall serve the application on all parties who participated in the investigation which resulted in the order, and if the applicant is not the operator of the mine affected by the order, on such operator. On the day of service and for a period of 10 days thereafter, the operator shall post the petition on the bulletin board of the office of the mine in accordance with section 107(a) of the Act.

(c) Interested persons desiring to participate in the hearing, shall within 10 days of first posting of the application, file with the Office of Hearings and Appeals a petition to intervene. The petition shall comply with the applicable general requirements and shall contain a short and plain statement of: (1) The petitioner's claimed interest in the matter; and (2) the action which petitioner contends should be taken with respect to the application and the reasons therefor. Failure to file such petition within 10 days may be grounds for limiting or denying such person's participation in the hearing.

REVIEW OF ORDERS AND NOTICES

§ 4.530 Initiation of proceedings.

(a) *How initiated*. Proceedings for the review of a withdrawal order, a modification or termination thereof, a notice of violation, or a modification or termination thereof, shall be initiated by filing an application for review.

(b) *Who may file*. An application for review may be filed by the operator of the mine affected by the order or notice sought to be reviewed or by a representative of miners employed at such mine.

(c) *Time for filing*. An application for review shall be filed within 30 days of receipt by the applicant of the order or notice sought to be reviewed or within 30 days of receipt of any modification or termination of an order where review is sought of the modification or termination. A copy of the application for review shall be served upon the representative of the miners (or the operator, as the case may be), and the Associate Solicitor.

(d) *Effect of failure to file*. An operator's failure to file an application for review of a withdrawal order or notice of violation shall not preclude the operator from challenging the fact of violation or raising any other pertinent matter in a proceeding under section 109 of the Act.

§ 4.531 Answer.

The Bureau and any party desiring to participate in the proceeding in opposition to the application for review shall file an answer within 15 days of service of such application for review.

§ 4.532 Contents of application and answer.

(a) An application for review and an answer shall comply with applicable general requirements and shall contain:

(1) A short and plain statement of (i) such party's position with respect to each issue of law or fact which the party contends is pertinent to the legality or correctness of the order or notice; (ii) and the relief requested by such party;

(2) A statement of whether the party submitting the document requests a public hearing or waives it either as provided in § 4.515 or § 4.588. Where an answer does not include an unequivocal waiver, a party shall be deemed to have requested a hearing and initial decision.

(b) A copy of the order or notice sought to be reviewed shall be attached to each application for review.

§ 4.533 Review of subsequent order or notice.

(a) An applicant in a proceeding under these rules shall file, within 15 days of receipt thereof, any subsequent order or notice which modifies or extends the order or notice sought to be reviewed and any subsequent order or notice which relates to the violation charged in the or-

der or notice sought to be reviewed. The application for review, unless withdrawn by the applicant, shall be deemed to challenge any such subsequent order or notice. Where clarification of the applicant's position is deemed desirable, the Examiner or the Board may require the applicant to file a new or amended application.

(b) An operator or a representative of miners, when not the applicant in a pending proceeding for review of a withdrawal order or notice of violation, may apply for review of a notice or order which modifies or extends the notice or order then being reviewed or of a notice or order which relates to the violation charged in the notice or order then being reviewed by filing an application for review in such pending proceeding within the time prescribed by § 4.530(c).

ASSESSMENT OF CIVIL PENALTIES

§ 4.540 How initiated.

(a) Where an operator, a miner or a director, officer or agent of a corporate operator has requested formal adjudication of a civil penalty assessment pursuant to § 100.4(i) of title 30, proceedings for the assessment of a civil penalty shall be initiated by the Bureau by filing a petition to assess penalty with the Office of Hearings and Appeals.

(b) Any notice or order previously issued pursuant to the Act with respect to the violation for which the penalty is sought to be assessed shall accompany the petition.

(c) Where appropriate, the Examiner or the Board shall consolidate penalty proceedings with other proceedings described herein.

§ 4.541 Contest of penalty.

A party against whom a penalty is sought shall file an answer within 20 days of service of the petition.

§ 4.542 Content of answer to penalty assessment.

An answer shall contain a short and plain statement of the party's position with respect to each issue of law or fact which the party contends is pertinent to the question of whether a penalty should be assessed against such party, including whether a violation occurred, and the amount of such penalty.

§ 4.543 Failure to answer.

Where a party fails to answer the petition for an assessment of penalty within 20 days, it will be deemed a waiver of evidentiary hearing and the Examiner may find facts and assess the penalty based upon the written record of the case. The Examiner may assume for purposes of the assessment of an uncontested penalty: (a) The truth of each allegation contained in any petition to assess penalty served on such party, (b) the legal validity of any withdrawal order or notice of violation on which the penalty against such party is sought to be based, and (c) the truth of any fact alleged in such order or notice.

§ 4.544 Assessment of penalty.

(a) Where, after opportunity for hearing and consideration of the record as a whole including the operator's history of violation, the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of violation, the Examiner or the Board finds that a violation of a mandatory health or safety standard or any other provision in the Act has occurred, he or they shall determine the amount of penalty which is warranted and incorporate in the decision concerning the violation an order requiring that the penalty be paid.

(b) Where the Board, upon review of the record and decision of an Examiner in a penalty proceeding, modifies the amount of penalty, it shall issue an order requiring the modified amount to be paid.

PETITIONS FOR MODIFICATION OF APPLICATION OF MANDATORY SAFETY STANDARDS

§ 4.550 Who may file.

A petition under section 301(c) of the Act for modification of the application of a mandatory safety standard may be filed by the operator of the affected mine or any representative of the miners at such mine.

§ 4.551 Form of petition.

(a) A petition for modification shall comply with the applicable general requirements and shall contain a detailed statement showing the following:

(1) The mandatory standard to which the petition is directed.

(2) The alternate method the petitioner proposes to establish in lieu of the mandatory standard.

(3) That the alternate method will at all times guarantee no less than the same measure of protection afforded the miners at the affected mine by the mandatory standard or that the application of the mandatory standard will result in diminution of safety to miners in the affected mine (or specific area thereof).

(b) A petition for modification shall not include a request for modification of the application of more than one safety standard, and shall not include a request for any relief other than modification of the application of a safety standard. However, a petition for modification may be filed pertaining to more than one mine.

§ 4.552 Procedure.

(a) Promptly upon receipt of such petition for modification, the Office of Hearings and Appeals will give notice of the petition to each known representative of miners or the operator of the affected mine as appropriate and shall publish notice of the petition in the FEDERAL REGISTER. All interested parties including a representative of miners or an operator shall have 30 days from the date of publication of notice in the FEDERAL REGISTER to answer the petition or otherwise comment or provide information.

(b) Such notice shall contain a statement that the petition has been filed, shall identify the petitioner and the mine or mines to which the petition relates, shall cite the section of the Act for which modification of application is sought, shall summarize the facts claimed by petitioner to warrant a modification and shall provide an opportunity for all interested parties to request a hearing and to present commentary or information relating to the proposed modification within 30 days of the date of publication of the notice.

APPLICATION FOR COMPENSATION OR FOR REVIEW OF DISCHARGE OR ACTS OF DISCRIMINATION UNDER SECTION 110 OF THE ACT

§ 4.560 Who may file.

(a) An application for compensation may be initiated by a miner who has been idled by an order of withdrawal or by a miner, who claims that he was not withdrawn because the operator failed or refused to comply with an order issued pursuant to section 104 of the Act.

(b) An application for review of an alleged discharge or act of discrimination may be initiated by a miner who believes that he has been discharged or otherwise discriminated against by reason of invoking his rights, testifying, or awaiting to testify under the Act, or by a representative of miners who believes that he has been discharged or otherwise discriminated against by reason of invoking his rights or the rights of the miners he is authorized to represent, testifying or awaiting to testify under the Act.

(c) Such applications may be initiated on behalf of a miner or miners by an authorized representative of miners.

§ 4.561 When to file.

An application to review a discharge or act of discrimination shall be filed within 30 days after such discharge or act of discrimination occurs. An application for compensation shall be filed within 45 days after the date of issuance of the withdrawal order which gives rise to the claim.

§ 4.562 Contents of application.

(a) An application for compensation shall comply with the applicable general requirements and shall state or include:

(1) A statement of the period for which compensation is claimed;

(2) The total amount of the compensation claimed to be due;

(3) An allegation that a demand for compensation has been made on the operator and that such demand has not been satisfied; and

(4) A copy of any pertinent order of withdrawal, or information to sufficiently identify any such order.

(b) An application for review of discharge or acts of discrimination shall be supported by an affidavit of a person with knowledge of the facts surrounding the alleged discharge or acts of discrimination and a statement of the relief requested.

§ 4.563 Answer.

Within 20 days after the date of service of such application, the operator shall file an answer which shall respond to each allegation of the application.

APPLICATION FOR TEMPORARY RELIEF

§ 4.570 Procedure.

(a) An application for temporary relief may be filed at any time prior to decision by an Examiner or the Board in the matter to which the application relates. The application shall be addressed to the Examiner if the proceeding is then pending before an Examiner, and shall be made to the Board if the proceeding is then pending before the Board.

(b) All parties to the proceeding in which the application is filed shall have 3 days from the date of receipt of the application to file a written response.

(c) Where the application is before the Board, it may order a special hearing to be held before an Examiner on any issues raised by the application.

§ 4.571 Contents of application.

(a) An application for temporary relief shall comply with the applicable general requirements and shall contain: (1) A statement of the specific relief requested, (2) a showing of substantial likelihood that the findings and decision of the Examiner or the Board in the matters to which the application relates will be favorable to the applicant; and (3) a showing that such relief will not adversely affect the health and safety of miners in the affected mine.

(b) An application for temporary relief may be supported by affidavits or other evidentiary matter.

§ 4.572 Limitations.

Temporary relief shall not be granted with respect to any order issued under section 104(a) of the Act or with respect to any notice of violation issued under sections 104 (b) or (i) of the Act.

HEARINGS

§ 4.580 Hearings to be conducted by Examiners.

All hearings shall be presided over by a hearing examiner in the Office of Hearings and Appeals, appointed under Section 3105 of Title 5 of the United States Code.

§ 4.581 Assignment of Examiners.

In any proceeding under the Act which requires an initial or recommended decision by an Examiner or where the Board remands a matter for hearing, an Examiner will be assigned. All subsequent motions, applications, and other papers thereafter filed in the proceeding shall be filed with the Examiner assigned to the proceeding at the address specified until his jurisdiction terminates.

§ 4.582 Powers of Hearing Examiners.

(a) Subject to the regulations of this subpart, an Examiner may:

(1) Administer oaths and affirmations;

(2) Issue subpenas authorized by law;

(3) Rule on offers of proof and receive relevant evidence;

(4) Take depositions or have depositions taken when the ends of justice would be served;

(5) Regulate the course of the hearing;

(6) Hold conferences for the settlement or simplification of the issues;

(7) Dispose of procedural requests or similar matters;

(8) Make or recommend decisions in accordance with Section 557 of Title 5 of the United States Code;

(9) Take other action authorized by this part, by Section 556 of Title 5 of the United States Code, or by the Act.

(b) The Examiner may direct the parties to appear for a prehearing conference to consider:

(1) The simplification of the issues;

(2) The possibility of obtaining stipulations, admissions of fact, and of producing documents which will avoid unnecessary proof;

(3) The possibility of agreement disposing of all or any of the issues in dispute;

(4) Such other matters as may aid in the disposition of the case.

(c) The Examiner's authority in each case shall terminate upon the filing of an appeal from an initial decision or other order dispositive of the proceeding or upon the expiration of the period within which an appeal to the Board may be filed or upon an order of the Board directing that the proceeding be be reviewed by the Board.

§ 4.583 Notice of hearing; appearances.

(a) Written notice of time, place, nature of hearing, the legal authority, and jurisdiction under which the hearing is to be held, and the matters of fact and law asserted shall be given, at least 5 days prior to the date set for hearing, to all persons made parties to the proceeding by § 4.507.

(b) In accordance with the provisions of Section 554 of Title 5 of the United States Code, a party may move for a transfer of place of hearing on the basis of convenience to parties and witnesses. Such motion should be filed with the Examiner assigned to the case in accordance with § 4.510.

§ 4.584 Depositions.

(a) *When permitted.* The Examiner may, for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories for use as evidence or for the purpose of discovery.

(b) *Orders on depositions.* Unless otherwise stipulated by the parties, the time, place, and manner of taking depositions shall be governed by the order of the Examiner.

§ 4.585 Interrogatories and production of documents.

Any party may serve written interrogatories or a request for admission of facts upon another party to a proceeding brought under these rules. A party served with written interrogatories or a request for admissions shall answer such interrogatories within 15 days of service unless the proponent of the interrogatories agrees to a longer time or unless the Examiner by order specifies a different time or excuses the party from answering on good cause shown. For good cause shown, the Examiner may order a party to produce and permit inspection and copying or photographing of designated documents relevant to the proceeding.

§ 4.586 Subpoenas; witness fees.

(a) On written application of a party or on his own motion, the Examiner may issue subpoenas requiring the attendance of witnesses and the production of relevant papers, books, and documents in their possession and under their control. A subpoena may be served by any person who is not a party and is not less than 18 years of age, and the original subpoena bearing a certificate of service shall be filed with the Examiner. A witness may be required to attend a deposition or hearing at a place not more than 100 miles from the place of service.

(b) Witnesses subpoenaed by any party shall be paid the same fees and mileage as are paid for like attendance in the District Courts of the United States. The witness fees and mileage shall be paid by the party at whose instance the witness appears.

§ 4.587 Burden of proof.

In proceedings brought under the Act, the applicant, petitioner, or other party initiating the proceeding shall have the burden of proving his case by a preponderance of the evidence, except that the Bureau shall have the burden of proving violation of any mandatory health or safety standard by a preponderance of the evidence wherever violation of a mandatory health or safety standard is in issue.

§ 4.588 Waiver of evidentiary presentation.

(a) Any party who desires to submit written pleadings, comments or information in lieu of an evidentiary presentation may submit such documents for the Examiner's consideration in the matter.

(b) Parties entitled to an evidentiary hearing may waive such right in writing, but unless all entitled parties file timely waivers, a hearing will be conducted. Such waivers must be unequivocal and request the Examiner to decide the matter at issue on the pleadings and written record of the case including any stipulation the parties might enter.

§ 4.589 Evidence.

(a) Any relevant evidence may be received at the discretion of the Examiner. The Examiner may exclude evidence which is unreliable or unduly repetitious.

(b) A party shall have the right to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such

cross-examination as may be required for a full disclosure of the facts.

§ 4.590 Summary decision of Examiner.

(a) *Filing*. At any time after commencement of a proceeding and before the scheduling of a hearing on the merits, a party to the proceeding may move the Examiner to render summary decision disposing of all or part of the proceeding.

(b) *Grounds*. A motion for summary decision shall be granted only if the entire record, including, the pleadings depositions, answers to interrogatories, admissions and affidavits, shows (1) that there is no genuine issue as to any material fact and (2) that the moving party is entitled to summary decision as a matter of law.

(c) *Form of motion and affidavits*. The motion may be supported by affidavits or other verified documents, and shall specify the grounds showing the party's right to the relief sought. Supporting and opposing affidavits shall be made on personal knowledge, shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or be incorporated if not otherwise a matter of record. The Examiner may permit affidavits to be supplemented or opposed by testimony, depositions, answers to interrogatories, admissions or further affidavits. When a motion for summary decision is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for hearing. If he does not so respond, summary decision, if appropriate, shall be entered against him.

(d) *Case not fully adjudicated on motion*. If a motion for summary decision is denied in whole or in part, and the Examiner determines that an evidentiary hearing of the case is necessary, he shall, if practicable, and upon examination of all relevant documents and evidence before him, and upon interrogating counsel or the parties, ascertain what material facts are actually and in good faith controverted. He shall thereupon make an order specifying the facts that appear without substantial controversy, and direct such further proceedings as deemed appropriate.

§ 4.591 Certification of interlocutory ruling.

In making a ruling which does not finally dispose of a proceeding, the Examiner shall at the request of a party or may on his own motion certify his ruling to the Board of Mine Operations Appeals if he determines that such ruling involves a controlling question of law and that an immediate appeal therefrom may materially advance the ultimate disposition of the matter before him.

§ 4.592 Proposed findings, conclusions and orders.

The Examiner may require the submission of proposed findings of fact, conclusions of law, and orders, together with a supporting brief. Such proposals shall be served upon all parties, and shall contain adequate references to the record and authorities relied upon.

§ 4.593 Initial decision.

As soon as practicable after conclusion of the hearing, the Examiner shall render an initial decision. The initial decision shall be in writing and shall include a statement of (a) findings and conclusions and the reasons or basis therefor on the material issues of fact, law or discretion presented on the record and (b) the appropriate ruling, or order, or denial of relief, with the effective date. All initial or recommended decisions of the Examiner shall be served on all parties to the proceeding and the Board promptly upon issuance.

§ 4.594 Effect of initial decision.

An initial decision shall become final upon the expiration of 30 days of its issuance unless an appeal to the Board is filed within the time allowed or the Board determines within 30 days of the decision to review such decision on its own initiative. The timely filing of an appeal or a review by the Board on its own motion with notice to the parties shall stay the effect of the initial decision. However, when the public interest requires, the Board may modify the effective decision date of an initial decision.

§ 4.595 Certification of record.

Within 5 days after an initial decision has been rendered, the Examiner shall certify the official record of the proceedings including all exhibits and order the official record filed in the Office of Hearings and Appeals.

APPEALS TO THE BOARD

§ 4.600 Notice of appeal.

Any party may appeal from an Examiner's order or from the initial decision by filing with the Board a notice of appeal within 20 days after service of the order or initial decision. Two or more parties may join in the same appeal; the Board may consolidate related appeals. Copies of a notice of appeal shall be served on all parties to the proceeding in accordance with § 4.510.

§ 4.601 Briefs.

(a) *Appellant's brief*. Within 20 days after filing the notice of Appeal, appellant shall file his brief and serve copies on all other parties to the proceeding. When a party who has filed a notice of appeal fails to file a timely brief, or if the notice of appeal and the brief are not served upon all parties to the proceeding within the time required, the appeal shall be subject to summary dismissal. Appellant's brief shall set forth in detail the objections to the initial decision, the reasons for such objections and the relief requested. Any error contained in the initial decision that is not objected to may be deemed by the Board to have been waived. Where any objection is based upon evidence of record, such objection need not be considered by the Board if specific record citations to the pertinent evidence are not contained in appellant's brief.

(b) *Appellee's brief*. Within 20 days after service of appellant's brief, any other party to the proceeding may file a brief in opposition thereto as an appellee.

(c) *Number of copies*. Five copies of each brief shall be filed with the Board and two copies served on each party. Copies of briefs shall be typewritten (double-spaced), printed or duplicated.

(d) *Length of brief*. Except by permission of the Board, appellant's brief may not exceed 50 pages and appellee's brief may not exceed 25 pages.

§ 4.602 Interlocutory appeals.

(a) *Requests for permission*. Interlocutory appeals from rulings and orders of an Examiner may be filed only after permission is granted by the Board. The Board shall not entertain a request unless a party has first sought certification of the ruling by the Examiner pursuant to § 4.591. Any request for permission from the Board shall be in writing, not to exceed 10 pages in length, and shall be granted only in such cases where the issue presented is a controlling question of law which will materially advance the final disposition of the case.

(b) *Briefs*. Unless the Board directs otherwise, a brief shall be filed by each party permitted by the Board to take an interlocutory appeal within 5 days after notice of such permission. Within 5 days after service of any appellant's brief, any other party to the proceeding may file a brief as appellee.

(c) *Effect*. An interlocutory appeal shall not operate to suspend the hearing unless otherwise ordered by the Board or the Examiner.

(d) *Jurisdiction*. If an interlocutory appeal is permitted, the Board's jurisdiction shall be confined to review of the ruling or order of the Examiner on the legal issue raised by the appeal, and shall not extend to any other issues.

(e) *Decision and remand*. Upon affirmance, reversal or modification of the Examiner's interlocutory ruling or order, the jurisdiction of the Board shall terminate, and the case will be remanded promptly to the Examiner for further proceedings.

§ 4.603 Remand.

Where any matter is before the Board, the Board may issue an order remanding the proceeding for further hearing in accordance with such order.

§ 4.604 Reconsideration.

Unless the Board orders otherwise, the filing of a petition for reconsideration shall not stay the effect of any decision or order and shall not affect the finality of any decision or order for purposes of judicial review.

§ 4.605 **Final decisions.**

Final decisions of the Board shall be rendered as promptly as practicable consistent with adequate consideration of the issues involved. The Board may adopt, modify or set aside any finding, conclusion or order of the Examiner.

[FR Doc.71-12632 Filed 8-27-71;8:48 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-69; Amdt. Nos. 171-11, 173-53, 178-20]

PART 173—SHIPPERS

PART 178—SHIPPING CONTAINER SPECIFICATIONS

Cylinder Specifications

Correction

In F.R. Doc. 71-12211, appearing at page 16579 in the issue of Tuesday, August 24, 1971, the following changes should be made:

1. The figure "3N" in the first line of § 173.304(a)(1), should read "3BN".
2. The word "pressure" in the eighth line of § 178.65-3, should read "pressures".
3. The figure "200" in the second line of § 178.65-11(b)(1), should read "2.0".
4. The reference to "§ 713.24(c)(1)(ii)" in the third line of § 178.65-14(a), should read "§ 173.24(c)(1)(ii)".
5. The word "market" in the 10th line of the Inspection Report Form in § 178.-65-15(b), should read "marked".

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

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment

The purpose of this notice is to amend Motor Vehicle Safety Standard No. 108 to delete sampling and failure-rate provisions from the tests of turn signal and hazard warning signal flashers, and to modify performance requirements for these items of motor vehicle equipment.

The notice of proposed rulemaking upon which this amendment is based was published in the FEDERAL REGISTER on February 3, 1971 (36 F.R. 1913). Standard No. 108 incorporates by reference SAE Standard J590b, "Automotive Turn Signal Flasher," October 1965, and SAE Recommended Practice J945, "Vehicular Hazard Warning Signal Flasher," February 1966. Both standards specify a test sample size and a permissible failure rate for the items tested, viz, that 50 items shall be "submitted for test," that 20 items shall be chosen from the 50, and that "at least 17 out of 20 samples" shall meet the requirements. These are the provisions whose deletion was proposed.

Careful consideration has been given to the comments received in response to the notice. Many industry comments opposed the proposal, alleging that substantially total compliance would necessitate an increase in unit cost, and arguing that the cost increase is not justified by the safety benefits to be gained. Concern was also expressed as to possible penalties that might arise from the occasional failures that are claimed by the industry to be unavoidable in items of this type.

As stated in the February 3 notice of proposed rulemaking, the NHTSA considers permissible failure rates to be contrary to both the letter and the intent of the National Traffic and Motor Vehicle Safety Act. Manufacturers are required to use due care to insure that all their products meet the requirements of the standards. The assessment of penalties for test failures is not automatic, however, but is made after a review of all the facts, with a view to determining whether due care was used in accordance with sound engineering and manufacturing principles. The sampling and failure-rate provisions are accordingly hereby deleted from the requirements in Standard No. 108 for turn signal and hazard warning signal flashers.

The NHTSA has determined that the design and production problems associated with the manufacture of thermal flashers are such that total compliance with current performance and durability test requirements is not practicable. Therefore, modifications have been made in starting time, voltage drop, flash rate, and percent current "on" time for performance tests, and in the duration and cycle of operation for durability tests. For example, the previous required performance range of 60 to 120 flashes per minute is broadened to 40 to 140 flashes per minute, and the percentage of time during a flash cycle that flasher contacts are required to be engaged, previously a range of 30 percent to 75 percent, is now 25 percent to 80 percent. The durability test for turn signal flashers will be continuous for 25 hours, rather than consisting of an on-off cycle for 200 hours. The durability test for hazard warning signal flashers is reduced to 12 hours from 36 hours. This agency has concluded that the net effect of these modifications is not a lessening of motor vehicle safety, since the minimum performance of flashers is substantially upgraded by requiring compliance of every flasher manufactured, rather than of only 17 of every 20 tested.

To implement the deletion of sampling and failure-rate provisions and the modification of the previous requirements, the NHTSA is amending Standard No. 108 to delete existing references to SAE Standard J590b and SAE Recommended Practice J945, and to adopt a new paragraph S4.6, *Turn signal flashers; hazard warning signal flashers*, that incorporates the new requirements.

In consideration of the foregoing, 49 CFR 571.21, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, is amended as follows:

1. In the first sentence of paragraph S4.1.1, the reference to "S4.1.1.15" is changed to "S4.1.1.16".

2. A new section S4.1.1.16 is added to read: "In addition to the equipment required by Table I or Table III, each passenger car, multipurpose passenger vehicle, truck, and bus shall be equipped with a turn signal flasher and a hazard warning signal flasher, and each motorcycle shall be equipped with a turn signal flasher, that meets the requirements of paragraph S4.6 of this standard."

3. In Tables I and III, "Turn signal flasher" and "Vehicular hazard warning signal flashers" are deleted as items of equipment under Column 1. Corresponding deletions are made under Columns 2, 3, and 4 of Table I, and Columns 2, 3, 4, and 5 of Table III.

4. Paragraph S4.4.2 is deleted.

5. Paragraph "S4.6" is renumbered "S4.5.8."

6. A new paragraph S4.6 is adopted to read as follows:

S4.6 *Turn signal flashers; hazard warning signal flashers*. Each turn signal flasher and hazard warning signal flasher shall meet the following performance and durability requirements when tested in accordance with SAE Standard J823b, Flasher Test Equipment," April 1968. The design load used in testing each flasher used as original motor vehicle equipment shall be the design current of the motor vehicle on which the flasher is installed. The design load used in testing each fixed-load flasher used as replacement motor vehicle equipment shall be stated by the flasher manufacturer as a single design load. The design load used in testing each variable-load flasher used as replacement motor vehicle equipment shall be stated by the flasher manufacturer as minimum and maximum design loads. The maximum design load shall be used to determine voltage drop (S4.6.1.2) and conformance to durability requirements (S4.6.2). The minimum and maximum design loads shall both be used to determine starting time (S4.6.1.1) and percent current "on" time (S4.6.1.3).

S4.6.1 *Performance requirements*.

S4.6.1.1 *Starting time*. When tested under the following conditions, the time required for closed contacts to open (on a flasher with normally closed contacts) or for open contacts to close and open again (on a flasher with normally open contacts) shall not exceed 2 seconds for a turn signal flasher, and 3 seconds for a hazard warning signal flasher.

(a) Ambient temperature is 75° F.

(b) Measurement of time starts when the voltage is initially applied.

(c) The design load is connected in the standard test circuit with the power source adjusted as specified in SAE Standard J823b.

(d) The test is run three times, each of which is separated by a cooling interval of 5 minutes, and the results are averaged to determine starting time.

S4.6.1.2 *Voltage drop*. When tested under the following conditions, the lowest voltage drop across a flasher shall not exceed 0.8 volt.

(a) Ambient temperature is 75° F.

(b) The design load is connected in the standard test circuit with the power source adjusted as specified in SAE Standard J823b.

(c) The voltage drop is measured between the input and the load terminals at the flasher and during the "on" period after the flasher has completed at least five consecutive cycles.

S4.6.1.3 *Flash rate and percent current "on" time*. The flash rate and the percent current "on" time of normally closed type flashers shall be within the unshaded portion of Figure 1 and those for normally open type flashers shall be within the entire rectangle of Figure 1, including the shaded areas.

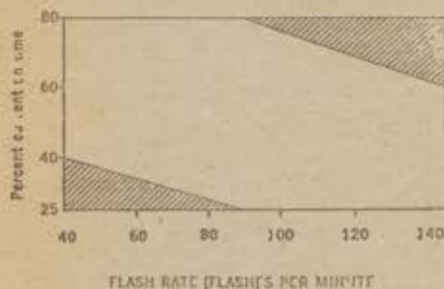

Figure 1

Each flasher shall meet these requirements under the following conditions:

(a) The flash rate and percent current "on" time are measured after the flasher has been operating for five consecutive cycles, and is calculated upon an average of not less than three consecutive cycles.

(b) For turn signal flashers, the operating tolerances apply over the combinations of bulb voltages and temperatures listed below as applicable:

(i) 12.8 or 6.4 volts; 75° F.
(ii) 11.0 or 5.5 volts; 0° F.
(iii) 15.0 or 7.5 volts; 0° F.
(iv) 11.0 or 5.5 volts; 125° F.
(v) 14.0 or 7.0 volts; 125° F.

(c) For hazard warning signal flashers, the operating tolerances apply over the combinations of bulb voltages and ambient temperatures listed below as applicable:

(i) 12.8 or 6.4 volts; 75° F.
(ii) 12.0 or 6.0 volts; 0° F.
(iii) 13.0 or 6.5 volts; 0° F.
(iv) 11.00 or 5.5 volts; 125° F.
(v) 13.0 or 6.5 volts; 125° F.

S4.6.2 *Durability requirements*.

S4.6.2.1 *Turn signal flashers*. Each turn signal flasher shall operate continuously for not less than 25 hours with the design load connected in the standard test circuit with the power source adjusted to apply 14 volts or 7.0 volts to the input terminals of the circuit. Each flasher shall then meet the requirements of paragraphs S4.6.1.1, S4.6.1.2, and S4.6.1.3 under the conditions of S4.6.1.3 (a) and (b)(i). The ambient temperature for the durability test is 75° F.

S4.6.2.2 *Hazard warning signal flashers*. Each hazard warning signal flasher shall operate continuously for not less than 12 hours with the design load connected in the standard test circuit with the power source adjusted to apply 13 volts or 6.5 volts to the input terminals of the circuit. Each flasher shall then meet the requirements of paragraphs S4.6.1.1, S4.6.1.2, and S4.6.1.3 under the conditions of S4.6.1.3 (a) and (c)(i). The ambient temperature for the durability test is 75° F.

S4.6.3 *Combination flashers*. Each combination turn signal and hazard warning signal flasher shall meet the requirements of paragraph S4.6.1 and S4.6.2 when tested in the following sequence:

(a) For performance as a turn signal flasher pursuant to paragraph S4.6.1;

(b) For performance as a hazard warning signal flasher pursuant to paragraph S4.6.1;

(c) For durability as a turn signal flasher pursuant to paragraph S4.6.2.1; and

(d) For durability as a hazard warning signal flasher pursuant to paragraph S4.6.2.2.

Effective date. January 1, 1973. Manufacturers commented that the proposed effective date of January 1, 1972, was impracticable in view of the necessity to evaluate and adopt new flasher and switch designs meeting the requirements. In light of the time needed for changes in design and preparation for production, the Administrator has found, for good cause shown, that an effective date later than 1 year from the date of issuance is in the public interest.

(Sec. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407, delegation of authority from Secretary of Transportation to National Highway Traffic Safety Administrator, 49 CFR 1.51)

Issued on August 20, 1971.

CHARLES H. HARTMAN,
Acting Administrator.

[FR Doc.71-12588 Filed 8-27-71;8:45 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1077, Amdt. 1]

PART 1033—CAR SERVICE

Kansas City Southern Railway Co. Authorized To Operate Over Certain Trackage of Southern Pacific Transportation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23d day of August 1971.

Upon further consideration of Service Order No. 1077 (36 F.R. 13927), and good cause appearing therefor:

It is ordered, That § 1033.1077 *Service Order No. 1077* (The Kansas City Southern Railway Co. authorized to operate over certain trackage of Southern Pacific Transportation Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date*. This order shall expire at 11:59 p.m., November 30, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., August 31, 1971.

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

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-12677 Filed 8-27-71;8:51 am]

Title 45—PUBLIC WELFARE

Chapter VIII—Civil Service Commission

PART 801—VOTING RIGHTS PROGRAM

Appendix A; Mississippi; Correction

F.R. Doc. 71-12469 filed August 23, 1971 (36 F.R. 16585), is corrected with respect to Item (2) in Tallahatchie County, Mississippi, as follows:

(2) Sumner—Abbey Building, East Court Square; August 23, 1971.

(Secs. 7 and 9 of the Voting Rights Act of 1965; P.L. 89-110)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-12764 Filed 8-27-71;11:10 am]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Emergency Preparedness

[OEP Economic Stabilization Reg. 1; Circular No. 3]

SUPPLEMENTARY GUIDANCE FOR APPLICATION

Economic Stabilization Circular No. 3

This circular is designed for general information only. The statements herein are intended solely as general guides drawn from OEP Economic Stabilization Regulation No. 1 and from specific determinations by the Cost of Living Council and do not constitute legal rulings applicable to cases which do not conform to the situations clearly intended to be covered by such guides.

NOTE: Provisions of this and subsequent circulars are subject to clarification, revision, or revocation.

This third circular covers determinations by the Council from August 25, 1971, through August 26, 1971.

APPENDIX I

ECONOMIC STABILIZATION CIRCULAR NO. 3

100. *Purpose.* (a) On August 15, 1971, President Nixon issued Executive Order No. 11615 providing for stabilization of prices, rents, wages, and salaries and establishing the Cost of Living Council, a Federal agency. The Order delegated to the Council all of the powers conferred on the President by the Economic Stabilization Act of 1970, as amended.

(b) By its Order No. 1 the Council delegated to the Director of the Office of Emergency Preparedness authority to administer the programs for the stabilization of prices, rents, wages, and salaries as directed by Section 1 of Executive Order No. 11615.

(c) The purpose of this circular, the third in a series to be issued, is to furnish further guidance to Federal officials and the public in order to promote maximum understanding and cooperation in the application of the program.

200. *Authority.* Relevant legal authority for the program includes the following:

The Constitution. Economic Stabilization Act of 1970, Public Law 91-379, 84 Stat. 799; Public Law 92-15, 85 Stat. 38.
Executive Order No. 11615, 36 F.R. 15127, August 17, 1971.
Cost of Living Council Order No. 1 (36 F.R. 16215, Aug. 20, 1971).
OEP Economic Stabilization Regulation No. 1, as amended (36 F.R. 16515, Aug. 21, 1971).

300. *General Guidelines.* (a) The guidance provided in this circular is in the nature of additions to or clarifications of previous determinations of the Cost of Living Council covered in previous OEP Economic Stabilization Circulars.

(b) The numbering system used in this circular corresponds to that used in OEP Economic Stabilization Circular No. 1.

400. *Price guidelines.*

401. *General guidelines.* (a) A travel agent cannot raise prices on that part of a tour package relating to services in the United States nor can he raise his markup for overhead and profit above that prevailing during the base period.

Exemption. A travel agent can, however, raise prices on tours to the extent that the costs of foreign services offered in the tour package are increased, i.e., foreign hotel rates, restaurant meals, transportation costs, etc. His records must clearly establish that each increase meets this test, and if he cannot so demonstrate, this exemption will not apply to his increase.

(b) School and college room and board rates are not exempt from the freeze. Such payments are handled just like tuition. If there were substantial transactions during the base period (confirmed by deposits), the increase may be charged. If this requirement of substantiality is not satisfied, the increase is not allowed.

(c) If quantity discounts are offered, customers who purchase large volumes eligible for the discount can be charged the applicable higher price if they reduce the amount of their purchases and thus fall into a lower quantity (higher price) bracket. During the 90-day freeze, customers may be charged in accordance with rate or price schedules established in accordance with the freeze requirements in the base period prior to August 15, 1971. However, charges applicable to various categories of rates or prices set out in effective schedules may not be increased.

(d) Exceptions from price ceiling regulations will not be granted to companies which did not raise their prices prior to August 15, even though they began paying higher wages under new labor contracts before that date.

(e) If retailers bought merchandise for higher prices during the base period, but had not increased their own prices prior to the freeze, they cannot now do so.

(f) Commodity futures markets are covered by the freeze, except for raw agricultural products.

(g) The ceiling price for all commodity futures prices which mature during the period is based on "spot" prices during the 30-day period ending August 14. Where spot prices are not available, the ceiling would be the price at which a substantial volume of the most recent futures contract was traded during the base period.

NOTE: Section 202 of the Economic Stabilization Act of 1970 prohibits the establishment of any ceiling below the price prevailing on May 25, 1970.

(h) "Deposits" for rentals of property or articles cannot be raised during the freeze.

403. *Prices on imports.* (a) Many businesses have a serious inventory problem due to the import surcharge. Where possible, surcharge and nonsurcharge items should be stored separately. Where this cannot be done, the wholesaler may elect to charge the base period ceiling price for each item that was in effect prior to August 15, 1971, until a quantity has been sold for each item equal to the quantity on hand prior to the arrival of items with a surcharge added. He may then charge at the old rate plus the exact surcharge.

405. *Government-regulated industries.* (a) The special incentive per diem charges on railroad freight cars which are authorized by the Interstate Commerce Commission will be permitted during the freeze.

406. *Commodities and services.* (a) A broker, when he buys from many different mills at different prices and sells to several different customers, essentially provides a service since he legally never takes title to the product. Therefore, his fee for this service is frozen. If his fee is determined on the basis of a percentage of the value of the product shipment, this percentage is frozen at the same level as during the month prior to August 15, 1971.

500. *Wage and salary guidelines.*

501. *General guidelines.* (a) As used in Executive Order No. 11615, the term "wages and salaries" includes all forms of remuneration or inducement to employees by their employers, including but not limited to: Vacation and holiday payments; bonuses; layoff, and supplemental unemployment insurance benefits; night shift, overtime, and other premiums; employer contributions to insurance, savings, or other welfare benefits; employer contributions to pension or annuity funds; payments in kind, job prerequisites, cost-of-living allowances, expense accounts, commissions, discounts, stock options, payments for deferred compensation, and all other fringe benefits. In addition, there may be no changes in working conditions which result in more pay per hour worked (for example, a schedule which shortens the workweek without a proportionate decrease in pay).

NOTE: The above redefinition of the term "wages and salaries" as used in Executive Order 11615 in effect clarifies and amplifies the definition as stated in section 6(b) of OEP Economic Stabilization Regulation No. 1 and section 501(b) of OEP Stabilization Circular No. 1.

(b) Profits from family owned businesses are not subject to the freeze. However, the amount of income to family members active in the management of the business, if paid as a salary under an agreed formula during the base period, is frozen at the formula rate.

NOTE: It is important to point out that ceilings have been established for prices and wages and the President has asked that dividends be voluntarily frozen.

502. *Specific guidelines.* (a) Employees who are U.S. citizens working abroad for companies which are incorporated in the United States are subject to the freeze.

NOTE: The above clarifies section 502(q) of OEP Economic Stabilization Circular No. 1.

(b) State payments to people disabled in job-related accidents under workmen's compensation laws are not subject to the

freeze since such payments are not prices, wages, or rents.

(c) An employer cannot reduce the official work day from 8 hours to 7 hours and pay overtime beginning after the 7 hours. Wages and salaries include all forms of compensation, including overtime. Indirect means to increase compensation above ceiling rates are not permitted.

(d) An employer cannot increase the number of days allowed off for purposes such as funerals, etc., since this constitutes an increase in fringe benefits.

(e) An increase in an employer's contribution can be made to a pension fund to finance a benefit increase which was granted and became effective before August 15.

(f) New stock options cannot be issued during the freeze.

(g) Professional athletes who had not entered into new contracts prior to the freeze, cannot negotiate contracts during the 90 day period which call for increases in salary to cover their services during the freeze.

(h) The freeze cannot be used to continue wage prices which are illegal under statutes prohibiting descrimination on the basis of age, sex, or race, e.g., lower pay for equal work by women.

(i) Newly hired reporters progress from year to year at a higher rate of pay until they reach "journeyman" stage. If the conditions specified below apply to any occupation, including reporters, the employee is eligible for scheduled wage increases under the program. If these conditions do not exist, these increases are considered longevity increases which may not be granted. A bona fide apprentice or learners program must be demonstrated by the existence of a formal program of on-the-job or classroom training whereby the apprentice or learner assumes greater responsibilities or additional functions as he progresses through each step of the program. These must be established programs which were in existence prior to the freeze.

NOTE: The above amplifies section 502 (j)(2) of OEP Economic Stabilization Circular No. 1.

(j) Veterans returning to their premilitary service employment are normally entitled to receive all the increases they would have received if they had not served in the military. They can receive these increases when rehired during the freeze if the wage is not above the ceiling wage established in the base period.

600. *Rent guidelines.*

602. *Specific guidelines.* (a) A landlord would be in violation of the freeze if he attempted to evict a tenant for refusing to pay rent in excess of the ceiling rent applicable to his rental apartment or house. Section 10(a) of OEP Economic Stabilization Regulation No. 1 prohibits any practice which constitutes a means to obtain a higher rent than that permitted under the freeze. Therefore, such an eviction would constitute a violation of the freeze.

(b) The rental rate for property which was not used for rental purposes prior to the freeze is based on comparable units in the immediate area during the base period.

(c) Prior to August 15, 1971, an owner of a multifamily project subject to control of rents by a Federal or local regulatory agency applied for an increase in rents. Prior to August 15, 1971, the regulatory agency authorized the increase, which was to become effective after August 15, 1971. The owner cannot charge the new rents as the rents in existence during the base period are the maximum rents that may be charged.

(d) A city has approved a new occupancy tax on all rental dwellings, to become effective after August 15, 1971. A property owner cannot increase rents to compensate for this increase in expenses.

(e) A property owner (such as a public housing authority) has established a rental schedule based on charging 20 percent of the tenants' income for rent. Prior to August 15, 1971, the owner announced to all tenants that starting after August 15, 1971, the percentage of income paid for rent would be increased to 25 percent. The owner cannot collect the increased rents since he is restricted to that percentage of income charged for rents which prevailed during the base period.

(f) A property owner has a rent schedule in existence prior to August 15, 1971, which establishes rents for each individual dwelling. On that earlier date, he announces that he is changing to a system of establishing rents as a percentage of tenants' income after August 15, 1971. He can charge such percentage-of-income rents after August 15, 1971, but the rent may be no higher than the dollar amount in the base period for any individual unit.

(g) The property owner of a vacation residence rents the residence for the season November 1 to May 1 each year at a season rental of $1,000. He wishes to rent the property after August 15, 1971, for the term of 1 year. He may charge the rent generally prevailing for comparable units in the immediate area for year-round use during the base period.

(h) If a rental unit becomes vacant during the freeze period, a higher rate cannot be charged when it is rented again.

1001. *Effective date.* This circular, unless modified, superseded, or revoked, is effective on the date of publication for a period terminating on November 12, 1971.

Dated: August 27, 1971.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

[FR Doc.71-12780 Filed 8-27-71;1:29 pm]

Chapter X—Oil Import Administration, Department of the Interior

[Oil Import Reg. 1 (Rev. 5) Amdt. 35]

OI REG. 1—OIL IMPORT REGULATION

Additional Allocations of Crude Oil Districts I–IV

There appeared in the FEDERAL REGISTER for July 31, 1971 (36 F.R. 14220), a proposal to make additional allocations of imports of crude and unfinished oils to holders of allocations under section 10 of Oil Import Regulation 1 (Revision 5), as amended, and to holders of allocations under section 23 of such regulation. Following careful consideration of the comments received, it was decided that additional allocations should be made only to holders of allocations and licenses under sections 10 and 23, and to holders of refinery allocations under section 25 of Oil Import Regulation 1 (Revision 5), as amended, and that all licenses issued under this Amendment shall expire December 31, 1971.

