

# federal register

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Pages 17477-17549

## PART I

(Part II begins on page 17545)



### HIGHLIGHTS OF THIS ISSUE

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

- ECONOMIC STABILIZATION—OEP supplementary guidelines**..... 17510
- ANIMALS/ANIMAL PRODUCTS—USDA amendment to include overtime payment for inspection at border points; effective 9-1-71**..... 17484
- VISAS—State Dept. amendment on automatic revalidation in certain cases; effective 9-1-71**.... 17496
- OPEN SPACE LAND—HUD regulations for the Legacy of Parks program; effective 7-1-71**..... 17496
- FHA MORTGAGES—HUD amendments on supplementary financing of Secretary-held project mortgages; effective 9-29-71**..... 17506
- OCCUPATIONAL SAFETY AND HEALTH—Labor Dept. procedural regulations**..... 17506
- MINORITY BUSINESS ENTERPRISES—GSA new subcontracting policies, procedures, and clauses; effective 10-18-71**..... 17509
- FEDERAL METAL AND NONMETALLIC MINE SAFETY BOARD OF REVIEW—Proposed procedural regulations; comments within 30 days**..... 17545
- SMALL BUSINESS—**  
SBA amendment of size standard for meat packing plants..... 17492  
SBA notice of hearing on size standard of food services concerns on 9-30-71..... 17514
- CHILD POISON PREVENTION—FDA proposal on safe packaging standards for aspirin-containing preparations; comments within 30 days**..... 17512

(Continued inside)

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HIGHLIGHTS—Continued

INVENTIONS—USDA notice of availability for exclusive licensing; applications within 60 days	17515	COTTON TEXTILES—Interagency Textile Admin. Comm. determination on imports from Haiti and Malaysia (2 documents)	17533, 17534
MINIMUM WAGE RATES—Labor Dept. notice on employment of full-time students	17534	RAILROAD RETIREMENT BOARD—Determination of excise tax rate for annuity program	17530

## Contents

<b>AGRICULTURAL RESEARCH SERVICE</b>	Noncareer executive assignments; authority to grant and/or authority revocation:	Narcotic drugs etc.; carriage by aircraft	17495
<b>Rules and Regulations</b>	Agriculture Department	Transition areas; alterations (2 documents)	17495, 17496
Overtime work at border ports, seaports and airports	17529	<b>Proposed Rule Making</b>	
<b>Notices</b>	General Services Administration	Airworthiness directives; Britten Norman airplanes	17512
Licensing department inventions	17515	Control zone; proposed designation	17513
<b>AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE</b>	Health, Education, and Welfare Department		
<b>Rules and Regulations</b>	17529	<b>FEDERAL COMMUNICATIONS COMMISSION</b>	
Determination of acreage and compliance; miscellaneous amendments	17485	<b>Notices</b>	
<b>AGRICULTURE DEPARTMENT</b>	<b>COMMERCE DEPARTMENT</b>	Hillsborough Broadcasting Co., Inc. (WISS-TV) et al.; extension of construction permit	17529
See Agricultural Research Service; Agricultural Stabilization and Conservation Service; Consumer and Marketing Service.	<b>Notices</b>		
<b>CIVIL AERONAUTICS BOARD</b>	Census Bureau; organizations and functions		
<b>Notices</b>	17517	<b>FEDERAL HIGHWAY ADMINISTRATION</b>	
City of Marshfield, Wis. et al., order denying motion to show cause and setting matters for hearing		<b>Proposed Rule Making</b>	
17528	<b>CONSUMER AND MARKETING SERVICE</b>	Coupling devices and towing methods	17513
International Air Transport Association; agreements adopted (2 documents)	17527, 17528	<b>FEDERAL HOUSING ADMINISTRATION</b>	
<b>CIVIL SERVICE COMMISSION</b>	<b>Rules and Regulations</b>	<b>Rules and Regulations</b>	
<b>Rules and Regulations</b>	Lemons grown in California and Arizona; handling (2 documents)	Supplementary financing of FHA project mortgages; eligibility requirements secretary-held mortgages	17506
Excepted service:	17485	<b>FEDERAL METAL AND NONMETALLIC MINE SAFETY BOARD OF REVIEW</b>	
Commerce Department	17484	<b>Proposed Rule Making</b>	
Health, Education, and Welfare Department	17484	Rules of procedure	17546
Navy Department	17484	<b>FEDERAL POWER COMMISSION</b>	
Securities and Exchange Commission	17484	<b>Notices</b>	
Temporary boards and commissions	17483	Phillips Petroleum Co., et al.; applications for certificates etc.	17531
<b>Notices</b>		<b>FEDERAL REGISTER ADMINISTRATIVE COMMITTEE</b>	
Manpower shortage:		CFR checklist	17483
Administrative Specialists, Personnel Operations Branch, Division of Personnel and Department of Health, Education, and Welfare	17529	<b>FEDERAL RESERVE SYSTEM</b>	
Deputy Director, Food Distribution Division, Food and Nutrition Service, Department of Agriculture	17529	<b>Proposed Rule Making</b>	
		Bank holding companies; interests in nonbanking activities; correction	17514
		(Continued on next page)	
			17479

**Notices**

- Chase Manhattan Corp.; application for approval of acquisition of shares of bank..... 17532
- Iowa Business Investment Corp., and Superior Equity Corp.; order granting determination..... 17533

**FISH AND WILDLIFE SERVICE****Rules and Regulations**

- Pathfinder National Wildlife Refuge, Wyo.; hunting (2 documents)..... 17510

**FOOD AND DRUG ADMINISTRATION****Proposed Rule Making**

- Proposed child protection packaging standards for preparations containing aspirin..... 17512

**GENERAL SERVICES ADMINISTRATION****Rules and Regulations**

- Minority business enterprises..... 17509

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

See Food and Drug Administration.

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

See also Federal Housing Administration.

**Rules and Regulations**

- Legacy of parks program..... 17496

**IMPORT PROGRAMS OFFICE****Notices**

- Certain institutions; duty-free entry of scientific articles (20 documents)..... 17519-17527

**INTERAGENCY TEXTILE ADMINISTRATIVE COMMITTEE****Notices**

- Certain cotton products; entry or withdrawal from warehouse for consumption:  
Produced or manufactured in:  
Haiti..... 17533  
Malaysia..... 17534

**INTERIOR DEPARTMENT**

See also Fish and Wildlife Service; Land Management Bureau.

**Rules and Regulations**

- Utilization and disposal of real property; change in title of official..... 17509

**INTERSTATE COMMERCE COMMISSION****Proposed Rule Making**

- Syracuse, N.Y.; commercial zone..... 17514

**Notices**

- Assignment of hearings..... 17537
- Motor carrier applications and certain other proceedings..... 17539
- Motor carrier intrastate applications..... 17537
- Motor carrier transfer proceedings..... 17542
- Penn Central Transportation Co.; notice of hearing regarding charges at New York Harbor..... 17543

**JUSTICE DEPARTMENT****Rules and Regulations**

- Witness fees; travel expenses of Federal employees serving as witnesses; correction..... 17506

**LABOR DEPARTMENT**

See Occupational Safety and Health Administration.

**LAND MANAGEMENT BUREAU****Notices**

- California; proposed withdrawal and reservation of lands (2 documents)..... 17515

**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION****Rules and Regulations**

- Safety and health standards; rules of procedure..... 17506

**PANAMA CANAL****Rules and Regulations**

- Public lands, military reservations; revision of boundaries; correction..... 17509

**RAILROAD RETIREMENT BOARD****Notices**

- Determination of quarterly rate of excise tax for railroad retirement supplemental annuity program..... 17530

**SECURITIES AND EXCHANGE COMMISSION****Notices**

- Kingsbridge Fund, Inc.; application declaring that company has ceased to be an investment company..... 17530

**SMALL BUSINESS ADMINISTRATION****Rules and Regulations**

- Meat packing plants; definition of small business..... 17492

**Proposed Rule Making**

- Government procurement of food services; definition of small business..... 17514

**Notices**

- Georgia; declaration of disaster loan area..... 17530

**STATE DEPARTMENT****Rules and Regulations**

- Automatic revalidation of non-immigrant visas in certain cases..... 17496

**TRANSPORTATION DEPARTMENT**

See Federal Aviation Administration; Federal Highway Administration; Urban Mass Transportation Administration.

**URBAN MASS TRANSPORTATION ADMINISTRATION****Notices**

- Assistant Administrator for Program Planning; redelegation of authority..... 17527

**WAGE AND HOUR DIVISION****Notices**

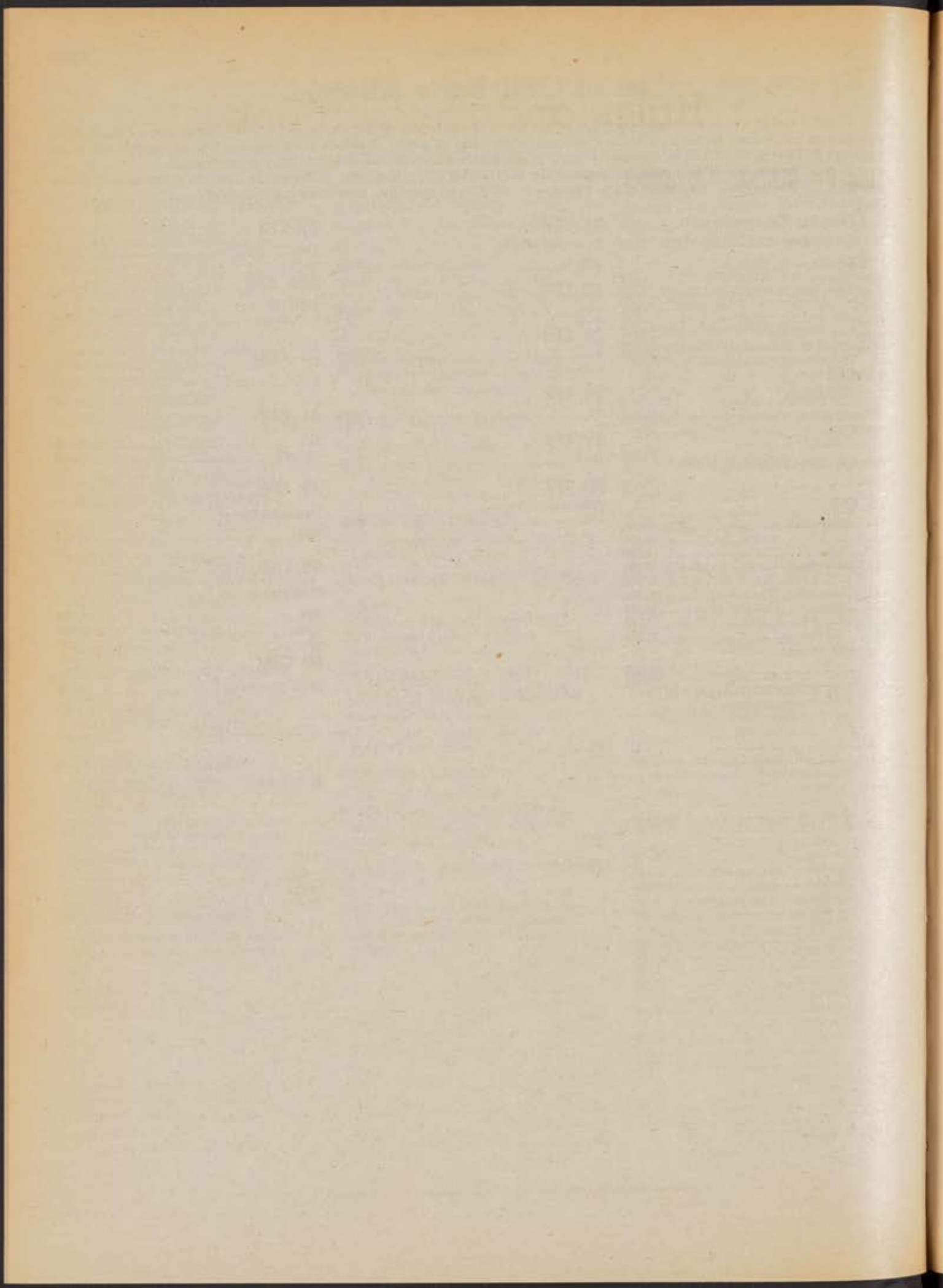
- Certificates authorizing employment of full-time students working outside of school hours at special minimum wages in retail or service establishments or in agriculture..... 17534

# List of CFR Parts Affected

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

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

<b>5 CFR</b>		<b>21 CFR</b>		<b>32 CFR</b>	
213 (5 documents) .....	17483, 17484	PROPOSED RULES:		199 .....	17508
<b>7 CFR</b>		295 .....	17512	<b>32A CFR</b>	
354 .....	17484	<b>22 CFR</b>		OEP (Ch. I):	
718 .....	17485	41 .....	17496	Circ. 6 .....	17510
910 .....	17485	<b>24 CFR</b>		<b>35 CFR</b>	
1004 .....	17491	4 .....	17496	5 .....	17509
1050 .....	17492	241 .....	17506	<b>41 CFR</b>	
1106 .....	17492	<b>28 CFR</b>		1-1 .....	17509
<b>12 CFR</b>		21 .....	17506	114-47 .....	17509
PROPOSED RULES:		<b>29 CFR</b>		<b>42 CFR</b>	
222 .....	17514	1911 .....	17506	PROPOSED RULES:	
<b>13 CFR</b>		<b>30 CFR</b>		466 .....	17514
121 .....	17492	PROPOSED RULES:		<b>49 CFR</b>	
PROPOSED RULES:		400 .....	17546	PROPOSED RULES:	
121 .....	17514			393 .....	17513
<b>14 CFR</b>				1048 .....	17514
39 (5 documents) .....	17493, 17494			<b>50 CFR</b>	
61 .....	17495			32 (2 documents) .....	17510
63 .....	17495				
71 (2 documents) .....	17495, 17496				
91 .....	17495				
121 .....	17495				
123 .....	17495				
127 .....	17495				
135 .....	17495				
PROPOSED RULES:					
39 .....	17512				
71 .....	17513				



# Rules and Regulations

## Title 1—GENERAL PROVISIONS

### Chapter I—Administrative Committee of the Federal Register

#### CFR CHECKLIST

This checklist, arranged in order of titles, shows the issuance date and price of current bound volumes of the Code of Federal Regulations. The rate for subscription service to all revised volumes issued as of January 1, 1971, is \$175 domestic, \$45 additional for foreign mailing. The subscription price for revised volumes to be issued as of January 1, 1972, will be \$195 domestic, \$50 additional for foreign mailing.

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Title	Price	Title	Price
13	1.25	39	3.25
14	Parts:	40	[Reserved]
	1-59..... 3.00	41	Chapters:
	60-199..... 2.75		1-2..... 2.75
	200-end..... 3.00		3-5D..... 1.75
15	1.75		6-17..... 3.50
16	Parts:		18..... 3.25
	0-149..... 3.00		19-100..... 1.00
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17	2.75	42	1.75
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19	2.50	44	.40
20	Parts:	45	Parts:
	01-399..... 1.25		1-999..... 2.00
	400-end..... 3.00		200-end..... 2.00
21	Parts:	46	Parts:
	1-119..... 1.75		1-65..... 2.75
	120-129..... 1.75		66-145..... 2.75
	130-146e..... 2.75		146-149..... 3.75
	147-end..... 1.50		150-199..... 2.75
22	1.75		200-end..... 3.00
23	.50	47	Parts:
24	2.75		0-19..... 1.75
25	1.75		20-69..... 2.50
26	Parts:		70-79..... 1.75
	1 (§§ 1.0-1-1.300)..... 3.00		80-end..... 2.75
	1 (§§ 1.301-1.400)..... 1.00	48	[Reserved]
	1 (§§ 1.401-1.500)..... 1.50	49	Parts:
	1 (§§ 1.501-1.640)..... 1.25		1-199..... 4.00
	1 (§§ 1.641-1.850)..... 1.50		200-999..... 1.75
	1 (§§ 1.851-1.1200)..... 2.00		1000-1199..... 1.25
	1 (§§ 1.1201-end)..... 3.25		1200-1299..... 3.00
	2-29..... 1.25		1300-end..... 1.00
	30-39..... 1.25		..... 1.25
	40-169..... 2.50		General Index..... 1.50
	170-299..... 3.50		List of Sections Affected, 1949-1963 (Compilation)..... 6.75
	300-499..... 1.50		
	500-599..... 1.75		
	600-end..... .60		
27	.45		
28	.75		
29	Parts:		
	0-499..... 1.50		
	500-899..... 3.00		
	900-end..... 1.50		
30	2.00		
31	2.00		
32	Parts:		
	1-8..... 3.25		
	9-39..... 2.00		
	40-399..... 3.00		
	400-589..... 2.00		
	590-699..... 1.00		
	700-799..... 3.25		
	800-999..... 2.00		
	1000-1399..... .75		
	1400-1599..... 1.50		
	1600-end..... 1.00		
32A	1.25		
33	Parts:		
	1-199..... 2.50		
	200-end..... 1.75		
34	[Reserved]		
35	1.75		
36	1.25		
37	.70		
38	3.50		

## Title 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission

#### PART 213—EXCEPTED SERVICE

#### Temporary Boards and Commissions; Correction

In the FEDERAL REGISTER of April 1, 1971 (F.R. Doc. 71-4447) appearing on page 5961 the name of the American Revolution Bicentennial Commission was inadvertently omitted. The document should read as follows:

#### § 213.3199 Temporary Boards and Commissions.

(k) American Revolution Bicentennial Commission. (1) Positions in grades GS-11 through 15, other than those primarily concerned with administrative and internal management matters.

## RULES AND REGULATIONS

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
*Executive Assistant to the Commissioners.*  
[FR Doc.71-12767 Filed 8-31-71;8:48 am]

**PART 213—EXCEPTED SERVICE**  
**Department of Commerce**

Section 213.3314 is amended to show that one additional position of Confidential Assistant to the Special Assistant to the Secretary for Policy Development is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (9-1-71), subparagraph (22) of paragraph (a) under § 213.3314 is amended as set out below.

§ 213.3314 Department of Commerce.

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

(22) Three Confidential Assistants to the Special Assistants to the Secretary for Policy Development.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
*Executive Assistant to the Commissioners.*  
[FR Doc.71-12765 Filed 8-31-71;8:47 am]

**PART 213—EXCEPTED SERVICE**  
**Department of Health, Education, and Welfare**

Section 213.3316 is amended to show that one additional position of Special Assistant to the Commissioner of Education is excepted under Schedule C. This section is further amended to reflect the following title changes: From Confidential Assistant to the Assistant Secretary for Education to Confidential Assistant to the Commissioner of Education and from Confidential Secretary to the Assistant Secretary for Education to Confidential Secretary to the Commissioner of Education.

Effective on publication in the FEDERAL REGISTER (9-1-71), subparagraphs (1) is amended and subparagraphs (8) and (9) are added to paragraph (c) and paragraph (j) is revoked under § 213.3316 as set out below.

§ 213.3316 Department of Health, Education, and Welfare.

(c) *Office of Education.* (1) Five Special Assistants to the Commissioner of Education.

(8) Two Confidential Assistants to the Commissioner of Education.

(9) One Confidential Secretary to the Commissioner of Education.

(j) [Revoked]

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
*Executive Assistant to the Commissioners.*  
[FR Doc.71-12766 Filed 8-31-71;8:47 am]

**PART 213—EXCEPTED SERVICE**  
**Securities and Exchange Commission**

Section 213.3330 is amended to show that one position of Administrative Aide is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (9-1-71), paragraph (e) is added to § 213.3330 as set out below.

§ 213.3330 Securities and Exchange Commission.

(e) One Administrative Aide to the Executive Director.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
*Executive Assistant to the Commissioners.*  
[FR Doc.71-12768 Filed 8-31-71;8:48 am]

**PART 213—EXCEPTED SERVICE**  
**Department of the Navy**

Section 213.3308 is amended to show that one additional position of Special Assistant to the Military Assistant to the President is expected under Schedule C.

Effective on publication in the FEDERAL REGISTER (9-1-71), subparagraph (9) of paragraph (a) of § 213.3308 is amended as set out below.

§ 213.3308 Department of the Navy.

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

(9) Two Special Assistants to the Military Assistant to the President.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,  
[SEAL] JAMES C. SPRY,  
*Executive Assistant to the Commissioners.*  
[FR Doc.71-12907 Filed 8-31-71;8:55 am]

**Title 7—AGRICULTURE**

**Chapter III—Agricultural Research Service, Department of Agriculture**

**PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS**

**Overtime Work at Border Ports, Seaports, and Airports**

Pursuant to the authority conferred by the Act of August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260), § 354.1(a) of Part 354,

Title 7, Code of Federal Regulations, is amended to read as follows:

§ 354.1 Overtime work at border ports, seaports, and airports.

(a) Any person, firm, or corporation having ownership, custody or control of plants, plant products, animals, animal products, or other commodities or articles subject to inspection, laboratory testing, certification, or quarantine under this chapter and Subchapters D and G of Chapter I, Title 9, CFR who requires the services of an employee of the Agricultural Quarantine Inspection Division, on a Sunday or holiday, or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of Sunday or holiday or overtime service request the Division inspector in charge to furnish inspection, laboratory testing, certification, or quarantine service during such overtime, or Sunday or holiday period, and shall pay the Government therefor at the rate of \$13.20 per man-hour per employee on a Sunday and at the rate of \$9.40 per man-hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, or at any time after 5 p.m. or before 8 a.m. on a weekday, in connection with the arrival in or departure from the United States on a private aircraft or vessel, the total amount payable shall not exceed \$25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture. A minimum charge of 2 hours shall be made for any Sunday or holiday or unscheduled overtime duty performed by an employee on a day when no work was scheduled for him or which is performed by an employee on his regular workday beginning either at least 1 hour before his scheduled tour of duty or which is not in direct continuation of the employee's regular tour of duty. In addition, each such period of Sunday or holiday or unscheduled overtime work to which the 2-hour minimum charge provision applies which requires the employee involved to perform additional travel may include a commuted travel-time period the amount of which shall be prescribed in administrative instructions to be issued by the Director of the Agricultural Quarantine Inspection Division for the areas in which the Sunday or holiday or overtime work is performed and such period shall be established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such Sunday or holiday or overtime duty if such travel is performed solely on account of such Sunday or holiday or overtime service. With respect to places of duty within the metropolitan area of the employee's headquarters, such commuted travel period shall not exceed 3 hours. When inspection, laboratory testing, certification, or quarantine services are performed at locations outside the metropolitan area in which the employee's headquarters is located, one-half of the



commuted travel period applicable to the point at which the services are performed shall be charged when duties involve overtime that begins less than 1 hour before the beginning of the regular tour and/or is in continuation of the regular tour of duty. It will be administratively determined from time to time which days constitute holidays. The commuted traveltime rate of pay to the Government for inspection, laboratory testing, quarantine, or certification services on any Sunday, holiday or unscheduled overtime duty by an employee of the Agricultural Quarantine Inspection Division shall be based on \$9.40 per traveltime hour per employee.

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

The foregoing amendment shall become effective upon publication in the FEDERAL REGISTER (9-1-71), when it shall supersede 7 CFR 354.1(a), effective May 1, 1971.

The purpose of this amendment is to extend the authorization for payment of overtime services and commuted traveltime services when performed by Agricultural Quarantine Inspection Division personnel to include inspection, laboratory testing, certification, or quarantine of animals and animal products. Effective on February 17, 1971, a reorganization within the Agricultural Research Service created the Agricultural Quarantine Inspection Division which assumed the responsibilities of the former Plant Quarantine Division and the import and export of animal products formerly assigned to the Animal Health Division. Although the responsibility for enforcement of animal quarantine remains with the Animal Health Division, assistance in enforcement of animal quarantines by Agricultural Quarantine Inspection Division personnel may be requested from time to time. Such requests for assistance could cover periods outside Agricultural Quarantine Inspection Division employees' regular tours of duty. Therefore, animals as well as animal products have been added to the amendment in connection with overtime services by Agricultural Quarantine Inspection Division personnel relating to imports and exports. In addition, authorization for payment of overtime services and commuted traveltime has been added to include services performed by Agricultural Quarantine Inspection Division personnel engaged in laboratory testing of animals and animal products in connection with imports and exports. It is to the benefit of those who require such overtime services, as well as the public generally, that this amendment be made effective at the earliest practicable date. Accordingly, pursuant to the administrative provisions of 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 26th day of August 1971.

[SEAL] T. W. EDMISTER,  
Administrator,  
Agricultural Research Service.  
[FR Doc.71-12743 Filed 8-31-71;8:49 am]

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

**SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS**

**PART 718—DETERMINATION OF ACREAGE AND COMPLIANCE**

*Correction*

In F.R., Volume 36, Number 150, for Wednesday, August 4, 1971, the following corrections should be made:

(1) In the first line of § 718.2(b) (5), on page 14303, the word "Report" should read "Reporter".

(2) In § 718.4(c) for Texas (4) (1), on page 14304, the word "Knox" should be inserted immediately following the word "King" in subitem (b); and the words "and Knox" should be deleted from subitem (c).

(3) In § 718.14(b) for West Virginia, on page 14310, the word "Barley" should be deleted from subparagraph (1), and a new subparagraph (5) which reads: "(5) *Barley*. June 5. All counties." should be added.

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

KENNETH E. FRICK,  
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-12775 Filed 8-31-71;8:48 am]

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

[Lemon Reg. 494, Amdt. 1]

**PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA**

**Limitation of Handling**

(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 amendment 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 amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended*. The provision in paragraph (b) (1) of § 910.794 (Lemon Regulation 494, 36 FR 16503), during the period August 22, 1971, through August 28, 1971, is hereby amended to read as follows:

§ 910.794 Lemon Regulation 494.

(b) *Order*. (1) \* \* \* 235,000 cartons."

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

Dated: August 26, 1971.

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

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**PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA**

**Lemon Administrative Committee Rules and Regulations**

Notice was published in the FEDERAL REGISTER of July 30, 1971 (36 F.R. 14137), that the Department was giving consideration to a proposed revision of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 910.100 et seq.), currently in effect 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 Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). Said notice allowed interested persons 15 days in which to submit written data, views, or arguments for consideration in connection with the proposed revision. None were received.

The proposed revision was submitted by the Lemon Administrative Committee (established pursuant to the said marketing agreement and order as the agency to administer the provisions thereof). The revision would effect a number of changes which are necessary to conform the rules and regulations to the Marketing Agreement and order, as amended, effective July 1 and August 1, 1971. After consideration of all relevant

matters presented, including the proposal set forth in the aforesaid notice, it is hereby found that such revision, as hereinafter set forth, is in accordance with the said amended marketing agreement and order and will tend to effectuate the declared purposes of the act. Such revision is hereby approved.

It is hereby further found that good cause exists for making this revision effective upon publication in the FEDERAL REGISTER, and that it would be contrary to the public interest to postpone the effective time until 30 days after such publication (5 U.S.C. 553). The procedures established by this revision are necessary to implement the amended provisions of the marketing agreement and order; shipments of lemons currently are being made, and such procedure should be made available as soon as possible for the guidance of growers, handlers, and the committee; interested persons were given 15 days in which to submit data, views, or arguments regarding the proposed revision, and none were received; and this revision does not require any special preparation for compliance therewith which cannot be completed by such effective time.

Subpart—Lemon Administrative Committee Rules and Regulations

GENERAL

Sec. 910.100 Application of terms.

COMMUNICATIONS

910.106 Communications.

STORAGE AWAY FROM PACKING HOUSE

910.107 Transportation of lemons.

NOMINATION PROCEDURES

910.121 Time of nomination.

910.122 Manner of nomination.

910.153 Prorate bases and allotments.

910.154 Forfeiture credit.

ALLOTMENT LOANS

910.159 Allotment loans.

910.161a Off-bloom allotment.

SIZE REGULATIONS

910.165 Exemption from size regulation.

REPORTS

910.170 Reports.

LEMONS NOT SUBJECT TO REGULATION

910.180 Lemons not subject to regulation.

**AUTHORITY:** The provisions of this subpart issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

Subpart—Lemon Administrative Committee Rules and Regulations

GENERAL

§ 910.100 Application of terms.

Terms used in this subpart shall have the same meaning as when used in the marketing agreement and order (§§ 910.1 to 910.92). Commonly used terms are defined as follows:

(a) *Marketing agreement.* "Marketing agreement" means Marketing Agreement No. 94, as amended, regulating the handling of lemons grown in California and Arizona.

(b) *Order.* "Order" means Order No. 910, as amended (§§ 910.1 to 910.92) regulating the handling of lemons grown in California and Arizona.

(c) *Carload.* Pursuant to § 910.8, the quantity of lemons comprising a carload is the equivalent of 1,000 cartons of lemons.

(d) *Week or weekly.* The term "week" or "weekly" means the period Sunday through the following Saturday. "Weekly regulation period" applies to the same period of time.

(e) *Time.* Whenever a time of day is specified in this subpart, it shall relate to Pacific standard time or Pacific daylight saving time whichever is then in effect in California.

(f) *Legal holiday.* When the date for filing of applications, notices, requests or reports falls on a legal holiday, the due date shall be considered the next following business day.

(g) *Scheduled weekly meeting.* The term "scheduled weekly meeting" means the regularly scheduled weekly meeting, held on Tuesday, or such other day of the week as the committee designates: *Provided,* That when another day is designated notice thereof to handlers shall be published in the committee's weekly lemon bulletin and mailed to handlers at least 6 days prior to such meeting day.

(h) *District 1 Handler, District 2 Handler, District 3 Handler.* "District 1 handler," "District 2 handler," and "District 3 handler," shall mean a handler of lemons produced in District 1, District 2, and District 3, respectively.

COMMUNICATIONS

§ 910.106 Communications.

(a) *Submittals.* Unless otherwise prescribed in this subpart, or in Order No. 910, or required by the Lemon Administrative Committee, all reports, applications, submittals, requests, and communications in connection with Order 910, shall be submitted to: Lemon Administrative Committee, 117 West Ninth Street, Room 905, Los Angeles, CA 90015.

(b) *Filing of applications, notifications or requests.* Handlers who desire consideration by the committee on matters subject to this subpart which require action be taken for a specific weekly regulatory period, shall (unless otherwise specifically provided in this subpart) file such applications, notifications, or requests on or before 12 o'clock noon of the day preceding the day of the scheduled weekly committee meeting during which matters relating to that weekly regulatory period are to be considered, except when such day is a legal holiday, such documents shall be filed at such time on the day of the committee's scheduled weekly meeting. The committee shall not take action on applications, notifications, or requests filed after such deadline. Except as otherwise provided herein, applications, notifications, and requests shall be considered as filed when actually received in the committee offices specified in paragraph (a) of this section.

STORAGE AWAY FROM PACKING HOUSE

§ 910.107 Transportation of lemons.

Any handler who stores lemons within the production area other than on the premises where the lemons are packed shall notify the committee on LAC Form 8 of the transportation of such lemons to such storage. Such report shall show the location and name of the storage facility, and the quantity of lemons transported to such storage. Whenever any such stored lemons are thereafter handled, LAC Form 8 for the week in which the handling occurred shall show each quantity and date of shipment from the storage facilities.

NOMINATION PROCEDURE

§ 910.121 Time of nomination.

The time of nominating members, alternate members, and additional alternate grower members of the committee, shall be not later than 30 days preceding the date of expiration of the terms of the current committee representatives.

§ 910.122 Manner of nomination.

The manner of nominating committee representatives shall be as follows:

(a) Any cooperative marketing organization which handled more than 60 percent of the total volume of lemons handled during the fiscal year during which the nominations for members are submitted shall by resolution, adopted by its board of directors, nominate representatives as provided in § 910.20.

(b) Each cooperative marketing organization which markets lemons and which is not qualified under § 910.22(b), shall nominate by resolution adopted by its board of directors, representatives as provided in § 910.20. The vote of each such organization shall be weighted as provided in § 910.22(e) by the quantity of lemons which it handled during the fiscal year in which nominations are made.

(c) Not less than four meetings shall be held at such times and places throughout the production area as may be designated by the agent of the Secretary, at which growers who are not members of, or affiliated with, the organizations included under paragraphs (a) and (b) of this section may vote. At each such meeting, the growers present shall nominate committee representatives as provided in § 910.20. All growers voting at any such meeting shall submit their names and addresses to the agent of the Secretary. Votes shall be cast in the manner prescribed under § 910.22(e). Votes for grower member at all nomination meeting places shall be totaled and the nominee receiving the highest number of votes shall have his name submitted as the nominee for grower member. Persons nominated for member and failing to receive a majority vote shall have their names listed with those nominated for alternate grower member and shall have the votes cast for them as member included with such votes, if any, they received for alternate grower member. The nominee receiving the highest total number of votes in this manner shall have his name submitted as the nominee for

alternate grower member. Persons nominated for grower member or alternate grower member who failed to receive a majority vote for either of such positions shall have their names listed with those nominated for additional alternate grower member and shall have the votes cast under member and alternate member included with such votes, if any, they received for additional alternate grower member. The nominee securing the highest total number of votes in this manner shall have his name submitted as nominee for additional alternate grower member. The handler member and alternate handler member nominees shall be selected in the same manner as the grower member and alternate grower member nominees. Grower or handler ballots cast listing the same nominee for more than one position on the respective ballot shall be declared void.

#### § 910.153 Prorate bases and allotments.

(a) *Application for a prorate base and allotment.* Any person who is handling or proposes to handle lemons as a first handler thereof, shall submit to the committee, at such time as the committee designates, an application on LAC Form 101 for a prorate base and allotment. Handlers of lemons produced in more than one district shall file a separate application covering the lemons produced in each district. Each application shall contain the following information:

(1) Name and address of applicant.  
(2) Net capacity in pounds of each box or other container used by the applicant for the picking of lemons.

(3) Net capacity in pounds of each box or other container used by the applicant for the assembling and storage of lemons.

(4) The estimated production of lemons for the current season which the applicant owns or controls, and the bearing and nonbearing acreage of such lemons, including the acreage and number of trees planted to lemons during the preceding fiscal year, and the acreage and number of trees taken out of production during such fiscal year.

(5) Location of each of the applicant's packing houses and other designated receiving points, to which lemons are to be delivered to the applicant for which points the applicant seeks approval.

(6) If a handler desires a prorate base period different than that generally prevailing in the district in which the lemons are produced as provided in § 910.53(g), he shall so specify and present information showing how his operations with respect to such lemons are substantially different than those generally prevailing in such district, including differences in (i) production, such as the time when lemons under his control are mature and ready to harvest; (ii) storage, such as the capacity and type of his storage facilities; and (iii) marketing practices, such as the interval of time between harvesting and marketing of lemons. Based upon such information and information otherwise available, the committee shall determine the extent to which the handler should be granted

a different prorate base period and notify the handler of its determination. Requests for such adjustment must be made at the time the handler submits his application for prorate base and allotment.

(b) *Computation of average weekly pick.*—(1) *Determination of cartons of lemons picked and delivered.* Each week the committee shall determine the number of cartons of lemons picked and delivered to each handler in each district during the preceding weekly prorate base period by application of the appropriate field box conversion factor to the number of field boxes of lemons picked and delivered to such handler as is reported pursuant to § 910.170(d). The appropriate field box conversion factor shall be computed for lemons produced in each district pursuant to § 910.153 (b) (2).

(2) *Field box conversion factor.*—(i) *Computation.* At least once every 8 weeks, the committee's designated employees shall take a detailed inventory by district of the lemons each handler has on hand in his packing house and at designated receiving points. The committee shall compute a field box conversion factor for each handler by district of production. This factor shall be applied each week to the handler's district picks and deliveries subsequent to this inventory and shall remain in effect until a revised factor is computed from the date of a subsequent inventory. An inventory period is comprised of the number of weeks between two successive detailed inventories. Field box conversion factors shall be computed by dividing the total number of field boxes of lemons picked and delivered to each handler during the interval between the current and immediately preceding inventory periods by the number of cartons, or their equivalent, utilized by the handler during this period as determined by adding to the current detailed inventory of lemons on hand, the total number of cartons of lemons shipped in fresh fruit channels, handled for conversion into byproducts and otherwise utilized (except decayed lemons dumped) during the same period, and subtracting therefrom the detailed inventory of cartons of lemons on hand at the beginning of such period.

(ii) *Initial conversion factors.* The Committee shall determine the initial conversion factor for all handlers at the beginning of the fiscal year. Such determination shall be based to the extent practicable upon a handler's average for the preceding 3 fiscal years. Such conversion factor shall be revised as provided in subdivision (i) of this subparagraph after the first detailed inventory by committee employees.

(3) *Storage box conversion factor.* In computing the quantity of lemons in terms of carloads that a handler has on hand, the standard storage box having a capacity of 50 pounds net weight of lemons shall be converted to cartons on the basis that one such box equals 1.316 cartons of lemons. If at any time the committee determines that such storage boxes or other containers do not sub-

stantially contain such net weight of lemons, appropriate adjustments may be made by the committee in such handler's storage box conversion factor to compensate for such difference.

(4) *Access to premises and records of handlers.* The committee, through its designated employees, shall have access at all reasonable hours to the premises and records of each handler whose application for a prorate base and allotment has been approved, for the purpose of determining the accuracy of the reports made to the committee. Such records include, but are not limited to, individual grower tickets covering the lemons delivered at the receiving door of the packing house or designated receiving points, the wash records, the lemons in storage, lemons handled for conversion into byproducts, lemons shipped under regulated movement and export, and lemons otherwise disposed of.

(c) *Average weekly pick computation.* Average weekly picks shall be computed pursuant to § 910.53 except that such average may be adjusted pursuant to § 910.153 (a) (6), (d), and (e).

(d) *Adjustment of prorate bases.* The prorate bases of handlers shall be adjusted to correct errors, omissions, or inaccuracies as provided in this part, during a period of 3 consecutive weeks, or during the remainder of the applicable season if of shorter duration than 3 weeks.

(e) *Adjustments of average weekly picks.*—(1) *Application for upward adjustment by Districts 1 and 3 handlers.* Any District 1 or 3 handler desiring an upward adjustment in his average weekly picks for a designated week, shall, pursuant to § 910.53(f)(1), request such increase from the committee by telephone or telegram, or by filing LAC Form 101-A. Such request must be submitted to the committee offices in accordance with § 910.106(b). A telephone or telegram request shall be confirmed by application filed in like manner postmarked not later than the day preceding the committee's scheduled weekly meeting. Each application and each confirmation shall indicate the name and address of the applicant, and the amount of upward adjustment requested for a designated week.

(2) *Application for new prorate base, for accelerated averaging of weekly picks, and for upward adjustments by District 2 handlers.* Any District 2 handler whose picks are interrupted for 8 successive weeks or more may request the committee to start a new prorate base period and, if desired, for accompanying accelerated averaging of weekly picks of the type described in § 910.53(d)(2), and for upward adjustments of average weekly picks of the type described in § 910.53(f). The application for a new prorate base and the initial application for accelerated averaging and for upward adjustments of weekly picks shall be on LAC Form 101-A filed with the committee in accordance with § 910.106. Form LAC 101-A shall include the following information: (i) the length of the period of time the handler has not

been picking; (ii) the handler's 16 average weekly picks (or such other prorated base period as the handler may have been granted) at the time of consideration of his application; (iii) the handler's actual storage; (iv) whether picks are increasing or decreasing in the handler's own and in other districts; (v) the manner in which his operation differs from other handlers in his district, and (vi) in the case of applications for upward adjustment, the amount of upward adjustment requested for each designated week. Upon being granted upward adjustments hereunder, District 2 handlers may file other such applications during the same fiscal year in the same manner as filed by Districts 1 and 3 handlers without supporting information.

(3) *Granting of upward adjustments for Districts 1 and 3 applicants.* Upon receiving a duly filed application for an upward adjustment by a District 1 or 3 handler pursuant to § 910.53(f)(1), the committee shall adjust the average weekly pick of such handler by increasing such picks in the amount requested, but not in excess of 50 percent of his average weekly pick. Such adjustment may be granted for any one or more weeks (not exceeding eight) during the period beginning with the first week of the initial prorated base period of a season for which the handler's average weekly pick is computed and ending not later than the middle week of such handler's picking season. The Committee shall determine such middle week to the extent practicable on the basis of the historical 3-fiscal-year performance of such handler, or a lesser time as being representative of his anticipated picking pattern for the current fiscal year; subject to Committee's re-evaluation based on pick performance.

(4) *Granting of application for a new prorated base, for accelerated averaging and for upward adjustment of weekly picks, to District 2 handlers.* The committee shall review the applications of District 2 handlers filed pursuant to § 910.153(e)(2) and take such action thereon as it deems necessary or appropriate in order to avoid or mitigate undue hardship to such handlers and to preserve equity among all handlers. In making its determination, the committee shall consider information presented in the handler's application, as well as other available information. The committee may grant upward adjustments to District 2 handlers for a period not to exceed 8 consecutive weeks, beginning with the first week of the new prorated base period. In computing the average weekly pick of a District 2 handler who has been granted a new prorated base period, the committee shall include lemons picked and delivered after approval of the handler's application, but not lemons picked and delivered prior thereto.

(5) *Repayment of upward adjustments.* All repayment of upward adjustments will be made in successive weeks by subtracting from the handler's average weekly pick, the same quantity in the same order as upward adjustments were granted, except weeks wherein no upward adjustment was granted shall be

excluded. Such adjustment shall be repaid starting the week following the designated midweek of each Districts 1 and 3 handler and the week following the last week that a District 2 handler is permitted to request any upward adjustment. The committee may require repayment at an accelerated rate when it is deemed necessary to assure repayment is made in full; provided written notice shall be mailed to the handler of the intent to accelerate repayment, and the rate thereof, at least 5 days prior to the effective date thereof, and upon the request of the handler, the effective date shall be deferred until after the next scheduled meeting of the committee and the handler shall be given an opportunity at such meeting to present any information he deems pertinent bearing upon his ability to repay such upward adjustments in the manner proposed. Such accelerated rate of repayment shall be applied, to the extent practicable, uniformly during the anticipated weeks remaining when allotment will be issued on the handler's prorated base. If during any week of the repayment period, the handler's average weekly pick is not sufficient to permit repayment in full, the obligation to repay the balance owed such week shall be carried forward to the next following prorated base periods until all upward adjustments are repaid in full. Any handler who desires to repay an upward adjustment more rapidly than provided above shall notify the committee in accordance with § 910.106(b) and, in weeks designated, the committee shall deduct the additional quantities requested by the handler.

(f) *Shipping at the start of a prorated base period.* After submission of an application for prorated base and allotment for the current year and prior to issuance of allotments for lemons picked, for a single 2-week period only, all Districts 1 and 3 handlers and those District 2 handlers who have been authorized to begin a new prorated base period pursuant to § 910.53(f)(2), may handle lemons in anticipation of allotments to be issued to them. Such 2-week period shall commence with the first week in which picks are delivered in a new fiscal year for Districts 1 and 3 handlers and District 2 handlers with the first week in which picks are delivered in a new prorated base period. All of the first allotments issued to such handlers thereafter (or so much as is needed to cover the shipments) shall be applied to such shipments until all shipments have been entirely covered by allotment.

#### § 910.154 Forfeiture credit.

(a) The forfeiture of any handler's undershipped allotment, other than off-bloom allotment, shall be applied to reduce overshipments of handlers as provided in § 910.57, unless the forfeiting handler makes a bona fide and timely offer to the committee to lend his undershipments. An offer shall be considered bona fide and timely if such offer (1) was received in the offices of the committee by 12 o'clock noon Wednesday and (2) included at least two payback dates.

(b) If the forfeited allotment in a district exceeds that required to offset overshipments in such district, and the overshipments exceed forfeitures in other districts, the surplus forfeiture credit shall be allocated as provided in § 910.57 to handlers in deficient districts in proportion to their permissible overshipments.

#### ALLOTMENT LOANS

##### § 910.159 Allotment loans.

(a) *Loans arranged by handlers.* Handlers may, on an individual basis, negotiate intradistrict loans and shall confirm such loans pursuant to this subpart. Loans arranged by handlers shall be subject to the following:

(1) *Payback date.* Each allotment loan agreement entered into by a handler must provide for a payback date agreeable to both lender and borrower.

(2) *Ability to repay.* Before approving allotment loans, the committee shall determine that the borrowing handler has, with a reasonable degree of certainty, the ability to make repayment within 1 year from the date of the loan.