Accordingly, sections 10, 23, and 25 of Oil Import Regulation 1 (Revision 5), as amended, are hereby amended in the following respects:

To section 10, there is added a new paragraph, designated (e) reading as follows:

SEC. 10 Allocations—crude and unfinished oils—refiners—Districts I–IV.

* * * * *

(e) The holder of an allocation made under this section (for the current allocation period) shall receive an additional allocation equal to approximately 8.3954 percent of the amount of the allocation issued pursuant to paragraph (b) of this section. Unfinished oils may be imported under licenses issued pursuant to this paragraph (e), but imports of such oil shall not exceed 15 percent of the additional allocation made under this paragraph (e).

To section 23 of Oil Import Regulation 1 (Revision 5), as amended, there is added a new paragraph, designated (p), reading as follows:

SEC. 23 Canadian overland imports—Districts I–IV.

* * * * *

(p) The holder of an allocation of Canadian imports made under this section for the current allocation period and who has not relinquished the same may receive an additional allocation equal to approximately the amount of his qualified inputs multiplied by 0.955 percent. Paragraph (h) of this section 23 will apply to additional allocations made pursuant to this paragraph (p); however, the date for relinquishment of imports made under such additional allocation shall be October 15, 1971.

To section 25 of Oil Import Regulation 1 (Revision 5), as amended, there is added a new paragraph, designated (k), reading as follows:

Sec. 25 Allocation of crude and unfinished oils—Districts I–IV, District V—new or reactivated refinery capacity and petrochemical plants—based upon estimated inputs.

* * * * *

(k) The holder of an allocation and of license or licenses made and issued, respectively, under this section, covering imports into Districts I–IV during the current allocation period for new or reactivated refinery capacity, may receive an additional allocation which shall be equal approximately to that part of his original allocation with respect to which a license or licenses has or have been issued multiplied by 8.3954 percent. Unfinished oils may be imported under licenses issued pursuant to this paragraph (k), but imports of such oil shall not exceed 15 percent of the additional allocation made under this paragraph (k).

W. T. PECORA,
Acting Secretary of the Interior.

I concur: August 25, 1971.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

[FR Doc.71-12686 Filed 8-26-71;12:35 p.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Certain Tax-Exempt Membership Organizations

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by September 27, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by September 27, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 501(c) (10) and (18), 801, and 810 of the Internal Revenue Code of 1954 to sections 121(b) (5) and (6) of the Tax Reform Act of 1969 (83 Stat. 541), such regulations are amended as follows:

PARAGRAPH 1. Section 1.501(c) (10) is amended to read as follows:

§ 1.501(c)(10) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; certain fraternal beneficiary societies.

Sec. 501. *Exemption from tax on corporations, certain trusts, etc.*

* * * * *

(c) *List of exempt organizations.* The following organizations are referred to in subsection (a):

* * * * *

(10) Domestic fraternal societies, orders, or associations, operating under the lodge system—

(A) The net earnings of which are devoted exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes, and

(B) Which do not provide for the payment of life, sick, accident, or other benefits.

[Sec. 501(c) (10) as amended by section 121, Tax Reform Act, 1969 (83 Stat. 541)]

PAR. 2. There is added immediately after § 1.501(c) (10) the following new section:

§ 1.501(c)(10)-1 Certain fraternal beneficiary societies.

(a) For taxable years beginning after December 31, 1969, an organization will qualify for exemption under section 501(c) (10) if it—

(1) Is a domestic fraternal beneficiary society order, or association, described in section 501(c) (8) and the regulations thereunder except that it does not provide for the payment of life, sick, accident, or other benefits to its members, and

(2) Devotes its net earnings exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes.

Any organization described in section 501(c) (7), such as, for example, a national college fraternity, is not described in section 501(c) (10) and this section.

PAR. 3. There is added immediately § 1.501(c) (17)-3 the following new sections:

§ 1.501(c)(18) Statutory provisions; exemption from tax on corporations, certain trusts, etc.; certain funded pension trusts.

Sec. 501. *Exemption from tax on corporations, certain trusts, etc.*

* * * * *

(c) *List of exempt organizations.* The following organizations are referred to in subsection (a):

* * * * *

(18) A trust or trusts created before June 25, 1959, forming part of a plan providing for the payment of benefits under a pension plan funded only by contributions of employees, if—

(A) Under the plan, it is impossible, at any time prior to the satisfaction of all liabilities with respect to employees under the plan, for any part of the corpus or income to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of benefits under the plan,

(B) Such benefits are payable to employees under a classification which is set forth in the plan and which is found by the Secretary or his delegate not to be discriminatory in favor of employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees, and

(C) Such benefits do not discriminate in favor of employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees. A plan shall not be considered discriminatory within the meaning of this subparagraph merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan.

[Sec. 501(c) (18) as added by section 121, Tax Reform Act, 1969 (83 Stat. 541)]

§ 1.501(c)(18)-1 Certain funded pension trusts.

(a) *In general.* Organizations described in section 501(c) (18) are trusts created before June 25, 1959, forming part of a plan for the payment of benefits under a pension plan funded only by contributions of employees. In order to be exempt, such trusts must also meet the requirements set forth in section 501 (c) (18) (A), (B), and (C), and in paragraph (b) of this section.

(b) *Requirements for qualification.* A trust described in section 501(c) (18) must meet the following requirements—

(1) *Local law.* The trust must be a valid, existing trust under local law, and must be evidenced by an executed written document.

(2) *Funding.* The trust must be funded solely from contributions of employees who are members of the plan. For purposes of this section, the term "contributions of employees" shall include earnings on, and gains derived from, the assets of the trust which were contributed by employees.

(3) *Creation before June 25, 1959*—(i) *In general.* The trust must have been created before June 25, 1959. A trust created before June 25, 1959 is described in section 501(c) (18) and this section even though changes in the makeup of the trust have occurred since that time so long as these are not fundamental changes in the character of the trust or in the character of the beneficiaries of the trust. Increases in the beneficiaries of the trust by the addition of employees in the same or related industries, whether such additions are of individuals or of units (such as local units of a union) will generally not be considered a fundamental change in the character of the trust. A merger of a trust created after June 25, 1959 into a trust created before such date is not in itself a fundamental change in the character of the latter trust if the two trusts are for the benefit of employees of the same or related industries.

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

Example (1). Assume that trust C, for the benefit of members of participating locals of National Union X, was established in 1950 and adopted by 29 locals before June 25, 1959. The subsequent adoption of trust C by additional locals of National Union X in 1962 will not constitute a fundamental change in the character of trust C, since such subsequent adoption is by employees in a related industry.

Example (2). Assume the facts as stated in example (1), except that in 1965 National Union X merged with National Union Y, whose members are engaged in trades related to those engaged in by X's members. Assume further that trust D, the employee funded pension plan and fund for employees of Y, was subsequently merged into trust C. The merger of trust D into trust C would not in itself constitute a fundamental change in the character of trust C, since both C and D are for the benefit of employees of related industries.

(4) *Payment of benefits.* The trust must provide solely for the payment of pension or retirement benefits to its beneficiaries. For purposes of this section, the term "retirement benefits" is intended to include customary and incidental benefits, such as death benefits within the limits permissible under section 401.

(5) *Diversion.* The trust must be part of a plan which provides that, before the satisfaction of all liabilities to employees covered by the plan, the corpus and income of the trust cannot (within the taxable year and at any time thereafter) be used for, or diverted to, any purpose other than the providing of pension or retirement benefits. Payment of expenses in connection with the administration of a plan providing pension or retirement benefits shall be considered a payment to provide such benefits and shall not affect the qualification of the trust.

(6) *Discrimination.* The trust must be part of a plan whose eligibility conditions and benefits do not discriminate in favor of employees who are officers, shareholders, persons whose principal duties consist of supervising the work of other employees, or highly compensated employees. See sections 401(a)(3)(B) and 401(a)(4) and §§ 1.401-3 and 1.401-4. However, a plan is not discriminatory within the meaning of section 501(c)(18) merely because the benefits received under the plan bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of the employees covered by the plan. Accordingly, the benefits provided for highly paid employees may be greater than the benefits provided for lower paid employees if the benefits are determined by reference to their compensation; but, in such a case, the plan will not qualify if the benefits paid to the higher paid employees are a larger portion of compensation than the benefits paid to lower paid employees.

(7) *Objective standards.* The trust must be part of a plan which requires that benefits be determined according to objective standards. Thus, while a plan may provide similarly situated employees with benefits which differ in kind and amount, these benefits may not be determined solely in the discretion of the trustees.

(c) *Effective date.* The provisions of section 501(c)(18) and this section shall apply with respect to taxable years beginning after December 31, 1969.

PAR. 4. Section 1.801 is amended by amending section 801(b)(2) and by revising the historical note. These amended and revised provisions read as follows:

§ 1.801 Statutory provisions; life insurance companies; definition of life insurance company.

SEC. 801. *Definition of life insurance company.*

* * * * *

(b) *Life insurance reserves defined.*

* * * * *

(2) *Reserves must be required by law.* Except—

(A) In the case of policies covering life, health, and accident insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation, and

(B) As provided in paragraph (3), in addition to the requirements set forth in paragraph (1), life insurance reserves must be required by law.

[Sec. 801 as amended by sec. 2, Life Insurance Company Tax Act 1955 (70 Stat. 36); sec. 2, Life Insurance Company Tax Act 1959 (73 Stat. 112); sec. 3, Act of October 23, 1962 (P.L. 87-858, 76 Stat. 1134); sec. 121, Tax Reform Act of 1969 (83 Stat. 541)]

PAR. 5. Paragraph (a)(2) of § 1.801-3 is amended to read as follows:

§ 1.801-3 Definitions.

(a) *Insurance company.*

* * * * *

(2) Insurance companies include both stock and mutual companies, as well as mutual benefit insurance companies. For taxable years beginning before January 1, 1970, a voluntary unincorporated association of employees, including an association fulfilling the requirements of section 801(b)(2)(B) (as in effect for such years), formed for the purpose of relieving sick and aged members and the dependents of deceased members, is an insurance company, whether the fund for such purpose is created wholly by membership dues or partly by contributions from the employer. A corporation which merely sets aside a fund for the insurance of its employees is not an insurance company, and the income from such fund shall be included in the return of the corporation.

PAR. 6. Paragraph (b)(2) of § 1.801-4 is amended to read as follows:

§ 1.801-4 Life insurance reserves.

* * * * *

(b) *Certain reserves which need not be required by law.*

* * * * *

(2) For taxable years beginning before January 1, 1970, in the case of policies issued by an organization which met the requirements of section 501(c)(9) (as it existed prior to amendment by the Tax Reform Act of 1969) other than the requirement of subparagraph (B) thereof.

* * * * *

PAR. 7. Section 1.810 is amended by repealing subsection (e) and by revising the historical note. Such provisions read as follows:

§ 1.810 Statutory provisions; life insurance companies; rules for certain reserves.

SEC. 810. *Rules for certain reserves.*

* * * * *

(e) [repealed]

[Sec. 810 as added by sec. 2, Life Insurance Company Tax Act 1959 (73 Stat. 125); amended by sec. 121, Tax Reform Act 1969 (83 Stat. 541)]

PAR. 8. Paragraph (c)(4) of § 1.810-2 is amended to read as follows:

§ 1.810-2 Rules for certain reserves.

* * * * *

(c) *Special rules.*

* * * * *

(4) *Cross references.* For taxable years beginning before January 1, 1970, see section 810(e) (as in effect for such years) and § 1.810-4 for special rules for determining the net increase or decrease in the sum of the items described in section 810(c) and paragraph (b) of this section in the case of certain voluntary employees' beneficiary associations. For similar special rules in the case of life insurance companies issuing variable annuity contracts, see section 801(g)(4) and the regulations thereunder.

PAR. 9. Section 1.810-4 is amended by adding thereto a new paragraph (e). Such added paragraph reads as follows:

§ 1.810-4 Certain decreases in reserves of voluntary employees' beneficiary associations.

* * * * *

(e) *Effective date; cross reference.* The provisions of section 810(e) (as in effect for such years) and this section apply only with respect to taxable years beginning before January 1, 1970. For provisions relating to certain funded pension trusts applicable to taxable years beginning after December 31, 1969, see section 501(c)(18) and the regulations thereunder.

[FR Doc.71-12554 Filed 8-27-71;8:45 am]

[26 CFR Part 301]

SEIZURE OF PROPERTY FOR COLLECTION OF TAXES

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by September 27, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by September 27, 1971. In such case, a public hearing will be held, and notice of the time, place, and

date will be published in a subsequent issue of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to conform the Regulations on Procedure and Administration (26 CFR Part 301) under sections 6331, 6332, 6334, 6335, 6337, 6338, 6339, 6342, and 6343 of the Internal Revenue Code of 1954 to section 104 of the Federal Tax Lien Act of 1966 (80 Stat. 1135), such regulations are amended as set forth hereinafter. Section 301.6332-2 of the regulations hereby adopted supersedes those provisions of § 400.3 of this chapter relating to section 104(b) of such Act which were prescribed by T.D. 6944, approved January 17, 1968 (33 F.R. 733).

PARAGRAPH 1. Section 301.6331 is amended by revising section 6331(b) and by adding a historical note. These revised and added provisions read as follows:

§ 301.6331 Statutory provisions; levy and distraint.

Sec. 6331. *Levy and distraint.* * * *

(b) *Seizure and sale of property.* The term "levy" as used in this title includes the power of distraint and seizure by any means. A levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the Secretary or his delegate may levy upon property or rights to property, he may seize and sell such property or rights to property (whether real or personal, tangible or intangible).

* * * * *

[Sec. 6331 as amended by sec. 104(a), Federal Tax Lien Act of 1966 (80 Stat. 1135)]

PAR. 2. Paragraph (a)(1) of § 301.6331-1 is amended to read as follows:

§ 301.6331-1 Levy and distraint.

(a) *Authority to levy*—(1) *In general.* If any person liable to pay any tax neglects or refuses to pay such tax within 10 days after notice and demand, the district director to whom the assessment is charged or, upon his request, any other district director, may proceed to collect the tax by levy upon any property, or rights to property, whether real or person, tangible or intangible, either belonging to such person or with respect to which there is a lien provided by section 6321 or 6324 (or the corresponding provision of prior law) for the payment of such tax. As used in section 6331 and this section, the term "tax" includes any interest, additional amount, addition to tax, or assessable penalty, together with any costs and expenses that may accrue in addition thereto. For exemption of certain property from levy, see section 6334 and the regulations thereunder. Property subject to a Federal tax lien which has been sold or otherwise transferred by the taxpayer may be seized while in the hands of the transferee or of any subsequent transferee. However, see provisions under sections 6323 and 6324 (a)(2) and (b) for protection of certain transferees against a Federal tax lien. Levy may be made by serving a notice of levy on any person in possession of, or obligated with respect to, property or rights to property subject to levy including receivables, bank accounts, evidences of debt, securities, and accrued salaries, wages, commissions, and other compensation. A levy extends only to property possessed and obligations which exist at the time of the levy. Obligations exist when the liability of the obligor is fixed and determinable although the right to receive payment thereof may be deferred until a later date. For example, if a wage earner is paid on the Wednesday following the close of each workweek, a levy made upon his employer on Monday would reach his wages due for the prior workweek, although the employer need not satisfy the levy by paying over such amount to the district director until Wednesday. Similarly, a levy only reaches property subject to levy in the possession of the person levied upon at the time the levy is made. If, for example, a levy is made on a bank with respect to the account of a delinquent taxpayer and the bank surrenders to the district director the amount of the taxpayer's balance at the time the levy is made, the levy is satisfied. The levy has no effect upon any subsequent deposit made in the bank by the taxpayer. Subsequent deposits may be reached only by a subsequent levy on the bank.

* * * * *

PAR. 3. Section 301.6332 is amended by revising subsections (a) and (b) of section 6332, by redesignating subsection (c) of section 6332 as subsection (e), by adding new subsections (c) and (d) to section 6332, and by adding a historical note. These amended and added provisions read as follows:

§ 301.6332 Statutory provisions; surrender of property subject to levy.

Sec. 6332. *Surrender of property subject to levy*—(a) *Requirement.* Except as otherwise provided in subsection (b), any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made shall, upon demand of the Secretary or his delegate, surrender such property or rights (or discharge such obligation) to the Secretary or his delegate, except such part of the property or rights as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(b) *Special rule for life insurance and endowment contracts*—(1) *In general.* A levy on an organization with respect to a life insurance or endowment contract issued by such organization shall, without necessity for the surrender of the contract document, constitute a demand by the Secretary or his delegate for payment of the amount described in paragraph (2) and the exercise of the right of the person against whom the tax is assessed to the advance of such amount. Such organization shall pay over such amount 90 days after service of notice of levy. Such notice shall include a certification by the Secretary or his delegate that a copy of such notice has been mailed to the person against whom the tax is assessed at his last known address.

(2) *Satisfaction of levy.* Such levy shall be deemed to be satisfied if such organization pays over to the Secreary or his delegate the amount which the person against whom the tax is assessed could have had advanced to him by such organization on the date prescribed in paragraph (1) for the satisfaction of such levy, increased by the amount of any advance (including contractual interest thereon) made to such person on or after the date such organization had actual notice or knowledge (within the meaning of section 6323(i)(1)) of the existence of the lien with respect to which such levy is made, other than an advance (including contractual interest thereon) made automatically to maintain such contract in force under an agreement entered into before such organization had such notice or knowledge.

(3) *Enforcement proceedings.* The satisfaction of a levy under paragraph (2) shall be without prejudice to any civil action for the enforcement of any lien imposed by this title with respect to such contract.

(c) *Enforcement of levy*—(1) *Extent of personal liability.* Any person who fails or refuses to surrender any property or rights to property, subject to levy, upon demand by the Secretary or his delegate, shall be liable in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the rate of 6 percent per annum from the date of such levy. Any amount (other than costs) recovered under this paragraph shall be credited against the tax liability for the collection of which such levy was made.

(2) *Penalty for violation.* In addition to the personal liability imposed by paragraph (1), if any person required to surrender property or rights to property fails or refuses to surrender such property or rights to property without reasonable cause, such person shall be liable for a penalty equal to 50 percent of the amount recoverable under paragraph (1). No part of such penalty shall be credited against the tax liability for the collection of which such levy was made.

(d) *Effect of honoring levy.* Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made who, upon demand by the Secretary or his delegate, surrenders such property or rights to property (or discharges such obligation) to the Secretary or his delegate (or who pays a liability under subsection (c)(1)) shall be discharged from any obligation or liability to the delinquent taxpayer with respect to such property or rights to property arising from such surrender or payment. In the case of a levy which is satisfied pursuant to subsection (b), such organization shall also be discharged from any obligation or liability to any beneficiary arising from such surrender or payment.

(e) *Person defined.* The term "person," as used in subsection (a), includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to surrender the property or rights to property, or to discharge the obligation.

[Sec. 6332 as amended by sec. 104 (b), Federal Tax Lien Act of 1966 (80 Stat. 1135)]

PAR. 4. Section 301.6332-1 is amended by revising paragraphs (a)(1), (b), and (c) and by adding a new paragraph (d). These revised and added provisions read as follows:

§ 301.6332-1 Surrender of property subject to levy.

(a) *Requirement*—(1) *In general.* Except as otherwise provided in § 301.6332-2, relating to levy in the case of life insurance and endowment contracts, any person in possession of (or obligated with respect to) property or rights to property subject to levy and upon which a levy has been made shall, upon demand of the district director, surrender the property or rights (or discharge the obligation) to the district director, except that part of the property or rights (or obligation) which, at the time of the demand, is actually or constructively under the jurisdiction of a court because of an attachment or execution under any judicial process.

* * * * *

(b) *Enforcement of levy*—(1) *Extent of personal liability.* Any person who, upon demand of the district director, fails or refuses to surrender any property or right to property subject to levy is liable under the provisions of section 6332(c)(1) in his own person and estate to the United States in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of the taxes for the collection of which the levy has been made, together with costs and interest on such sum at the rate of 6 percent per annum from the date of the levy. Any amount, other than costs, recovered under section 6332(c)(1) shall be credited against the tax liability for the collection of which the levy was made.

(2) *Penalty for violation.* In addition to the personal liability described in subparagraph (1) of this paragraph, any person who is required to surrender property or rights to property and who fails or refuses to surrender them without reasonable cause is liable for a penalty equal to 50 percent of the amount recoverable under section 6332(c)(1). No part of the penalty described in this subparagraph shall be credited against the tax liability for the collection of which the levy was made. The penalty described in this subparagraph is not applicable in cases where bona fide dispute exists concerning the amount of the property to be surrendered pursuant to a levy or concerning the legal effectiveness of the levy. However, if a court in a later enforcement suit sustains the levy, then reasonable cause would usually not exist to refuse to honor a later levy made under similar circumstances.

(c) *Effect of honoring levy.* Any person in possession of, or obligated with respect to, property or rights to property subject to levy and upon which a levy has been made who, upon demand by the district director, surrenders the property or rights to property, or discharges the obligation, to the district director, or who pays a liability described in paragraph (b)(1) of this section, is discharged from any obligation or liability to the delinquent taxpayer with respect to the property or rights to property arising from the surrender or payment. If an insuring organization satisfies a levy with respect to a life insurance or endowment contract in accordance with § 301.6332-2, the insuring organization is discharged from any obligation or liability to any beneficiaries of the contract arising from the surrender or payment. Also, it is discharged from any obligation or liability to the insured or other owner. Any person who mistakenly surrenders to the United States property or rights to property not properly subject to levy is not relieved from liability to a third party who owns the property. The owners of mistakenly surrendered property may, however, secure from the United States the administrative relief provided for in section 6343(b) or may bring suit to recover the property under section 7426.

(d) *Person defined.* The term "person," as used in section 6332(a) and this section, includes an officer or employee of a corporation or a member or employee of a partnership, who is under a duty to surrender the property or rights to property or to discharge the obligation. In the case of a levy upon the salary or wages of an officer, employee, or elected or appointed official of the United States, the District of Columbia, or any agency or instrumentality of either, the term "person" includes the officer or employee of the United States, of the District of Columbia, or of such agency or instrumentality who is under a duty to discharge the obligation. As to the officer or employee who is under such duty, see paragraph (a)(4)(i) of § 301.6331-1.

PAR. 5. The following new section is inserted immediately following § 301.-6332-1.

§ 301.6332-2 Surrender of property subject to levy in the case of life insurance and endowment contracts.

(a) *In general.* This section provides special rules relating to the surrender of property subject to levy in the case of life insurance and endowment contracts. The provisions of § 301.6332-1 which relate generally to the surrender of property subject to levy apply, to the extent not inconsistent with the special rules set forth in this section, to a levy in the case of life insurance and endowment contracts.

(b) *Effect of service of notice of levy*—(1) *In general.* A notice of levy served by a district director on an insuring organization with respect to a life insurance or endowment contract issued by the organization shall constitute—

(i) A demand by the district director for the payment of the cash loan value of the contract adjusted in accordance with paragraph (c) of this section, and

(ii) The exercise of the right of the person against whom the tax is assessed to the advance of such cash loan value.

It is unnecessary for the district director to surrender the contract document to the insuring organization upon which the levy is made. However, the notice of levy will include a certification by the district director that a copy of the notice of levy has been mailed to the person against whom the tax is assessed at his last known address. At the time of service of the notice of levy, the levy is effective with respect to the cash loan value of the insurance contract, subject to the condition that if the levy is not satisfied or released before the 90th day after the date of service, the levy can be satisfied only by payment of the amount described in paragraph (c) of this section. Other than satisfaction or release of the levy, no event during the 90-day period subsequent to the date of service of the notice of levy shall release the cash loan value from the effect of the levy. For example, the termination of the policy by the taxpayer or by the death of the insured during such 90-day period shall not release the levy. For the rules relating to the time when the insuring organization is to pay over the required amount, see paragraph (c) of this section.

(2) *Notification of amount subject to levy*—(i) *Full payment before the 90th day.* In the event that the unpaid liability to which the levy relates is satisfied at any time during the 90-day period subsequent to the date of service of the notice of levy, the district director will promptly give the insuring organization written notification that the levy is released.

(ii) *Notification after the 90th day.* In the event that notification is not given under subdivision (i) of this subparagraph, the district director will, promptly following the 90th day after service of the notice of levy, give the insuring organization written notification of the current status of all accounts listed on the notice of levy, and of the total payments received since service of the notice of levy. This notification will be given to the insuring organization whether or not there has been any change in the status of the accounts.

(c) *Satisfaction of levy*—(1) *In general.* The levy described in paragraph (b) of this section with respect to a life insurance or endowment contract shall be deemed to be satisfied if the insuring organization pays over to the district director the amount which the person against whom the tax is assessed could have had advanced to him by the organization on the 90th day after service of the notice of levy on the organization. However, this amount is increased by the amount of any advance (including contractual interest thereon), generally called a policy loan, made to the person on or after the date the organization has actual notice or knowledge, within the meaning of section 6323(i)(1), of the existence of the tax lien with respect to which the levy is made. The insuring organization may, nevertheless, make an advance (including contractual interest thereon), generally called an automatic premium loan, made automatically to maintain the contract in force under an agreement entered into before the organization has such actual notice or knowledge. In any event, the amount paid to the district director by the insuring organization is not to exceed the amount of the unpaid liability shown on the notification described in paragraph (b)(2) of this section. The amount, determined in

accordance with the provisions of this section, subject to the levy shall be paid to the district director by the insuring organization promptly after receipt of the notification described in paragraph (b) (2). The satisfaction of a levy with respect to a life insurance or endowment contract will not discharge the contract from the tax lien. However, see section 6323(b)(9)(C) and the regulations thereunder concerning the liability of an insurance company after satisfaction of a levy with respect to a life insurance or endowment contract. If the person against whom the tax is assessed so directs, the insuring organization, on a date before the 90th day after service of the notice of levy, may satisfy the levy by paying over an amount computed in accordance with the provisions of this subparagraph substituting such date for the 90th day. In the event of termination of the policy by the taxpayer or by the death of the insured on a date before the 90th day after service of the notice of levy, the amount to be paid over to the district director by the insuring organization in satisfaction of the levy shall be an amount computed in accordance with the provisions of this subparagraph substituting the date of termination of the policy or the date of death for the 90th day.

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

Example (1). On March 5, 1968, a notice of levy for an unpaid income tax assessment due from A in the amount of $3,000 is served on the X Insurance Company with respect to A's life insurance policy. On March 5, 1968, the cash loan value of the policy is $1,500. On April 9, 1968, A does not pay a premium due on the policy in the amount of $200. Under an automatic premium advance provision contained in the policy originally issued in 1960, X advances the premium out of the cash value of the policy. As of June 3, 1968 (the 90th day after service of the notice of levy), pursuant to the provisions of the policy, the amount of accrued charges upon the automatic premium advance in the amount of $200 for the period April 9, 1968, through June 3, 1968, is $2. On June 5, 1968, the district director gives written notification to X indicating that A's unpaid tax assessment is $2,500. Under this section, X is required to pay to the district director, promptly after receipt of the June 5, 1968, notification, the sum of $1,298 ($1,500 less $200 less $2), which is the amount A could have had advanced to him by X on June 3, 1968.

Example (2). Assume the same facts as in example (1) except that on May 10, 1968, A requests and X grants an advance in the amount of $1,000. X has actual notice of the existence of the lien by reason of the service of the notice of levy on March 5, 1968. This advance is not required to be made automatically under the policy and reduces the amount of the cash value of the policy. For the use of the $1,000 advance during the period May 10, 1968, through June 3, 1968, X charges A the sum of $3. Under this section, X is required to pay to the district director, promptly after receipt of the June 5, 1968, notification, the sum of $1,298. This $1,298 amount is composed of the $295 amount ($1,500 less $200 less $2 less $1,000 less $3) A could have had advanced to him by X on June 3, 1968, plus the $1,000 advance plus the charges in the amount of $3 with respect thereto.

Example (3). Assume the same facts as in example (1) except that the insurance contract does not contain an automatic premium advance provision. The contract does provide that, upon default in the payment of premiums, the policy shall automatically be converted to paid-up term insurance with no cash or loan value. A fails to make the premium payment of $200 due on April 9, 1968. After expiration of a grace period to make the premium payment, the X Insurance Company applies the cash loan value of $1,500 to effect the conversion. Since the service of the notice of levy constitutes the exercise of A's right to receive the cash loan value and the amount applied to effect the conversion is not an automatic advance to A to maintain the policy in force, the conversion of the policy is not an event which will release the cash loan value from the effect of the levy. Therefore, X Insurance Company is required to pay to the district director, promptly after receipt of the June 5, 1968 notification, the sum of $1,500.

(d) *Other enforcement proceedings*. The satisfaction of the levy described in paragraph (b) of this section by an insuring organization shall be without prejudice to any civil action for the enforcement of any Federal tax lien with respect to a life insurance or endowment contract. Thus, this levy procedure is not the exclusive means of subjecting the life insurance and endowment contracts of the person against whom a tax is assessed to the collection of his unpaid assessment. The United States may choose to foreclose the tax lien in any case where it is appropriate, as, for example, to reach the cash surrender value (as distinguished from cash loan value) of a life insurance or endowment contract.

(e) *Cross references*. (1) For provisions relating to priority of certain advances with respect to a life insurance or endowment contract after satisfaction of a levy pursuant to section 6332(b), see section 6323(b)(9) and the regulations thereunder.

(2) For provisions relating to the issuance of a certificate of discharge of a life insurance or endowment contract subject to a tax lien, see section 6325(b) and the regulations thereunder.

PAR. 6. Section 301.6334 is amended by revising section 6334(a)(4), by adding new paragraphs (6) and (7) to section 6334(a), by revising the historical note to section 6334, and by deleting all statutory material and historical notes following the historical note to section 6334. The amended and added provisions read as follows:

§ 301.6334 Statutory provisions; property exempt from levy.

SEC. 6334. *Property exempt from levy*—(a) *Enumeration*. * * *

(4) *Unemployment benefits*. Any amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, or any State, or of the District of Columbia or of the Commonwealth of Puerto Rico.

* * * * *

(6) *Certain annuity and pension payments*. Annuity or pension payments under the Railroad Retirement Act, benefits under the Railroad Unemployment Insurance Act, special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. 562), and annuities based on retired or retainer pay under chapter 73 of title 10 of the United States Code.

(7) *Workmen's compensation*. Any amount payable to an individual as workmen's compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation law of the United States, any State, the District of Columbia, or the Commonwealth of Puerto Rico.

* * * * *

[Sec. 6334 as amended by section 406, Social Security Amendments 1958 (72 Stat. 1047); sec. 812, Excise Tax Reduction Act of 1965 (79 Stat. 170); sec. 104(c), Federal Tax Lien Act of 1966 (80 Stat. 1137)]

PAR. 7. Section 301.6334–1 is amended by revising subparagraphs (2), (3), and (4) of paragraph (a), by adding new subparagraphs (6) and (7) to paragraph (a), and by revising paragraph (c). These amended and added provisions read as follows:

§ 301.6334–1 Property exempt from levy.

(a) *Enumeration*. * * *

(2) *Fuel, provisions, furniture, and personal effects*. If the taxpayer is the head of a family, so much of the fuel, provisions, furniture, and personal effects in his household, and of the arms for personal use, livestock, and poultry of the taxpayer, as does not exceed $500 in value. For purposes of this provision, an individual who is the only remaining member of a family and who lives alone is not the head of a family.

(3) *Books and tools of a trade, business or profession*. So many of the books and tools necessary for the trade, business, or profession of an individual taxpayer as do not exceed in the aggregate $250 in value.

(4) *Unemployment benefits*. Any amount payable to an individual with respect to his unemployment (including any portion thereof payable with respect to dependents) under an unemployment compensation law of the United States, of any State, or of the District of Columbia or of the Commonwealth of Puerto Rico.

* * * * *

(6) *Certain annuity and pension payments*. Annuity or pension payments under the Railroad Retirement Act (45 U.S.C. ch. 9), benefits under the Railroad Unemployment Insurance Act (45 U.S.C. ch. 11), special pension payments received by a person whose name has been entered on the Army, Navy, Air Force, and Coast Guard Medal of Honor roll (38 U.S.C. 562), and annuities based on retired or retainer pay under chapter 73 of title 10 of the United States Code.

(7) *Workmen's compensation*. Any amount payable to an individual as workmen's compensation (including any portion thereof payable with respect to dependents) under a workmen's compensation law of the United States, any

State, the District of Columbia, or the Commonwealth of Puerto Rico.

* * * * *

(c) *Other property.* No other property or rights to property are exempt from levy except the property specifically exempted by section 6334(a). No provision of a State law may exempt property or rights to property from levy for the collection of any Federal tax. Thus, property exempt from execution under State personal or homestead exemption laws is, nevertheless, subject to levy by the United States for collection of its taxes.

PAR. 8. Section 301.6335 is amended by revising section 6335(b) and by adding a historical note. These amended and added provisions read as follows:

§ 301.6335 Statutory provisions; sale of seized property.

Sec. 6335. *Sale of seized property.* * * *

(b) *Notice of sale.* The Secretary or his delegate shall, as soon as practicable after the seizure of the property, give notice to the owner, in the manner prescribed in subsection (a), and shall cause a notification to be published in some newspaper published or generally circulated within the county wherein such seizure is made, or if there be no newspaper published or generally circulated in such county, shall post such notice at the post office nearest the place where the seizure is made, and in not less than two other public places. Such notice shall specify the property to be sold, and the time, place, manner, and conditions of the sale thereof. Whenever levy is made without regard to the 10-day period provided in section 6331 (a), public notice of sale of the property seized shall not be made within such 10-day period unless section 6336 (relating to sale of perishable goods) is applicable.

* * * * *

[Sec. 6335 as amended by sec. 104(d), Federal Tax Lien Act of 1966 (80 Stat. 1137)]

PAR. 9. Paragraph (b)(1) of § 301.-6335-1 is amended to read as follows:

§ 301.6335-1 Sale of seized property.

* * * * *

(b) *Notice of sale.* (1) As soon as practicable after seizure of the property, the district director shall give notice of sale in writing to the owner. Such notice shall be delivered to the owner or left at his usual place of abode or business if located within the internal revenue district where the seizure is made. If the owner cannot be readily located, or has no dwelling or place of business within such district, the notice may be mailed to his last known address. The notice shall specify the property to be sold, and the time, place, manner, and conditions of the sale thereof, and shall expressly state that only the right, title, and interest of the delinquent taxpayer in and to such property is to be offered for sale. The notice shall also be published in some newspaper published in the county wherein the seizure is made or in a newspaper generally circulated in that county. For example, if a newspaper of general circulation in a county but not published in that county will reach more potential bidders for the property to be sold than a newspaper published within the county, or if there is a newspaper of general circulation within the county but no newspaper published within the county, the district director may cause public notice of the sale to be given in the newspaper of general circulation within the county. If there is no newspaper published or generally circulated in the county, the notice shall be posted at the post office nearest the place where the seizure is made, and in not less than two other public places.

* * * * *

PAR. 10. Section 301.6337 is amended by revising section 6337(b)(1) and by adding a historical note. These revised and added provisions read as follows:

§ 301.6337 Statutory provisions; redemption of property.

Sec. 6337. *Redemption of property.* * * *

(b) *Redemption of real estate after sale*—(1) *Period.* The owners of any real property sold as provided in section 6335, their heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the property sold, or any particular tract of such property, at any time within 120 days after the sale thereof.

* * * * *

[Sec. 6337 as amended by sec. 104(e), Federal Tax Lien Act of 1966 (80 Stat. 1137)]

PAR. 11. Paragraph (b)(1) of § 301.6337-1 is amended to read as follows:

§ 301.6337-1 Redemption of property.

* * * * *

(b) *Redemption of real estate after sale*—(1) *Period.* The owner of any real estate sold as provided in section 6335, his heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the property sold, or any particular tract of such property, at any time within 120 days after the sale thereof.

* * * * *

PAR. 12. Section 301.6338 is amended by revising section 6338(c) and by revising the historical note. These amended provisions read as follows:

§ 301.6338 Statutory provisions; certificate of sale; deed of real property.

Sec. 6338. *Certificate of sale; deed of real property.* * * *

(c) *Real property purchased by United States.* If real property is declared purchased by the United States at a sale pursuant to section 6335, the Secretary or his delegate shall at the proper time execute a deed therefor, and without delay cause such deed to be duly recorded in the proper registry of deeds.

[Sec. 6338 as amended by sec. 78, Technical Amendments Act, 1958 (72 Stat. 1662); sec. 104(f), Federal Tax Lien Act of 1966 (80 Stat. 1137)]

PAR. 13. Paragraph (c) of § 301.6338-1 is amended to read as follows:

§ 301.6338-1 Certificate of sale; deed of real property.

* * * * *

(c) *Deed to real property purchased by the United States.* If real property is declared purchased by the United States at a sale pursuant to section 6335, the district director shall at the proper time execute a deed therefor and shall, without delay, cause the deed to be duly recorded in the proper registry of deeds.

PAR. 14. Section 301.6339 is amended by adding new subsections (c) and (d) to section 6339 and by revising the historical note. These added and amended provisions read as follows:

§ 301.6339 Statutory provisions; legal effect of certificate of sale of personal property and deed of real property.

Sec. 6339. *Legal effect of certificate of sale of personal property and deed of real property.* * * *

(c) *Effect of junior encumbrances.* A certificate of sale of personal property given or a deed to real property executed pursuant to section 6338 shall discharge such property from all liens, encumbrances, and titles over which the lien of the United States with respect to which the levy was made had priority.

(d) *Cross references.* (1) For distribution of surplus proceeds, see section 6342(b).

(2) For judicial procedure with respect to surplus proceeds, see section 7426(a)(2).

[Sec. 6339 as amended by sec. 79, Technical Amendments Act 1958 (72 Stat. 1662); sec. 104(g), Federal Tax Lien Act of 1966 (80 Stat. 1137)]

PAR. 15. Section 301.6339-1 is amended by adding new paragraph (c) which reads as follows:

§ 301.6339-1 Legal effect of certificate of sale of personal property and deed of real property.

* * * * *

(c) *Effect of junior encumbrances.* A certificate of sale of personal property given or a deed to real property executed pursuant to section 6338 discharges the property from all liens, encumbrances, and titles over which the lien of the United States, with respect to which the levy was made, has priority. For example, a mortgage on real property executed after a notice of a Federal tax lien has been filed is extinguished when the district director executes a deed to the real property to a purchaser thereof at a sale pursuant to section 6335 following the seizure of the property by the United States. The proceeds of such a sale are distributed in accordance with priority of the liens, encumbrances, or titles. See section 6342(b) and the regulations thereunder for provisions relating to the distribution of surplus proceeds. See section 7426(a)(2) and the regulations thereunder for judicial procedures with respect to surplus proceeds.

PAR. 16. Section 301.6342 is amended by revising section 6342(a) (other than paragraph (2) thereof) and by adding a historical note. These amended and added provisions read as follows:

§ 301.6342 Statutory provisions; application of proceeds of levy.

SEC. 6342. *Application of proceeds of levy*—(a) *Collection of liability.* Any money realized by proceedings under this subchapter (whether by seizure, by surrender under section 6332 (except pursuant to subsection (c)(2) thereof), or by sale of seized property), or by sale of property redeemed by the United States (if the interest of the United States in such property was a lien arising under the provisions of this title) shall be applied as follows:

(1) *Expense of levy and sale.* First, against the expenses of the proceedings;

* * * * *

(3) *Liability of delinquent taxpayer.* The amount, if any, remaining after applying paragraphs (1) and (2) shall then be applied against the liability in respect of which the levy was made or the sale was conducted.

* * * * *

[Sec. 6342 as amended by sec. 104(h), Federal Tax Lien Act of 1966 (80 Stat. 1137)]

PAR. 17. Paragraph (a) (other than subparagraph (2) thereof) of § 301.6342–1 is amended to read as follows:

§ 301.6342–1 Application of proceeds of levy.

(a) *Collection of liability.* Any money realized by proceedings under subchapter D, chapter 64, of the Code or by sale of property redeemed by the United States (if the interest of the United States in the property was a lien arising under the provisions of the Internal Revenue Code), is applied in the manner specified in subparagraphs (1), (2), and (3) of this paragraph. Money realized by proceedings under subchapter D, chapter 64, of the Code includes money realized by seizure, by sale of seized property, or by surrender under section 6332 (except money realized by the imposition of a 50 percent penalty pursuant to section 6332(c)(2)).

(1) *Expense of levy and sale.* First, against the expenses of the proceedings or sale, including expenses allowable under section 6341 and amounts paid by the United States to redeem property.

* * * * *

(3) *Liability of delinquent taxpayer.* The amount, if any, remaining after applying subparagraphs (1) and (2) of this paragraph shall then be applied against the liability in respect of which the levy was made or the sale of redeemed property was conducted.

* * * * *

PAR. 18. Section 301.6343 is amended by revising section 6343 and by adding a historical note. These amended and added provisions read as follows:

§ 301.6343 Statutory provisions; authority to release levy and return property.

SEC. 6343. *Authority to release levy and return property*—(a) *Release of levy.* It shall be lawful for the Secretary or his delegate, under regulations prescribed by the Secretary or his delegate, to release the levy upon all or part of the property or rights to property levied upon where the Secretary or his delegate determines that such action will facilitate the collection of the liability but such release shall not operate to prevent any subsequent levy.

(b) *Return of property.* If the Secretary or his delegate determines that property has been wrongfully levied upon, it shall be lawful for the Secretary or his delegate to return—

(1) The specific property levied upon,

(2) An amount of money equal to the amount of money levied upon, or

(3) An amount of money equal to the amount of money received by the United States from a sale of such property.

Property may be returned at any time. An amount equal to the amount of money levied upon or received from such sale may be returned at any time before the expiration of 9 months from the date of such levy. For purposes of paragraph (3), if property is declared purchased by the United States at a sale pursuant to section 6335(e) (relating to manner and conditions of sale), the United States shall be treated as having received an amount of money equal to the minimum price determined pursuant to such section or (if larger) the amount received by the United States from the resale of such property.

[Sec. 6343 as amended by sec. 104(i), Federal Tax Lien Act of 1966 (80 Stat. 1138)]

PAR. 19. Section 301.6343–1 is amended to read as follows:

§ 301.6343–1 Authority to release levy and return property.

(a) *Release of levy*—(1) *Authority.* The district director may release the levy upon all or part of the property or rights to property levied upon as provided in subparagraphs (2) and (3) of this paragraph. A levy may be released under subparagraph (2) of this paragraph only if the delinquent taxpayer complies with such of the conditions thereunder as the district director may require and if the district director determines that such action will facilitate the collection of the liability. A release pursuant to subparagraph (3) of this paragraph is considered to facilitate the collection of the liability. The release under this section shall not operate to prevent any subsequent levy.

(2) *Conditions for release.* The district director may release the levy as authorized under subparagraph (1) of this paragraph, if—

(i) *Escrow arrangement.* The delinquent taxpayer offers a satisfactory arrangement, which is accepted by the district director, for placing property in escrow to secure the payment of the liability (including the expenses of levy) which is the basis of the levy.

(ii) *Bond.* The delinquent taxpayer delivers an acceptable bond to the district director conditioned upon the payment of the liability (including the expenses of levy) which is the basis of the levy. Such bond shall be in the form provided in section 7101 and § 301.7101–1.

(iii) *Payment of amount of U.S. interest in the property.* There is paid to the district director an amount determined by him to be equal to the interest of the United States in the seized property or the part of the seized property to be released.

(iv) *Assignment of salaries and wages.* The delinquent taxpayer executes an agreement directing his employer to pay to the district director amounts deducted from the employee's wages on a regular, continuing, or periodic basis, in such manner and in such amount as is agreed upon with the district director, until the full amount of the liability is satisfied, and such agreement is accepted by the employer.

(v) *Installment payment arrangement.* The delinquent taxpayer makes satisfactory arrangements with the district director to pay the amount of the liability in installments.

(vi) *Extension of statute of limitations.* The delinquent taxpayer executes an agreement to extend the statute of limitations in accordance with section 6502(a)(2) and § 301.6502–1.

(3) *Release where value of interest of United States is insufficient to meet expenses of sale.* The district director may release the levy as authorized under subparagraph (1) of this paragraph if he determines that the value of the interest of the United States in the seized property, or in the part of the seized property to be released, is insufficient to cover the expenses of the sale of such property.

(b) *Return of property*—(1) *General rule.* If the district director determines that property has been wrongfully levied upon, the district director may return—

(i) The specific property levied upon,

(ii) An amount of money equal to the amount of money levied upon (without interest), or

(iii) An amount of money equal to the amount of money received by the United States from a sale of the property (without interest).

If the United States is in possession of specific property, the property may be returned at any time. An amount equal to the amount of money levied upon or received from a sale of the property may be returned at any time before the expiration of 9 months from the date of the levy. When a request described in subparagraph (2) of this paragraph is filed for the return of property before the expiration of 9 months from the date of levy, an amount of money may be returned after a reasonable period of time subsequent to the expiration of the 9-month period if necessary for the investigation and processing of such request. In cases where money is specifically identifiable, as in the case of a coin collection which may be worth substantially more than its face value, the money will be treated as specific property and, whenever possible, this specific property will be returned. For purposes of subparagraph (1)(iii) of this paragraph, if property is declared purchased by the United States at a sale pursuant to section 6334(e), the United States is treated as having received an amount of money equal to the minimum price determined by the district director before the sale or, if larger, the amount received by the United States from the resale of the property.

(2) *Request for return of property.* A written request for the return of property wrongfully levied upon shall be addressed to the district director (marked for the attention of the chief, special procedures staff) for the internal revenue district

in which the levy was made. The written request shall contain the following information:

(i) The name and address of the person submitting the request,

(ii) A detailed description of the property levied upon,

(iii) A description of the claimant's basis for claiming an interest in the property levied upon, and

(iv) The name and address of the taxpayer, the originating internal revenue district, and the date of lien or levy as shown on the Notice of Tax Lien (Form 668), Notice of Levy (Form 668-A), or Levy (Form 668-B) or, in lieu thereof, a statement of the reasons why such information cannot be furnished.

(3) *Inadequate request.* Any request made prior to September 1, 1971, which apprises the Internal Revenue Service of the claimant's demand for the return of property wrongfully levied upon shall be considered adequate. A request made after August 31, 1971, shall not be considered adequate unless it is a written request containing the information required by subparagraph (2) of this paragraph. However, unless a notification is mailed by the district director to the claimant within 30 days of receipt of the request to inform the claimant of the inadequacies, any written request shall be considered adequate. If the district director timely notifies the claimant of the inadequacies of his request, the claimant shall have 30 days from the receipt of the notification of inadequacy to supply in writing any omitted information. Where the omitted information is so supplied within the 30 day period, the request shall be considered to be adequate from the time the original request was made for purposes of determining the applicable period of limitation upon suit under section 6532(c).

[FR Doc.71-12553 Filed 8-27-71;8:45 am]

[26 CFR Part 301]

FEDERAL TAX LIENS

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by September 27, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by September 27, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner of Internal Revenue.

In order to conform the Regulations on Procedure and Administration (26 CFR, Part 301) to changes in the Internal Revenue Code of 1954 made by sections 107, 108, 110, 111, 112, and 113 of the Federal Tax Lien Act of 1966 (80 Stat. 1140, 1142, 1145, 1146), such regulations are amended as follows:

PARAGRAPH 1. Section 301.6322 is amended by revising section 6322 and by adding a historical note to read as follows:

§ 301.6322 Statutory provisions; period of lien.

SEC. 6322. *Period of lien.* Unless another date is specifically fixed by law, the lien imposed by section 6321 shall arise at the time the assessment is made and shall continue until the liability for the amount so assessed (or a judgment against the taxpayer arising out of such liability) is satisfied or becomes unenforceable by reason of lapse of time.

[Sec. 6322 as amended by sec. 113(a), Federal Tax Lien Act 1966 (80 Stat. 1146)]

PAR. 2. Section 301.6502 is amended by revising subsection (a) of section 6502 and by adding a historical not to read as follows:

§ 301.6502 Statutory provisions; collection after assessment.

SEC. 6502. *Collection after assessment*—(a) *Length of period.* Where the assessment of any tax imposed by this title has been made within the period of limitation properly applicable thereto, such tax may be collected by levy or by a proceeding in court, but only if the the levy is made or the proceeding begun—

(1) Within 6 years after the assessment of the tax, or

(2) Prior to the expiration of any period for collection agreed upon in writing by the Secretary or his delegate and the taxpayer before the expiration of such 6-year period (or, if there is a release of levy under section 6343 after such 6-year period, then before such release).

The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. The period provided by this subsection during which a tax may be collected by levy shall not be extended or curtailed by reason of a judgment against the taxpayer.

* * * * *

[Sec. 6502 as amended by sec. 113(b) Federal Tax Lien Act 1966 (80 Stat. 1146)]

PAR. 3. Section 301.6502-1 is amended by adding a new subparagraph (3) to paragraph (a) to read as follows:

§ 301.6502-1 Collection after assessment.

(a) *Length of period.* * * *

(3) The period provided by section 6502(a) and this section shall not be extended or curtailed by reason of a judgment against a taxpayer. Therefore, a personal judgment rendered against a taxpayer arising out of an unpaid assessed tax liability will not extend the period during which the liability may be collected by levy. Similarly, the period during which the liability may be collected by levy is not curtailed by the fact that the United States secures such a judgment. For example, if the United States secures a personal judgment arising out of a tax liability assessed 4 years earlier, the liability may be collected in any manner provided by section 7403 or in any manner provided for the enforcement of a judgment or, during the remaining 2 years of the 6 year statutory period, by levy as if such judgment had not been secured.

* * * * *

PAR. 4. Section 301.6532 is amended by adding a new subsection (c) to section 6532 and by amending the historical note to read as follows:

§ 301.6532 Statutory provisions; periods of limitation on suits.

* * * * *

(c) *Suits by persons other than taxpayers*—(1) *General rule.* Except as provided by paragraph (2), no suit or proceeding under section 7426 shall be begun after the expiration of 9 months from the date of the levy or agreement giving rise to such action.

(2) *Period when claim is filed.* If a request is made for the return of property described in section 6343(b), the 9-month period prescribed in paragraph (1) shall be extended for a period of 12 months from the date of filing of such request or for a period of 6 months from the date of mailing by registered or certified mail by the Secretary or his delegate to the person making such request of a notice of disallowance of the part of the request to which the action relates, whichever is shorter.

[Sec. 6532 as amended by sec. 89(b), Technical Amendments Act 1958 (72 Stat. 1665) and sec. 110(b) Federal Tax Lien Act of 1966 (80 Stat. 1144)]

PAR. 5. Immediately after § 301.6532-2 there is added the following new section:

§ 301.6532-3 Periods of limitation on suits by persons other than taxpayers.

(a) *General rule.* No suit or proceeding, except as otherwise provided in section 6532(c)(2) and paragraph (b) of this section, under section 7426 and § 301.7426-1 relating to civil actions by persons other than taxpayers, shall be begun after the expiration of 9 months from the date of levy or agreement under section 6325(b)(3) giving rise to such action.

(b) *Period when claim is filed.* The 9-month period prescribed in section 6532(c)(1) and paragraph (a) of this section shall be extended to the shorter of,

(1) 12 months from the date of filing by a third party of a written request under § 301.6343-1(b)(2) for the return of property wrongfully levied upon, or

(2) 6 months from the date of mailing by registered or certified mail by the district director to the party claimant of a notice of disallowance of the part of the request to which the action relates.

A request which, under § 301.6343-1(b)(3), is not considered adequate does not extend the 9-month period described in paragraph (a) of this section.

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

Example (1). On June 1, 1970, a tax is assessed against A with respect to his delinquent tax liability. On July 20, 1970, a levy is wrongfully made upon certain tangible personal property of B's which is in A's possession at that time. On September 1, 1970, a final demand is made for the payment of the amount set forth in the notice of levy. Unless a request for the return of property is sooner made to extend the 9-month period, no suit or proceeding under section 7426 may be begun by B after April 20, 1971, which is 9 months from the date of levy.

Example (2). Assume the same facts as in the preceding example except that, on August 3, 1970, B properly files a request for the return of his property wrongfully levied upon. Assume further that the district director mails, on March 1, 1971, a notice of disallowance of B's request for the return of the property. No suit or proceeding under section 7426 may be begun by B after August 3, 1971, which is 12 months from the date of filing a request for the return of property wrongfully levied upon.

Example (3). Assume the same facts as in the preceding example except that the notice of disallowance of B's request for the return of property wrongfully levied upon is mailed to B on November 12, 1970. Since the 6-month period from the mailing of the notice of disallowance expires before the 12-month period from the date of filing the request for the return of property which ends on August 3, 1971, no suit or proceeding under section 7426 may be begun by B after May 12, 1971, which is 6 months from the date of mailing the notice of disallowance.

PAR. 6. Section 301.7402 is amended by redesignating subsection (e) of section 7402 as subsection (f), by adding a new subsection (e) to section 7402, and by adding a historical note to read as follows:

§ 301.7402 Statutory provisions; jurisdiction of district courts.

SEC. 7402. *Jurisdiction of district courts.*

* * * * *

(e) *To quiet title.* The U.S. district courts shall have jurisdiction of any action brought by the United States to quiet title to property if the title claimed by the United States to such property was derived from enforcement of a lien under this title.

(f) *General jurisdiction.* * * *

[Sec. 7402 as amended by sec. 107(a) Federal Tax Lien Act 1966 (80 Stat. 1140)]

PAR. 7. Section 301.7403 is amended by adding a new sentence at the end of subsection (c) of section 7403 and by adding a historical note to read as follows:

§ 301.7403 Statutory provisions; action to enforce lien or to subject property to payment of tax.

SEC. 7403. *Action to enforce lien or to subject property to payment of tax.*

* * * * *

(c) *Adjudication and decree.* The court shall, after the parties have been duly notified of the action, proceed to adjudicate all matters involved therein and finally determine the merits of all claims to and liens upon the property, and, in all cases where a claim or interest of the United States therein is established, may decree a sale of such property, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States. If the property is sold to satisfy a first lien held by the United States, the United States may bid at the sale such sum, not exceeding the amount of such lien with expenses of sale, as the Secretary or his delegate directs.

* * * * *

[Sec. 7403 as amended by sec. 107(b) Federal Tax Lien Act 1966 (80 Stat. 1140)]

PAR. 8. Section 301.7403-1 is amended by adding paragraph (b) and by providing a heading for paragraph (a) to read as follows:

§ 301.7403-1 Action to enforce lien or to subject property to payment of tax.

(a) *Civil actions.* In any case where there has been a refusal or neglect to pay any tax, or to discharge any liability in respect thereof, whether or not levy has been made, the Attorney General or his delegate, at the request of the Commissioner (or the Director, Alcohol, Tobacco, and Firearms Division, with respect to the provisions of subtitle E of the Code), or the Chief Counsel for the Internal Revenue Service or his delegate, may direct a civil action to be filed in a district court of the United States to enforce the lien of the United States under the Code with respect to such tax or liability or to subject any property, of whatever nature, of the delinquent, or in which he has any right, title or interest, to the payment of such tax or liability. In any such proceeding, at the instance of the United States, the court may appoint a receiver to enforce the lien, or, upon certification by the Commissioner or the Chief Counsel for the Internal Revenue Service during the pendency of such proceedings that it is in the public interest, may appoint a receiver with all the powers of a receiver in equity.

(b) *Bid by the United States.* If property is sold to satisfy a first lien held by the United States, the United States may bid at the sale a sum which does not exceed the amount of its lien and the expenses of the sale. See also 31 U.S.C. 195.

PAR. 9. The center heading immediately preceding section 301.7421 is revised to read as follows:

PROCEEDINGS BY TAXPAYERS AND THIRD PARTIES

PAR. 10. Section 301.7421 is amended by revising subsection (a) of section 7421 and by adding a historical note to read as follows:

§ 301.7421 Statutory provisions; prohibition of suits to restrain assessment or collection.

SEC. 7421. *Prohibition of suits to restrain assesment or collection*—(a) *Tax.* Except as provided in sections 6212 (a) and (c), 6213 (a), and 7426 (a) and (b)(1), no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court by any person, whether or not such person is the person against whom such tax was assessed.

* * * * *

[Sec. 7421 as amended by sec. 110(c) Federal Tax Lien Act 1966 (80 Stat. 1144)]

PAR. 11. Section 301.7424 is amended to read as follows:

§ 301.7424 Statutory provisions; intervention.

SEC. 7424. *Intervention.* If the United States is not a party to a civil action or suit, the United States may intervene in such action or suit to assert any lien arising under this title on the property which is the subject of such action or suit. The provisions of section 2410 of title 28 of the United States Code (except subsection (b)) and of section 1444 of title 28 of the United States Code shall apply in any case in which the United States intervenes as if the United States had originally been named a defendant in such action or suit. In any case in which the application of the United States to intervene is denied, the adjudication in such civil action or suit shall have no effect upon such lien.

[Sec. 7424 as amended by sec. 108 Federal Tax Lien Act 1966 (80 Stat. 1140)]

PAR. 12. Section 301.7424-1 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c), respectively, and by adding a new paragraph (a). These redesignated and added paragraphs read as follows:

§ 301.7424-1 Civil action to clear title to property.

(a) The provisions of this section shall apply only to civil actions to clear title commenced on or before November 2, 1966. For provisions permitting the United States to be made a party defendant in a proceeding for the foreclosure of a lien upon property where the United States may have claim upon the property involved, see section 2410 of title 28 of the United States Code.

(b) Any person having a lien upon or any interest in the property referred to in section 7403, notice of which has been duly filed of record in the jurisdiction in which the property is located prior to the filing of the notice of the lien of the United States as provided in section 6323, or any person purchasing the property at a sale to satisfy such prior lien or interest, may make a written request to the Commissioner to authorize the filing of a civil action as provided in section 7403.

(c) If the Commissioner fails to authorize the filing of such civil action within 6 months after receipt of such written request, such person or purchaser may, after giving notice to the Commissioner, file a petition in the district court of the United States for the district in which the property is located praying leave to file a civil action for a final determination of all claims to or liens upon the property in question.

PAR. 13. There is inserted immediately after section 301.7424-1 the following new section:

§ 301.7424-2 Intervention.

If the United States is not a party to a civil action or suit, the United States may intervene in such action or suit to assert any lien arising under title 26 of the United States Code on the property which is the subject of such action or suit. The provisions of section 2410 of

title 28 of the United States Code (except subsection (b)) and of section 1444 of title 28 of the United States Code shall apply in any case in which the United States intervenes as if the United States had originally been named a defendant in such action or suit. If the application of the United States to intervene is denied, the adjudication in such civil action or suit shall have no effect upon such lien.

PAR. 14. Immediately after section 301.7425 there are added new § 301.7426 and a historical note and new § 301.7426-1 to read as follows:

§ 301.7426 Statutory provisions; civil actions by persons other than taxpayers.

Sec. 7426. *Civil actions by persons other than taxpayers*—(a) *Actions permitted*—(1) *Wrongful levy*. If a levy has been made on property or property has been sold pursuant to a levy, any person (other than the person against whom is assessed the tax out of which such levy arose), who claims an interest in or lien on such property and that such property was wrongfully levied upon may bring a civil action against the United States in a district court of the United States. Such action may be brought without regard to whether such property has been surrendered to or sold by the Secretary or his delegate.

(2) *Surplus proceeds*. If property has been sold pursuant to a levy, any person (other than the person against whom is assessed the tax out of which such levy arose), who claims an interest in or lien on such property junior to that of the United States and to be legally entitled to the surplus proceeds of such sale may bring a civil action against the United States in a district court of the United States.

(3) *Substituted sale proceeds*. If property has been sold pursuant to an agreement described in section 6325(b)(3) (relating to substitution of proceeds of sale), any person who claims to be legally entitled to all or any part of the amount held as a fund pursuant to such agreement may bring a civil action against the United States in a district court of the United States.

(b) *Adjudication*. The district court shall have jurisdiction to grant only such of the following forms of relief as may be appropriate in the circumstances:

(1) *Injunction*. If a levy or sale would irreparably injure rights in property which the court determines to be superior to rights of the United States in such property, the court may grant an injunction to prohibit the enforcement of such levy or to prohibit such sale.

(2) *Recovery of property*. If the court determines that such property has been wrongfully levied upon, the court may—

(A) Order the return of specific property if the United States is in possession of such property;

(B) Grant a judgment for the amount of money levied upon; or

(C) Grant a judgment for an amount not exceeding the amount received by the United States from the sale of such property.

For the purposes of subparagraph (C), if the property was declared purchased by the United States at a sale pursuant to section 6335(e) (relating to manner and conditions of sale), the United States shall be treated as having received an amount equal to the minimum price determined pursuant to such section or (if larger) the amount received by the United States from the resale of such property.

(3) *Surplus proceeds*. If the court determines that the interest or lien of any party to an action under this section was transferred to the proceeds of a sale of such property, the court may grant a judgment in an amount equal to all or any part of the amount of the surplus proceeds of such sale.

(4) *Substituted sale proceeds*. If the court determines that a party has an interest in or lien on the amount held as a fund pursuant to an agreement described in section 6325(b)(3) (relating to substitution of proceeds of sale), the court may grant a judgment in an amount equal to all or any part of the amount of such fund.

(c) *Validity of assessment*. For purposes of an adjudication under this section, the assessment of tax upon which the interest or lien of the United States is based shall be conclusively presumed to be valid.

(d) *Limitation on rights of action*. No action may be maintained against any officer or employee of the United States (or former officer or employee) or his personal representative with respect to any acts for which an action could be maintained under this section.

(e) *Substitution of United States as party*. If an action, which could be brought against the United States under this section, is improperly brought against any officer or employee of the United States (or former officer or employee) or his personal representative, the court shall order, upon such terms as are just, that the pleadings be amended to substitute the United States as a party for such officer or employee as of the time such action was commenced upon proper service of process on the United States.

(f) *Provision inapplicable*. The provisions of section 7422(a) (relating to prohibition of suit prior to filing claim for refund) shall not apply to actions under this section.

(g) *Interest*. Interest shall be allowed at the rate of 6 percent per annum—

(1) In the case of a judgment pursuant to subsection (b)(2)(B), from the date the Secretary or his delegate receives the money wrongfully levied upon to the date of payment of such judgment; and

(2) In the case of a judgment pursuant to subsection (b)(2)(C), from the date of the sale of the property wrongfully levied upon to the date of payment of such judgment.

(h) *Cross reference*. For period of limitation, see section 6532 (c).

[Sec. 7426 as added by sec. 110(a), Federal Tax Lien Act 1966 (80 Stat. 1142)]

§ 301.7426-1 Civil actions by persons other than taxpayers.

(a) *Actions permitted*—(1) *Wrongful levy*. If a levy has been made on property or property has been sold pursuant to a levy, any person (other than the person against whom is assessed the tax out of which such levy arose) may bring a civil action against the United States in a district court of the United States based upon such person's claim—

(i) That he has an interest in, or a lien on, such property which is senior to the interest of the United States; and

(ii) That such property was wrongfully levied upon.

No action is permitted under section 7426(a)(1) unless there has been a levy upon the property claimed. For example, no cause of action arises under this section where the United States sets-off an amount due to the taxpayer against taxes owed by him since no levy has been made.

(2) *Surplus proceeds*. If property has been sold pursuant to levy, any person (other than the person against whom is assessed the tax out of which such levy arose) may bring a civil action against the United States in a district court of the United States based upon such person's claim that he—

(i) Has an interest in or lien on such property junior to that of the United States; and

(ii) Is entitled to the surplus proceeds of such sale.

(3) *Substituted sale proceeds*. Any person who claims to be legally entitled to all or any part of the amount which is held as a fund from the sale of property pursuant to an agreement described in section 6325(b)(3) may bring a civil action against the United States in a district court of the United States to obtain the relief provided by section 7426 (b)(4). It is not necessary that the claimant be a party to the agreement which provides for the substitution of the sale proceeds for the property subject to the lien.

(b) *Adjudication*—(1) *Wrongful levy*. If the court determines that property has been wrongfully levied upon, the court may—

(i) Grant an injunction to prohibit the enforcement of such levy or to prohibit a sale of such property if such sale would irreparably injure rights in the property which are superior to the rights of the United States in such property; or

(ii) Order the return of specific property if the United States is in possession of such property; or

(iii) Grant a judgment for the amount of money levied upon; or

(iv) Grant a judgment for an amount not exceeding the amount received by the United States from the sale of such property (which, in the case of property declared purchased by the United States at a sale, shall be the greater of the minimum amount determined pursuant to section 6335(e) or the amount received by the United States from the resale of such property).

For purposes of this paragraph, a levy is wrongful against a person (other than the taxpayer against whom the assessment giving rise to the levy is made), if (*a*) the levy is upon property exempt from levy under section 6334, or (*b*) the levy is upon property in which the taxpayer had no interest at the time the lien arose or thereafter, or (*c*) the levy is upon property with respect to which such person is a purchaser against whom the lien is invalid under section 6323 or 6324 (a)(2) or (b), or (*d*) the levy or sale pursuant to levy will or does effectively destroy or otherwise irreparably injure such person's interest in the property which is senior to the Federal tax lien. A levy may be wrongful against a holder of a senior lien upon the taxpayer's property under certain circumstances although legal rights to enforce his interest survive the levy procedure. For example, the levy may be wrongful against such a person if the

property is an obligation which is collected pursuant to the levy rather than sold and nothing thereafter remains for the senior lienholder, or the property levied upon is of such a nature that when it is sold at a public sale the property subject to the senior lien is not available for the senior lienholder as a realistic source for the enforcement of his interest. Some of the factors which should be taken into account in determining whether property remains or will remain a realistic source from which the senior lienholder may realize collection are: (*1*) The nature of the property, (*2*) the number of purchasers, (*3*) the value of each unit sold or to be sold, (*4*) whether, as a direct result of the distraint sale, the costs of realizing collection from the security have or will be so substantially increased as to render the security substantially valueless as a source of collection, and (*5*) whether the property subject to the distraint sale constitutes substantially all of the property available as security for the payment of the indebtedness to the senior lienholder.

(2) *Surplus proceeds.* If the court determines that the interest or lien of any party to an action under section 7426 was transferred to the proceeds of a sale of the property, the court may grant a judgment in an amount equal to all or any part of the amount of the surplus proceeds of such sale. The term "surplus proceeds" means those proceeds realized on a sale of property remaining after application of the provisions of section 6342(a).

(3) *Substituted sale proceeds.* If the court determines that a party has an interest in or lien on the amount held as a fund pursuant to an agreement described in section 6325(b)(3), the court may grant a judgment in an amount equal to all or any part of the amount of such fund.

PAR. 15. Section 301.7505 is amended to read as follows:

§ 301.7505 Statutory provisions; sale of personal property acquired by the United States.

SEC. 7505. *Sale of personal property acquired by the United States*—(a) *Sale.* Any personal property acquired by the United States in payment of or as security for debts arising under the internal revenue laws may be sold by the Secretary or his delegate in accordance with such regulations as may be prescribed by the Secretary or his delegate.

(b) *Accounting.* In case of the resale of such property, the proceeds of the sale shall be paid into the Treasury as internal revenue collections, and there shall be rendered a distinct account of all charges incurred in such sales.

[Sec. 7505 as amended by secs. 111 (a) and (c) Federal Tax Lien Act 1966 (80 Stat. 1145)]

PAR. 16. Section 301.7505-1 is amended by revising the heading thereof, by revising subparagraph (1) of paragraph (a), and by revising so much of subparagraph (2) of paragraph (a) as precedes subdivision (ii) thereof. These revised provisions read as follows:

§ 301.7505-1 Sale of personal property acquired by the United States.

(a) *Sale*—(1) *In general.* Any personal property (except bonds, notes, checks, and other securities) acquired by the United States in payment of or as security for debts arising under the internal revenue laws may be sold by the district director who acquired such property for the United States. U.S. savings bonds shall not be sold by the district director but shall be transferred to the Division of Loans and Currency, Treasury Department, for redemption. Other bonds, notes, checks, and other securities shall be disposed of in accordance with instructions issued by the Commissioner.

(2) *Time, place, manner, and terms of sale.* The time, place, manner, and terms of sale of personal property acquired for the United States shall be as follows:

(i) *Time, notice, and place of sale.* The property may be sold at any time after it has been acquired by the United States. A public notice of sale shall be posted at the post office nearest the place of sale and in at least two other public places. The notice shall specify the property to be sold and the time, place, manner, and conditions of sale. In addition, the district director may use such other methods of advertising as he believes will result in obtaining the highest price for the property. The place of sale shall be within the internal revenue district where the property was originally acquired by the United States. However, if the district director believes that a substantially higher price may be obtained, the sale may be held outside his district.

* * * * *

PAR. 17. Section 301.7506 is amended by revising subsection (a) of section 7506 and by adding a historical note to read as follows:

§ 301.7506 Statutory provisions; administration of real estate acquired by the United States.

SEC. 7506. *Administration of real estate acquired by the United States*—(a) *Person charged with.* The Secretary or his delegate shall have charge of all real estate which is or shall become the property of the United States by judgment of forfeiture under the internal revenue laws, or which has been or shall be assigned, set off, or conveyed by purchase or otherwise to the United States in payment of debts or penalties arising under the laws relating to internal revenue, or which has been or shall be vested in the United States by mortgage or other security for the payment of such debts, or which has been redeemed by the United States, and of all trusts created for the use of the United States in payment of such debts due them.

* * * * *

[Sec. 7506 as amended by section 111(b) Federal Tax Lien Act 1966 (80 Stat. 1145)]

PAR. 18. Section 301.7506-1 is amended by revising paragraph (a) to read as follows:

§ 301.7506-1 Administration of real estate acquired by the United States.

(a) *Persons charged with.* The district director for the internal revenue district in which the property is situated shall have charge of all real estate which is or shall become the property of the United States by judgment of forfeiture under the internal revenue laws, or which has been or shall be assigned, set off, or conveyed by purchase or otherwise to the United States in payment of debts or penalties arising under the laws relating to internal revenue, or which has been or shall be vested in the United States by mortgage, or other security for payment of such debts, or which has been redeemed by the United States, or which has been or shall be acquired by the United States in payment of or as security for debts arising under the internal revenue laws, and of all trusts created for the use of the United States in payment of such debts due the United States.

* * * * *

PAR. 19. Section 301.7809 is amended by revising subsections (a) and (b) of section 7809, and by revising the historical note. These amended and revised provisions read as follows:

§ 301.7809 Statutory provisions; deposit of collections.

SEC. 7809. *Deposit of collections*—(a) *General rule.* Except as provided in subsections (b) and (c) and in sections 4735, 4762, 7651, 7652, 7654, and 7810, the gross amount of all taxes and revenues received under the provisions of this title, and collections of whatever nature received or collected by authority of any internal revenue law, shall be paid daily into the Treasury of the United States under instructions of the Secretary or his delegate as internal revenue collections, by the officer or employee receiving or collecting the same, without any abatement or deduction on account of salary, compensation, fees, costs, charges, expenses, or claims of any description. A certificate of such payment, stating the name of the depositor and the specific account on which the deposit was made, signed by the Treasurer of the United States, designated depository, or proper officer of a deposit bank, shall be transmitted to the Secretary or his delegate.

(b) *Deposit funds.* * * *

(2) *Sums offered for purchase of real estate.* Sums offered for the purchase of real estate under the provisions of section 7506;

(3) *Surplus proceeds in sales under levy.* Surplus proceeds in any sale under levy, after making allowance for the amount of the tax, interest, penalties, and additions thereto, and for costs and charges of the levy and sale; and

(4) *Surplus proceeds in sales of redeemed property.* Surplus proceeds in any sale under section 7506 of real property redeemed by the United States, after making allowance for the amount of the tax, interest, penalties, and additions thereto and for the costs of sale.

Upon the acceptance of such offer in compromise or offer for the purchase of such real estate, the amount so accepted shall be withdrawn from such deposit fund account and deposited in the Treasury of the United States as internal revenue collections. Upon the rejection of any such offer, the Secretary or his delegate shall refund to the maker of such offer the amount thereof.

* * * * *

[Sec. 7809 as amended by sec. 3(b), Act of Oct. 23, 1962 (Pub. Law 87-870, 76 Stat. 1161) and sec. 112(b) Federal Tax Lien Act 1966 (80 Stat. 1146)]

PAR. 20. Section 301.7810 is added and reads as follows:

§ 301.7810 Statutory provisions; revolving fund for redemption of real property.

Sec. 7810. *Revolving fund for redemption of real property*—(a) *Establishment of fund*. There is established a revolving fund, under the control of the Secretary or his delegate, which shall be available without fiscal year limitation for all expenses necessary for the redemption (by the Secretary or his delegate) of real property as provided in section 7425(d) and section 2410 of title 28 of the United States Code. There are authorized to be appropriated from time to time such sums (not to exceed $1 million in the aggregate) as may be necessary to carry out the purposes of this section.

(b) *Reimbursement of fund*. The fund shall be reimbursed from the proceeds of a subsequent sale of real property redeemed by the United States in an amount equal to the amount expended out of such fund for such redemption.

(c) *System of accounts*. The Secretary or his delegate shall maintain an adequate system of accounts for such fund and prepare annual reports on the basis of such accounts.

[Sec. 7810 as added by sec. 112(a) Federal Tax Lien Act 1966 (80 Stat. 1145)]

[FR Doc.71-12555 Filed 8-27-71;8:45 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 948]

IRISH POTATOES GROWN IN COLORADO

Notice of Proposed Limitation of Shipments for Area No. 2

Consideration is being given to the issuance of the limitation of shipments regulation for area No. 2 Colorado, hereinafter set forth, which was recommended by the area No. 2 committee, established pursuant to Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR Part 948), regulating the handling of Irish potatoes grown in the State of Colorado. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

This notice is based on the recommendation and information submitted by the Colorado Area No. 2 Potato Committee, established pursuant to said marketing agreement and order and other available information. The recommendation of the committee reflects its appraisal of the composition of the 1971 crop in area No. 2 and of the marketing prospects for this season.

The grade, size, quality, and maturity requirements as provided herein are necessary to prevent potatoes of poor quality, or undesirable sizes from being distributed into fresh market channels. They will also provide consumers with good quality potatoes consistent with the overall quality of the crop, and maximize returns to the producers for the preferred quality and sizes.

The proposed regulations with respect to special purpose shipments for other than fresh market use, are designed to meet the different requirements for such outlets.

All persons who desire to submit data, views, or arguments in connection with this proposal may file the same in quadruplicate with the Hearing Clerk, Room 112, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 5 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposed regulation is as follows:

§ 948.366 Limitation of shipments.

During the period September 16, 1971, through June 30, 1972, no person shall handle any lot of potatoes grown in area No. 2 unless such potatoes meet the requirements of paragraphs (a) and (b) of this section, or unless such potatoes are handled in accordance with paragraphs (c), (d), (e), and (f) of this section. The maturity requirements specified in paragraph (b) of this section shall terminate October 31, 1971, at 11:59 p.m., m.s.t.

(a) *Minimum grade and size requirements*.—(1) *Round varieties*. U.S. No. 2, or better grade, 2 inches minimum diameter.

(2) *Long varieties*. U.S. No. 2, or better grade, 2 inches minimum diameter or 4 ounces minimum weight.

(3) *All varieties*. Size B, if U.S. No. 1, or better, grade.

(b) *Maturity (skinning) requirements*.—(1) *Russet Burbank and Red McClure varieties*. For U.S. No. 2 grade not more than "moderately skinned" and for other grades not more than "slightly skinned."

(2) *All other varieties*. Not more than "moderately skinned."

(c) *Special purpose shipments*.—(1) The grade, size, maturity and inspection requirements of paragraphs (a), (b), and (f) of this section and the assessment requirements of this part shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Relief or charity; or

(iii) Canning, freezing, and "other processing" as hereinafter defined.

(2) The grade, size, maturity, and inspection requirements of paragraphs (a), (b), and (f) of this section shall not be applicable to shipments of seed pursuant to § 948.6 but such shipments shall be subject to assessments.

(d) *Safeguards*. Each handler of potatoes which do not meet the grade, size, and maturity requirements of paragraphs (a) and (b) of this section and which are handled pursuant to paragraph (c) of this section for any of the special purposes set forth therein shall,

(1) Prior to handling, apply for and obtain a Certificate of Privilege from the committee.

(2) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver as to the use of such potatoes, and

(3) Bill each shipment directly to the applicable processor or receiver.

(e) *Minimum quantity*. For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes without regard to inspection and the requirements of paragraphs (a) and (b) of this section, but this exception shall not apply to any shipment which exceeds 1,000 pounds of potatoes.

(f) *Inspection*. (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purposes of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspection certificate shall be valid for a period not to exceed 4 days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by, and made available for examination at any time upon request, a copy of the inspection certificate applicable thereto.

(g) *Definitions*. The terms "U.S. No. 1," "U.S. No. 2," "slightly skinned," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540–51.1566 (35 F.R. 18258)), effective September 1, 1971, including the tolerances set forth therein. The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing." Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(h) *Applicability to imports*. Pursuant to section 608e-1 of the act and § 980.1, *Import regulations* (7 CFR 980.1), Irish potatoes of the red skinned round type, except certified seed potatoes, imported into the United States during the period September 16, 1971, through June 30, 1972, shall meet the grade, size, and quality requirements specified in paragraph (a) of this section, and during the period September 16, 1971, through October 31, 1971, shall meet the minimum maturity requirements of paragraph (b)

of this section, namely not more than "moderately skinned."

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

Dated: August 25, 1971.

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

[FR Doc.71-12680 Filed 8-27-71;8:52 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

GLYCEROL ESTER OF WOOD ROSIN

Proposed Rule Making

Section 121.1084 of the food additive regulations (21 CFR 121.1084) provides for the use of gycerol ester of wood rosin, without a tolerance limitation, to adjust the density of citrus oils used in the preparation of beverages. Safety of this use was judged on the basis of data indicating that the intended physical or technical effect could be achieved at levels not in excess of 100 parts per million of the additive in the finished beverage.

New information indicates that since promulgation of § 121.1234 on July 28, 1970 (35 F.R. 12062), restricting use of brominated vegetable oil in beverages, the level of glycerol ester of wood rosin in citrus beverages may be exceeding 100 parts per million due to its use in production as a partial replacement for brominated vegetable oil. In the absence of supporting toxicological data for such higher levels, the Commissioner of Food and Drug concludes that usage should be restricted by imposing a tolerance, as proposed below, of not more than 100 parts per million of the additive in the finished beverage.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that § 121.1084(b) be revised to read as follows:

§ 121.1084 Glycerol ester of wood rosin.

* * * * *

(b) It is used to adjust the density of citrus oils used in the preparation of beverages whereby the amount of the additive does not exceed 100 parts per million of the finished beverage.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: August 23, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-12649 Filed 8-27-71;8:53 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 110]

[CGFR 71-86]

SOUTHEAST ALASKA

Anchorage Grounds; Explosives Anchorage

The Coast Guard is considering establishing an explosives anchorage in Southeast Alaska at one of the following locations:

(1) *Annette Bay.* The waters of Annette Bay within a circular area with a radius of 1,500 yards, having its center at latitude 55°16'18" N., longitude 131° 33'00" W. or

(2) *Annette Bay.* The waters of Annette Bay within a circular area with a radius of 1,500 yards, having its center at latitude 55°16'08" N., longitude 131° 33'28" W. or

(3) *Moser Bay.* The waters of Moser Bay within a circular area with a radius of 1,500 yards, having its center at latitude 55°32'30" N., longitude 131°38'56" W. or

(4) *Moth Bay.* The waters of Moth Bay within a circular area with a radius of 1,500 yards, having its center at latitude 55°16'55" N., longitude 131°20'22" W. or

(5) *Hassler Harbor.* The waters of Hassler Harbor within a circular area with a radius of 1,500 yards, having its center at latitude 55°12'48" N., longitude 131°25'38" W. or

(6) *Traitors Cove.* The waters of Traitors Cove within a circular area with a radius of 1,500 yards, having its center at latitude 55°43'30" N., longitude 131°-39'12" W.

The proposed explosive anchorage will provide for improved delivery of explosives to the logging and mining operations in Southeast Alaska. A floating magazine having a 750,000 pound capacity will be anchored in the proposed anchorage.

If the proposed explosive anchorage is established, the regulations for the anchorage would limit the use of the anchorage to vessels carrying, loading, or discharging explosives; restrict the total net weight of explosives aboard all vessels within the anchorage to 800,000 pounds; and require that a permit be obtained from the Captain of the Port, Ketchekan, Alaska, before any vessel may anchor or remain within the anchorage. The regulations would also require vessels carrying explosives to display either a red flag or warning sign by day and a red light, in addition to the anchorage lights, at night. Wooden vessels would be required to have radar reflector screens unless there are steel bulkheads or metallic cases or cargo aboard. The Captain of the Port could require that non-self-propelled vessels be attended by a tug while in the anchorage.

The Coast Guard will consider if the needs of maritime and commercial interest of the United States require that this proposed anchorage be established in the interest of safe navigation. The impact of this proposed anchorage on the public's safety and the environment will also be considered before final action is taken.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Commander, Seventeenth Coast Guard District, Post Office Box 3-5000, Juneau, AK 99801. Each person submitting comments should include his name and address, identifying the notice (CGFR 71-86) and give any reasons for any recommended change in the proposal. Copies of all submissions received will be available for examination by interested persons at the office of the Commander, Seventeenth Coast Guard District.

The Commander, Seventeenth Coast Guard District will forward any comments received before September 28, 1971, with his recommendations to the Chief, Office of Operations, U.S. Coast Guard Headquarters, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

(Sec. 7, 38 Stat. 1053, as amended, sec. 6(g) (1) (A) 80 Stat. 937, 33 U.S.C. 471, 49 U.S.C. 1655(g) (1) (A), 49 CFR 1.46(c) (1), 33 CFR 1.05-1(c) (1))

Dated: August 24, 1971.

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

[FR Doc.71-12667 Filed 8-27-71;8:50 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 2]

PUBLIC INFORMATION

Notice of Proposed Rule Making

Notice is hereby given that, pursuant to 5 U.S.C. 552, the Environmental Protection Agency intends to adopt the following new Part 2 to Title 40 of the Code of Federal Regulations.

Interested persons are invited to submit written comments regarding the proposed rules to the Office of Public Affairs, Environmental Protection Agency, Washington, D.C. 20460, within 30 days after publication of this notice

in the FEDERAL REGISTER. Comments received pursuant to this notice will be available for public inspection during normal working hours (9 a.m. to 5:30 p.m.) at the Office of Public Affairs.

Dated: August 24, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator, Environmental Protection Agency.

PART 2—PUBLIC INFORMATION

Sec.
2.100 Scope.
2.101 General policy.
2.102 Procedures applicable to the public.
2.103 Agency procedures in response to request.
2.104 Duties of receiving office.
2.105 Exemptions.
2.106 Determinations by the Office of General Counsel or a Regional Counsel.
2.107 Determinations by the Office of Public Affairs.
2.108 Records of concern to other Federal Agencies.
2.109 Creation of records.
2.110 Denial of requests for information.
2.111 Copies of documents.
2.112 Payment.

AUTHORITY: The provisions of this part 2 issued under 5 U.S.C. 552, as amended by Public Law 90-23.

§ 2.100 Scope.

This part establishes procedures for the Environmental Protection Agency to implement the provisions of the Administrative Procedure Act relating to the availability to the public of information contained in agency files, and not published in the FEDERAL REGISTER. This part is applicable to all EPA components, including all EPA regional offices, field installations and laboratories.

§ 2.101 General policy.

It is the policy of EPA to make the fullest possible disclosure of information to any person who requests information, without unjustifiable expense or delay. Prior to denial of a request for information based upon 5 U.S.C. 552(b), the EPA Office of Public Affairs may, pursuant to § 2.107, order disclosure in the public interest, unless such disclosure is prohibited by law.

§ 2.102 Procedures applicable to the public.

(a) *Form of request.* A request need not be in any particular form, provided that it (1) must be in writing, and (2) must contain a description of the records or information sought with sufficient specificity to permit identification.

(b) *Place of request.* A request for information may be filed with the EPA Office of Public Affairs, Washington, D.C. 20460, or with any other EPA office. Requests for records located in the indicated States may be filed with the following EPA Regional Offices:

(1) *Region I.* (Massachusetts, Connecticut, Maine, New Hampshire, Rhode Island, Vermont), Room 2303, John F. Kennedy Federal Building, Boston, Mass. 02203.

(2) *Region II.* (New Jersey, New York, Puerto Rico, Virgin Islands), Room 847, 26 Federal Plaza, New York, NY 10007.

(3) *Region III.* (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia), Post Office Box 12900, Philadelphia, PA 19108.

(4) *Region IV.* (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Suite 300, 1421 Peachtree Street, NE., Atlanta, GA 30309.

(5) *Region V.* (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), 33 East Congress Parkway, Chicago, IL 60605.

(6) *Region VI.* (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), 1114 Commerce Street, Dallas, TX 75202.

(7) *Region VIII.* (Iowa, Kansas, Missouri, Nebraska), Room 702, 911 Walnut Street, Kansas City, MO 64106.

(8) *Region VIII.* (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Room 9041, Federal Office Building, 19th and Stout Streets, Denver, CO 80202.