(3) *Confirmation.* Handlers who make loans pursuant to § 910.59(a) shall report such transactions to the committee within 48 hours and the committee shall mail written confirmation to the parties within 48 hours after receipt of such notification: *Provided*, That parties to loans made on Saturday shall notify the committee not later than 10 a.m. the following Monday. Loans not in accordance with § 910.59(a) and this subparagraph shall not be valid and the committee shall so notify the parties within 48 hours after receipt of information concerning such transaction.

(b) *Loans arranged by the committee.* Handlers desiring to borrow or loan allotment may request the committee to arrange intradistrict loans on their behalf; and the committee shall arrange such loans subject to the provisions hereinafter set forth. All interdistrict loans shall be arranged through the committee subject to the provisions of this section. The committee shall consider offers to loan and requests to borrow allotment filed not later than 12 o'clock noon Wednesday separately from offers and requests received thereafter during the same prorated week. All such loan arrangements are subject to the following provisions:

(1) *General Provisions—(i) Filing and confirmation.* Offers to loan and requests for allotment may be made in person or by telephone. Immediately after completing arrangements for a loan, the committee shall confirm the terms thereof, by mailing LAC Form 10, Confirmation of Loan of Allotment, to the handlers involved.

(ii) *Modification.* Loan offers and requests submitted to the committee may be modified or withdrawn any time prior to 12 o'clock noon Wednesday, after which time the committee shall arrange allotment loans on the basis of offers and requests received by such time including modifications thereof. Loan offers and requests not fully utilized in such loan

allotment arrangements may be modified or withdrawn. Offers to loan and requests to borrow allotment received subsequent to 12 o'clock noon Wednesday may be modified or withdrawn at any time during such prorate week provided that arrangements with respect to such offered allotment have not been completed by the committee.

(iii) *Cancellation.* Loan offers and requests submitted subsequent to 12 o'clock noon Wednesday, remain in effect until midnight Saturday unless withdrawn before such time.

(iv) *Payback dates.* Each handler offering allotment for loan shall specify at least two payback dates for such allotment, or any part thereof. To receive the loan of such allotment, or portion thereof offered, the payback date specified by the requesting handler must be the same as one of the repayment dates specified by the offering handler. For loan arrangements made pursuant to subparagraph (2)(v) of this paragraph, payback dates may be negotiated by the handlers.

(v) *Ability to repay.* Before arranging or approving allotment loans, the committee shall determine that the borrowing handler has, with a reasonable degree of certainty, the ability to make repayment within 1 year from the date of the loan.

(2) *Method of arranging loans—(1) District application.* Offers to loan allotment shall be applied first to the arrangement of loans to handlers within the same district. Any surplus of allotment from such district shall then be apportioned in like manner to requests for allotment by handlers in other districts.

(ii) *Arrangement when requests exceed quantity offered.* If the requests for allotment in a district exceed the quantity offered by the handlers in that district, the quantity offered shall be apportioned to each borrowing handler so that the amount each receives bears the same ratio to the total amount received by all borrowing handlers as his average weekly pick bears to the total of average weekly picks of all borrowing handlers, but not to exceed the amount originally requested.

(iii) *Arrangement when quantity offered exceeds requests.* If the quantity offered in any district exceeds the quantity requested in that district, the same proportion of each offering handler's allotment shall be loaned.

(iv) *Loan arrangements for requests filed before 12 o'clock noon.* Immediately after 12 o'clock noon deadline on Wednesday, the committee will, to the extent practicable, arrange loans on the basis of requests and offers received prior to this time using the methods prescribed in this section.

(v) *Loan arrangements for requests filed after 12 o'clock noon.* Offers to loan allotment received by the committee subsequent to 12 o'clock noon Wednesday, shall be applied pursuant to this section first to arrangement of loans to handlers within the same district whose requests were received prior to such time but have

not been filed. Any remaining allotment shall be applied to the arrangement of loans to handlers filing requests subsequent to 12 o'clock noon Wednesday. Such requests shall be filled pursuant to the provisions of this section, to the extent practicable, in the order received. When repayment dates of borrowing and loaning handlers do not coincide, the committee may advise the requesting handler of the handlers in his district having allotment to loan, permitting them to work out and modify payback dates to accomplish loans.

#### § 910.161a Off-bloom allotment.

(a) *Application for certification.* Applications are to be filed at such time as designated by the committee, but not later than 30 days prior to the anticipated picking of off-bloom lemons in Districts 1 and 3. Any handler controlling off-bloom lemons who desires to handle such lemons prior to the picking of his normal crop lemons, shall file an application for certification with the committee on LAC Form 103, pursuant to § 910.106. Such application shall show the name and address of the applicant, the specific location of the off-bloom lemon groves, the estimated quantity of off-bloom fruit available, and the estimated time of picking such fruit. On the basis of all the information available including factors prescribed in § 910.51(b), the committee shall certify the quantity of each handler's off-bloom lemons and determine the extent to which off-bloom allotment shall be granted.

(b) *Application for weekly allotment.* Any handler who desires to receive allotment for a specific week to handle lemons certified under the preceding paragraph shall request such allotments in person, by telephone, telegram, or by filing properly completed LAC Form 161 in accordance with § 910.106. All requests not made by properly completed LAC Form 161 shall be confirmed by filing such form as provided in § 910.106. Each application shall contain the name and address of the applicant, the number of cartons of off-bloom allotment desired to be shipped during a specific week and such other information as the committee may request.

(c) *Issuance of weekly allotment.* The committee shall allocate allotment each week in such proportion as the quantity of off-bloom lemons a handler has certified bears to the total quantity of all off-bloom lemons certified for all handlers, but not in excess of the amount a handler requests, and any allotment then remaining shall be granted in successive increments, as necessary, to handlers filing requests, in the same proportion as aforesaid, but not in excess of the amount requested: *Provided,* That the quantity of off-bloom allotments issued a handler shall not exceed the total quantity of off-bloom lemons he has certified.

(d) *Use of allotment.* Off-bloom allotments issued to any qualifying handler may be used pursuant to this section only during the week for which issued. The provisions of §§ 910.57 and 910.58 re-

lating to over and under shipment are not applicable to off-bloom allotment.

(e) *Off-bloom allotment loans.* A handler to whom off-bloom allotment has been issued may lend such allotment to other handlers of lemons produced in the same district to whom off-bloom allotment has also been issued. Such loans must be arranged by the parties in accordance with the procedure set forth in § 910.159(a), and the committee shall not arrange loans for such handlers as provided in § 910.159(b). Such loan agreements shall include a date for repayment of the allotments during the time the lender has off-bloom lemons available for shipment and during such time as the borrower may be reasonably expected to draw sufficient allotment to accomplish payback. If on the date of repayment specified in the loan agreement, the borrower has insufficient off-bloom allotment to repay a loan, such loan will continue to be paid off during successive weeks while the borrower is being issued off-bloom allotment. Off-bloom allotments shall be repaid only from such allotments received during the current fiscal year.

#### SIZE REGULATION

#### § 910.165 Exemption from size regulation.

(a) *Application.* Each grower who desires to be exempted, pursuant to § 910.67, from the provisions of any size regulation established by the Secretary, may file with the committee an application for one or more exemption certificates on LAC Form 200. Such application must, unless otherwise provided pursuant to paragraph (b) of this section, be furnished to the committee not later than the Monday of the week preceding the week during which the grower desires the committee to take action thereon, and shall contain the following information: (1) Name and address of the applicant; (2) location of the lemons which the grower wishes covered by the exemption certificates; (3) the estimated sizes of the lemons contained in the applicant's groves and percentages of the respective sizes; (4) the size tests or other facts upon which such estimates are based showing, with respect to the size tests, the number of lemons per tree tested and the total number of lemons tested per acre; (5) the quantity of lemons (in terms of cartons) which the applicant estimates will be needed to be exempted from size regulation to permit the applicant to handle, or have handled, a percentage of his lemons equal to the average percentage that may be handled on behalf of all growers in the same district, as provided in § 910.67; and (6) the name of each packinghouse through which the applicant's lemons are to be handled.

(b) *Final dates for filing application.* The committee may provide final dates for the filing of applications for exemptions from size regulations in each district.

(c) *Investigation by the field department.* The committee shall refer such application to its field department for

investigation. The field department shall make such checks as it determines are necessary to establish the accuracy of the information submitted in the application and the need of the applicant for an exemption certificate. The report of the field department shall be submitted to the committee for its consideration in connection with the issuance of an exemption certificate. If the committee determines that the information furnished by the applicant is inadequate, it may require the applicant to submit additional information, including additional size tests.

(d) *Determination by the committee.* Based upon all available information, the committee may authorize the committee manager to issue exemption certificates on LAC Form 201 to the applicant which will permit the applicant to have as large a proportion of his lemons handled as the average proportion of lemons that will be handled on behalf of all growers in the same district. The initial exemption certificate issued pursuant to this section to any applicant may provide for exemption of not more than 75 percent of the applicant's estimated needs, and subsequent exemption certificates shall thereafter be issued to the extent required by the provisions of § 910.67.

(e) *Exemption certificate.* Upon authorization of the committee, the manager shall issue to growers who have applied therefor, exemption certificates which shall contain the following information: (1) Name and address of grower-applicant to whom issued; (2) location of grove or groves; (3) the respective quantities of lemons of each size permitted to be handled without regard to the existing size regulation; and (4) the period covered by the exemption certificate. The exemption certificate shall be issued in quadruplicate, one copy to be retained by the committee, and three copies to be issued to the grower. The grower shall endorse and deliver two copies to the handler who is to handle such lemons. Immediately upon shipping such lemons the handler shall sign and mail, or otherwise deliver, to the committee one copy of such certificate. An exemption certificate may be used only for the handling of lemons covered by the certificate. As required by § 910.67, all handling of such lemons shall be subject to, and limited by, allotment when volume regulation is in effect.

#### REPORTS

##### § 910.170 Reports.

(a) Handlers shall submit to the committee all required reports, including those prescribed in this section. Copies of report forms may be obtained from the committee. Unless otherwise specified in the particular report form, information with respect to volume of lemons shall be reported in terms of packed cartons. For fresh shipments of lemons other than in cartons, the volume of such lemons shall be converted into cartons on the basis of 38 pounds net weight per carton.

(b) *Lemon Diversion Report (LAC Form 5).* Each Lemon Diversion Report submitted shall set forth the name and address of the approved byproducts manufacturer, charitable institution, relief agency, or other diversion outlet to which the lemons were shipped; the number of loose boxes of such lemons; total net weight of such lemons; and certification by the handler and the receiver of such lemons as to the accuracy of the information contained in the report. This report shall be submitted to the committee not later than Saturday of the then current week.

(c) *Daily Manifest Report and Certificate of Assignment of Allotment (LAC Form 203.6).* Within 24 hours after shipment of lemons is made to points within the continental United States or to Alaska or Canada, the handler thereof shall report such shipment to the committee on LAC Form 203-6 properly completed and signed by the handler or his authorized agent. Form LAC 203-6 shall include the following information with respect to each shipment:

- (1) The total quantity of lemons and size distribution thereof.
- (2) The date and time of pickup or shipment.
- (3) The handler's invoice number.
- (4) The destination.
- (5) The truck license, or railroad car number.

In addition, for truck shipments, the name of the driver and the driver's signature, and the name and address of consignee shall be given.

(d) *Weekly Report (LAC Form 8).* (1) All handlers shall, on LAC Form 8, provide the committee with the following information concerning receipt and disposition of all lemons handled each week. Such report shall be mailed to the committee not later than Monday of the week following:

- (i) The total shipments of fresh lemons subject to allotment; volume exported other than to Canada; volume handled for conversion into byproducts; volume shipped for distribution by relief agencies or for consumption by charitable institutions; and volume disposed of otherwise.
- (ii) The total field boxes of lemons received.

(iii) The location of any lemons stored in loose or packed form within the production area other than the handler's own premises. The name of the storage facility where stored, the respective quantity of lemons transported to such facilities and so stored, and the date and quantity of each shipment of lemons from such storage.

(2) Information required to complete LAC Form 8 shall be compiled by handlers not later than noon Monday, and upon telephone request, handlers shall orally provide the committee with such information.

#### LEMONS NOT SUBJECT TO REGULATION

##### § 910.180 Lemons not subject to regulation.

(a) *Byproduct lemons.* No handler shall be granted exemption from regula-

tions to handle lemons for conversion into byproducts unless such lemons are shipped to an approved byproducts manufacturer. All shipments to an approved byproducts manufacturer shall be reported to the committee on LAC Form 5 pursuant to § 910.170(b).

(b) *Approved byproducts manufacturer.* Any person who desires to buy, as an approved byproducts manufacturer, lemons for conversion into byproducts shall, prior thereto, file with the committee a signed application therefor on LAC Form 104, which shall contain the following information: (1) Name and address of the applicant; (2) a statement that the lemons obtained for conversion into byproducts will be used for that purpose only and will not be resold, disposed of, or in any other way handled in fresh fruit channels; and (3) an agreement to submit such reports as may be required by the committee. The application shall contain a statement that failure to submit the reports required under subparagraph (3) of this paragraph, will be cause for the removal of such person's name from the list of approved byproducts manufacturers. The application shall be signed by the applicant or his authorized agent. Upon filing of the application it will be referred to the committee's Compliance Department for investigation. When completed, the report of the investigation shall be given to the committee; and, based thereon and upon other available information, the committee shall approve or disapprove the application and notify the applicant accordingly. If the application is approved, the name of the applicant shall be placed on the list of approved byproduct manufacturers.

(c) *Lemons for export—(1) To Mexico.* With respect to all shipments of lemons to Mexico, the handler shall obtain from the purchaser, at the time of delivery of such lemons, a certification on LAC Form 11, to the U.S. Department of Agriculture and the Lemon Administrative Committee that such lemons are to be exported directly to Mexico and will not reenter the United States or be reshipped to Canada. Such certificate (LAC Form 11) shall state the date of shipment, the quantity of lemons included in such shipment, the truck license number or other identification of the carrier of such lemons, and the signature of the purchaser or his authorized agent and the address thereof. The certificate shall be filed with the handler's weekly report.

(2) *Armed Forces for export.* With respect to all sales of lemons to the Armed Forces for export, the handler shall complete LAC Form 12, "Certificate of Sale of Lemons for Export to the Armed Forces", showing date of shipment, the quantity of lemons included in such shipment, their destination or port of departure, and the purchase order number. Such certificate shall be signed by the handler or his authorized agent and shall be submitted to the committee with the handler's weekly report. Handlers who maintain documents in the regular course of their business containing all of the information required for completion of LAC Form 12, which

bear the signature of the handler or his authorized agent, subject to committee approval, may in lieu thereof, submit to the committee a copy of these documents in the same manner as LAC Form 12.

(3) *Other shipments in export.* To be entitled to an exemption for export, except on shipments of lemons to Mexico, or the Armed Forces, the handler must stencil or otherwise mark the container for export purposes at his packinghouse, and thereafter forward the lemons directly to the point of export embarkation. Such handler shall submit to the committee, attached to LAC Form 8, documentary proof acceptable to the committee showing that the lemons were actually exported.

(d) *Minimum quantities and types of shipments.* (1) Any grower who is unable to market lemons produced by him because of the quantity involved or the location of his grove, or because he is unable to find a handler who is willing to market his lemons may file with the committee an application for exemption from regulation. Such application shall contain the following information: (i) Name and address of the applicant; (ii) location of grove or lemon trees; (iii) the number of lemon trees producing the lemons for which an exemption is requested; (iv) the name and address of the packinghouse nearest to such grove or trees; (v) a statement of the efforts the applicant has made to find a handler willing to accept his lemons; (vi) the outlet or outlets in which he intends to market his lemons if an exemption from regulation is granted and (vii) the estimated quantity of lemons that will be marketed during the season if exemption is granted. Such application shall be referred by the committee to its Compliance Department for investigation, and upon receipt of the report of investigation, the committee shall determine if an exemption should be granted. The committee shall notify the applicant in writing of its determination.

(2) Any person who markets or distributes lemons in containers different than those used in regular commercial practice, such as in gift packages, or in types of shipments not customarily made by lemon handlers, may file an application with the committee for exemption from regulation for such shipments. Such application shall contain the following information: (i) Name and address of the applicant; (ii) the type of shipment or container for which an exemption is requested; (iii) the estimated volume of lemons to be handled in such type of shipments during a marketing season; (iv) the outlets to which such shipments are to be made; and (v) a statement of applicant's reasons why such shipments should be exempted from regulation. Such application shall be referred to the committee's Compliance Department for investigation and upon receipt of the investigation report, the committee shall determine if an exemption should be granted to the applicant. The committee shall notify the applicant in writing of its determination.

Dated August 27, 1971, to become effective upon publication in the FEDERAL REGISTER (9-1-71).

PAUL A. NICHOLSON,  
Director, Fruit and Vegetable  
Division, Consumer and Mar-  
keting Service.

[FR Doc. 71-12797 Filed 8-31-71; 8:54 am]

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

[Docket No. AO-160-A46; Milk Order 4]

#### PART 1004—MILK IN THE MIDDLE ATLANTIC 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 the 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 upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), 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 Middle Atlantic marketing area.

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) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than September 1, 1971. Any delay

beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of this order are known to handlers. A public hearing was held July 26, 1971, to consider a proposed amendment to the order pursuant to a notice issued by the Deputy Administrator, Regulatory Programs, on July 15, 1971. One of the issues considered at the hearing was a proposal to take evidence on the matter of emergency marketing conditions that might warrant omission of the recommended decision. At the close of the hearing, the Presiding Officer set August 6 as the closing date for the filing by interested parties of briefs and proposed findings and conclusions. No opposition to this emergency procedure was expressed by interested parties, either at the hearing or in post-hearing briefs which were filed. The decision of the Assistant Secretary containing all amendment provisions of this order was issued August 17, 1971.

The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective September 1, 1971, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER. (Sec. 553(d), Administrative Procedure Act, 5 U.S.C. 551-559)

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

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c (9) of the Act) of 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 Middle Atlantic 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:

##### § 1004.15 [Amended]

In § 1004.15 *Producer*, the specified diversion limits "15", where they appear in paragraphs (c) (2) (i) and (ii), respectively, are revised to read "25". As revised, the applicable text of paragraphs

(c) (2) (i) and (ii) read in part " \* \* \* milk so diverted does not exceed 25 percent \* \* \* "

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

Effective date: September 1, 1971.

Signed at Washington, D.C., on August 27, 1971.

RICHARD E. LYNG,  
Assistant Secretary.

[FR Doc. 71-12828 Filed 8-31-71; 8:55 am]

[Milk Order 50]

## PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

### Order Suspending Certain Provisions

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Central Illinois marketing area.

Notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 15449) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the month of August 1971, the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1050.14, paragraphs (c) (2) and (3).

#### STATEMENT OF CONSIDERATION

This suspension order will make inoperative for the month of August 1971, the provisions that limit, during each of the months of August through April, the proportion of each producer's monthly milk production that may be diverted as producer milk from a pool plant to a nonpool plant.

Associated Milk Producers, Inc., representing a majority of the producers who deliver milk to the Central Illinois market, requested the suspension. A large distributing plant regulated under the order discontinued receiving milk from producer members of the cooperative at the end of July 1971. The distributing plant located in Pekin, Ill., obtains its entire milk supply from sources not previously associated with the market. The suspension of these provisions for August 1971 will afford the cooperative an opportunity to make another marketing arrangements with respect to the milk of its member producers who furnished milk to the Pekin plant for many years. This suspension will enable these producers to maintain producer status and receive the uniform price under the Central Illinois order during August 1971.

The notice of proposed suspension, referred to above, contained a proposal to suspend certain language in § 1050.14

that provides for pricing diverted milk at the location of the plant from which diverted in the case of milk diverted to nonpool plants located between 50 and 110 miles of Peoria, Ill. Two cooperative associations expressed opposition to suspension of such provision. Emergency suspension action with respect to such provision is not necessary to accommodate producer status during August for those producers who had been delivering milk to the Pekin plant. Proponents' views did not relate any other emergency marketing problem. Accordingly the suspension of such provision is not warranted on the basis of this proceeding.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that the most efficient method of handling the market's reserve milk supplies is movement directly from producers' farms to milk manufacturing plants. This suspension would allow such handling during August 1971, and would enable the dairy farmers involved to retain producer status.

(b) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rule making was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective with respect to producer milk deliveries during August 1971.

*It is therefore ordered*, That the aforesaid provisions of the order are hereby suspended for August 1971.

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

Effective date: Upon publication in the FEDERAL REGISTER (9-1-71).

Signed at Washington, D.C., on August 27, 1971.

RICHARD E. LYNG,  
Assistant Secretary.

[FR Doc. 71-12829 Filed 8-31-71; 8:55 am]

[Milk Order 100]

## PART 1106—MILK IN THE OKLAHOMA METROPOLITAN MARKETING AREA

### Redesignation of Effective Date of Suspension of Certain Provisions

This order redesignates the effective date of the suspension of provisions specified herein of the order regulating the handling of milk in the Oklahoma Metropolitan marketing area. An order issued May 28, 1971 (36 F.R. 10775) pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), sus-

pending the specified provisions effective June 15, 1971, such effective date subsequently being redesignated as September 1, 1971, by an order issued June 11, 1971 (36 F.R. 11511).

The effective date of suspension is hereby changed to November 1, 1971, with respect to the following provisions of the Oklahoma Metropolitan order:

1. In § 1106.9, paragraph (c).
2. In § 1106.11, the portion of paragraph (c) which reads: "which owns or operates a plant described in § 1106.9 (c)."

*Statement of consideration.* This order defers until November 1, 1971, the effective date of the suspension of the provisions of the Oklahoma Metropolitan milk order under which a cooperative association may designate pool status for a plant operated by the cooperative association.

Delay of the effective date will allow a plant currently pooled under this provision to continue to provide a marketing service by supplying milk to fluid milk processing plants which do not have adequate facilities for receiving their entire supply directly from farms. Modification of the order provisions affected by this suspension is an issue on the record of a public hearing commenced August 24, 1971.

*It is therefore ordered*, That the effective date of the suspension with respect to the above designated order provisions is November 1, 1971.

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

Signed at Washington, D.C., on August 27, 1971.

RICHARD E. LYNG,  
Assistant Secretary.

[FR Doc. 71-12830 Filed 8-31-71; 8:55 am]

## Title 13—BUSINESS CREDIT AND ASSISTANCE

### Chapter I—Small Business Administration

[Rev. 10, Amdt. 6]

## PART 121—SMALL BUSINESS SIZE STANDARDS

### Definition of Small Business for the Purpose of Government Procurement for Products Classified in SIC Industry 2011, Meatpacking Plants

On page 11525 of the FEDERAL REGISTER of June 15, 1971, there was published a notice that the Administrator of the Small Business Administration proposed to reduce the definition of a small business for the purpose of Government procurements for products classified in SIC Industry 2011, Meatpacking Plants, from 750 employees to 500 employees. Interested persons were given 30 days to submit written statements of facts, opinions or arguments concerning the proposal. No adverse comments were received and, after consideration of all



relevant matter, it has been determined to reduce the size standard as proposed. Accordingly the amendment set forth below is hereby adopted:

Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is hereby amended by deleting from Schedule B of § 121.3-8, the 750 employee size standard for the meatpacking industry (Census Classification Code 2011).

**Effective date.** This amendment shall become effective 30 days after publication in the FEDERAL REGISTER, but shall apply only to procurements issued on or after that date.

Dated: August 24, 1971.

THOMAS S. KLEPPE,  
Administrator.

[FR Doc.71-12749 Filed 8-31-71;8:46 am]

## Title 14—AERONAUTICS AND SPACE

### Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 71-SW-4, Amdt. 39-1280]

#### PART 39—AIRWORTHINESS DIRECTIVES

##### Bell Model 206A Helicopters

Amendment 39-1182 (36 F.R. 6740), AD 71-7-3, requires a repetitive inspection for cracks and repair of the blade surface of all main rotor blades, P/N 206-010-200-29 installed on Bell Model 206A helicopters. After issuing Amendment 39-1182, the manufacturer and three other persons requested a change in the AD to allow the pilot to conduct the repetitive inspection and apply wax to protect the blade surfaces from corrosion. Only one additional report of a cracked blade has been received since the AD was issued. The agency has determined that the request is reasonable and within the capability of the helicopter pilot. Therefore, the AD is being superseded by a new AD that requires a 100-hour periodic inspection and surface protection to be performed by a rated mechanic and a 25-hour periodic visual check and blade surface waxing that may be performed by the pilot.

Since this amendment provides an alternate means of compliance which relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

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

**BELL.** Applies to Bell Model 206A helicopters certificated in all categories, equipped with main rotor blades, P/N 206-010-200-29.

Compliance required as indicated. To detect and prevent possible corrosion and fatigue cracks in the main rotor blade spar lower surface adjacent to the tip inertia weight attachment screws, accomplish following:

(a) Inspect those main rotor blades having 600 or more hours total time in service on May 5, 1971 within 25 hours time in service therefrom, unless already accomplished in accordance with paragraph (c).

(b) Inspect those main rotor blades having less than 600 hours time in service on May 5, 1971 before reaching 625 hours total time in service in accordance with paragraph (c).

(c) Visually inspect the lower surface of the blade from blade station 170 to 180 in the area of the screw heads for paint blisters, raised areas, paint cracks and for exposed metal and accomplish repetitive inspections at intervals of not more than 100 hours time in service from the last inspection.

(1) If paint blisters, raised areas or paint cracks are found, remove the finish in accordance with the instructions of Item 3.c of Bell Helicopter Co. Service Bulletin No. 206A-19, Revision A, dated March 12, 1971 or later FAA approved revision, and inspect for corrosion and cracks in the spar adjacent to the screw heads using a dye penetrant or equivalent inspection method.

(i) If cracks are found, remove and replace the blade before further flight.

(ii) If corrosion is found, follow repair and limitation instructions on page 2-18A, paragraph 2-16, subparagraph e(3) in the Model 206A Maintenance and Overhaul Manual as revised October 15, 1970 or FAA approved equivalent.

(iii) If no corrosion or cracks are found, treat and refinish the exposed or unpainted area in accordance with Item 4.b(1) of Bell Helicopter Co. Service Bulletin No. 206A-19, Revision A, dated March 12, 1971, or later FAA approved revision.

(2) If no paint blisters, raised areas or paint cracks are found but exposed metal is found, treat exposed area in accordance with paragraph 4.b(2) of Bell Helicopter Co. Service Bulletin No. 206A-19, Revision A, dated March 12, 1971, or later FAA approved revision.

(d) Visually inspect the lower surface of the blade from blade station 170 to 180 in the area of the screw heads for paint blisters, raised areas, paint cracks and for exposed metal and accomplish repetitive inspections at intervals of not more than 25 hours' time in service from the last inspection.

(1) If paint blisters, raised areas or paint cracks are found, the inspections and surface treatment of subparagraph (c)(1) are required.

(2) If only exposed metal is found, clean, rinse and dry the surface and apply non-silicized wax to the exposed metal.

(3) The inspections and waxing specified in paragraph (d) may be performed by the pilot.

**NOTE:** For the requirements regarding listing of compliance and method of compliance with this AD in the aircraft maintenance record, see FAR 91.173.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Service Manager, Bell Helicopter Co., Post Office Box 482, Fort Worth, TX 76101. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue

Mound Road, Fort Worth, TX, and at FAA Headquarters, 800 Independence Avenue SW., Washington, DC. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Tex.

This supersedes Amendment 39-1182 (36 F.R. 6740), AD 71-7-3.

This amendment becomes effective September 3, 1971.

(Sec. 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 Fort Worth, Tex., on August 23, 1971.

HENRY L. NEWMAN,  
Director, Southwest Region.

**NOTE:** The incorporation by reference provisions in this document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.71-12754 Filed 8-31-71;8:46 am]

[Airworthiness Docket No. 71-SW-34; Amdt. 39-1278]

#### PART 39—AIRWORTHINESS DIRECTIVES

##### Piper PA-23 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of the left rear nose gear door hinge with a redesigned part on Piper PA-23 series airplanes modified in accordance with STC SA598SW was published in 36 F.R. 12910.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

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

**PIPER AIRCRAFT CORPORATION.** Applies to Piper PA-23 series airplanes, modified by installing nose wheel well doors in accordance with Supplemental Type Certificate SA598SW, certificated in all categories.

Compliance required within the next 50 hours' time in service after the effective date of this date of this airworthiness directive, unless already accomplished.

To prevent interference between the left rear nose wheel door hinge and Piper P/N 17238-00 or -04 tube assembly, accomplish the following:

Replace existing left rear nose wheel well door hinge and hinge bracket parts with redesigned parts in accordance with J. W. Miller Aviation, Inc., Engineering Order B1 to Drawing 201, dated June 4, 1969, or with equivalent parts and methods approved by the Chief, Engineering and Manufacturing Branch, Southwest Region, Federal Aviation Administration, Fort Worth, Tex.

**NOTE:** Copies of J. W. Miller Aviation, Inc., Engineering Order B1 to Drawing 201 may be obtained from the company at Post Office Box 16203, San Antonio, TX 78216.

This amendment becomes effective September 2, 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 Fort Worth, Texas on August 20, 1971.

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

[FR Doc. 71-12756 Filed 8-31-71; 8:47 am]

[Docket No. 71-EA-123; Amdt. 39-1279]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Pratt & Whitney Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to revise AD 71-7-1 applicable to Pratt & Whitney JT8D type aircraft engines.

Subsequent to the publication of AD 71-7-1 continuing investigations by Pratt & Whitney determined that the deficiency resulting in cracks in the front compressor front hub resulted from rework procedures used to repair the bolt holes and broach scoring in the blade slots. Another cause was the omission of the shotpeening process of the hub rim area for certain groups of hubs. As a result it appears that AD 71-7-1 may be amended to restrict its applicability to certain suspected hubs but also to require that such hubs be repetitively inspected until removed or retired from service.

In view of the seriousness of the deficiency which can exist in hubs of the same type design, expeditious adoption of this amendment is required. Therefore notice and public procedure hereon are impractical and the amendment may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by revising AD 71-7-1 as follows:

- (1) Delete the applicability statement and substantive material.
- (2) Insert in lieu thereof the following revision.

Applies to Pratt & Whitney Aircraft JT8D-1, -1A, -7, and -7A turbofan engines using Front Compressor Front Hub Part Nos. 504101 and 515201. Pratt & Whitney Aircraft Alert Service Bulletin No. 2944, Revision No. 5, lists the engine and hub serial numbers affected by this airworthiness directive. The manufacturers' serial numbers described in the applicability statement are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received the referenced Alert Service Bulletin from the manufacturer may obtain copies upon request to Pratt & Whitney, Main Street, East Hartford, Conn. These documents may also be examined at Eastern Region headquarters, JFK International Airport, Jamaica, N.Y. A historical file on this AD which includes the incorporated material in full, is maintained by the FAA at its headquarters in Washington, D.C. and at the Eastern Region headquarters, Jamaica, N.Y.

Compliance required as indicated on all front compressor front hubs that have accumulated 6000 cycles or more in service.

1. To preclude failure of the front compressor front hub as a result of (a) possible surface defects in the blade slots, or (b) possible loss of effectiveness of shotpeening in the blade slots accomplish the following on hubs listed in tables I and II of the above service bulletin.

a. Visually inspect, within the next 150 cycles in service and every 150 cycles in service thereafter until the hub is removed, the rear face and overhung shelf of the hub rim for cracks emanating out of the base of the acute corner of the dovetail slots, or

b. Inspect with an eddy current probe, within the next 150 cycles in service, unless already accomplished and every 400 cycles in service thereafter until the hub is removed, the rear overhung shelf of the hub rim for cracks emanating out of the base of the acute corner of the dovetail slots, or

c. Within the next 150 cycles in service, unless already accomplished and every 1,500 cycles in service thereafter, remove all first stage compressor blades and inspect the blade slots of the hub with an eddy current probe for cracks emanating out of the base of the acute corner of the dovetail slots.

d. If any crack is found during any of the foregoing inspections replace hub before further flight.

e. It is permissible to use any of the three inspection procedures at the end of the preceding inspection period.

2. To preclude failure of the front compressor front hub from lack of shotpeening accomplish the following on hubs listed in table III of the above service bulletin.

a. Visually inspect, within the next 150 cycles in service, to determine whether the rim area of the hub has been shotpeened.

b. If the inspection confirms that the hub has not been shotpeened then the hub is to be inspected in accordance with paragraphs 1(a) through (e) of this AD.

Upon submission of substantiating data through an FAA Maintenance Inspector by an owner or operator, the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Eastern Region, may adjust the compliance time.

(Pratt & Whitney Aircraft Alert Service Bulletin No. 2944 Rev. 5 dated August 12, 1971 pertains to this subject.)

This revises AD No. 71-7-1.

This amendment is effective September 7, 1971.

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

Issued in Jamaica, N.Y., on August 23, 1971.

LOUIS J. CARDINALI,  
Acting Director, Eastern Region.

NOTE: The incorporation by reference provisions in this document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 71-12755 Filed 8-31-71; 8:47 am]

[Docket No. 6359; Amdt. 39-1282]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Schleicher Model Ka6 and K8 Gliders

Amendment 716 (29 F.R. 5319), AD 64-9-6, as amended by Amendment 39-7 (29 F.R. 16066), requires, in paragraph (b), a one-time visual inspection of the

airbrake bellcrank inboard bearing bracket to fuselage main frame attachment welds on Model K8 gliders and modification of gliders found to have cracked or faulty welds in accordance with Schleicher Modification No. 10. The FAA has recently received reports of further failures of the bellcrank inboard bearing bracket to fuselage main frame attachment welds that resulted in blocking of the main controls on Model K8 gliders. To prevent further failures a new AD is being issued to require the incorporation of Schleicher Modification No. 10 on all Model K8 gliders. Therefore, Amendment 39-7, AD 64-9-6, is being further amended to delete paragraph (b) and to strike out the reference to Schleicher Modification No. 10, in the parenthetical note.

Since this amendment deletes a requirement that is the subject of another rule making action, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

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, Amendment 716 (29 F.R. 5319), AD 64-9-6, as amended by Amendment 39-7 (29 F.R. 16066), is further amended as follows:

1. By deleting paragraph (b).
2. By striking out the word "and Modification No. 10 for Model K8 dated October 25, 1962" from the parenthetical note.

This amendment becomes effective September 7, 1971.

(Secs. 313(a), 601, and 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 25, 1971.

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

[FR Doc. 71-12753 Filed 8-31-71; 8:46 am]

[Docket No. 11352; Amdt. 39-1283]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Schleicher Model K8 Gliders

There have been recent reports of failures of the airbrake bellcrank inboard bearing bracket to fuselage main frame attachment welds resulting in blocking of the main controls on Schleicher Model K8 gliders. Since this condition is likely to exist or develop in other gliders of the same type design, an airworthiness directive is being issued to require modification of the airbrake bellcrank inboard bearing bracket to main fuselage attachment on Schleicher Model K8 gliders that do not already incorporate Schleicher Modification No. 10. Amendment 39-7 (29 F.R. 16066), AD 64-9-6, requires, in part, inspection for faulty welds or cracks in the welds that are the subject of this AD, and Amendment 39-7

is being amended concurrently with the adoption of this AD to delete that inspection.

In view of the possible seriousness of an inflight failure of the airbrake bellcrank inboard bearing bracket to fuselage main frame attachment welds, a situation exists that requires immediate adoption of this regulation, and it is found that notice and public procedure hereon are impracticable and contrary to the public interest and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.39), § 39.13 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

**SCHLEICHER.** Applies to Model K8 Gliders. Compliance is required within the next 25 hours' time in service after the effective date of this AD unless already accomplished. To prevent failure of the airbrake bellcrank inboard bearing bracket to main fuselage attachment welds, modify the bracket attachment in accordance with Schleicher Modification No. 10, dated October 25, 1962, or an FAA-approved equivalent.

This amendment becomes effective September 7, 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 25, 1971.

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

[FR Doc.71-12757 Filed 8-31-71;8:47 am]

[Docket No. 11355; Amdts. 61-55; 63-14; 91-93; 121-78; 123-4; 127-27; 135-28]

**CARRIAGE OF NARCOTIC DRUGS, MARIHUANA, AND DEPRESSANT AND STIMULANT DRUGS OR SUBSTANCES BY AIRCRAFT**

The purpose of these amendments to the Federal Aviation Regulations is to identify substantively the violations of Federal narcotics laws now listed in the pertinent regulations by U.S. Code citations, and to make other editorial changes brought about as a result of the new Comprehensive Drug Abuse Prevention and Control Act of 1970 (Public Law 91-513).

Since these amendments are editorial in nature, and no substantive change in the regulations is effected, I find that notice and public procedure thereon are unnecessary and that they may become effective in less than 30 days.

In consideration of the foregoing Parts 61, 63, 91, 121, 123, 127, and 135 of the Federal Aviation Regulations are amended as follows effective August 31, 1971:

**PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS**

The title and paragraph (a) of § 61.6 are amended to read as follows:

**§ 61.6 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.**

(a) No person who is convicted of violating any Federal statute relating to the manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marihuana or depressant or stimulant drugs or substance, is eligible for any certificate or rating issued under this part for a period of 1 year after the date of final conviction.

**PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS**

The title and paragraph (a) of § 63.12 are amended to read as follows:

**§ 63.12 Carriage of narcotic drugs, marihuana, and depressant or stimulant drugs or substances.**

(a) No person who is convicted of violating any Federal statute relating to the manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marihuana, or depressant or stimulant drugs or substances, is eligible for any certificate or rating issued under this part for a period of 1 year after the date of final conviction.

**PART 91—GENERAL OPERATING AND FLIGHT RULES**

Paragraphs (a) and (b) of § 91.12 are amended to read as follows:

**§ 91.12 Flights Between Mexico and the United States.**

(a) Except as provided in paragraph (b) of this section, no person may operate a civil aircraft between Mexico and the United States, with knowledge that narcotic drugs, marihuana, or depressant or stimulant drugs or substances as defined in Federal statutes are carried in the aircraft.

(b) Paragraph (a) of this section does not apply to any carriage of narcotic drugs, marihuana, or depressant or stimulant drugs or substances authorized by or under any Federal statute or by any Federal agency.

**PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT**

**§ 121.15 [Amended]**

The title of § 121.15 is amended by adding the words "or substances" after the word "drugs".

**PART 123—CERTIFICATION AND OPERATIONS: AIR TRAVEL CLUBS USING LARGE AIRPLANES**

**§ 123.20 [Amended]**

The title of § 123.20 is amended by adding the words "or substances" after the word "drugs".

**PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS**

**§ 127.22 [Amended]**

The title of § 127.22 is amended by adding the words "or substances" after the word "drugs".

**PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT**

**§ 135.12 [Amended]**

The title of § 135.12 is amended by adding the words "or substances" after the word "drugs".

(Secs. 307(c), 313(a), 601, 602, 604, Federal Aviation Act of 1958, 49 U.S.C. 1348(c), 1354(a), 1421, 1422, 1424; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on August 25, 1971.

**J. H. SHAFFER,**  
*Administrator.*

[FR Doc.71-12752 Filed 8-31-71;8:46 am]

[Airspace Docket No. 71-WA-30]

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

**Alteration of Transition Area**

On February 3, 1971, F.R. Doc. 71-914, comprising a compilation of Parts 71, 73 and 75 of the Federal Aviation Regulations, was published as Part II of the FEDERAL REGISTER of that date. All amendments to those parts published prior to January 7, 1971, were included; however, the 1,200-foot floor portion of the Albany, N.Y., transition area was erroneously excluded. Action is taken herein to correct this error.

Since this amendment is editorial in nature and no substantive change to the regulation is effected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, F.R. Doc. 71-914 is amended, effective upon publication in the FEDERAL REGISTER (9-1-71), as hereinafter set forth.

In § 71.181 (36 F.R. 2140) the Albany, N.Y., transition area is amended by adding:

That airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 44°00'00" N., long. 73°47'00" W.; to lat. 44°00'00" N., long. 73°16'00" W.; to lat. 43°47'00" N., long. 72°39'00" W.; to lat. 43°11'00" N., long. 72°39'00" W.; to lat. 42°02'00" N., long. 73°16'00" W.; to lat. 42°01'00" N., long. 74°30'00" W.; to lat. 43°19'00" N., long. 74°30'00" W.; to point of beginning.

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

Issued in Washington, D.C., on August 24, 1971.

H. B. HELSTROM,  
Chief, Airspace and Air  
Traffic Rules Division.

[FR Doc.71-12758 Filed 8-31-71;8:47 am]

[Airspace Docket No. 70-EA-98]

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

### Alteration of Transition Areas

On June 24, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 12030), stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation regulations that would alter the Bangor, Maine, and Rockland, Maine, transition areas.

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

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective 0901 G.m.t., November 11, 1971, as hereinafter set forth.

Section 71.181 (36 F.R. 2140, 7302) is amended as follows:

1. In the 1,200-foot floor portion of the Bangor, Maine, transition area the phrase "to lat. 43°44'00" N., long. 69°19'42" W.;" is added between the phrases "lat. 43°48'00" N., long. 69°03'00" W.;" and "to lat. 43°50'00" N., long. 69°18'00" W.;"

2. The Rockland, Maine, transition area is amended to read as follows:

#### ROCKLAND, MAINE

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Knox County Regional Airport, Rockland, Maine (lat. 44°03'40" N., long. 69°06'05" W.), and within 3.5 miles each side of the 203° bearing from the Rockland RBN, extending from the 7.5-mile radius area to 11.5 miles southwest of the RBN.

(Sec. 307(a), 1110, Federal Aviation Act of 1958, 49 U.S.C. 1348(a) and 1510, Executive Order 10854, 24 F.R. 9565; and sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on August 25, 1971.

H. B. HELSTROM,  
Chief, Airspace and Air  
Traffic Rules Division.

[FR Doc.71-12759 Filed 8-31-71;8:47 am]

## Title 22—FOREIGN RELATIONS

### Chapter I—Department of State

[Dept. Reg. 108.642]

## PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

### Automatic Revalidation of Nonimmigrant Visas in Certain Cases

Part 41, Chapter I, Title 22 of the Code of Federal Regulations is being amended to provide for permissible absence not exceeding 30 days solely in contiguous territory or adjacent islands other than Cuba when applying for readmission into the United States as a provision for automatic revalidation of nonimmigrant visas in certain circumstances for nonimmigrant aliens reentering the United States from contiguous territory or adjacent islands. Section 41.125 is amended in part to read as follows:

#### § 41.125 Revalidation of visas.

(f) *Automatic revalidation of visas in certain cases.* (1) \* \* \* (i) Is applying for readmission into the United States after an absence not exceeding 30 days solely in contiguous territory or adjacent islands other than Cuba; \* \* \*

(2) \* \* \* (ii) Is applying for readmission into the United States after an absence not exceeding 30 days solely in contiguous territory;

*Effective date.* The amendment to the regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER (9-1-71).

The provisions of the Administrative Procedure Act (80 Stat. 383; 5 U.S.C. 553) relative to notice of proposed rule making are inapplicable to this order because the regulations contained herein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

For the Secretary of State.

[SEAL] BARBARA M. WATSON,  
Administrator, Bureau of Security and Consular Affairs,  
Department of State.

AUGUST 16, 1971.

[FR Doc.71-12777 Filed 8-31-71;8:49 am]

## Title 24—HOUSING AND HOUSING CREDIT

Subtitle A—Office of the Secretary, Department of Housing and Urban Development

[Docket No. R-71-141]

### PART 4—OPEN-SPACE LAND Legacy of Parks Program

Title IV of the Housing and Urban Development Act of 1970, Public Law 91-609, 84 Stat. 1770, 1781, amended title VII of the Housing Act of 1961, Public Law 87-70, 75 Stat. 183, 42 U.S.C. 1500 by replacing the Open Space Land Program, Urban Beautification Program, and Historic Preservation Program with a single expanded program of grants for these purposes. This regulation implements the new Act, which is effective July 1, 1971, and sets out requirements and procedures to be used.

Only public bodies are eligible for grants under the program although the matching funds may come from a private source. However, ownership of land acquired with program assistance must remain in the public bodies (§ 4.250). The matching grants from the Federal Government may cover up to 50 percent of project costs (§ 4.209) based on fair market value of the property acquired (§ 4.232), and other eligible projects costs. In addition, the program provides grants to states and local public bodies for up to 75 percent of the cost for acquiring interest in undeveloped or predominantly undeveloped land which has special significance in helping to shape economic and desirable patterns of urban growth (§ 4.202).

In evaluating applications for grants, all the characteristics that make up an urban area, not just population, are to be considered, (§ 4.208) in consonance with the community-wide approach taken by the legislation.