(9) *Region IX.* (Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territories of Pacific Islands, Wake Island), 760 Market Street, San Francisco, CA 94102.

(10) *Region X.* (Alaska, Idaho, Washington), 1200 Sixth Avenue, Seattle, WA 98101.

§ 2.103 Agency procedures in response to request.

Within 5 working days after receipt of a request for information, the EPA office receiving such request shall forward a copy of the request (with the date and place of receipt noted thereon) to the EPA Office of Public Affairs, and shall subsequently advise the Office of Public Affairs of all further actions taken with reference to the request.

§ 2.104 Duties of receiving office.

Within 10 working days after receipt of a request for information, the EPA office which received such request shall:

(a) Obtain, or ascertain the location of, the records or information sought, and (unless a determination pursuant to § 2.106 hereof is required), inform the requesting party of where the records may be inspected and, if ascertainable, of the charge for furnishing copies; or

(b) Inform the requesting party that the search for the requested information is continuing, and advise him of the anticipated date of completion of the search, and of any necessary subsequent extensions of such date, at which time (but in no event later than 60 days after receipt of a request for information) the alternative provisions of this section shall be promptly followed; or

(c) Inform the requesting party that the information sought is in the possession of another Government agency; refer the request to the office in such other agency where the information may be found; and notify the requesting party of such referral; or

(d) Inform the requesting party that the information requested does not exist, to the best knowledge of the receiving office; or

(e) Inform the requesting party that the information requested has been published in the FEDERAL REGISTER, and furnish the citation to such publication; or

(f) Inform the requesting party that disclosure of all or part of the information requested is under review pursuant to § 2.106, provided that, with respect to any part of the information requested which is not subject to review pursuant to § 2.106, action shall be taken promptly under the appropriate paragraph hereof; or

(g) Furnish such other information or take such other action as is appropriate.

§ 2.105 Exemptions.

(a) *Exempt information.* Information may be exempt from disclosure, pursuant to 5 U.S.C. 552(b), when it pertains to matters that are:

(1) Specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from disclosure by statute;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Interagency or intraagency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) *Procedures.* Whenever compliance with a request for information may result in the disclosure of information exempt from disclosure pursuant to 5 U.S.C. 552(b), the receiving office shall promptly forward a copy of the request and a copy or a description of the information requested, together with a brief statement of the position of the receiving office with reference to the applicability of an exemption, to the Office of the General Counsel at EPA headquarters, or to the Regional Counsel for the region in which the records are located.

§ 2.106 Determinations by the Office of General Counsel or a Regional Counsel.

(a) Not later than 20 working days after receipt of a request for determination from the receiving office, the Office of the General Counsel or Regional Counsel:

(1) Shall advise the receiving office to release the information requested, if no exemption pursuant to 5 U.S.C. 552(b) is found applicable; or

(2) Shall advise the receiving office not to release the information requested, if disclosure is prohibited by law; or

(3) Shall, if it or he finds that an exemption pursuant to 5 U.S.C. 552(b) is applicable, but that disclosure is not prohibited by law, forward to the EPA Office of Public Affairs the entire file

received by the Office of the General Counsel or Regional Counsel, together with an opinion respecting nondisclosure on the basis of statutory exemption.

(b) A determination by a Regional Counsel under paragraph (a) of this section shall be made only after consultation with the Office of the General Counsel.

§ 2.107 Determinations by the Office of Public Affairs.

Not later than ten working days after receipt of an opinion from the Office of the General Counsel or a Regional Counsel pursuant to § 2.106(a)(3) concerning the applicability of an exemption under 5 U.S.C. 552(b), the Office of Public Affairs shall determine whether the information requested should be made available in the public interest, notwithstanding the applicability of an exemption, and shall:

(a) Order the disclosure of the information requested, or

(b) Notify the requesting party in accordance with § 2.112 that the information requested will not be disclosed.

§ 2.108 Records of concern to other Federal Agencies.

Where disclosure of a record requested concerns both EPA and another agency, the views of the other agency shall be obtained prior to the determination whether to disclose the requested information.

§ 2.109 Creation of records.

Documents will not be created by compiling selected items from other documents at the request of a member of the public, nor will records be created to provide the requester with data such as ratios, proportions, percentages, frequency distribution, trends, correlations, or comparisons.

§ 2.110 Denial of requests for information.

If it is determined pursuant to this part that requested information will not be provided, the EPA office receiving the request (or, in the event a determination has been made under § 2.107(b), the Office of Public Affairs) shall notify in writing the party requesting the information that the request has been denied. A written denial of a request for information shall contain a brief explanation of the statutory basis for nondisclosure, and shall state that judicial review is available in the U.S. District Court for the district in which the requesting party resides or has his principal place of business, or in which the records sought are located. Failure to grant, or to deny in writing a request for information within 60 days following its receipt shall constitute denial of such request, and shall constitute final EPA action with respect to such grant.

§ 2.111 Copies of documents.

If it is determined that information requested may be disclosed, the requesting party shall be afforded the opportunity to obtain copies of the documents containing such information. However, records shall not be released for copying by non-EPA personnel. When a determination not to disclose a portion of information requested has been made, records shall be masked for copying of nonexempt portions of the documents.

§ 2.112 Payment.

(a) *Charges.* Fees shall be charged for copies of records which are furnished to a person under this part and for time spent in locating and reproducing them, in accordance with a fee schedule maintained and revised by the Office of Public Affairs. No fee will be charged for time spent in processing of any request for information, nor will any fee be charged for periods of less than one-half hour spent in connection with a search for records. For the purposes of this section, "processing" shall include all time spent in generating correspondence related to a request, and in making determinations under §§ 2.106 and 2.107.

(b) *Prepayment.* In the event pending requests under this part from the same requesting party would require the payment of fees in excess of $10, such records shall not be made available, nor copies of such records furnished, unless the requesting party first submits payment in the total amount due; or, if not ascertainable, in the approximate amount that would become due upon compliance with the request, as determined by the Office of Public Affairs or by the office complying with the request. In the event an advance payment hereunder shall differ from the amount of the fees actually due, an appropriate adjustment shall be effected at the time the copies requested are delivered.

(c) *Waiver.* The Office of Public Affairs or the office complying with the request may waive the payment of fees, if such waiver would be in the public interest.

[FR Doc.71-12620 Filed 8-27-71;8:48 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 422]

GASOLINE DISPENSING PUMPS

Posting of Minimum Octane Numbers

Correction

In F.R. Doc. 71-12232 appearing at page 16120 in the issue of Thursday, August 19, 1971, the word "of" appearing in the first line of § 422.1 should read "or".

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

CLARENCE RICHARD GAINOR

Notice of Granting of Relief

Notice is hereby given that Clarence Richard Gainor, 4808 Ashton Road, Fayetteville, NC 28304, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on October 8, 1947, in the District Court for Okmulgee County, Okla., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Clarence R. Gainor because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., appendix), because of such conviction, it would be unlawful for Clarence R. Gainor to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Clarence R. Gainor's application and:

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

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

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

Signed at Washington, D.C., this 18th day of August 1971.

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

[FR Doc.71-12581 Filed 8-27-71;8:46 am]

WILLIAM L. LUEDTKE

Notice of Granting of Relief

Notice is hereby given that William L. Luedtke, E 52 LaCrosse Avenue, Spokane, WA, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on January 18, 1971, in the U.S. District Court, Spokane, Wash., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for William L. Luedtke because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., appendix), because of such conviction, it would be unlawful for William L. Luedtke to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered William L. Luedtke's application and:

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

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

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

Signed at Washington, D.C., this 18th day of August 1971.

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

[FR Doc.71-12582 Filed 8-27-71;8:46 am]

JOHN ELMER MARTIN

Notice of Granting of Relief

Notice is hereby given that John Elmer Martin, Route 2, Summerfield, NC, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on January 20, 1964, by the Guilford County Superior Court, Greensboro, N.C., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for John Elmer Martin, because of such convictions, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., appendix), because of such convictions, it would be unlawful for John Elmer Martin to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered John Elmer Martin's application and:

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

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

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

Signed at Washington, D.C., this 18th day of August 1971.

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

[FR Doc.71-12583 Filed 8-27-71;8:46 am]

JOHN ALLIE USELTON

Notice of Granting of Relief

Notice is hereby given that John Allie Uselton, 1624 Washington Avenue, Fort Worth, TX, has apaplied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on March 26, 1934, by a General Court-Martial convened at the Headquarters 8th Corps Area, Fort Sam Houston, Tex., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for John A. Uselton because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., appendix), because of such conviction, it would be unlawful for John A. Uselton to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered John A. Uselton's application and:

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

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

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

Signed at Washington, D.C., this 18th day of August 1971.

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

[FR Doc.71-12584 Filed 8-27-71;8:46 am]

HENRY MANSFIELD WILLIAMS

Notice of Granting of Relief

Notice is hereby given that Henry Mansfield Williams, No. 1 Lafayette Plaisance, Detroit, MI, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on January 10, 1951, in U.S. District Court for the Eastern District of Michigan, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Henry M. Williams, because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., appendix), because of such conviction, it would be unlawful for Henry M. Williams to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Henry M. Williams' application and:

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

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

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

Signed at Washington, D.C., this 18th day of August 1971.

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

[FR Doc.71-12585 Filed 8-27-71;8:46 am]

[Order 118]

DIRECTOR, COLLECTION DIVISION

Delegation of Authority To Perform Functions Under Economic Opportunity Act

Pursuant to authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150-71, dated January 8, 1971, there is hereby delegated to the Director, Collection Division, the authority conferred upon the Secretary of the Treasury (or his delegate) in the Economic Opportunity Act Amendments (Public Law 91-177), approved December 30, 1969.

Specifically, the Economic Opportunity Amendment Act of 1969 requires the Secretary of the Treasury and the Director of the Office of Economic Opportunity to consult on a quarterly basis concerning the withholding of certain taxes by certain antipoverty agencies and for the Secretary of the Treasury or his delegate to notify the Director, OEO, when persons entitled to receive payment pursuant to grants, loans, or other assistance become delinquent in paying and depositing Federal taxes. Notification requires the Director, OEO, to suspend payment or contract negotiations until payment or adequate provision for payment is made.

The authority contained herein may not be redelegated.

Date of issue: August 23, 1971.

Effective date: August 23, 1971.

[SEAL] JOHNNIE M. WALTERS,
Commissioner.

[FR Doc.71-12634 Filed 8-27-71;8:49 am]

[Order 117]

REGIONAL COMMISSIONERS ET AL.

Implementation of Program Providing for Stabilization of Prices, Rents, Wages and Salaries

The authority delegated to the Secretary of the Treasury by OEP Economic Stabilization Order No. 1, dated August 19, 1971, and redelegated to the Commissioner of Internal Revenue by Treasury Department Order No. 150-75, dated August 19, 1971, is hereby redelegated to Regional Commissioners, District Directors, and Service Center Directors, as follows:

1. Responsibility and authority for the establishment, operation, and maintenance of local service and compliance centers established in support of the economic stabilization program in Standard Metropolitan Statistical Areas and such other places as they may determine. The functions to be exercised through these centers will include but not be limited to the following:

(a) Dissemination of information and guidance to the public;

(b) Receipt, analysis, and evaluation of complaints received with respect to program violations; and

(c) Subject to the general policy guidance and coordination of the Director of the Office of Emergency Preparedness, or his designee, the investigation, compliance, and enforcement of the stabilization of prices, rents, wages, and salaries as directed by section 1(a) of Executive Order 11615 of August 15, 1971.

2. The authority to establish local service and compliance centers may not be redelegated. All other authority delegated by this order may be redelegated.

3. Under the terms of section 4(d) of Executive Order 11615 and Treasury Department Order No. 150-75, all Treasury Bureaus and organizations are available to assist the Internal Revenue Service in carrying out the responsibilities assigned by this order.

Date of issue: August 20, 1971.

Effective date: August 20, 1971.

[SEAL] JOHNNIE M. WALTERS,
Commissioner.

[FR Doc.71-12633 Filed 8-27-71;8:49 am]

Office of the Secretary

[Dept. Circ.; Public Debt Series No. 9-71]

TREASURY NOTES OF SERIES D-1976

Offering of Notes

AUGUST 26, 1971.

I. *Offering of notes.* 1. The Secretary of the Treasury, pursuant to the authority of the Second Liberty Bond Act, as amended, invites tenders at a price not less than 98.76 percent of their face value for $1,250,000,000, or thereabouts, of notes of the United States, designated Treasury Notes of Series D-1976. The interest rate for the notes will be publicly announced by the Secretary of the Treasury on August 27, 1971. Tenders will be received up to 1:30 p.m., e.d.s.t., Tuesday, August 31, 1971. The notes will be issued under competitive and noncompetitive bidding, as set forth in section III hereof.

II. *Description of notes.* 1. The notes will be dated September 8, 1971, and will bear interest from that date, payable on a semiannual basis on May 15 and November 15, 1972, and thereafter on May 15 and November 15 in each year until the principal amount becomes payable. They will mature November 15, 1976, and will not be subject to call for redemption prior to maturity.

2. The income derived from the notes is subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, or any of the possessions of the United States, or by any local taxing authority.

3. The notes will be acceptable to secure deposits of public moneys. They will not be acceptable in payment of taxes.

4. Bearer notes with interest coupons attached, and notes registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. Provision will be made for the interchange of notes of different denominations and of coupon and registered notes, and for the transfer of registered notes, under rules and regulations prescribed by the Secretary of the Treasury.

5. The notes will be subject to the general regulations of the Department of the Treasury, now or hereafter prescribed, governing United States notes.

III. *Tenders and allotments.* 1. Tenders will be received at Federal Reserve Banks and Branches and at the Office of the Treasurer of the United States, Washington, D.C. 20220, up to the closing hour, 1:30 p.m., e.d.s.t., Tuesday, August 31, 1971. Each tender must state the face amount of notes bid for, which must be $1,000 or a multiple thereof, and the price offered, except that in the case of noncompetitive tenders the term "noncompetitive" should be used in lieu of a price. In the case of competitive tenders, the price must be expressed on the basis of 100, with two decimals, e.g., 100.00. Tenders at a price less than 98.76 will not be accepted. Fractions may not be used. Noncompetitive tenders from any one bidder may not exceed $200,000. It is urged that tenders be made on the printed forms and forwarded in the special envelopes marked "Tender for Treasury Notes", which will be supplied by Federal Reserve Banks on application therefor.

2. Commercial banks, which for this purpose are defined as banks accepting demand deposits, may submit tenders for account of customers provided the names of the customers are set forth in such tenders. Others than commercial banks will not be permitted to submit tenders except for their own account. Tenders will be received without deposit from banking institutions for their own account, federally-insured savings and loan associations, States, political subdivisions or instrumentalities thereof, public pension and retirement and other public funds, international organizations in which the United States holds membership, foreign central banks and foreign States, dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions with respect to Government securities and borrowings thereon, and Government accounts. Tenders from others must be accompanied by payment of 5 percent of the face amount of notes applied for.

3. Immediately after the closing hour tenders will be opened, following which public announcement will be made by the Department of the Treasury of the amount and price range of accepted bids. Those submitting tenders will be advised of the acceptance or rejection thereof. In considering the acceptance of tenders, the highest prices offered will be accepted in full down to the amount required, and if the same price appears in two or more tenders, and it is necessary to accept only a part of the amount offered at such price, the amount accepted at such price will be prorated in accordance with the respective amounts applied for. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders, in whole or in part, and his action in any such respect shall be final. Subject to these reservations, noncompetitive tenders for $200,000 or less without stated price from any one bidder will be accepted in full at the average price[1] (in two decimals) of accepted competitive tenders.

[1] Average price may be at, or more or less than 100.

4. All bidders are required to agree not to purchase or to sell, or to make any agreements with respect to the purchase or sale or other disposition of any notes of this issue at a specific rate or price, until after 1:30 p.m., e.d.s.t., Tuesday, August 31, 1971.

5. Commercial banks in submitting tenders will be required to certify that they have no beneficial interest in any of the tenders they enter for the account of their customers, and that their customers have no beneficial interest in the banks' tenders for their own account.

IV. *Payment.* 1. Settlement for accepted tenders in accordance with the bids must be made or completed on or before September 8, 1971, at the Federal Reserve Bank or Branch or at the Office of the Treasurer of the United States, Washington, D.C. 20220, in cash or other funds immediately available by that date. Payment will not be deemed to have been completed where registered notes are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. In every case where full payment is not completed, the payment with the tender up to 5 percent of the amount of notes allotted shall, upon declaration made by the Secretary of the Treasury in his discretion, be forfeited to the United States. Any qualified depositary will be permitted to make settlement by credit in its Treasury Tax and Loan Account for notes allotted to it for itself and its customers.

V. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make such allotments as may be prescribed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of notes on full-paid tenders allotted, and they may issue interim receipts pending delivery of the definitive notes.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] CHARLS E. WALKER,
Acting Secretary of the Treasury.

[FR Doc.71-12725 Filed 8-27-71;8:53 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CHIEF, DIVISION OF ADMINISTRATION, LEWISTOWN DISTRICT, MONT.

Delegation of Authority Regarding Contracts and Leases

A. Pursuant to delegation of authority contained in Bureau Manual 1510-03B2, the Chief, Division of Administration, Lewistown District, Lewistown, Mont., is authorized:

1. To enter into contracts with established sources for supplies and services, excluding capitalized equipment, regardless of amount, and

2. To enter into contracts on the open market for supplies and materials, excluding capitalized equipment, not to exceed $2,500 per transaction ($2,000 for construction), provided that the requirement is not available from established sources.

JOSEPH A. GIBSON,
District Manager.

Approved;

HAROLD C. LYND,
Acting State Director.

[FR Doc.71-12610 Filed 8-27-71;8:47 am]

Office of Hearings and Appeals

[Docket No. M 71-28]

CF&I STEEL CORP.

Petition for Modification of Interim Mandatory Safety Standard

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. sec. 861(c) (Supp. V, 1970)), notice is given that the CF&I Steel Corp. has filed a petition to modify the application of section 311(f) of the Act, 30 U.S.C. sec. 871(f) (Supp. V, 1970), and 30 CFR 75.1101-10, 35 F.R. 17919, to its Allen Mine.

Section 311(f) of the Act provides as follows:

(f) Deluge-type water sprays or foam generators automatically actuated by rise in temperature, or other no less effective means approved by the Secretary of controlling fire, shall be installed at main and secondary belt-conveyor drives. Where sprays or foam generators are used they shall supply a sufficient quantity of water or foam to control fires.

30 CFR 75.1101-10 provides as follows:

Each water sprinkler system shall be equipped with a device designed to stop the belt drive in the event of a rise in temperature and each such warning device shall be capable of giving both an audible and visual warning when a fire occurs.

Petitioner requests that it be allowed to continue the use of its present system which it describes as follows:

Deluge type water sprays have been installed at all main and secondary belt drives in our Allen Mine—These systems are presently operated with manually controlled two (2) inch quick open and shut type valves.

The belt drive pulleys and fifty (50) feet of belt line are protected with sprays. The belt is a type that has been approved as fire resistant by the U.S. Bureau of Mines—Three (3) inch water lines, carrying water a [sic] an excess of 250 pounds p.s.i.a. from 195,000 gallon storage tanks, feed into two (2) inch lines at the belt drive and extend along the belt line for a distance of fifty (50) feet. Quarter (¼) inch lines are installed in the two (2) inch line at seven foot intervals to which each is attached two (2) 86 degree full cone sprays so adjusted as to direct the water to bathe the upper and lower surfaces of the load carrying and return portions of the belt. These sprays apply water in excess of five (5) gallons per minute each to the surface of thirty (30) inch wide belt and have been equipped with blow off dust covers. Including the two sprays at the drive pulley, there are sixteen sprays at each installation.

A designated employee is stationed at each belt drive either to direct the coal from the belt into a mine car or to observe and clean up around a transfer point in the case of a secondary belt drive—Each of these employees have been instructed in the operation of the deluge spray system.

Petitioner asserts that "since the belt drives are attended at all times we have a no less effective means of controlling fires at these belt drives" and that the requirement of a heat sensing device to stop the belt and actuate the deluge system in case of a fire should be waived.

Parties interested in this petition should file their answers or comments within 30 days from the date of publication of this notice in the FEDERAL REGISTER with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 6432 Federal Building, Salt Lake City, Utah 84111. Copies of the petition are available for inspection at that address.

ERNEST F. HOM,
Acting Director,
Office of Hearings and Appeals.

AUGUST 20, 1971.

[FR Doc.71-12619 Filed 8-27-71;8:47 am]

[Docket No. M 71-25]

CHAPPELL COAL CO.

Petition for Modification of Interim Mandatory Safety Standard

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. sec. 861(c) (Supp. V, 1970)), notice is given that the Chappell Coal Co. has filed a petition to modify the application of section 309(c) of the Act, 30 U.S.C. sec. 869(c) (Supp. V, 1970), to its Chappell Mine.

Section 309(c) provides as follows:

(c) Six months after the operative date of this title, low- and medium-voltage resistance grounded systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity which ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken, or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of twelve months, may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment is not available. Cable couplers shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

This statutory provision has been implemented by regulations, 30 CFR 75.902 to 75.902-4, 35 F.R. 17916-17917.

Petitioner proposes as an alternate standard the use of its present system which is described in its petition as follows:

The underground electrical equipment is served by three A.C. 20-KVA transformers, on the surface, primary volts 11,000, secondary volts 480, 8-amp fuses on the primary side. Power is transmitted underground by No. 1-0 three-conductor lead sheathed cable a distance of 1,500 feet to a distribution box. This cable is protected by 150-amp. fuses at the disconnect switch on the surface, against phase to phase to ground short circuit.

The lead sheath is connected to the frames of all electrical equipment and is in contact with the ground through its length. It is also grounded to Subpart H-grounding Regulation § 75-701-1(a) and § 75-701-1(b) of the FEDERAL REGISTER.

Petitioner states that this system furnishes adequate safety protection to the miners.

Parties interested in this petition should file their answers or comments within 30 days from the date of publication of this notice in the FEDERAL REGISTER with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 6432 Federal Building, Salt Lake City, UT 84111. Copies of the petition are available for inspection at that address.

ERNEST F. HOM,
Acting Director,
Office of Hearings and Appeals.

AUGUST 20, 1971.

[FR Doc.71-12617 Filed 8-27-71;8:47 am]

[Docket No. M 71-27]

CHAPPELL COAL CO.

Petition for Modification of Interim Mandatory Safety Standard

In accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. sec. 861(c) (Supp. V, 1970)), notice is given that the Chappell Coal Co. has filed a petition to modify the application of section 309(a) of the Act, 30 U.S.C. sec. 869(a) (Supp. V, 1970), to its Chappell Mine.

Section 309(a) provides as follows:

(a) Low- and medium-voltage power circuits serving three-phase alternating current equipment shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against undervoltage, grounded phase, short circuit, and overcurrent.

This statutory provision has been implemented by regulations, 30 CFR 75.900 to 75.900-4, 35 F.R. 17916.

Petitioner proposes as an alternate standard the use of its present system is described in its petition as follows:

One Westinghouse 'De-Ion' 100-amp. circuit breaker between the junction box at the terminal of the lead cable and the nipping station for equipment for each of two working face [sic]. The circuit breaker shall be set not to exceed the maximum allowable instantaneous setting for the smallest cable used in the circuit in compliance with Subpart G—Trailing Cables Regulation § 75-601-1 of the FEDERAL REGISTER.

One 35-hp. shortwall cutter, one 15-hp. shaker conveyor and one 2-hp. blower fan is used in each working place. One cat mounted timber truck, 10-hp., serves the two working faces. One Joy 12-bu. loader is used in necking off rooms and where mining conditions will permit.

Petitioner states that this system has been used in its mine for 20 years without failure and that it will furnish adequate safety to the miners until such time as higher horsepower equipment may be used.

Parties interested in this petition should file their answers or comments within 30 days from the date of publication of this notice in the FEDERAL REGISTER with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 6432 Federal Building, Salt Lake City, UT 84111. Copies of the petition are available for inspection at that address.

ERNEST F. HOM,
Acting Director,
Office of Hearings and Appeals.

[FR Doc.71-12618 Filed 8-27-71;8:47 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 3]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Fiscal Year Ending June 30, 1972)

In order to add wheat and rye to the list of commodities which may be acquired for "Dealer's Certificates," Section 1(d) of the CCC Monthly Sales List for the fiscal year ending June 30, 1972, published in 36 F.R. 13044, is amended to read as follows:

(d) Financial coverage for commodities purchased shall be furnished before delivery in cash or by irrevocable letter of credit. Corn, oats, barley, grain, sorghum, wheat, or rye, as determined by CCC, will be sold for unrestricted use for "Dealer's Certificates" issued under the Livestock Feed Program. Grain delivered against such certificates will be sold at the applicable current market price.

Effective date: August 3, 1971.

Signed at Washington, D.C., on August 23, 1971.

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

[FR Doc.71-12681 Filed 8-27-71;8:52 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket FDC-D-301; NDA 9-097 etc.]

ORAL COMBINATION DRUGS CONTAINING HEXAMETHONIUM CHLORIDE WITH RESERPINE OR ALSEROXYLON AND MEPROBAMATE WITH PENTOLINIUM TARTRATE

Notice of Withdrawal of Approval of New Drug Applications

Correction

In F.R. Doc. 71-10447 appearing at page 13695 in the issue of Friday, July 23, 1971, the fourth NDA number in the table on page 13696 reading "10-326" should read "10-236".

[Docket No. FDC-D-372; NADA No. 5-633V, etc.]

AGRI-TECH, INC., ET AL.

Iodinated Casein; Notice of Opportunity for Hearing

In an announcement in the FEDERAL REGISTER of October 8, 1970 (35 F.R. 15859, DESI 5-633V), the Commissioner of Food and Drugs announced the conclusions of the Food and Administration following evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs which contain iodinated casein:

1. Protamone Thyroactive Casein; NADA (new animal drug application) No. 5-633V and NADA No. 5-987V; Agri-Tech, Inc., 4722 Broadway, Kansas City, Mo. 64112.

2. Stimulac Pellets; NADA No. 5-987V; Agri-Tech, Inc.

3. MOM Sow Milking Tablets; NADA No. 5-987V; Agri-Tech, Inc.

4. Iocine; NADA No. 7-857V; Haver-Lockhart Laboratories, Post Office Box 676, Kansas City, Mo. 64141.

5. Libidoxin Powder, NADA No. 8-581V; Jensen-Salsbery Laboratories, 520 West 21st Street, Kansas City, Mo. 64141.

The announcement invited the holders of said new animal drug applications and any other interested persons to submit pertinent data on the drugs' effectiveness.

Adequate data were not submitted in response to the announcement and available information fails to provide substantial evidence that the drugs are effective for improving fertility in bulls, boars, goats, and sheep; increasing milk production in goats, beef cows, and sheep; improving rate of gain in dairy cattle, sheep, and goats; feathering in chickens and turkeys; increasing milk flow in nursing sows; or improving egg production and egg shell texture in chickens.

Therefore, notice is given to Agri-Tech, Inc., Haver-Lockhart Laboratories, Jensen-Salsbery Laboratories, and to any interested person who may be adversely affected that the Commissioner of Food and Drugs proposes to issue an order under the provisions of section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of NADA No. 5-633V, NADA No. 5-987V, NADA No. 7-857V, NADA No. 8-581V, and all amendments and supplements thereto. This action is proposed on the grounds that there is a lack of substantial evidence that the drugs have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner will give the applicant and any other interested person who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of said new animal drug applications should not be withdrawn. Promulgation of the order will cause any drug similar in composition to the above listed drug products and recommended for similar conditions of use to be a new animal drug for which an approved new animal drug application is not in effect. Any such drug then on the market would be subject to appropriate regulatory action.

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

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

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

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner, without further notice, will enter a final order withdrawing approval of the new animal drug applications.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open

to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to the grounds for this notice. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, the Commissioner will enter an order stating his findings and conclusions on such data. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence. The time shall be not more than 90 days after the expiration of said 30 days, unless the hearing examiner and the applicant otherwise agree.

Responses to this notice will be available for public inspection in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: August 23, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-12647 Filed 8-27-71;8:53 am]

[Docket No. FDC-D-278; NDA 1-726, etc.]

AMERICAN CYANAMID CO. ET AL.

Certain OTC Combination Drugs for Topical Use; Notice of Withdrawal of Approval of New Drug Applications

On February 18, 1971, there was published in the FEDERAL REGISTER (36 F.R. 3145) a notice of opportunity for hearing in which the Commissioner of Food and Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the following new drug applications in the absence of substantial evidence that the drugs are effective for their labeled indication.

1. Rhulitol Solution, containing 5 percent tannic acid, with chlorobutanol, phenol, camphor, alum, and isopropyl alcohol; Lederle Laboratories Division, American Cyanamid Co., Post Office Box 500, Pearl River, N.Y. 10965 (NDA 4-875).

2. Zirnox Topical Lotion, containing phenyltoloxamine citrate and zirconium oxide; Bristol Laboratories, Division of Bristol-Myers Co., Thompson Road, Post Office Box 657, Syracuse, N.Y. 13201 (NDA 8-084).

3. Enzo-Cal Topical Cream, containing benzocaine with calamine and zinc oxide; Crookes-Barnes Laboratories, Inc., Division of Chemway Corp., Fairfield Road, Wayne, N.J. 07470 (NDA 1-726).

Following publication of the notice of opportunity for a hearing Crookes-Barnes Laboratories notified the Food and Drug Administration that marketing of Enzo-Cal Topical Cream (NDA No. 1-726) has been discontinued.

Neither the holders of the new drug applications listed above nor any other interested person have filed a written appearance of election as provided by said notice. The failure to file such an appearance is construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505 (e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)), and under authority delegated to him (21 CFR 2.120), finds that on the basis of new information before him with respect to each of said drugs, evaluated together with the evidence available to him when each of the applications was approved, there is a lack of substantial evidence that each of the drugs will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, pursuant to the foregoing findings, approval of the listed new drug applications, and all amendments and supplements applying thereto, is withdrawn effective on the date of the signature of this document.

Dated: August 18, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-12644 Filed 8-27-71;8:52 am]

[Docket No. FDC-D-331; NDA 6-046]

BREWER AND CO.

Sodium Succinate Injection; Notice of Withdrawal of Approval of New-Drug Application

In a notice (DESI 6046) published in the FEDERAL REGISTER of March 27, 1970 (35 F.R. 5190), the Commissioner of Food and Drugs announced his conclusions pursuant to evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Soduxin (sodium succinate) for intravenous use, provided for by new-drug application No. 6-046, held by Brewer and Co., 6 Roosevelt Avenue, Box 190, Mystic, CT 06355. That announcement stated that the drug was regarded: To be an effective diagnostic agent for determining circulation time; possibly effective as an analeptic for arousal following barbiturate anesthesia, for reduction of waking time following barbiturate anesthesia, and for the treatment of barbiturate poisoning; to lack substantial evidence of effectiveness for use as a respiratory stimulant.

Labeling guidelines were provided for the indication for which the drug is regarded to be effective. Six months were allowed for submitting data providing substantial evidence of effectiveness for the possibly effective indications.

In that no new evidence of effectiveness of the drug was received nor was the application supplemented to delete from the labeling those indication regarded as less than effective, a notice of opportunity for hearing was published in the FEDERAL REGISTER of April 29, 1971 (36 F.R. 8073). Neither the holder of the application nor any other person filed a written appearance electing whether or not to avail themselves of the opportunity for a hearing within the 30 days provided by said notice. The failure to file such an appearance is construed as an election by such persons not to avail themselves of an opportunity for hearing.

The Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)) and under authority delegated to him (21 CFR 2.120), finds that on the basis of new information before him with respect to such drug, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of new-drug application No. 6-046 and all amendments and supplements thereto, is withdrawn effective on the date of signature of this document.

Dated: August 18, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-12643 Filed 8-27-71;8:52 am]

[Docket No. FDC-D-368; NADA No. 11-322V]

DIAMOND LABORATORIES, INC.

Neacain Ointment; Notice of Opportunity for Hearing

In an announcement in the FEDERAL REGISTER of July 21, 1970 (35 F.R. 11648), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration and the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, following evaluation of a report

received from the Academy of Neacain Ointment, NADA (new animal drug application) No. 11-322V. Neacain Ointment contains neomycin sulfate, vitamin A palmitate, riboflavin, prednisolone, and benzocaine; by Diamond Laboratories, Inc., 2518 Southeast 43d Street, Des Moines, Iowa 50317.

The announcement invited the holder of said new animal drug application and any other interested persons to submit adequate documentation in support of the labeling used.

No data were received in response to the announcement and available information fails to provide substantial evidence that the drug is effective for nonspecific dermatosis and for the treatment of eye conditions.

Therefore, notice is given to the above-named firm and to any interested person who may be adversely affected that the Commissioner proposes to issue an order under the provisions of section 512(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(e)) withdrawing approval of the new animal drug application listed above and all amendments and supplements thereto held by said firm for the listed drug on the grounds that:

Information before the Commissioner with respect to the drug evaluated together with the evidence available to him when the application was approved fails to provide substantial evidence that the drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In accordance with the provisions of section 512 of the act (21 U.S.C. 360b), the Commissioner will give the applicant and any interested person who would be adversely affected by an order withdrawing such approval an opportunity for a hearing at which time such persons may produce evidence and arguments to show why approval of the above-named new animal drug application should not be withdrawn. Promulgation of the order will cause any drug similar in composition to the above listed drug product and recommended for similar conditions of use to be a new animal drug for which an approved new animal drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

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

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

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

If such persons elect not to avail themselves of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing the approval of the new animal drug application.

Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process which the Commissioner finds is entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing, they must file a written appearance requesting the hearing and giving the reasons why approval of the new animal drug application should not be withdrawn together with a well-organized and full-factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition to this notice. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, the Commissioner will enter an order stating his findings and conclusions on such data. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence. The time shall be not more than 90 days after the expiration of said 30 days unless the hearing examiner and the applicant otherwise agree.

Responses to this notice will be available for public inspection in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: August 23, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-12648 Filed 8-27-71;8:53 am]

[Docket No. FDC-D-364; NDA 8-738, etc.]

NDK CO. ET AL.

Certain Dentifrices; Follow-Up Announcement and Notice of Opportunity for Hearing

In a notice (DESI 8738) published in the FEDERAL REGISTER of July 21, 1970 (35 F.R. 11643), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group of certain dentifrices containing sodium N-lauroyl sarcosinate, chlorophyllins, sodium oxalate, sodium dehydroacetate, sodium fluoride, urea, or sodium monofluorophosphate. The announcement stated that the dentifrice containing 6 percent sodium monofluorophosphate was regarded as possibly effective as an aid in reducing the incidence of dental caries, and that the dentifrices containing any of the other ingredients above lacked substantial evidence of effectiveness for their labeled or implied indications.

The intent of the July 21, 1970 announcement was to require either the substantiation of expressed or implied claims for therapeutic or prophylactic benefit or their removal from labeling of all such preparations on the market.

The Colgate-Palmolive Co. has submitted satisfactorily revised labeling for two of its products which were included in the announcement and has stated that marketing of the other one, Brisk Activated Tooth Paste, was discontinued several years ago.

Block Drug Co. and the NDK Co. submitted data in behalf of their preparations; however, the data do not provide substantial evidence of effectiveness for the expressed or implied claims.

Therefore, since evidence has not been submitted which supports expressed or implied therapeutic or prophylactic claims such as those described in the notice of July 21, 1970, the holders of the new-drug applications listed below should submit a supplement for any drug which is intended to be marketed. Such supplement should be submitted within 30 days following publication of this notice in the FEDERAL REGISTER, under the provisions of § 130.9 (d) and (e) of the new-drug regulations (21 CFR 130.9), to provide for revised labeling deleting such claims and deleting any declaration of an ingredient which implies such claims. The revised labeling should be put into use promptly, but not later than 60 days following publication of this notice.

1. NDK Dentifrice, containing sodium monofluorophosphate and benzethonium chloride; the NDK Co., 440 Charles Street, New Iberia, La. 70561 (NDA 8-851).

2. Antizyme Tooth Paste, containing sodium oxalate and sodium dehydroacetate; Lambert Pharmacal Co., Division Warner-Lambert Pharmaceutical Co., 201 Tabor Road, Morris Plains, N.J. 07950 (NDA 8-777).

3. Kolynos Fluoride Tooth Paste, containing sodium fluoride; Whitehall Laboratories, Inc., 685 Third Avenue, New York, N.Y. 10017 (NDA 10-383).

4. Super Amm-I-Dent, containing sodium fluroide with sodium N-lauroyl sarcosinate and urea (NDA 9-944), and

5. Amm-I-Dent Tooth Paste, containing sodium N-lauroyl sarcosinate and urea (NDA 9-298), and

6. Amm-I-Dent Tooth Powder, containing urea (NDA 9-298); all held by

Block Drug Co., Inc., 257 Cornelison Avenue, Jersey City, N.J. 07302.

7. Brisk Activated Tooth Paste, containing sodium N-lauroyl sarcosinate; Colgate-Palmolive Co., 300 Park Avenue, New York, N.Y. 10022 (NDA 8-738). Marketing of this preparation was discontinued several years ago.

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 those portions of the listed new-drug applications which provide for preparations whose labeling contains expressed or implied indications for which substantial evidence of effectiveness is lacking or declares an ingredient which implies such usefulness. An order withdrawing approval will not be issued if such applications are satisfactorily supplemented as described above.

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 applicants, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why unsubstantiated expressed or implied therapeutic or prophylactic indications should not be deleted from labeling.

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

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

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

If such persons elect not to avail themselves of the opportunity for a hearing the Commissioner without further notice will enter a final order withdrawing approval of the new-drug applications which have not been supplemented as described above. Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing they must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new-drug application should not be withdrawn, together with a well-organized and full factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition. 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. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence (35 F.R. 7250, May 8, 1970; 35 F.R. 16631, October 27, 1970).

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355) and under the authority delegated to the Commissioner (21 CFR 2.120).

Any dentifrice on the market which is not now the subject of an approved new-drug application will be regarded to be in violation of the Act and subject to regulatory proceedings unless, within 60 days following publication of this document in the FEDERAL REGISTER, expressed or implied claims for therapeutic or prophylactic benefit, and declaration of any ingredient which implies such claims are deleted from the labeling.

Dated: August 16, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-12646 Filed 8-27-71;8:52 am]

[Docket No. FDC-D-353; NDA 9-120, etc.]

ARMOUR PHARMACEUTICAL CO. ET AL.

Trypsin or Chymotrypsin Injection; Notice of Withdrawal of Approval of New Drug Applications

In an announcement (DESI 10110) published in the FEDERAL REGISTER on June 25, 1970 (35 F.R. 10396), the Commissioner of Food and Drugs announced his conclusions pursuant to an evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group concerning certain preparations for human use containing trypsin or chymotrypsin for intramuscular injection and a topical preparation containing trypsin, chymotrypsin, and aminacrine hydrochloride, stating that there is a lack of substantial evidence that these preparations are effective for their labeled indications. Pertinent data were invited bearing on the announced intention to initiate proceedings to withdraw approval of the new-drug applications. No such data were received.

In addition to those drugs listed in the announcement, other holders of approved new-drug applications for such drugs were notified that their drugs will be similarly affected by the published conclusions.

The following firms have voluntarily requested withdrawal of approval of their applications, thereby waiving their opportunity for a hearing.

NDA No.	Drug name	NDA holder
10-992	Chymar-L Powder for Injection, containing chymotrypsin.	Armour Pharmaceutical Co., Box 511, Kankakee, IL 60901.
10-110	Chymar Injection in Oil containing chymotrypsin.	Armour Pharmaceutical Co.
11-007	Chymar Aqueous Injection, containing chymotrypsin.	Do.
9-120	Parenzyme Injection, containing trypsin.	National Drug Co., Division of Richardson-Merrell, Inc., 4663 Stenton Ave., Philadelphia, PA 19144.
12-963	Kumotrip, containing chymotrypsin.	Kremers-Urban Co., 5600 West County Line Road, Milwaukee, WI 53201.

In addition to the firms listed above, Fellows-Testagar, Division of Fellows Medical Manufacturing Co., Inc., 12741 Capital Avenue, Oak Park, Michigan 48237, has voluntarily requested withdrawal of approval of new-drug application No. 12-729 for Chymotest Injection containing chymotrypsin. However, since NDA No. 12-729 has never been an approved application, having been allowed to become only conditionally effective, it is not an appropriate subject of this order, and is included for informational purposes only.

The Commissioner of Food and Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)) and under the authority delegated to him (21 CFR 2.120), finds on the basis of new information before him with respect to such drugs evaluated together with the evidence available to him when the applications were approved, that there is a lack of substantial evidence that the drugs will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, pursuant to the foregoing finding, approval of the above-listed new drug applications and all amendments and supplements applying thereto is withdrawn effective on the date of signature of this document.

Dated: August 19, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-12651 Filed 8-27-71;8:53 am]

[Docket No. FDC-D-374; NADA 6-830V, NADA 7-963V]

DR. MAYFIELD LABORATORIES AND E. R. SQUIBB & SONS, INC.

Sul-Quin-Ox Liquid and Soluline; Notice of Withdrawal of Approval of New Animal Drug Applications

In the FEDERAL REGISTER of July 9, 1970 (35 F.R. 11069, DESI 6391V), the Commissioner of Food and Drugs announced

the conclusions of the Food and Drug Administration following evaluation of reports from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Dr. Mayfield Sul-Quin-Ox Liquid; NADA (new animal drug application) No. 6-830V; marketed by Dr. Mayfield Laboratories, 1209 South Main Street, Charles City, Iowa 50616; and Soluline: NADA No. 7-963V; marketed by E. R. Squibb & Sons, Inc., Squibb Agricultural Research Center, Three Bridges, N.J. 08887. These products contain sulfaquinoxaline as the designated active ingredient.

Both Dr. Mayfield Laboratories and E. R. Squibb & Sons, Inc., responded to the announcement by requesting that the Commissioner withdraw approval of their new animal drug applications.

Based on the grounds set forth in the announcement and the firms' response, the Commissioner concludes that approval of said new animal drug applications should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120), approval of NADA 6-830V, and NADA 7-963V, including all amendments and supplements thereto, is hereby withdrawn on the date of signature of this document.

Dated: August 19, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-12652 Filed 8-27-71;8:53 am]

[Docket No. FDC-D-123; NDA No. 8-986, 10-144]

HYNSON, WESTCOTT & DUNNING, INC.

Lutrexin Tablets, Trexinest Tablets; Notice of Denial of Petition to Stay Effective Date of Order Withdrawing Approval of New-Drug Applications

The petition of Hynson, Westcott & Dunning, Inc. (HW & D) for a stay of the order withdrawing approval of new-drug applications Nos. 8-986 and 10-144 for its drugs containing lututrin is, after consideration of all the data offered by HW & D to support continued marketing of these preparations, denied for the following reasons:

1. Since 1966 HW & D has had repeated opportunities to come forward and present evidence derived from adequate and well-controlled clinical investigations demonstrating that lututrin is effective for its intended uses and has repeatedly failed to provide such data. No acceptable scientific data to support the efficacy claims made for these preparations, was presented to either the National Academy of Sciences-National Research Council or the Food and Drug Administration.