The land acquired may be either developed or undeveloped and acquisition must be completed within 12 months of execution of the grant contract between the Department of Housing and Urban Development (HUD) and the public body (§ 4.228). Acquisition shall be made on the basis of certain terms and conditions specified in § 4.231. Acquisition of structures on the land and the cost of demolition, if necessary, may be included as eligible project costs (§ 4.235). Land encumbered by mortgages may be acquired (§ 4.236).

The issuance of a letter of consent by HUD, in response to an application, marks the date when project costs are eligible for assistance, subject to eventual approval of the grant (§ 4.240). Section 4.239 sets out criteria for eligible development costs.

Section 4.246 details the project selection system used by HUD to determine grant allocations.

The procedures to be followed in applying for grants under this subpart are explained in § 4.247 and the guidelines for carrying out the program itself, once approved, are set forth at § 4.249. Any change in the use of land acquired with assistance under the program from the purpose for which approval was originally given must have the prior approval of the Secretary. Information on various general requirements and restrictions is included at §§ 4.248-4.250, particularly with respect to relocation policies, real estate administrative services, and treatment of donations of land or materials. Payments will be made by HUD only in reimbursement of actual expenditures by the grantee.

The Legacy of Parks Program as set forth in the Housing Act of 1970, Public Law 91-609, 84 Stat. 1770, 1781, will become effective July 1, 1971. The program could not go forward, however, and public bodies could not receive grants under the program until the guidelines were issued. For this reason notice and public procedures are impracticable and contrary to the public interest and good cause exists for making these regulations effective July 1, 1971. The Department will, however, be pleased to accept and consider comments from interested persons and will endeavor to take such comments into account at the earliest time practicable in amendments or additions to these regulations. Three copies of such comments should be filed within 30 days of the date of this publication addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

Accordingly, 24 CFR Part 4 is amended, as follows:

(a) The present content of Part 4 will be titled "Subpart A—Relocation Payments".

(b) Subpart B is added to read: "Subpart B—The Legacy of Parks Programs".

**Subpart B—The Legacy of Parks Program**

- Sec. 4.201 Objectives.
- 4.202 Scope.
- 4.203 The program and low and moderate income housing.
- 4.204 Coordination with other HUD programs.
- 4.205 Citizen participation.
- 4.206 Public control and use.
- 4.207 Applicants.
- 4.208 Project location criteria.
- 4.209 Local share.
- 4.210 Planning requirements.
- 4.211 Coordination requirements.
- 4.212 Historic preservation.
- 4.213 Relocation policies and requirements.
- 4.214 Reserved.
- 4.215 Civil rights provisions.

- Sec. 4.216 Equal employment opportunities requirements.
- 4.217 Federal labor standards and contracting requirements.
- 4.218 Political activity of public body personnel.
- 4.219 Continuing maintenance program for assisted projects.
- 4.220 Environmental impact statement.
- 4.221 Land adjacent to school sites.
- 4.222 Land located in flood plain.
- 4.223 Sanitary landfill treatment.
- 4.224 Disaster Relief Act of 1970 (Public Law 91-606).
- 4.225 Properties on the National Register.
- 4.226 Acquisition and clearance.
- 4.227 Timing of acquisition.
- 4.228 Completion of acquisition.
- 4.229 Eligible acquisition costs.
- 4.230 Land acquisition policies and requirements.
- 4.231 Terms and conditions of acquisition.
- 4.232 Determining fair market value.
- 4.233 Property of local government or certain officials.
- 4.234 Value of public property.
- 4.235 Acquisition of structures.
- 4.236 Mortgage or deed of trust.
- 4.237 Acquisition of less than fee interest.
- 4.238 Deed restriction: recordation.
- 4.239 Eligible development costs.
- 4.240 Timing of development activities.
- 4.241 Development and restoration planning.
- 4.242 Park development.
- 4.243 Environmental improvements.
- 4.244 Underground placement of utility distribution systems.
- 4.245 Eligible historic preservation activities.
- 4.246 Project selection system.
- 4.247 Submission and processing requirements.
- 4.248 Financial requirements, restrictions, and information.
- 4.249 Project approval.
- 4.250 Transfers, conversions, interim uses.
- 4.251 Waivers.

**AUTHORITY:** The provisions of this subpart B issued under title VII of the Housing Act of 1961 (Public Law 87-70, 75 Stat. 183, 42 U.S.C. 1500), as amended, by title IV of the Housing and Urban Development Act of 1970 (Public Law 91-609, 84 Stat. 1781). The provisions of this subpart B are issued under section 7(d) Department of HUD Act, 42 U.S.C. 3535(d). Secretary's delegation of authority published at 36 F.R. 5004, effective March 8, 1971.

**Subpart B—The Legacy of Parks Program**

**§ 4.201 Objectives.**

Objectives of the program as set forth in the law include:

To help curb urban sprawl and prevent the spread of urban blight and deterioration, to encourage more economic and desirable urban development, to assist in preserving areas and properties of historic or architectural value, and to help provide necessary recreational, conservation, and scenic areas by assisting State and local public bodies in taking prompt action to (1) provide, preserve, and develop open-space land in a manner consistent with the planned long-range development of the Nation's urban areas, (2) acquire, improve, and restore areas, sites, and structures of historic or architectural value, (3) develop and improve open space and other public urban land; (encourage the acquisition of interests in undeveloped or predominantly undeveloped land which would have special significance in helping to

shape economic and desirable patterns of urban growth).

**§ 4.202 Scope.**

The program provides matching grants to States and local public bodies for up to 50 percent of the cost for acquiring title or other interests in and developing open-space land; for acquiring, restoring, or improving sites, structures or areas of historic or architectural significance; and for public environmental improvements which provide long-term benefits in urban areas. In addition, the program provides grants to States and local public bodies for up to 75 percent of the cost for acquiring interest in undeveloped or predominantly undeveloped land which has special significance in helping to shape economic and desirable patterns of urban growth (hereinafter sometimes referred to as "urban shaping" projects).

**§ 4.203 The Program and low and moderate income housing.**

(a) The Department of Housing and Urban Development (HUD) will encourage use of the program to provide recreation resources and other amenities in and near housing developments for low and moderate income families.

(b) Program projects and sites that include in their service area public or private housing developments for low and moderate income families will be given priority consideration for funds if they will provide open space opportunities within a year to such housing developments and if such housing developments involve 50 or more housing units already existing or planned.

**§ 4.204 Coordination with other HUD programs.**

HUD supports an integrated approach at local, State, and Federal levels to urban development. To facilitate this approach, extra credit under the project selection system will be given to projects that are undertaken in conjunction with other HUD programs, such as the New Communities Program and Operation Breakthrough.

**§ 4.205 Citizen participation.**

HUD encourages meaningful participation of citizens in HUD-assisted activities at the local government level.

**§ 4.206 Public control and use.**

Land acquired under this program must remain under public control in perpetuity (except "urban shaping" projects or conversions meeting standards specified in § 4.250). Areas acquired or assisted under the program must be available to the general public, without discrimination.

**§ 4.207 Applicants.**

Any State or local public body including any Indian tribe, band, group, and nation of the United States which is legally authorized to undertake a project under the program and to contract with the Federal Government to receive funds for that purpose is eligible for grants.

#### § 4.208 Project location criteria.

(a) Authorized projects must be located in an area which is urban in character. This includes those surrounding areas which in the judgment of the Secretary, form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of growth, location of transportation facilities and systems and distribution of industrial, commercial, residential, governmental, institutional and other activities.

(b) Where there may be a question of meeting the urban area requirement, determinations as to eligibility will be made by HUD.

#### § 4.209 Local share.

The Federal share of a project cannot exceed 50 percent of eligible costs (except for urban shaping projects § 4.202). To secure Federal funding the applicant must show that local funds are available or authorized for the project. Evidence of availability of funds must show that necessary local legislative approvals and authorizations have been given, including authorization for specific project financing when State or local public funds are used. Where any portion of the local share is coming from a source not directly controlled by the applicant, the applicant must show evidence of a binding commitment for the funds, or its intention to provide the entire non-Federal share. Part of the local share may be provided by donated materials or land as provided in § 4.248.

#### § 4.210 Planning requirements.

Section 703 of title IV of the Housing Act of 1970, which amended title VII of the Housing Act of 1961, required that grant assistance provided pursuant to this title must be needed for carrying out a unified or officially coordinated program, meeting criteria established by the Secretary, for the provision and development of open-space land as part of the comprehensively planned development of the urban area.

(a) *Planning requirement determinations.* Planning comments must show that the proposed project is part of or consistent with the areawide comprehensive plan and program for the urban area, and must show that the project is part of or consistent with a functional element of that plan.

(b) *Certification.* HUD has initiated a certification procedure for notifying areawide planning organizations and areawide planning jurisdictions when they fulfill HUD planning requirements. The certification process is effective for Areawide Planning Jurisdiction and Organization Certification, Comprehensive Planning Certification, and will also be effective for Functional Planning and Programming Certification on July 1, 1972. This is explained in detail in Circulars MPD 6415.1A, and MPD 6415.3, copies of which are available from the HUD area office.

(c) *Requirements for projects primarily of local significance.* If the project is primarily of local significance

(such as small parks), the project must be in, or consistent with, the local comprehensive plan and evidence must be shown that the project is consistent with the areawide comprehensive planning process.

#### § 4.211 Coordination requirements.

(a) *Project notification and review system.* Potential applicants shall comply with the Project Notification and Review System described in Office of Management and Budget Circular No. A-95.

(b) *Review and comment.* (1) Applications and any amendments thereto which involve a major change in a project, must be submitted for review to the HUD recognized Areawide Planning Organization (APO), where the applicant is located. If the applicant is a special purpose unit of local government, such as a recreation commission, the applications must be submitted for review by the units of general local government in the area where the project is to be located, as well as to the APO.

(2) Each application, when submitted to HUD, must be accompanied by the comments and recommendations of the APO and, if through a special purpose unit of local government, the general local government, and a statement by the applicant that such comments and recommendations have been considered prior to formal submission of the application.

(c) If the APO has been designated as a metropolitan or regional clearinghouse under Office of Management and Budget Circular A-95, the applicant must satisfy the requirements of that circular.

(d) Projects in or affecting a model neighborhood require execution of the certification in the application form which gives evidence of participation in planning the project by the City Demonstration Agency and its citizen participation structure, as well as any input by the citizen participation structure that local arrangements provide.

(e) Executive Order 11237, July 27, 1965 (30 F.R. 9433), sets forth policies and requirements for coordination of programs of open space acquisition for recreational purposes and is applicable to this program and the outdoor recreation program administered by the Bureau of Outdoor Recreation (BOR), Department of the Interior, under the Land and Water Conservation Fund Act of 1965, 16 U.S.C. 460d, 460l. Pursuant to the order, the following requirements apply:

(1) If land proposed to be acquired for recreational purposes under either program is located wholly or partly in an urban area, the acquisition must meet the planning and programming requirements of this program, whether assistance is to be obtained under the Land and Water Conservation Fund Act, 16 U.S.C. 460d, 460L, or this program.

(2) No application shall be filed with HUD under the program for acquisition or development of land included in an application currently under considera-

tion for possible funding by the Bureau of Outdoor Recreation, U.S. Department of the Interior, through the Land and Water Conservation Fund.

(3) Projects with historic significance may be considered for fund assistance from either this program or the Department of the Interior National Park Service Program, "Grants to States for Historic Preservation." However, applicants must elect to apply for assistance under either HUD's or Interior's grant programs and may not apply under both.

#### § 4.212 Historic preservation.

For the costs of acquiring, restoring, improving, or moving a structure of historic or architectural significance to be eligible for assistance, such structure, site, or area must be listed on the National Register of Historic Places.

#### § 4.213 Relocation policies and requirements.

Projects under the program are subject to all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646, 84 Stat. 1894) and the HUD Secretary's rules and regulations issued thereunder (36 F.R. 8785-8798). Applicants will be required to submit satisfactory assurances as specified in section 210 of the Act.

#### § 4.214 [Reserved]

#### § 4.215 Civil rights provisions.

Title VI of the Civil Rights Act of 1968 (Public Law 90-284, 82 Stat. 73), prohibits discrimination on the basis of race, color, or national origin in the use of any facility or improvement of property provided with Federal assistance. When filing for assistance, an applicant must certify his intention to comply with this requirement.

#### § 4.216 Equal employment opportunity requirements.

Executive Order 11246, as amended, specifies that Federally assisted construction contractors must take affirmative action to ensure that there is equal employment opportunity without regard to race, color, religion, sex, or national origin. This requirement applies to all contracts under the program involving construction work such as improvements, demolition and site clearance, and restoration. Grantees should secure from a HUD office instructions on procedures and requirements.

#### § 4.217 Federal labor standards and contracting requirements.

(a) Construction projects being financed with Federal funds under the program must meet Federal labor standards and prevailing wage requirements, except that work performed by employees of the grant recipient and contracts of less than \$2,000 will be exempt from the Federal labor standards provisions.

(b) The applicant will be required to certify that all bidding documents, contracts, and subcontracts except as exempted above, include the Federal labor standards provisions. The applicant will

be responsible for administering and enforcing these provisions.

(c) HUD Area Offices will provide necessary information on Federal labor standards which require payment of at least minimum wage rates (including fringe benefits) applicable to each classification of laborers and mechanics employed, as determined by the Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a); payment of time and one-half for overtime worked in excess of 8 hours in 1 day or 40 hours in 1 week, as required by the Contract Work Standards Act, 40 U.S.C. 327; payment in full (less deductions made mandatory by law) to all employees engaged in work on the project not less often than once each week; and compliance with applicable regulations issued by the Secretary of Labor in accordance with the provisions of the Copeland 18 U.S.C. 974, and Antikickback Acts 40 U.S.C. 276c.

**§ 4.218 Political activity of public body personnel.**

Section 12(a) of the Hatch Act, 5 U.S.C. 1501 et seq., applies with respect to officers and employees of the grant recipient whose principal employment is in connection with an activity which is financed in whole or in part by Federal grants made under title VII of the Housing Act of 1961, as amended.

**§ 4.219 Continuing maintenance program for assisted projects.**

Properties acquired or developed under the program must be satisfactorily maintained. The applicant must certify to an adequate maintenance and operating program for the property for a minimum of 3 years except for historic preservation projects where perpetual maintenance is required.

**§ 4.220 Environmental impact statement.**

The National Environmental Policy Act of 1969 (42 U.S.C. 4321) establishes new national policy, goals and procedures for protecting and enhancing the environment. For projects specified below, an environmental impact statement will be required with the application:

- (a) All sanitary landfill projects.
- (b) Any project upon which two or more surface areas of water will be impounded.
- (c) Block land acquisitions of 8 acres or more in high density and built-up areas, or of 300 acres elsewhere.
- (d) Projects affecting properties on the National Register of Historic Places (see § 4.225).

The form for this statement is available from the HUD Area Office.

**§ 4.221 Land adjacent to school sites.**

(a) Where land is being acquired adjacent to a site for a new school, grant assistance will generally be limited to the acquisition of land in excess of the minimum local site standards for new school sites. The minimum local standards will be those explicitly adopted by the school agency; in an instance where no mini-

mum standards have been adopted, a set of recommended standards by the school agency may be accepted.

(b) In every case where land is being acquired or developed adjacent to a school site, the application must include the following:

(1) A statement that the open space being acquired is for general community or neighborhood benefit and use, and will be open to the general public except when its use would conflict with the functions of the adjacent school.

(2) A written cooperation agreement between the school agency and the park/recreation agency indicating that it is their intent to maximize the multiple-use capability of all school open space areas and that the design and operational planning of the respective agencies incorporates this concept.

**§ 4.222 Land located in flood plain.**

HUD encourages location of projects in flood plains. However, if a proposed project is located within the limits of a flood plain area, the applicant is required to submit certain statements concerning potential hazards, justification and designs for the area (see § 4.260).

**§ 4.223 Sanitary landfill treatment.**

Property proposed for sanitary landfill treatment can be acquired under the program only when the project meets the following requirements:

- (a) The applicant must provide certifications by appropriate local and State agencies that the landfill operation will not contribute to water or air pollution, or cause a public nuisance; and
- (b) The proposal must provide for readying the land for open space use within 10 years; and
- (c) An "Environmental Impact Statement" must be submitted (see § 4.220).

**§ 4.224 Disaster Relief Act of 1970 (P.L. 91-606).**

Projects in Presidentially proclaimed major disaster areas will be given priority and immediate consideration for grant assistance.

**§ 4.225 Properties on the National Register.**

(a) Section 106 of the Historic Preservation Act of 1966 (Public Law 89-655, 80 Stat. 915) requires that all Federal agencies prior to licensing or approving any undertaking, shall take into account the effect of a project on any district, site, building, structure, or object listed on the National Register of Historic Places, maintained by the National Park Service of the U.S. Department of the Interior.

(b) If any proposed project under the program will adversely affect a National Register property, the applicant should bring it to the attention of the HUD Area Office.

**§ 4.226 Acquisition and clearance.**

(a) For open space or historic preservation purposes. Land to be acquired must be located in an urban area and must be within the area for which the

applicant exercises, or participates in the exercises of, open space responsibilities. Acquired land may be undeveloped, predominantly undeveloped or developed. Acquisition of developed land is permitted only if the local governing body determines that adequate open space cannot effectively be provided through the use of existing undeveloped or predominantly undeveloped land. No size limit is imposed on acquired undeveloped or predominantly undeveloped sites. However, the size of developed land sites will generally be limited to no more than 4 acres.

(b) For urban shaping projects. Land must be undeveloped or predominantly undeveloped. If withheld from commercial, industrial, and residential development, land must have special significance in helping to shape economic and desirable patterns of urban growth outside of existing urban areas which is directly related to the development of new communities or the expansion and revitalization of existing communities.

(c) Impact on project cost. For the purpose of computing the amount of the Federal grant generally no more than the fair market value of the acquired land will be considered. The fair market value (FMV) will be established in accordance with procedures stipulated in § 4.232-4.234. The HUD share of acquisition cost will not exceed 50 percent (or 75 percent in the case of "urban shaping" projects) of the certified FMV regardless of the cost incurred by the applicant, unless the property is acquired by condemnation and the award is determined by a trial on the merits of the issue of value according to law. Any amount paid pursuant to a stipulation of agreement with an owner in excess of the certified FMV acquisition price will not be recognized as a project cost.

**§ 4.227 Timing of acquisition.**

Project cost will not include the FMV of land acquired prior to HUD authorization to proceed with purchase. Land will be considered acquired as of the date a mutually binding purchase agreement is executed, title to the land is transferred, or condemnation proceeding is initiated which proceeding cannot be withdrawn without penalty, whichever is earliest.

**§ 4.228 Completion of acquisition.**

Acquisition under an approved project must be completed or condemnation proceedings must be instituted within 12 months of the time the grant contract is executed between HUD and the applicant unless an extension of the time period has been specifically requested and approved in writing by HUD.

**§ 4.229 Eligible acquisition costs.**

(a) Costs related to acquisition which are eligible for grant assistance include: The cost of required appraisals, title reports, assurances of title, negotiation expenses, cadastral survey of the project boundary, condemnation court costs, attorney's fees for condemnations, and closing purchases, closing costs, interest

paid on condemnation awards, taxes and public service charges allocable to the period after acquisition, as well as permissible or required costs under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646, 84 Stat. 1894) and the HUD Secretary's rules and regulations issued thereunder (36 F.R. 8785-8798).

(b) However, attorney's fees of the applicant for necessary legal services will not be considered an eligible project cost if the attorney performing the service is a regular employee of the applicant, or if he or his firm is employed under a lump sum retainer arrangement to perform all services for the applicant.

#### § 4.230 Land acquisition policies and requirements.

Projects under the program are subject to all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646, 84 Stat. 1894) and the HUD Secretary's rules and regulations issued thereunder (36 F.R. 8785-8798). Applicants will be required to submit satisfactory assurances under section 305 of the Act. Details for land acquisition procedures and requirements are available from the HUD Area Office.

#### § 4.231 Terms and conditions of acquisition.

Each property shall be acquired on the following basis:

(a) *Title.* Except as indicated in § 4.237, fee simple title shall be acquired subject only to reservations, outstanding interest, encumbrances, and exceptions to title approved by HUD.

(b) *Closing and possession.* To the extent practical, the owner shall be permitted in the agreement of sale to determine the date for closing and delivery of possession.

(c) *Taxes and public charges.* Real property taxes and any charges for public services (such as water, sewerage, and trash collection) shall be prorated as of the date title vests in the applicant or the date of taking possession or under a court order in an eminent domain proceeding or under a voluntary given right of entry and possession, whichever occurs first.

(d) *Rents and deposits.* Rents and deposits collected by a seller from tenants shall be either prorated as of the date of closing or retained by the seller for the rental period in which title is acquired by the applicant. Any deposits or rent prepaid to the seller beyond the end of the current rental period or beyond 1 month after closing, whichever occurs first, shall be paid by the seller to the applicant at closing.

(e) *Closing costs.* The expense of closing, including examination and evidence or assurance of title and preparation and recording instruments of conveyance to the applicant, shall be paid by the applicant as an eligible project cost. But the applicant shall not pay any cost of clearing title.

#### § 4.232 Determining fair market value.

In making its determinations of fair market value, the applicant shall take the following actions:

(a) *Appraisals.* Each property shall be appraised independently by two competent professional appraisers selected by the applicant. An additional appraisal is permitted if required by State law, if discrepancies appear in the two appraisals first obtained, or there is presence of trade fixtures in a property.

(b) *Staff review of appraisals.* The appraisals must be reviewed by a competent staff appraiser or a private professional appraiser under contract to the applicant. The review shall require the appraisers to make any corrections in their reports needed to ensure substantial consistency in factual data therein. The reviewer shall determine the acceptability and adequacy of the appraisal reports, including the data and analyses furnished by the appraisers to support their opinions of value. The review shall include an on-site inspection of the property and of the comparable properties considered by the appraisers in deriving their valuations. If the reviewer finds the appraisal reports acceptable and properly documented, he shall determine for each parcel his opinion of the fair market value thereof. The reviewer's findings shall be set forth in a written report which shall identify the appraisal reports reviewed and explain the basis for his conclusion as to fair market value.

(c) *Applicant's determination of value.* The applicant shall study its review appraiser's fair market value determinations and his report thereon. With respect to properties for which the governing body of the applicant accepts the reviewer's report and valuations, it shall adopt a resolution which among other things:

- (1) Establishes the fair market value of each property;
- (2) Identifies each property by name of owner, parcel number or other identification;
- (3) Delimits the property and the interest to be acquired therein;
- (4) Certifies as to the work of the appraisers and the review appraiser with respect to each property.

With respect to any properties for which the applicant does not agree with its review appraiser's determinations of fair market value, the applicant shall submit to HUD, for determination of the acquisition price, which may be included in project cost, all appraisal reports on the properties, the reports of the review appraiser, a statement of the determination of fair market value proposed by the applicant and its justification therefor.

(d) *Procedure after determining fair market value.* (1) A certified copy of the resolution of the applicant, which establishes the applicant's determinations of fair market value, shall be sent to HUD promptly after its adoption.

(2) After submitting the resolution to HUD, the applicant shall promptly open negotiations for the acquisition of the

properties involved in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646, 84 Stat. 1894) and the HUD Secretary's rules and regulations issued thereunder (36 F.R. 8785-8798).

#### § 4.233 Property of local government or certain officials.

If a parcel is owned, or was owned at any time after the filing of the application, by another public body, a member of the applicant's governing body, or an officer or employee of the applicant who exercises any responsible function in carrying out the project, the maximum amount that will be recognized for the acquisition of the parcel, whether acquired by purchase or condemnation, will not exceed the lowest of the following:

(a) The fair market value, as concurred in by HUD.

(b) The price paid by such owner, if the owner acquired the property after the filing of the application, except by, or as a consequence of, foreclosure of a tax lien.

(c) The price received by such owner, if sold after the filing of the application.

#### § 4.234 Value of public property.

The determination of fair market value for a property owned by a public entity shall not reflect:

(a) Enhancement or depreciation attributable to the undertaking of the project.

(b) Enhancement in value from any cause after the first acquisition of privately owned property for the project.

The determination of fair market value shall not exceed the highest satisfactory appraisal, properly adjusted to take the foregoing factors into account and shall be the value of the property for private uses for which the property is suitable or adaptable.

#### § 4.235 Acquisition of structures.

(a) Structures located on land being acquired, may be acquired and their acquisition cost included as an eligible project cost, if in the judgment of the HUD area office such acquisition does not change the open space character of the project. Unless infeasible or impractical structures which are not to be demolished should be considered for possible recreation or open space related functions. Eligible costs for refurbishing such structures are discussed in § 4.242.

(b) Where demolition is contemplated and permissible, for each structure the cost of acquisition, demolition, and site clearance, less salvage value, may be included in the project cost. To the extent possible, structures to be demolished and cleared should be small, detrimental, or dilapidated and substandard.

#### § 4.236 Mortgage or deed of trust.

Land encumbered by mortgages or deeds of trust may be acquired provided:

(a) That such an agreement does not extend for a period of time longer than ten (10) years;



(b) That no grant payment will be made until the amount owing on the mortgage or deed of trust note has been reduced to 50 percent of the certified fair market value (FMV) of the acquired property.

**§ 4.237 Acquisition of less than fee interest.**

Applicant proposals to undertake projects involving acquisition of less than a fee interest in land will be considered by HUD on a case basis. Such exemptions to fee simple title could include the purchase of easements, purchase agreements subject to life-estates, lease-back arrangements or reserved rights, and short- or long-term leases. Specific information on allowable exceptions can be obtained from the HUD Area Office.

**§ 4.238 Deed restriction: recordation.**

(a) Deeds and other instruments required to vest title of record in the applicant shall be recorded. For each assisted open space site, applicants shall record in the deed or land records of the jurisdiction a restriction which states that the sale, lease, mortgaging, or creation of other indebtedness or other transfer of the site or any interest therein is subject to the prior approval of the Secretary of Housing and Urban Development and for properties listed on the National Register of Historic Places prior approval of the Secretary of HUD and the Secretary of the Interior must be provided for.

(b) Cost of recordation is an eligible project cost.

**§ 4.239 Eligible development costs.**

Development and clearance activities are eligible under the Program. Such activities must be compatible with the nature of the community's control of the land. If a community controls lands by means of a short-term lease, then assistance will not be provided for expensive and immovable types of development. Projects undertaken as "urban shapers" (75 percent grants for land acquisition cost) may include development (50 percent grant) where the development is compatible with both the immediate and long-term use of the land and where the project is in a defined urban area.

**§ 4.240 Timing of development activities.**

(a) Development activities begun prior to the issuance of a letter of consent will not be eligible for assistance. Development is considered commenced as of the date the applicant becomes unconditionally bound by a contract or issues a work order covering the activities in question, or actually begins the activities, whichever is earlier.

(b) In combined acquisition and development projects, development must be commenced either within 6 months of the date the land is acquired or the contract for the project is executed, whichever is later. All activities must be completed within 12 months of contract execution.

(c) Where a project involves development only, activities must commence within 6 months of contract execution

and be completed within 12 months of the contract execution date.

(d) HUD will give priority status to applications involving areas where there is a critical need for recreational facilities, and which contemplates immediate development of such facilities.

**§ 4.241 Development and restoration planning.**

Site design plans, detailed construction drawings, and specifications, and restoration plans, drawings, and specifications are required for all development and restoration projects carried out under the program. Preparation of such plans, drawings, and specifications may be undertaken prior to the submission of an application; however, the cost of such preparation will be eligible as part of project costs only if undertaken after issuance of an authorization to proceed (see § 4.247). Notwithstanding the foregoing restrictions, the reasonable costs of preliminary and general planning necessary to estimate project costs for application or preapplication preparation will be eligible for inclusion in project costs even if incurred prior to issuance of an authorization to proceed.

**§ 4.242 Park development.**

Plans for developing park and open-space land must insure that the land's character as open space is preserved.

(a) *Structures.* (1) As a general rule, no more than 10 percent of the area of a site may be occupied by structures or buildings not being preserved under historic preservation. However, when the area to be acquired is 2 acres or less, the 10 percent limitation may be waived. Recreation improvements such as game courts or minor structural apparatus such as playground equipment are not included in the 10 percent computation. The applicant must obtain prior HUD approval of any construction which would result in covering more than 10 percent of an open-space site with major structures or buildings, whether or not HUD assistance is required for the proposed development activities.

(2) Applicants planning to use a portion of an assisted site for the location of any building or other structure not clearly related to public recreation and other leisure time activities, must obtain advance permission in writing from HUD.

(b) *Swimming pools.* (1) Pools serving either low-income or high density populations or both will be eligible for grant assistance. To meet the low-income requirement the median family income of the service area of a swimming pool would be \$5,000 or less. HUD will consider waivers for special situations. To meet the high density requirements the pool must be located in an area that is zoned for high density uses, such as high-rise apartments, multiple family dwellings and row houses.

(2) Year-round pool facilities are eligible for assistance under the program. Such assistance may include up to \$100,000 per project in grant funds for the costs of any structure providing weather protection.

(c) *Other development.* Basic activities for making a park site useable or increasing its usefulness may be funded under the program. Such activities include:

(1) *Transportation and circulation.* Roadways, vehicular bridges, and parking areas as well as sidewalks, foot bridges, and paths for walking, hiking, and bicycle riding.

(2) *Landscaping and basic site improvement.* Grading, planting, and seeding. Construction of retaining walls, bulkheads, curbing, fencing, directional signs, site markers, and fixtures necessary for safety measures.

(3) *Utilities.* Installation of basic utilities needed to serve the area, including sanitary sewers, storm sewers, and drainage systems, water lines and water facilities, electric facilities, lighting fixtures, and undergrounding of utility lines.

(4) *Recreational facilities and equipment.* Facilities having long-term usefulness, including playground apparatus, paved game courts, game fields, wading pools, fountains and reflecting pools, equipment for use by particular age groups, such as the elderly, and picnic areas including fireplaces, tables, and shelters.

(5) *Improvement of acquired structures.* Minor refurbishing of structures acquired shall be allowed if the building will be used for recreation purposes. Eligible costs for the restoration of historic structures listed on the National Register, are discussed in § 4.245.

**§ 4.243 Environmental improvements.**

Activities designed to make public lands more pleasing to the eye, more attractive and compatible with their surrounding area, and more useful to residents may be assisted. Generally, assistance will not be provided for the construction of buildings; however, small structures, such as bus shelters and kiosks may be eligible for assistance if they contribute to the greater use and enjoyment of public lands. Eligible activities under this category are as follows:

(a) *Malls, squares, and plazas.* Construction or installation of fountains, decorative pavement and lighting, planters, street furniture, kiosks, lavatories, sculpture, and similar improvements. Activities in behalf of the arts such as construction of facilities for outdoor exhibits, may also be included, however, the applicant should consult with HUD in cases where the cost of such facilities will be more than nominal.

(b) *Improvement of linking areas of the community.* Community-wide improvement of streets, greenways, parkways, stream valleys, rights-of-ways, and other nonrecreational public places. Eligible activities include tree planting, landscaping design, construction, signs, undergrounding of utilities, and other measures to beautify the area over and above normal maintenance.

(c) *Public buildings and sites.* Installation of landscaping, special fencing, lighting and paving, wall murals, mosaics

and effect lighting. In all cases, the site for which assistance is granted must be available to the general public.

**§ 4.244 Underground placement of utility distribution systems.**

As used in this subpart, the term, "utility distribution systems," means existing low-voltage overhead electric and telephone utility distribution lines or systems. Underground placement of high voltage distribution systems is not eligible for funding under the program. Underground placement of portions of existing utility distribution systems located on a program assisted site will in no event be funded unless the locality has adopted and is enforcing legal measures to assure that utility distribution systems installed in the future will be placed underground. If the utility company may legally be required to place existing lines underground at its own expense, no part of the cost is eligible for grant assistance. However, if the utility company may not be so required, the net cost of placing a portion of an existing system underground, which portion is located on a program assisted site is eligible for funding. "Net cost" means the cost remaining after the salvage value of transformers and other salvable equipment has been deducted. If capacity is increased at the same time that utilities are placed underground, the cost attributable to increase of capacity is not eligible for assistance.

**§ 4.245 Eligible historic preservation activities.**

In addition to the activities previously listed under park development and environmental improvements, there are a number of special activities relating to historic preservation which are eligible for funding under the program.

(a) *Acquisition, restoration, and other eligible activities.* (1) Acquisition of properties (see § 4.229).

(2) Restoration of historic sites, areas, and structures to which the applicant has title or other permanent interest appropriate to the proposed project.

(3) Construction and stabilization costs to make historic buildings structurally safe.

(4) Architectural fees and related professional services essential to restoration, including necessary historical research and measured drawings.

(5) If historic structure to be restored is to be used for private purposes, only costs of external restoration and costs of making the structure safe, are eligible.

(6) If historic structure will be open to the public on a regular basis, complete restoration of the interior building components will be eligible. This includes detailed restoration of nonstructural fixtures, and of interior works of art which are an integral part of the structure.

(7) If the structure will be open to the public but complete interior restoration is not planned, program funds may be used for interior construction work to make the building useable. This will include basic interior finish and detailing.

(8) Exploratory engineering or architectural investigation for the purpose of

determining structural integrity, making restoration or rehabilitation cost estimates, or determining whether structure is safe to the public.

(b) *Moving historic structures.* Moving an historic structure will be funded if evidence is presented that the structure faces imminent danger of loss unless moved. The following are eligible moving costs:

(1) Stabilization of structure necessary for transportation.

(2) Transportation of structure.

(3) Rough grading and preparation of new site and provision of suitable foundation.

(4) Public utility disconnections and reconnections as necessary.

(5) Acquisition cost of new site only when there is no suitable publicly owned site.

**§ 4.246 Project selection system.**

(a) *General.* (1) Project selection is a systematic method of selecting for approval those applications which best meet the national goals of the legislation.

(2) The method of selection relies on information provided in the application; therefore, applicants are urged to refer to the ranking criteria which follows to ensure that pertinent information about each project which might influence its ranking is submitted with the application.

(b) *Ranking of applications and funding decisions—(1) Priority projects.* Those priority projects receiving letters of fund assurance shall be classified as to output classification and be processed for technical compliance and announcement. The following types of high priority activities may receive preapplication fund assurance by submitting a letter of intent:

(i) Requests to develop open space in service areas where existing public open space is under 2.5 acres per thousand population. Project development must take place within 1 year.

(ii) Requests to provide open space opportunities within a year to low- or moderate-income housing developments. These housing developments must involve 50 or more housing units and must be already existing or planned for construction.

(iii) Requests from a State or county to construct recreational facilities within a year on a site accessible to the central city in the already-developed or developing part of a Standard Metropolitan Statistical Area (SMSA). Access might be by public transportation or by some special transit program.

(iv) Requests to develop within 1 year, open space facilities serving low-income citizens in built-up portions of urban areas. Citizen participation in selecting and planning the site should be evidenced and if a model city neighborhood, a favorable statement from the CDA Director should be attached. These priority projects receiving letters of fund assurance shall be classified as to output classification and be processed for technical compliance and announcement.

(2) *Nonpriority projects.* (i) Nonpriority projects shall be classified as to output group and considered for possible funding based on their ability to meet the ranking criteria and within funding constraints of each output group. Once applications in a decision set have been classified into program output groups, they are ranked within each output group by a series of paired comparisons. Under this technique, any two applications are compared with each other on the basis of the criteria for the group. One application is ranked above the other and then a third application is ranked separately with the first two, being compared against them one at a time. This process is repeated for the whole group so that each application has been ranked against all others.

(ii) Once all of the output groups have been ranked, the budget for the decision set is distributed among the output groups by the area office. The top 10 percent of applications not funded will be held for a second analysis in the next decision set; the balance will be returned to the applicant. No application will be ranked in more than two decision sets.

(c) *Project analysis.* The project selection system involves three basic steps: (1) Classification of each site into a "program output group," (2) ranking of sites within each group according to specific criteria established for each group, and (3) decision on funding each program output group within the budget. Sites are classified into one output group that best characterizes the site and its use.

(d) *Program output groups—(1) General.* Projects classified in Groups A, B, and D must be within Standard Metropolitan Statistical Areas (SMSA's). Groups C and F include both SMSA and non-SMSA areas; Group E includes non-SMSA areas only.

(2) *Group A—Encouragement of better urban form; tracts that will demonstrably help guide urban development or redevelopment (urban shaping projects)—(i) General considerations.* (a) The key word is "demonstrably." Essentially all public acquisitions of land have some effect on urban development, either present or future. This group is limited to open space proposals involving acquisitions clearly intended as shaping mechanisms. Examples are such elements of guiding growth as preventing the development of flood plains for incompatible uses, separation of land uses, buffers, and reservation of stream valleys.

(b) Classification of proposals into this group must recognize the element of shape and scale for effectiveness. Minor acquisitions whose shaping influence would be limited to the land immediately adjoining would not qualify for this group.

(c) Large acquisition whose effect could not be registered within the next 5-7 years should not be included in this group, even though the site could eventually have long-range shaping influence a decade or more hence.

(ii) *Ranking criteria.* (a) Evidence of techniques other than land acquisition being effectively used to guide urban growth and development, such as ordinances and activities supporting less-than-fee preservation of open space, tax incentives, and regulations for planned unit developments.

(b) Degree to which the form and timing of the project can be expected effectively to guide growth or development by preventing sprawl, separating land uses or densities, preventing uneconomical development, etc.

(c) Degree to which the project is geared to the planning process and is specifically related to projected growth.

(d) Imminence of loss to incompatible development.

(e) Evidence of community need for Federal assistance, including frequency and volume of prior grants.

(3) *Group B-1—Areas providing needed open space opportunity in low-income neighborhoods—(i) General considerations.* (a) Neighborhood or community here means the service area of the specific project—within a 10-minute walk for a lot in a densely build-up area, within the city limits for a city-wide park, and so forth. Sites may range in size from a few thousand square feet to 10 to 20 acres or more.

(b) Median family income in the service area or neighborhood of the project below \$5,000 shall be taken as sufficient evidence to warrant classification in this group. This standard is not inflexible, however. Other cases where the facility is specifically designed to serve the needs of low-income families, and where access to the site is available or will be provided by the community may also fit this Group.

(ii) *Ranking criteria.* All projects in this group are eligible for fund assurance and will not be subject to the project selection system.

(4) *Group B-2—Neighborhood parks—(i) General considerations.* (a) This group includes most small parks and recreation areas and includes projects whose primary function is the provision of active outdoor recreation to large numbers of people. It includes organized game areas, tot lots, most small to moderate size city and neighborhood parks (except where any of the aforementioned facilities are in a low-income area, in which case they would be classed as B-1).

(b) Areas over 20 acres would not normally meet this group definition. The existence of smaller areas within a large facility which are intended for intensive development (such as a children's playground in a large regional park) would not qualify the larger area for classification in this group.

(ii) *Ranking criteria.* (a) Degree to which the proposed project will meet the needs of a broad spectrum of the service area population, including its accessibility by walking or public transportation.

(b) Evidence of unmet recreation needs.

(c) Evidence of rapid community growth.

(d) Proximity of the project to the city center.

(e) Evidence of intent to develop the area for immediate use.

(f) Imminence of loss or incompatible development.

(g) Number of people who may benefit from the project relative to the investment.

(h) Evidence site is the last remaining suitable undeveloped land in a neighborhood.

(i) Evidence of community need for Federal assistance, including frequency and volume of prior grants.

(5) *Group B-3—General recreation areas—(i) General considerations.* This group includes most large city parks, regional parks, and areawide facilities. It includes many areas devoted to hunting, fishing, picnicking, camping, hiking, nature study, ski areas, and most land to be developed for golf courses.

(ii) *Ranking criteria.* (a) Evidence of unmet recreation needs.

(b) Evidence of rapid community growth.

(c) Proximity of the project to the city center, and accessibility by walking or public transportation.

(d) Evidence of intent to develop area for immediate use.

(e) Imminence of loss or incompatible development.

(f) Evidence of priority assigned the project in areawide and local planning and programing.

(g) Number of people who may benefit from the project relative to the investment.

(h) Evidence site is the last remaining suitable undeveloped land in the service area.

(i) Evidence of community need for Federal assistance, including frequency and volume of prior grants.

(6) *Group C—Historic sites and structures including non-SMSA—(i) General considerations.* (a) This group includes all projects intended primarily to preserve historic sites, structures, buildings, or objects. It also includes the area immediately surrounding the historic site that will be treated as part of the same complex. Large areas having historical buildings will not automatically be classified in this group, unless the primary function of the entire area is to preserve or protect the historic sites.

(b) This group is normally limited to relatively small sites (20 acres or less) at the location of the historic site.

(c) In selecting projects for grant assistance, HUD will give special consideration to those projects which are related to the Department's broad goals and which help support other HUD-assisted activities.

(ii) *Ranking criteria.* The following factors will be considered in evaluating projects for grant assistance:

(a) Potential contribution to the community or area in light of planned use of the property.

(b) Historic or architectural significance of the site, structure, or area.

(c) Evidence of need for Federal assistance.

(d) Imminence of loss, including anticipated construction, use change, deterioration, etc.

(e) Priority of project in any existing State or areawide historic preservation plan.

(f) Potential contribution to the community or area in light of the project's relationship to other HUD goals, including citizen participation and the relationship to programs and projects designed to help meet the Nation's housing goals.

(7) *Group D—Scenic and conservation areas—(i) General considerations.* (a) This group is largely devoted to resource-oriented open space projects. Examples of typical areas include a municipal watershed, a nature area, a scenic vista, preservation of wetlands, examples of the natural environment, small forest preserves, ecologic laboratories, general watershed protection areas, wildlife sanctuaries and habitat, and similar areas.

(b) Areas classified in this group may involve some use of the area for outdoor recreation, including hunting, fishing, camping, picnicking, hiking, skiing, nature walks, and so forth.

(ii) *Ranking criteria.* (a) Evidence that the project will meet an urgent local need.

(b) Evidence of priority afforded the project by areawide and local planning and programing.

(c) Evidence of multiple open space uses being served, and if recreation is involved, accessibility of the area by public transportation and intensity of use.

(d) Evidence the project is a key part of an open space plan.

(e) Evidence that less-than-fee acquisition will not suffice.

(f) Evidence site is the last remaining suitable for this purpose in a community or neighborhood.

(g) Ecological significance.

(h) Evidence of community need for Federal assistance, including frequency and volume of prior grants.

(8) *Group E—Small towns (except historic projects)—(i) General considerations.* This group includes all open space projects (except historic projects) from applicants outside Standard Metropolitan Statistical Areas. The purpose of this group is to recognize the differences of scale, purpose, size of clientele, and dollar magnitudes more often involved in proposals submitted by smaller communities outside SMSA's. Within the group, a sub-classification should be assigned to place the project in Groups A, B, or D. This sub-grouping is used for identification purposes.

(ii) *Ranking criteria.* (a) Evidence that the project will meet an urgent local need.

(b) Evidence of priority afforded the project by local programing.

(c) Evidence the proposal will have substantial favorable economic impact—e.g. increased tourism.

(d) Evidence of intent to develop area for immediate use.

(e) Evidence of local financial contribution.

(f) Relative number of people who may benefit from the project for the investment required.

(g) Evidence of community need for Federal assistance, including frequency and volume of prior grants.

(9) *Group F—Environmental improvements*—(i) *General considerations.* This group includes community-wide efforts to improve the overall appearance of a community or neighborhood. Particular emphasis is placed on those areas which although not yet blighted to the point of requiring major rehabilitation, are ugly and uninviting—lacking in improvements so important to a sense of community spirit.

(ii) *Ranking criteria.* (a) Evidence that predominant costs of activities included in the application will be allocated for residential or residentially related activities.

(b) Degree to which the form and timing of the project can be expected to effectively help in the overall upgrading of the neighborhood or community and extent to which this program is coordinated with other programs and regulations to improve the quality of the environment.

(c) Evidence of community need for Federal assistance, including frequency and volume of prior grants.

(d) Special urgency in the need for grant funds resulting from such factors as rapid increase in population or where the project will benefit low and moderate income persons in an area being developed for new residents, high population density, natural disasters, or an unemployment problem among the disadvantaged or minority group members.

(e) The adequacy of the local capital improvements program as it relates to the development of a continuing environmental improvement effort.

(10) *Special cases.* (i) Malls and plazas are classified as Group A.

(ii) Very large open space systems related to a metropolitan area are classified as Group A.

(iii) Beaches are classified as either Group B-1 or B-2, as appropriate.

(iv) School-park complexes are classified as either Group B-1 or B-2, as appropriate.

#### § 4.247 Submission and processing requirements.

(a) *Applications.* Application forms and technical assistance in application preparation are provided by HUD area offices. Preapplication conferences will usually be required for new applicants and may be required for any other applicant at the discretion of the HUD office. Applicants are encouraged to submit a consolidated application covering all program assisted activities planned for 1 year.

(b) *Letters of intent.* Applicants may file a complete program application or a letter expressing intent to submit an application. If the applicant submits a

letter of intent, it must contain enough information to qualify the site(s) proposed for assistance in one of the priority categories listed in § 4.246 and must include the following information:

(1) Name and address of the official applicant agency.

(2) General (neighborhood) location of the site(s) to be acquired and/or developed.

(3) Estimated total project acreage and cost (including acquisition and development).

(4) A commitment to acquire the land and/or complete development within 1 year.

(5) If specific sites are planned, then comments from the Areawide Planning Agency and the A-95 Clearinghouse are needed.

(c) *Letters of assurance.* (1) Upon receipt of a letter of intent, HUD may issue a "letter of assurance" immediately, but in any event HUD will respond to the applicant within 1 week either providing a letter of assurance, or explaining to the applicant why such assurance will not be issued.

(2) The letter of assurance will temporarily set aside the necessary funds, following which the community will have 120 days to complete the necessary actions that can permit formal submission of a complete application. If the applicant has not "taken up" the assurance at the end of the 120-day period, the assurance will be canceled.

(d) *Condemned land.* If a condemnation proceeding has been instituted with respect to any land covered by an application for grant, the application documentation shall identify the parcels for which condemnation proceedings have been instituted and, with respect to those parcels, include the following:

(1) An opinion by the legal counsel for the applicant, establishing the legal authority of the applicant to discontinue the condemnation proceedings at any time prior to judgment without incurring substantial liability or penalty, and

(2) A statement that the applicant complied with HUD land acquisition policy requirements prescribed in § 4.230 and describing the negotiations undertaken to purchase each parcel.

(e) *Flood plain areas.* If a proposed project is located within the limits of a flood plain area, the applicant should contact the HUD Area Office for instructions.

(f) *Processing procedures.* Upon receipt of the application, HUD will assign a project number. A notification will immediately be sent to the applicant acknowledging receipt of the application, giving the assigned project number and indicating that the application has been accepted for processing or if not, why not. If nonremediable defects are noted (such as ineligibility of proposed project), the applicant will be advised that the applicant is rejected for nonremediable reasons. If the application is incomplete, the applicant will be given 30 calendar days to submit the additional material. If requested information is not received within 30 calendar days, the

application may be canceled and returned to the applicant.

(g) *Authorization to proceed.* (1) The program cannot assist land acquisition or project development activities commenced prior to express HUD authorization to proceed.

(2) Property will be considered acquired as of the date a mutually binding purchase agreement is executed, title is transferred, or a condemnation proceedings is initiated which cannot be discontinued without incurring substantial liability or penalty, whichever is earlier.

(3) Development will be considered commenced as of the date the applicant becomes unconditionally bound by a contract or issues a work order covering the activities, or actually begins the activities, whichever is earlier.

(4) The letter acknowledging application receipt is not an authorization to proceed.

(5) HUD authorization to proceed with activities under a pending application in advance of a decision on the application does not insure that the project will later be approved for grant assistance. This authorization is extended to applicants only on an "at your own risk" basis.

#### § 4.248 Financial requirements, restrictions, and information.

(a) *Inspection fee.* An inspection fee must be included in the computation of the total cost of any application. The amount of the fee is based on the cost of all eligible activities included in an application and, in any event, will be not less than \$750. The applicant's share of the fee will be collected by deducting it from the initial payment of grant funds under an approved project. Specific advice regarding the inspection fee will be provided by HUD area offices.

(b) *Fee schedule for real estate services.* For projects involving the acquisition of land, the estimated expense of real estate negotiation services, as an eligible administrative cost, may be computed from the maximum allowable fee schedule set forth below:

Land Valuation	Maximum Compensation
Less than \$2,000---	\$25 plus 3 percent of excess above \$500.
\$2,000 to \$5,000----	\$70 plus 2 percent of excess above \$2,000.
\$5,000 to \$10,000---	\$130 plus 1½ percent of excess above \$5,000.
\$10,000 to \$20,000--	\$205 plus 1 percent of excess above \$10,000.
\$20,000 to \$50,000--	\$305 plus ¾ percent of excess above \$20,000.
\$50,000 to \$200,000.	\$505 plus 0.2 percent of excess above \$50,000.
\$200,000 or more----	\$805 plus 0.1 percent of excess above \$200,000.

(c) *Local share*—(1) *General.* The local share of total project cost may be made up of cash, force account work, or private donations of land, or materials. However, "not more than 50 per centum of the non-Federal share of such eligible project cost may be made up by donations of land or materials" as provided in the Statute (Public Law 91-609, 84 Stat.

1770, 1781). The remainder of the non-Federal share may be made up of force account work.

(2) *Donations.* (1) Gifts, bequests, and endowments of money or land, except anonymous donations, to the applicant are acceptable for up to 50 percent of the applicant's share of project costs, subject to concurrence in advance by HUD.

(i) If a project is to involve donations of land or material obtain details on eligibility from the HUD area office.

(3) *Force account.* Services provided by the applicant through utilization of its own employees in carrying out development plans and activities may be utilized as part of the non-Federal share of a project.

(d) *Federal share.* Grants under the program will be made only to reimburse the applicant for expenditures made for project activities. Therefore, the applicant must demonstrate capacity to finance project costs prior to receiving assistance.

#### § 4.249 Project approval.

Information about HUD's actions and requirements following grant approval will be furnished by the HUD Area Office.

#### § 4.250 Transfers, conversions, interim uses.

(a) *General.* Projects receiving assistance are to be utilized as specified in the application and HUD grant contract. Under some conditions, the intended use may be altered if the change is in the interest of the applicant grantee and the Federal Government. Any proposed interim use, incidental change in use of conversion to other uses, however, must have prior approval of HUD. Furthermore, any income realized from interim uses must be deducted from total project cost or officially earmarked for open space purposes.

(b) *Short term transfer of interests—*

(1) *Transfer where there is an incidental change of use.* Transfer of an interest in assisted land is permissible where the resulting change of land use is not inconsistent with the overall approved open space use of the project and prior approval has been obtained from HUD. For example, HUD might approve an underground-powerline easement through a park.

(2) *Transfer of short-term interest contemplated originally.* Transfer of a short term interest in assisted land may be allowed if such transfer is found to be consistent with project purposes and approved as part of the original approved project. For example, HUD might approve a year lease of land to be used for farm purposes if this land is not immediately needed by the grantee for approved purposes. Any such approval will be specifically evidenced in the grant agreement with the grantee. "Short term", as used herein, is defined as not exceeding 3 years from the date of the grant agreement.

(3) *Transfer of a short-term interest not originally approved.* Transfer of a short-term interest not approved as part of the original approved project may be

permitted where the assisted land has not been utilized for its approved use. For example, HUD might approve a 1-year lease for parking purposes of land which was acquired for recreational use but has not been developed. "Short term" is defined for purposes, herein, as not exceeding 3 years from date of approval of the transfer.

(4) *Conditions for approval.* Approval of such transfers will be based upon proposed uses and terms and conditions that HUD deems appropriate, including repayment or reduction of the grant based on the value to the grantee of the transferred interest.

(5) *Documents required for approval.* To obtain approval for a transfer of interest, the applicant should consult the HUD area office.

(c) *Transfers of interest for historic structures.* HUD will permit lease arrangements between an applicant and another entity, which need not be a public body, of a historic or architecturally significant structure if necessary to preserve the structure and use it appropriately. Proposals for such lease arrangements should be included in the application.

(d) *Conversion of land involving historic or architectural properties.* (1) The conversion to other uses of any historically or architecturally significant properties assisted under the program must have prior approval by both the Secretary of HUD and the Secretary of the Interior. Application of this requirement is limited to properties listed on the National Register pursuant to the Historic Preservation Act of 1966 (Public Law 89-665, 80 Stat. 915, 1605C 470).

(2) All such conversions are subject to the requirement of section 106 of such Act and shall be subject to review and comment by the Advisory Council on Historic Preservation. A grantee planning any such conversion should ask the HUD area office for instructions.

(3) All conversions of such properties will require repayment by the applicant of the Federal grant or use of a sum equal to total project cost plus interest for other historic preservation activities.

(e) *Long-term transfer of interest.*

(1) Proposals to transfer a long-term interest in project land will be considered by HUD only in unique and exceptional cases. Long term, as used herein means, greater than 3 years. Continued public use, in no way restricted, must be assured in any proposed long-term transfer of interest. The transfer of interest must result in a greater benefit to the community or project service area than the implementing of the originally intended use.

(2) HUD approval, when warranted, of a proposed transfer of a long-term interest will be based upon terms and conditions that HUD deems appropriate, including repayment or reduction of the grant or pending grants based on the value to the grantee of the transferred interest.

(f) *Conversion of land acquired for open space use and land developed with program assistance.* HUD will permit

conversions from open space uses of land assisted under the program (other than historic or architecturally significant properties) when certain standards can be met, as follows:

(1) Other open space must be substituted for that converted so that the process of substitution results in no effective loss of open space in the neighborhood or community. No land already publicly owned may be used for substitution purposes.

(2) The fair market value of the substituted land must be at least equal to the fair market value (at highest and best use) of the project property to be converted, plus any severance damage to any project property to remain in open space use.

(3) The substituted land must be of as nearly as feasible equivalent usefulness and location. In other words, the substitute generally serves the same people and provides equivalent or a better quantity and quality of open space service.

(4) Open space land conversions generally involve change in land use to other public purposes. However, requests for conversions to nonpublic uses will be considered on the basis of community-wide benefit to be derived from conversion.

(5) Conversions that would involve the open market disposal of one site and the subsequent purchase of a new site will require specific justification to demonstrate how the growth or development patterns for the future will not support retention of the original site in public ownership in anticipation of future open space requirements. It is the purpose of this requirement to discourage communities from selling existing open space sites in order to obtain revenues for the purchase of other projects.

(6) Great weight is placed on the relationship of a proposed conversion to the comprehensive plan and its open space and recreation element. Evidence must be submitted supporting the determination that the conversion is needed "for the orderly development and growth of the urban area" and "in accord with the then applicable comprehensive plan." Review and certification by the appropriate planning bodies will be required to meet this condition.

(7) The applicant shall submit a resolution of its governing body authorizing or approving the proposed conversion. HUD may, at its option, require additional evidence regarding the proposed conversion, including evidence that notice of the proposed conversion has been given to the general public by such means as publication in a newspaper of general circulation in the area and/or by public hearings.

(8) Substitute land to be acquired by an applicant for the purpose of meeting HUD conversion requirements, must be acquired and used under terms and policies applicable to the program, including policies for land acquisition, relocation, and nondiscrimination.

(9) No conversions will be approved that would result in an additional Federal grant.

(10) When a superior authority utilizes its eminent domain powers to acquire assisted land, the principles set out above so far as they relate to the substitution of other open space land of at least equal fair market value and of as nearly feasible equivalent usefulness and location will apply. A finding that the use of substituted land will be in accord with the then applicable comprehensive plan must be made and HUD approval for acquisition of the proposed substitute land is required.

(g) *Transfers to another public body.* The applicant may not transfer any of its interest in open space land to another public body unless the proposed transferee enters into a contract with HUD agreeing to be bound by the applicable terms and conditions of the grantee's contract with HUD.

#### § 4.251 Waivers.

Any requirement of this subpart may be waived by the Secretary of Housing and Urban Development or as otherwise specifically redelegated so long as such waiver would not violate any requirement of Federal law.

FLOYD H. HYDE,  
Assistant Secretary  
for Community Development.

[FR Doc. 71-12827 Filed 8-31-71; 8:55 am]

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

[Docket No. R-71-117]

#### PART 241—SUPPLEMENTARY FINANCING FOR FHA PROJECT MORTGAGES

##### Eligibility Requirements for Secretary-Held Mortgages

A proposal was published at 36 F.R. 11815 (June 19, 1971) to amend Part 241 of the regulations governing supplementary financing for FHA project mortgages. The proposal was for the purpose of implementing section 111 of the Housing and Urban Development Act of 1970 (84 Stat. 1772), which amended section 241 of the National Housing Act (12 U.S.C. 1715b, 1715z-6) to authorize the Secretary to insure supplemental loans for projects on which he holds the mortgage.

Interested persons were given the opportunity to participate in the rule making through submission of written comments or suggestions on or before July 19, 1971. No comments have been received, and the proposed regulations are therefore adopted without change as set forth below.

*Effective date.* These regulations are effective September 29, 1971.

EUGENE A. GULLEDGE,  
Federal Housing Commissioner.

1. In § 241.1 paragraph (i) is amended, and a new paragraph (j) is added, to read:

#### § 241.1 Definitions.

(i) "Borrower" means the owner of a project covered by an insured mortgage or a mortgage held by the Secretary, which owner receives and becomes primarily obligated for the payment of a supplementary loan.

(j) "Secretary" means the Secretary of Housing and Urban Development or his authorized representatives.

#### 2. Section 241.70 is amended to read: § 241.70 Maximum loan amount.

(a) Where the project is covered by an insured mortgage, the principal amount of the loan shall not exceed the lesser of the following:

(1) Ninety percent of the Commissioner's estimate of the value of the improvements, additions, or equipment.

(2) An amount which, when added to any outstanding indebtedness relating to the property, does not exceed the maximum mortgage amount insurable under the section or title pursuant to which the mortgage covering such project or facility is insured.

(b) Where the project is covered by a mortgage held by the Secretary, the principal amount of the loan shall be in an amount acceptable to the Secretary.

3. In § 241.100 paragraph (a) (1) (ii) is amended to read:

#### § 241.100 Prepayment privilege and charge.

(a) *Prepayment privilege.* (1) . . .  
(ii) A provision requiring full prepayment of the loan in the event the insured mortgage or the mortgage held by the Secretary is paid in full prior to maturity, unless the borrower submits to such regulation or restriction as the Commissioner may require.

4. In § 241.110 paragraph (b) is amended to read:

#### § 241.110 Certificate of use for transient or hotel purposes.

(b) . . .  
(1) In connection with a housing for the elderly project covered by a mortgage insured under the provisions of §§ 231.1 et seq. of this chapter or by a mortgage held by the Secretary.

(2) In connection with a nursing home covered by a mortgage insured under the provisions of §§ 232.1 et seq. of this chapter or by a mortgage held by the Secretary.

(3) In connection with a group practice facility covered by a mortgage insured under the provisions of §§ 1100.1 et seq. of this chapter or by a mortgage held by the Secretary.

5. Section 241.125 is amended to read: § 241.125 Use of loan proceeds.

The proceeds of the loan shall be used only to finance improvements or additions to a multifamily project or group practice facility which is subject to a

mortgage insured under any section or title of the Act or covered by a mortgage held by the Secretary. The proceeds of a loan involving a nursing home or a group practice facility may also be used to purchase equipment to be used in the operation of such nursing home or facility.

6. Section 241.145 is amended to read: § 241.145 Labor requirements.

All of the labor standards and prevailing wage requirements which were applicable to the insurance of the existing project mortgage, or pursuant to which the original project mortgage was insured, shall also be complied with in connection with the loan insured under this section.

[FR Doc. 71-12736 Filed 8-31-71; 8:45 am]

## Title 28—JUDICIAL ADMINISTRATION

### Chapter I—Department of Justice

[Order 465-71]

#### PART 21—WITNESS FEES

##### Travel Expenses of Federal Employees Serving as Witnesses

###### *Correction*

In F.R. Doc. 71-11768 appearing at page 15432 in the issue for Saturday, August 14, 1971, in the 18th line of § 21.1(d) the word "approval" should read "approved".

## Title 29—LABOR

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

#### PART 1911—RULES OF PROCEDURE FOR PROMULGATING, MODIFYING, OR REVOKING OCCUPATIONAL SAFETY OR HEALTH STANDARDS

Pursuant to sections 6(b) and 8(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657), sections 1 and 4 of the Walsh-Healey Public Contracts Act (41 U.S.C. 35, 38), sections 2 and 4 of the McNamara-O'Hara Service Contract Act of 1965 (41 U.S.C. 351, 353), section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) popularly known as the Construction Safety Act, section 41 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941), and section 5(j)(2) of the National Foundation on Arts and Humanities Act of 1965 (20 U.S.C. 954(j)(2)), Chapter XVII of Title 29, Code of Federal Regulations, is hereby amended by adding thereto a new Part 1911 to read as set forth below.

As the rules are procedural, neither notice of proposed rule making, nor public participation therein, nor delay in effective date is required by 5 U.S.C. 553. In addition, no good reason appears for such public procedure, or delay. However, in any event any interested person is invited to submit written data, views, or arguments with regard to the rules within 60 days of their publication in the FEDERAL REGISTER. Such submissions would be carefully and promptly considered with a possible amendment to the rules in view.

The new Part 1911 reads as follows:

- Sec.
- 1911.1 Purpose and scope.
- 1911.2 Definitions.
- 1911.3 Petition for the promulgation, modification, or revocation of a standard.
- 1911.4 Additional or alternative procedural requirements.
- COMMENCEMENT OF RULEMAKING
- 1911.10 Construction standards.
- 1911.11 Other standards.
- HEARINGS
- 1911.15 Nature of hearing.
- 1911.16 Powers of presiding officer.
- 1911.17 Certification of the record of a hearing.
- 1911.18 Decision.

**AUTHORITY:** The provisions of this Part 1911 issued under secs. 6(b), 8(g), 84 Stat. 1593, 1600; 29 U.S.C. 655, 657; secs. 1, 4, 49 Stat. 1036, 1038, as amended; 41 U.S.C. 35, 38; secs. 2, 4, 74 Stat. 1034, 1035; 41 U.S.C. 351, 353; sec. 107, 76 Stat. 357; 40 U.S.C. 333; sec. 41, 44 Stat. 1444; 33 U.S.C. 941; sec. 5(j) (2), 79 Stat. 848; 20 U.S.C. 954(j) (2).

**§ 1911.1 Purpose and scope.**

This part sets forth rules of procedure for promulgating, modifying, or revoking occupational safety or health standards under section 6(b) (1), (2), (3), and (4) of the Williams-Steiger Occupational Safety and Health Act of 1970 and under any of the particular statutes listed in § 1911.2(d) which may also cover the employments affected by the standards. The purpose of the rules is to provide for single proceedings in the setting of standards under the several statutes, in order to assure uniformity of the standards to be enforced under the several statutes and in order to avoid needless multiplicity of rulemaking proceedings dealing with the same subjects and issues relating to occupational safety and health standards.

**§ 1911.2 Definitions.**

As used in this part, unless the context clearly requires otherwise—

(a) "Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health.

(b) "Act" means the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1599; 29 U.S.C. 650).

(c) "Standard" means an occupational safety and health standard which requires conditions, or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe or healthful employment and places of employment, and which is to be promul-

gated, modified, or revoked in accordance with section 6(b) (1), (2), (3), and (4) of the Act.

(d) "Particular statute" means any of the following statutes of particular application: the Act of June 30, 1936, commonly known as the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.), the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the Construction Safety Act (40 U.S.C. 333), the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941), or the National Foundation on Arts and Humanities Act (20 U.S.C. 951 et seq.).

**§ 1911.3 Petition for the promulgation, modification, or revocation of a standard.**

Any interested person may file with the Assistant Secretary, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210, a written petition for the promulgation, modification, or revocation of a standard. The petition should include, or be accompanied by, the proposed rule desired and a statement of the reasons therefor and intended effect thereof.

**§ 1911.4 Additional or alternative procedural requirements.**

Upon reasonable notice to interested persons, the Assistant Secretary may in any particular proceeding prescribe additional or alternative procedural requirements: (a) In order to expedite the conduct of the proceeding; (b) in order to provide greater procedural protection to interested persons whenever it is found necessary or appropriate to do so; or (c) for any other good cause which may be consistent with the applicable laws.

**COMMENCEMENT OF RULEMAKING**

**§ 1911.10 Construction standards.**

The Assistant Secretary may promulgate, modify, or revoke a standard applicable to employments in construction work, as defined in § 1910.12(b) of this chapter, in the following manner:

(a) The Assistant Secretary shall consult with the Advisory Committee on Construction Safety and Health, established pursuant to section 107 of the Contract Work Hours and Safety Standards Act, in the formulation of a rule to promulgate, modify, or revoke a standard. The Assistant Secretary shall provide the committee with any proposal of his own or the Secretary of Health, Education, and Welfare, together with all pertinent factual information available to him, including the results of research, demonstrations, and experiments. The committee shall submit to the Assistant Secretary its recommendations regarding the rule to be promulgated within the period prescribed by the Assistant Secretary, which in no event shall be longer than 270 days from the date of initial consultation.

(b) Within 60 days after the submission of the committee's recommendations or after the expiration of the period prescribed for such submissions, whichever date is earlier, the Assistant Secretary, if he determines that a rule should be is-

sued, shall publish in the FEDERAL REGISTER a notice of proposed rulemaking. The notice shall include:

- (1) The terms of the proposed rule;
- (2) A reference to section 6(b) of the Act and to section 107 of the Contract Work Hours and Safety Standards Act;
- (3) An invitation to interested persons to submit within 30 days after publication of the notice written data, views, and arguments, which shall be available for public inspection and copying, except as to matters the disclosure of which is prohibited by law;
- (4) The time and place for an informal hearing to be commenced not earlier than 10 days following the end of the period for written comments;
- (5) A requirement for the filing of an intention to appear at the hearing, together with a statement of the position to be taken with regard to the proposed rule and of the evidence to be adduced in support of the position;
- (6) Designation of a presiding officer to conduct the hearing; and
- (7) Any other appropriate provisions pertinent to the proceeding.

(c) Any interested person who files an intention to appear in accordance with paragraph (b) of this section shall have a right to participate at the informal hearing.

**§ 1911.11 Other standards.**

The Assistant Secretary may promulgate, modify, or revoke a standard applicable to employments other than those in construction work, as defined in § 1910.12(b) of this chapter, in the following manner:

(a) The Assistant Secretary may request the recommendations of an advisory committee appointed under section 7 of the Act. In such event, the Assistant Secretary shall submit to the committee any proposal of his own or of the Secretary of Health, Education, and Welfare, together with all pertinent factual information available to him, including the results of research, demonstrations, and experiments. The committee shall submit to the Assistant Secretary its recommendations regarding the rule to be promulgated within the period prescribed by the Assistant Secretary, which in no event shall be longer than 270 days.

(b) The Assistant Secretary shall publish in the FEDERAL REGISTER a notice of proposed rule making. Where an advisory committee has been consulted and the Assistant Secretary determines that a rule should be issued, the notice shall be published within 60 days after the submission of the committee's recommendations or the expiration of the period prescribed for such submissions, whichever date is earlier. The notice shall include:

- (1) The terms of the proposed rule;
- (2) A reference to section 6(b) of the Act and to the appropriate section of any particular statute applicable to the employments affected by the rule;
- (3) An invitation to interested persons to submit within 30 days after publication of the notice written data, views, and

arguments, which shall be available for public inspection and copying, except as to matters the disclosure of which is prohibited by law;

(4) Either the time and place of an informal hearing on the proposed rule to be held not earlier than 10 days from the last day of the period for written comments, or information to interested persons that they may file on or before the 30th day after publication of the notice written objections to the proposed rule meeting the requirements of paragraph (c) of this section and request an informal hearing on the objections; and

(5) Any other appropriate provisions with regard to the proceeding.

(c) Objections to be submitted pursuant to paragraph (b) of this section shall comply with the following conditions:

(1) The objections must include the name and address of the objector;

(2) The objections must be post-marked on or before the 30th day after the date of publication of the notice of proposed rulemaking;

(3) The objections must specify with particularity the provision of the proposed rule to which objection is taken, and must state the grounds therefor;

(4) Each objection must be separately stated and numbered; and

(5) The objections must be accompanied by a summary of the evidence proposed to be adduced at the requested hearing.

(d) Within 30 days after the last day for filing objections, if objections are filed in substantial compliance with paragraph (c) of this section, the Assistant Secretary shall, and in any other case may, publish in the FEDERAL REGISTER a notice of informal hearing. The notice shall contain:

(1) A statement of the time, place, and nature of the hearing;

(2) A reference to the authority under which the hearing is to be held;

(3) A specification of the provisions of the proposed rule which have been objected to, and on which an informal hearing has been requested;

(4) A specification of the issues on which the hearing is to be had, which shall include at least all the issues raised by any objections properly filed, on which a hearing has been requested;

(5) The requirement for the filing of an intention to appear at the hearing together with a statement of the position to be taken with regard to the issues specified and of the evidence to be adduced in support of the position;

(6) The designation of a presiding officer to conduct the hearing; and

(7) Any other appropriate provisions with regard to the proceeding.

(e) Any objector requesting a hearing on proposed rule, and any interested person who files a proper intention to appear shall be entitled to participate at a hearing.

#### HEARINGS

##### § 1911.15 Nature of hearing.

(a) (1) The legislative history of section 6 indicates that Congress intended informal rather than formal rulemaking procedures to apply. See H. Rept. No. 91-1765, 91st Cong., 2d Sess. 34 (1970). See also S. Rept. No. 91-1282, 91st Cong., 2d Sess. 7 (1970). Thus, the hearing pursuant to § 1911.10 or § 1911.11 shall be informal. However, section 6(b)(3) provides an opportunity for a hearing on objections to proposed rulemaking and section 6(f) provides, in connection with judicial review of standards, that determinations of the Secretary shall be conclusive if supported by substantial evidence in the record considered as a whole. Although these sections are not read as requiring a rulemaking proceeding within the meaning of the last sentence of 5 U.S.C. 553(c) requiring the application of the formal requirements of 5 U.S.C. 556 and 557, they do suggest a Congressional expectation that the rulemaking would be on the basis of a record to which the substantial evidence test may be applied. Thus, the Act is interpreted as requiring more than the essentials of informal rulemaking under 5 U.S.C. 553 which of themselves do not require a decision on the record.

(2) The oral hearing shall be legislative in type. However, fairness may require an opportunity for cross-examination on crucial issues. The presiding officer is empowered to permit cross-examination under such circumstances. The essential intent is to provide an opportunity for effective oral presentation by interested persons which can be carried out with expedition and in the absence of rigid procedures which might unduly impede or protract the rulemaking process.

(b) The presiding officer in any oral hearing shall be a hearing examiner appointed under 5 U.S.C. 3105. The hearing shall be reported verbatim, and a transcript shall be made available to any interested person on such terms as the presiding officer may provide.

##### § 1911.16 Powers of presiding officer.

The officer presiding at a hearing shall have all the powers necessary or appropriate to conduct a fair and full hearing, including the powers:

(a) To regulate the course of the proceedings;

(b) To dispose of procedural requests, objections, and comparable matters;

(c) To confine the presentations to the issues specified in the notice of hearing, or, where no issues are specified, to matters pertinent to the proposed rule;

(d) To regulate the conduct of those present at the hearing by appropriate means;

(e) In his discretion, to permit cross-examination of any witness;

(f) To take official notice of material facts not appearing in the evidence in the record, so long as parties are entitled, on timely request, to an opportunity to show the contrary; and

(g) In his discretion, to keep the record open for a reasonable, stated time to receive written recommendations, and supporting reasons, and additional data, views, and arguments from any person who has participated in the oral proceeding.

##### § 1911.17 Certification of the record of a hearing.

Upon completion of the oral presentations, the transcript thereof, together with written submissions on the proposed rule, exhibits filed during the hearing, and all posthearing comments, recommendations, and supporting reasons shall be certified by the officer presiding at the hearing to the Assistant Secretary.

##### § 1911.18 Decision.

(a) Within 60 days after the expiration of the period provided for the submission of written data, views, and arguments on a proposed rule on which no hearing is held, or within 60 days after the certification of the record of a hearing, the Assistant Secretary, upon consideration of the written submissions or of the record of the hearing shall publish in the FEDERAL REGISTER either an appropriate rule promulgating, modifying, or revoking a standard, or a determination that such a rule shall not be issued. Any rule or determination shall be accompanied by a statement of findings and conclusions, as well as reasons therefor, upon all material issues of fact, law or discretion presented on the record.

(b) Where an advisory committee has been consulted in the formulation of a proposed rule, the Assistant Secretary may refer written submissions on the rule, or the record of a hearing thereon where available, to the committee for its review and for written recommendations to the Assistant Secretary to be submitted within a period to be prescribed by him.

Signed at Washington, D.C. this 27th day of August 1971.

J. D. HODGSON,  
Secretary of Labor.

[FR Doc.71-12786 Filed 8-31-71; 8:49 am]

## Title 32—NATIONAL DEFENSE

### Chapter I—Office of the Secretary of Defense

#### SUBCHAPTER M—MISCELLANEOUS

#### PART 199—DEFENSE ORGANIZATIONAL ENTITY STANDARDS (DOES) PROGRAM

Codification of Part 199 is discontinued. DoD Directive 5000.17, upon which this Part 199 was based, has been canceled.

MAURICE W. ROCHE,  
Director, Correspondence and  
Directives Division, OASD  
(Administration).

[FR Doc.71-12788 Filed 8-31-71; 8:49 am]



**Title 35—PANAMA CANAL**

**Chapter 1—Canal Zone Regulations**  
**PART 5—PUBLIC LANDS; MILITARY RESERVATIONS**

**Revision of Boundaries of Certain Military Reservations**

*Correction*

In F.R. Doc. 71-345 appearing at page 496 in the issue for Thursday, January 14, 1971, make the following changes.

1. In § 5.62 (a), Parcel No. 1, in the 10th line, column 1, on page 501, the reference to "No. 36-2" should read "No. 36-3".

2. In § 5.62(a), Parcel No. 1, the 20th line in column 2 should read "S.52°07'00" E., 2,452.1 feet, along the".

3. In § 5.62(a), Parcel No. 2, in the 38th line from the bottom of column 2, the reference to "79°33' W." should read "79°38' W.".

4. In § 5.62(a), Parcel No. 2, the 28th line from the bottom of column 2 should read "W. plus 2,679.8 feet.".

5. In numerous instances throughout the document, the survey precision indicated by the suffix ".0" on measurements in an even number of feet was inadvertently omitted in typesetting. Therefore, the suffix ".0" should be reinserted.

**Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT**

**Chapter 1—Federal Procurement Regulations**

**PART 1-1—GENERAL**

**Minority Business Enterprises**

This amendment of the Federal procurement regulations establishes a new subpart 1-1.13, Minority Business Enterprises, and prescribes subcontracting policies, procedures, and contract clauses designed to foster and encourage the participation of minority business enterprises in the subcontracts awarded by Government prime contractors.

The table of contents for Part 1-1 is amended by the deletion of the designation "Reserved" and the insertion of the caption "Minority Business Enterprises" for subpart 1-1.13 and to add new entries as follows:

Subpart 1-1.13—Minority Business Enterprises	
Sec.	
1-1.1300	Scope of subpart.
1-1.1301-1-1.1309	[Reserved]
1-1.1310	Subcontracting with minority business enterprises.
1-1.1310-1	General.
1-1.1310-2	Required clauses.

**Authority:** The provisions of this subpart 1-1.13 issued under sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

New Subpart 1-1.13 is added as follows:

**Subpart 1-1.13—Minority Business Enterprises**

**§ 1-1.1300 Scope of subpart.**

This subpart contains policies, procedures, and contract clauses, applicable to the participation of minority business enterprises in Government procurement at both the prime and subcontract level, which are designed to carry out the purpose of Executive Order 11458, March 5, 1969 (34 F.R. 4937).

**§§ 1-1.1301-1-1.1309 [Reserved]**

**§ 1-1.1310 Subcontracting with minority business enterprises.**

**§ 1-1.1310-1 General.**

It is the policy of the Government that the maximum practicable opportunity to participate in the performance of Government contracts be provided to minority business enterprises as subcontractors and suppliers to contractors performing work or rendering services as prime contractors or subcontractors under Government procurement contracts.

**§ 1-1.1310-2 Required clauses.**

(a) The Utilization of Minority Business Enterprises clause set forth in this § 1-1.1310-2(a) shall be included in all contracts in amounts which may exceed \$5,000 except (1) contracts which, including all subcontracts thereunder, are to be performed entirely outside the United States, its possessions, and Puerto Rico and (2) contracts for services which are personal in nature.

**UTILIZATION OF MINORITY BUSINESS ENTERPRISES**

(a) It is the policy of the Government that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts.

(b) The Contractor agrees to use his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business enterprise" means a business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American Aleuts. Contractors may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

(b) The Minority Business Enterprises Subcontracting Program clause set forth in this § 1-1.1310-2(b) shall be included in all contracts which may exceed \$500,000 which contain the clause required by § 1-1.1310-2(a), and which, in the opinion of the procuring activity, offer substantial subcontracting possibilities. Furthermore, prime contractors who are to be awarded contracts which may not exceed \$500,000, but which, in the opinion of the procuring activity, offer substantial subcontracting possibilities shall be urged to accept this clause.

**MINORITY BUSINESS ENTERPRISES SUBCONTRACTING PROGRAM**

(a) The Contractor agrees to establish and conduct a program which will enable minority business enterprises (as defined in the clause entitled "Utilization of Minority Business Enterprises") to be considered fairly as subcontractors and suppliers under this contract. In this connection, the Contractor shall—

(1) Designate a liaison officer who will administer the Contractor's minority business enterprises program.

(2) Provide adequate and timely consideration of the potentialities of known minority business enterprises in all "make-or-buy" decisions.

(3) Assure that known minority business enterprises will have an equitable opportunity to compete for subcontracts, particularly by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation of minority business enterprises.

(4) Maintain records showing (i) procedures which have been adopted to comply with the policies set forth in this clause, including the establishment of a source list of minority business enterprises, (ii) awards to minority business enterprises on the source list, and (iii) specific efforts to identify and award contracts to minority business enterprises.

(5) Include the Utilization of Minority Business Enterprises clause in subcontracts which offer substantial minority business enterprises subcontracting opportunities.

(6) Cooperate with the Contracting Officer in any studies and surveys of the Contractor's minority business enterprises procedures and practices that the Contracting Officer may from time to time conduct.

(7) Submit periodic reports of subcontracting to known minority business enterprises with respect to the records referred to in subparagraph (4), above, in such form and manner and at such time (not more often than quarterly) as the Contracting Officer may prescribe.

(b) The Contractor further agrees to insert, in any subcontract hereunder which may exceed \$500,000, provisions which shall conform substantially to the language of this clause, including this paragraph (b), and to notify the Contracting Officer of the names of such subcontractors.

*Effective date.* This amendment is effective October 13, 1971, but may be observed earlier.

Dated: August 25, 1971.

ROBERT L. KUNZIG,  
Administrator of General Services.

[FR Doc.71-12795 Filed 8-31-71;8:54 am]

**Chapter 114—Department of the Interior**

**PART 114-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY**

**Reassignment of Real Property by the Agencies**

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 (Supp. V, 1965-1969) and Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), Part 114-47 of Chapter 114, Title 41 of the Code of Federal Regulations, is amended as set forth below.

This amendment shall become effective on the date of publication in the FEDERAL REGISTER (9-1-71).

WARREN F. BRECHT,  
Deputy Assistant Secretary  
of the Interior.

AUGUST 25, 1971.

The following amends 41 CFR Part 114-47:

Section 114-47.203-1(d) is amended by changing the title "Assistant Secretary—Water and Power Development" to read "Assistant Secretary—Water and Power Resources".

[FR Doc.71-12740 Filed 8-31-71;8:45 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

##### Pathfinder National Wildlife Refuge, Wyo.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (9-1-71).

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

#### WYOMING

##### PATHFINDER NATIONAL WILDLIFE REFUGE

Public hunting of antelope on the Pathfinder National Wildlife Refuge, Wyo., is permitted on the entire refuge in accordance with dates and areas designated in the Wyoming 1971 orders regulating antelope hunting. Portions of the refuge lying in area No. 63 will be open from September 15 through September 25, 1971. Portions of the refuge lying in area No. 48 will be open from September 25 through October 15, 1971. This open area, comprising 16,807 acres, is composed of four separate units and is delineated on maps available at refuge headquarters in Walden, Colo. and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of antelope.

The provisions of this 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 October 15, 1971.

V. CARROL DONNER,  
Refuge Manager, Pathfinder  
National Wildlife Refuge,  
Walden, Colo.

AUGUST 18, 1971.

[FR Doc. 71-12744 Filed 8-31-71;8:46 am]

#### PART 32—HUNTING

##### Pathfinder National Wildlife Refuge, Wyo.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (9-1-71).

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

#### WYOMING

##### PATHFINDER NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Pathfinder National Wildlife Refuge, Wyo., is permitted on the entire refuge in accordance with dates and areas designated in the Wyoming 1971 orders regulating deer hunting. Portions of the refuge lying in area No. 87 will be open October 15 through October 20, 1971. Portions of the refuge lying within area No. 72 will be open October 1 through October 15, 1971. This open area, comprising 16,807 acres, is composed of four separate units and is delineated on maps available at refuge headquarters in Walden, Colo. and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, NM 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer.

The provisions of this 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 October 15, 1971.

V. CARROLL DONNER,  
Refuge Manager, Pathfinder  
National Wildlife Refuge,  
Walden, Colo.

AUGUST 18, 1971.

[FR Doc.71-12745 Filed 8-31-71;8:46 am]

## Title 32A—NATIONAL DEFENSE, APPENDIX

### Chapter I—Office of Emergency Preparedness

[OEP Economic Stabilization Reg. 1; Circular No. 6]

#### SUPPLEMENTARY GUIDANCE FOR APPLICATION

##### Economic Stabilization Circular No. 6

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 sixth circular covers determinations by the Council through August 30, 1971.

#### APPENDIX I

##### ECONOMIC STABILIZATION CIRCULAR NO. 6

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. The effective date of the order was 12:01 a.m., August 16, 1971.

(b) By its Order No. 1 the Council delegated to the Director of the Office of Emergency Preparedness authority to administer the program 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 sixth 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, August 20, 1971).  
OEP Economic Stabilization Regulation No. 1, as amended, 36 F.R. 16515, August 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 previous OEP Circulars.

301. Support payment. (a) Child support payments and alimony can be raised during the stabilization period since they are transfer payments, not prices, wages, salaries, or rents.

400. Price guidelines.

401. General guidelines. (a) A wholesaler who gives advertising allowances in the form of percentage discounts on prices cannot cancel these allowances during the freeze. To do so would amount to a reduction in services without a corresponding reduction in price.

(b) Coal companies which had no transactions over the summer months cannot increase their price over last year's price to reflect an increase in freight costs. They are frozen to the price charged during the last period when there were transactions or that of May 25, 1970.

404. Sale of real estate. (a) A land developer has 8,000 acres of land which

as need develops, he markets in 200 acre segments. In this situation, each tract of land is treated as unique for ceiling purposes. The test is the fair market price based on substantial numbers of sales of like or similar property during the base period.

405. *Government-regulated industries.*

(a) Postal rate increases are frozen.

406. *Commodities and services.* (a) A dealer buys the same goods from many different sellers and sells to many different buyers. In his transactions he takes title to the goods he purchases. His only compensation is the difference between his purchase and sales prices. The price freeze applies to the prices he charges since his price ceilings are determined like those of any other seller of such goods.

408. *Exemptions.* (a) The following two items should be added to the list of non-exempt agricultural products contained in Section 408(a) of OEP Economic Stabilization Circular No. 5:

Dill pickles.

Packaged slaw.

(b) Fish products are classified as raw agricultural products and not covered by the freeze until they are shelled, gutted, shucked, skinned, or scaled.

500. *Wage and salary guidelines.*

502. *Specific guidelines.* (a) An apartment manager receives free or low-

rental costs for an apartment as a part of wages. An upgrade in the quality of the manager's apartment would constitute an increase in compensation and as such is not allowed under the terms of the freeze. However, such increases can be offset by proportionate adjustments in other areas of compensation.

600. *Rent guidelines.*

601. *Specific guidelines.* (a) A landlord cannot require a person to rent or purchase furniture, or to rent a garage before agreeing to rent his property, where it was not his established practice prior to August 15, 1971. Any practice which constitutes a means to obtain a higher rent than is permitted under the freeze is prohibited.

(b) The policies which have been issued on property prices, rents, and improvements apply to commercial property.

1001. *Effective date.* This circular, unless modified, superseded, or revoked, is effective on the date of publication for a period terminating at midnight of November 13, 1971.

Dated: August 31, 1971.

G. A. LINCOLN,  
Director,

Office of Emergency Preparedness.

[FR Doc.71-12983 Filed 8-31-71;12:00 pm]

# Proposed Rule Making

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[ 21 CFR Part 295 ]

### CHILD PROTECTION PACKAGING STANDARDS FOR PREPARATIONS CONTAINING ASPIRIN

#### Proposed Rule Making

Through investigations by the Food and Drug Administration and from other available information, the Commissioner of Food and Drugs has determined that the ingestion of aspirin and preparations containing significant amounts of aspirin have been a leading cause of fatalities and hospitalizations of children under 5 years of age.

A review of a 2½-year compilation (Jan. 1968-June 1970) of Poison Control Center reports received by the National Clearinghouse for Poison Control Centers reveals the following regarding children under 5 years of age:

1. Aspirin is the item most frequently ingested accidentally.
2. Aspirin is the leading cause of hospitalizations due to accidental poisonings.
3. The dosage size of aspirin that is most frequently ingested accidentally and that is the leading cause of hospitalizations is 1¼ grains.
4. Five-grain aspirin is the fourth most frequently ingested accidentally and the sixth leading cause of hospitalizations.
5. Products containing aspirin in combination with other ingredients have upon accidental ingestion caused fatalities and hospitalizations.

The medical community has long been concerned with aspirin poisoning in children. This inspired two FDA conferences; namely, 1958 Conference on Salicylate Poisoning and 1966 Conference on Prevention of Accidental Ingestion of Salicylate Products. The first resulted in a warning label and the second in limiting 1¼-grain aspirin tablets to 36 per container. The 1966 conference also concluded that child-resistant safety closures were desirable for packaging 1¼-grain aspirin tablets and established a subcommittee on safety closures to develop methods for evaluating these closures. The subcommittee's report specifying closure testing methodology was submitted to the Commissioner on December 7, 1970.

After review of the aforementioned information and consultation, pursuant to section 3, with the technical advisory committee convened in accordance with section 6 of the Poison Prevention Packaging Act of 1970, the Commissioner finds that the nature of the hazard to

children posed by aspirin and preparations containing significant amounts of aspirin, by reason of their availability and packaging, is such that special packaging is required to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances. Furthermore, the Commissioner finds that the special packaging to be required is technically feasible, practicable and appropriate for such substances.

Accordingly, pursuant to provisions of said act (secs. 2(4), 3, 5, 84 Stat. 1670-72; 15 U.S.C. 1471-74), and under authority delegated to him (36 F.R. 11770) the Commissioner proposes to add to Part 295—Regulations Under the Poison Prevention Packaging Act of 1970 (36 F.R. 13335), two new sections as follows (other portions of these sections regarding other substances are being proposed in separate documents):

#### § 295.2 Substances requiring "special packaging."

(a) The Commissioner has determined that special packaging within the meaning of section 2(4) of the act and as specified in this part is required to protect children from serious personal injury or serious illness and that such packaging is feasible, practicable, and appropriate for the following substances:

(1) Prescription or nonprescription capsules, tablets, and/or other preparations containing aspirin (including "baby aspirin") shall be packaged in accordance with the provisions of § 295.3(a) (1).

(b) None of the substances listed under any subparagraph of paragraph (a) of this section shall be distributed in a non-complying package under the exemption provided in section 4(a) of the act unless the manufacturer or packer first provides the Commissioner of Food and Drugs with a sample of such intended noncomplying package. A sample of each size package of each substance which a manufacturer or packer distributes in "special packaging" shall also be submitted. Sample packages should be sent to: Food and Drug Administration, Attention: Bureau of Product Safety, 200 C Street SW., Washington, D.C. 20204.

#### § 295.3 Poison prevention packaging standards.

(a) To protect children from serious personal injury or serious illness resulting from handling, using, or ingesting household substances, the Commissioner has determined that packaging designed and constructed to meet the following standards shall be regarded as "special packaging" within the meaning of section 2(4) of the act. Specific application of these standards to substances requiring special packaging is in accordance with § 295.2.