2. There is no acceptable scientific data showing that lututrin has any biological activity in humans. To the contrary, there is evidence that lututrin is destroyed by hydrolysis due to the action of the gastric enzymes before it can pass the membrane barrier of the intestinal mucosa and be absorbed into the blood stream.

3. While lututrin is not a highly toxic pharmacologic agent—actually it appears to be inert—its use in patients exposes them to drug therapy without any concomitant possibility of therapeutic benefit.

4. In respect to the drug Trexinest, HW & D did not attempt to offer evidence that either component of that fixed ratio combination drug contributes to the claimed efficacy of the drug.

Dated: August 18, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-12645 Filed 8-27-71;8:52 am]

[Docket No. FDC-D-352; NDA 10-522, etc.]

WILSON LABORATORIES ET AL.

Trypsin or Chymotrypsin Injection and Ointment; Notice of Opportunity for Hearing on Proposal to Withdraw Approval of New-Drug Applications

In a notice (DESI 10110) published in the FEDERAL REGISTER of June 25, 1970 (35 F.R. 10396), holders of new-drug applications for certain trypsin or chymotrypsin injectable preparations or ointment, as well as other interested persons were invited by the Commissioner of Food and Drugs to submit pertinent data bearing on his announced intention to initiate proceedings to withdraw approval of the new-drug applications. Other holders of new-drug applications were notified that their drugs are similarly affected by the published conclusion that there is a lack of substantial evidence that the drugs are effective for their labeled indications. No data establishing effectiveness have been received. Some holders of new-drug applications for such preparations have voluntarily requested withdrawal of approval of their applications, thereby waiving their opportunity for a hearing, and those applications are included in final order withdrawing approval published elsewhere in this issue of the FEDERAL REGISTER.

Therefore notice is given to the holders of the applications listed below, and, to any interested person who may be adversely affected that the Commissioner of Food and Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the listed new-drug applications, and all amendments and supplements applying thereto, on the grounds that new information before him with respect to each of the drugs, evaluated together with the evidence available to him when each application was approved, shows there is a lack of substantial evidence that the drugs will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

NDA No.	Drug name	NDA holder
11-882	Chymotrypsin Injection.	The Wilson Laboratories, Division of Wilson Pharmaceutical and Chemical Corp., 4221 South Western Ave., Chicago, IL 60609.
11-883	Trypsin Injection	The Wilson Laboratories.
12-743	Chymotrypsin Injection.	North American Pharmacal, 6851 Chase Rd., Dearborn, MI 48126 (The former holder was Chicago Pharmacal Inc., Division of Conal Pharmaceuticals).
10-779	Enzeon (chymotrypsin) Injection.	Breon Laboratories, Inc., Division Sterling Drug, Inc., 90 Park Ave., New York, NY 10016.
10-522	Parenzyme Aqueous Inj., containing trypsin.	National Drug Co., Division of Richardson-Merrell, Inc., 4663 Stenton Ave., Philadelphia, PA 19144.
11-252	Parenzyme Ointment, containing trypsin, chymotrypsin, and aminacrine hydrochloride.	National Drug Co.

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 applicants, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing to show why approval of the new-drug applications should not be withdrawn. Any related drug for human use, not the subject of an approved new-drug application, may be affected by this action.

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

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

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

If such persons elect not to avail themselves of the opportunity for a hearing the Commissioner without further notice will enter a final order withdrawing approval of the new-drug applications. Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing

they must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new-drug application should not be withdrawn, together with a well-organized and full factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition. 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. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence (35 F.R. 7250, May 8, 1970; 35 F.R. 16631, October 27, 1970).

Received requests for a hearing, and/or elections not to request a hearing, may be seen in the office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355), and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: August 19, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-12650 Filed 8-27-71;8:53 am]

[DESI 50417]

CERTAIN COMBINATION ANTIBIOTIC PREPARATIONS FOR OPHTHALMIC USE

Drugs for Human Use; Drug Efficacy Study Implementation

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

1. *Preparations containing neomycin sulfate, polymyxin B sulfate, and gramicidin.* a. Neo-Polycin Ophthalmic Solution; The Dow Chemical Co., Post Office Box 10, Zionsville, Indiana 46077 (NDA 60-427).

b. Neosporin Ophthalmic Solution; Burroughs Wellcome and Co., 3030 Cornwallis Road, Research Triangle Park, North Carolina 27709 (NDA 60-582).

2. *Preparations containing bacitracin and neomycin sulfate.* a. Bacimycin Ophthalmic Ointment; National Drug Co., Division of Richardson-Merrell, Inc., 4663 Stenton Avenue, Philadelphia, Pennsylvania 19144 (NDA 61-059).

3. *Preparations containing bacitracin, neomycin sulfate, and polymyxin B sulfate.* a. Mycitracin Ophthalmic Ointment; The Upjohn Co., 7171 Portage Road, Kalamazoo, Michigan 49001 (NDA 61-048).

b. Polymyxin B-Bacitracin-Neomycin Ophthalmic Ointment; Chas. Pfizer and Co., Inc., 235 East 42nd Street, New York, New York 10017 (NDA 60-281).

c. Neo-Polycin Ophthalmic Ointment; The Dow Chemical Co. (NDA 60-647).

d. Bacitracin-Neomycin-Polymyxin B Ophthalmic Ointment; Biocraft Laboratories, Inc., 92 Route 46, East Paterson, New Jersey 07407 (NDA 60-965).

4. *Preparations containing zinc bacitracin, neomycin sulfate, and polymyxin B sulfate.* a. Neosporin Ophthalmic Ointment; Burroughs Wellcome and Co. (NDA 50-417).

b. Polymyxin B-Bacitracin-Neomycin Ophthalmic Ointment; Day-Baldwin, Inc., 1460 Chestnut Avenue, Hillside, New Jersey 07205 (NDA 61-078).

c. Bacitracin - Polymyxine - Neomycin Ophthalmic Ointment; Kasco Laboratories, Inc., Hicksville, New York 11820 (NDA 60-764).

5. *Preparations containing neomycin sulfate and gramicidin.* a. Spectrocin Ophthalmic Ointment; E. R. Squibb and Sons, Inc., Georges Road, New Brunswick, New Jersey 08903 (NDA 60-932).

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

A. *Effectiveness classification.* The Food and Drug Administration concludes that these drugs:

1. Are possibly effective for their labeled indications related to use in superficial ocular infections.

2. Lack substantial evidence of effectiveness for their other labeled indications.

B. *Marketing status.* To allow applicants to obtain and submit data to provide substantial evidence of effectiveness of the drugs in those conditions for which they have been evaluated as possibly effective, batches of such drugs which bear labeling with those indications will continue to be accepted for release or certification by the Food and Drug Administration for a period of 6 months after publication of this announcement in the FEDERAL REGISTER.

Preparations containing these drugs with labeling bearing those claims for which they lack substantial evidence of effectiveness will no longer be acceptable for certification or release after 40 days following the publication date of this announcement in the FEDERAL REGISTER. Any person who would be adversely affected by deletion of the claims for which such drug lacks substantial evidence of effectiveness, as described above, may, within 30 days following publication of this announcement, submit comments or pertinent data.

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.

At the end of the 6-month period, any data submitted to support the possibly effective indications will be evaluated to determine whether there is substantial evidence of effectiveness for such uses. After that evaluation, the conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken, or if the studies do not provide substantial evidence of effectiveness, such drug will not be eligible for release or certification.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 50417, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Amendments (identify with NDA number): Division of Anti-Infective Drug Products (BD-140), Office of Scientific Evaluation, Bureau of Drugs.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

This notice is issued pursuant to the 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 the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

Dated: August 6, 1971.

[FR Doc.71-12653 Filed 8-27-71;8:53 am]

[DESI 7600]

SODIUM THIAMYLAL

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice

In a notice (DESI 7600) published in the FEDERAL REGISTER of September 11, 1969 (34 F.R. 14299), the Commissioner of Food and Drugs announced his conclusions pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Surital (sodium thiamylal for injection); Parke,

Davis and Co., Detroit, Mich. 48232 (NDA 7-600). The announcement stated that this drug was regarded as effective and possibly effective for its various labeled indications. The possibly effective indication (i.e., for terminating convulsions of unknown cause) has been reclassified as lacking substantial evidence of effectiveness in that no new evidence of effectiveness for that indication has been submitted pursuant to the notice of September 11, 1969.

Parke, Davis, the holder of the only new-drug application for sodium thiamylal for injection supplemented their application to delete the possibly effective indication from the drug's labeling and the supplement was approved May 5, 1970.

Any such preparation on the market with labeling bearing indications for which substantial evidence of effectiveness is lacking may be subject to regulatory proceedings.

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 authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: August 18, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-12642 Filed 8-27-71;8:52 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-124]

DIRECTOR, OFFICE OF LOAN MANAGEMENT

Redelegation of Authority and Assignment of Functions

The redelegation of authority and assignment of functions to the Director, Office of Loan Management, et al., published at 35 F.R. 4019, March 3, 1970, and amended at 36 F.R. 14164, July 30, 1971, is hereby amended by adding new paragraphs 10, 11, and 12 to section A as follows:

10. To waive the fees for transfer of physical assets in the sale of property on which there is an insured mortgage or a Secretary-held mortgage.

11. To approve the sale and terms of sale of mortgages taken as security in selling property acquired in connection with HUD insurance claims.

12. To waive all or part of the 1-percent deduction upon assignment of a project mortgage to the Secretary, and to make determinations concerning collection of adjusted premium and termination charges. (Secretary's delegation of authority, 36 F.R. 5005, March 16, 1971).

Effective date. This amendment is effective July 1, 1971.

NORMAN V. WATSON,
Assistant Secretary for Housing Management.

[FR Doc.71-12571 Filed 8-27-71;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 18104, etc.]

REMANDED ADDITIONAL SERVICE TO SAN DIEGO CASE (SAN DIEGO-DENVER)

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled case will be held on October 19, 1971, at 10 a.m., e.d.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Board's Order on Remand (Order 71-4-112, served April 19, 1971), the examiner's report of prehearing conference, served June 11, 1971, and other documents in this docket on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 24, 1971.

[SEAL] HYMAN GOLDBERG,
Hearing Examiner.

[FR Doc.71-12668 Filed 8-27-71;8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 17921, 17923; FCC 71-846]

BABCOM, INC., AND GIANT BROADCASTING CO., INC.

Enlarging Issues

Memorandum opinion and order. In re applications of Babcom, Inc., Springfield, Mo., Docket No. 17921, File No. BP-16908, Giant Broadcasting Co., Inc., Docket No. 17923, File No. BP-17103, for construction permits.

1. On December 13, 1967, the Commission designated for hearing the mutually exclusive applications of Babcom, Inc. (Babcom), Springfiield, Mo., and Giant Broadcasting Co., Inc. (Giant), Ozark, Ark., for construction permits for new standard broadcast facilities.[1] FCC 67-1331.

[1] The application of Dr. Samuel N. Morris, trading as Upshur Broadcasting Co., Gilmer, Tex., was also designated for hearing with the applications of Babcom and Giant. By an order released July 3, 1968, the Examiner removed Upshur's application from hearing status and returned it to the processing line.

Issues designated were inter alia, the following:

(a) To determine the areas and populations which would receive primary service from the proposed operations and the availability of other primary service to such areas and populations;

(b) To determine whether the proposal of Giant Broadcasting Co., Inc., will realistically provide a local transmission facility for Ozark or for Fort Smith, Ark. * * *;

(c) To determine, in the light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

2. Following the hearing, the Hearing Examiner in an Initial Decision, FCC 68-65, 24 FCC 2d 702, released October 24, 1968, denied Giant's application on the grounds that it had not met its burdens of proof under the areas and populations issue, and under the 307(b) suburban community issue. The Examiner therefore granted Babcom's application.

3. The Review Board subsequently held that the Examiner had erred in refusing to grant Giant a continuance so that it could introduce into evidence a reformed areas and populations exhibit. FCC 69R-184, 17 FCC 2d 357, released April 28, 1969. The Board therefore remanded the case to the Examiner. After further hearings, the Examiner in a Supplemental Initial Decision again denied Giant's application on the same grounds as before. FCC 69D-55, released October 27, 1969.

4. Following an appeal by Giant, the Review Board reversed the Hearing Examiner and granted Giant's application. FCC 70R-268, 24 FCC 2d 690, released August 5, 1970; reconsideration denied, FCC 71R-41, 27 FCC 2d 437, released February 8, 1971. The Board held that Giant had sustained its burden of proof under the 307(b) suburban community issue by showing that its 5 mv/m contour would not in fact penetrate the geographical boundaries of Fort Smith. The Board further concluded that, under the areas and populations issue, Giant had properly and accurately ascertained the service contours of its proposed station, and that therefore it had sustained its burden of proof under this issue. The Board also rejected the Hearing Examiner's conclusions that Mr. Charles Price, an 11.6 percent stockholder of Giant, had made disqualifying misrepresentations during his testimony in this hearing. Finally, the Board concluded that, under the section 307(b) issue, Ozark, Ark., Giant's proposed community, has a greater need for a second broadcast facility than Springfield, Mo., Babcom's proposed community, has for a ninth facility. Hence, the Board granted Giant's application and denied that of Babcom.

5. Now before the Commission is an application for review, filed by Babcom, seeking reversal of the above Review

Board actions.[2] Babcom attacks the Board's decision on numerous grounds. However, except on the two points discussed more fully below, we shall deny the application for review without specification of reasons pursuant to § 1.115 (g) of the rules.

6. The first of the points concerns Giant's use of a combination of actual field conductivity measurements with the theoretical ground conductivity values taken from the Commission's Figure M-3 in an exhibit showing Giant's service contours as well as the areas and populations Giant would serve. Giant itself took measurements on a test transmitter on the 260° radial toward Fort Smith.[3] In determining its service contours, Giant also relied upon field measurements taken by Babcom on Station KZRK[4] along 19°, 163°, 199°, and 343° radials. To establish its service contours, Giant used the measured ground conductivities to the extent of the measurements, and Figure M-3 conductivities beyond these points. The distances to the 2 mV/m and 0.5 mV/m contours on each of the measured radials were then determined and assumed applicable over an azimuth of 10 degrees to either side of the radial. In all other directions the determinations of the distances to the contours employed only ground conductivity values from Figure M-3.

7. The problem with this method of determining service contours is that, as the Hearing Examiner noted, it is internally inconsistent and blatantly contradictory in view of the facts in this case. Giant has used Figure M-3 conductivity values to determine much of its service contours, and yet all of the actual conductivity measurements which Giant and Babcom have taken, and upon which Giant relies, show that the Figure M-3 values are, for the Ozark area, much too high, and hence, grossly inaccurate. The measured values of conductivities in the Ozark area are in the range of 1-4 mmhos/m while the conductivity depicted by Figure M-3 in Giant's proposed service area is 8 to 15 mmhos/m. To quote the Hearing Examiner, "the bulk of [Giant's] exhibit relies on presumptive high conductivities which the balance of the exhibit proves are wrong."[5] Thus, the areas and populations showing of Giant is internally inconsistent to the extent that a large part of Giant's showing relies on Figure M-3, while the remainder of the showing demonstrates that Figure M-3 is wholly inaccurate. The inescapable conclusion is therefore that the areas and populations shown by Giant are also wholly inaccurate insofar as Giant has relied upon Figure M-3.

8. For these reasons we have concluded that Giant has not satisfactorily met its burden of proof under the areas and populations issue. This issue required Giant "to determine the areas and populations which would receive primary service from the proposed operations and the availability of other primary service to such areas and populations." This Giant has not done. As the Examiner noted:

> The engineering techniques employed to prepare the exhibit serve only to convince the Examiner that the station's actual coverage will be materially less than any of the Giant predictions. Because nothing but guesswork is available to determine just how much less, no finding as to the areas and populations to be served by Giant can be made. Not knowing the boundaries of the area to be served, it is also impossible to make a finding as to other services available within such area.

9. Giant in its opposition to Babcom's application for review tacitly admits that it has not accurately shown the contours of its proposed station. Rather, Giant contends that whether it made an accurate showing is irrelevant since "the precise figures of areas and populations to be served were not at all decisive to the choice between applicants" under section 307(b). This argument, however, ignores two basic considerations. First, the Commission in its designation order specifically directed Giant accurately to determine what areas and populations it would serve. Once such an issue has been specified, the duty to meet it cannot be negated by claiming that it is irrelevant. Second, a determination of service populations and areas cannot be considered irrelevant in this case. It is the principal source of data in making the 307(b) comparison of the applications. Moreover, it is difficult to understand how Giant could propose to ascertain and serve the needs and interests of the population within its service area if it had no realistic idea of what that population or area was.

10. The Hearing Examiner denied Giant's application because he concluded that it had failed to sustain its burden of proof under the areas and populations issue. While we do not agree with the Review Board that Giant's present showing is satisfactory,[6] we do not believe that denial of Giant's application would be appropriate under the circumstances of this case. Although it is clear that Giant had ample notice from the Hearing Examiner that its areas and populations showing left much to be desired,[7] it is also true that Giant has never been specifically ordered to take field intensity measurements in lieu of its reliance on Figure M-3. However, it is clear that it would be appropriate in view of the circumstances in this case to order Giant, under § 73.188(i) of the rules[8] to take actual field intensity measurements so as to determine its service contours accurately and completely. Giant will therefore be directed to take such additional measurements as may be required, in conjunction with the existing measurements to the extent that they are applicable, so as to provide a proper basis for resolution of the section 307(b) issue.

11. Our second area of concern involves the Review Board's reversal of the Hearing Examiner's conclusion, reached in his Supplemental Initial Decision, that Mr. Charles Price, an 11.6 percent stockholder of Giant, deliberately misrepresented certain facts to the Commission. The Examiner concluded that Mr. Price had knowingly given misleading testimony at a hearing held on July 23, 1968. This conclusion was based on conflicts between Mr. Price's testimony on July 23, 1968, and his subsequent testimony at a later hearing on August 25, 1969. The testimony of Mr. Price at both hearings concerned certain field intensity measurements that he had taken in con-

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[2] Other pleadings before the Commission are: (a) An opposition to application for review, filed March 24, 1971, by Giant; (b) a statement supporting application for review filed March 25, 1971, by the Broadcast Bureau; and (c) a reply to opposition filed April 5, 1971, by Babcom.

[3] Giant took these measurements toward Fort Smith to show that its 5 mV/m contour would not penetrate Fort Smith, in order to rebut the 307(b) suburban community issue. Had Giant relied solely on Figure M-3 to establish ground conductivity, its 5 mV/m would have been shown as penetrating Fort Smith, and Giant would then have been faced with the task of overcoming the presumption that it intended to serve Fort Smith rather than Ozark. See Policy Statement on section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities, 2 FCC 2d 190 (1965).

[4] Station KZRK (1540 kHz, 500 w, D, Ozark, Ark.), is located approximately 2½ miles northwest of Giant's proposed transmitter site. The measurements were submitted by Babcom in rebuttal to Giant's initial showing.

[5] Hearing Examiner's Supplemental Initial Decision, FCC 69D-55, 17 RR 2d 725, released October 27, 1969, p. 5.

[6] While the Review Board is correct that mixed showings based on actual measurements and Figure M-3 are permissible under our Rules and have been accepted in the past, we agree with the Examiner that the discrepancies in Giant's showing accepted by the Board are simply too substantial to be condoned. Thus, a more accurate showing by Giant on the areas and populations issue might result in a different weighing of the merits of these two proposals under section 307(b). That is, if Giant's proposed service area and population were significantly reduced due to low conductivity in the area, the differences between the reception aspects of these proposals might become relevant. If this occurred, a further comparison of the proposals would be required to determine whether Babcom's reception service preference would outweigh Giant's transmission service preference under the circumstances of this case.

[7] Hearing Transcript 197, 291-92.

[8] Section 73.188(i) states in part:

> Since the valves specified [in Figure M-3] are only for general areas and since conductivity values over particular paths may vary widely from those shown, caution must be exercised in using the maps for selection of a satisfactory transmitter site. Where the submission of field intensity measurements is deemed necessary or advisable, the Commission, in its discretion, may require an applicant for new or changed broadcast facilities to submit such data in support of its application.

nection with Giant's application.[9] The Review Board concluded, however, that Mr. Price had not knowingly given false testimony, and that in any event, even if he had given such testimony, it was not of sufficient significance to warrant adding an issue to inquire into Giant's character qualifications.

12. When Mr. Price testified at the earlier hearing on July 23, 1968, he stated that the terrain on the first 17 points on which he took measurements on KCCL was flat pasture land, and that in taking the measurements he was on or very near the radial at all times. From an examination of the transcript of his testimony, it seems clear that a serious question exists as to whether or not Mr. Price deliberately misrepresented the situation in both of these statements.

13. The following extracts from Mr. Price's testimony reveals the conflicts between his testimony on July 23, 1968, and his subsequent testimony at a later hearing on August 25, 1969. On July 23, 1968, Mr. Price testified as follows:

Q. Now sir, with respect to KCCL could you tell us the nature of the terrain, the close-in measurements?

A. For the first 17 points, 2 miles was pasture land, flat pasture land, very little undergrowth, except in spots. That is the general nature of the terrain.

Q. Did you have any difficulty in pacing off the distances?

A. No extreme difficulty at all.

(TR. 246)

Q. If I understand your previous testimony with Mr. Joyce correctly, if you were to place your first 16 points on this map, they would fall right on that line or very close to that line, is that correct, because one of your principal concerns was staying on radial?

A. Yes, sir.

(TR. 274).

14. Subsequently, on August 25, 1969, Babcom's engineer testified that the first 2 miles of terrain on the radial on which Mr. Price took measurements is not entirely flat pasture land and that in fact there is a heavily wooded mountain directly on the radial covering points 4 to 9 as measured by Mr. Price. Whereupon, Mr. Price, according to the Hearing Examiner, "[w]hen it was revealed that his version of events was physically impossible, * * * simply changed his testimony."[10] Thus, Mr. Price subsequently testified on August 25, 1969, as follows:

Q. Lets go to point 5. Where do your field notes say you were at that point?

A. At the base of mountain.

Q. Was that on the radial?

A. No, sir, it was not.

Q. Do you know how far off the radial you were and in what direction?

A. I was approximately, I would say between 5 and 600 feet off the radial to the west and about 5 to 600 feet to the west.

(TR. 460).

15. Thus, Mr. Price testified that in fact points 5 to 8 were all off radial, since he had had to detour around the mountain in order to take his measurements.[11] This testimony directly conflicts with his earlier testimony that all of his measurements were made in a straight line on or near the radial, and that the terrain on which the measurements were made was flat pasture land. We do not believe that Mr. Price's earlier testimony can be attributed to mere forgetfulness or confusion in view of the facts that he was testifying only 3 weeks after he had made the measurements and that he plainly gave unequivocal answers to the questions during his testimony.[12] Further, he later admitted that at his earlier testimony he had been testifying from his field notes taken at the time he made the measurements, and that for points 4 to 6, these notes contained the notation "at base of mountain." TR. 479.

16. There are also other less obvious inconsistencies in Mr. Price's testimony. Mr. Price originally testified that he paced the first 10 points 0.1 mile apart directly on the radial, and that he missed by 30 feet the 1 mile point (point 10), which he stated he knew was located where Highway 22 crossed the radial. Subsequently, it was revealed that it was impossible for points 5 to 8 to be on the radial because of the intervening mountain. Mr. Price then testified that for points 5 to 8 he had been unable to stay on the radial, that he had been forced to skirt west around the mountain, and that points 5 to 8 were not in a straight line with points 1 to 4. He also testified that from point 8, he walked to point 11, where his car was parked along Highway 22.[13] He then paced south to point 9 which was on the radial, and then paced north on the radial to points 10 and 11, the latter of which he stated he missed by 30 feet.

17. Thus, Mr. Price never paced the distance between points 8 and 9, and so, contrary to what his earlier testimony would have led the Hearing Examiner to believe, he had no idea how far apart these two points were. Moreover, and more seriously, Mr. Price's subsequent testimony shows that the 30-foot miss about which he earlier testified was not from the transmitter to point 10, 1 mile away, but rather was merely from points 9 to 11. Thus, Mr. Price would have led the Hearing Examiner to believe that he had very accurately paced on the radial 0.1 mile between each of the first 10 points, and that the total error in his pacing was only 30 feet for these points. The truth, however, was that the 30-foot error was only between points 9 and 11, that Mr. Price had no idea how far points 8 and 9 were apart, and that there is no assurance that the distances between points 5, 6, 7, and 8 were in fact 0.1 mile as Mr. Price had originally stated.

18. We believe that judging from the above evidence there is a substantial question of whether Mr. Price has deliberately attempted to mislead the Commission. The Hearing Examiner, who observed Mr. Price's demeanor and heard his testimony, reached this same conclusion. It is clear that the Examiner's conclusion in this regard, based as it is upon demeanor evidence, is entitled to significant weight. See "Universal Camera Corp. v. NLRB," 340 U.S. 474 (1951).

19. Moreover, we do not agree with the Review Board's statement that, even if it were assumed that Mr. Price had intentionally given false testimony, the significance of such conduct was not sufficient to warrant an inquiry into Giant's character qualifications.[14] Mr. Price himself that he expects to become Giant's general manager and chief engineer, the individual charged with day-to-day responsibility for operation of the proposed station. As such, Mr. Price would be likely to have considerable authority over the manner in which the station observes our requirements. In view of the conflicts in Mr. Price's sworn testimony, his character cannot be regarded as an insignificant consideration. We place great reliance upon the integrity and truthfulness of our licensees, and we must therefore be assured that they will provide the utmost veracity at all times.

20. The Broadcast Bureau and Babcom have both recommended that Giant be disqualified on the basis of Mr. Price's testimony. We believe, however, that, rather than summary denial, a fairer course would be for us to remand the proceeding to the Hearing Examiner with the addition of issues inquiring into whether Mr. Price deliberately gave false testimony in the hearing below and, if so, whether Giant should be disqualified from becoming a Commission licensee. We have adopted this course of action

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[9] Mr. Price took measurements on Station KCCL, Paris, Ark., on a 348° radial toward Ozark. On the basis of these measurements, Giant's engineer concluded that KCCL did not put a primary (2.0 mV/m) signal into Ozark.

[10] Hearing Examiner's Supplemental Initial Decision, FCC 69D-55, released October 27, 1969, page 7.

[11] It should also be noted that Giant's Exhibit 5, a supplement to figure 3h of Giant Exhibit 4, showed these points, without further explanations, as being directly on radial, and in a straight line with all of Mr. Price's other measurements. Mr. Price in subsequent testimony admitted that points 5 to 8 were incorrectly marked on the exhibit and in fact were 200 to 600 feet west of the radial. TR. 478. Mr. Price testified that on the map which he gave to Mr. Lawrence Behr, one of Giant's engineering consultants, for the preparation of Giant's exhibit, Mr. Price had the first 11 points plotted every 0.1 mile on the radial. He did not advise Mr. Behr that some of the measurements were taken off of the radial, and so the points were plotted on the exhibit by Mr. Behr as being on the radial.

[12] In spite of Mr. Price's inexperience in taking measurements, it is difficult to believe that he could testify in good faith: (a) That the terrain on the radial was flat pasture land, when in fact there was a mountain lying directly on the radial, or (b) that his measurements were on or near the radial when in fact points 5 to 8 were up to 600 feet, or more than 0.1 mile, off of the radial.

[13] In Mr. Price's earlier testimony, he had stated that this was point 10. Tr. 275.

[14] Although the Board relied on "Young People's Church of the Air, Inc.," 36 FCC 1127, 2 RR 2d 527 (1964), we noted in "Radio Broadcasters, Inc.," 23 FCC 2d 209 (1970), that the earlier case, even though it involved only a single misrepresentation, could not be read as indicating that such conduct would not warrant disqualification. See also "F.C.C. v. WOKO, Inc.," 329 U.S. 223 (1946).

because there may be extenuating circumstances, although none appear in the present record, which would make disqualification inappropriate in this case.

21. *Accordingly, it is ordered*, That the application for review, filed March 10, 1971, by Babcom, Inc. is granted to the extent indicated, and is denied in all other respects.

22. *It is further ordered*, That the Review Board's actions herein, FCC 70R-268, 24 FCC 2d 690, released August 5, 1970, and FCC 71R-41, 27 FCC 2d 437, released February 8, 1971, are set aside, that the record is reopened, and that this proceeding is remanded to the Hearing Examiner for further hearings consistent with this Memorandum Opinion and Order.

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

(a) To determine whether Mr. Charles Price knowingly gave false testimony under oath at a Federal Communications Commission hearing on July 23, 1968;

(b) To determine whether, in light of the above issue, Giant Broadcasting Company, Inc. has the requisite character qualifications to be a Commission licensee.

24. *It is further ordered*, That in accordance with § 73.188(i) of our rules, Giant Broadcasting Co. Inc. is directed to determine the area and population within its proposed primary service area utilizing ground conductivity values established by field intensity measurement data taken in substantial accord with the provisions of §§ 73.153 and 73.186 of our rules.

Adopted: August 18, 1971.

Released: August 25, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[38]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc. 71-12662 Filed 8-27-71;8:50 am]

[38] Commissioner H. Rex Lee absent.

[Dockets Nos. 19303; 19304; FCC 71-864]

COMMUNITY BROADCASTERS, INC., AND EASTON BROADCASTING CO.

Designating Applications for Consolidated Hearing on Stated Issues

Order. In re applications of: Community Broadcasters, Inc., Easton, Md., Docket No. 19303, File No. BPH-7403, requests: 96.7 MHz, No. 244; 3 kw. (H); 3 kw. (V); 300 ft., Richard S. Cobb and Mary Cobb, doing business as Easton Broadcasting Co., Easton, Md., Docket No. 19304, File No. BPH-7493, requests: 96.7 MHz, No. 244; 3 kw. (H); 3 kw. (V); 300 ft., for construction permits.

1. The Commission has under consideration the captioned applications, which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. Community Broadcasters, Inc., proposes independent programing while Easton Broadcasting Co., proposes to duplicate the programing of station WEMD(AM). Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. The showing permitted under that issue will be limited to evidence concerning the benefits to be derived from the proposed duplication, and a full comparison of the applicants' program proposals will not be permitted, Jones T. Sudbury, 8 FCC 2d 360, 10 RR 2d 114 (1967).

3. Each of the applicants is qualified to construct and operate as proposed. However, because of their mutual exclusivity, the Commission is unable to make a statutory finding that a grant of the subject applications would serve the public interest, convenience, and necessity, and is of the opinion that they must be designated for hearing in a consolidated proceeding on the issues set forth below.

4. *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:

a. To determine which of the proposals would on a comparative basis better serve the public interest.

b. To determine in the light of the evidence adduced pursuant to the foregoing issue, which of the applications for a construction permit should be granted.

5. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicants pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (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.

6. *It is further ordered*, That, the applicants 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: August 18, 1971.

Released: August 24, 1971.

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

[FR Doc.71-12666 Filed 8-27-71;8:50 am]

[1] Commissioner H. Rex Lee absent.

[Dockets Nos. 19301, 19302; FCC 71-856]

EMPIRE COMMUNICATIONS CO. AND LANE PAGING, INC.

Designating Applications for Consolidated Hearing on Stated Issues

Memorandum opinion and order. In re applications of Empire Communications Co., Docket No. 19301, File No. 531-C2-P-70, for a construction permit to establish additional facilities for Station KLF 595 in the Domestic Public Land Mobile Radio Service at Eugene, Oreg., Lane Paging, Inc., Docket No. 19302, File No. 1895-C2-P-70, for a construction permit to establish new facilities in the Domestic Public Land Mobile Radio Service at Eugene, Oreg.

1. The Commission has before it for consideration (a) an application filed August 1, 1969 by Empire Communications Co. (Empire) for a construction permit to establish an additional one-way signaling (paging) service in the Domestic Public Land Mobile Radio Service (DPLMRS) at Eugene, Oreg. on the 158.70 MHz Guardband channel; and an application filed October 10, 1969 by Lane Paging, Inc. (Lane), for a construction permit to establish a new one-way signaling (paging) facility near Eugene, Oreg., in the DPLMRS using the same base station frequency of 158.70 MHz; (b) Empire's Petition to Deny Lane's application, filed April 12, 1971; Lane's Opposition to Empire's Petition to Deny, filed May 7, 1971; and Empire's Reply to the Opposition, filed June 2, 1971.

2. Empire and Lane are each seeking to provide communications service on the same frequency in the same geographical area, and their applications are mutually exclusive by reason of potential harmful electrical interference. Therefore, a comparative hearing is necessary.

3. Empire is the licensee of two radio stations in the DPLMRS near Eugene, Oreg.: Station KOK 331 providing two-way service on base station frequencies of 152.09, 152.18, and 152.21 MHz, with the corresponding mobile units operating on 158.55, 158.64, and 158.67 MHz, with one-way service offered on a secondary basis; and Station KLF 595, a one-way signaling station operating on 152.24 MHz. In its Petition to Deny Empire states that the 158.70 MHz frequency at the location proposed by Lane near Eugene, Oreg. would result in harmful interference to reception by Empire's Station KOK 331. Specifically, Empire maintains that since its and Lane's base stations would be separated by only 30 KHz and operate within 350 feet of one another at Blanton Heights, Oreg., harmful adjacent channel electrical interference would occur to the reception of mobile signals by Empire's station KOK 331.

4. Lane in its Opposition contends that Empire's Petition to Deny should be dismissed, first because it is untimely, having been filed some 16 months after the 30-day period provided in § 21.27(c)

of the Commission's rules; and second, even if the Commission were to construe Empire's petition as an informal objection, the affidavit of Lane's consulting engineer demonstrates that lack of merit in Empire's allegations. The affidavit, inter alia, challenges the factual premises assumed in the Petition; and further states that § 21.501(h)(2) of the Commission's rules provide for the assignment of the 152.24 MHz and 158.70 MHz Guardband channels without any qualification whatsoever. Receiver locations, it is contended, can be changed in location or equipment as local conditions require.

5. Empire in its Reply to Lane's Opposition states that since its Petition to Deny was filed on April 12, 1971, and is directed to Lane's application as amended on or about April 2, 1971, it was filed within the prerequisite 30 days and is not violative of § 21.27(c) of the rules and section 309(d) of the Communications Act. It further states that its engineering facts and data are at war with Lane's, which fails to refute the possibility of electrical interference. Moreover, it contends that section 309(a) of the Act requires that all grants of the use of any frequency must serve the public interest, convenience and necessity and such a determination cannot be made where the grant will result in the degradation of the two-way service on 152.21/158.67 MHz. Although the Commission is not convinced that the problem is of the magnitude projected by Empire, we do recognize that there is the possibility of adjacent channel interference being caused to the mobile receiver of Empire with the geographical separation indicated. However the Commission's rules[1] do not provide protection for interference of this nature inasmuch as it is reasonably within the power of a licensee receiving such interference to take steps which will obviate the problem. Thus, Empire can resolve the problem by making minor technical changes in its equipment or by moving its mobile receiver to one of its other sites. Under these circumstances Empire's request for denial of Lane's application or for an interference issue will be denied.

6. Empire's application for a construction permit to establish additional one-way facilities for Station KLF 595 in the DPLMRS operating on a base frequency of 158.70 MHz at Eugene, Ore., requires the showing postulated by § 21.516(b)(4) of the Commission's rules.[2] Although Empire submitted information and data in purported compliance with the aforementioned section it was neither responsive nor adequate. Moreover it appeared to support the conclusion that the present channel capacity is sufficient to meet traffic needs for the reasonably foreseeable future for an additional channel as proposed herein. Empire contends that a tone-only paging facility and the proposed dial-access tone and voice paging are incompatible. The Commission has adhered to the contrary view that they are compatible. Accordingly, we will add an issue whether the traffic load study and other data required under § 21.516(b)(4) of the Commission's rules tend to support Empire's request for an additional channel at this time. (See Mobile Radio Communications, Inc., 29 FCC 2d 62 (1971).)

7. It appears that except for the matters placed in issue herein, both applicants are legally, financially and technically qualified to render the services they have proposed.

8. Accordingly, in view of our conclusions above: *It is ordered*, Pursuant to the provisions of section 309(e) of the Communications Act of 1934 as amended, that the captioned applications are designated for hearing in a consolidated proceeding, at the Commission's offices in Washington, D.C. on a date to be specified upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance personnel, practices, classifications, regulations, and facilities pertaining thereto.

(b) To determine on a comparative basis the areas and populations that each applicant will serve within the respective 43 dbu contours, based upon the standards set forth in § 21.504(a) of the Commission's rules and regulations; and to determine the need for the proposed services in said area.[3]

(c) To determine the nature and extent of services now rendered by Empire Communications Co., the capacity of its existing facilities, and in the light of § 21.516(b) of the Commission's rules, or other pertinent regulations or Commission policy, whether the grant of Empire's application for an additional channel is justified in the public interest.

(d) To determine, in consideration of all the evidence on the foregoing issues, whether the public interest, convenience or necessity will be best served by a grant of the application of the Empire Communications Co. or the application of Lane Paging, Inc., and the terms or conditions, if any, that should be attached thereto.

9. *It is further ordered*, That the burden of proof on the Issues (a) and (b) is placed on the respective applicants herein and on Issue (c) the burden is placed on Empire Communications Co.

10. *It is further ordered*, That the parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's rules.

Adopted: August 18, 1971.

Released: August 26, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[4]
BEN F. WAPLE,
Secretary.

[FR Doc.71-12665 Filed 8-27-71;8:50 am]

[1] Section 21.501.

[2] An application requesting the assignment of an additional channel or channels at an existing Domestic Public Land Mobile Radio Station (other than control dispatch or repeater), in addition to the information required by other sections of the rules, shall include a showing of the following: (b) Data showing the actual traffic loading on each channel assignment of the present radio systems during the busiest 12-hour periods on 3 days (within a 7-day period) having normal message traffic not more than 60 days prior to the date of filing. This information should be reported separately for each of the 3 days selected, which should be identified by dates, and should disclose the following: (4) For systems that provide one-way signaling as a primary service, (i) the number of mobile receivers in operation during the study period, (ii) the number of calls held, (iii) the total holding time; or for systems that do not provide message relay service, (iv) the total number of minutes the channel is utilized for transmission between the base station and the mobile receiver during each hour.

[3] Section 21.504(a) of the Commission's rules and regulations describes a field strength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service. Propagation data set forth in § 21.504(b) are the proper basis for establishing the location of service contours (F50, 50) for the facilities involved in this proceeding.

[4] Commissioner H. Rex Lee absent.

[Docket No. 18950, FCC 71-842]

D. H. OVERMYER COMMUNICATIONS COMPANY, INC. ET AL.

Modifying FCC71-911 (36 F.R. 14348)

Memorandum opinion and order. In the matter of applications for the transfer of control of D. H. Overmyer Communications Co., Inc. and D. H. Overmyer Broadcasting Co., Inc. from D. H. Overmyer to U. S. Communications Corp., San Francisco, Calif., Docket No. 18950, files Nos. BTC-5376, 5377, 5378, 5379 and 5380.

1. The procedural history of this docketed proceeding has been adequately detailed in our memorandum opinion and order (FCC 70-911, 25 FCC 2d 442, released Sept. 4, 1970) designating this case for evidentiary hearing and in a subsequent memorandum opinion and order (FCC 71-213, 27 FCC 2d 982) released March 8, 1971, and, accordingly, is not repeated here. Presently before us for consideration are: (1) A petition for deletion of issues and for shift of burden of proof filed September 28, 1970, by D. H. Overmyer, D. H. Overmyer Communications Co., Inc., and D. H. Overmyer Broadcasting Co., Inc. (petitioners); [1] (2) an opposition thereto filed on October 12, 1970, by the Chief of the Broadcast Bureau (Bureau); and (3) a

[1] This multiple request petition and the responsive pleadings thereto were originally filed with the Review Board. By memorandum opinion and order (FCC 71R-43, 27 FCC 2d 505) released Feb. 8, 1971, the Review Board denied the petitioners' request to delete issues and certified the request to shift the burden of proof to us.

reply to the opposition filed on October 22, 1970, by the petitioners.

2. When we designated this proceeding for evidentiary hearing, we directed D. H. Overmyer (Overmyer) to proceed with the introduction of evidence and also to carry the burden of proof under the hearing issues that were specified. Petitioners now request that the burden of proof under those hearing issues be shifted to the Bureau. In support of their request, petitioners contend that the Commission's approval in 1967 of the above-captioned applications was a final agency action; that any proposed revision of that action by the Commission, at this last date, is in the nature of a revocation, or at the very least, a modification of a final Commission action; that this designated proceeding is therefore essentially a Commission revocation or modification proceeding and, accordingly, must be governed by either sections 312 or 316 of the Communications Act of 1934, as amended; and that consequently the burden of proof under the designated hearing issues of this case must fall upon the Commission, because of the statutory mandates of those sections of the Act. We disagree. Neither section 312 nor section 316 of the Act are applicable to this particular proceeding.[2] Those sections of the Act deal only with Commission proceedings looking toward possible revocation or modification of station licenses and/or construction permits. Our Designation Order in this case does not contemplate any agency action respecting such an authorization, and Overmyer has not been ordered to participate in an evidentiary hearing as either a station licensee or construction permittee.

3. While we disagree with the petitioners' arguments in support of their request, we have nevertheless reconsidered, on our own motion, the evidentiary burdens that have been placed upon the parties to this proceeding. Accordingly, we are persuaded that certain revisions in the assignment of these burdens appear warranted because of the unusual nature of this case. Moreover, to avoid any possible misunderstandings and to assist the parties in their hearing preparations, we think it is apropriate, at this time, to also set forth some of the reasons for our determinations in this respect.

4. Certainly, the data needed to substantiate Overmyer's claimed expenses for developing and acquiring the subject UHF television construction permits are peculiarly within the possession and/or knowledge of Overmyer rather than the Bureau, the other named party to this proceeding. Thus, we think, it is both reasonable and necessary to require Overmyer to proceed with the introduction of evidence under the specified hearing issues of this particular case. Indeed, to direct the Bureau to produce, at the hearing, a precise and full documentation of this data would be both unrealistic and unfair. Accordingly, it is for these reasons that we determined, at the time of designation, that Overmyer should be assigned the burden of proceeding.[3] Moreover, in the interest of clarification, we wish to point out that the placing of this burden upon Overmyer not only requires him to proceed with the introduction of evidence under the specified hearing issues, but further requires him to make a prima facie showing substantially corroborating his alleged out-of-pocket expenses as were previously represented to the Commission.