(1) Special packaging which when tested by the method described in § 295.10

of this part meets the following specifications:

(i) Child-resistant effectiveness not less than 85 percent without a demonstration and not less than 80 percent after a demonstration of the proper means of opening such special packaging.

(ii) Adult-use effectiveness not less than 90 percent.

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 regular business hours, Monday through Friday.

Dated: August 27, 1971.

CHARLES C. EDWARDS,  
Commissioner of Food and Drugs.  
[FR Doc. 71-12781 Filed 8-31-71; 8:49 am]

## DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[ 14 CFR Part 39 ]

[Docket No. 11354]

### BRITTEN NORMAN MODELS BN-2 AND BN-2A AIRPLANES

#### Proposed Airworthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Britten Norman Models BN-2 and BN-2A airplanes. There have been reports of loose Jo-Bolts in the engine frame mounting brackets attached to the wing front spar on models BN-2 and BN-2A airplanes that could result in failure of the engine frame mounting brackets attachments. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require periodic inspection of the six Jo-Bolts securing each of the two upper engine mounting frame brackets of each engine mounting frame to the wing front spar for security of attachment. Loose Jo-Bolts would have to be further inspected for integrity of locking between the bolt and nut. The directive would also require replacement, with improved attachment bolts in accordance with Britten Norman Modification NB/M/455, of the 12 Jo-Bolts of an engine mounting frame on which the locking between any Jo-Bolt

and its nut was found to be loose. The periodic inspection requirement would be discontinued at engine mounting frames which had been modified.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before September 30, 1971, will be considered by the Administrator before taking action upon the the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

**BRITTEN NORMAN.** Applies to Models BN-2 and BN-2A airplanes.

Compliance is required as indicated.

To prevent possible failure of the attachment of the engine frame mounting brackets to the wing front spar accomplish the following on each wing which does not have Britten Norman Modification NB/M/455 incorporated.

(a) Within the next 100 hours' time in service after the effective date of this AD, or before the accumulation of 1,000 hours' time in service, whichever occurs later, unless already accomplished within the last 400 hours' time in service, and thereafter at intervals not to exceed 500 hours' time in service from the last inspection, inspect the six Jo-Bolts in each of the two upper engine mounting frame brackets of each engine mounting frame for security of attachment in accordance with Britten Norman Ltd., Service Bulletin No. BN-2/SB44, dated November 17, 1970, or an FAA-approved equivalent.

(b) If any Jo-Bolt is found to be loose during an inspection required by paragraph (a), before further flight, and thereafter at intervals not to exceed 200 hours' time in service or 500 landings, from the last inspection, whichever occurs first, inspect the locking between each loose Jo-Bolt and its nut for security of locking.

(c) If the locking between any loose Jo-Bolt and its nut is found to be loose during an inspection required by paragraph (b), before further flight accomplish Britten Norman Modification NB/M/455 by replacing the 12 Jo-Bolts on the affected engine mounting frame with improved attachment bolts in accordance with Britten Norman Ltd., Service Bulletin No. BN-2/SB44, dated November 17, 1970, or an FAA-approved equivalent.

(d) The repetitive inspections required by paragraphs (a) and (b) may be discontinued for engine mounting frames on which Britten Norman Modification NB/M/455 has been accomplished.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on August 25, 1971.

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

[FR Doc.71-12763 Filed 8-31-71;8:47 am]

[ 14 CFR Part 71 ]

[Airspace Docket No. 71-WE-43]

CONTROL ZONE

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a new control zone at Phoenix-Litchfield Airport, Ariz.

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

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

Operation by the Federal Aviation Administration of the airport traffic control tower is planned for the near future. Designation of the new control zone will allow use of "Special VFR" control procedures and provide for more efficient control of VFR traffic in the Phoenix-Litchfield area.

In consideration of the foregoing, the Federal Aviation Administration proposes the following airspace action:

In § 71.171 (36 F.R. 2055) the following control zone is added:

PHOENIX-LITCHFIELD, ARIZ.

Within a 4-mile radius of Phoenix-Litchfield Airport (latitude 35°25'25" N., longitude 112°22'30" W.), excluding the portion within the Phoenix, Ariz. (Luke Air Force Base) control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended,

(49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, Calif., on August 23, 1971.

LYNN L. HINK,  
Acting Director, Western Region.  
[FR Doc.71-12761 Filed 8-31-71;8:47 am]

Federal Highway Administration

[ 49 CFR Part 393 ]

[Docket No. MC-9; Notice 71-22]

COUPLING DEVICES AND TOWING METHODS

Notice of Proposed Rule Making; Correction

In the daily issue of August 6, 1971 (36 F.R. 14477), the Director of the Bureau of Motor Carrier Safety issued a notice of proposed rule making, inviting interested persons to comment on a proposal to revise § 393.70 and to amend § 393.71 of the Motor Carrier Safety Regulations (Subchapter B of Chapter III in Title 49, CFR).

An error was made in the text of the preamble. On page 14478 of the FEDERAL REGISTER, the word "career" in the fifth line for the end of the first column should read "carrier."

A footnote to the proposed amendment to § 393.71 was omitted. The corrected version of the proposed amendment to § 393.71 is set forth below.

This amendment to the notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority at 49 CFR 1.48 and 389.4.

Issued on August 23, 1971.

KENNETH L. PIERSON,  
Acting Director,  
Bureau of Motor Carrier Safety.

Section 393.71(h) (8) of the Motor Carrier Safety Regulations would be revised to read as follows:

§ 393.71 Coupling devices and towing methods, driveway-towaway operations.

(h) Requirements for tow-bars. Tow-bars shall comply with the following requirements—

(8) Passenger car-trailer couplings. Trailer couplings used for driveway-towaway operations of passenger car trailers shall conform to Society of Automotive Engineers Standard No. J684C, "Trailer Couplings and Hitches—Automotive Type", July 1970.<sup>1</sup>

[FR Doc.71-12763 Filed 8-31-71;8:47 am]

<sup>1</sup> Copies of the SAE Standard may be obtained from the Society of Automotive Engineers, 2 Pennsylvania Plaza, New York, N.Y. 10001.

## ENVIRONMENTAL PROTECTION AGENCY

[ 42 CFR Part 466 ]

### STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

#### Proposed Standards for Five Categories

##### Correction

In F.R. Doc. 71-11438 appearing at page 15704 in the issue for Tuesday, August 17, 1971, equation 5-8 on page 15717 should read as follows:

$$\bar{c}_s = \frac{c_s + c'_s}{2}$$

## FEDERAL RESERVE SYSTEM

[ 12 CFR Part 222 ]

[Reg. Y]

### BANK HOLDING COMPANIES

#### Interests in Nonbanking Activities

##### Correction

In F.R. Doc. 71-12377 appearing on page 16695 in the issue for Wednesday, August 25, 1971, subparagraph (5) of § 222.4(a) should read as follows:

(5) Acting as investment or financial adviser, including (i) serving as the advisory company for a mortgage or a real estate investment trust; (ii) serving as investment adviser to an investment company registered under the Investment Company Act of 1940; and (iii) furnishing economic or financial information.

## SMALL BUSINESS ADMINISTRATION

[ 13 CFR Part 121 ]

### DEFINITION OF SMALL BUSINESS FOR PURPOSE OF GOVERNMENT PRO- CUREMENT OF FOOD SERVICES

#### Notice of Hearing and Extension of Time for Comment

On July 7, 1971, the Small Business Administration published in the FEDERAL

REGISTER (36 F.R. 12749), a notice inviting written comments on its proposal to decrease from \$4 million average annual receipts to \$3 million average annual receipts, the definition of a small business concern for the purpose of bidding on Government procurements for food services. The basis for the proposal was set forth in the notice.

Such proposal has generated considerable public interest and controversy. Accordingly the Small Business Administration has decided to hold a public hearing and permit proponents and opponents of the proposal to express their views orally. The hearing will be held on Thursday, September 30, 1971, at 10 a.m. (e.d.t.), in Room 214, 1441 L Street NW., Washington, DC. The period during which the general public is invited to submit written comments also is extended to September 30, 1971.

For planning purposes it is requested that, on or before September 23, 1971, those who intend to present oral testimony, advise the Size Standards Staff, Office of the Assistant Administrator for Administration, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

Dated: August 24, 1971.

THOMAS S. KLEPPE,  
Administrator.

[FR Doc.71-12748 Filed 8-31-71;8:46 am]

## INTERSTATE COMMERCE COMMISSION

[ 49 CFR Part 1048 ]

[Ex Parte No. MC-37 (Sub-No. 1)]

### SYRACUSE, N.Y., COMMERCIAL ZONE

#### Notice of Proposed Rule Making

AUGUST 27, 1971.

Redefinition of the limits of the Syracuse, N.Y., commercial zone heretofore defined in Ex Parte No. MC-37 (Sub-No. 1), Syracuse, N.Y., Commercial Zone.

Petitioner: Greater Syracuse Chamber of Commerce, Inc.

Petitioner's representative: Herbert M. Canter, 345 South Warren Street, Syracuse, NY 13202.

By the petition filed August 17, 1971, the above-named petitioner requests the Commission to reopen the above-proceeding for the purpose of redefining the limits of the Syracuse, N.Y., commercial zone, which were most recently defined on June 30, 1961, in Syracuse, N.Y., commercial zone, 92 M.C.C. 100 (49 CFR 1048.20), so as to extend the partial exemption under section 203(b) of the Interstate Commerce Act to points in an additional specified portion of the town of Van Buren, Onondaga County, N.Y.

Petitioner is directed to submit to the Commission information sufficient to demonstrate the location of the towns of Geddes and Van Buren including the mileages between these towns and the city of Syracuse. Maps should also be submitted showing the area proposed for inclusion in the commercial zone in detail.

No oral hearing is contemplated at this time, but anyone wishing to make representations in favor of, or against, the above-proposed specific redefinition of the limits of the Syracuse, N.Y., commercial zone, may do so by the submission of written data, views, or arguments. An original and 15 copies of such data, views, or arguments shall be filed with the Commission on or before October 1, 1971. Written material or suggestions submitted will be available for public inspection at the Offices of The Interstate Commerce Commission, 12th and Constitution, Washington, D.C., during regular business hours.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.71-12799 Filed 8-31-71;8:54 am]

# Notices

## DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S 4528]

CALIFORNIA

### Notice of Proposed Withdrawal and Reservation of Lands

AUGUST 23, 1971.

The Bureau of Land Management, U.S. Department of the Interior, has filed an application, serial No. S 4528, for the withdrawal of the public lands described below, from appropriation under the public land laws including the mining laws but not the mineral leasing laws. The lands will be used for campgrounds and recreation purposes.

On or before October 1, 1971, all persons who wish to submit comments, suggestions, or objections in connection with the proposed protective withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, Room E-2807, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

The Department's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. Adjustments will be made as necessary to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn as requested.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 23 N., R. 3 E.,

Sec. 3, lots 2, 3, 4, and portions of lots 37 and 42, W $\frac{1}{2}$  lot 5, S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
Sec. 4, lots 1 and 2, S $\frac{1}{2}$ N $\frac{1}{2}$ , SE $\frac{1}{4}$ ;  
Sec. 10, S $\frac{1}{2}$ N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ .

T. 24 N., R. 3 E.,

Sec. 22, E $\frac{1}{2}$ E $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 26, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
Sec. 27, N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$  exclusive of MS 5799, NW $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$  exclusive of MS 5243 and MS 5799;  
Sec. 34, lots 1, 2, lot 3 exclusive of MS 4480, lot 6 exclusive of MS 4480, lot 7 exclusive of MS 5243, lot 8 exclusive of MS 5243, portion of mineral lot 38 in SE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ .

The areas described aggregate 1,986.89 acres.

ELIZABETH H. MIDTBY,

Chief, Lands Adjudication Section.

[FR Doc. 71-12741 Filed 8-31-71; 8:45 am]

[S 4581]

CALIFORNIA

### Notice of Proposed Withdrawal and Reservation of Lands

AUGUST 24, 1971.

The Forest Service, U.S. Department of Agriculture, has filed an application, serial No. S 4581, pursuant to the Act of June 22, 1938 (52 Stat. 838), as amended, for the withdrawal of lands described below. The lands were conveyed to the United States pursuant to section 8 of the Taylor Grazing Act. The lands proposed for inclusion are surrounded by National Forest lands within the Toiyabe National Forest. The lands are chiefly valuable for National Forest purposes and the proposed modification to include the lands within the National Forest would facilitate their efficient administration by the Forest Service.

On or before October 1, 1971, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, Room E-2807, Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

The Department's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to

reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

TOIYABE NATIONAL FOREST

MOUNT DIABLO BASE AND MERIDIAN

T. 20 N., R. 18 E.,

Sec. 30, lot 14.

The area described aggregates 80 acres.

ELIZABETH H. MIDTBY,

Chief, Lands Adjudication Section.

[FR Doc. 71-12742 Filed 8-31-71; 8:45 am]

## DEPARTMENT OF AGRICULTURE

Agricultural Research Service

DEPARTMENT INVENTIONS

### Notice of Availability for Exclusive Licensing

Pursuant to authority delegated by the Secretary in 7 CFR 19.3 (35 F.R. 7493), the Administrator of the Agricultural Research Service has determined that certain Department inventions shall be made available for exclusive licensing under the provisions of Government Patent Policy (28 F.R. 10943) and 7 CFR 19.5 (35 F.R. 7493). Notice is hereby given that the following Department inventions are available for exclusive licensing:

1. Acidified Ethylenimine Modified Cereal Flours, U.S. Patent 3,522,238, issued July 28, 1970, by John C. Rankin and Charles R. Russell.

Abstract: Cationic pigment retention aids for use in the manufacture of paper, which aids are equally effective in both soft water and hard water, are produced by acidifying cereal grain flours that have been reacted with 2 to 3 weight percent of ethylenimine. The acidified aminoethylated cereal grain flour derivatives contain from about 1.2 grams to 1.8 grams of chemically bound ethylenimine constituent per 100 grams dry basis weight of flour and a 1 percent aqueous dispersion of the acidified aminoethylated cereal grain flour has a pH of between about 4.0 to 5.0.

2. Conjugation of Vegetable Oils Via Iron Tricarbonyl Complex, U.S. Patent 3,373,175, issued March 12, 1968, by Edwin N. Frankel.

Abstract: Conjugation of polyunsaturated vegetable oils or methyl esters thereof with excess iron pentacarbonyl for 2-4 hours at a critical temperature of 185° C. provides markedly improved yields of conjugated fatty iron tricarbonyl complex that is then completely decomposed with FeCl<sub>3</sub> to provide an almost fully conjugated drying oil product. At 185° C. the formation of conjugated complex is greatly increased, and the reaction need not be interrupted to vent complex inhibiting formations of CO.

3. Conjugation of Vegetable Oils Via Iron Tricarbonyl Complex and Decomposition Thereof by Carbon Monoxide, U.S. Patent 3,392,177, issued July 9, 1968, by Edwin N. Frankel.

Abstract: This invention involves the pressurized carbon monoxide decomposition of iron tricarbonyl complexes of polyunsaturated vegetable oils formed during the isomerization of such oils with iron pentacarbonyl at 185° C.

4. Anhydrous HCl Modification of Flour, U.S. Patent 3,175,928, issued March 30, 1965, by Earl B. Lancaster and Edward L. Griffin, Jr.

Abstract: Process for modifying flour comprising the steps of adjusting the moisture content of the raw flour to a value of 7.5 to 10.5 percent, placing the said flour in an enclosed mixing machine, with vigorous mixing introducing 1.3 to 1.6 grams of acid per 100 grams of flour (dry basis) of a member selected from the group consisting of anhydrous HCl gas and anhydrous HCl gas diluted with at least about 10 volumes of an inert gas, the said acid members being introduced to the flour at the respective rates of about 0.019 gram and about 0.067 to 0.17 gram of acid per minute per 100 grams of flour, said flour being maintained at a temperature not exceeding about 45° C., stirring the acid-exposed flour for about 40 to 100 minutes, adding a neutralizing quantity of a member selected from the group consisting of a concentrated aqueous solution of an alkali metal hydroxide and ammonia gas, mixing the acid-modified flour and neutralizing agent for about 60 to 90 minutes.

5. Process for Preparing Improved Sizing Agents from Cereal Flours, U.S. Patent 3,073,724, issued January 15, 1963, by John C. Rankin, Charles R. Russell, and John H. Samalik, Sr.

Abstract: Acid-modified cereal flours that are selectively depolymerized so as to have superior paste and strength properties for the high-speed sizing of paper and textiles are prepared by drying raw flour or hydroxyethylated flour at 40°-100° C. to a moisture content of 0.7-1.4 percent, reacting the substantially dry flour or etherified flour at 25°-40° C. for 1-8 hours with 9-11 ml. of 2N-6N HCl per 100 grams of flour so as to provide 0.8-2.5 percent of HCl based on the flour, and terminating the reaction with a neutralizing amount of alkali solution.

6. Selective Hydrogenation of Soybean Oil With Supported Copper Catalysts, U.S. Patent 3,515,678, issued June 2, 1970, by Sambasivarao Koritala.

Abstract: Extremely active and selective hydrogenation catalysts that permit soybean oil to be sufficiently hydrogenated in about 11 minutes for subsequent winterizing to a stable salad oil comprise copper deposited either on micronized silica having a high content of surface hydroxyl groups or on molecular sieve zeolites having pore sizes of either 4A or 10A.

7. Polymeric Dialdehyde-Protein Adhesives and Wood Laminates Therewith, U.S. Patent 3,153,597, issued October 20, 1964, by Francis B. Weakley and Charles L. Mehlretter.

Abstract: A strong and exceptionally weather-resistant cold-setting plywood glue that retains high shear strength even after exposure to boiling water and that, because of its nonstain glue line, is as suitable for use in decorative indoor veneers as in outside laminates is prepared by reacting a slightly acid to slightly alkaline dispersion of casein or soybean alpha protein with 2.5-5.0 percent (based on the protein) of dispersed periodate-oxidized dialdehyde starch containing at least 90 percent of theory of aldehyde groups.

8. Protein Glue for Southern Pine Plywood, U.S. Patent 3,329,518, issued July 4, 1967, by Francis B. Weakley and Charles L. Mehlretter.

Abstract: A low-cost interior-grade adhesive especially formulated for the hot-press formation of southern pine plywood comprises a borax-assisted aqueous dispersion of soy flour, spray dried animal blood, and 1.25 to 2.5 percent by weight dialdehyde starch based on the combined weight of the soy flour and blood.

9. Process for Addition of Arylthiols, Phenols, and Phenyl Ethers to Unsaturated Fatty Acids, U.S. Patent 3,192,339, issued June 29, 1965, by Waldo C. Ault and Abner Eisner.

Abstract: This invention relates to a process for the addition of mercapto aromatic or hydroxylated aromatic compounds to olefinically unsaturated fatty acids. An example is the addition of phenol at the double bond of oleic acid to produce hydroxyphenyl stearic acid. Sulfuric acid, which has been used as the condensing agent for this reaction, gives low yields because of polymerization, sulfonation, oxidation or other undesired reactions. The essence of the present invention is the discovery that methanesulfonic acid gives excellent results when used as the condensing agent. Addition of arylthiols to oleic acid proceeds smoothly in the presence of methanesulfonic acid but cannot be effected with sulfuric acid as catalyst. Methanesulfonic acid as reaction medium and catalyst for the phenol-oleic acid addition provides not only a good yield of product but also in relatively high purity; product color is satisfactory without further purification. Yields obtained in adding to oleic acid a substituted phenol, e.g. an-

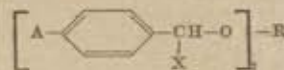
isole, or a polycyclic compound, e.g. 2-naphthol, are several fold greater with methanesulfonic acid than with sulfuric acid as the reaction medium-catalyst. Methyl esters of the substituted phenylstearic acids and the arylthiostearic acid are useful as lubricant additives and antioxidants.

10. Process of Solubilizing Native Collagen by Reacting Said Collagen with a Stoichiometric Amount of Mineral Acid, U.S. Patent 3,293,237, issued December 20, 1966, by Charles J. W. Wiegand.

Abstract: Process for producing a collagen sol consisting of reacting collagen in the natural state in aqueous medium with a stoichiometric quantity of mineral acid to produce a collagen salt, permitting the reaction to continue until the formation of the collagen salt of the mineral acid is substantially complete, adjusting the water content to provide a concentration of about 1 percent to 4 percent collagen salt in the aqueous medium, warming the aqueous collagen salt and maintaining it at a temperature of at least about 30° C. while physically dispersing the collagen salt in the aqueous medium to produce a collagen sol.

11. Benzhydryl Esters of Dimer Acid, U.S. Patent 3,393,214, issued July 16, 1968, by Winfred E. Parker, Hogan B. Knight, Ronald E. Koos, and Waldo C. Ault.

Abstract: Benzyl and benzhydryl esters of dimerized linoleic acid and hydrogenated dimerized linoleic acid are prepared by reacting the dimer acid with the appropriate alcohol in the presence of an acid catalyst. The compounds formed in the reaction may be represented by the formula



where R is a diacyl radical derived from dimerized linoleic acid or the hydrogenated product thereof. When X is hydrogen, A may be hydrogen, a short carbon chain alkoxy group, a straight or branched chain low molecular weight alkyl group, or the nitro group. When X is a phenyl group, A is hydrogen. The dilinoleate esters prepared under the teachings of this patent have high thermal stability and are useful as lubricants, lubricant additives, and hydraulic fluids.

12. Process for Producing Sculptured Lace from Flat Lace, U.S. Patent 3,498,737, issued March 3, 1970, by Helen M. Robinson, Albert S. Cooper, Jr., Wilson A. Reeves, and Milton J. Hoffman.

Abstract: Flat lace containing cellulose fibers (e.g., cotton) or cellulose synthetic blends (e.g., nylon) is differentially shrunk by contact with a swelling agent (e.g., sodium hydroxide) and subsequently treated with a crosslinking agent (e.g., dimethylol carbamate) to effect crosslinking of the cellulose molecules, thereby to produce a dimensionally stable, easy-care, differentially shrunk, tough, durable lace having a sculptured design.



13. Fibrous Textile Cellulosic Phosphonomethyl Ethers, U.S. Patent 2,979,374, issued April 11, 1961, by George L. Drake, Jr., Wilson A. Reeves, and John D. Guthrie.

Abstract: A process for preparing the phosphonomethyl ethers of cellulose in fibrous form; the salts of these ethers; soluble phosphonomethyl ethers of cellulose. A process for reducing the combustibility of fibrous cellulosic materials and a process for producing fibrous cellulose with high cation capacity.

14. Reaction Products of Diamines and Monoacid Chloride of Maleopimaric Acid, U.S. Patent 3,503,998, issued March 31, 1970, by Walter H. Schuller and Ray V. Lawrence.

Abstract: New amide compounds and the hydrochloride salts thereof. The new amide compounds are prepared by reacting diamines and the monoacid chloride of maleopimaric acid in mole ratios of 1 to 1 and 2 to 1, respectively.

15. Helical Pumping System, U.S. Patent 3,489,074, issued January 13, 1970, by D. F. Farkas and M. E. Lazar.

Abstract: A continuous device for heating foods under pressure, in which the objects to be heated are transported in and out of the pressure zone through a series of hydrostatic legs contained within a rotating, helical coil. The device avoids use of mechanical seals and/or locks. A desirable feature of these pumps is their ability to handle delicate materials, such as foods encased in plastic pouches.

16. Process for Shrinkproofing Animal Fibers, U.S. Patent 3,391,986, issued July 9, 1968, by W. J. Thorsen.

Abstract: Fibrous material is exposed to a corona discharge in an atmosphere of air and chlorine gas at a volume ratio of about 14 parts air to 1 part chlorine. Shrinkage properties of the fiber are much improved as a result of the contact between the fibers and the gases in the corona discharge zone.

17. Polyimide-Polyamides from Maleopimaric Acid Derivatives, U.S. Patent 3,522,211, issued July 28, 1970, by Walter H. Schuller and Ray V. Lawrence.

Abstract: New compositions of matter are prepared by reacting one mole of various diamines with two moles of the monoacid chloride of the maleopimaric acid (MAC) to give bisamides. These bisamides are fused in mole to mole ratios with various diamines to give head-to-head and tail-to-tail linked, new polyimide-polyamide resins. New amide-amine-hydrochloride salts of maleopimaric acid are also prepared by reaction of MAC with a large excess of various diamines. The fusion of this product yields a new head-to-tail linked polyimide-polyamide resin. A third product is a new polyimide-polyamide resin prepared by the reaction of one mole of diamine with one mole of a triester prepared by reacting MAC with three moles of methanol. The end products are useful for casting water-resistant films and for the preparation of synthetic fibers.

Availability of Inventions Previously Advertised: The following inventions, ad-

vertised 36 F.R. 1919, February 3, 1971, remain available for exclusive licensing: 3,165,508; 3,377,302; 3,414,530; 3,425,971; 3,160,552; 3,385,719; 3,205,130; 3,084,094; and 3,431,116.

Applicants for exclusive licenses will have a period of 60 days from date of this publication in which to file information as required by Sec. 19.6 Application for licenses, of Title 7 CFR (35 F.R. 7493). Also, applicants should examine all other sections published under Part 19, Licensing Department Inventions. Applications should be mailed to the Administrator, Agricultural Research Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., this 27th day of August 1971.

T. W. EDMISTER,  
Administrator,  
Agricultural Research Service.

[FR Doc. 71-12796 Filed 8-31-71; 8:54 am]

## DEPARTMENT OF COMMERCE

[Dept. Organization Order 35-2B]

### BUREAU OF CENSUS

#### Organization and Function

This material supersedes the material appearing at 35 F.R. 8753 of June 5, 1970 and 35 F.R. 9295 of June 13, 1970.

**SECTION 1. Purpose.** This order pre-coordinating its statistical programs and scribes the organization and assignment of functions within the Bureau of the Census.

**Sec. 2. Organization structure.** The principal organization structure and lines of authority shall be as depicted in the attached organization chart (Exhibit 1). (A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.)

**Sec. 3. Office of the director.** .01 The Director determines policies and directs the programs of the Bureau of the Census, taking into account applicable legislative requirements and the needs of users of statistical information. He is responsible for the conduct of the activities of the Bureau of the Census and for coordinating its statistical programs and activities with those of other Federal statistical agencies with due recognition of the programs developed and regulations issued by the Office of Management and Budget.

.02 The Deputy Director assists the Director in the direction of the Bureau and performs the functions of the Director in the latter's absence.

.03 The Public Information Office, headed by a Chief, shall coordinate the public information programs of the Bureau; provide information to the public; and develop, with the policy guidance of the Department's Office of Public Affairs, Bureau information activities governing the release and distribution of information disseminated by the Bureau for public use.

.04 The Special Assistant to the Director shall coordinate and give general

direction to activities concerned with providing Bureau of the Census statistical services to the Congress, congressional offices, and State and local officials.

.05 The Legal Adviser shall provide legal services for the Bureau, subject to the overall authority of the Department's General Counsel as provided in Department Organization Order 10-6.

**Sec. 4. Office of Associate Director for Economic Fields.** The Associate Director is the principal assistant to the Director on economic programs and advises him as to necessary and feasible statistical programs in these fields.

.01 The Deputy Associate Director for Economic Censuses and Surveys is the principal assistant to the Associate Director on surveys in specific economic fields. Through organizational elements specified in the attached charts, he shall:

a. Formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys, censuses, or compilations relating to the characteristics of agriculture and wholesale, retail, and service enterprises, various aspects of the construction industry, export and import trade of the United States and foreign trade shipping, State and local government operations and finances, and operations of manufacturing, mineral, transportation and related industries;

b. Conduct research on the nature and extent of needs for statistical data in each of the economic fields and on survey design and methodology;

c. Plan and develop systems and prepare computer programs and other related instructional material as well as procedures and methods for the clerical and mechanical operations associated with the processing of economic data in this area; and

d. Prepare special analytical and interpretive reports, monographs, and special studies.

.02 The Deputy Associate Director for Economic Statistics and Analysis is the principal assistant to the Associate Director on statistics and analysis which involve a variety of economic fields. Through organizational elements specified in the attached chart, he shall:

a. Formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from administrative records and from multifield surveys; plan, develop, and maintain systems of industry and commodity classification for Bureau use, and develop classification manuals; and develop and maintain a directory of establishments;

b. Conduct studies on improving the usefulness and validity of the Bureau's economic data; review comparability among different classification systems; develop and prepare studies of trends and relationships in the Bureau's economic reports and in series from other sources;

c. Plan and develop systems and prepare computer programs and other related instructional material as well as procedures and methods for the clerical

and mechanical operations associated with the processing of economic data in this area; and

d. Prepare special analytical and interpretive reports, monographs, and special studies.

**Sec. 5. Office of Associate Director for Demographic Fields.** The Associate Director for Demographic Fields is the principal assistant to the Director on social and demographic programs, and advises him as to necessary and feasible statistical programs in these fields. Through the organizational elements specified in the attached chart, he shall:

a. Formulate and develop overall subject-matter programs and program specifications for the collection, processing, and dissemination of statistical data from special and current surveys and censuses relating to general housing characteristics and the distribution and characteristics of the population, both national and international;

b. Plan and develop systems and prepare computer programs for the processing of demographic data on electronic data processing equipment;

c. Conduct research on the nature and extent of needs for statistical data in the demographic fields and on survey design and methodology;

d. Prepare estimates and projections of population, manpower and related characteristics and social indicators;

e. Develop, prepare and publish general and comprehensive statistical reports, guides, histories, and special reports and articles on the statistical and technological work of the Bureau;

f. Plan and conduct the Bureau's foreign consultation and training programs; coordinate research on international statistical problems of methodology and content; and represent the Bureau in international statistical activities;

g. Prepare special analytical and interpretive reports, monographs, and special studies; and

h. Plan and coordinate the development of processing techniques for data collected in special and current surveys, censuses, or compilations.

**Sec. 6. Office of Associate Director for Data Collection and Statistical Processing.** The Associate Director for Data Collection and Statistical Processing is the principal adviser to the Director on field data activities, geographical techniques, and statistical processing techniques and operations. Through the organizational elements specified in the attached chart, he shall:

a. Plan and carry out through the Field Division, a nationwide field data collection activity utilizing Data Collection Centers (as detailed in section 9) and temporary subordinate offices organized for a specific census or special survey;

b. Plan, determine, and coordinate the assignment of and schedule all pre- and post-computer manual processes carried out in both the headquarters and decentralized processing locations; review for reasonableness, request for budgetary support and appropriate levels

of personnel; and provide central facilities for special service needs;

c. Operate and manage the electronic digital computer and mechanical tabulating facilities of the Bureau, including priority scheduling, and perform associated staging and tape library services;

d. Plan and perform mechanical electronic engineering services in the development, maintenance, and manufacture of special purpose equipment used in data processing by the Bureau.

e. Provide geographic services needed to facilitate data collection programs, including preparation of enumerator, crew leader, and office maps, geographic coding guides, delineation of administrative and statistical areas, and the like; plan and develop systems and prepare computer programs as well as procedures and methods for the clerical and mechanical operations associated with geographic activities;

f. Devise, test, and apply techniques of improving access to the Census data base, extend uses of Census data, and research new techniques for incorporation into regular Bureau operations and procedures to improve all services to data users; and serve as the focal point for the coordination of requests for data tapes, published and unpublished data, maps, etc.;

g. Plan and carry out, through the Jeffersonville Census Operations Division, non-computer statistical processing operations for assigned current and special surveys and periodic censuses; and

h. Provide, through the Personal Census Service Branch (located in Pittsburg, Kansas), a specialized service to furnish individuals, or their authorized representatives, extracted information about themselves as reflected by census records.

**Sec. 7. Office of Associate Director for Administration.** The Associate Director for Administration is the principal adviser to the Director and his Deputy on administrative management matters and related activities, including responsibility for the coordination and control of Bureau operations, and for development of long-range program plans, as enumerated herein. Through the organizational elements specified in the attached chart, he shall:

a. Plan and perform program analysis, budget, and fiscal functions, including the preparation of official budget estimates and justifications, the allocation and control of all funds, the maintenance of financial accounts and preparation of financial activities and reports, and the preparation and/or review of program planning documents;

b. Plan and conduct management analysis functions, including development and issuance of production standards, performance of studies and related activities concerned with improving organization structure and management systems and practices; perform directives and reports management; and manage a system of overall work scheduling and progress reporting;

c. Plan and conduct the development, preparation, and testing of programs for

the processing of administrative information on electronic data processing equipment;

d. Plan and carry out the personnel management function, including classification and pay administration, staffing, employee development, employee relations and services, and maintenance of records;

e. Plan and perform administrative services, including procurement control, property, space and facilities management, library, communications, emergency readiness, records, files, mail, and forms management;

f. Plan and provide publication and printing services, including publications distribution;

g. Conduct analyses and studies on behalf of the Director or his Deputy, the objectives of which are to improve equipment and manpower resources by managing cost reduction programs, establishing measures of effectiveness for work and equipment operations, controlling adherence to time schedules, examining responsiveness to needs for data, and the like; and

h. Conduct a continuing program planning function, including long-range program planning analyses, evaluation of program alternatives, recommendation for optimum course, and the like.

**Sec. 8. Office of Associate Director for Research and Methodology.** The Associate Director for Research and Methodology is the principal adviser to the Director on matters relating to statistical adequacy of proposed collections and the application of appropriate statistical methodology and techniques. Through the organizational elements specified in the attached chart, he shall:

a. Formulate and perform mathematical, statistical, psychological, and other research and development activities designed to produce maximum yield in program design, methodological concepts, coverage, and survey results;

b. Provide technical computer software guidance, and perform research and development concerned with new equipment needs, conceptual methods, and system designs for the various programs of the Bureau;

c. Design and provide technical guidance over tests to measure relevant significant factors of programs during their developmental stages and evaluate the results therefrom;

d. Conduct research into geographic techniques and guides for use in assembling, defining, and presenting and analyzing the statistical phenomena occurring within geographic aggregates;

e. Provide research facilities specifically oriented toward long-range studies in methods of statistical measurement with a view toward obtaining a deeper understanding of the basic problems of our social and economic phenomena; and

f. Carry out research studies directed toward evaluation and development of devices to reduce costs and improve reliability of Bureau processes.

**Sec. 9. Data Collection Centers.** .01 The principal field structure of the Bureau of the Census shall consist of 12 Data Collection Centers, each headed by a Field Director reporting to the Chief of the Field Division in the Office of the Associate Director for Data Collection and Statistical Processing. The location and geographic area covered by each Data Collection Center is shown in Exhibit 2.<sup>1</sup>

.02 Each Data Collection Center shall carry out assigned field data collection programs, including recurring and special sample surveys of varying sizes and complexity, periodic censuses, and special censuses and surveys.

.03 As may be required for a specific census or special survey, temporary district or other subordinate offices shall be established under the Data Collection Centers.

**Sec. 10. Savings Provision.** Appendix A of July 25, 1967, should be retained (32 F.R. 11810 of August 16, 1967).

Effective date: August 23, 1971.

LARRY A. JOBE,  
Assistant Secretary  
for Administration.

[FR Doc.71-12785 Filed 8-31-71;8:49 am]

#### Office of Import Programs

#### ALBERT EINSTEIN COLLEGE OF MEDICINE

#### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00367-33-46500. Applicant: Albert Einstein College of Medicine, 1300 Morris Park Avenue, Bronx, NY 10461. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used as a research tool to study the fine structure of the nervous system. Typical projects include a study of electroreceptor ultrastructure in fish and electron microscopy of the adrenergic fibers of the pacinian corpuscle.

Comments: No comments have been received with respect to this application.

<sup>1</sup> A copy of Exhibit 2 is on file with the original of this document with the Office of the Federal Register.

**Decision:** Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

**Reasons:** Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of May 7, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the successful production of long series of ultrathin sections of the difficulty sectioned some synaptic structures in a relatively hard and heterogeneous tissue, encountered in the applicant's research studies involving synaptic ultrastructures in fish electroreceptors. HEW cites as a precedent its prior recommendation relating to Dockets Nos. 71-00147-33-46500 and 70-00678-33-46500 which conform in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,

Office of Import Programs.

[FR Doc.71-12807 Filed 8-31-71;8:50 a.m.]

#### ALBERT EINSTEIN COLLEGE OF MEDICINE

#### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00246-01-10100. Applicant: Albert Einstein College of Medicine of Yeshiva University, 1300 Morris Park Avenue, Bronx, NY 10461. Article: Temperature jump apparatus. Manufacturer: Messanlagen Studien, G.m.b.H., West Germany.

Intended use of article: The article will be used for research to elucidate the relations between the molecular structure and the function of hemoglobin. Other experiments include observations of ultraviolet difference spectra in hemoglobin and studies of the binding of protons with the use of indicators.

Comments: No comments have been received with respect to this application.

**Decision:** Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (June 24, 1969).

**Reasons:** Captioned application is a resubmission of Docket No. 70-00566-01-10100 which was denied without prejudice to resubmission for informational deficiencies contained therein. The foreign article provides the capabilities for interchangeable storage capacitors, interchangeable sample cells and measurements at 290 nanometers (NM). The most closely comparable domestic instrument is the temperature jump apparatus manufactured by the American Instrument Co. (AMINCO). The AMINCO apparatus provides the capability for measurements at 290 NM but does not provide the capabilities for interchangeable storage capacitors and sample cells. We are

advised by the National Bureau of Standards (NBS) in its memorandum dated March 15, 1971, that all the characteristics described above are pertinent to the purposes for which the foreign article is intended to be used. For this reason, we find that no domestic temperature jump apparatus was of equivalent scientific value to the foreign article for all the purposes for which such article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States at the time the foreign article was ordered.

SETH M. BODNER,  
Director,  
Office of Import Programs.

[FR Doc. 71-12808 Filed 8-31-71; 8:50 am]

#### DUKE UNIVERSITY MEDICAL CENTER

##### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00269-33-90000. Applicant: Duke University Medical Center, Department of Anatomy, Durham, NC 27706. Article: GX-6 X-ray diffraction equipment. Manufacturer: Elliott Automation Radar Systems Ltd., United Kingdom.

Intended use of article: The article will be used for low angle X-ray diffraction of wet and living muscles, and experiments designed to explore the molecular behavior of contracting muscle.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a small (0.1 x 1 millimeter) focused spot and a rotating target for maximum X-ray power. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 12, 1971, that both of the characteristics described above are pertinent to the applicant's research studies. HEW further advises that it knows of no comparable domestic instrument that provides both of the pertinent characteristics of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,  
Office of Import Programs.

[FR Doc. 71-12809 Filed 8-31-71; 8:50 am]

#### HEALTH RESEARCH, INC.

##### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00355-33-46500. Applicant: Health Research, Inc., Roswell Park Division, 666 Elm Street, Buffalo, NY 14203. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used in studies of fixed and embedded specimens of tumor tissue from experimental model animal systems, e.g. murine leukemia, avian leukosis, also tissue culture preparations of cells infected with viruses with oncogenic potential such as Friend virus, Viper virus, and Epstein-Burkitt Herpes-type virus.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a ca-

pability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultra microtome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting-speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of May 7, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the production of the ultrathin and uniform thickness sections from cells in tissue culture and soft pellets, which are required for the applicant's studies involving tumor cell ultrastructure and viruses. HEW cites as a precedent its prior recommendation relating to Dockets Nos. 71-00170-33-46500 and 71-00045-33-46500 which conform in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,  
Office of Import Programs.

[FR Doc. 71-12810 Filed 8-31-71; 8:50 am]

#### INDIANA UNIVERSITY

##### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00157-33-43400. Applicant: Indiana University, Bloomington, Ind. 47401. Article: Automatic stepping

micromanipulator with electronic control unit. Manufacturer: AB Transvertex Norsborg, Sweden.

Intended use of article: The article will be used in studies of bio-electrical potentials recorded from the inside of sensory cells in the hearing organ of the cat. Experiments involve analysis of the synaptic mechanism of the hearing organ and the mechanisms through which the mechanical energy of sound waves is translated into electrochemical energy by the sensory cells. These studies will teach students how sensory cells function when receiving, decoding, and transmitting information, at the level of single cell membrane.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability to advance electrodes in short abrupt steps in a precise manner. We are advised by the Department of Health, Education, and Welfare in its memorandum dated January 8, 1971, that the capability described above is pertinent to the purposes for which the foreign article is intended to be used. HEW further advises, that it knows of no comparable apparatus being manufactured in the United States, which provides the pertinent capability.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,

Office of Import Programs.

[FR Doc.71-12811 Filed 8-31-71;8:50 am]

#### MASSACHUSETTS GENERAL HOSPITAL Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00131-33-43780. Applicant: Massachusetts General Hospital, Fruit Street, Boston, MA 02114. Article: Total hip joint replacement, 10 each. Manufacturer: Protek Ltd., Switzerland.

Intended use of article: The purposes for which the articles are intended to be used are for a study and scientific assessment of hip reconstructions, using

total hip replacement in contrast to previously existing modes of reconstructive hip surgery.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The article is a combination of the Charnley apparatus which combines a metal femoral head prosthesis with a head diameter of 32 millimeters and a high density polyethylene acetabulum which accepts only this size head, and the Mueller apparatus which has a larger femoral head size and an acetabular component made of metal but with three polyethylene bearing points in the cup.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated January 29, 1971, that the combination of characteristics described above is pertinent to the purposes for which the article is intended to be used. HEW further advises that it knows of no equivalent prosthesis being manufactured in the United States which provides the pertinent combination of characteristics.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,

Office of Import Programs.

[FR Doc.71-12812 Filed 8-31-71;8:50 am]

#### MASSACHUSETTS GENERAL HOSPITAL Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00140-33-43780. Applicant: Massachusetts General Hospital, Fruit Street, Boston, MA 02114. Article: Total hip joint replacements, 10 each. Manufacturer: Protek Ltd., Switzerland.

Intended use of article: The purposes for which the articles are intended to be used are for a study and scientific assessment of hip reconstructions, using total hip replacement in contrast to previously existing modes of reconstructive hip surgery.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The article is a combination of the Charnley apparatus which combines a metal femoral head prosthesis with a head diameter of 32 millimeters and a high density polyethylene acetabulum which accepts only this size head, and the Mueller apparatus which has a larger femoral head size and an acetabular component made of metal but with three polyethylene bearing points in the cup.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated January 29, 1971, that the combination of characteristics described above is pertinent to the purposes for which the article is intended to be used. HEW further advises that it knows of no equivalent prosthesis being manufactured in the United States, which provides the pertinent combination of characteristics.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,

Office of Import Programs.

[FR Doc.71-12813 Filed 8-31-71;8:50 am]

#### MAYO FOUNDATION

##### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00400-33-46040. Applicant: Mayo Foundation, Mayo Clinic, 200 First Street SW., Rochester, MN 55901. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used to study the peripheral nerve tissue from healthy man and from patients with neuropathy, particularly inherited neuropathy. Peripheral nerve tissue from animals with experimental neuropathy will also be studied. The macromolecular organization of various organelles of Schwann cells and of myelinated and unmyelinated fibers of the nerve of healthy man will be compared to similar structures seen in various diseases of nerves occurring in man and

those produced experimentally in animals.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgio Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated June 18, 1971 that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,

Office of Import Programs.

[FR Doc.71-12814 Filed 8-31-71; 8:50 am]

### MAYO FOUNDATION

#### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00371-33-46500. Applicant: Mayo Foundation, 200 First Street SW., Rochester, MN 55901. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden.

Intended use of article: The article will be used to study the ultrastructure of human peripheral blood and bone marrow cells. The central research objective is the ultrastructural evaluation of these cells in patients with preleukemia and myelomonocytic leukemia.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin section under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultra microtome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of May 7, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the successful sectioning of the softer blood specimens and difficulty cut bone marrow specimens encountered in the applicant's study of ultrastructural changes in bone marrow and blood cells during the preleukemic phase. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00138-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article

is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,

Office of Import Programs.

[FR Doc.71-12815 Filed 8-31-71; 8:51 am]

### NATIONAL ACCELERATOR LABORATORY

#### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00159-75-65600. Applicant: National Accelerator Laboratory, Universities Research Association, Inc., 2100 Pennsylvania Avenue NW., Room 828, Washington, DC 20006. Article: Power supply for superconducting magnet. Manufacturer: Oxford Instrument Co., England.

Intended use of article: The article will be used to excite superconducting magnets when conducting the following studies of superconductivity and high current superconducting magnets requiring 750 to 1,000 amps excitation:

- (1) Current carrying capacity of superconductors above 300 amps as a function of incident magnetic field strength;
- (2) Fluctuations in the magnetic fields generated by superconductors;
- (3) Determination of the long-term stability of high current superconducting magnets when operating with low ripple well regulated supplies;
- (4) Determination of magnetic field shape of high current superconducting magnetic; and
- (5) Measurement of perturbations in the magnetic fields generated by high current superconductors as a function of induced variations in power supply.

Comments: No comments have been received with respect to this application.

Decisions: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a 1,000 ampere output with a regulation for a 10 percent line voltage change of 0.01 percent and 0.1 percent ripple. The most closely comparable domestic instrument is the Model 6464A power supply manufactured by Hewlett Packard Co. (HP). The HP model 6464A provides up

to 1,000 amperes with a regulation of 1 percent for a +10 percent line voltage change at 1 percent ripple.

We are advised by the National Bureau of Standards (NBS) in its memorandum dated November 30, 1970, that the better regulation provided by the foreign article is pertinent to the applicant's research studies. We, therefore, find that the Model 6464A is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,  
Office of Import Programs.

[FR Doc.71-12816 Filed 8-31-71;8:51 am]

### NORTHEASTERN UNIVERSITY

#### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00389-33-46500. Applicant: Northeastern University, 360 Huntington Avenue, Boston, MA 02115. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden.

Intended use of article: The article will be used for cytological studies of a number of marine invertebrates. Investigations involve both delicate, soft-bodied animals such as Ctenophores and hard, difficult to section tissues such as the radular complex of gastropod molluscs. Cytochemical studies of the digestive system of the Ctenophore and of the cells secreting the radular teeth of the molluscs are being conducted.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consist-

ency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle) is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultra microtome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of May 7, 1971, that cutting speeds in excess of 5 mm./sec. are pertinent to the uniform thickness ultrathin sectioning of soft specimens as well as others having variable consistency, required in the applicant's ultrastructural studies of radular epithelium, subradular membrane and other structures in cells of mollusc embryos. HEW cites as a precedent its prior recommendation relating to Docket No. 71-00138-33-46500 which conforms in many particulars to the captioned application.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,  
Office of Import Programs.

[FR Doc.71-12817 Filed 8-31-71;8:51 am]

### ROCKEFELLER UNIVERSITY

#### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural

Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00236-33-90000. Applicant: The Rockefeller University, 66th and York Avenue, New York, NY 10021. Article: Rotating anode X-ray generator. Manufacturer: Elliot Automation Radar Systems, Ltd., United Kingdom.

Intended use of article: The article will be used to provide a uniquely powerful and finely focussed source of X-rays for crystallographic determination of the three-dimensional structures of protein molecules of immunological importance. The knowledge will extend the understanding of the mechanism of the immune reactions, of certain reactions of cell walls, and of the factors determining the three-dimensional arrangement of atoms in protein molecules.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a fine focus to a spot size of 0.1 square millimeter and high intensity by using a rotating anode. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 5, 1971, that the characteristic described above is pertinent to the purposes for which the foreign article is intended to be used. HEW further advises that it knows of no comparable domestic instrument or apparatus being manufactured in the United States which possesses both pertinent characteristics.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,  
Office of Import Programs.

[FR Doc.71-12818 Filed 8-31-71;8:51 am]

### STATE UNIVERSITY OF NEW YORK AT BUFFALO

#### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00144-80-84300. Applicant: State University of New York at Buffalo, 3258 Main Street, Office of Facilities Planning, Buffalo, NY 14214. Article: Wind Tunnel. Manufacturer: Experimental Engineering Equipment Ltd., Canada.

Intended use of article: The article will be used by graduate research thesis studies in such investigations as:

- (1) The development of low Reynolds number turbulent boundary layers.
- (2) Three-dimensional turbulent boundary layer studies.
- (3) Drag reduction measurements.
- (4) Turbulent boundary layers with transpiration.

The article will also be used by mechanical engineering students in the basic techniques for kinematic, pressure, temperature and flow measurements.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a probe system designed so that the probe and the probe transverse may be located anywhere in the cross sectional area of the tunnel and a free stream pressure gradient that can be adjusted by use of 28 louvers that are placed on the top and bottom of the tunnel. We are advised by the National Bureau of Standards (NBS) in its memorandum dated December 15, 1970, that both of the characteristics described above are pertinent to the purposes for which the foreign article is intended to be used. NBS further advises, that it knows of no comparable domestically manufactured apparatus which can be used for all of the applicant's intended purposes.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,

Office of Import Programs.

[FR Doc.71-12819 Filed 8-31-71;8:51 am]

#### UNIVERSITY OF CALIFORNIA

##### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00213-00-41200. Applicant: University of California, Los Alamos Scientific Laboratory, Post Office Box 990, Los Alamos, NM 87544. Article: Tunable extended interaction oscillator. Manufacturer: Varian Associates of Canada, Ltd., Canada.

Intended use of article: The article will be used to produce high power to meet special requirements for research in a  $La_3$  crystal.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has an output power of 5 watts at a frequency of 77.4 gigahertz.

We are advised by the National Bureau of Standards (NBS) in its memorandum dated February 18, 1971, that the power and frequency of operation of the foreign article are pertinent to the applicant's research studies. NBS further advises, that it knows of no comparable domestically manufactured instruments which provide the pertinent characteristics of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,

Office of Import Programs.

[FR Doc.71-12820 Filed 8-31-71;8:51 am]

#### UNIVERSITY OF CALIFORNIA ET AL.

##### Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969, issue of the FEDERAL REGISTER, pre-

scribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 71-00573-33-46500. Applicant: University of California, Radiobiology Laboratory, Davis, Calif. 95616. Article: Ultramicrotome, Model LKB 8800A, and accessories. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used in studies concerning mineralized tissue including compact and trabecular bone both lamellar and woven in pattern; osteosarcomas; cartilage; bone marrow; and also other soft tissues of the canine. Undergraduate and graduate veterinarians will be trained in morphologic understanding of disease processes in courses in pathology and tumor biology. Received by Commissioner of Customs: June 1, 1971.

Docket No. 71-00574-33-46040. Applicant: Arizona State University, Department of Botany and Microbiology, Tempe, Ariz. 85281. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used to investigate ultrastructural changes in the pill (fimbriae) of the Gram negative bacteria *Pseudomonas aeruginosa*, *Caulobacter crescentus*, and *C. fusiformis*, following adsorption of their specific RNA bacteriophages. Other research involves the pathological changes resulting from various biological toxins—namely that of venoms and alterations of membranes by toxins. Received by Commissioner of Customs: June 1, 1971.

Docket No. 71-00575-33-10100. Applicant: University of Pennsylvania, Johnson Research Foundation, A. N. Richards Building, 37th and Hamilton Walk, Philadelphia, PA 19104. Article: Temperature jump spectrometer. Manufacturer: Messanlagen Studien G.m.b.H., West Germany. Intended use of article: The article will be used for rapid kinetic studies of biochemical systems over the time range of 2 microseconds to 1 second, including those systems which are optically, inhomogeneous, nonaqueous, and with the ability to make additions directly to the sample contained in the optical path. Received by Commissioner of Customs: June 1, 1971.

Docket No. 71-00577-33-46040. Applicant: The Children's Hospital Medical Center, 300 Longworth Avenue, Boston, MA 02115. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics, The Netherlands. Intended use of article: The article will be used for a project concerning a study of congenital heart disease that involves the examination of embryonic hearts and the embryonic cardiac connective tissue. Another area of research concerns electron microscope examination of connective tissue, particularly calcified tissue (bone and tooth). Received by Commissioner of Customs: June 1, 1971.



Docket No. 71-00579-33-46500. Applicant: Veterans Administration Hospital, 3801 Miranda Avenue, Palo Alto, CA 94304. Article: Ultramicrotome, Model OmU2. Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used in a project concerning morphological studies of nervous system structures involved in Parkinsonism. The locus caeruleus; the stellate ganglion of the sympathetic nervous system; and the innominate substance are structures to be investigated. The study involves examination of brain tissue and peripheral nerves and ganglia, from human and experimental animal tissue. Received by Commissioner of Customs: June 7, 1971.

Docket No. 71-00581-33-46040. Applicant: The University of Kansas, Lawrence, Kans. 66044. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used for research dealing with the structure and function of cylindrical elements, called microtubules, which are found in most cell types and can only be seen with the electron microscope; and the substructure, multiplication, and pathology of *Coxiella burnetii* (rickettsia), a disease producing microbe intermediate in size between viruses and bacteria. Received by Commissioner of Customs: June 7, 1971.

Docket No. 71-00582-33-46500. Applicant: Veterans Administration Hospital, 4101 Woolworth Avenue, Omaha, NE 68105. Article: Ultramicrotome, Model OmU3. Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used for several projects involving tissues and mitochondrial suspensions of differing origin. These include rat liver, kidney, pancreas, adrenal, and thyroid. Mitochondrial suspensions from *in vitro* experiments will also be used. Received by Commissioner of Customs: June 9, 1971.

Docket No. 71-00583-33-46500. Applicant: Florida Technological University, Post Office Box 25000, Orlando, FL 32816. Article: Ultramicrotome, Model OmU2. Manufacturer: C. Reichert Optische Werke A.G., Austria. Intended use of article: The article will be used to study biological ultrastructures. Experiments will include microscopic examination of the ultrastructure of the wall structure of the bitunicate ascus, plant sphaerosome ontogeny and sodium transport in animal tissue related to leukemia. Educational use will be in courses entitled Biology—Cytology; Botany—Mycology; Zoology—Histological Technique; and Zoology, Microbiology, Botany, Biology—Independent Study. Received by Commissioner of Customs: June 9, 1971.

Docket No. 71-00584-33-67200. Applicant: University of South Alabama, Mobile, Ala. 36608. Article: Categories tester and aversive conditioning program. Manufacturer: Barry F. Smith M.A. Sc. Eng., Bio-Medical Engineer, Canada. Intended use of article: The article will serve primarily as an educational instrument which will include re-

search training and experience. In addition, some members of the faculty of the Department of Psychology will use this apparatus for specific research and possibly for treatment of maladjusted individuals. Received by Commissioner of Customs: June 9, 1971.

Docket No. 71-00585-33-90000. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: Rotating anode assembly, Model GX-6. Manufacturer: Elliott Automation Radar Systems, Ltd., United Kingdom. Intended use of article: The article, which produces a high intensity beam of X-rays, will be used to study the diffraction from heavily hydrated crystals. The studies are directed toward the solution of the structure of transfer RNA, an important molecule in the synthesis of proteins in living systems. Received by Commissioner of Customs: June 9, 1971.

SETH M. BODNER,  
Director,

Office of Import Programs.

[FR Doc. 71-12821 Filed 8-31-71; 8:51 am]

## UNIVERSITY OF FLORIDA ET AL.

### Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, as published in the October 14, 1969, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket No. 71-00580-33-46040. Applicant: University of Florida, College of Medicine, Department of Ophthalmology, Gainesville, Fla. 32601. Article: Electron microscope, Model EM9S-2. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article will be used for an ultrastructural study of human cornea involving human tissue removed for corneal transplant and for studies on the canal of Schlemm and trabecular meshwork in human eyes. Trainees in the department will use the electron microscope for ultrastructure

studies as a part of their projects on the eye. Application received by Commissioner of Customs: June 7, 1971.

Docket No. 71-00563-33-46040. Applicant: University of North Carolina, School of Medicine, Chapel Hill, N.C. 27514. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens AG, West Germany. Intended use of article: The article will be used to examine the fine structure and the molecular components of spermatozoa, ova, and other tissues involved in reproductive biology. Molecular components are to be separated from cells and tissues important in reproductive biology. These molecules and molecular complexes are then to be examined at the highest possible resolution in order to show the desired molecular detail. Application received by Commissioner of Customs: May 24, 1971.

Docket No. 71-00564-33-46040. Applicant: Saint Louis University School of Medicine, 1402 South Grand, St. Louis, MO 63104. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands. Intended use of article: The article will be used for diagnostic studies of human renal and hepatic biopsies; diagnostic and investigational evaluations of human blood and bone marrow specimens; studies of experimental hepatic disease produced by Manganese; studies of the incidence of viruses in human tumors; evaluations of human brain tumors as a means to better diagnosis and more rational treatment; and studies of the ultrastructure of hybrid cells and the relationship of chromosomal content to structure and function. Application received by Commissioner of Customs: May 24, 1971.

Docket No. 71-00567-00-46040. Applicant: University of Pennsylvania, Administrative Offices, Philadelphia, Pa. 19104. Article: External HV Measuring Divider and Interference Voltage Suppression. Manufacturer: Siemens AG, West Germany. Intended use of article: These accessories will be used to update an existing Elmiskop electron microscope. Application received by Commissioner of Customs: May 24, 1971.

Docket No. 71-00568-55-17500. Applicant: University of Alaska, College, Alaska 99701. Article: Two (2) recording current meters. Manufacturer: Ivar Aanderaa, Norway. Intended use of article: The equipment will be used to study the circulation of the Alaskan Arctic coast for a project titled "Marine Development of the Alaskan Arctic." The overall purpose is to provide baseline data on the oceanographic parameters along the Arctic coast, prior to possible environmental upset due to industrialization. Application received by Commissioner of Customs: May 26, 1971.

Docket No. 71-00569-00-46040. Applicant: The Rockefeller University, York Avenue and 66th Street, New York, NY 10021. Article: Anticontamination device. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is an accessory for an existing Elmiskop electron microscope used for

research and for educational purposes. Application received by Commissioner of Customs: May 26, 1971.

Docket No. 71-00570-60-70000. Applicant: Texas A. & M. University Agricultural Research & Extension Center, Post Office Box 537, Weslaco, TX 78596. Article: Miniature net radiometers, quantity 4, and accessories. Manufacturer: Middleton & Pty., Ltd., Australia. Intended use of article: The articles will be used during citrus frost protection research (nighttime) to measure alternately and accurately the net resultant longwave radiation flux and the uni-directional flux of radiant energy. Application received by Commissioner of Customs: May 26, 1971.

Docket No. 71-00571-33-46040. Applicant: Case Western Reserve University School of Medicine, Institute of Pathology, 2085 Adelbert Road, Cleveland, OH 44106. Article: Electron microscope, Model EM 9S-2. Manufacturer: Carl Zeiss, Inc., West Germany. Intended use of article: The article will be used to mass produce low power electron micrographs of peripheral nerves and central nervous tissue (human and animal) for measurements and statistical studies on the size and geometry of cells. The electron microscope will also be used in the Training Program in Neuropathology of the Institute for pathologists, neurologists and neuropathologists. Application received by Commissioner of Customs: May 26, 1971.

Docket No. 71-00572-01-59800. Applicant: Florida State University, Department of Chemistry, Tallahassee, Fla. 32306. Article: Flash Photolysis Apparatus Type FP-2R. Manufacturer: Northern Precision Co., Ltd., United Kingdom. Intended use of article: The article will be used for the flash photolysis technique where a very short intense flash of light is used to excite molecules, originally in their ground, relaxed state, to higher electronically excited states. Experiments involve the study of the absorption spectra, decay kinetics and energy transfer kinetics of the triplet states of the molecules, and the changes in rate constants as a function of temperature. Educational use will be in eight chemistry courses at the undergraduate and at the graduate levels. Application received by Commissioner of Customs: May 26, 1971.

Docket No. 71-00565-91-11000. Applicant: Brigham Young University, Department of Botany and Range Science, 285 Widtsoe Building, Provo, Utah 84601. Article: Gas chromatograph-mass spectrometer MAT 111. Manufacturer: Varian MAT, West Germany. Intended use of article: The article will be used for investigation of unknown lipids in fungal spores; identification of a fungal toxin present in pink root of onions; analysis of triazines in tomato plants; characterization of the intermediates relating to carboxylation of glycine; identification of allelopathic compounds from plants; and for identifications of lipids in the cell chloroplast particles. Educational use will be in a botany course designed to train graduate and upper divi-

sion undergraduates in the use of the instrument in biological research. Application received by Commissioner of Customs: May 24, 1971.

SETH M. BODNER,  
Director,  
Office of Import Programs.

[FR Doc. 71-12822 Filed 8-31-71; 8:51 am]

#### UNIVERSITY OF MIAMI

##### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00234-55-17500. Applicant: University of Miami, Coral Gables, Fla. 33124. Article: Recording current meter, Model 4. Manufacturer: Ivar Aanderaa, Norway.

Intended use of article: The article is to be attached to a neutrally buoyant float which the applicant has designated as a pycnocline follower. This device is weighted precisely so that it will remain at the depth of a constant density surface. The objective of the experiment is to distinguish between motions of the density surface due to internal waves and apparent motions of a temperature surface.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article measures temperature, salinity, pressure, current speed, and current direction as a function of time and provides internal recording of these measurements. These characteristics are pertinent to the purposes for which the article is intended to be used. We are advised by the National Bureau of Standards (NBS) in its memorandum dated February 11, 1971, that it knows of no comparable domestically manufactured system that can provide the pertinent characteristics of the article described above.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,  
Office of Import Programs.

[FR Doc. 71-12823 Filed 8-31-71; 8:51 am]

#### UNIVERSITY OF MICHIGAN

##### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00396-33-46040. Applicant: The University of Michigan, Ann Arbor, MI 48104. Article: Electron microscope, Model EM6G. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article will be used for high resolution studies on cytomembranes; size distribution analyses of air pollution particles and to determine the form or three-dimensional configuration of the particles in question; and for the routine examination of tissues after treatment of animals with a variety of toxic agents to determine whether subcellular abnormalities are induced by the treatment.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is equipped with a tilt stage having a guaranteed resolving power of 7 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgiolo Corp. (Forgiolo). The Model EMU-4C can be equipped with a tilt stage but the guaranteed resolving power of this stage is 8 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving power.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated June 18, 1971, that the guaranteed resolving power of the tilt stage of the foreign article is pertinent to the applicant's research studies. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,  
Office of Import Programs.

[FR Doc. 71-12824 Filed 8-31-71; 8:51 am]

**VETERANS ADMINISTRATION  
HOSPITAL, ALBANY, N.Y.**

**Notice of Decision on Application for  
Duty-Free Entry of Scientific Article**

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 70-00715-33-46040. Applicant: Veterans Administration Hospital, Albany, N.Y. 12208. Article: Electron microscope, Model JEM 100-B. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan.

Intended use of article: The article will be used for research in experimental neuropathology concerning the application of ultrastructural techniques to the study of the responses of neurons to axon section; for a study of the ultrastructure of selected human autopsy and biopsy material from central and peripheral nervous systems; and to train personnel in electron microscopy.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 500 to 500,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU-4B which was formerly manufactured by the Radio Corp. of America and which is presently being supplied by the Forgy Corp. The Model EMU-4B, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU-4B that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU-4B requires a break in the vacuum of the column.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 18, 1970, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used. HEW further

advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 500 to 500,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU-4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,  
Director,

Office of Import Programs.

[FR Doc.71-12825 Filed 8-31-71; 8:52 am]

**WILLIAM MARSH RICE UNIVERSITY**

**Notice of Decision on Application for  
Duty-Free Entry of Scientific Article**

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00185-65-86300. Applicant: William Marsh Rice University, Post Office Box 1892, 6100 Main Street, Houston, TX 77001. Article: Rheovibron, DDV II. Manufacturer: Toyo Measuring Instruments Co., Ltd., Tokyo, Japan.

Intended use of article: The article will be used for the study of the dynamic mechanical properties of polymeric materials, synthetic as well as biopolymers. The purpose of these experiments is to relate the dynamic mechanical properties of the test materials with their structure and molecular organization.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (Apr. 7, 1970).

Reasons: The foreign article is capable of measuring the temperature dependence of the complex modulus, the dynamic storage modulus, the dynamic loss modulus, and the dynamic loss tangent of viscoelastic materials at selected frequencies of strain outputs. We are advised by the National Bureau of Standards (NBS) in its memorandum dated February 1, 1971, that the capabilities

of the article described above are pertinent to the applicant's research studies. NBS further advises that it knows of no commercially manufactured domestic instrument which provided the pertinent capabilities of the foreign article at the time the article was ordered.

SETH M. BODNER,  
Director,

Office of Import Programs.

[FR Doc.71-12826 Filed 8-31-71; 8:52 am]

**DEPARTMENT OF  
TRANSPORTATION**

Urban Mass Transportation  
Administration

ASSISTANT ADMINISTRATOR FOR  
PROGRAM PLANNING

Redelegation of Authority

Pursuant to the authority delegated to me by §§ 1.45(b) and 1.50 of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.45(b) and 1.50), the Assistant Administrator for Program Planning is hereby authorized to execute grant or procurement contracts and contract amendments for approved planning and evaluation research projects under section 6(a) of the Urban Mass Transportation Act of 1964 as amended (49 U.S.C. sec. 1605(a)), and is further authorized in connection with the administration of such contracts to approve requisitions for funds, third party contracts and project budget amendments within previously approved limits.

The Assistant Administrator for Program Planning is further authorized to redelegate to one or more employees under his jurisdiction the authority re-delegated herein.

This redelegation becomes effective August 26, 1971.

Issued in Washington, D.C., August 26, 1971.

WILLIAM S. ALLISON,  
Acting Urban Mass  
Transportation Administrator.

[FR Doc.71-12735 Filed 8-31-71; 8:45 am]

**CIVIL AERONAUTICS BOARD**

[Docket No. 22628; Order 71-8-105]

INTERNATIONAL AIR TRANSPORT  
ASSOCIATION

Order Regarding Delayed Inaugural  
Flights

Issued under delegated authority August 25, 1971.

By Order 71-8-51, dated August 11, 1971, action was deferred, with a view toward eventual approval, on an agreement adopted by Joint Conference 1-2 of

the International Air Transport Association (IATA). The agreement permits Pan American World Airways to postpone to a date not later than December 31, 1971, the performance of its inaugural flights for new service between New York and Casablanca.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71-8-51 will herein be made final.

Accordingly, it is ordered, That:

Agreement C.A.B. 22570 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,  
Secretary.

[FR Doc.71-12792 Filed 8-31-71;8:49 am]

[Docket No. 22628; Order 71-8-106]

### INTERNATIONAL AIR TRANSPORT ASSOCIATION

#### Order Regarding Fare Matters

Issued under delegated authority August 25, 1971.

By Order 71-8-38, dated August 10, 1971, action was deferred, with a view toward eventual approval, on an agreement adopted by Traffic Conference 1 of the International Air Transport Association (IATA). The agreement amends provisions governing United States-Caribbean excursion fares so as to reduce the winter period during which higher-level excursion fares are applied.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71-8-38 will herein be made final.

Accordingly, it is ordered, That:

Agreement C.A.B. 22569 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,  
Secretary.

[FR Doc.71-12793 Filed 8-31-71;8:50 am]

[Docket No. 23306, etc.; Order 71-8-111]

### MARSHFIELD, WIS. ET AL.

Petition of Sheboygan County, Wis., to amend the certificate of North Central Airlines, Inc., by changing the designation of the hyphenated point Manitowoc-Sheboygan to Manitowoc, Docket No. 23116.

Petition of Outagamie County, Wis., city of Appleton, Wis., and the Appleton

Area Chamber of Commerce to amend the certificate of North Central Airlines, Inc., route 86, by changing the hyphenated Oshkosh-Appleton designation to Oshkosh, Docket No. 21115.

#### Order Denying Motion for Order to Show Cause and Setting Matters for Hearing

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of August 1971.

Application of the city of Marshfield, Wis., and the South Wood County Airport Commission to amend the certificate of North Central Airlines, Inc., route 86 by changing the hyphenated "Wausau-Stevens Point - Marshfield - Wisconsin Rapids" designation to "Wausau-Stevens Point," Docket No. 23306.

The city of Marshfield, Wis., the South Wood County Airport Commission (Marshfield Parties), joined by Marshfield Airways, Inc., doing business as Midstate Air Commuter (Midstate), a commuter air carrier, have filed a motion requesting the Board to issue an order to show cause why their application in Docket 23306 should not be granted. That application requests that the certificate of public convenience and necessity of North Central Airlines, Inc. (North Central), for route 86, be amended by redesignating the point "Wausau-Stevens Point-Marshfield-Wisconsin Rapids" as Wausau-Stevens Point. In the alternative, the Marshfield Parties and Midstate request an immediate hearing on their application.

Answers in support of the Marshfield Parties' application have been filed by the National Air Transportation Conference (NATC)<sup>1</sup> and other interested parties.<sup>2</sup> North Central has filed an answer opposing the relief requested by the Marshfield Parties.

Sheboygan County, Wis. (Sheboygan), has filed a petition requesting the Board to amend North Central's certificate of public convenience and necessity so as to change the designation of the hyphenated point "Manitowoc-Sheboygan" to Manitowoc.<sup>3</sup> North Central has filed an answer opposing the relief requested by Sheboygan.

Upon consideration of the foregoing pleadings and all relevant facts, we have decided to set the two applications for hearing. The communities themselves are requesting decertification as points on North Central's system, and desire to rely instead on noncertificated scheduled service provided by commuter air carriers. We believe that under all the cir-

<sup>1</sup> NATC is organized as an association of air taxi operators and its answer is filed in behalf of five of its constituent members (Air Wisconsin, Cross Sound Commuter, Henson Aviation, Houston Metro Airlines, and Key Airlines).

<sup>2</sup> Nekoose-Edwards Paper Co.; Clark County, Neillsville, Wis.; and the Berg Equipment Corp.

<sup>3</sup> Petitions for leave to intervene in Dockets 23306 and 23116 have been filed by the State of Wisconsin.

stances it is appropriate to consider, on an evidentiary record, the Marshfield Parties' and Sheboygan's contentions that each respective community has emerged as a separate marketing entity since they were hyphenated;<sup>4</sup> and that air travelers are confused by the present hyphenated designation.<sup>5</sup>

We have also decided to consolidate these petitions with a similar petition filed by Appleton, Wis.<sup>6</sup> These three cases involve the same carrier and hyphenated points located in the same State, and the cases may involve similar issues of law and policy. In these circumstances, consolidation will aid the effective dispatch of the Board's business and we find that consolidation will not delay the proceeding unduly.

Accordingly, it is ordered, That:

1. The Marshfield Parties' request, Docket 23306 and Sheboygan's petition, Docket 23116, be and they hereby are set for hearing before an Examiner of the Board at a time and place to be hereafter designated;

2. The petitions in Dockets 23306 and 23116, be and they hereby are consolidated for hearing with the request filed by Outagamie County, Wis., the city of Appleton, Wis., and the Appleton Area Chamber of Commerce, Docket 21115;<sup>7</sup>

3. The motions of the State of Wisconsin for leave to intervene in Dockets 23306 and 23116, be and they hereby are granted;

4. Motions or petitions for modification or reconsideration of this order shall be filed no later than 20 days after the date of service of this order, and answers to such pleadings shall be filed no later than 10 days thereafter; and

5. A copy of this order shall be served upon North Central Airlines, Inc., which

<sup>4</sup> Marshfield was hyphenated with Wausau, Wisconsin Rapids, and Stevens Point to be served through a single airport to be constructed at Mosinee, Wis. (known as the Central Wisconsin Airport) in the North Central Area Airline Service Airport Investigation, 41 CAB 326 (1964).

<sup>5</sup> Sheboygan was hyphenated with Manitowoc to be served through the Manitowoc Municipal Airport in the Service to the Sheboygan and Manitowoc, Wis., Area case, 38 CAB 449 (1963).

<sup>6</sup> The hyphenated point "Wausau-Stevens Point-Marshfield-Wisconsin Rapids" is served by North Central Airlines through Central Wisconsin Airport at Mosinee which is approximately 40 miles from Marshfield. The Marshfield Municipal Airport, about 2 miles from Marshfield is served by Midstate, a commuter air carrier, but not by North Central.

<sup>7</sup> The hyphenated point "Manitowoc-Sheboygan" is served by North Central through the Manitowoc Municipal Airport which is approximately 28 miles from Sheboygan. The Sheboygan Airport is served by Air Wisconsin, a commuter air carrier but not by North Central.

<sup>8</sup> Order 71-7-63, dated July 28, 1971, Docket 21115.

<sup>9</sup> The consolidated proceeding shall hereinafter be designated as The Wisconsin Points Dehyphenation Case.

is hereby made a party to the consolidated proceeding, Air Wisconsin, Inc., Marshfield Airways, Inc., doing business as Midstate Air Commuter, the cities of Wausau, Stevens Point, Marshfield, Wisconsin Rapids, Sheboygan, Manitowoc, the National Air Transportation Conference, the South Wood County Airport Commission, the Governors of Illinois, Indiana, Minnesota, Michigan, and Wisconsin, and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,  
Secretary.

[FR Doc.71-12794 Filed 8-31-71;8:50 am]

## CIVIL SERVICE COMMISSION

### DEPARTMENT OF AGRICULTURE

#### Notice of Grant of Authority to make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Director, Oilseeds and Special Crops Division, Agricultural Stabilization and Conservation Service.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,  
Executive Assistant  
to the Commissioners.

[FR Doc.71-12769 Filed 8-31-71;8:48 am]

### ADMINISTRATIVE SPECIALIST; OFFICE OF EDUCATION

#### Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage for a single position of Administrative Specialist GS-301-9, Personnel Operations Branch, Division of Personnel and Training, Office of Education, Department of Health, Education and Welfare, Washington, D.C. The finding is self-canceling when the position is filled.

Assuming other legal requirements are met, an appointee to this position may be paid for the cost of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,  
Executive Assistant to  
the Commissioners.

[FR Doc.71-12773 Filed 8-31-71;8:48 am]

### DEPUTY DIRECTOR, DEPARTMENT OF AGRICULTURE

#### Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a

manpower shortage on August 11, 1971, for the single position of Deputy Director, GS-301-14, Food Distribution Division, Food and Nutrition Service, Department of Agriculture, Washington, D.C. The finding is self-canceling when the position is filled.

Assuming other legal requirements are met, an appointee to this position may be paid for the cost of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,  
Executive Assistant to  
the Commissioners.

[FR Doc.71-12774 Filed 8-31-71;8:48 am]

### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Evaluation and Program Monitoring, Office of the Secretary, Office of the Assistant Secretary for Planning and Evaluation.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,  
Executive Assistant to  
the Commissioners.

[FR Doc.71-12772 Filed 8-31-71;8:48 am]

### DEPARTMENT OF TRANSPORTATION

#### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Safety and Consumer Affairs, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,  
Executive Assistant to  
the Commissioners.

[FR Doc.71-12771 Filed 8-31-71;8:48 am]

### GENERAL SERVICES ADMINISTRATION

#### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the General Services Administration to fill by noncareer executive assignment in the excepted service the position of Confi-

dential Assistant to the Commissioner, Public Buildings Service.

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

[FR Doc.71-12770 Filed 8-31-71;8:48 am]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 19305-19307; FCC 71-865]

### HILLSBOROUGH BROADCASTING CO.

#### Order Designating Applications for Oral Argument

In regard applications of:

Hillsborough Broadcasting Co., Inc. (WTSS-TV), Tampa, Fla., Docket No. 19305, File No. BMPCT-6434; Acorn Television Corp., (WJNR-TV), Clearwater, Fla., Docket No. 19306, File No. BMPCT-6497; U.S. Communications of Texas, Inc., (KJDO-TV) Rosenberg, Tex., Docket No. 19307, File No. BMPCT-7308; for extension of construction permit.

1. The Commission has before it for consideration, three requests for reinstatement of construction permits, call signs and applications for extension of time within which to complete construction of the following television broadcast stations: WJNR-TV, channel 22, Clearwater, Fla.; WTSS-TV, channel 28, Tampa, Fla.; and, KJDO-TV, channel 45, Rosenberg, Tex.

2. After the lapse of more than 18 months from the date their respective construction permits were issued, each of the permittees listed above failed to demonstrate that they had exercised due diligence in the prosecution of construction or that construction had been prevented by causes not under their control within the meaning of section 319(b) of the Communications Act of 1934, and accordingly, the Chief, Broadcast Bureau, acting pursuant to delegated authority<sup>1</sup>, dismissed their extension applications, canceled their construction permits and deleted their call signs. However, in accordance with the provisions of the delegation, each applicant was advised that it could request reinstatement of its authorizations within 30 days and thereby obtain a hearing on the question of its dismissal. Subsequently, each filed a request for reinstatement of its permit, call sign and application for an extension of time to complete construction of its station.

3. Accordingly, it is ordered, That the construction permits, call signs and extension applications of television broadcast stations WJNR-TV, Clearwater, Fla.; WTSS-TV, Tampa, Fla.; and KJDO-TV, Rosenberg, Tex.; are reinstated.

<sup>1</sup> Section 0.281(z) of the Commission's rules.

4. It is further ordered, That each of the above-captioned applications are designated for oral argument before the Review Board in Washington, D.C., at a time and place to be specified in a subsequent order, upon the following issue: To determine whether the reasons advanced by the permittee in support of its request for an extension of its completion date, constitute a showing that failure to complete construction was due to causes not under the control of the permittee, or constitute a showing of other matters sufficient to warrant a further extension of time within the meaning of section 319(b) of the Communications Act of 1934, and § 1.534(a) of the Commission's rules.

5. It is further ordered, That to avail themselves of the opportunity to be heard, each of the applicants, in person, or by attorney, shall, within ten (10) days of the mailing of this order, file with the Commission an original and 12 copies of a written appearance stating an intention to appear on the date fixed for the oral argument and present arguments on the issue specified, and shall have until September 13, 1971, to file briefs or memoranda of law.

Adopted: August 18, 1971.

Released: August 25, 1971.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] BEN F. WAPLE,  
Secretary.

[FR Doc.71-12791 Filed 8-31-71; 8:49 am]

## RAILROAD RETIREMENT BOARD

### RAILROAD RETIREMENT TAX ACT

#### Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. section 3221(c)), as amended by section 5(a) of Public Law 91-215, the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1971, shall be at the rate of 6 cents.

By authority of the Board.

Dated: August 25, 1971.

[SEAL] RICHARD F. BUTLER,  
Secretary of the Board.

[FR Doc.71-12747 Filed 8-31-71; 8:46 am]

\* Commissioner H. Rex Lee absent.

## SECURITIES AND EXCHANGE COMMISSION

(811-1986)

### KINGSBRIDGE FUND, INC.

#### Notice of Filing of Application Declaring That Company Has Ceased To Be an Investment Company

AUGUST 25, 1971.

Notice is hereby given that The Kingsbridge Fund, Inc., 663 Fifth Avenue, New York, NY 10022 (formerly The Pathfinder Fund, Inc.) (Applicant), a Delaware corporation registered as an open-end, nondiversified management investment company under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant registered under the Act by filing a notification of registration on Form N-8A and a registration statement on Form N-8B-1 on December 22, 1969. On the same date a registration statement on Form S-5 was filed with the Commission under the Securities Act of 1933; said registration statement has not been made effective and Applicant has requested its withdrawal.

Applicant represents that it has no shareholders and that no public offering or sale of its common stock has been or is intended to be made. It has no assets of any kind.

Section 3(c)(1) of the Act excepts from the definition of investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons, and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 15, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request 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 Applicant at the address stated above. Proof of such serv-

ice (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time later than 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 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.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,  
Associate Secretary.

[FR Doc.71-12751 Filed 8-31-71; 8:46 am]

## SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 843;  
Class B]

### GEORGIA

#### Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of August 1971, because of the efforts of certain disasters damage resulted to residences and business property located in the State of Georgia;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Associate Administrator for Operations and Investment of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Chatham County, Georgia, and adjacent areas, suffered damage or destruction resulting from floods occurring on August 17, 1971.

#### OFFICE

Small Business Administration Regional Office, 1401 Peachtree Street NE., Atlanta, GA 30309.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to February 29, 1972.

Dated: August 23, 1971.

A. H. SINGER,  
Associate Administrator for  
Operations and Investment.

[FR Doc.71-12750 Filed 8-31-71; 8:46 am]

## FEDERAL POWER COMMISSION

[Docket No. G-3244, etc.]

## PHILLIPS PETROLEUM CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates<sup>1</sup>

August 24, 1971.

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

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 20, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

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

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

KENNETH F. PLUMB,  
Secretary.

<sup>1</sup>This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and Date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-3244-6-14-71 <sup>1</sup>	Phillips Petroleum Co. (Operator), Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Winkler Plant, Winkler County, Tex.	18.5	14.65
G-7074-C 8-16-71	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Consolidated Gas Supply Corp., various leases, Elk District, Kanawha County, W. Va.	30.0	15.025
G-7143-E 7-26-71	Gulf Oil Corp. (successor to Warren Petroleum Corp., Post Office Box 1589, Tulsa, OK 74102).	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Heyser Gas Processing Plant, Heyser Field, Galhoun County, Tex.	21.0	14.65
G-7223-C 5-12-71	Chevron Oil Co., Western Division, Post Office Box 599, Denver, CO 80201.	El Paso Natural Gas Co., acreage in Lea County, N. Mex.	11.0	14.65
G-11996-D 8-10-71	Mobile Oil Corp., Post Office Box 1774, Houston, TX 77001.	United Gas Pipe Line Co., Cameron Meadows et al. Field, Cameron Parish, La.	Assigned	.....
G-13103-C 7-27-71	Astec Oil & Gas Co., 2000 First National Bank Bldg., Dallas, Tex. 75202.	Southern Union Gathering Co., Basin Dakota Pool, San Juan County, N. Mex.	*13.0	15.025
G-16218-8-11-71 <sup>1</sup>	Gulf Oil Corp., (Operator) et al., Post Office Box 1889, Tulsa, OK 74102.	Transwestern Pipeline Co., A.P. Jackson Unit, Laverne Field, Harper County, Okla.	18.7775	14.65
G-17110-E 5-17-71	Consolidated Production Corp., (successor to A. A. Cameron, d.b.a. Cameron Oil Co., et al.), c/o Hal D. Learning, attorney, Suite 1212, 100 Park Ave., Bldg., Oklahoma City, OK 73102.	Colorado Interstate Gas Co., a Division of Colorado Interstate Corp., Moccasin Area, Beaver County, Okla.	17.0	14.65
G-17378-D 8-12-71	Texaco, Inc., Post Office Box 3100, Midland, TX 79701.	Transwestern Pipeline Co., Frass Field, Lipscomb County, Tex.	Unproductive	.....
CI60-363-7-6-71 <sup>1</sup>	Marathon Oil Co. (Operator) et al., 530 South Main St., Findlay, OH 45840.	Transwestern Pipeline Co., Atoka Field, Eddy County, N. Mex.	20.5	14.65
CI61-1281-8-9-71	Mobile Oil Corp. (Operator) et al., Post Office Box 1774, Houston, TX 77001.	Michigan Wisconsin Pipe Line Co., Cedarvale Field, Major, Woodward, and Dewey Counties, Okla.	Assigned	.....
CI62-874-E 5-17-71	Consolidated Production Corp. (successor to A. A. Cameron, d.b.a. Cameron Oil Co. et al.), c/o Hal D. Learning, attorney, Suite 1212, 100 Park Avenue Bldg., Oklahoma City, OK 73102.	Cities Service Gas Co., Sterling Area, Comanche County, Okla.	16.0	14.65
CI62-870-E 5-17-71	do	Arkansas Louisiana Gas Co., West Marlow Field, Grady County, Okla.	*19.0 *18.5	14.65
CI63-234-D 8-4-71	Mobile Oil Corp. (Operator) et al., Post Office Box 1774, Houston, TX 77001.	Arkansas Louisiana Gas Co., Red Oak Area, Latimer, Le Flore et al. Counties, Okla.	(?)	.....
CI64-466-E 5-17-71	Consolidated Production Corp. (successor to A. A. Cameron, d.b.a. Cameron Oil Co. et al.), c/o Hal D. Learning, attorney, Suite 1212, 100 Park Avenue Bldg., Oklahoma City, OK 73102.	Arkansas Louisiana Gas Co., Beaver Field, Stephens County, Okla.	15.0	14.65
CI64-976-D 8-10-71	Texaco, Inc. (Operator) et al., Post Office Box 2420, Tulsa, OK 74102.	Kansas-Nebraska Natural Gas Co., Inc., Bradshaw Area, Hamilton County, Kans.	(?)	.....
CI64-1353-E 7-2-71	Consolidated Oil & Gas, Inc. (successor to Worldwide Petroleum Corp.), 1860 Lincoln St., Denver, CO 80203.	Phillips Petroleum Co., acreage in Moore County, Tex.	*12.0	14.65
CI67-248-C 6-14-71	Beacon Gasoline Co., Post Office Box 396, Minden, LA 71055.	Texas Gas Transmission Corp., North Shongaloo-Red Rock Field, Webster Parish, La.	0.25	15.025
CI67-248-C 7-23-71	do	Texas Gas Transmission Corp., East Carterville Field, Webster and Bossier Parishes, La.	0.25	15.025
CI69-302-D 7-29-71	Magness Petroleum Co., 844 First National Bldg., Oklahoma City, Okla. 73102.	Panhandle Eastern Pipe Line Co., Sheets No. 1 Well, Sec. 24-22N-23W, Tangier Field, Ellis County, Okla.	Uneconomical	.....
CI71-663-C 8-13-71 <sup>1</sup>	Phillips Petroleum Co., Bartlesville, Okla. 74004.	El Paso Natural Gas Co., Lusk Plant, Lea County, N. Mex.	*22.0	14.65
CI71-778-C 8-11-71	J. M. Huber Corp., 2000 West Loop South, Houston, TX 77027.	Florida Gas Transmission Co., Bayou Bleu Field, Iberville Parish, La.	*28.675	15.025
CI72-29-A 7-9-71 <sup>1</sup>	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Texas Eastern Transmission Corp., South Half (S/2) Block 90, Main Pass Area, Offshore La.	20.0	15.025
CI73-76-B 8-2-71	Natco Petroleum Corp., 1500 Liberty Bank Bldg., Oklahoma City, Okla. 73102.	United Natural Gas Pipe Line Co., Pistol Ridge Field, Pearl River County, Miss.	Depleted	.....
CI73-77-A 8-2-71	Anadarko Production Co., Post Office Box 9317, Fort Worth, TX 76107.	Panhandle Eastern Pipe Line Co., Getzler A. No. 1 Well, Stevens County, Kans.	19.0	15.025

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

See footnotes at end of table.