5. Concerning the remaining burden of proof question presented by this case, we believe that the better policy would be to require the Bureau to carry this burden under the hearing issues that have been specified. We are persuaded that such an order of procedure would be more in accord with basic fairness and due process, because of both the circumstances surrounding our designation order and the seriousness of charges with which Overmyer is required to answer under the hearing issues of this particular proceeding.

6. *Accordingly, it is ordered*, That the petition for deletion of issues and for shift of burden of proof, filed September 28, 1970, by D. H. Overmyer, D. H. Overmyer Communications Co., Inc. and D. H. Overmyer Broadcasting Co., Inc., is granted to the extent indicated herein.

7. *It is further ordered*, That the memorandum opinon and order (FCC 70-911, 25 FCC 2d 442) designating this proceeding for evidentiary hearing is modified to the extent that the Chief of the Broadcase Bureau is directed to carry the burden of proof under the designated hearing issues.

Adopted: August 18, 1971.

Released: August 24, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[4]

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

[FR Doc.71-12664 Filed 8-27-71;8:50 am]

[2] The legislative history of these sections of the Act does not support petitioners' additional contention that because this case resembles a revocation or modification proceeding, the Commission must therefore be guided by either sections 312 or 316 of the Act in determining the burden of proof. The Commission's authority for prescribing the procedural rules, in cases such as this, flows instead from its inherent powers to conduct its proceedings in the manner which will best achieve the proper dispatch of business and the ends of justice, pursuant to section 4(j) of the Act.

[3] In "D&E Broadcasting Co.," 5 RR 2d 475 (1968), we indicated that there may be some cases where a departure from the customary evidentiary burdens normally observed in Commission proceedings would be justified. The instant proceeding, we believe, represents such a case.

[4] Commissioners Bartley and Johnson dissenting; Commissioner H. Rex Lee absent.

FEDERAL HOME LOAN BANK BOARD

[H.C. 108]

GENERAL OHIO S & L CORP.

Notice of Receipt of Application for Approval of Acquisition of Control of Mutual Savings and Loan Association

AUGUST 25, 1971.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from General Ohio S & L Corp., Findlay, Ohio, a multiple savings and loan holding company, for approval of acquisition of control of The Mutual Savings and Loan Association, Celina, Ohio, an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the regulations for Savings and Loan Holding Companies, said acquisition to be effected by the exchange of stock of the applicant for stock of The Mutual Savings and Loan Association. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] JACK CARTER, *Secretary, Federal Home Loan Bank Board.*

[FR Doc.71-12636 Filed 8-27-71;8:49 am]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1183]

R. G. HOBELMANN & CO. OF FLORIDA, INC.

Order of Revocation

On July 23, 1971, the Commission received notification from E. Caminis, Vice President, R. G. Hobelmann & Co., Inc., 225 East Redwood Street, Baltimore, MD 21202, advising that he wished to discontinue the operation of R. G. Hobelmann & Co. of Florida, Inc.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04(f) (dated September 29, 1970):

It is ordered, That the Independent Ocean Freight Forwarder License No. 1183 of R. G. Hobelmann & Co. of Florida, Inc. be and is hereby revoked effective August 9, 1971, without prejudice to reapplication for a license at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon R. G. Hobelmann & Co. of Florida, Inc.

AARON W. REESE, *Managing Director*.

[FR Doc.71-12669 Filed 8-27-71;8:50 am]

[Independent Ocean Freight Forwarder License No. 1029]

R. G. HOBELMANN & CO. OF PENNSYLVANIA, INC.

Order of Revocation

On July 23, 1971, the Commission received notification from E. Caminis, vice president, R. G. Hobelmann & Co., Inc., 225 E. Redwood Street, Baltimore, MD 21202, advising that he wished to discontinue the operation of R. G. Hobelmann & Co., of Pennsylvania, Inc.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04(f) (dated September 29, 1970):

It is ordered, That the Independent Ocean Freight Forwarder License No. 1029 of R. G. Hobelmann & Co., of Pennsylvania, Inc. be and is hereby revoked effective August 9, 1971, without prejudice to reapplication for a license at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon R. G. Hobelmann & Co., of Pennsylvania, Inc.

AARON W. REESE,
Managing Director.

[FR Doc.71-12670 Filed 8-27-71;8:51 am]

MARSEILLES NORTH ATLANTIC FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Guy L. Retournat, Secretary, Marseilles North Atlantic U.S.A. Freight Conference, 10, Place de la Joliette, Marseille 2, France.

Agreement No. 5660-16, between the member lines of the Marseilles North Atlantic U.S.A. Freight Conference, amends Article 1 of the basic agreement to provide that cargo originating from the Bordeaux area and covered by a Bordeaux bill of lading may be forwarded to Marseilles for shipment at the expense of the carrying member.

Dated: August 25, 1971.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
Assistant to the Secretary.

[FR Doc.71-12671 Filed 8-27-71;8:51 am]

[Docket No. 71-80]

MARITIME FRUIT CARRIERS CO., LTD., AND REFRIGERATED EXPRESS LINES (A/ASIA) PTY., LTD.

Order of Investigation and Hearing

It appearing that there is a dispute between Maritime Fruit Carriers Co., Ltd. and Refrigerated Express Lines (A/Asia) Pty., Ltd., parties to Agreement No. 9944, on the one hand and Blue Star Line Ltd., Ellerman Lines, Ltd., Port Line Ltd., Farrell Lines Inc., and Columbus Line on the other, in which the latter allege that the individual voting membership of the parties to Agreement No. 9944 in the Australian/U.S. Atlantic and Gulf Conference Agreement No. 9450 of which all of the foregoing persons are members, may be discriminatory or unfair as between carriers, in violation of section 15 of the Shipping Act, 1916:

Now therefore, it is ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, that an investigation be hereby instituted to determine whether the individual voting membership of the parties of Agreement No. 9944 in conferences to which they now or may belong in the Australian/United States trades would be discriminatory or unfair between carriers or would operate to the detriment of the commerce of the United States in violation of the subject act; and

It is further ordered, That Maritime Fruit Carriers Co., Ltd., and Refrigerated Express Lines (A/Asia) Pty., Ltd., are hereby made respondents and Blue Star Line Ltd., Ellerman Lines, Ltd., Port Line Ltd., Farrell Lines Inc., and Columbus Line are hereby made petitioners in this proceeding; and

It is further ordered, That this proceeding shall be limited to the submission of affidavits of fact and memoranda of law, replies, and oral argument. Should any party feel that an evidentiary hearing be required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed on or before September 17, 1971. Affidavits of fact and memoranda of law shall be filed by respondents and served upon all parties no later than the close of business September 17, 1971. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel, petitioners and intervenors, if any, no later than close of business October 4, 1971. Oral argument will be scheduled at a later date if requested and/or deemed necessary by the Commission.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents and petitioners, listed in appendix A.

It is further ordered, That persons other than those already party to this proceeding who desire to become parties to this proceeding and to participate therein shall file a petition to intervene pursuant to Rule 5(l) of the Commission's rules of practice and procedure (46 CFR 502.72) no later than close of business September 10, 1971.

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

[SEAL] JOSEPH C. POLKING,
Assistant to the Secretary.

APPENDIX A

RESPONDENTS

Maritime Fruit Carriers Co., Ltd., Mediterranean Agencies, 42 Broadway, New York, NY 10004.

Refrigerated Expres Lines (A/Asia) Pty., Ltd., 17 Battery Place, New York, NY 10004.

PETITIONERS

Blue Star Line Limited, Booth American Shipping Corp., 30 Church Street, New York, NY 10007.

Columbus Line, 26 Broadway, New York, NY 10004.

Ellerman Lines Ltd., Norton, Lilly and Company, Inc., 90 West Street, New York, NY 10006.

Farrell Lines Inc., One Whitehall Street, New York, NY 10004.

Port Line Ltd., Norton, Lilly and Company, Inc., 90 West Street, New York, NY 10006.

[FR Doc.71-12672 Filed 8-27-71;8:51 am]

FEDERAL POWER COMMISSION

[Docket No. CP72-37]

EL PASO NATURAL GAS CO.

Notice of Application

AUGUST 20, 1971.

Take notice that on August 12, 1971, El Paso Natural Gas Co. (Applicant), Post Office Box 1492, El Paso, TX 79978, filed an application in Docket No. CP72-37 pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas

through existing facilities to the Washington Water Power Co. (Water Power) for resale and distribution in the incorporated municipalities of Harrington, Wash., and Mullan, Idaho, all as set forth in the application on file with the Commission and open to public inspection.

Applicant proposes to make deliveries to Water Power for service to Harrington, Wash., through use of its existing Spokane West Meter Station and for service to Mullan, Idaho, through its existing Kellogg-Wardner Meter Station Water Power proposes to initiate natural gas service to each of the new areas and proposes to install necessary distribution facilities. The estimated combined peak day and annual firm natural gas requirements of Water Power during the third full year of the proposed services to the two areas are 427 Mcf and 47,963 Mcf, respectively.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 13, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-12608 Filed 8-27-71;8:47 am]

LANDS WITHDRAWN IN PROJECT NO. 1815

Order Vacating Withdrawal Under Section 24 of the Federal Power Act

AUGUST 20, 1971.

Application has been filed by the Forest Service, U.S. Department of Agriculture, for vacation of land withdrawal for Project No. 1815 affecting the following described lands of the United States:

PRINCIPAL MERIDIAN, MONTANA

T. 31 N., R. 33 W., sec. 14, lot 5, SE¼SW¼ (approximately 2.27 acres).

The lands lie along the Kootenai River and are withdrawn in Power Site Reserve No. 29 dated July 2, 1910, and pursuant to the filing on December 27, 1940, of an application for license for the Mahoney Springs Minor Project No. 1815. As a result of a request from the licensee, surrender of the license was accepted by Commission order issued February 8, 1971.

The lands lie in reach of the river which was included in a plan of development by the Corps of Engineers (H.D. 403, 87th Cong. 2d Ses.). The Corps proposed development of the Katka Dam site located about 25 miles downstream from the subject lands, which would raise the water surface to 1,875 feet elevation, and the development of the Kootenai Falls Dam site located immediately upstream from the lands, with a tailrace elevation of 1,900 feet. Lot 5 lies at approximately 1,910 feet elevation along the river. The lowest elevation of the lands occupied by the facilities of Project No. 1815 was about 2,080 feet.

A review of the Columbia River Basin is contemplated. Power Site Reserve No. 29 will protect any power value that the lands may have.

The Commission finds: The withdrawal for Project No. 1815 serve no useful purpose and should be vacated.

The Commission orders: The withdrawal of the subject lands pursuant to the application for Project No. 1815 is hereby vacated in its entirety.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71-12605 Filed 8-27-71;8:46 am]

NATIONAL GAS SURVEY

Order Designating an Additional Member of the Executive Advisory Committee

AUGUST 20, 1971.

The Federal Power Commission by order issued April 6, 1971, established an Executive Advisory Committee of the National Gas Survey.

1. *Membership.* An additional member to the Executive Advisory Committee, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Honorable William D. Ruckelshaus, Administrator, Environmental Protection Agency.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71-12606 Filed 8-27-71;8:46 am]

[Docket No. CP72-38]

VGS CORP.

Notice of Application

AUGUST 23, 1971.

Take notice that on August 16, 1971, VGS Corp.[1] (applicant), 31 Swift Street, South Burlington, VT 05401, filed in Docket No. CP72-38 an application pursuant to section 3 of the Natural Gas Act for authorization to import additional volumes of natural gas from Canada to the United States through existing facilities located at the International boundary near Highgate Springs, Vt., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant's sole source of natural gas is Trans-Canada Pipe Lines Ltd. The volumes of natural gas purchased therefrom are authorized for importation into the United States at a rate up to 14,500 Mcf per day, and 5,292,500 Mcf annually in Dockets Nos. CP66-141 et al. (33 FPC 899), and CP68-132 (40 FPC 1521). Applicant states that the natural gas requirements of its customers exceed the present supply and seeks authorization herein to increase the volume of natural gas imported by 3,200 Mcf per day, and 1,168,000 Mcf annually.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 13, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-12607 Filed 8-27-71;8:47 am]

[Docket No. RP72-18]

CONSOLIDATED GAS SUPPLY CORP.

Notice of Proposed Changes in Rates and Charges

AUGUST 23, 1971.

Take notice that Consolidated Gas Supply Corp. (Consolidated) on August 5, 1971, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 3, to become effective on September 19, 1971. The proposed rate

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[1] Applicant was originally incorporated under the name Vermont Gas Systems, Inc. By amendment to the Articles of Association, this name has been changed to VGS Corp.

changes would increase charges for jurisdictional sales under Rate Schedules F-14, F-17, F-19, and F-20 by approximately $1,364,250 annually in the aggregate, based on estimated volumes projected for the 12-month period ended September 19, 1972.

Consolidated states that the reason for the proposed increase is to reflect the Base Area Rates as permitted by the Commission's Opinion No. 598 and order in Dockets Nos. AR61-2, et al., and AR69-1 (ordering paragraphs (A) and (C)), issued July 16, 1971.

Copies of the filing were served on each of the purchasers under the respective rate schedules.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 8, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-12656 Filed 8-27-71;8:49 am]

[Docket No. R-394, etc.]

MOBIL OIL CORP.

Order Denying Rehearing of Order

AUGUST 24, 1971.

Termination of Moratorium Provisions in Southern Louisiana, Docket No. R-394, Area Rate Proceeding (Southern Louisiana), Dockets Nos. AR61-2, et al., Docket No. AR69-1.

Mobil Oil Corp. (Mobil) on July 28, 1971 filed an application for rehearing of the Commission's order issued on June 29, 1971 in the above-entitled proceedings. That order further modified Order No. 413, which was previously modified on rehearing by order issued December 24, 1970, so as to extend the rate filing limitations for sales of natural gas in Southern Louisiana (which were due to expire as of July 1, 1971) until September 30, 1971 or until such time as the Commission establishes just and reasonable rates for producer sales in Southern Louisiana, whichever occurs first. Following the issuance of the June 29 order, but prior to the filing of Mobil's application for rehearing, the Commission issued Opinion No. 598 on July 16, 1971 establishing just and reasonable rates in Southern Louisiana.

The arguments advanced here by Mobil are the same as those previously made when it sought rehearing of the December 24, 1970 order herein. These arguments were rejected by the Commission in its order issued February 10, 1971 denying rehearing of the December 24, 1970 order. They are likewise rejected here. In addition, in view of the issuance of Opinion No. 598, the question posed here is moot assuming, of course, that the Commission's action in that case is upheld upon judicial review.

Mobil's application for rehearing sets forth no further facts or principles of law which were not fully considered in the June 29, 1971, order, or which, having now been considered, warrant any modification of that order.

The Commission orders:

Mobil's application for rehearing of the order issued June 29, 1971 in the above-entitled proceedings is denied.

This order is subject to our Statement of Policy Implementing the Economic Stabilization Act of 1970 (P.L. 91-379, 84 Stat. 799, as amended by P.L. 92-15, 85 Stat. 38) and Executive Order No. 11615, including such amendments as the Commission may require.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71-12657 Filed 8-27-71;8:49 am]

[Dockets Nos. RP70-42, CP72-33]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

AUGUST 23, 1971.

Take notice that on August 9, 1971, Natural Gas Pipeline Company of America (applicant), 122 South Michigan Avenue, Chicago, IL 60603, filed in Dockets Nos. RP70-42 and CP72-33 respectively (1) a petition for an order approving a supplemental allocation of natural gas to Northern Illinois Gas Co. (Northern Illinois) during the months of August through October 1971 and April through October 1972, and (2) an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing a 20,000 Mcf per day increase in natural gas service under applicant's FPC Rate Schedule S-2, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant and Northern Illinois have entered into an agreement dated July 1, 1971, whereby Northern Illinois agrees to reduce its withdrawal quantity under applicant's FPC Rate Schedule S-1 by 50,000 Mcf per day beginning November 1, 1971, and by 50,000 additional Mcf per day beginning November 1, 1972, in return for additional sales of natural gas to Northern Illinois of 3 million Mcf above its curtailed level for the period of August through October 1971 and 3 million Mcf above its curtailed level for the period of April through October 1972. Applicant states that the effect of this agreement is to allow both applicant and Northern Illinois to continue to fully develop and maximize their storage facilities and that through prudent storage programing, applicant will be able to offer to all of its customers except Northern Illinois additional Rate Schedule S-2 storage service equivalent to one hundred (100) days of service at 20,000 Mcf per day, thereby allowing its customers to attach additional firm space heating loads to which service is presently being denied.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 13, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-12660 Filed 8-27-71;8:50 am]

[Docket No. RP72-17]

SOUTHERN NATURAL GAS CO.

Notice of Proposed Changes in Rates and Charges

AUGUST 23, 1971.

Take notice that Southern Natural Gas Co. (Southern Natural), on August 2, 1971, tendered for filing a proposed change in its FPC Gas Tariff, Original Volume No. 3, to become effective on September 19, 1971. The proposed rate change would increase charges for the jurisdictional sale to Sea Robin Pipeline

Co. under Rate Schedule F-9 by approximately $213,750 annually, based on estimated volumes projected for the 12-month period ended September 19, 1972.

Southern Natural states that the reason for the proposed increase is to reflect the Base Area Rate of 26 cents per Mcf as permitted by the Commission's Opinion No. 598 and order in Docket Nos. AR61-2 et al. and AR69-1 (ordering paragraph (A)(c)), issued July 16, 1971.

A copy of the filing was served on Sea Robin Pipeline Co.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 8, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-12656 Filed 8-27-71;8:49 am]

[Docket No. RP71-6, etc.]

TENNESSEE GAS PIPELINE CO.

Notice of Motion for Approval of Settlement

AUGUST 23, 1971.

Take notice that on August 16, 1971, Tennessee Gas Pipeline Co. (Tennessee), filed a motion for approval of settlement in Docket Nos. RP71-6, RP71-57, and RP 72-1, together with a proposed settlement agreement. The settlement agreement resolves all issues in these proceedings, with the exception of the allocation of total Tenneco Inc. interest for the purpose of determining the Federal income tax expense includable in Tennessee's cost of service and the issue of normalization of liberalized tax depreciation for rate making purposes.

The settlement agreement and accompanying tariff sheets provide for rates which would produce an increase in Tennessee's test period revenues of approximately $71,500,000, exclusive of tracking rate increases in Dockets Nos. RP71-57 and RP72-1. The settlement agreement further provides that Tennessee may adjust its rates to reflect further changes in the company's purchase gas expense, expenditures for advance payments, changes in Federal income tax rates, safety program expenditures and research and development expenditures. Tennessee agrees not to file for a general increase in its jurisdictional rates which would become effective after a maximum suspension period, prior to one year after the Commission's order making the agreement fully effective has become final and nonappealable, or December 31, 1972, whichever is of shorter duration. To the extent that necessary additional gas supplies become available and that capital can be obtained, Tennessee agrees to make expenditures of up to $100 million annually with a total obligation of $500 million to expand the delivery capacity of its pipeline system for additional sales and transportation service. The settlement agreement provides for the refund with interest of the difference between revenues collected at the rates which became effective on March 17, 1971 and the rates provided for in the agreement.

Copies of the motion and the settlement agreement were served on all parties of record in the proceedings in accordance with the requirements of § 1.17 of the Commission's rules of practice and procedure.

Answers or comments to the motion and proposed settlement agreement may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before September 16, 1971.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-12659 Filed 8-27-71;8:49 am]

[Docket No. G-2730, etc.]

HILDA B. WEINERT ET AL.

Order Granting Petitions

AUGUST 23, 1971.

Hilda B. Weinert, and Jane W. Blumberg et al., Docket No. G-2730; Atlantic Richfield Co., Docket No. G-3287; Bravo Oil Co., Docket No. G-3687; Getty Oil Co., Docket No. G-3732; Mobil Oil Corp. (Operator), Docket No. G-3973; *Irene Sheerin et al., Docket No. G-3975; *C. C. Small & Binford Arney, Trustees, Docket No. G-3976; *Sun Oil Co., Docket No. G-5135; *Continental Oil Co., Docket No. G-6211; Elizabeth E. Brown et al., Docket No. G-9255; Monsanto Co. et al., Docket No. G-9357; *Shell Oil Co., Docket No. G-10633; *Shell Oil Co., Docket No. G-10634; Marathon Oil Co., Docket No. G-11818; *Reserve Oil and Gas Co. et al., Docket No. G-12671; Sun Oil Co., Docket No. G-16846; Mobil Oil Corp. (Operator) et al., Docket No. CI63-470; *H. H. Phillips, Jr., et al., Docket No. CI63-586; H. H. Phillips, Jr., et al., Docket No. CI63-588; Grampian Co., Ltd., Docket No. CI64—385; Ruth Phillips Bisiker, Docket No. CI64-1124; Mobil Oil Corp. (Operator) et al., Docket No. CI71-532; Marathon Oil Co., Docket No. CI71-549; Getty Oil Co., Docket No. CI71-580; Grampian Co., Ltd., Docket No. CI71-589; Ruth Phillips Bisiker, Docket No. CI71-590; Monsanto Company et al., Docket No. CI71-611; Continental Oil Co., Docket No. CI71-690; Elizabeth M. Brown et al., Docket No. CI71-698; Wm. S. Barnickel & Co., Docket No. CI71-712; Bravo Oil Co., Docket No. CI71-772; Sun Oil Co., Docket No. CI71-841.

Order granting petitions to intervene, prescribing procedures, consolidating proceedings, setting dates for hearing and service of evidence, and denying petition for reconsideration.

The above-named independent producers have pending before the Commission applications to sell additional quantities of natural gas from the La Gloria Field, Jim Wells and Brooks Counties, Texas Railroad District No. 4, to Natural Gas Pipeline Company of America and to terminate an existing sale of 81,000 Mcf per day maximum of natural gas to Transcontinental Gas Pipe Line Corp. The producers seek to abandon the sale to Transcontinental on the basis that the contract for sale of gas expired by its own terms on April 1, 1971, the contract having been entered into on September 12, 1947, and assertedly contains no provision for renewal of extension. The proposed increased sales to Natural Gas Pipeline would increase the contract quantity to 206,000 Mcf per day. The increased volumes are attributable to the termination of sales to Transcontinental Gas Pipe Line as well as to quantities available due to reduced cycling and quantities previously sold in the intrastate market. Applicants dedicated the additional gas to Natural Gas Pipeline by amendments dated July 13, 1970 (which dedicates the gas available due to reduced cycling and the gas previously sold intrastate) and January 5, 1971, which dedicates to Natural the gas currently being sold to Transcontinental Gas Pipe Line.

All of the above listed producers selling natural gas to Natural Gas Pipeline and Transcontinental Gas Pipe Line do so by virtue of agreements whereby deliveries are made to the pipeline companies of their respective shares of natural gas production from oil and gas producing acreage behind the plant.

By order of February 15, 1958, Argo Oil Corp., et al., Dockets Nos. G-6810, et al., 15 FPC 622, these producers allegedly dedicated all reserves of natural gas in the La Gloria area to Natural Gas Pipe Line Co., subject to the specified volume and limited term contract with Transcontinental Gas Pipe Line. Pending disposition of the applications in this proceeding, sales of natural gas by these producers are continuing to Transcontinental Gas Pipe Line.

Petitions to intervene and notices of intervention have been filed by the following parties in the dockets which are hereinafter consolidated for hearing and decision:

Associated Gas Distributors.
Atlanta Gas Light Co.
Brooklyn Union Gas Co.
Carolina Pipeline Co.
City of Chicago.
Consolidated Edison Company of New York, Inc.
Elizabethtown Gas Co.
Illinois Commerce Commission.
Illinois Gas Co.
Illinois Power Co.
Interstate Power Co.
Iowa Electric Light and Power Co.
Iowa-Illinois Gas and Electric Co.
Iowa Power and Light Co.
Iowa Southern Utilities Co.
Long Island Lighting Co.
Natural Gas Pipeline Company of America.
North Carolina Utilities Commission.
Northern Illinois Gas Co.
Northern Indiana Public Service Co.
North Shore Gas Co.
Peoples Gas Light and Coke Co.
Philadelphia Electric Co.
Philadelphia Gas Works, Division of UGI Corp.
Piedmont Natural Gas Company, Inc.

Public Service Commission of the State of Georgia.
Public Service Company of North Carolina, Inc.
Public Service Commission of State of New York.
Public Service Electric and Gas Co.
South Jersey Gas Co.
Transcontinental Gas Pipe Line Corp.
Washington Gas Light Co.

In view of the complex nature of these proceedings and the widespread interest in participating herein, good cause exists for permitting the filing of the petitions which were filed late.

On July 26, 1971, a motion to consolidate these proceedings, inter alia, was submitted by Natural Gas Pipeline Co., and as hereinafter ordered, said motion will be granted.

Several producers having small interests in the La Gloria Field are presently authorized to sell gas to both Natural Gas Pipeline and Transcontinental Gas Pipe Line and have not filed applications to increase or terminate sales. These producers are:

(1) Continental Oil Co., Docket No. G-6211 (with respect to January 5, 1971, amendment);
(2) H. H. Phillips, Jr., et al., Dockets Nos. CI63-586 (with respect to January 5, 1971, amendment) and CI63-588.
(3) Reserve Oil and Gas Co., et al., Docket No. G-12671;
(4) Irene Sherin et., Docket No. G-3975;
(5) Shell Oil Co., Dockets Nos. G-10633 and G-10634;
(6) C. C. Small & Binford Arney, Trustees, Docket No. G-3976; and
(7) Sun Oil Co., Docket No. G-5135.

The names and docket numbers of these producers have been listed herein (identified with an asterisk) as applicants only in the provisional sense. They may desire to be a party to a Commission decision affecting the majority of the interests from the La Gloria Field. In the event that these producers do not file appropriate applications to abandon their sales to Transcontinental Gas Pipe Line, or increase sales to Natural Gas Pipeline, before the date set for hearing in these consolidated proceedings, their provisional participation shall terminate.

The Secretary of the Commission will direct a copy of this order to each of the above-described provisional applicants in order that each may determine promptly whether or not it desires to have its fractional share of the gas production from the La Gloria Area allocated to the pipeline companies in the same manner as the other producers.

In the formal hearing which is hereinafter provided for, applicants and intervenors are to present evidence, which will develop on the record the total amount of remaining recoverable gas reserves, the estimated deliverability life of the said gas reserves, and the contractual obligations of the producers to sell and deliver gas, including shrinkage volumes at the processing plant, gas to be used in recycling and repressurization, and fuel for drilling and workover of new and existing wells, and any others uses of natural gas which will diminish the availability of supplies of natural gas to the pipeline companies.

Pleadings submitted to the Commission in this proceeding, as well as in other proceedings presently before the Commission, adequately demonstrate the need of each of the interstate pipeline companies herein concerned for additional as well as existing gas supplies. The parties to this proceeding, therefore, need not make an issue of the question of need for gas supplies by either pipeline company or its customers.

As the instant proceeding may involve questions involving past implied or express contractual commitments by the participants herein, the Commission's notice in Docket No. R-388 (rejection of rate schedules or contracts containing provisions inhibiting good faith presentations before Commission), issued June 18, 1970, should be brought to the attention of the participants at the outset of this proceeding.

As hereinbefore stated, a motion to consolidate all of the producer dockets has been filed, to which no opposition has been submitted. As each of the producer dockets involves common questions of law and of fact, the motion to consolidate should be granted, and as set forth above, all producers owning an interest in the gas delivered at the outlet of the plant are permitted an opportunity to participate herein to avoid unnecessary duplication of hearing procedures. Furthermore, as any applications by the provisional applicants will involve the same issues as those for which applications for certificates or abandonment authority have been filed, no further petitions to intervene need be filed in the instant consolidated proceeding as the granting of the intervention in one docket will be construed as permitting intervention in all similarly situated dockets herein during the pendency of the consolidated proceeding. Should any of these dockets be severed, however, the rules of practice and procedure relating to the necessity of formal intervention will apply.

On July 26, 1971, Natural Gas Pipeline Co. filed a petition for reconsideration of the Commission's order issued July 21, 1971, in Getty Oil Co., Docket No. G-3732, Monsanto Oil Co. et al., Docket No. G-9357 and Marathon Oil Co., Docket No. G-11818. The substance of Natural Gas Pipeline's petition is that the gas sold to Natural by these producers pursuant to the agreement dated July 13, 1970, is related to a termination of deliveries by the producers to the Celanese Corporation of America, and is not involved in the continuing sale and delivery of gas to Transcontinental Gas Pipeline. Natural argues that the requirement for potential restoration of gas volumes to Transcontinental Gas Pipe Line is inconsistent with an alleged prior refusal by Transcontinental and its customers to permit abandonment of deliveries of 81,000 Mcf per day by the producers under an agreement by which Natural would return said volumes to Transcontinental in the event of a final order of the Commission denying abandonment. Similarly petitions for reconsideration were filed on August 2, 1971, by The Peoples Gas Light & Coke Co. and by Marathon Oil Co., and on August 13 by Associated Gas Distributors.

We do not agree with the premise upon which the arguments of petitioners are bottomed. The Commission's order issued July 21, 1971, under no circumstances dealt with the merits of either pipeline's position in regard to the division of gas suplies from the La Gloria area producers, but simply recognized that the Commission had erred in granting permanent authorization to these three producers in the face of outstanding and unresolved petitions for intervention and requests for formal hearing prior to the grant of any such permanent certification. In these circumstances the Commission was required by section 7 of the Act to grant the intervention of the petitioners and recognized their right to a hearing on the merit of their claims. By the instant order, the Commission grants the petitioners their right to support their positions on the record prior to a decision on the merits. As the order of July 21, 1971, makes abundantly clear, it was issued without prejudice to any further action which the Commission may take pursuant to the provisions of the Act and the rules and regulations thereunder. Moreover, the remedial measures designed to permit continued delivery of gas by the three producers pending resolution of this dispute after hearing, grants to Natural the right to continue to receive gas from these producers even though there is not, and could not be, a validly issued certificate of public convenience and necessity for the permanent additional sales proposed by the producers. The distributors dependent on Transcontinental for gas supply have their interests protected by the provisions of the order of July 21, 1971.

The Commission finds:

(1) It is desirable and in the public interest to allow the above-named petitioners to intervene in this proceeding in order that they may establish the facts and law from which the nature and validity of their alleged rights and interest may be determined and show what further action may be appropriate under these circumstances in the administration of the Natural Gas Act.

(2) The above applications involve common questions of fact and law and should, therefore, be heard and decided on the basis of a consolidated record.

(3) The expeditious disposition of this proceeding will be effectuated by providing testimony prior to the convening of formal hearing.

The Commission orders:

(A) Pursuant to authority conferred on the Federal Power Commission by the Natural Gas Act and the Commission's rules of practice and procedure, a public hearing will commence on October 5, 1971, at 10 a.m., (e.d.t.), in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, respecting the matters set forth

above and more fully set forth in the applications in these dockets and designated as Hilda B. Weinert and Jane W. Blumberg, et al., Dockets Nos. G-2730, et al.

(B) Applicants and persons in support of the applications shall serve prepared testimony in support thereof including prepared testimony of witnesses and exhibits on the Office of the Hearing Examiners, the Commission's staff and every party to this proceeding on or before September 7, 1971.

(C) All other interveners herein may serve answering evidence to (B) above, including prepared testimony of witnesses and exhibits, in the same manner as applicants above, not later than September 20, 1971.

(D) A hearing examiner to be hereinafter designated by the Chief Examiner shall preside at the hearing and, in his discretion, shall control the proceedings thereafter.

(E) The petitioners named above are hereby permitted to intervene in this proceeding subject to the Commission's rules and regulations: *Provided, however*, That they shall comply with the terms of this order and that their participation shall be limited to matters affecting rights and interests expressly asserted in the petitions to intervene; and provided further that granting of the petitions to intervene shall not be construed as recognition by the Commission that any intervener might be aggrieved by any order entered in this proceeding.

(F) The applications listed at the head of this order are hereby consolidated for hearing and decision. Those applicants listed as provisional applicants (indicated by an asterisk) owning an interest in the production of gas from the La Gloria Field area are consolidated herein on a provisional basis in order that they may have an opportunity to participate in the proceeding involving the other owners of interests in the field. The Secretary of the Commission shall send a copy of this order to each of these provisional applicants. In the event that any of these provisional applicants does not file an appropriate application to abandon its sale to Transcontinental Gas Pipe Line or to increase sales to Natural Gas Pipe Line on or before the date set for commencement of formal hearing herein, the aforesaid provisional applicants are severed from this proceeding. The above petitioners granted permission to intervene in this proceeding will be considered interveners in each of the dockets herein, including the provisional applicants, until such time said docket(s) are severed from the consolidated proceeding.

(G) The petitions for reconsideration of the Commission's order of July 21, 1971, in Getty Oil Co. et al., Docket No. G-3732, et al., filed by Natural Gas Pipe Line, The Peoples Gas Light & Coke Co., Marathon Oil Co., and Associated Gas Distributors are denied.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary*.

[FR Doc.71-12661 Filed 8-27-71;8:50 am]

FEDERAL RESERVE SYSTEM

FIRST AT ORLANDO CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Banking Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First at Orlando Corp., which is a bank holding company located in Orlando, Fla., for prior approval by the Board of Governors of the acquisition by Applicant of at least 90 percent of the voting shares of National Bank Gulf Gate, Sarasota, Fla.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquistion may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Board of Governors of the Federal Reserve System, August 20, 1971.

[SEAL] NORMAND BERNARD, *Assistant Secretary*.

[FR Doc.71-12560 Filed 8-27-71;8:45 am]

FIRST AT ORLANDO CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First at Orlando Corp., which is a bank holding company located in Orlando, Fla., for prior approval by the Board of Governors of the acquisition by Applicant of at least 90 percent of the voting shares of National Bank of Sarasota, Sarasota, Fla.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Board of Governors of the Federal Reserve System, August 20, 1971.

NORMAND BERNARD, *Assistant Secretary*.

[FR Doc.71-12561 Filed 8-27-71;8:45 am]

FIRST FLORIDA BANCORPORATION

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First Florida Bancorporation, Tampa, Fla., for approval of acquisition of 90 percent or more of the voting shares of Marine National Bank of St. Petersburg, St. Petersburg, Fla., a proposed new bank.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Florida Bancorporation (Applicant), Tampa, Fla., a registered bank holding company, for the Board's prior approval of the acquisition of 90 percent or more of the voting shares of Marine National Bank of St. Petersburg (Bank), St. Petersburg, Fla., a proposed new bank.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency, and requested his

views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on July 9, 1971 (36 F.R. 12929), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant controls 20 banks with aggregate deposits of approximately $424 million, representing 3 percent of the total commercial bank deposits in the State, and is the seventh largest banking organization in Florida. (All banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved through July 31, 1971.) Since Bank is a proposed new bank, no existing competition would be eliminated nor would concentration be increased in any relevant area.

Bank will be located in a growing residential area (estimated population: 23,000) that is northeast of downtown St. Petersburg. Bank's location is in an area regarded as the fastest growing in greater St. Petersburg and the only area with a substantial amount of undeveloped land. Bank's proposed site is adjacent to one of the largest shopping centers in the St. Petersburg area. Applicant's closest subsidiary to Bank is also located in the St. Petersburg banking market, about 4.8 miles southeast of Bank and, with approximately $22.4 million of deposits, holds 2.7 percent of deposits in the market. Although the service area of said subsidiary overlaps that of Bank, it appears that the subsidiary does not derive a significant portion of its business from Bank's proposed service area; and the service areas are separated by marshland and a new interstate highway. No other subsidiary of Applicant is within 19 road miles of Bank.

Consummation of the proposal would not give Applicant a dominant position in the market which is defined as approximated by the St. Petersburg Peninsula south of Route 688. The St. Petersburg market is comprised of 19 banks including six holding companies which hold, in the aggregate, 45 percent of deposits in that market, with Applicant controlling the smallest percentage of deposits (2.7 percent). In addition to holding companies, the relevant market is served by two banking groups and eight independent banks. Therefore, it appears that acquisition of Bank should enable Applicant to compete more effectively with the larger banking organizations in the relevant area.

On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area. The financial condition, management, and prospects of Applicant and its subsidiary banks are regarded as generally satisfactory. Bank has no operating financial history. It will open with satisfactory capital, and it will be able to draw on Applicant for its management. Its prospects are favorable. The banking factors are consistent with approval. Bank's proposed location is adjacent to a major shopping center, in an area where residents and businesses generally do their banking with downtown St. Petersburg banks. The proposed bank would provide services more conveniently to area customers, and should also stimulate business activity in the community. Bank will receive from Applicant technical and managerial resources, a source for placement of excess funds in the form of loan participations, and aid in raising capital as needed to support expanded operations. Therefore, considerations relating to the convenience and needs of the communities to be served lend some weight toward approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order; and provided further that (c) Marine National Bank of St. Petersburg, St. Petersburg, Fla., shall be opened for business not later than 6 months after the date of this order. Each of the periods described in (b) and (c) above may be extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] August 23, 1971.

[SEAL] ELIZABETH L. CARMICHAEL,
Assistant Secretary.

[FR Doc.71-12562 Filed 8-27-71;8:45 am]

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Robertson.

STS CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by STS Corp., Billings, Mont., for prior approval by the Board of Governors of action whereby Applicant would become a bank holding company through the acquisition of 98.68 percent of the voting shares of Security Trust and Savings Bank, Billings, Mont.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition o. merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Minneapolis.

Board of Governors of the Federal Reserve System, August 23, 1971.

[SEAL] ELIZABETH L. CARMICHAEL,
Assistant Secretary.

[FR Doc.71-12563 Filed 8-27-71;8:46 am]

FEDERAL TRADE COMMISSION

MODERN ADVERTISING PRACTICES

Notice of Public Hearing and Opportunity To Submit Data or Views; Correction

In F.R. Doc. 71-12415 appearing at page 16698 in the issue of Wednesday, August 25, 1971, the title of Attorney-Advisor to the Chairman appearing in the third line of the 10th paragraph is hereby corrected to read Director, Bureau of Consumer Protection.

By direction of the Commission dated August 17, 1971.

[SEAL] PAUL M. TRUEBLOOD,
Acting Secretary.

[FR Doc.71-12621 Filed 8-27-71;8:48 am]

INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE

CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN HAITI

Entry or Withdrawal From Warehouse for Consumption

AUGUST 24, 1971.

On August 16, 1971, the U.S. Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles, done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, informed the Government of Haiti that it was renewing for an additional 12-month period beginning August 31, 1971, and extending through August 30, 1972, the restraint on imports into the United States of cotton textile products in Category 39, produced or manufactured in Haiti. Pursuant to Annex B, paragraph 2, of the Long-Term Arrangement, the level of restraint for this 12-month period is 5 percent greater than the level of restraint applicable to this category for the preceding 12-month period.

There is published below a letter of August 24, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amount of cotton textile products in Category 39, produced or manufactured in Haiti, which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning August 31, 1971, be limited to the designated level.

STANLEY NEHMER,
Chairman, Interagency Textile Administrative Committee, and Deputy Assistant Secretary for Resources.

THE SECRETARY OF COMMERCE
WASHINGTON, D.C. 20230

PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20226.

AUGUST 24, 1971.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, and in accordance with the procedures outlined in Executive Order 11052 of September 28, 1962, as amended by Executive Order 11214 of April 7, 1965, you are directed to prohibit, effective August 31, 1971, and for the 12-month period extending through August 30, 1972, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textile products in Category 39, produced or manufactured in Haiti, in excess of a level of restraint for the period of 103,037 dozen pair.

In carrying out this directive, entries of cotton textile products in Category 39, produced or manufactured in Haiti, which have been exported to the United States from Haiti prior to August 31, 1971, shall, to the extent of any unfilled balances, be charged against the level of restraint established for such goods during the period August 31, 1970, through August 30, 1971. In the event that the above level of restraint has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

A detailed description of Category 39 in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 17, 1968 (33 F.R. 582), and amendments thereto on March 15, 1968 (33 F.R. 4600).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Haiti and with respect to imports of cotton textiles and cotton textile products from Haiti have been determined by the President's Cabinet Textile Advisory Committee to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the notice provisions of 5 U.S.C. 553 (Supp. V, 1965-69). This letter will be published in the FEDERAL REGISTER.

Sincerely,

MAURICE H. STANS,
Secretary of Commerce, Chairman, President's Cabinet Textile Advisory Committee.

[FR Doc.71-12637 Filed 8-27-71;8:49 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5062]

EASTERN UTILITIES ASSOCIATES

Notice of Proposed Issue and Sale of Shares of Common Stock Pursuant to Underwritten Rights Offering

AUGUST 20, 1971.

Notice is hereby given that Eastern Utilities Associates (EUA), Post Office Box 2333, Boston, MA 02107, a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 7, and 12(c) of the Act and Rules 42 and 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

EUA proposes to offer 214,227 authorized but unissued shares of its common stock ("additional shares") for subscription by the holders of its outstanding shares of common stock on the basis of (a) one share of the additional common stock for each twelve (12) shares of common stock held on the record date, plus (b) an additional subscription privilege at the same price per additional share subject to allotment on the basis of primary rights exercised under clause (a) above. The record date will be September 23, 1971. The subscription price, to be determined by the Trustees of EUA shortly before the proposed offering, will not be lower than 85 percent of the closing price of the common shares of EUA on the New York Stock Exchange on the last business day on which there are reported sales on said Exchange preceding the day on which the trustees of EUA fix the price at which the additional shares are to be so offered.

The rights and the additional subscription privilege will be evidenced by a single form of subscription warrant (the "warrant"), which, together with an accompanying letter to shareholders, contains instructions and terms and conditions for subscriptions. Twelve rights are required in order to subscribe for one additional share. No fractional shares or scrip therefor will be issued. Warrants may be purchased or sold through a bank or broker and it is expected that the rights will be admitted to trading on the New York Stock Exchange through the close of business on October 8, 1971. The subscription agent will, if practicable, arrange for the purchase or sale of rights for the account of warrant holders, but not in excess of 11 in any one transaction. No charge will be made for this service. The subscription agent may offset orders for the purchase and sale of rights and all such transactions by the subscription agent on each business day will be settled on the basis of the average price of the transactions made on each such day. The execution of buy and sell orders is subject to the subscription agent being able to find a seller or purchaser for the rights.

EUA proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, such of the additional shares not sold under its offering to shareholders. Such shares will be sold to underwriters at the price fixed by the trustees of EUA for sale to its shareholders. The best bid will be determined on the basis of the lowest aggregate compensation to be paid to the underwriters.

The net proceeds of the sale of the additional shares will be applied, first, to the prepayment of the installment in the principal amount of $3,400,000 which will be due December 18, 1971 on EUA's 5-year promissory note which is held by a bank and is due serially to December 18, 1975, and, second, to the prepayment in part of the installment in the principal amount of $3,400,000 due December 18, 1972 on the above-mentioned note, and/or to the prepayment in part or in whole of such short-term bank borrowings by EUA as may at the time be outstanding.

The fees and expenses to be incurred by EUA are estimated at $110,000, including counsel fees and expenses of $14,600 and fees of accountants of $7,500. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. The fee of counsel for the underwriters, to be paid by the successful bidders, is estimated at $8,500.