Docket No. and Date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI72-78 A 8-2-71	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Transwestern Pipeline Co., South Carlsbad Area, Eddy County, N. Mex.	" 27.0	14.65
CI72-79 A 8-2-71	Atlantic Richfield Co., Post Office Box 2819, Dallas, TX 75221.	El Paso Natural Gas Co., Midway Lane Field, Crockett County, Tex.	22.0	14.65
CI72-81 A 8-3-71	Arkla Exploration Co., Post Office Box 1734, Shreveport, LA 71151.	Arkansas Louisiana Gas Co., acreage in Anadarko Basin, Okla.	" 0.20300	14.65
CI72-82 B 6-7-71	Viersen & Cochran (Operator) et al., Box 280, Okmulgee, OK 74447.	Cities Service Gas Co., acreage in Grant County, Okla.	Unproductive	-----
CI72-84 B 8-5-71	Reserve Oil & Gas Co., 1806 Fidelity Union Tower, Dallas, Tex. 75201.	Transcontinental Gas Pipe Line Co., West Mission Valley Field, Goliad County, Tex.	( <sup>10</sup> )	-----
CI72-85 B 8-5-71	Dixon Management Corp., 3210 One Shell Plaza, Houston, Tex. 77002.	Texas Gas Pipe Line Corp., North Port Neches Field, Orange County, Tex.	Depleted	-----
CI72-86 A 8-5-71	Kerr-McGee Corp., Kerr-McGee Bldg., Oklahoma City, Okla. 73102.	Arkansas Louisiana Gas Co., Sen. 8, Block M-2, H&GN RR Co. Survey, Red Deer Area, Roberts County, Tex.	" 22.8575	14.65
CI72-87 8-4-71 <sup>11</sup>	Mobil Oil Corp., Post Office Box 1774, Houston, TX 77001.	Texas Eastern Transmission Corp., Panther Reef Field, Calhoun County, Tex.	19.0	14.65
CI72-88 8-5-71 <sup>12</sup>	PetroDynamics, Inc., c/o Robert Earl McCormack, Esq., Suite 102, 5963 East 31st St., Tulsa, OK 74135.	Northern Natural Gas Co., Hansford Field, Hansford County, Tex.	18.0	14.65
CI72-89 8-6-71 <sup>13</sup>	Getty Oil Co., Post Office Box 1404, Houston, TX 77001.	Texas Eastern Transmission Corp., Northeast Nada Field, Colorado County, Tex.	16.07	14.65
CI72-90 A 8-6-71	Stephens Production Co., 115 North 12th St., Fort Smith, AR 72901.	Arkansas Louisiana Gas Co., Mathers Ranch Field, Hemphill County, Tex.	" 20.5	14.65
CI72-91 B 8-6-71	The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, LA 70112.	Tennessee Gas Transmission Co., Bay La Fleur Field, Terrebonne Parish, La.	( <sup>9</sup> )	-----
CI72-92 A 8-6-71	Amoco Production Co., Post Office Box 50879, New Orleans, LA 70150.	Sea Robin Pipeline Co., East Cameron Block 204 Field, Offshore Louisiana.	" 30.0	15.025
CI72-93 B 8-10-71	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221.	United Gas Pipe Line Co., McGee Field, Simpson and Smith Counties, Miss.	Depleted	-----
CI72-95 A 8-11-71	Tenneco Oil Co., Post Office Box 2511, Houston, TX 77001.	Tenneco Gas Pipeline Co., a division of Tenneco Inc., South Marsh Island Block 29 Field, Offshore Louisiana.	26.0	15.025
CI72-96 A 8-11-71	Atlantic Richfield Co., Post Office Box 2819, Dallas, TX 75221.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., South Marsh Island, Block 191 Field, Offshore (Zone 4), Louisiana.	26.0	15.025
CI72-98 A 8-13-71	The Ballard & Cordell Corp. et al., 604 Johnson Bldg., Shreveport, La. 71101.	Michigan Wisconsin Pipe Line Co., North Jeanerette Field, St. Mary and Iberia Parishes, La.	" 26.0	15.025
CI72-100 A 8-13-71	Texas Oil & Gas Corp. (Operator) et al., Fidelity Union Tower Bldg., Dallas, Tex. 75201.	Northern Natural Gas Co., Mocane-Laverne Field, Harper County, Okla.	" 20.0	14.65
CI72-101 (G-13308) F 8-13-71	Texas Oil & Gas Corp. (successor to Shell Oil Co. (Operator) et al., Fidelity Union Tower Bldg., Dallas, Tex. 75201.	Michigan Wisconsin Pipe Line Co., Laverne Field, Beaver County, Okla.	" 18.5	14.65
CI72-102 B 8-13-71	Tenneco Oil Co., Post Office Box 2511, Houston, TX 77001.	Cities Service Gas Co., Hardtner Field, Barber County, Kans.	( <sup>20</sup> )	-----
CI72-103 A 8-16-71	Gulf Oil Corp., Post Office Box 1589 Tulsa, OK 74102.	Texas Gas Transmission Corp., East Bayou Pigeon Field, Iberia and Iberville Parishes, La.	30.0	15.025

<sup>1</sup> Applicant proposes to change the point of delivery to El Paso Natural Gas Co. from the Winkler Plant, Kermit Area, Winkler County, Tex., to a point on El Paso's pipeline in Winkler County near Cabot Corp.'s Walton Plant.

<sup>2</sup> Rate in effect subject to refund in Docket No. R171-962.

<sup>3</sup> Contract price is 15 cents per Mcf plus tax reimbursement; however, applicant is willing to accept a certificate conditioned to 13 cents.

<sup>4</sup> Petition to amend certificate to include interest of co-owners, Mobil Oil Corp., Amoco Production Co., and Shell Oil Co.

<sup>5</sup> Applicant proposes that its certificate in Docket No. CI60-393 be amended to cover its interest in the sale heretofore covered under Road & Stevens Inc., Operator et al., in Docket No. CI67-1850.

<sup>6</sup> For sales in Comanche County.

<sup>7</sup> For sales in Grady County.

<sup>8</sup> Expiration of leases.

<sup>9</sup> Leases have expired or have been released.

<sup>10</sup> Applicant is willing to accept a certificate conditioned to 12 cents per Mcf but permitting an escalation to the price of 13 cents per Mcf to which applicant is contractually entitled to after a 1-day suspension.

<sup>11</sup> Amendment to pending application.

<sup>12</sup> Subject to upward B.t.u. adjustment.

<sup>13</sup> Includes 2.575 cents upward B.t.u. adjustment. Subject to upward and downward B.t.u. adjustment.

<sup>14</sup> Application previously noticed July 29, 1971 in G-2598 et al., at a rate of 27.5 cents per Mcf. By letter filed Aug. 10, 1971, applicant amended its application to reflect a rate of 26 cents per Mcf for a permanent certificate in lieu of 27.5 cents.

<sup>15</sup> Subject to upward and downward B.t.u. adjustment.

<sup>16</sup> Leases released.

<sup>17</sup> Applicant proposes to continue the sale of its own gas heretofore authorized in Docket No. CI69-330.

<sup>18</sup> Applicant proposes to continue the sale of its own gas heretofore authorized in Docket No. CI62-578.

<sup>19</sup> Applicant proposes to continue the sale of its own gas heretofore authorized in Docket No. CI63-684.

<sup>20</sup> Acreage dedicated under contract has been sold to Mr. James W. Rockhold.

[FR Doc.71-12658 Filed 8-31-71;8:45 am]

## FEDERAL RESERVE SYSTEM

### CHASE MANHATTAN 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 Chase Manhattan Corp., which is a bank holding company located in New York, N.Y., for prior approval by the Board of Governors of the acquisition by applicant of 100 percent of the voting shares (less directors' qualifying shares), of Chase Manhattan Bank of Long Island (N.A.), Melville, N.Y.

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 New York.

Board of Governors of the Federal Reserve System, August 25, 1971.

[SEAL]

TYNAN SMITH,  
Secretary.

[FR Doc.71-12738 Filed 8-31-71;8:45 am]



**IOWA BUSINESS INVESTMENT CORP.  
AND SUPERIOR EQUITY CORP.**

**Order Granting Determination Under  
Bank Holding Company Act**

In the matter of the request by Iowa Business Investment Corp., Storm Lake, Iowa, and Superior Equity Corp., Lincoln, Nebr. for a determination pursuant to section 2(g) (3) of the Bank Holding Company Act of 1956, as amended.

Iowa Business Investment Corp. (IBIC), Storm Lake, Iowa, a bank holding company within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)) on the basis of its ownership of 52.6 percent of the voting shares of Sibley State Bank, Sibley, Iowa, and Superior Equity Corp. (Superior), Lincoln, Nebr. its proposed successor in interest through merger, seek a determination pursuant to section 2(g) (3) of the Bank Holding Company Act of 1956, as amended, that they will not be capable of controlling the transferees of shares of the aforementioned bank.

Superior/IBIC seeks to terminate its present status as a bank holding company by selling and transferring all of IBIC's present interest in Sibley State Bank to Bruce R. Lauritzen, Darrell D. Green, and Joseph T. Latoza, all of Omaha, Nebr., prior to the consummation of the proposed merger.

Under the provisions of section 2(g) (3) of the Act (12 U.S.C. 1841(g) (3)), shares transferred after January 1, 1966, by any bank holding company to a transferee that is indebted to the transferor are deemed to be indirectly owned or controlled by the transferor unless the Board of Governors of the Federal Reserve System, after opportunity for hearing, determines that the transferor is not in fact capable of controlling the transferee.

The terms of the purchase agreement entered into between Superior/IBIC and the proposed purchasers provide for payment on an installment basis. Because the transferees will become and remain debtors of the transferors until final payment is made, Superior/IBIC is presumed to continue to control the shares transferred, unless the Board, after opportunity for hearing, makes a determination of the kind described in section 2(g) (3). Superior/IBIC has requested such a determination and has submitted to the Board documentary evidence to support the contention that the transferees not be subject to the control of the transferors.

Notice of opportunity for hearing with respect to the Request for a Determination under section 2(g) (3) was published in the FEDERAL REGISTER on Wednesday, June 23, 1971 (36 F.R. 11961). The time provided for requesting a hearing expired on July 6, 1971. No such request has been received by the Board, nor has any evidence been received to show that the transferors, Superior/IBIC, will, in fact, be capable of controlling the affairs of Sibley State Bank.

It is hereby determined that neither the Iowa Business Investment Corp. nor its successor in interest by merger, Superior Equity Corp., will be capable of controlling the aforementioned Sibley State Bank stock transferees. This determination is based upon the evidence of record in this matter, including (1) a copy of an executed purchase offer and acceptance dated April 6, 1971, and addendum thereto dated June 7, 1971, agreed upon by Superior Investment Corp., as successor in interest; Iowa Business Investment Corp., seller; and Bruce R. Lauritzen, Darrell D. Green, and Joseph J. Latoza, purchasers; (2) affidavits of a majority of the directors of IBIC and Superior affirming that no direct or indirect ownership or control will be retained over Sibley State Bank by the respective corporations after the transfer; (3) affidavits submitted by each of the prospective purchasers stating that he is not a director, officer, employee, stockholder, or debtor (other than with respect to the instant transaction) of Superior or IBIC, their subsidiaries, or affiliates; and (4) information showing that transferees have obtained financing arrangements from a bank having no affiliation or similar relationship with the transferors which will cover all obligations of the transferees to the transferors under the aforesaid purchase contract.

Accordingly, it is ordered, That the request of Iowa Business Investment Corp. and its proposed successor in interest, Superior Equity Corp., for a determination pursuant to section 2(g) (3) be and hereby is granted.

By order of the Board of Governors, acting through its General Counsel pursuant to delegated authority (12 CFR 265.2) August 26, 1971.

[SEAL]

TYNAN SMITH,  
Secretary.

[FR Doc. 71-12739 Filed 8-31-71; 8:45 am]

**INTERAGENCY TEXTILE  
ADMINISTRATIVE COMMITTEE**

**CERTAIN COTTON TEXTILE PRODUCTS  
PRODUCED OR MANUFACTURED IN  
HAITI**

**Entry or Withdrawal From Warehouse  
for Consumption**

AUGUST 26, 1971.

On June 30, 1971, the U.S. Government requested the Government of Haiti to enter into consultations concerning exports to the United States of cotton textile products in Category 54 produced or manufactured in Haiti. Public notice of this request was published in the FEDERAL REGISTER on July 30, 1971 (36 F.R. 14152). In the request, the U.S. Government indicated the specific level at which it considered that exports in this category from Haiti should be restrained for the 12-month period beginning June 30, 1971, and extending through June 29, 1972. Since no solution has been mutually

agreed upon, 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 3, paragraph 3 and Article 6(c) which relate to nonparticipants, is establishing a restraint at the level indicated in that request for the 12-month period beginning June 30, 1971, and extending through June 29, 1972. This restraint does not apply to cotton textile products in Category 54, produced or manufactured in Haiti exported to the United States prior to the beginning of the designated 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 54, 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 June 30, 1971, be limited to the designated level.

STANLEY NEHMER,  
Chairman, Interagency Textile  
Administrative Committee,  
and Deputy Assistant Secretary  
for Resources.

SECRETARY OF COMMERCE

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 as soon as possible, and for the twelve-month period beginning June 30, 1971, and extending through June 29, 1972, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textile products in Category 54, produced or manufactured in Haiti, in excess of a level of restraint for the period of 18,000 dozen.

In carrying out this directive, entries of cotton textile products in Category 54, produced or manufactured in Haiti and which have been exported to the United States from Haiti prior to June 30, 1971, shall not be subject to this directive.

Cotton textile products which have been released from the custody of the Bureau of Customs under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of Category 54, in terms of T.S.U.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. 4800).

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 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 provision 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.71-12805 Filed 8-31-71;8:54 am]

### CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN MALAYSIA

#### Entry or Withdrawal From Warehouse for Consumption

AUGUST 26, 1971.

On September 8, 1970, 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, concluded a comprehensive bilateral agreement with the Government of Malaysia concerning exports of cotton textiles from Malaysia to the United States. Under this agreement Malaysia has undertaken to limit its exports to the United States of certain cotton textiles and cotton textile products to specified annual amounts over a 4-year period beginning September 1, 1970 and extending through August 31, 1974. Among the provisions of the agreement are those applying specific export limitations to Categories 45, 46, 49, 50, 51, 53, 55, and 60 for the second agreement year beginning September 1, 1971.

There is published below a letter of August 26, 1971, from the Chairman of the President's Cabinet Textile Advisory Committee to the Commissioner of Customs, directing that the amounts of cotton textile products in Categories 45, 46, 49, 50, 51, 53, 55, and 60, produced or manufactured in Malaysia which may be entered or withdrawn from warehouse for consumption in the United States for the 12-month period beginning September 1, 1971, and extending through August 31, 1972, be limited to certain designated levels. This letter and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

STANLEY NEHMER,  
Chairman, Interagency Textile Administrative Committee,  
and Deputy Assistant Secretary for Resources.

### SECRETARY OF COMMERCE PRESIDENT'S CABINET TEXTILE ADVISORY COMMITTEE

AUGUST 26, 1971.

COMMISSIONER OF CUSTOMS,  
Department of the Treasury,  
Washington, D.C. 20226.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Agreement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of September 8, 1970 between the Governments of the United States and Malaysia, 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 September 1, 1971, and for the 12-month period extending through August 31, 1972, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in categories 45, 46, 49, 50, 51, 53, 55, and 60 produced or manufactured in Malaysia in excess of the following 12-month levels of restraint:

Category	12-month level of restraint
45.....	dozen... 94,500
46.....	do..... 21,000
49.....	do..... 15,750
50.....	do..... 26,250
51.....	do..... 26,250
53.....	do..... 15,750
55.....	do..... 18,900
60.....	do..... 29,400

In carrying out this directive, entries of cotton textile products in Categories 45, 46, 49, 50, 51, 53, 55, and 60, produced or manufactured in Malaysia and which have been exported to the United States from Malaysia prior to September 1, 1971, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period September 1, 1970 through August 31, 1971. In the event that the levels of restraint established for such goods for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of September 8, 1970 between the Governments of the United States and Malaysia which provide in part that within the aggregate and applicable group limits, limits on specific categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above will be made to you by letter from the Chairman of the Interagency Textile Administrative Committee.

A detailed description of the categories 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 Malaysia and with respect to imports of cotton textiles and cotton textile products from Malaysia have been determined by the President's Cabinet Textile Ad-

visory 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 yours,

MAURICE H. STANS,  
Secretary of Commerce, Chairman,  
President's Cabinet Textile Advisory Committee.

[FR Doc.71-12806 Filed 8-31-71;8:54 am]

## DEPARTMENT OF LABOR

### Wage and Hour Division

### EMPLOYMENT OF FULL-TIME STUDENTS

#### Certificates Authorizing Working Outside of School Hours at Special Minimum Wages in Retail, Service Establishments, or in Agriculture

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 595 (31 F.R. 12981), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly rates lower than the minimum wage rates otherwise applicable under section 6 of the act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below \$1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below \$1 an hour in the base year.

- Bethania Hospital, hospital; 1600 11th Street, Wichita Falls, TX; 6-8-72.
- C. H. Block & Co., Inc., agriculture; Tunica, Miss.; 6-15-72.
- Bonson's Shop Rite, foodstore; Eagle River, Wis.; 5-30-72.
- Cary Plantation, agriculture; Cary, Miss.; 6-4-72.
- Central Community Hospital, hospital; Elkader, Iowa; 5-22-72.
- Covey Livestock Co., agriculture; Cokeville, Wyo.; 5-25-72.
- The Dairy Basket, Inc., foodstore; 9159 South Cicero Avenue, Oak Lawn, IL; 6-14-72.
- Dalton Grocery, foodstore, 3408 North Whitehall Road, North Muskegon, MI; 5-20-72.

Dick's Super Market, foodstores, 5-25-72; Wells Street, Darlington, Wis.; 255 McGregor Plaza, Platteville, WI.

Dickson's, furniture store; 201 East Chambers Street, Cleburne, TX; 6-7-72.

Dill's foodstore; Public Square, Dover, Tenn.; 5-31-72.

Duckwall Stores Co., variety-department store; No. 36, Wray, Colo.; 5-20-72.

Eagle Stores Co., Inc., variety-department store; 102 East Broadway, Maryville, TN; 6-11-72.

Eisenberg Department Store, Inc., variety-department store; 401 Schoonmaker Avenue, Monessen, PA; 6-18-72.

Evanna Plantation, Inc., agriculture; Cary, Miss.; 6-4-72.

Fantle's, Inc., variety-department store; 100 South Main Avenue, Sioux Falls, SD; 6-5-72.

Fisher Brothers, agriculture; 846 Oak Avenue, Muskegon, MI; 6-15-72.

Food Giant Super Markets, Inc., foodstore; No. 2, Tucson, Ariz.; 5-24-71 to 4-30-72.

Frank Lockage's, apparel store; 2761 Peck Street, Muskegon Heights, MI; 5-20-72.

Goldblatt Bros., Inc., variety-department store, 5-31-72; 14 Country Fair Shopping Center, Champaign, Ill.; 333 State Street, Chicago, Ill.

Golob Super Market, foodstore; Arma, Kans.; 6-14-72.

W. T. Grant Co., variety-department store; No. 494, Leominster, Mass.; 6-15-72.

Hart-Albin Co., variety-department store; Billings, Mont.; 5-20-72.

Herbst Variety, Inc., variety-department store; 112 Peoria Street, Washington, IL; 5-28-72.

J. H. Hill & Sons, agriculture; Route 2, Indianola, MS; 6-11-72.

Hornbeak Grocery, foodstore; 115 North Main Street, Ridgely, TN; 6-8-72.

Ideal Poultry Breeding Farms, Inc., agriculture; Cameron, Tex.; 6-16-72.

Jackson County Hospital & Nursing Home, hospital; Scottsboro, Ala.; 6-14-72.

K & K 5¢-10¢ Store, variety-department store; 7542 Granby Street, Norfolk, VA; 6-7-72.

Kaufman's, variety-department store; 1301 11th Avenue, Altoona, PA; 6-18-72.

S. S. Kresge Co., variety-department stores, 6-23-72, except as otherwise indicated; No. 303, Arlington Heights, Ill. (6-5-72); No. 4560, Kansas City, Kans. (5-28-72); No. 562, Bloomfield, N.J.; No. 498, North Eatontown, N.J.; No. 260, Passaic, N.J. (6-30-72); No. 65, Trenton, N.J.

La Veen's Department Store, Inc., variety-department store; 4030 Lake Michigan Drive NW, Grand Rapids, MI; 5-25-72.

Lenger Super Market, Inc., foodstore; 16 West Burton Street, Grand Rapids, MI; 6-11-72.

Lerner Shops, apparel store; No. 403, Phoenix, Ariz.; 5-23-71 to 4-30-72.

Low Cost Drug Center, Inc., drugstore; 101 North Main, Logan, UT; 6-11-71 to 6-9-72.

Lyle H. Salter, Inc., foodstore; East Arlington, Vt.; 5-22-72.

Lynn Garrett Drug Co., drugstore; 2401 Lebanon Road, Nashville, TN; 6-17-72.

Maplecrest Center, Inc., nursing home; 174 Main Street, Madison, ME; 6-9-72.

W. O. McCurdy & Sons, agriculture, Fremont, Iowa; 8-1-72.

McDonald's Hamburgers, restaurants; 9783 A St. Charles Rock Road, St. Louis, MO, 6-11-71 to 6-9-72; 1443 Madison Road, Beloit, WI, 5-31-72.

McIlhenny Co., agriculture; Avery Island, La.; 5-24-72.

W. H. McLeod & Son, agriculture; Seabrook, S.C.; 5-20-72.

Methodist Memorial Homes, Inc., nursing home; 1320 11th Avenue, Holdrege, NE; 6-19-72.

Morgan & Lindsey, Inc., variety-department store; No. 3036; Pascagoula, Miss.; 5-26-72.

Mullin Bros. Equipment Co., farm implement dealer; Valentine, Nebr.; 6-17-72.

G. C. Murphy Co., variety-department store; No. 87, Pittsburgh, Pa.; 6-16-72.

J. J. Newberry Co., variety-department store; No. 190, Springfield, N.J.; 7-30-72.

O' South Pancake House, restaurants, 6-6-72; Nos. 1 and 2, Fort Worth, Tex.

Patten & Co., Inc., agriculture; 99 North Street, Tewksbury, MA; 5-25-72.

Piggly Wiggly, foodstores; 209 West College Street, Colquitt, GA, 5-24-72; No. 8, Charleston, S.C., 6-2-72.

Pina Knoll Nursing Home, nursing home; Route 1, Lyndonville, VT; 5-25-72.

Powers Co., Inc., agriculture; Cary, Miss.; 5-23-72.

Rayless Department Store, variety-department store; 406 Elm Street, Lumberton, NC; 5-30-72.

Red Star Pharmacy, drugstore; 9200 South Commercial Avenue, Chicago, Ill.; 6-5-72.

Rhea's, Inc., foodstores, 6-9-72; 441 Market Street, Pittsburgh, PA; 536 Smithfield Street, Pittsburgh, PA.

Riverdale Certified Super Market, Inc., foodstore; 54 East 138th Street, Riverdale, IL; 5-20-72.

Rivin's IGA, foodstore; Wagner, S. Dak.; 5-26-72.

Robie's Food Center, Inc., foodstores, 6-11-72, except as otherwise indicated; 604 South State Street, Abbeville, LA; 700 Willow Street, Franklin, LA (5-26-72); 1001 East Main Street, Jeanerette, LA.

Royal's, Inc., variety-department store; Immokalee, Fla.; 5-27-71 to 5-8-72.

St. Vincent's Home for the Aged, nursing home; 4500 Ames Avenue, Omaha, NE; 6-17-72.

Sauk Prairie Trager's Food Store, foodstore; 670 Water Street, Prairie Du Sac, WI; 6-15-72.

Scott Stores Co., variety-department store; No. 9217, Brainerd, Minn.; 6-26-72.

Shroat Market, foodstore; 216 South D Street, Marion, IN; 5-25-72.

Spurgeon's, variety-department store; 116 West Main Street, Washington, IA; 6-2-72.

Stein Flowers, Inc., garden center; 4000 South 27th Street, Milwaukee, WI; 6-1-71 to 5-30-72.

T. G. & Y. Stores Co., variety-department stores; No. 129, Kansas City, Mo., 6-5-72; No. 39, Oklahoma City, Okla., 5-26-72; No. 56, Oklahoma City, Okla., 5-31-72; No. 14, Watonga, Okla., 6-4-72.

Tate's Supermarket, Inc., foodstore; 58 Franklin Street, Clymer, PA; 5-22-72.

Timberville Department Store, variety-department store; Timberville, Va.; 6-8-72.

Tomlinson's, Inc., variety-department store; 146 East Carolina Avenue, Hartsville, SC; 5-31-72.

Trager's Super Market, foodstore; Mazomanie, Wis.; 6-15-72.

Van Solkema Farms, Inc., agriculture; 8513 Harlow Avenue, Byron Center, MI; 5-27-72.

Vann Brothers, agriculture; Trenton, S.C.; 6-4-72.

Walt Boe's Super Market, Inc., foodstore; 57 North Broadway, Pelican Rapids, MI; 6-9-72.

West Side Market, foodstore; 113 North Walker, Montgomery City, MO; 5-28-72.

Willie's Super Market, Inc., foodstore; 2422 Second Avenue North, Birmingham, AL; 5-26-72.

Willis Nursery Co., agriculture; Ottawa, Kans.; 6-14-72.

Wood's 5 & 10¢ Stores, Inc., variety-department store; Whiteville, N.C.; 6-13-72.

The following certificates were issued to establishments relying on the base-year employment experience of other establishments, either because they came into existence after

the beginning of the applicable base year or because they did not have available base-year records. The certificates permit the employment of full-time students at rates of not less than 85 percent of the applicable statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

A & E Pharmacy, Inc., drugstore; 921-925 Warrington Road, Pensacola, FL; stock clerk; 4 to 6 percent; 6-1-71 to 5-3-72.

American Motor Hotel, motel; Nogales, Ariz.; general restaurant and motel worker; 2 to 3 percent; 6-13-72.

Avellone Pharmacy, Inc., drugstore; 27251 Wolf Road, Bay Village, OH; stock clerk, salesclerk; 11 to 31 percent; 6-18-72.

Badt's Pharmacy, Inc., drugstore; 248 North Paw Paw Street, Coloma, MI; salesclerk, stock clerk; 4 to 20 percent; 5-25-72.

Bishop Cafeteria Co., restaurants, for the occupations of bus help, tray carrier, 0 to 20 percent, 6-18-72; College Square Shopping Center, Cedar Falls, IA; Crossroads Shopping Center, Waterloo, IA.

Blackstone Pharmacy, Inc., drugstore; 3572 Farnam Street, Omaha, NE; fountain clerk, cash register clerk, delivery clerk; 21 to 37 percent; 6-14-72.

Browdy's Fine Foods, foodstore; 2807 Cahaba Road, Mountain Brook, AL; carryout, busboy (girl), hostess (host); 15 percent; 6-11-72.

C & S Hardware, hardware stores, for the occupation of salesclerk, 7 to 28 percent, 5-23-72; Nos. 1 and 2, Dallas, Tex.

Colonial Stores, restaurant; No. 3, Wichita, Kans.; cashier, kitchen helper, waiter (waitress), fountain clerk; 42 to 73 percent; 5-31-72.

Dick's Super Market, foodstore; 1381 South Iowa, Dodgeville, WI; bagger, stock clerk, cleanup; 17 to 23 percent; 6-9-72.

The Dillon Co., Inc., food stores, for the occupations of cashier, checker, carryout, wrapper, clerk, maintenance, 11 to 32 percent, 6-8-72; No. 44, Junction City, Kans.; No. 43, Lawrence, Kans.; No. 46, Manhattan, Kans.; No. 47, Topeka, Kans.

Duckwall Stores Co., variety-department store; No. 55, Topeka, Kans.; salesclerk, stock clerk; 16 to 28 percent; 6-2-72.

Eagle Stores Co., Inc., variety-department store; No. 24, Clinton, N.C.; salesclerk; 3 to 18 percent; 5-24-72.

Edward's Inc., variety-department store; Augusta Highway I-78, Midland Valley Shopping Center, Clearwater, SC; salesclerk, checker, stock clerk, price, lay-a-way clerk; 10 to 15 percent; 5-20-72.

Elgin West Pharmacy, drugstore; 575 North McLean Boulevard, Elgin, IL; pharmacy clerk, stock clerk, office clerk; 4 to 17 percent; 6-5-72.

Erv's Sav-Rite, foodstore; 1567 East Stratford Avenue, Salt Lake City, UT; checker, bagger, stock clerk; 37 to 68 percent; 6-14-72.

Food Fair Inc., foodstore; North Highway 27, Somerset, KY; bagger, carryout, cleanup, pricing clerk, tagging clerk, stock clerk; 4 to 21 percent; 5-26-72.

Food Giant Super Markets, Inc., foodstores, for the occupation of carryout, 5-24-71 to 4-30-72; No. 1, Tucson, Ariz., 16 to 24 percent; No. 5, Tucson, Ariz., 33 percent.

Foodland Supermarket, foodstores, for the occupations of stock clerk, produce clerk, carryout, 32 to 33 percent, 5-27-71 to 4-16-72; 407 West Huron, Missouri Valley, IA; Fifth and Lincoln, Woodbine, IA.

Garrison Nursing Home, nursing home; Garrison, N. Dak.; nurse's aide, kitchen helper; 5 to 10 percent; 5-26-71 to 4-8-72.

Gerald's IGA, foodstore; Tribune, Kans.; stock clerk, sacker, carryout, janitorial; 14 to 53 percent; 6-18-72.

G. H. Goddard & Son, foodstore; Marion and Winston Streets, Reynolds, GA; stock clerk, produce and meat clerk, cashier, carryout; 20 to 35 percent; 5-31-72.

W. T. Grant Co., variety-department store; No. 424, Inglewood, Calif.; salesclerk, stock clerk; 4 to 18 percent; 6-17-71 to 5-31-72.

Grebe's Bakeries, Inc., foodstores, for the occupation of bakery clerk, 10 percent, 6-14-72; 5933 West Libson Avenue, Milwaukee, WI; 2204 10th Avenue, South Milwaukee, WI; 5132 West Lincoln Avenue, West Allis, WI.

Guerin's IGA Foodliner, foodstore; Morgan City, La.; bagger, stock clerk, carryout, cleanup; 13 to 17 percent; 6-14-72.

H. E. B. Food Store, foodstores, for the occupations of bottler, packager, sacker, 10 percent, 6-15-72; No. 110, Georgetown, Tex.; No. 109, Marble Falls, Tex.

H & L, Inc., foodstore; 6704 Main, Caseville, MI; carryout, stock clerk; 13 to 20 percent; 6-12-72.

Handy-Andy, Inc., foodstore; No. 175, Austin, Tex.; packager, stock clerk, checker, office cashier, salesclerk, produce clerk, bottle sorter, porter; 27 percent; 6-8-72.

Harvey's Inc., variety-department stores, for the occupation of salesclerk, 11 to 25 percent; 3838 Broadway, Gary, IN, 6-8-72; 152 West Lincolnway, Valparaiso, IN 6-17-72.

Import Plaza, gift shop; Northwest Couch, Portland, OR; pricing clerk, stock clerk, dusting clerk, cashier; 69 percent; 5-31-72.

International House of Pancakes, restaurant; 4555 South Noland Road, Independence, MO; busboy (girl), kitchen helper, take-home help; 14 to 24 percent; 6-18-71 to 5-14-72.

Jack & Jill Food Center, foodstore; Sauk Centre, Minn.; carryout, checker, cleanup, stock clerk; 15 to 20 percent; 6-15-71 to 12-16-71.

Kopper Kettle Restaurant, restaurants, for the occupations of busboy (girl), dishwasher, general help, 22 to 41 percent, 6-14-72, except as otherwise indicated; I-80 and Highway 25, Menlo, IA (general restaurant worker, 5-31-72); I-80 and Minden Interchange, Minden, IA; I-29 and U.S. Highway 30, Missouri Valley, IA; I-80 and U.S. Highway 81, York, NE.

Kosters IGA, food store; 1402 Main Street, Rock Valley, IA; cashier, stock clerk, carryout, janitorial; 12 to 14 percent; 6-14-72.

S. S. Kresge Co., variety-department stores, for the occupations of salesclerk, stock clerk, checker-cashier, office clerk, 10 percent, except as otherwise indicated: No. 4164, Birmingham, Ala., 6-14-72 (salesclerk, 3 to 11 percent); No. 4052, Fort Smith, Ark., 6-10-72 (salesclerk, stock clerk, office clerk, 7 to 18 percent); No. 4343, West Palm Beach, Fla., 6-9-71 to 3-22-72 (salesclerk, 7 to 22 percent); No. 4072, Atlanta, Ga., 6-8-71 to 1-31-72 (salesclerk, 4 to 14 percent); No. 4210, Atlanta, Ga., 5-30-72 (salesclerk, 3 to 13 percent); No. 4600, Chicago, Ill., 6-2-72 (21 to 26 percent); No. 4227, Des Plaines, Ill., 5-22-72 (11 to 20 percent); No. 4148, Hammond, Ind., 5-24-72; No. 4294, Marion, Ind., 6-15-71 to 4-23-72 (salesclerk, checker-cashier, stock clerk, maintenance, customer service, 4 to 10 percent); No. 4152, Mishawaka, Ind., 6-7-72; No. 4434, Clinton, Iowa, 5-31-72 (13 to 25 percent); 109 East Second Street, Muscatine, IA, 6-8-72 (salesclerk, stock clerk, checker-cashier, 3 to 10 percent); No. 4632, Atchison, Kans., 6-9-72 (5 to 35 percent); No. 4352, Livonia, Mich., 6-18-71 to 4-15-72 (stock clerk, salesclerk, maintenance, register operation, office clerk, counter

filling, food preparation, customer service); No. 279, St. Paul, Minn., 6-8-72 (18 to 30 percent); No. 689, Grandale, Mo., 6-19-72 (13 to 20 percent); No. 585, Lincoln, Nebr., 6-16-72 (3 to 10 percent); No. 4257, Middleburg Heights, Ohio, 6-15-71 to 4-19-72 (stock clerk, maintenance, office clerk, food preparation, salesclerk, register operation, counter filling, customer service); No. 5264, Stow, Ohio, 6-15-71 to 3-23-72 (stock clerk, maintenance, office clerk, food preparation, salesclerk, register operation, counter filling, customer service, 5 to 10 percent); No. 4233, Youngstown, Ohio, 6-12-72 (stock clerk, maintenance, office clerk, food preparation, register operation, counter filling, sales clerk, customer service); No. 4202, Greenville, S.C., 6-8-72 (salesclerk, 11 to 22 percent); No. 4234, Spartanburg, S.C., 6-15-72 (salesclerk, checker, 11 to 22 percent); No. 4141, West Columbia, S.C., 6-13-72; No. 4139, Dallas, Tex., 6-14-72 (salesclerk, stock clerk, maintenance, office clerk, checker-cashier, customer service, counter filling, 7 to 27 percent); No. 4017, Houston, Tex., 6-11-72 (salesclerk, stock clerk, maintenance, office clerk, checker-cashier, customer service, counter filling, 7 to 27 percent); No. 4425, Houston, Tex., 6-14-72 (salesclerk, 7 to 27 percent); No. 4024, South Houston, Tex., 6-6-72 (salesclerk, 4 to 10 percent); No. 4348, Wichita Falls, Tex., 6-7-72 (salesclerk, stock clerk, office clerk, maintenance, checker-cashier, customer service, counter filling, 8 to 27 percent); 2911 East Second, Casper, WY, 6-3-71 to 5-16-72 (9 to 16 percent).

Kuhn's Variety Store, variety-department store; Waldron Street and Public Square, Corinth, MS; salesclerk, stock clerk, office clerk; 8 to 28 percent; 6-3-72.

L & K Food Market, foodstore; Highway 75 at Wortham, Willis, TX; carryout, sacker; 20 to 22 percent; 5-31-72.

Lerner Shops, apparel stores, for the occupations of salesclerk, cashier, credit clerk, 10 to 28 percent, 6-12-72, except as otherwise indicated: Nos. 470, 477 and 479, Phoenix, Ariz. (15 percent, 5-23-71 to 4-30-72); No. 437, Colorado Springs, Colo.; Nos. 411, 452 and 462, Denver, Colo.; No. 463, Lakewood, Colo.; No. 460, Westminster, Colo.; No. 71, Panama City, Fla. (2 to 19 percent, 5-24-71 to 4-11-72); No. 247, Chicago, Ill. (15 to 32 percent); No. 275, Melrose Park, Ill. (15 to 32 percent); No. 352, Houma, La. (2 to 19 percent, 5-31-72); No. 109, New Orleans, La. (salesclerk, stock clerk, office clerk, credit clerk, cashier, 2 to 19 percent, 5-27-72); No. 249, Grand Rapids, Mich. (4 to 10 percent, 5-22-72); No. 235, Jackson, Mich. (4 to 10 percent, 5-22-72); No. 246, Kalamazoo, Mich. (4 to 10 percent, 5-22-72); No. 268, St. Louis, Mo. (10 to 17 percent, 5-31-72); No. 476, El Paso, Tex. (salesclerk, office clerk, cashier, credit clerk, 5-21-72); No. 104, Fort Worth, Tex. (salesclerk, stock clerk, office clerk, cashier, credit clerk, 4 to 11 percent, 5-26-72); No. 447, Provo, Utah (2 to 14 percent, 5-31-72); No. 407, Salt Lake City, Utah (2 to 14 percent, 5-31-72); No. 33, Lynchburg, Va. (9 to 16 percent, 5-24-72); Nos. 77 and 306, Norfolk, Va. (11 to 20 percent, 5-27-72); Nos. 40 and 52, Richmond, Va. (11 to 20 percent, 5-27-72).

Lofton's variety-department store; Brookhaven, Miss.; salesclerk, gift wrapper; 6 to 26 percent; 6-16-72.

Magic Mart-Parham, Inc., variety-department store; 105 North Rodney Parham Road, Little Rock, AR; salesclerk, stock clerk, janitorial; 6 to 17 percent; 6-15-72.

May's Drug Store, drugstores, for the occupations of salesclerk, stock clerk, 5 to 8 percent, 6-13-72; No. 186, Bloomington, Ill.; No. 185, Crystal Lake, Ill.; No. 182, Freeport, Ill.; No. 200, McHenry, Ill.; No. 187, Mundelein, Ill.; Nos. 188 and 196, Rockford, Ill.; No. 173, Round Lake, Ill.; Nos. 183 and 195,

Waukegan, Ill.; No. 199, Woodstock, Ill.; No. 180, Beloit, Wis.

McCrory-McLellan-Green Stores, variety-department stores: No. 376, Freehold, N.J., salesclerk, stock clerk, office clerk, 14 to 30 percent, 6-5-72; No. 1071, Allentown, Pa., salesclerk, stock clerk, office clerk, porter, 3 to 10 percent, 6-13-72.

McDonald's Hamburgers, restaurants, for the occupation of general restaurant worker, 31 to 58 percent, 5-28-72; 901 Minnesota, Kansas City, KS; 7550 State, Kansas City, KS; 618 East Santa Fe, Olathe, KS.

Midlothian Pharmacy, drugstore; 4047 West 147th Street, Midlothian, IL; pharmacy clerk, stock clerk, office clerk, 10 to 19 percent; 6-5-72.

Morgan & Lindsey Inc., variety-department stores: No. 3120, Baton Rouge, LA, salesclerk, office clerk, stock clerk, 8 to 27 percent, 6-8-72; No. 3089 New Orleans, La., salesclerk, stock clerk, 5 to 31 percent, 5-20-72.

G. C. Murphy Co., variety-department stores, for the occupations of salesclerk, office clerk, stock clerk, janitorial, 9 to 15 percent, 6-1-72, except as otherwise indicated: No. 296, Decatur, Ala.; No. 297, Gadsden, Ala.; No. 306, Huntsville, Ala.; No. 26, Marion, Ohio (9 to 24 percent, 6-15-72); No. 336, Van Wert, Ohio (17 to 27 percent, 6-14-72); No. 150, New Castle, Pa. (18 to 27 percent, 6-5-72).

Newman Pharmacy, drugstore; 3458 West 111th Street, Chicago, IL; pharmacy clerk, stock clerk, office clerk; 16 to 26 percent; 6-5-72.

O' South Pancake House, restaurant; No. 3, Dallas, Tex.; busboy (girl); 7 to 15 percent; 6-6-72.

Parkview Gardens Care Center, nursing home; 310 Upland Drive, Waterloo, IA; nurse's aide, kitchen helper, housekeeping helper, orderly; 6 to 17 percent; 6-3-71 to 5-10-72.

B. Pearl Plantation, agriculture; Cary, Miss.; hoer, unloader, cleanup; 0 to 55 percent; 6-4-72.

Pence-Humboldt, Inc., foodstore; Highway 169 North, Humboldt, KS; sacker, carryout, stock clerk, checker, janitorial; 8 to 25 percent; 6-19-72.

Piggly Wiggly, foodstores, for the occupations of stock clerk, checker, sacker, clerk, 10 percent, 6-17-72, except as otherwise indicated: South Market Street, Moulton, AL (sacker, 12 to 16 percent, 6-15-72); Ozark Shopping Center, Mountain Home, AR (carryout, sacker, clerk, 8 to 20 percent; 6-6-72); No. 6, Van Buren, Ark. (stock clerk, package clerk, checker, 18 to 25 percent, 6-14 to 6-12-72); 226 North Waukesha Street, Bonifay, FL (bagger, carryout, 9 to 10 percent, 5-24-72); Cotton Street, Graceville, FL (bagger, carryout, 9 to 10 percent, 5-24-72); Northeast West Lafayette Street, Marianna, FL (bagger, carryout, 9 to 10 percent, 5-24-72); Nos. 28 and 29, DeRidder, La.; No. 30, Oakdale, La.; No. 16, Durant, Miss. (stock clerk, packager, sacker, cleanup, 11 to 15 percent, 5-21-72); No. 17, Durant, Miss. (stock clerk, packager, cleanup, 11 to 15 percent, 5-21-72); 16th Street, Laurel, MS (bagger, packer, carryout, 5-27-72); No. 27, Holly Hill, S.C. (bagger, checker, stock clerk, produce clerk, market helper, 23 to 44 percent, 6-9-72); No. 5, West Florence Annex, S.C. (bagger, stock clerk, marker, janitorial, market clerk, 9 to 10 percent, 6-6-72); No. 26, Ennis, Tex. (6-11-72).

Pullman Pharmacy, drugstore; 11254 South Michigan Avenue, Chicago, IL; pharmacy clerk, stock clerk, office clerk; 9 to 18 percent; 6-5-72.

Randall's Food Market, Inc., food store; 9448 Long Point Road, Houston, TX; stock clerk, carryout; 28 percent; 5-26-72.

Raylase Department Store, variety-department store; 607 Market Street, Chattanooga,

TN; salesclerk, stock clerk, office clerk, janitorial, wrapper, marker, cashier; 13 to 34 percent; 5-30-72.

Ream's Bargain Annex, Inc., foodstore; No. 8, Magna, Utah; stock clerk, bagger, janitorial; 26 to 33 percent; 5-31-72.

Richard W. Bishop, agriculture; 8995 Peterson Road, Whitehall, MI; weeding, trimming, and cutting celery; 0 to 44 percent; 5-21-72.

Rose's Stores, Inc., variety-department stores, for the occupations of salesclerk, stock clerk, checker, window trimmer, merchandise marker, order writer, 13 to 32 percent, 5-31-72; Nos. 110 and 202, Jacksonville, Fla.; No. 201, Statesboro, Ga.

Russell's Department Store, Ltd., variety-department store; 210-214 Locust Street, Sweetwater, TX; salesclerk; 10 to 15 percent; 5-31-72.

Santa Fe Lamplighter, Inc., restaurant; 2405 Cerrillos Road, Santa Fe, NM; dishwasher, busboy (girl); 20 to 37 percent; 6-14-72.

Scott Stores Co., variety-department stores, for the occupations of office clerk, salesclerk, stock clerk; No. 9239, Dolton, Ill., 23 to 30 percent, 5-31-72; No. 9328, Alpena, Mich., 5 to 20 percent, 5-25-72.

Spurgeon's, variety-department store; 100 West Washington Street, Pittsfield, IL; salesclerk, stock clerk, janitorial, receiving clerk, marking clerk; 8 to 15 percent; 5-28-71 to 4-30-72.

Stein Garden Center, florist; 14845 West Capitol Drive, Milwaukee, WI; salesclerk, stock clerk, cashier; 20 to 30 percent; 5-31-72.

Stein Greenfield, Inc., florist; 3725 South 108th Street, Greenfield, WI; salesclerk, stock clerk, cashier; 20 to 30 percent; 5-31-72.

Sterling Jewelry & Distributing Co., Inc., variety-department store; 5801 East Northwest Highway, Dallas, TX; stock clerk, salesclerk, sacker, runner; 7 to 27 percent; 5-23-72.

Sterling Stores Co., variety-department stores, for the occupations of salesclerk, stock clerk, janitorial; Caraway Plaza Shopping Center, Jonesboro, Ark., 8 to 31 percent, 6-4-72; University and Markham Streets, Little Rock, Ark., 17 to 40 percent, 6-1-72.

T. G. & Y. Stores Co., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, 30 percent, 5-31-72, except as otherwise indicated: No. 191, Flagstaff, Ariz. (salesclerk, stock clerk, 26 to 30 percent, 6-14-72); No. 249, Fort Smith, Ark. (11 to 30 percent, 6-11-72); No. 515, Covina, Calif. (20 to 30 percent, 6-12-71 to 5-31-72); No. 517, Garden Grove, Calif. (20 to 33 percent, 6-12-71 to 5-31-72); No. 534, Huntington Beach, Calif. (20 to 33 percent, 6-12-71 to 5-31-72); No. 658, Simi Valley, Calif. (20 to 30 percent); No. 736, Kissimmee, Fla. (10 to 29 percent, 6-14-72); No. 759, Orlando, Fla. (2 to 17 percent, 6-17-72); No. 713, Pine Castle, Fla. (12 to 24 percent, 6-14-72); No. 314, Atchison, Kans. (3 to 16 percent); No. 305, Kansas City, Kans. (9 to 19 percent, 6-11-72); No. 96, Topeka, Kans. (19 to 33 percent, 5-27-72); No. 9331, London, Ky. (2 to 23 percent); No. 328, Galliano, La. (7 to 31 percent, 6-3-72); No. 750, Oxford, Miss. (8 to 19 percent); No. 477, Sikeston, Mo. (8 to 30 percent, 6-18-72); No. 417, Oklahoma City, Okla. (22 to 30 percent, 6-14-72); No. 449, Oklahoma City, Okla. (28 to 30 percent, 6-11-72); No. 833, Beaumont, Tex. (7 to 20 percent); No. 310, Bellaire, Tex. (6-14-72); No. 258, Huntsville, Tex. (6-11-72); No. 706, San Antonio, Tex. (6-4-72).