Notice is further given that any interested person may, not later than 12 m.

on September 13, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-12613 Filed 8-27-71;8:47 am]

[31-718]

FIRST WISCONSIN NATIONAL BANK OF MILWAUKEE AND THE FIRST NATIONAL BANK OF CHICAGO

Notice of Filing of Application for Order Declaring Applicants Not To Be Electric Utility Companies

AUGUST 23, 1971.

Notice is hereby given that First Wisconsin National Bank of Milwaukee (Wisconsin), 743 North Water Street, Milwaukee, WI 53202, and The First National Bank of Chicago (Chicago), One First National Plaza, Chicago, IL 60670, have filed an application for an order declaring that neither Wisconsin nor Chicago will become "an electric utility company" within the meaning of section 2(a)(3) of the Public Utility Holding Company Act of 1935 (Act) as a result of the transactions set forth in the application. All interested persons are referred to the application, which is summarized below, for a complete statement of the facts.

Wisconsin is a national bank organized and existing under the laws of the United States. Substantially all of the outstanding capital stock of Wisconsin is owned by First Wisconsin Bankshares Corporation (Bankshares). Neither Wisconsin nor Bankshares nor corporations owned or controlled by Bankshares is presently a "holding company" or a "subsidiary company" of a "holding company," as defined in the Act. Chicago is also a national bank organized and existing under the laws of the United States. All of the outstanding capital stock of Chicago is owned by First Chicago Corp. (the Corporation), a Delaware corporation. Neither Chicago nor the Corporation nor corporations owned or controlled by the Corporation is presently a "holding company" or a "subsidiary company" of a "holding company," as defined in the Act. If either Wisconsin or Chicago were to become or be deemed to be an electric utility company under the Act as a result of the proposed transactions described below, Wisconsin and Chicago and their respective parent corporations would in the absence of an appropriate exemption become subject to regulation under the Act.

Madison Gas and Electric Co. (MG&E) is a gas and electric public utility company organized under the laws of the State of Wisconsin and is subject to the jurisdiction of the Public Service Commission of Wisconsin under the Public Utilities Law of Wisconsin.

MG&E has previously entered into a purchase agreement (the "purchase agreement") with a manufacturer to purchase a gas turbine generating unit and accessory equipment (the unit) for an aggregate purchase price of approximately $1,700,000. On May 27, 1971, MG&E entered into a financing agreement with Wisconsin, Chicago, as trustee (trustee), and Nationwide Life Insurance Co., of Columbus, Ohio (lender), providing for the assignment and purchase of the unit. MG&E assigned its right and interest in the purchase agreement to Chicago who acquired the unit as trustee for the benefit of Wisconsin and lender. The trustee leased the unit to MG&E under a lease (the lease) having a term of approximately 25 years. On June 1, 1971, the unit was placed in commercial operation.

The trustee borrowed approximately 80 percent of the funds required to purchase the unit from the lender, who received Equipment Trust Notes (notes) bearing a fixed rate of interest and providing for full amortization over the last 15 years of the lease. The notes are obligations of the trustee, payable solely out of the proceeds of the lease and secured by a security interest in the unit and the lease. MG&E will not guarantee the the notes. The remaining 20 percent of the purchase price was advanced to the trustee by Wisconsin as an investment in the beneficial ownership of the unit. Wisconsin and MG&E have applied to the Commissioner of Internal Revenue for a tax ruling to the effect that Wisconsin as beneficial owner of the unit will be entitled to depreciate the cost of the unit and to deduct interest paid by the trustee on the notes.

The lease is a net lease under which MG&E is responsible for operating, maintaining, repairing and insuring the unit and for paying substantially all taxes, assessments and other costs arising from the possession and use thereof. The rentals to be paid semi-annually in arrears by MG&E to the trustee during the term of the lease are calculated to provide funds sufficient to pay the interest of the notes for the first 20 payments, and the principal of and interest on the notes during the balance of the payments, and together with the residual value and the other benefits of ownership to return Wisconsin's equity investment over the full term of the lease. After the term has expired, MG&E has the option of purchasing the Unit for its then fair market value. Wisconsin would be entitled to receive any proceeds realized from selling the unit to MG&E or to others.

The Public Service Commission of Wisconsin issued a certificate of authority to MG&E granting it the right to lease the unit.

The applicants state that they are companies primarily engaged in one or more businesses other than the business of an electric utility company, and that they will not receive any revenue from the sale of electric energy generated by the unit, their only financial interest in the transactions being to receive payments from rentals and other proceeds as described above. Chicago acts solely in the ordinary course of its business as a fiduciary, and will be paid by MG&E for its reasonable fees and disbursements.

Notice is further given that any interested person may, not later than September 14, 1971, request in writing that a hearing be held in respect of the request for exemption, stating the nature of his interest and the reasons for such request, and the issues of fact or law which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date the Commission may grant the exemption requested, or take such other action as it deems appropriate.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-12614 Filed 8-27-71;8:47 am]

[812-3007]

PAN AMERICAN SULPHUR CO.

Notice of Filing of Application

AUGUST 24, 1971.

Notice is hereby given that Pan American Sulphur Co. (applicant), Shirley Highway at Edsall Road, Alexandria, VA 22314, a Delaware corporation, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order of the Commission extending the period from sixty (60) to eighty (80) days within which a meeting of the holders of its outstanding voting securities must be

held to elect directors of the applicant pursuant to the requirements of section 16(a) of the Act as a result of the fact that a majority of the directors of the applicant now holding office were not elected by the holders of its outstanding voting securities.

By order dated November 1, 1967 (the order), the Commission granted to the Applicant a temporary exemption from the provisions of section 7 of the Act until such time as the Commission should act on its application for an order of the Commission pursuant to section (3b)(2) of the Act declaring that applicant is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities through controlled companies conducting similar types of business, or, for an order pursuant to section 6(c) of the Act exempting applicant from all provisions of the Act. (Investment Company Act Release No. 5146.) The principal effect of this order was that the applicant was to be treated as an "investment company" within the meaning of section 3(a)(3) of the Act and that the applicant was, with certain specified exceptions, to be subject to all provisions of the Act (including section 16(a)) and the rules and regulations thereunder as though the applicant were a registered investment company.

On July 7, 1971, as a result of a reconstitution of the Board of Directors, less than a majority of the directors then holding office were elected by the holders of the outstanding voting securities of the Applicant.

Section 16(a) of the Act provides that in the event that at any time less than a majority of the directors of a company holding office at that time were elected by holders of outstanding voting securities, the Board of Directors or proper officer of such company shall forthwith cause to be held as promptly as possible and in any event within 60 days a meeting of the holders of the outstanding voting securities of the company for the purpose of electing directors unless the Commission shall by order extend such period.

Applicant, in requesting such extension of time within which to hold a meeting of the holders of its outstanding voting securities, has stated that it will need such additional time to prepare, for inclusion in its proxy statement relating to such meeting, an appropriate response to the view of the staff of the Commission that the applicant should register as an investment company under section 8 of the Act, to convene a meeting of the Board of Directors of the applicant to authorize such response, and to provide holders of its outstanding voting securities adequate notice of the meeting in compliance with its bylaws and the requirements of the New York Stock Exchange.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the procedure fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person may, not later than 5:30 p.m. on September 3, 1971, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-12682 Filed 8-27-71;8:52 am]

DEPARTMENT OF LABOR

Office of the Secretary

CONOVER-CABLE PIANO CO.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

On June 25, 1971, a petition requesting certification of eligibility to apply for adjustment assistance was filed with the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, by the International Association of Machinists and Aerospace Workers, AFL–CIO, on behalf of workers at the Conover-Cable Piano Co., in Oregon, Ill. The certification request was made under the terms of Presidential Proclamation 3964 (Modification of Trade Agreement Concessions and Adjustment of Duty on Certain Pianos) of February 21, 1970. Among other things, the proclamation provided that pursuant to section 302(a)(3) of the Trade Expansion Act of 1962, workers of the piano industry may request the Secretary of Labor for certification of eligibility to apply for adjustment assistance under chapter 3, title III thereof.

The Trade Expansion Act, section 302(b)(2), provides that the Secretary of Labor shall certify as eligible to apply for adjustment assistance under Chapter 3 any group of workers in an industry with respect to which the President has acted under section 302(a)(3), upon a showing by such group of workers to the satisfaction of the Secretary of Labor that the increased imports which the Tariff Commission has determined to result from concessions granted under trade agreements have caused or threatened to cause unemployment or underemployment of a significant number or proportion of workers of such workers' firm or subdivision thereof. The same degree of causal connection is applicable here as under the tariff adjustment and other adjustment assistance provisions; that is, the increased imports have been the major factor.

Upon receipt of the petition, the Department's Director of Foreign Economic Policy instituted an investigation, following which a recommendation was made to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigations 34 F.R. 18342 and 36 F.R. 12715; 29 CFR Part 90). In that recommendation it was reported that increased pianos of the types covered by the Presidential Proclamation 3964 have been the major factor in causing the unemployment or underemployment of a significant number or proportion of workers from the Conover-Cable Piano Co. in Oregon, Ill. He further reported that unemployment or underemployment began April 12, 1971, and has continued to the present.

After due consideration, I make the following certification:

All hourly and salaried employees of the Conover-Cable Piano Co. in Oregon, Ill., who became or will become unemployed or underemployed after April 12, 1971, are eligible to apply for adjustment assistance under chapter 3, title III, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 20th day of August 1971.

GEORGE H. HILDEBRANDT,
Deputy Under Secretary, International Affairs.

[FR Doc.71-12565 Filed 8-27-71;8:45 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

AUGUST 24, 1971.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT-HAUL

FSA No. 42264—*Canned or Preserved Foodstuffs from Parma, Colo.*, Filed by Western Trunk Line Committee, Agent (No. A-2649), for interested rail carriers. Rates on foodstuffs, canned or preserved, also potatoes, fresh frozen or cooked frozen, in carloads, as described in the application, from Parma, Colo., to points in southern territory.

Grounds for relief—Market competition, short-line distance formula and grouping.

Tariff—Supplement 265 to Western Trunk Line Committee, Agent, tariff ICC A-4620. Rates are published to become effective on September 25, 1971.

FSA No. 42265—*Liquid Fertilizers from and to Points in WTL, IFA, Official and SFA Territories.* Filed by Western Trunk Line Committee, Agent (No. A-2648), for interested rail carriers. Rates on liquid fertilizers, in tank-carloads, as described in the application, from and to points in western trunkline, Illinois, official and southern territories.

Grounds for relief—Short-line distance formula and grouping, revision of minimum weight.

Tariffs—Supplements 381, 265, and 45 to Western Trunk Line Committee, Agent, tariffs ICC A-4411, A-4620, and A-4749, respectively. Rates are published to become effective on September 27, 1971.

FSA No. 42266—*Superphosphate from Occidental, Fla.* Filed by M. B. Hart, Jr., Agent (No. A-6276), for interested rail carriers. Rates on superphosphate (including diammonium phosphate and monammonium phosphate), in carloads, as described in the application, from Occidental, Fla., to East Clinton, Ill.

Grounds for relief—Market competition.

Tariff—Supplement 25 to Southern Freight Association, Agent, tariff ICC S-948. Rates are published to become effective on September 28, 1971.

By the Commission.

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

[FR Doc.71-12589 Filed 8-27-71;8:46 am]

[Notice 738]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 24, 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-73046. By order of August 19, 1971, the Motor Carrier Board approved the transfer to Gary E. Odendahl, Manning, Iowa, of Certificate No. MC-78950, issued October 19, 1949, to Elmer Fischer, Manning, Iowa, authorizing the transportation of: General commodities, with the usual exceptions, but including livestock, between Manning, Iowa, and Omaha, Nebr.

No. MC-FC-73049. By order of August 20, 1971, the Motor Carrier Board approved the transfer to Metro Trucking, Inc., Richmond, Va., of the operating rights in Certificate No. MC-133653, issued November 14, 1969 to Blanton Enterprises, Inc., Richmond, Va., authorizing the transportation of general commodities, with exceptions, between Richmond, Va., on the one hand, and, on the other, points in a described area of Virginia. Thomas F. Kilroy, 2111 Jefferson Davis Highway, Arlington, VA 22202, Attorney for applicants.

No. MC-FC-73056. By order of August 20, 1971, the Motor Carrier Board approved the transfer to Canning Truck Service, Inc., Fairbury, Nebr., of the operating rights in Certificate of Registration No. MC-120120 (Sub-No. 1) and Certificate No. MC-120120 (Sub-No. 2), issued November 22, 1963 and July 30, 1968, respectively, to Gerald E. Canning, Fairbury, Nebr., the former evidencing a right to engage in transportation in interstate or foreign commerce solely within the State of Nebraska and the latter authorizing the transportation of general commodities, with the usual exceptions, between specified points in Nebraska. James E. Ryan, 214 Sharp Building, Lincoln, Nebr. 68508. Attorney for applicants.

No. MC-FC-73065. By order of August 20, 1971, the Motor Carrier Board approved the transfer to Priestley and Sons Moving & Storage Co., an Oregon corporation, Portland, Oreg., of the operating rights in Certificate No. MC-109065 issued September 22, 1964, to C. H. Priestley, doing business as Priestley and Sons Moving & Storage, Portland, Oreg., authorizing the transportation of household goods between points in Multnomah County, Oreg., on the one hand, and, on the other, points in Washington. Earle V. White, White & Southwell, 2400 Southwest Fourth Avenue, Portland, OR 97201. Attorney for applicants.

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

[FR Doc.71-12590 Filed 8-27-71;8:46 am]

ASSIGNMENT OF HEARINGS

AUGUST 25, 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 107295 Sub 482, Pre-Fab Transit Co., assigned September 22, 1971, at Louisville, Ky., canceled and dismissed.

No. 35420, Arizona Intrastate Freight Rates and Charge—1971, assigned for hearing November 29, 1971, at Phoenix, Ariz.

MC 110525 Sub 998, Chemical Leaman Tank Lines, Inc., assigned September 21, 1971, at Louisville, Ky., in Room 545, Post Office Building, 601 W. Broadway, instead of in Room 829, Federal Plaza, 600 Federal Place.

MC 129708 Sub 1, McRay Truck Line, Inc., Common Carrier Application, assigned September 20, 1971, at Louisville, Ky., in Room 545, Post Office Building, 601 West Broadway, instead of in Room 829, Federal Plaza, 600 Federal Place.

MC 105733 Sub 43, H. R. Ritter Trucking Co., Inc., assigned September 20, 1971, at New York, N.Y., postponed to September 21, 1971, in Room E-2222, 26 Federal Plaza, New York, N.Y.

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

[FR Doc.71-12676 Filed 8-27-71;8:51 am]

[Notice 354]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATION

AUGUST 24, 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 (6) 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 3460 (Sub-No. 8 TA), filed August 17, 1971. Applicant: MORAN TRUCKING CO., INCORPORATED, Post Office Drawer E, Westernport, MD

21562. Applicant's representative: William P. Jackson, Jr., 919-18th Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Water*, in containers, from Deer Park., Md., to points in Delaware, Indiana, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia; and (2) *glass and plastic containers and other related packaging materials*, from points in the states named above and the District of Columbia to Deer Park, Md., for 180 days. Supporting shipper: Boiling Spring Holding Corp., 100 Bloomingdale Road, White Plains, NY 10605. Send protests to: Joseph A. Niggemyer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 416 Old Post Office Building, Wheeling, W. Va. 26003.

No. MC 19778 (Sub-No. 75 TA), filed August 16, 1971. Applicant: MILWAUKEE MOTOR TRANSPORTATION COMPANY, 516 West Jackson Boulevard, Room 508, Chicago, IL 60606. Applicant's representative: L. H. Tietz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading, between Davenport, Iowa and Muscatine, Iowa, serving no intermediate points, from Davenport, Iowa over U.S. Highway 61 to Muscatine, Iowa, and return over the same route. Restriction: The service authorized herein is restricted to traffic having a prior or subsequent movement by rail, for 180 days. NOTE: Applicant indicates it intends to tack the authority here applied for to MC-19778—Davenport, Iowa. Supporting shipper: Chicago, Milwaukee, St. Paul, and Pacific Railroad Co., Union Station, 516 West Jackson Boulevard, Chicago, IL 60606. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 59680 (Sub-No. 191 TA), filed August 16, 1971. Applicant: STRICKLAND TRANSPORTATION CO., INC., 3011 Gulden Avenue, Post Office Box 5689 (75212), Dallas, TX 75222. Applicant's representative: O. P. Peck, Post Office Box 5689, Dallas, TX 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Playground and recreational equipment and/or apparatus*, from the plantsite and storage facilities of Gym-Dandy, Inc., at Bossier City, La., to points in Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, Ohio, Indiana, Illinois, Michigan, Wisconsin, Kentucky, Tennessee, and the District of Columbia, for 180 days. NOTE: Applicant does not intend to tack the authority. Supporting shipper: Gym Dandy, Inc., 415 Hamilton Road, Bossier City, LA 71010. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 99780 (Sub-No. 18 TA), filed August 13, 1971. Applicant: CHIPPER CARTAGE COMPANY, INC., 1327 Northeast Bond Street, Peoria, IL 61603. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago IL 60641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat products and 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 and commodities in bulk), from Davenport, Iowa, to points in Illinois (restricted to the transportation of Oscar Mayer & Co., Inc., Davenport, Iowa, traffic originating at the plantsite and/or storage facilities and destined to points in Illinois), for 180 days. Supporting shipper: Oscar Mayer & Co., Inc., 910 Mayer Avenue, Madison, WI 53701. Send protests to: Raymond E. Mauk, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 114533 (Sub-No. 232 TA), filed August 17, 1971. 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 common carrier, by motor vehicle, over irregular routes, transporting: *Audit media and other business records*, (a) between Lansing, Mich., on the one hand, and, on the other, Lima, Ohio and Marion, Ind., (b) between points in Grundy County, Ill., on the one hand, and, on the other, points in Indiana, Michigan and Wisconsin, for 180 days. Supporting shippers: Mr. Alex Kirkpatrick, Auto-Owners Insurance Co., Lansing, Mich. 48903; Mr. Dale Norgan, Humiston, Keeling & Co., 3900 South Michigan Avenue, Chicago, IL 60653. 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.

No. MC 114533 (Sub-No. 233 TA), filed August 17, 1971. 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 *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh cut flowers, decorative greens, and supplies* as are used in the conduct and operations of floral shops, between North Kansas City, Mo., on the one hand, and, on the other, points in Kansas and Nebraska, for 180 days. Supporting shipper: Kansas City Wholesale Florist, 21 West 13th Avenue North Kansas City, MO 64116. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 114533 (Sub-No. 234 TA), filed August 17, 1971. 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 *common carrier*, by motor vehicle, over irregular routes, transporting: *Human blood and blood products*, between Wichita, Kans., on the one hand, and, on the other, points in Grant, Kay, Garfield, Woods, Ellis, Muskegee, Washington, Oklahoma, Tulsa, and Pawnee, Okla., for 180 days. Supporting shipper: Wichita Regional Red Cross Blood Center, 321 North Topeka, Wichita, KS 67202. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 114533 (Sub-No. 235 TA), filed August 17, 1971. 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 *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit media and other business records*, (a) between points in Nevada and Missouri, on the one hand, and, on the other, points in Kansas (b) between Wichita, Kans., on the one hand, and, on the other, points in Oklahoma, for 180 days. Supporting shippers: Mr. Paul Hirschman, Farm & Home Savings Association, Nevada, Mo. 64772; Mr. Charles N. Thorpe, Federal Intermediate Credit Bank of Wichita, Box 2035, Wichita, KS 67201. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 116077 (Sub-No. 315 TA), filed August 16, 1971. Applicant: ROBERTSON TANK LINES, INC., Post Office 1505, 77001, 5700 Polk Avenue, Houston, TX 77023. Applicant's representative: J. C. Browder (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrochloric acid*, in bulk, from the plant of Kaiser Aluminum & Chemical Corp., near Gramercy, La., the plant of Dow Chemical Co., Plaquemine, La., and the plant of Rubicon Chemical at Geismar, La.; to the New Orleans, La., docks for export to Kaiser Facility in Jamaica, for 180 days. NOTE: Applicant does not intend to tack with existing authority. Supporting shipper: Kaiser Chemicals, Division of Kaiser Aluminum & Chemical

Corp., Kaiser Center, 300 Lakeside Drive, Post Office Box 2099, Oakland, CA 94604. Send protests to: District Supervisor John C. Redus, Interstate Commerce Commission, Bureau of Operations, Post Office Box 61212, Houston, TX 77061.

No. MC 123383 (Sub-No. 59 TA), filed August 16, 1971. Applicant: BOYLE BROTHERS, INC., 941 South Second Street, Camden, NJ 08103. Applicant's representative: Thomas E. Kiley (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, hardboard, and particleboard*, from Camden, N.J., and Philadelphia, Pa., to points in Connecticut, Delaware, Washington, D.C., Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shippers: U.S. Plywood-Champion Papers, Inc., Knightsbridge, Hamilton, Ohio 45011; Lawrence R. McCoy & Co., Inc., 332 Maine Street, Worcester, MA 01608. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 124813 (Sub-No. 84 TA), filed August 16, 1971. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry feed ingredients*, from the storage facilities utilized by Occidental Chemical Co. at Savage and St. Paul, Minn., to points in North Dakota and South Dakota; (2) *dry feed ingredients*, from Pekin, Ill., to points in Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin; and (3) *dry fertilizer and dry fertilizer ingredients*, from Pekin, Ill., to points in Illinois, Iowa, and Wisconsin, for 150 days. Supporting shipper: Occidental Chemical Co., Post Office Box 1185, Houston, TX 76101. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 126305 (Sub-No. 35 TA), filed August 16, 1971. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., Route 1, Clayton, AL 36016. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used farm equipment, materials, and supplies*, between Dothan, Ala., on the one hand, and, on the other, points in Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, West Virginia, Virginia, and Wisconsin, for 150 days. Supporting shipper: Jones Farm Equipment Co., Montgomery Highway, Dothan, AL 36301. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 129631 (Sub-No. 19 TA), filed August 16, 1971. Applicant: PACK TRANSPORT, INC., Post Office Box 17233, Salt Lake City, UT 84117. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber and lumber mill products*, from points in Washington to points in Baker County, Oreg., and (2) *roofing and fencing materials*, between points in Baker County, Oreg., on the one hand, and, on the other, points in Multnomah County, Oreg., for 180 days. NOTE: Applicant states it does intend to tack the authority here applied for to other authority held by it (tacking with MC-129631 Sub. No. 18), and/or interline with other carriers. Supporting shippers: Weyerhaeuser Co., 1850 West 1500 South Street, Salt Lake City, UT 84116 (Harry D. Crowther, Area Manager); Diehl Lumber Products, Inc., 1756 South Sixth West Street, Salt Lake City, UT 84104 (Lawrence C. Diehl, President); Burton Walker Lumber, 2427 Lincoln Avenue, Ogden, UT 84401 (Edward A. Burton, General Manager); American Fence Co., 830 South Fourth West Street, Post Office Box 344, Salt Lake City, UT (Dennis A. Parker, Office Manager); Forest Products Sales, 331 East 23d South Street, Salt Lake City, UT 84115 (Rex M. Zeiger, President). Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5239 Federal Building, Salt Lake City, Utah 84111.

No. MC 133240 (Sub-No. 22 TA), filed August 13, 1971. Applicant: WEST END TRUCKING CO., INC., 530 Duncan Avenue, Jersey City, NJ 07306. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by discount or department stores, between the facilities of Holly Stores, Inc., located at Secaucus, N.J. North Bergen, N.J. and New York, N.Y., on the one hand, and, on the other Muskegon, Mich., Medford, Oreg., Scotia and Mattydale, N.Y., Tucson, Ariz., Indianapolis, Ind., Pittsfield, Mass., Yakima, Wash., Austin, Tex., Torrance, Calif., Bismarck, N. Dak., Rochester, Minn., Wood River, Loves Park, Rockford, Tinley Park, and Arlington Heights, Ill., for 150 days. Supporting shipper: Holly Stores, Inc., 7373 West Side Avenue, North Bergen, NJ 07047. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 133240 (Sub-No. 23 TA), filed August 13, 1971. Applicant: WEST END TRUCKING CO., INC., 530 Duncan Avenue, Jersey City, NJ 07306. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by discount or department stores, between the facilities of Holly Stores, Inc., their divisions or subsidiaries located at Atlanta, Ga., on the one hand, and, on the other, Wilson, N.C., for 150 days. Supporting shipper: Holly Stores, Inc., 7373 West Side Avenue, North Bergen, NJ 07047. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 135389 (Sub-No. 3 TA), filed August 16, 1971. Applicant: ELNICK WAREHOUSING AND TRUCKING, INC., 85 Bishop Street, Jersey City, NJ 07304. Applicant's representative: Morton Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic foam insulating material*, from Linden, N.J., to points in New York, Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Virginia, West Virginia, Vermont, and Rhode Island, for 180 days. Supporting shipper: Apache Foam Products, 2025 East Linden Avenue, Linden, NJ 07036. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 135842 (Sub-No. 1 TA), filed August 16, 1971. Applicant: CAL-ARI TRANSPORTATION, INC., 4222 South 15th Avenue, Phoenix, AZ 85041. Applicant's representative: Robert R. Digby, 217 Luhrs Tower, 45 West Jefferson Street, Phoenix, AZ 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass jars, bottles and containers, and plastic buckets and containers, and lids, tops, and caps*, from Santa Ana, San Fernando, Los Angeles, and La Mirada, Calif., and points in the respective commercial zones, to the plantsite of Arnold Pickles and Olive Co., at Phoenix, Ariz.; and (2) *Iron and steel articles*, from Los Angeles and Los Angeles-harbor commercial zones, Calif., to Phoenix, Ariz., for 180 days. Supporting shippers: Arnold Pickle & Olive Co., 1401 East Van Buron Street, Phoenix, AZ 85006; Custom Bolt Mfg., 3502 South Central Avenue, Post Office Box 8443, Phoenix, AZ 85040. 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 135889 TA, filed August 16, 1971. Applicant: BOYDE TANK LINES, INC., 10916 Clermont Avenue, Garrett

Park, MD 20766. Applicant's representative: Walter T. Evans, 615 Perpetual Building, Washington, DC 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Heating oils, kerosene and diesel fuel*, in bulk, in tank vehicles, from the terminals off the Colonial pipeline at or near Manassas, Va., to the storage facilities of E. C. Keys and Son, Inc., at Silver Spring, Md., restricted to transportation service to be performed under a continuing contract or contracts with E. C. Keys and Son, Inc., for 180 days. Supporting shippers: E. C. Keys & Son, Inc., 9015 Brookville Road, Silver Spring, MD; Mobil Oil Corp., 4 Penn Center, Philadelphia, PA; Dickson Fuel Corp., 1900 Philadelphia National Bank Building, Philadelphia, PA. Send protests to: Robert D. Caldwell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423.

By the Commission.

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

[FR Doc.71-12673 Filed 8-27-71;8:51 am]

[Notice 355]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 25, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) 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 87720 (Sub-No. 114 TA), filed August 16, 1971. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, Star Route A, Box 391, Flemington, NJ 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* for the account of Riegel Paper Corp., from Riegelwood, N.C., and Milford, N.J., to Los Angeles, San Jose, and San Francisco, Calif., for 180 days. Supporting shipper: Riegel Paper Corp., 260 Madison Avenue, New York, NY 10018. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 88161 (Sub-No. 82 TA), filed August 16, 1971. Applicant: INLAND TRANSPORTATION CO., INC., 6737 Corson Avenue South, Seattle, WA 98108. Applicant's representative: Stephen A. Cole (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt, dust oil and road oil*, in bulk, in tank vehicles, from Spokane, Wash., to points in that part of Idaho in and north of the southern boundary of Idaho County, for 150 days. Supporting shipper: Tristate Oil and Asphalt Sales, Inc., North 705 Washington Street, Post Office Box 157, Spokane, WA 99210. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 107496 (Sub-No. 818 TA), filed August 16, 1971. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way, at Third Street, Post Office Box 855, 50304, Des Moines, IA 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphoric acid*, in bulk, in tank vehicles, from Lawrence, Kans., to points in Wyoming, Arkansas, Nebraska, Iowa, Oklahoma, Kentucky, North Dakota, Mississippi, Missouri, Colorado, and Montana, for 180 days. Supporting shipper: FMC Corp., 633 Third Avenue, New York, NY 10017. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6777 Federal Building, Des Moines, Iowa 50309.

No. MC 108006 (Sub-No. 19 TA), filed August 17, 1971. Applicant: MAISLIN TRANSPORT LTD., 7401 Newman Boulevard, LaSalle, PQ, Canada. Applicant's representative: William D. Traub, 10 East 40th Street, New York, NY 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between the port of entry on the United States-Canada boundary line at or near Alexandria Bay, N.Y. (Thousand Islands Bridge), and Watertown, N.Y., serving no intermediate points (for joinder only with carrier's regular routes). Restriction: The service proposed immediately above is to be restricted to traffic originating at or destined to points in Canada, for 180 days. Supported by: There are approximately 50 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: Martin P. Monaghan, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, VT 05602.

No. MC 108207 (Sub-No. 322 TA) (Correction), filed July 8, 1971, published FEDERAL REGISTER July 22, 1971, corrected and republished in part as corrected this issue. Applicant: FROZEN FOOD EXPRESS, 318 Cadiz Street 75207, Post Office Box 5888, Dallas, TX 75222. Applicant's representative: J. B. Ham (same address as above). NOTE: The purpose of this partial republication is to set forth the correct Sub-No. 322, in lieu of Sub-No. 32, shown erroneously in previous publication. The rest of the notice remains the same.

No. MC 116077 (Sub-No. 316 TA), filed August 17, 1971. Applicant: ROBERTSON TANK LINES, INC., Post Office Box 1505, 77001, 5700 Polk Avenue, Houston, TX 77023. Applicant's representative: J. C. Browder (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium chlorate solution*, in bulk, in tank vehicles, from Columbus, Miss., to points in Alabama, for 180 days. NOTE: Applicant does not intend to tack with existing authority. Supporting shipper: Hooker Chemical Corp., Hooker Industrial Chemicals Division (Mr. C. Duane Carley, Mgr. of Transportation), Niagara Falls, N.Y. 14302. Send protests to: John C. Redus, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 61212, Houston, TX 77061.

No. MC 116260 (Sub-No. 4 TA), filed August 17, 1971. Applicant: PASHA TRUCKAWAY, a corporation, 1308 Canal Boulevard, Richmond, CA 94804. Applicant's representative: George W. Pasha (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New foreign manufactured automobiles, pickup trucks, and buses*, in truckaway service, from port of entry on the International boundary line between the United States and Mexico, at or near Ysidro, Calif., to San Diego, Calif., restricted to shipments having a prior movement by water, for 180 days. NOTE: Applicant states it does intend to utilize its existing authority in MC-116260 to effect delivery at destinations throughout California other than San Diego. Supporting shipper: Mazda Motors of America, Inc., 3040 East Ana Street, Compton, CA 90221. Send protests to: District Supervisor Wm. E. Murphy, Bureau of Operations, Interstate Commerce Commission, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

No. MC 11722 (Sub-No. 26 TA) (amendment), filed August 11, 1971, published FEDERAL REGISTER August 20, 1971, amended and republished in part as

amended this issue. Applicant: BRADER HAULING SERVICE, INC., Post Office Box 655, Zillah, WA 98953. Applicant's representative: Ronald R. Brader (same address as above). NOTE: The purpose of this partial republication is to include Linn and Lane Counties, Oreg., to the destination scope of the authority sought. The rest of the notice remains the same.

No. MC 117815 (Sub-No. 178 TA), filed August 16, 1971. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonalcoholic beverages*, from the plantsite of Shasta Beverages at Omaha, Nebr., to points in Illinois, Iowa, and Wisconsin, for 180 days. Supporting shipper: Shasta Beverages, Division of Consolidated Foods Corp., 4400 South 76th Street, Omaha, NE 68127. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 127505 (Sub-No. 47 TA), filed August 16, 1971. Applicant: RALPH H. BOELK, doing business as BOELK TRUCK LINES, Route 2, Mendota, IL 61342. Applicant's representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, IL 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum plate, rod and sheet*, from Amax Aluminum Mill Products, Inc., near Channahon, Ill., to Little Falls, Minn., and New York Mills, Minn., Stoughton, Edgerton, Marshfield, and Medford, Wis., and Elkhart, Monon, and Rochester, Ind., for 180 days. Supporting shipper: Amax Aluminum Mill Products, Inc., Post Office Box 143, Morris, IL 60450. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room p086, Chicago, IL 60604.

No. MC 128375 (Sub-No. 67 TA), filed August 16, 1971. Applicant: CRETE CARRIER CORPORATION, Post Office Box 249, 1444 Main, Crete, NE 68333. Applicant's representative: Frederick J. Coffman, Box 80806, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is marketed by home products distributors, from the warehouse and storage facilities of Amway Corp., located at points in the Atlanta, Ga., commercial zone to points in Mississippi, for 180 days. Supporting shipper: Amway Corp., 7575 East Fulton Road, Ada, MI 49301. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and Courthouse, Lincoln, Nebr. 68508.

No. MC 128616 (Sub-No. 3 TA) (Correction), filed June 25, 1971, published FEDERAL REGISTER July 8, 1971, corrected and republished in part as corrected this issue. Applicant: BANKERS DISPATCH CORPORATION, 4970 Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). NOTE: The purpose of this partial republication is to include Garfield County, Okla., as a destination point, which was inadvertently omitted in previous publication. The rest of the notice remains the same.

No. MC 128639 (Sub-No. 5 TA), filed August 16, 1971. Applicant: REGINALD H. CURRIER, 103 Lancaster Road, Gorham, NH 03581. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood chips*, in bulk, from Ashland, N.H., to Glen Falls, N.Y., for 150 days. Supporting shipper: Lakes Region Chipping Corp., Ashland, N.H. 03217. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

No. MC 133490 (Sub-No. 5 TA), filed August 16, 1971. Applicant: LEE'S TRUCKING, INC., 1 19th Avenue South, Minneapolis, MN 55404. Applicant's representative: Bruce L. Stanley (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precut houses*, knocked down, from Minneapolis, Minn., to points in the lower peninsula of Michigan, for 180 days. Supporting shipper: President Homes, 4808 North Lilac Drive, Minneapolis, MN 55429. 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 135320 (Sub-No. 2 TA), filed August 16, 1971. Applicant: OKLAHOMA ARMORED CAR, INC., 1005 Southwest Second Street, Oklahoma City, OK 73125. Applicant's representative: John M. Delany, 2 Nevada Drive, Lake Success, NY 11040. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceuticals, radioactive drugs, and medical isotopes*, on traffic having an immediately prior or subsequent movement by air, between points in Oklahoma, for 180 days. Supporting shipper: Abbott Laboratories, Neil E. Lessard, Traffic Manager Radio-pharmaceutical Products Division, Abbott Park Building 8, North Chicago, Ill. 60064. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Bldg. 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 135869 TA, (Amendment), filed August 9, 1971, published in the FEDERAL REGISTER August 20, 1971, amended and republished in part as amended this issue. Applicant: J. E. RILEY, doing business as RILEY TRUCKING COMPANY, 8380 East 105th Avenue, Henderson, CO 80640. Applicant's representative: J. E. Riley (same address as above). NOTE: The purpose of this partial republication is to broaden the scope of authority sought by adding the commercial zone and converting it to a "between movement". The rest of the notice remains the same.

No. MC 135888 TA, filed August 16, 1971. Applicant: FRANCIS JOSEPH JULIANO, doing business as J & D ENTERPRISES, Rural Delivery No. 1, Box 50, Utica (West Schuyler), NY 13502. Applicant's representative: Murray J. S. Kirshstein, 118 Bleecker Street, Utica, NY 13501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hanging beef, hanging veal, and frozen offal, hanging pork, frozen pork offal, and fresh pork*, (1) from Utica, N.Y.; to New York, N.Y.; Providence, R.I.; Detroit, Mich.; Cincinnati, Ohio; Scranton, Philadelphia, and Wilkes-Barre, Pa.; and Boston, Mass.; (2) from Clarks Mills, N.Y.; to New York, N.Y.; Boston, Mass.; Providence, R.I.; Scranton, and Philadelphia, Pa.; and (3) from East Syracuse, N.Y.; to Allentown, Wilkes-Barre, Scranton, Harrisburg, Philadelphia and Pittston, and E. Benton Center, Pa., and *fresh pork on rails, frozen offal, and fresh pork*, from Philadelphia and Allentown, Pa., to East Syracuse, N.Y., for 180 days. Supporting shippers: Party Packing Corp., 2217 Dwyer Avenue, Utica, NY 13501; AMCOPAC Corp., Clark Mills, NY. 13321; Greenhouse Bros., Inc., Burnet Avenue at Clark Street, East Syracuse, NY 13057. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 104 O'Donnell Building, 301 Erie Boulevard, West, Syracuse, NY 13202.

By the Commission.

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

[FR Doc.71-12674 Filed 8-27-71;8:51 am]

[Notice 739]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 25, 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-72942. By order of August 20, 1971, the Motor Carrier Board approved the transfer to Orin J. James, Jr.,

Osborn, Mo., of the operating rights in Certificates Nos. MC-105095 and MC-105095 (Sub-No. 2), issued May 1, 1945, and January 29, 1952, respectively, to Homer Snider, Hamilton, Mo., authorizing the transportation of livestock, from Hamilton, Mo., and points within 10 miles of Hamilton to Kansas City, Mo., and Kansas City, Kans.; livestock, and other related commodities, from Kansas City, Mo., and Kansas City, Kans., to Hamilton, Mo., and points within 10 miles of Hamilton; general commodities, with exceptions, between Kansas City, Kans., and Polo, Mo., serving specified intermediate and off-route points; household goods, as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, and livestock, between points in the Kansas City, Mo.-Kans., commercial zone on the one hand, and, on the other, Kingston, Polo, Mirabile, and Knoxville, Mo., and points within 10 miles thereof.

No. MC-FC-73061. By order of August 20, 1971, the Motor Carrier Board approved the transfer to John R. Loomis, Inc., Pawlett, Vt., of the operating rights in Certificates Nos. MC-92822, MC-92822 (Sub-No. 12), MC-92822 (Sub-No. 13), and MC-92822 (Sub-No. 17), issued October 16, 1968, August 22, 1967, July 12, 1957, and July 6, 1965, respectively, to John R. Loomis, Granville, N.Y., authorizing the transportation of various commodities of a general commodity nature from, to, and between points in Connecticut, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont. Martin Werner, Two West 45th Street, New York, NY 10036, attorney for applicants.

No. MC-FC-73063. By order of August 20, 1971, the Motor Carrier Board approved the transfer to Mid Nebraska Trucking, Inc., Cornlea, Nebr., of the operating rights in Permit No. MC-133233 (Sub-No. 13), issued May 19, 1971, to Clarence L. Werner, doing business as Werner Enterprises, Council Bluffs, Iowa, authorizing the transportation of specified commodities from and to Lindsay, Nebr., to points in the United States except points in Alaska, Hawaii, Maine, Massachusetts, Nebraska, Nevada, New Hampshire, Rhode Island, Vermont, West Virginia, and the District of Columbia. Charles J. Kimball, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501, attorney for applicants.

No. MC-FC-73064. By order of August 20, 1971, the Motor Carrier Board approved the transfer to Bond Transfer Co., Inc., Baltimore, Md., of the operating rights in Permit No. MC-86690 issued June 2, 1954, to William Elmer Constantine, Jr., doing business as Bond Transfer Co., Baltimore, Md., authorizing the transportation of such commodities as are dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business between points in Pennsylvania, West Virginia, Maryland, Delaware, Virginia, and the District of Columbia, as specified, and paperboard, scrap paper, alum, rosin size, and press rolls, between Baltimore, Md., on the one hand, and, on the other, named points in Pennsylvania. S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005, attorney for applicants.

No. MC-FC-73066. By order of August 20, 1971, the Motor Carrier Board approved the transfer to Acadia Express Co., Inc., Main Street, Southwest Harbor, ME 04679, of Certificate of Registration No. MC-28806 (Sub-No. 3), issued to Maynard D. Blanchard and Thomas H. Newman, Jr., a partnership, doing business as Acadia Express Co., Main Street, Southwest Harbor, ME 04679, evidencing a right of the holder thereof to engage in interstate or foreign commerce solely within the State of Maine.

No. MC-FC-73085. By order of August 20, 1971, the Motor Carrier Board approved the transfer to Mary D. Bryant and James Walter Bryant, a partnership, doing business as Harry C. Jones Transfer, Centralia, Ill., of the operating rights in Certificate of Registration in No. MC-60475 (Sub-No. 2), issued March 26, 1965, to Harry C. Jones, doing business as Harry C. Jones Transfer, Centralia, Ill., evidencing a right to engage in transportation in interstate or foreign commerce soley within the State of Illinois pursuant to Certificate of Public Convenience and Necessity No. 941MC dated July 20, 1954, issued by the Illinois Commerce Commission. Robert T. Lawley, Routman & Lawley, 300 Reisch Building, Springfield, Ill. 62701, attorney for applicants.

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

[FR Doc.71-12675 Filed 8-27-71;8:51 am]

VETERANS ADMINISTRATION

STATEMENT OF ORGANIZATION

Addresses of Installations and Central Office and Jurisdictional Areas of Insurance Centers

In the Veterans Administration statement of organization (32 F.R. 9776 and 34 F.R. 8733) section 4 is revised to read as follows:

SEC. 4. *Addresses of Veterans Administration installations and Central Office and jurisdictional areas of insurance centers.* This is a guide to the location of Veterans Administration Central Office and field stations in each State (also District of Columbia, Republic of the Philippines, and Commonwealth of Puerto Rico) where information may be obtained concerning benefits to veterans and their dependents and beneficiaries. Information concerning benefits as well as such matters as office hours, location of public reference facilities, fees charged for certain services such as records searching or copying, forms for use by the public and where they may be obtained, and officials to contact for various services, information or decisions, may be obtained by writing or otherwise contacting the office concerned. On any matter in which there may be a question as to the proper point of contact for services, information, or decisions, request may be directed to the Director or Contact Officer in the nearest VA regional office.

Type of activity and location	Address
ALABAMA	
Regional Office, Montgomery 36104	Aronov Building, 474 South Court Street.
Hospital, Birmingham 35233	700 South 19th Street.
Hospital, Montgomery 36109	215 Perry Hill Road.
Hospital, Tuscaloosa 35401	Veterans Administration Hospital.
Hospital, Tuskegee 36083	Veterans Administration Hospital.
ALASKA	
Regional Office, Juneau 99801	Federal Building, U.S. Post Office and Courthouse, 709 West Ninth Street. Mail: Post Office Box 1288.
VA Office, Anchorage 99501	Loussac-Sogn Building, 429 D Street.
ARIZONA	
Regional Office, Phoenix 85025	Federal Building, 230 North First Avenue.
Hospital, Phoenix 85012	Seventh Street and Indian School Road.
Hospital, Tucson 85723	Veterans Administration Hospital.
Center (Hospital and Domiciliary), Prescott 86301.	Veterans Administration Center.
ARKANSAS	
Regional Office, Little Rock 72201	Federal Office Building, 700 West Capitol Avenue.
Hospital, Fayetteville 72701	Veterans Administration Hospital.
Hospital, Little Rock 72206	300 East Roosevelt Road.
Little Rock Division.	
North Little Rock Division.	
CALIFORNIA	
Regional Office, Los Angeles 90024	Federal Building, West Los Angeles, 11000 Wilshire Boulevard.
VA Office, San Diego 92101	Wusaaw Medical Building, 2131 Third Avenue.
Regional Office, San Francisco 94103	49 Fourth Street.

CALIFORNIA—Continued

Type of activity and location	Address
Hospital, Fresno 93703	2615 Clinton Avenue.
Hospital, Livermore 94550	Veterans Administration Hospital.
Hospital, Long Beach 90801	5901 East Seventh Street.
Hospital, Los Angeles 90073 (Brentwood)	Veterans Administration Hospital.
Hospital, Los Angeles 90073 (Wadsworth)	Veterans Administration Hospital.
Hospital, Martinez 94553	150 Muir Road.
Hospital, Palo Alto 94304	3801 Miranda Avenue.
Menlo Park Division.	
Palo Alto Division.	
Hospital, San Francisco 94121	4150 Clement Street.
Hospital, Sepulveda 91343	Veterans Administration Hospital.
Hospital, Los Angeles 90073 (Extended Care Facility)	Veterans Administration Hospital.
Outpatient Clinic, Los Angeles 90013	425 South Hill Street.

COLORADO

Type of activity and location	Address
Regional Office, Denver 80225	Denver Federal Center.
Hospital, Denver 80220	1055 Clermont Street.
Hospital, Fort Lyon 81038	Veterans Administration Hospital.
Hospital, Grand Junction 81501	Veterans Administration Hospital.

CONNECTICUT

Type of activity and location	Address
Regional Office, Hartford 06103	450 Main Street.
Hospital, Newington 06111	555 Willard Street.
Hospital, West Haven 06516	West Spring Street.

DELAWARE

Type of activity and location	Address
Center (Regional Office and Hospital) Wilmington 19805	1601 Kirkwood Highway.

DISTRICT OF COLUMBIA

Type of activity and location	Address
Central Office, Washington 20420	810 Vermont Avenue NW.
Hospital, Washington 20422	50 Irving Street NW.
Veterans Benefits Office, Washington 20421	2033 M Street NW.

FLORIDA

Type of activity and location	Address
Regional Office, St. Petersburg 33731	Post Office Box 1437
VA Office, Jacksonville 32201	Post Office and Courthouse Building, 311 West Monroe Street, Post Office Box 505.
VA Office, Miami 33130	Room 100, 51 Southwest First Avenue.
Hospital, Gainesville 32601	Archer Road.
Hospital, Lake City 32055	Veterans Administration Hospital.
Hospital, Miami 33125	1201 Northwest 16th Street.
Center (Hospital and Domiciliary) Bay Pines 33504	Veterans Administration Center.

GEORGIA

Type of activity and location	Address
Regional Office, Atlanta 30308	730 Peachtree Street, NE.
Hospital, Atlanta 30329	Clairmont Road, NE., Post Office Box 29457.
Hospital, Augusta 30904	Veterans Administration Hospital.
Forest Hills Division	
Lenwood Division	
Center (Hospital and Domiciliary), Dublin 31021.	Veterans Administration Center.

HAWAII

Type of activity and location	Address
Regional Office, Honolulu 96801	680 Ala Moana Boulevard, Post Office Box 3198.

IDAHO

Type of activity and location	Address
Center (Regional Office and Hospital), Boise 83707.	Fifth and Fort Streets.

ILLINOIS

Type of activity and location	Address
Regional Office, Chicago 60680	2030 West Taylor Street.
Hospital, Chicago 60611	333 East Huron Street (Research).
Hospital, Chicago 60680	820 South Damen Avenue (West Side).
Hospital, Danville 61832	Veterans Administration Hospital.
Hospital, Downey 60064	Veterans Administration Hospital.
Hospital, Hines 60141	Veterans Administration Hospital.
Hospital, Marion 62959	Veterans Administration Hospital.

INDIANA

Type of activity and location	Address
Regional Office, Indianapolis 46204	36 South Pennsylvania Street.
Hospital, Fort Wayne 46805	1600 Randalia Drive.
Hospital, Indianapolis 46202	1481 West 10th Street.
Cold Spring Road Division	
Tenth Street Division	
Hospital, Marion 46952	Veterans Administration Hospital.

IOWA

Type of activity and location	Address
Regional Office, Des Moines 50309	210 Walnut Street.
Hospital, Des Moines 50309	30th and Euclid Avenue.
Hospital, Iowa City 52240	Veterans Administration Hospital.
Hospital, Knoxville 50138	Veterans Administration Hospital.

KANSAS

Type of activity and location	Address
Center (Regional Office and Hospital), Wichita 67218.	5500 East Kellogg.
Hospital, Topeka 66622	2200 Gage Boulevard.
Center (Hospital and Domiciliary), Wadsworth 66089.	Veterans Administration Center.

KENTUCKY

Type of activity and location	Address
Regional Office, Louisville 40202	600 Federal Place.
Hospital, Lexington 40507	Veterans Administration Hospital.
Hospital, Louisville 40202	Mellwood and Zorn Avenue.

LOUISIANA

Type of activity and location	Address
Regional Office, New Orleans 70113	701 Loyola Avenue.
VA Office, Shreveport 71101	510 East Stoner Avenue.
Hospital, Alexandria 71301	Veterans Administration Hospital.
Hospital, New Orleans 70140	1601 Perdido Street.
Hospital, Shreveport 71101	510 East Stoner Avenue.

MAINE

Type of activity and location	Address
Center (Regional Office and Hospital), Togus 04330.	Veterans Administration Center.
VA Office, Portland 04111	76 Pearl Street.

MARYLAND

Type of activity and location	Address
Regional Office, Baltimore 21201	Federal Building, 31 Hopkins Plaza.
Hospital, Baltimore 21218	3900 Loch Raven Boulevard.
Hospital, Fort Howard 21052	Veterans Administration Hospital.
Hospital, Perry Point 21902	Veterans Administration Hospital.

MASSACHUSETTS

Type of activity and location	Address
Regional Office, Boston 02203	John Fitzgerald Kennedy Federal Building, Government Center.
VA Office, Springfield 01103	1200 Main Street.
Hospital, Bedford 01730	200 Springs Road.
Hospital, Boston 02130	150 South Huntington Avenue.
Hospital, Brockton 02401	Veterans Administration Hospital.
Hospital, Northampton 01060	Veterans Administration Hospital.

Type of activity and location	Address
MASSACHUSETTS—Continued	
Hospital, West Roxbury 02132	1400 Veterans of Foreign Wars Parkway.
Outpatient Clinic, Boston 02108	17 Court Street.
MICHIGAN	
Regional Office, Detroit 48232	801 West Baltimore at Third.
Hospital, Allen Park 48101	Veterans Administration Hospital.
Hospital, Ann Arbor 48105	2215 Fuller Road.
Hospital, Battle Creek 49016	Veterans Administration Hospital.
Hospital, Iron Mountain 49801	Veterans Administration Hospital.
Hospital, Saginaw 48602	1500 Weiss Street.
MINNESOTA	
Center (Regional Office and Insurance), St. Paul 55111. (Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, Wyoming)	Federal Building, Fort Snelling. Remittances: Post Office Box 1820.
Hospital, Minneapolis 55417	54th Street and 48th Avenue, South.
Hospital, St. Cloud 56301	Veterans Administration Hospital.
MISSISSIPPI	
Center (Regional Office and Hospital), Jackson 39216.	1500 East Woodrow Wilson Drive.
Center (Hospital and Domiciliary), Biloxi 39531. Biloxi Division. Gulfport Division.	Veterans Administration Center.
MISSOURI	
Regional Office, St. Louis 63103	Room 4705 Federal Building, 1520 Market Street.
VA Office, Kansas City 64106	Federal Office Building, 601 East 12th Street.
Hospital, Kansas City 64128	4801 Linwood Boulevard.
Hospital, Poplar Bluff 63901	Veterans Administration Hospital.
Hospital, St. Louis 63125	Veterans Administration Hospital.
Hospital, Columbia 65201	800 Stadium Road.
MONTANA	
Center (Regional Office and Hospital), Fort Harrison 59636.	Veterans Administration Center.
Hospital, Miles City 59301	Veterans Administration Hospital.
NEBRASKA	
Regional Office, Lincoln 68508	220 South 17th Street.
Hospital, Grand Island 68801	Veterans Administration Hospital.
Hospital, Lincoln 68501	600 South 70th Street.
Hospital, Omaha 68105	4101 Woolworth Avenue.
NEVADA	
Center (Regional Office and Hospital), Reno 89502.	1000 Locust Street.
NEW HAMPSHIRE	
Regional Office, Manchester 03103	497 Silver Street.
Hospital, Manchester 03104	718 Smyth Road.
NEW JERSEY	
Regional Office, Newark 07102	20 Washington Place.
Hospital, East Orange 07019	Veterans Administration Hospital.
Hospital, Lyons 07939	Veterans Administration Hospital.
NEW MEXICO	
Regional Office, Albuquerque 87101	500 Gold Avenue, SW.
Hospital, Albuquerque 87108	2100 Ridgecrest Drive, SE.
NEW YORK	
Regional Office, Buffalo 14203	1021 Main Street.
VA Office, Rochester 14614	39 State Street.
VA Office, Syracuse 13202	Gateway Building, 809 South Salina Street.
Regional Office, New York 10001	252 Seventh Avenue.
VA Office, Albany 12201	Executive Park, North Stuyvesant Plaza.
Hospital, Albany 12208	Veterans Administration Hospital.
Hospital, Batavia 14020	Veterans Administration Hospital.
Hospital, Bronx 10468	130 West Kingsbridge Road.
Hospital, Brooklyn 11209	800 Poly Place.
Hospital, Buffalo 14215	3495 Bailey Avenue.
Hospital, Canandaigua 14424	Veterans Administration Hospital.
Hospital, Castle Point 12511	Veterans Administration Hospital.
Hospital, Montrose 10548	Veterans Administration Hospital.
Hospital, New York 10010	First Avenue at East 24th Street.
Hospital, Northport 11768	Veterans Administration Hospital.
Hospital, Syracuse 13210	Irving Avenue and University Place.
Center (Hospital and Domiciliary), Bath 14810.	Veterans Administration Center.
Outpatient Clinic, Brooklyn 11205	35 Ryerson Street.
NORTH CAROLINA	
Regional Office, Winston-Salem 27102	Wachovia Building, 301 North Main Street.
Hospital, Durham 27705	508 Fulton Street.
Hospital, Fayetteville 28301	2300 Ramsey Street.
Hospital, Oteen 28805	Veterans Administration Hospital.
Hospital, Salisbury 28144	Veterans Administration Hospital.
NORTH DAKOTA	
Center (Regional Office and Hospital), Fargo 58102.	Veterans Administration Center.
OHIO	
Regional Office, Cleveland 44199	Federal Office Building, 1240 East Ninth Street.
VA Office, Cincinnati 45202	Room 1024 Federal Office Building, 550 Main Street.
VA Office, Columbus 43215	Bryson Building, 700 Bryden Road.
Hospital, Brecksville 44141	10000 Brecksville Road.
Hospital, Chillicothe 45601	Veterans Administration Hospital.
Hospital, Cincinnati 45220	3200 Vine Street.
Hospital, Cleveland 44106	10701 East Boulevard.
Center (Hospital and Domiciliary), Dayton 45428.	Veterans Administration Center.
OKLAHOMA	
Regional Office, Muskogee 74401	Second and Court Streets.
VA Office, Oklahoma City 73102	Federal Building, 200 Northwest Fourth Street.
Hospital, Muskogee 74401	Memorial Station, Honor Heights Drive.
Hospital, Oklahoma City 73104	921 Northeast 13th Street.

OREGON

Type of activity and location	Address
Regional Office, Portland 97204	426 Southwest Stark Street.
Hospital, Portland 97207	Sam Jackson Park.
Hospital, Roseburg 97470	Veterans Administration Hospital.
Domiciliary, White City 97501	Veterans Administration Domiciliary.

PENNSYLVANIA

Type of activity and location	Address
Center (Regional Office and Insurance), Philadelphia 19101. (Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Commonwealth of Puerto Rico (including Virgin Islands), Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia.)	5000 Wissahickon Avenue. Mail: Post Office Box 8079. Remittances: Post Office Box 7787.
Regional Office, Pittsburgh 15222	1000 Liberty Avenue.
VA Office, Wilkes-Barre 18701	19-27 North Main Street.
Hospital, Altoona 16603	Veterans Administration Hospital.
Hospital, Butler 16001	Veterans Administration Hospital.
Hospital, Coatesville 19320	Veterans Administration Hospital.
Hospital, Erie 16501	135 East 38th Street Boulevard.
Hospital, Lebanon 17042	Veterans Administration Hospital.
Hospital, Philadelphia 19104	University and Woodland Avenues.
Hospital, Pittsburgh 15206	Leech Farm Road.
Hospital, Pittsburgh 15240 Aspinwall Division. Pittsburgh Division.	University Drive C.
Hospital, Wilkes-Barre 18703	1111 East End Boulevard.
Outpatient Clinic, Philadelphia 19102	1421 Cherry Street.

PHILIPPINE REPUBLIC

Type of activity and location	Address
Regional Office; Manila	1131 Roxas Boulevard, Mail: Director, U.S. Veterans Administration, APO, San Francisco 96528.

PUERTO RICO, COMMONWEALTH OF (INCLUDING THE VIRGIN ISLANDS)

Type of activity and location	Address
Center (Regional Office and Hospital), Rio Piedras 00921.	Barrio Monacillos. Mail: GPO Box 4867, San Juan 00936.

RHODE ISLAND

Type of activity and location	Address
Regional Office, Providence 02903	Federal Building, Kennedy Plaza.
Hospital, Providence 02908	Davis Park.

SOUTH CAROLINA

Type of activity and location	Address
Regional Office, Columbia 29201	1801 Assembly Street.
Hospital, Charleston 29403	109 Bee Street.
Hospital, Columbia 29201	Veterans Administration Hospital.

SOUTH DAKOTA

Type of activity and location	Address
Center (Regional Office and Hospital), Sioux Falls 57101.	Veterans Administration Center.
Hospital, Fort Meade 57741	Veterans Administration Hospital.
Center (Hospital and Domiciliary), Hot Springs 57747.	Veterans Administration Center.

TENNESSEE

Type of activity and location	Address
Regional Office, Nashville 37203	U.S. Courthouse, 801 Broadway.
Hospital, Memphis 38104	1030 Jefferson Avenue.
Hospital, Murfreesboro 37130	Veterans Administration Hospital.
Hospital, Nashville 37203	1310 24th Avenue, South.
Center (Hospital and Domiciliary), Mountain Home 37684.	Mail: Veterans Administration Center, Johnson City.

TEXAS

Type of activity and location	Address
Regional Office, Houston 77061	515 Rusk Avenue.
VA Office, San Antonio 78204	307 Dwyer Avenue.
Regional Office, Waco 76710	1400 North Valley Mills Drive.
VA Office, Dallas 75202	U.S. Courthouse and Federal Office Building, 1100 Commerce Street.
VA Office, Lubbock 79401	Federal Building, U.S. Courthouse, 1205 Texas Avenue.
Hospital, Amarillo 79106	6010 Amarillo Boulevard, West.
Hospital, Big Spring 79720	Veterans Administration Hospital.
Hospital, Dallas 75216	4500 South Lancaster Road.
Hospital, Houston 77031	2002 Holcombe Boulevard.
Hospital, Kerrville 78028	Veterans Administration Hospital.
Hospital, Marlin 76661	Veterans Administration Hospital.
Hospital, Waco 76703	Memorial Drive.
Center (Hospital and Domiciliary), Bonham 75418.	Veterans Administration Center.
Center (Hospital and Domiciliary), Temple 76501.	Veterans Administration Center.
Outpatient Clinic, Lubbock 79401	1205 Texas Avenue, Room 814.
Outpatient Clinic, San Antonio 78204	307 Dwyer Avenue.

UTAH

Type of activity and location	Address
Regional Office, Salt Lake City 84111	125 South State Street.
Hospital, Salt Lake City 84113	Veterans Administration Hospital

VERMONT

Type of activity and location	Address
Center (Regional Office and Hospital), White River Junction 05001.	Veterans Administration Center.

VIRGINIA

Type of activity and location	Address
Regional Office, Roanoke 24011	211 West Campbell Avenue.
Hospital, Richmond 23219	1201 Broad Rock Road.
Hospital, Salem 24153	Veterans Administration Hospital.
Center (Hospital and Domiciliary), Hampton 23367.	Veterans Administration Center.

WASHINGTON

Type of activity and location	Address
Regional Office, Seattle 98121	Sixth and Lenora Building.
Hospital, American Lake, Tacoma 98493	Veterans Administration Hospital.
Hospital, Seattle 98108	4435 Beacon Avenue South.
Hospital, Spokane 99208	North 4815 Assembly Street.
Hospital, Vancouver 98661	Veterans Administration Hospital.
Hospital, Walla Walla 99362	77 Wainwright Drive.

WEST VIRGINIA

Type of activity and location	Address
Regional Office, Huntington 25701	502 Eighth Street.
Hospital, Beckley 25801	200 Veterans Avenue.
Hospital, Clarksburg 26301	Veterans Administration Hospital.
Hospital, Huntington 25701	1540 Spring Valley Drive.
Center (Hospital and Domiciliary), Martinsburg 25401.	Veterans Administration Center.

WISCONSIN

Type of activity and location	*Address*
Regional Office, Milwaukee 53502	342 North Water Street.
Hospital, Madison 53705	2500 Overlook Terrace.
Hospital, Tomah 54660	Veterans Administration Hospital.
Center (Hospital and Domiciliary), Wood 53193	5000 West National Avenue.

WYOMING

Center (Regional Office and Hospital), Cheyenne 82001.	2360 East Pershing Boulevard.
Hospital, Sheridan 82801	Veterans Administration Hospital.

By direction of the Administrator.

[SEAL]

FRED B. RHODES,
Deputy Administrator.

[FR Doc.71-12629 Filed 8-27-71;8:48 am]

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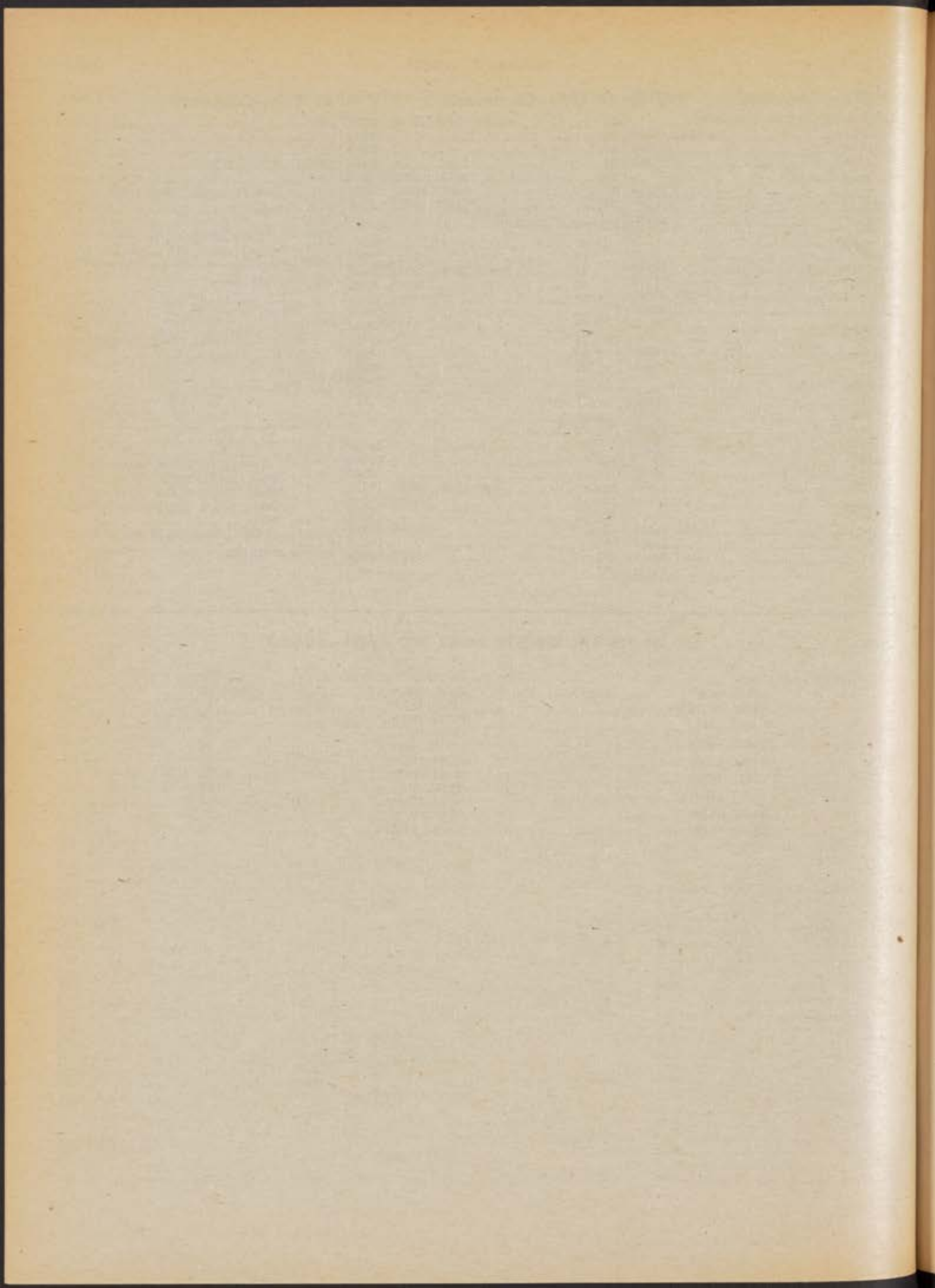

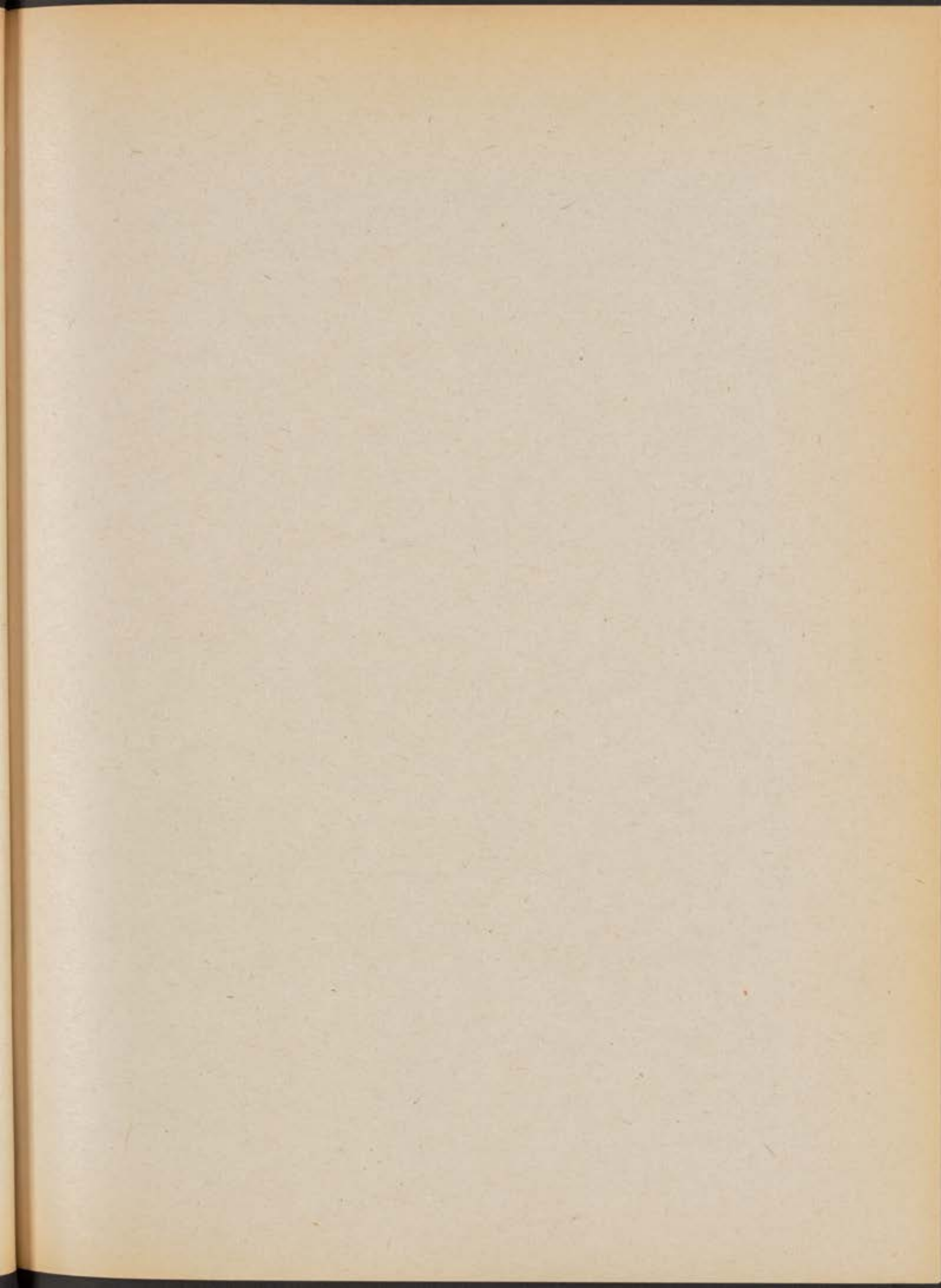

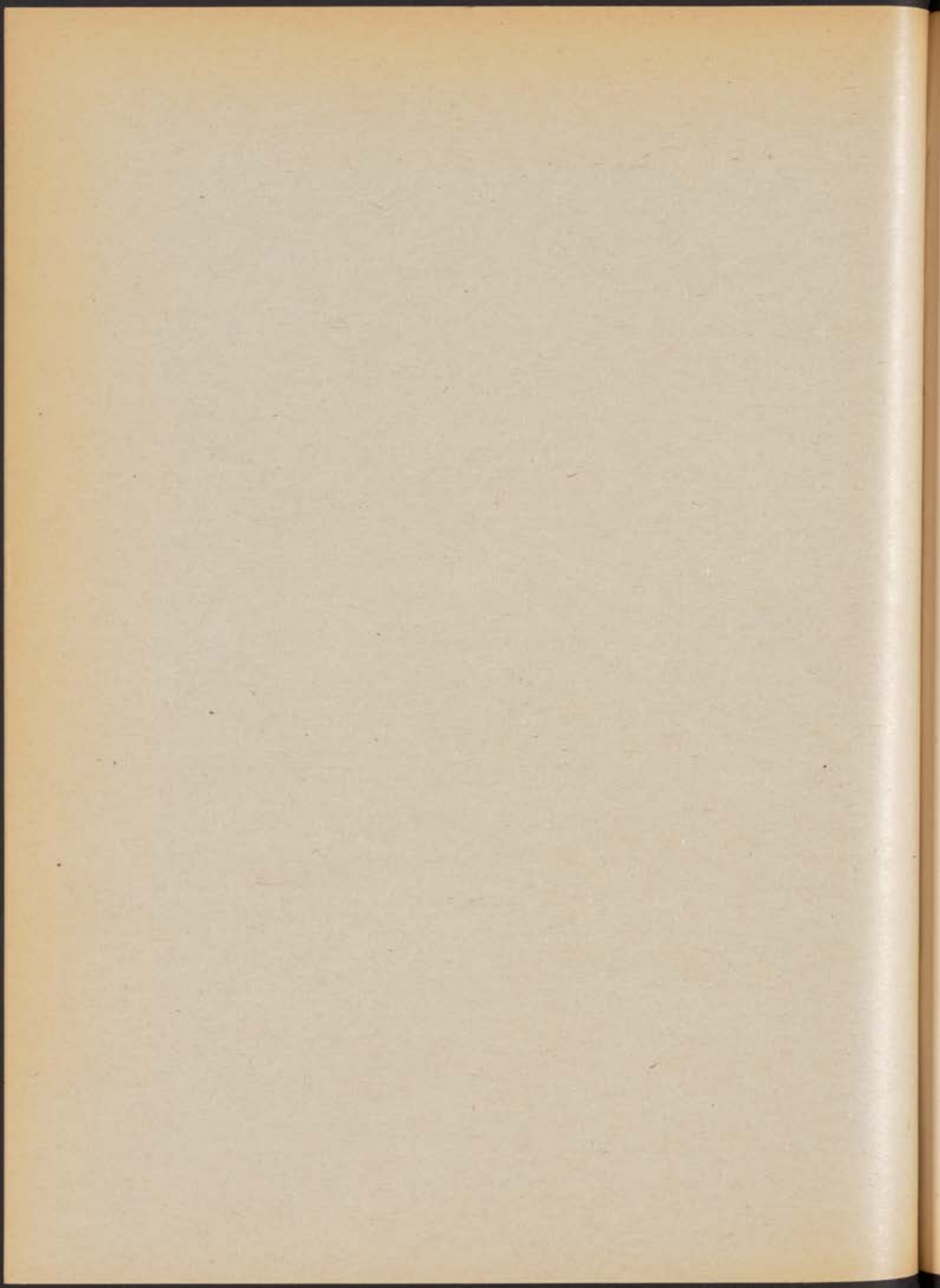

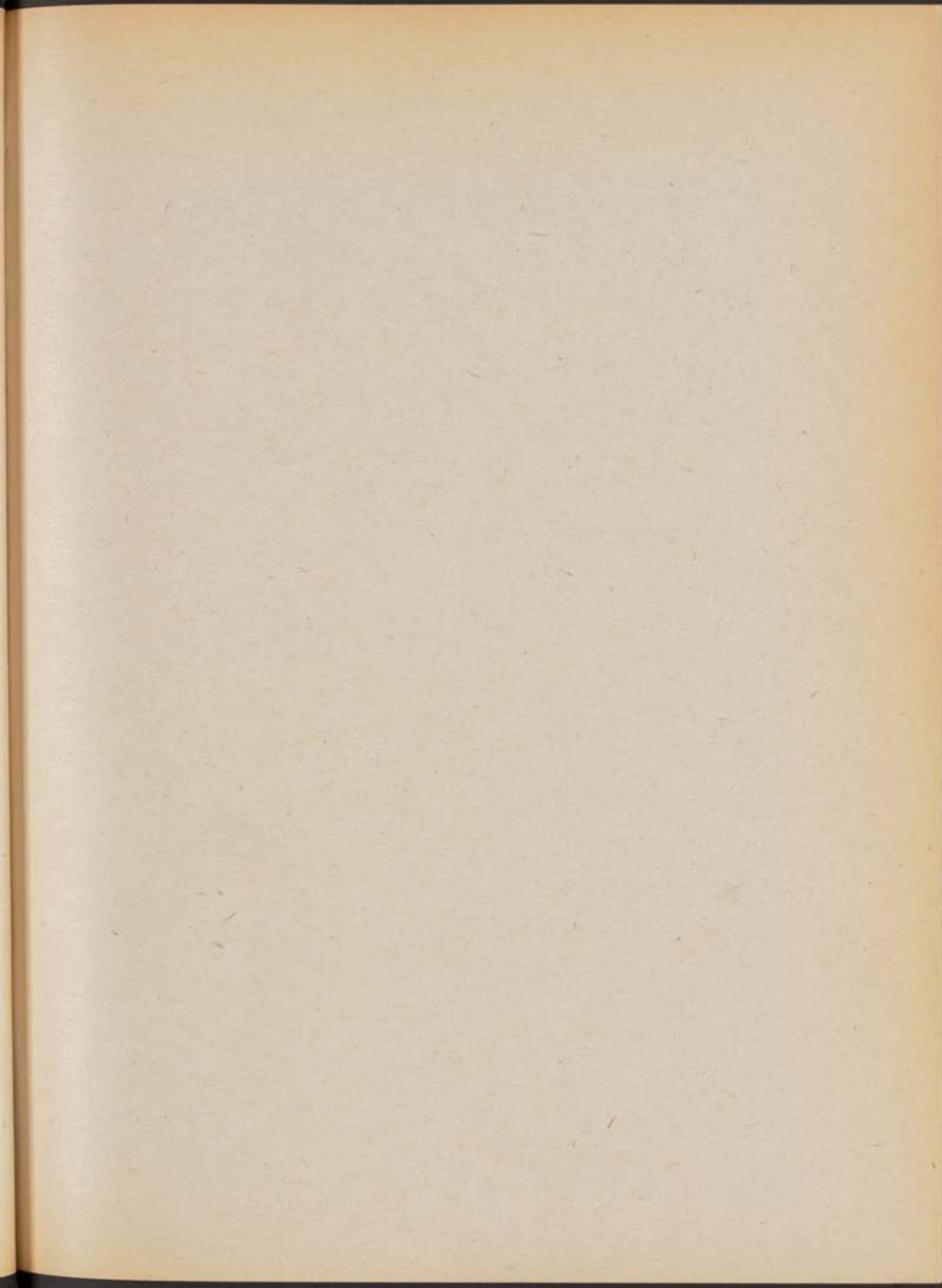

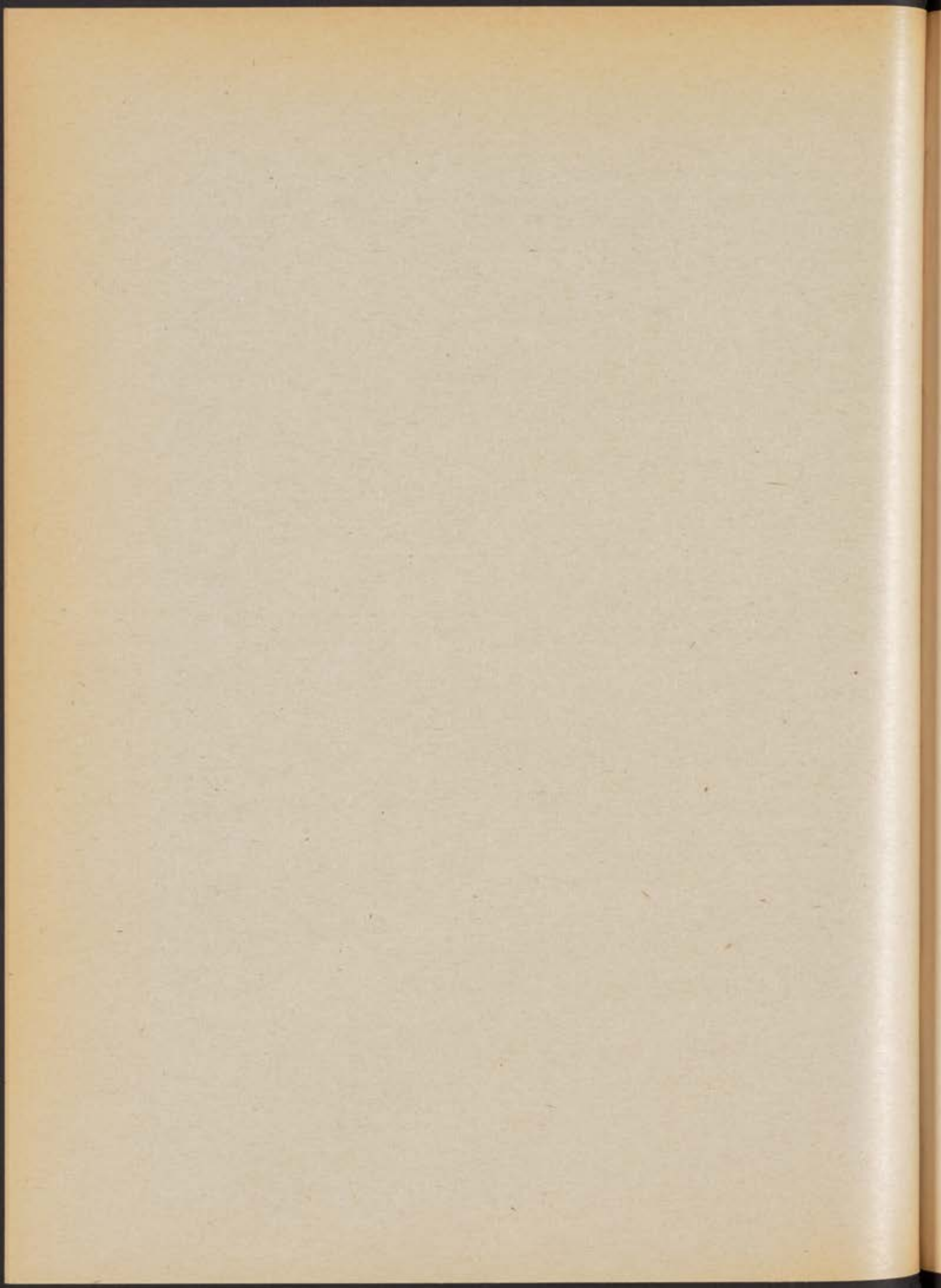

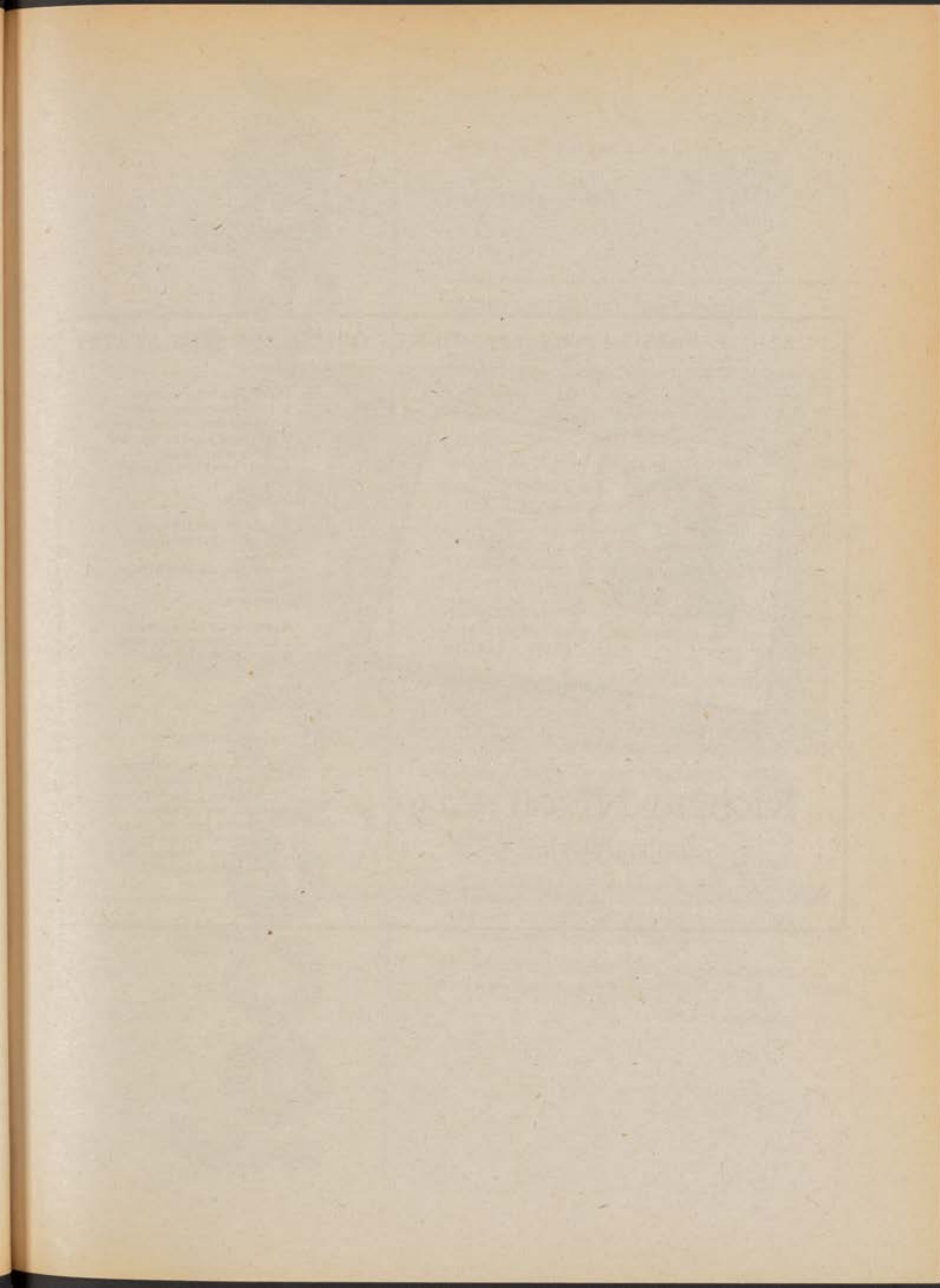

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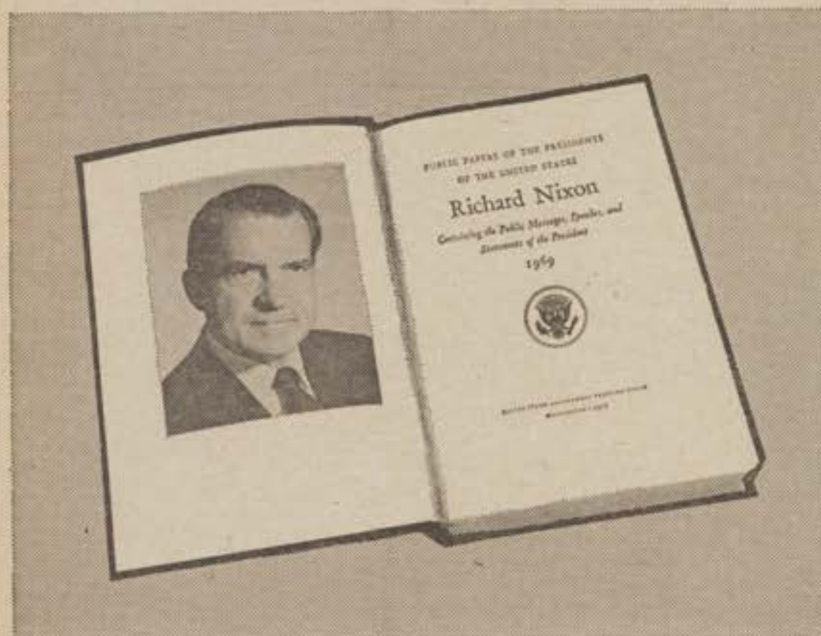

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