Tall's Convenient Food Mart, foodstore; No. 8901, Weirton, W. Va.; stock clerk, cashier; 14 to 25 percent; 6-2-72.

Thornton's Supermarket, foodstore; Mason, Tex.; stock clerk, sacker, checker; 9 to 36 percent; 6-1-72.

Tom Thumb Stores, Inc., foodstore; No. 40, Dallas, Tex.; package clerk; 11 to 16 percent; 5-30-72.

Town & Country Supermarket, foodstore; Central and Cherry Streets, Harrison, Ark.; sacker, carryout, cleanup, stock clerk; 8 to 31 percent; 5-30-72.

Uncle Ray's Inc., foodstore; 946 West Huron, Vassar, Mich.; stock clerk, carry out; 13 to 20 percent; 5-27-72.

Whittaker Inc., foodstores; No. 5, Oklahoma City, Okla., sacker, carryout, delivery clerk, 30 percent, 5-25-72; No. 6, Oklahoma City, Okla., sacker, carryout, 15 percent, 6-2-72.

Wood's 5 & 10¢ Stores, Inc., variety-department store; Lewis Smith Shopping Center, Whiteville, N.C.; salesclerk, stock clerk; 9 to 20 percent; 5-27-72.

J. W. Yonce & Sons, agriculture; Johnston, S.C.; grader, loader, sifter, packager; 0 to 73 percent; 6-11-72.

Zukora Lloyd Center, apparel store; 1232 Lloyd Center, Portland, Oreg.; office clerk, stock clerk, customer service, cashier; 2 to 22 percent; 5-31-72.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificate may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 24th day of August 1971.

ROBERT G. GRONWALD,  
Authorized Representative  
of the Administrator.

[FR Doc.71-12748 Filed 8-31-71;8:46 am]

## INTERSTATE COMMERCE COMMISSION

### ASSIGNMENT OF HEARINGS

AUGUST 27, 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-682 Sub 11, Burnham Van Service, Inc., assigned September 21, 1971, at Washington, D.C., postponed to October 6, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-6868, Braswell Motor Freight Lines, Inc.—Investigation of Practices—assigned September 27, 1971, at Atlanta, Ga., postponed indefinitely.

MC-F-11094, Navajo Freight Lines, Inc.—Investigation of Control—Garrett Freightlines, Inc., and MC-F-11198, Navajo Freight Lines, Inc.—Control—Garrett Freightlines, Inc., assigned October 18, 1971, in Room 15032, Federal Building, 1961 Stout Street, Denver, CO.

MC 73185 Sub 292, Eagle Motor Lines, Inc., application dismissed.

MC 94842 Sub 3, Robert Crocket, Inc., application dismissed.

MC 54567 Sub 8, Reliance Truck Co., application dismissed.

MC-F-10488, Eastern Freight Ways, Inc.—Control—National Transportation Co., FD 26385, Eastern Freight Ways, Inc., Assumption of Obligation and Liability and Loan Agreement, FD 26489, Eastern Freight Ways, Inc., Investigation of Practices, and FD 26691, Eastern Freight Ways, Inc., Application Under Section 214 For Authority To Issue And to Guarantee Notes, now assigned September 14, 1971, at Washington, D.C., postponed indefinitely.

MC 40915 Sub 44, Boat Transit, Inc., now assigned September 13, 1971 at Washington, D.C., hearing canceled and application dismissed.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.71-12800 Filed 8-31-71;8:54 am]

## NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

AUGUST 27, 1971.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. A 52807, filed August 11, 1971. Applicant: MILTON'S EXPRESS, INC., 1130 East Fifth Street, Los Angeles, CA 90013. Applicant's representative: Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of commodities requiring the use of

special refrigeration or temperature control in specifically designed and constructed equipment: (A) Between all points and places in the Los Angeles Basin Territory, as described in exhibit "A-1" hereto attached. (B) Between all points and places in the Los Angeles Basin Territory, on the one hand, and all points and places in the San Diego Territory, on the other hand, as described in exhibit "B-1" hereto attached, via U.S. Highway 101 (Interstate 5), U.S. Highway 395, State Highways 76 and 78. (C) Between all points and places in the Los Angeles Basin Territory, on the one hand, and Calexico, on the other, via U.S. Highway 60, Interstate 10 and State Highways 86 and 111. (D) Between all points and places in the Los Angeles Basin Territory, on the one hand, and Paso Robles and Morro Bay, on the other hand, via U.S. Highway 101 and State Highways 1, 23, 41, 118, 126, 150, 154, 166, and 246. (E) Between all points and places in the Los Angeles Basin Territory, on the one hand, and Bakersfield, on the other hand, via U.S. Highway 99 (Interstate 5). (F) Between all points and places in the Los Angeles Basin Territory, on the one hand, and Mojave, via U.S. Highway 99 (Interstate 5), and State Highway 14.

(G) Between all points and places in the Los Angeles Basin Territory, on the one hand, and Barstow, on the other hand via U.S. Highway 66 (Interstate 15). (H) Serving also, all intermediate points along said routes and also off-route points within ten (10) miles of said routes. Applicant proposed to use all available public highways between points proposed to be served as hereinabove mentioned, and within the cities hereinabove proposed to be served, and applicant proposes to use such streets and highways as may be necessary to serve consignors and consignees located within said cities.

Exhibit "A-1" Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately 2 miles west of Chatsworth; easterly along State Highway No. 118, to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to the corporate boundary of the city of

Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway No. 60; southwesterly along U.S. Highways Nos. 60 and 395 to the county road approximately 1 mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the city of San Jacinto; easterly, southerly, and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the city of Hemet; southerly, westerly, and northerly along said corporate boundary to the right-of-way of The Atchison, Topeka & Santa Fe Railway Co.; southwesterly along said right-of-way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway No. 395; southeasterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning.

Exhibit "B-1" San Diego Territory includes that area embraced by the following imaginary line starting at the northerly junction of U.S. Highways 101-E and 101-W (4 miles north of La Jolla); thence easterly to Miramar on State Highway 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U.S. Highway 80; thence southeasterly to Jamul on State Highway 94; thence due south to the International Boundary line, west to the Pacific Ocean and north along the coast to point of beginning. Both intrastate and interstate authority sought.

**HEARING:** Date, time and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Utilities Commission, State of California, California State Building, 350 McAllister Street, San Francisco, CA 94102 and should not be directed to the Interstate Commerce Commission.

State Docket No. A 52808, filed August 11, 1971. Applicant: JOSEPH N. LeBOW, doing business as DESERT EMPIRE EXPRESS, 1005 South Hooper Street, Los Angeles, CA 90021. Applicant's representative: Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212. Certificate of public convenience and necessity sought to operate

a freight service as follows: Transportation of *General commodities*, with the usual exceptions, requiring the use of special refrigeration or temperature control in specially designed and constructed equipment: (A) Between all points and places in the Los Angeles Basin Territory, as described in exhibit "A-1" hereto attached. (B) Between all points and places in the Los Angeles Basin Territory on the one hand, and all points and places on and within ten (10) miles laterally of the following highways, on the other hand. (1) California State Highway 14, between San Fernando and Mojave, inclusive. (2) California State Highway 58, between Keene and Kramer Junction, inclusive. (C) Between all points and places in the Los Angeles Basin Territory on the one hand, and the following points and places in the Counties of Los Angeles, Kern or San Bernardino: Castaic, Pearblossom, Inyo-Kern, China Lake, Ridgecrest, Westend, Argus, Trona, Johannesburg, Randsburg, and Red Mountain. (D) From points and places in the Los Angeles Basin Territory, on the one hand, to Coachella, on the other hand, serving all intermediate points on or within five (5) miles laterally of the following highways, on the other hand: (1) U.S. Highway 99 from the eastern boundary of the Los Angeles Basin Territory to Coachella. (2) State Highway 111 from its intersection with U.S. Highway 99 near Whitewater to Coachella. (E) Between all points and places in the Los Angeles Basin Territory, on the one hand, and the San Diego Territory as described in exhibit "B" hereto attached, on the other hand, via Highway 101 (Interstate 5), State Highway 395, and State Highway 78, serving all intermediate points on, and all off-route points within ten (10) miles laterally of said highways.

Exhibit "A-1" Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately 2 miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to the corporate boundary of the city of

Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway No. 60; southwesterly along U.S. Highways Nos. 60 and 395 to the county road approximately 1 mile north of Ferris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the city of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the city of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of The Atchison, Topeka & Santa Fe Railway Co.; southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the County road intersecting U.S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway No. 395; southeasterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shoreline of the Pacific Ocean to point of beginning.

Exhibit "B" San Diego Territory includes that area embraced by the following imaginary line starting at the northerly junction of U.S. Highways 101-E and 101-W (4 miles north of La Jolla); thence easterly to Miramar on State Highway 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U.S. Highway 80; thence southeasterly to Jamul on State Highway 94; thence due south to the international boundary line, west to the Pacific Ocean and north along the coast to point of beginning. Both intrastate and interstate authority sought.

**HEARING:** Date, time and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Utilities Commission, State of California, California State Building, 350 McAllister Street, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

State Docket No. 71-181-MF/S (Amendment) filed July 1, 1971, published in the FEDERAL REGISTER issue of July 28, 1971, and republished in part as amended this issue. Applicant: JOHN W. & JOANNE C. HOOGLAND, doing business as SEWARD BUS LINE, Seward, Alaska 99664. Applicant's representative:

Roger A. McShea, Suite 300, 425 G Street, Anchorage, AK 99501. **NOTE:** The purpose of this partial republication is to show applicant's correct name as Seward Bus Line in lieu of Intercity Transit, which was erroneously published in the FEDERAL REGISTER issued July 28, 1971. The rest of the application remains as previously published.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.  
[FR Doc. 71-12901 Filed 8-31-71; 8:54 am]

[Notice 68]

### MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

AUGUST 27, 1971

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

#### APPLICATIONS ASSIGNED FOR ORAL HEARING

##### MOTOR CARRIERS OF PROPERTY

No. MC 115523 (Sub-No. 164) (Republication), filed November 19, 1970, published in the FEDERAL REGISTER issue of December 10, 1970, and republished this issue. Applicant: CLARK TANK LINES COMPANY, a corporation, 1450 Beck Street, Salt Lake City, UT 84116. Applicant's representative: Haines D. Stratford (same address as applicant). A report and order of the Commission, Review Board Number 2, decided August 11, 1971, and served August 24, 1971, finds: that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of mopping asphalt, in packages, and roofing materials and supplies used in the installation of roofing from the plantsite of Lloyd A. Fry Roofing Co., at Woods Cross, Utah, to points in Idaho, north of the southern boundary of Idaho County, and points in Bighorn, Washakie, Hot Springs, Fremont, Sweetwater, Uinta, Sublette, Lincoln, Teton, and Park Counties, Wyo., and Elko, Lander, Eureka, White Pine, and Lincoln Counties, Nev.; (2) of mopping asphalt, from Cody, Wyo., to the plantsite of Lloyd A. Fry Roofing Co., at Woods Cross, Utah. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by

the lack of proper notice of the authority described in the findings, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceedings will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition for leave to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 120257 (Sub-No. 12), filed August 1, 1971. Applicant: K. L. BREEDEN & SONS, INC., 401 Alamo Street, Terrell, TX 75160. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, between points in Alabama, Arkansas, Kansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas. **NOTE:** Applicant states it intends to tack with its presently held authority wherein it conducts operations to transport oilfield authority between points in Oklahoma, Kansas, and Texas; pipe, other than oilfield from Lone Star, and Bond, Texas to various States; pipe other than oilfield from Gainesville, Tex., to points in various States. Applicant seeks no duplicating authority.

**HEARING:** October 6, 1971, in Room 3A19, Federal Building, 1100 Commerce Street, Dallas, TX.

#### APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1100.240).

##### MOTOR CARRIERS OF PROPERTY

No. MC-F-11275. Authority sought for control by NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, CO 80223, of JOE HODGES TRANSPORTATION CORPORATION, Post Office Box 82397, Oklahoma City, OK 73108, and for acquisition by UNITED TRANSPORTATION INVESTMENT COMPANY, and in turn by DAVID H. RATNER, all of 310 South Michigan Avenue, Chicago, IL 60604, of control of JOE HODGES TRANSPORTATION CORPORATION, through the acquisition by NAVAJO FREIGHT LINES, INC. Applicants' attorneys: Axelrod, Goodman, Steiner and Bazelon, 39 South LaSalle Street, Chicago, IL 60603, and Leroy Hallman, 4555 First National Bank Building, Dallas, Tex. 75202. Operating rights sought to be controlled: *Classes A and B explosives and general commodities*, except commodities of unusual value, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a common carrier over regular routes, between Oklahoma City, Okla., and Lawton, Okla., serving

certain intermediate points, between Chickasha, Okla., and Alex, Okla., between Lawton, Okla., and Waurika, Okla., serving no intermediate points, between Oklahoma City, Okla., and Gotebo, Okla., between points in Oklahoma, serving all intermediate points, between Mangum, Okla., and Willow, Okla., serving the intermediate point of Brinkman, Okla., between Mangum, Okla., and the Oklahoma-Texas State line, serving all intermediate points and the off-route points of Jester and Eastview, Okla., between Lawton, Okla., and Hobart, Okla., between Anadarko, Okla., and Lawton, Okla., serving all intermediate points, between Vernon, Tex., and Lone Wolf, Okla., serving all intermediate points, with service at Vernon restricted against transportation of traffic originating at and destined to, Quanah, Tex., between Eldorado, Okla., and Gould, Okla., serving all intermediate points, and the off-route points of Louis, Okla., between Altus, Okla., and Quanah, Tex., serving all intermediate points, between Altus, Okla., and Hollis, Okla., serving all intermediate points, between Memphis, Tex., and Hollis, Okla., serving no intermediate points, between Childress, Tex., and junction U.S. Highways 62 and 83 (east of Memphis, Tex.), serving no intermediate points except as otherwise authorized;

*General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, between Hollis, Okla., and Wellington, Tex., serving all intermediate points, between Wellington, Tex., and Wheeler, Tex., serving all intermediate points, and the off-route point of the United Carbon Co., plantsite (located approximately 6 miles east of Shamrock, Tex., on U.S. Highway 66, at Norrick, Tex.), between Comanche, Okla., and the Oklahoma-Texas State line, located approximately 2 miles south of Terral, Okla., serving all intermediate points, and serving the oilfields located at or near Oscar, Okla., approximately 13 miles southeast of Ryan, Okla., as off-route points, between Walters, Okla., and Waurika, Okla., between Temple, Okla., and junction Oklahoma Highways 53 and 65, between Comanche, Okla., and Springer, Okla., between Duncan, Okla., and Admore, Okla., serving all intermediate points, between Hollis, Okla., and junction Oklahoma Highway 7 and U.S. Highway 81, between Mangum, Okla., and Chickasha, Okla., between Walters, Okla., and junction Oklahoma Highway 44 and U.S. Highway 66, between Frederick, Okla., and Taloga, Okla., between junction Oklahoma Highways 5 and 36, located approximately 3 miles south of Chattanooga, Okla., and junction Oklahoma Highway 36 and U.S. Highway 277, located approximately 2 miles north of Geronimo, Okla., between Roosevelt, Okla., and Cooperton, Okla., between Sentinel, Okla., and Rocky, Okla., between Elk City, Okla., and junction Oklahoma Highway 47 and U.S. Highway 183, approximately 2 miles south of Putnam, Okla., between Gracemont,

Okla., and Geary, Okla., between Frederick, Okla., and Grandfield, Okla., between Davidson, Okla., and Waurika, Okla., between Oklahoma City, Okla., and Sayre, Okla., between Carter, Okla., and junction Oklahoma Highway 34 and U.S. Highway 66, between Oklahoma City, Okla., and the Oklahoma-Texas State line,

Located approximately 1 mile west of Texola, Okla., serving all intermediate points, between Weatherford, Okla., and Sayre, Okla., serving all intermediate points, and serving Sweetwater, Okla., as an off-route point, between junction U.S. Highway 281 and Oklahoma Highway 9, located approximately 8 miles of Anadarko, Okla., and junction Oklahoma Highway 5 and U.S. Highway 281, serving all intermediate points, between Lawton, Okla., and Wichita Falls, Tex., serving all intermediate points and the intermediate and off-route points in the Lawton, Okla., and Wichita Falls, Tex., commercial zones as defined by the Commission, between Dallas, Tex., and Terral, Okla., serving no intermediate points, with restrictions; between Oklahoma City, Okla., and Boise City, Okla., serving all intermediate points, and serving the off-route points of Keyes, Okla., and the plantsites of the North Natural Gas Co., located near Elmwood, Okla., and the Cities Service Gas Co., located near Guymon, Okla., between junction U.S. Highways 64 and 283 at or near Roseton, Okla., and Cheyenne, Okla., between Selling, Okla., and Gage, Okla., between Forgan, Okla., and junction U.S. Highways 183 and 270, at or near Fort Supply, Okla., serving all intermediate points, over numerous alternate routes for operating convenience only. NAVAJO FREIGHT LINES, INC., is authorized to operate as a common carrier in New Mexico, California, Arizona, Texas, Colorado, Illinois, Missouri, Nebraska, Nevada, Indiana, Oklahoma, Iowa, Kansas, Utah, Louisiana, Maryland, Arkansas, Florida, New York, Tennessee, Wyoming, Connecticut, New Jersey, and Massachusetts. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11276. Authority sought for control by RED & TAN ENTERPRISES, 126 North Washington Avenue, Bergenfield, NJ 07621, a newly organized holding company to acquire control of ROCKLAND COACHES, INC., also of Bergenfield, N.J. 07621, and THE HUDSON BUS TRANSPORTATION CO., INC., 437 Tonnel Avenue, Jersey City, NJ 07305, both motor common carriers of passengers in interstate commerce, and various noncarrier corporations, including certain New Jersey and New York intrastate motor carriers of passengers. RED & TAN ENTERPRISES, ROCKLAND COACHES, INC., and THE HUDSON BUS TRANSPORTATION CO., INC., are controlled by ERNEST CAPITANI and other members of the Capitani family. ROCKLAND COACHES, INC., holds authority to operate as a motor common carrier passenger over regular routes, generally between Stony Point, Haverstraw, Mount Ivy, and Suffern, N.Y., on

the one hand, and on the other New York, N.Y., via Spring Valley, Nyack, and Piermont, N.Y., Westwood, Norwood, Rochellepark, Bergenfield, Ridgefield, and North Bergen, N.J. THE HUDSON BUS TRANSPORTATION CO., INC., holds authority to operate as a motor common carrier, over regular routes, passengers and their baggage, between Jersey City, N.J., and Manhattan, New York, N.Y., between West New York, N.J., and Keansburg, N.J., between Perth Amboy, N.J., and New York, N.Y., between Bayonne, N.J., and New York, N.Y., serving all intermediate points, between junction Palisade Avenue and Paterson Plank Road, located on the Jersey City-Union City, N.J., boundary line, and the plantsite of Baronet Corp., Secaucus, N.J., serving no intermediate route, between junction Palisade Avenue and Paterson Plank Road, located on the Jersey City-Union City, N.J., boundary line, and the Lincoln Industrial Park, in Secaucus, N.J., serving all intermediate points in Secaucus, N.J., between junction Pleasant Avenue ramp and Interstate Highway 495 in Weekawken, N.J., and junction County Avenue and Secaucus Road in Secaucus, N.J., serving the intermediate points in Secaucus south of junction County Avenue and Peterson Lane, between junction County Avenue and Secaucus Road and the southern terminus of New County Road both in Secaucus, N.J., serving all intermediate points;

Passengers and their baggage, restricted to traffic originating at the points indicated, in charter operations, over irregular routes, from points and places in Hudson, Bergen, Essex, and Union Counties, N.J., to points and places in New York, New Jersey, Connecticut, Virginia, Pennsylvania, Maryland, Delaware, and the District of Columbia, from points and places in Rockland and Orange Counties, N.Y., to New York, N.Y., and points and places in Hudson, Bergen, Essex, and Union Counties, N.J., from points and places in Nassau County, N.Y., to points and places in the District of Columbia; passengers, in special operations on round-trip sightseeing or pleasure tours, beginning and ending in Jersey City, N.J., from Jersey City, N.J., to Bear Mountain and West Point, N.Y., and return with no pickup or discharge of passengers at any point other than Jersey City. Passengers and their baggage, in one-way and round-trip special operations, on Sundays only, and only during the period from May 15 to September 15, inclusive, each year, with no pickup or discharge of passengers enroute, between New York, N.Y., on the one hand, and, on the other, the Ten Mile River Boy Scout Camps in Sullivan County, N.Y.; passengers and their baggage, in special round-trip operations, during the authorized racing seasons of each year at the racetracks, beginning and ending at points in Hudson County, N.J., and Staten Island, Richmond County, N.J., and Staten Island, Richmond County, N.Y., and extending to Aqueduct Race Track, and Jamaica Race Track, New York, N.Y. (Borough of



Queens), Belmont Race Track, Elmont, Long Island, N.Y., Roosevelt Raceway, Westbury, Long Island, N.Y., and Yonkers Raceway, Yonkers, N.Y., over numerous alternate routes for operating convenience only. Applicants' attorney: S. S. Eisen, 370 Lexington Avenue, New York, NY 10017. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11277. Authority sought for purchase by W. T. C. AIR FREIGHT, INC., 5959 West Century Boulevard, Los Angeles, CA 90045, of the operating rights of GERALD W. BROWNSTEIN, doing business as DIRECT AIR FREIGHT CORPORATION, 900 Chapel Street, New Haven, CT 06510, through the purchase. Applicants' attorneys: Reubin Kaminsky, Post Office Box 17-067, 342 Main Street, West Hartford, CT 06117, and Louis P. Haffer and Andrew P. Goldstein, 1730 Rhode Island Avenue NW., Washington, DC 20036. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier*, over irregular routes, between Bradley International Airport, Windsor Locks, Conn., on the one hand, and, on the other, North Adams and Williamstown, Mass., and Pownal, Vt., between Albany, N.Y., and Bradley International Airport at Windsor Locks, Conn., with restrictions. Vendee holds no authority from this Commission. However, it is affiliated with COAST CARTAGE CO., 2110 Alhambra Avenue, Post Office Box 54293, Los Angeles, CA 90054, which is authorized to operate as a *common carrier* in California. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11278. Authority sought for purchase by VANGUARD TRANSPORTATION INCORPORATED, Post Office Box 157, Avenel, NJ 07001, of the operating rights of THOMPSON, INC., Post Office Box 6, E. Brunswick, NJ, and for acquisition by JOHN D. HOLMES, JR., also of Avenel, N.J. 07001, of control of such rights through the purchase. Applicants' attorney: Morton E. Keil, 140 Cedar Street, New York, NY 10006. Operating rights sought to be transferred: *Petroleum products and empty drums*, as a *common carrier* over irregular routes, between New York, N.Y., on the one hand, and, on the other, points in New Jersey within 25 miles of New York, N.Y.; *petroleum base oil*, in bulk, in tank vehicles, from Hanover (Morris County), N.J., to Bristol, Pa.; *oil additive blends*, in bulk, in tank vehicles, from Bristol, Pa., to Hanover (Morris County), N.J. Vendee is authorized to operate as a *common carrier* in New Jersey, New York and Connecticut. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11279. Authority sought for control by JOSEPH PESTRAK a non-record carrier, of NEW HOPE MOTOR SERVICE, INC., Post Office Box 246, New Hope, PA. Applicants' attorney: Bert Collins, 140 Cedar Street, New York, NY

10006. Operating rights sought to be controlled: *Sand, gravel, and stone*, as a *contract carrier* over irregular routes, from New Hope, Pa., to points in New Jersey, with restriction. JOSEPH PESTRAK holds no authority from this Commission. However, it is affiliated with PERAWEL TRUCKING COMPANY, INC., 56 North Logan Avenue, Trenton, NJ 08609, which is authorized to operate as a *common carrier* in Pennsylvania, New York, and New Jersey. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11281. Authority sought for purchase by ECOFF TRUCKING, INC., 625 East Broadway, Fortville, IN 46040, of the operating rights and property of LIQUID FOOD CARRIER, INC., 624 Knox Road, Post Office Box 10521, New Orleans, LA 70121, and for acquisition by REX ECOFF, also of Fortville, Ind. 46040, of control of such rights and property through the purchase. Applicants' attorneys: Robert W. Loser, 1001 Chamber of Commerce Building, Indianapolis, Ind. 46204, and Harold D. Miller, Jr., Suite 700, Petroleum Building, Jackson, Miss. 39205. Operating rights sought to be transferred: *Corn syrup, liquid sugar and blends of corn syrup and liquid sugar*, in bulk, in tank vehicles, as a *common carrier* over irregular routes, from points in St. Bernard, Orleans, Jefferson, and St. John the Baptist Parishes, La., to points in Alabama, Arkansas, Florida, Mississippi, Tennessee, and Texas, with restriction; and *liquid sugar*, in bulk, in tank vehicles, from Reserve, La., to Oak Grove and Monroe, La. Vendee is authorized to operate as a *common carrier* in Indiana, Missouri, Minnesota, Illinois, Wisconsin, Michigan, Kentucky, Ohio, Iowa, Alabama, Georgia, Tennessee, Pennsylvania, West Virginia, Florida, Delaware, New Jersey, New Hampshire, Nebraska, Arkansas, Oklahoma, Louisiana, North Dakota, South Dakota, South Carolina, Mississippi, Texas, Kansas, Maryland, New York, North Carolina, Virginia, Colorado, Wyoming, Connecticut, Massachusetts, Rhode Island, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11282. Authority sought for purchase by HORNER TRUCK SERVICE, INCORPORATED, 301 Lewis Street, Canton, MO 63435, of a portion of the operating rights of DAVIS TRANSPORT, INC., 1345 South Fourth Street, Paducah, KY 42201, and for acquisition by MARION E. HORNER and RONALD E. HORNER, both also of Rural Route No. 1, Canton, MO 63435, of control of such rights through the purchase. Applicants' attorney: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Operating rights sought to be transferred: *Liquid fertilizer solutions*, in bulk, in tank vehicles, as a *common carrier* over irregular routes, from the site of Allied Chemical Corp's bulk storage terminal, at or near La Grange, Mo., to points in Illinois and Iowa. Vendee is authorized to operate as a *common car-*

*rier* in Arkansas, Iowa, Illinois, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Tennessee, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11283. Authority sought for control by NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151, of NATIONAL TRAILER CONVOY OF CANADA LTD., 61 Hymus Boulevard, Montreal, Canada, and for acquisition by PEPSICO, INC., Purchase, N.Y. 10577, of control of NATIONAL TRAILER CONVOY, INC., through the acquisition by NATIONAL TRAILER CONVOY, INC. Applicants' attorneys: Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC 20036, Richard O. Battles and Fred Rahal, Jr., both of 1925 National Plaza, Tulsa, Okla. 74151. Operating rights sought to be controlled: In pending Docket No. MC-134473 Sub-1, covering the transportation of Trailers, designed to be drawn by passenger automobiles and buildings in sections, mounted on wheeled undercarriages, as a *common carrier* over irregular routes, from ports of entry on the International Boundary line between the United States and Canada in Alaska on the one hand, and, on the other, points in Alaska, and certificate not yet issued. NATIONAL TRAILER CONVOY, INC., is authorized to operate as a *common carrier* in all States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11284. Authority sought for control by SOUTHERN BULK HAULERS, INC., Post Office Box 278, Harleyville, SC 29448, of THE GEO. A. RHEMAN CO., INC., 2019 Elgin Street, Post Office Box 2095, Station A, Charleston, SC 29403, and for acquisition by CALHOUN LEMON, Post Office Box 385, Barnwell, SC 29812, of control of THE GEO. A. RHEMAN CO., INC., through the acquisition by SOUTHERN BULK HAULERS, INC. Applicants' attorney: Beverley S. Simms, 100 17th Street NW., Washington, DC 20036. Operating rights sought to be controlled: *Petroleum products*, in bulk, in tank vehicles, as a *common carrier* over irregular routes, between Charlestown, S.C., and points within 10 miles thereof, on the one hand, and, on the other, points in Georgia and North Carolina, between Savannah, Ga., and points within 10 miles thereof, on the one hand, and, on the other, points in South Carolina, from Orlando, Fla., to North Charleston, S.C.; *petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from North Charleston, S.C., to points in Florida; *petroleum products* (except petro acids and chemicals, and asphalt and asphalt products), in bulk, in tank vehicles, from terminals off the Colonial Pipeline in Georgia and North Carolina, to points in South Carolina, from terminals off the Colonial Pipeline in South Carolina, to points in Georgia; *petroleum products*, except

petrochemicals, in bulk, in tank vehicles, from Georgetown, S.C., to points in North Carolina; *petroleum and petroleum products*, from the plantsite of Gulf Oil Corp. at Charleston, S.C. to points in Alabama and Kentucky;

*Petroleum and petroleum products*, in bulk, in tank vehicles, from the plantsite of Gulf Oil Corp. at Charleston, S.C., to points in Virginia; *petroleum and petroleum products*, except petrochemicals, in bulk, from Charleston, S.C., to points in Alabama, with restriction; *empty collapsible containers*, when moving with petroleum and petroleum products in bulk, in tank vehicles (presently authorized), from Charleston, S.C., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, and Virginia; *liquor waste*, consisting of approximately 50 percent water, 25 percent dissolved wood substances and 25 percent impure spent sodium compounds, in bulk, in tank vehicles, from points in Darlington County, S.C., to certain specified points in North Carolina; *fly ash*, in bulk, in tank or hopper vehicles, between points in North Carolina, South Carolina, Georgia, and Florida; *dry sand*, ground and pulverized, in bulk, in tank or covered hopper vehicles equipped for unloading by pneumatic unloading devices, from the plantsite of the Pennsylvania Glass Sand Corp. at Edmund, S.C. (in Lexington County, approximately 10 miles south of Columbia, S.C.), to points in Georgia and North Carolina; *nitrogen fertilizer solution*, in bulk, in tank vehicles, from points in Screven County, Ga., to points in South Carolina; *portable asphalt plants*, in sections, mounted on their own undercarriages, from points in Georgia, to points in North Carolina and South Carolina, from points in North Carolina, to points in Georgia and South Carolina, from points in South Carolina, to points in Georgia and North Carolina; *dry fertilizer*, in bulk, from certain specified points in South Carolina, to points in North Carolina; and *liquid fertilizer*, in bulk, in tank vehicles, from the plantsite of Allied Chemical Corp., located at or near Sylvania, Ga., to points in South Carolina. SOUTHERN BULK HAULERS, INC., is authorized to operate as a *common carrier* in South Carolina, Georgia, and North Carolina. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11285. Authority sought for control by BUFFALO EXPRESS, INC., 1500 Industrial Avenue, Post Office Box 769, Sioux Falls, SD 57101, of MIDWEST COAST TRANSPORT, INC., 405 East Eighth Street, Post Office Box 1233, Sioux Falls, SD 57101, and for acquisition by H. LAUREN LEWIS, also of 1500 Industrial Avenue, Post Office Box 769, Sioux Falls, SD 57101, of control of MIDWEST COAST TRANSPORT, INC., through the acquisition by BUFFALO EXPRESS, INC. Applicants' attorneys: David Axelrod, 39 South La Salle Street, Chicago, IL 60603 and H. Lauren Lewis, Post Office Box 769, Sioux Falls, SD

57101. Operating rights sought to be controlled: *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of South Dakota, Washington, Oregon, Iowa, Minnesota, Missouri, California, North Dakota, Montana, Idaho, Wyoming, Nebraska, Colorado, Nevada, Arizona, Iowa, Wisconsin, Delaware, Maryland, Pennsylvania, Massachusetts, Connecticut, New Hampshire, Rhode Island, Vermont, Maine, Michigan, New York, New Jersey, Indiana, New Mexico, Utah, Virginia, West Virginia, Illinois, Kentucky, Ohio, Kansas, Wyoming, and the District of Columbia, with certain restrictions, serving various intermediate and off-route points, over numerous alternate routes for operating convenience only, as more specifically described in Docket No. MC-111812 and Subs numbers thereunder. This notice does not purport to be a complete description of all the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. BUFFALO EXPRESS, INC., holds no authority from this Commission. However, it is affiliated with ALL-AMERICAN TRANSPORT, INC., Post Office Box 759, 1500 Industrial Avenue, Sioux Falls, SD 57101, which is authorized to operate as a *common carrier* in Minnesota, South Dakota, Iowa, Nebraska, Illinois, North Dakota, Wisconsin, Michigan, Ohio, Indiana, Missouri, and Kentucky. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11286. Authority sought for purchase by EXPRESS, INCORPORATED, Post Office Box 15, Stephenson, VA 22656, of a portion of the operating rights of ACE FREIGHT LINES, INC., Post Office Box 2103, Memphis, TN 38102, and for acquisition by ERVIN E. HART, also of Stephenson, Va., of control of such rights through the purchase. Applicants' attorney: Bill R. Davis, Suite 1208, Gas Light Tower, Atlanta, Ga. 30303. Operating rights sought to be transferred: *Canned fruits and canned fruit products*, as a *common carrier* over irregular routes, from points in Florida in and south of Levy, Marion, Lake, and Volusia Counties, Fla., to points in Alabama (except Mobile), and Tennessee, with restriction. Vendee is authorized to operate as a *common carrier* in West Virginia, Pennsylvania, Virginia, North Carolina, Ohio, New York, Maryland, Georgia, South Carolina, Kentucky, New Jersey, Tennessee, Florida, Mississippi, Missouri, Michigan, Alabama, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11288. Authority sought for purchase by MONTANA EXPRESS, INC., Post Office Box 3346, Butte, MT 59701, of

the operating rights and property of ERNEST FALEN, Route 6, Caldwell, ID 83605. Applicants' attorneys: Kenneth G. Bergquist, Post Office Box 1775, Boise, ID 83701, and J. P. Meglen, Post Office Box 1581, Billings, MT 59103. Operating rights sought to be transferred: *Bananas, and agricultural commodities*, the transportation of which is partially exempt from regulation under section 203(b)(6) of the Act when transported in the same vehicle and at the same time with bananas, as a *common carrier* over irregular routes, from points in California, to La Grande, Ore., and Walla Walla, Wash., with restriction; *frozen foods*, from points in California, to La Grande, Ore., and Walla Walla, Wash.; *canned or preserved foodstuffs, malt beverages, and wine*, from points in California, to La Grande, Ore.; *canned or preserved foodstuffs, malt beverages, wine, bananas, frozen foods, and agricultural commodities*, the transportation of which is partially exempt from regulation under section 203(b)(6) of the Interstate Commerce Act when transported in the same vehicle and at the same time with the foregoing commodities, from points in California, to Nyssa, Ore., with restriction; and in pending Docket No. MC-127141 Sub-5 TA, *wine*, and when transported therewith, agricultural commodities, the transportation of which is partially exempt from regulation under section 203(b)(6) of the Act, from Modesto, Mission San Jose, Los Gatos, and San Jose, Calif., to Bend, and Pendleton, Ore.; *beer*, and when transported therewith, agricultural commodities, the transportation of which is partially exempt from regulation under section 203(b)(6) of the Act, from Van Nuys, and San Francisco, Calif., to Bend, and Pendleton, Ore. Vendee is authorized to operate as a *common carrier* in North Dakota, Colorado, Washington, Oregon, California, Minnesota, Wisconsin, Illinois, and Montana. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.  
[FR Doc.71-12802 Filed 8-31-71;8:54 am]

[Notice 742]

#### MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 27, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 C.F.R. 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-72871. By order of August 26, 1971, the Motor Carrier Board approved the transfer to Irving M. Stern, St. Louis Park, Minn., of Permit No. MC-114789 (Sub-No. 11), issued September 9, 1964, to Nationwide Carriers, Inc., Minneapolis, Minn., authorizing the transportation of: Dairy products, fertilizer, in bags, animal and poultry feed and frozen poultry, from points in Minnesota and Wisconsin, as indicated, to points as specified in California, Arizona, Nevada, Colorado, and New Mexico. Donald L. Stern, 7100 West Center Road, Suite 530, Omaha, NE 68106, attorney for applicants.

ROBERT L. OSWALD,  
*Secretary.*

[FR Doc.71-12803 Filed 8-31-71;8:54 am]

[I. and S. Docket No. 8645]

**PENN CENTRAL TRANSPORTATION  
CO.**

**Notice of Hearing Regarding Charges  
at New York Harbor**

August 30, 1971.

The above-entitled proceeding has been assigned for hearing on September 7, 1971, before a hearing examiner at 1:00 p.m., d.s.t., in Room 2220, 26 Federal Plaza, New York, N.Y.

In accordance with the provisions of the National Environmental Policy Act of 1969 (Public Law 91-190) and subsequent releases issued by the Council on Environmental Quality, all interested persons are hereby notified that environmental issues have been raised which will be considered by the Commission in this proceeding. Interested persons desiring to participate are invited to appear at the hearing.

[SEAL]

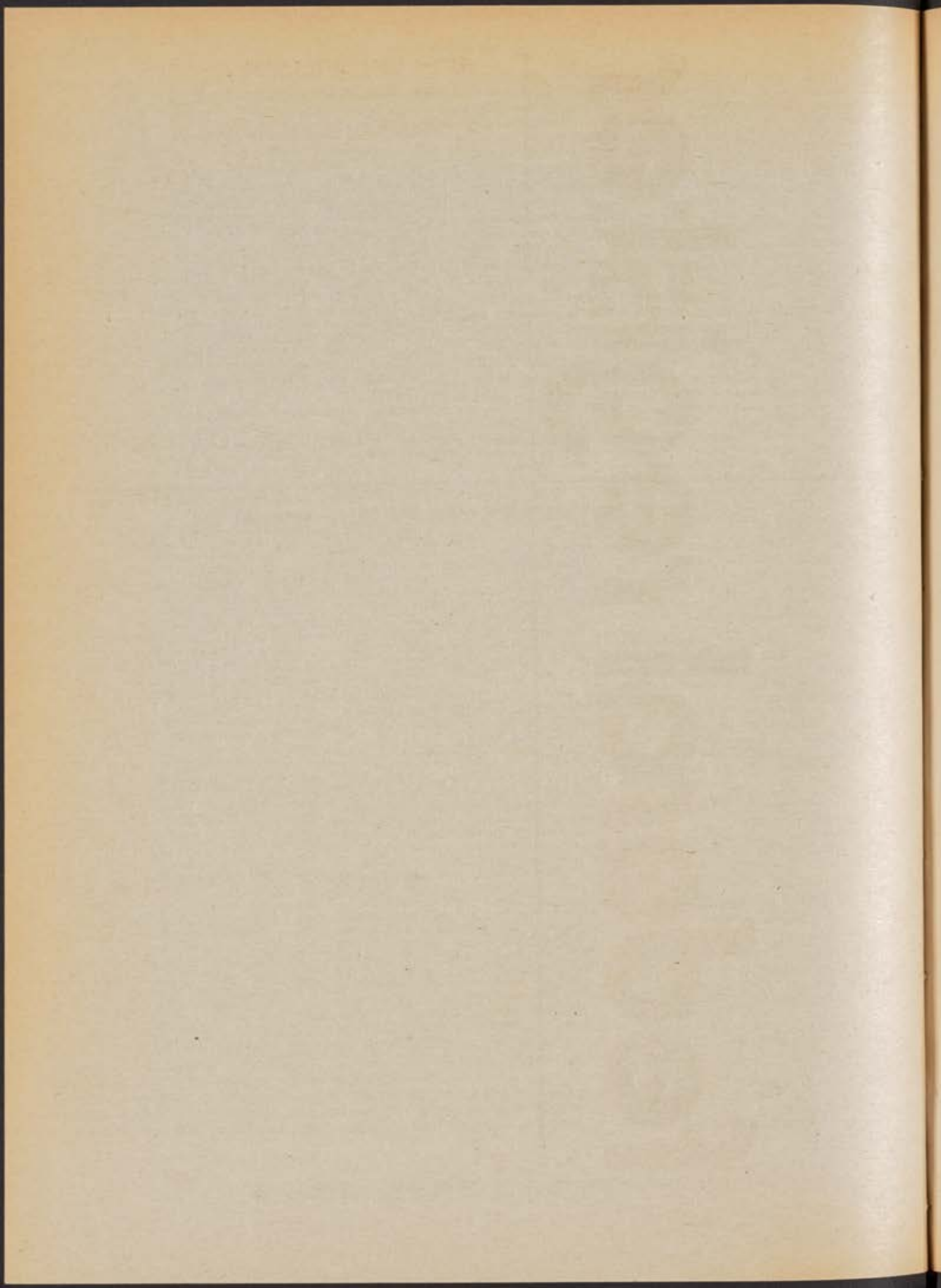
ROBERT L. OSWALD,  
*Secretary.*

[FR Doc.71-12896 Filed 8-31-71;8:55 am]

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**LIST OF FEDERAL REGISTER PAGES AND DATES—SEPTEMBER**

<i>Pages</i>	<i>Date</i>
17477-17549.....	Sept. 1



# federal register

WEDNESDAY, SEPTEMBER 1, 1971  
WASHINGTON, D.C.

Vol. 36 ■ Number 170



PART II

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## FEDERAL METAL AND NONMETALLIC MINE SAFETY BOARD OF REVIEW

■

Rules of Procedure

Notice of Proposed Rule Making

# FEDERAL METAL AND NONMETALLIC MINE SAFETY BOARD OF REVIEW

## [ 30 CFR Part 400 ] RULES OF PROCEDURE

### Notice of Proposed Rule Making

Pursuant to the authority contained in subsection 10(h) of the "Federal Metal and Nonmetallic Mine Safety Act" of 1966 (80 Stat. 779; 30 U.S.C. 729(h)), it is proposed to make rules of procedure for the Federal Metal and Nonmetallic Mine Safety Board of Review. It is proposed that these rules be Part 400 of a new Chapter IV in Title 30 of the Code of Federal Regulations, as set out below.

It is the desire of the Federal Metal and Nonmetallic Mine Safety Board of Review to have the public participate in the rule making process. Accordingly, interested persons are invited to submit written comments, suggestions, or objections to these proposed rules to the Federal Metal and Nonmetallic Mine Safety Board of Review, 1875 Connecticut Avenue NW., Suite 707, Washington, DC 20009, within 30 days from date of publication in the FEDERAL REGISTER.

JUBAL HALE,  
Executive Secretary.

### Chapter IV—Federal Metal and Nonmetallic Mine Safety Board of Review

#### PART 400—PROCEDURAL REGULATIONS

##### Subpart A—General

Sec.	
400.1	Definitions.
400.2	Scope and descriptive guidelines.
400.3	Parties; intervention.
400.4	Filing and form of documents.
400.5	Service; posting.
400.6	Motions.
400.7	Transcripts of hearings.
400.8	Subpoena power and witnesses.
400.9	Time.

##### Subpart B—Initiation of Proceedings and Preliminary Matters

400.20	Application of operators.
400.21	Time and place of hearing.
400.22	Answer.
400.23	Temporary relief.
400.24	Accelerated procedure.
400.25	Depositions.
400.26	Interrogatories and production of documents.

##### Subpart C—Hearings

400.36	General.
400.37	Nature of hearings.
400.38	Panel.
400.39	Preliminary rulings; different filing address.
400.40	Evidence and official notice.
400.41	Consolidation of proceedings.
400.42	Waiver of hearing upon the stipulation of the parties.
400.43	Summary decision.

##### Subpart D—Operation of the Board and the Making of Final Orders

Sec.	
400.53	Principal office.
400.54	Members and staff.
400.55	Quorum; convening; records.
400.56	Executive secretary.
400.57	Findings; orders and opinions.

##### Subpart E—Appeals

400.70	Appeals.
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**AUTHORITY:** The provisions of this Part 400 issued under subsection 10(h) of the "Federal Metal and Nonmetallic Mine Safety Act" of 1966 (80 Stat. 779; 30 U.S.C. 729(h)).

##### SUBPART A—GENERAL

###### § 400.1 Definitions.

As used in this chapter:

"Act" means the Federal Metal and Nonmetallic Mine Safety Act of 1966 (80 Stat. 772; 30 U.S.C. 721-40). Section numbering used in the text of these regulations is as in Statutes at Large. U.S.C. citations are included parenthetically.

"Applicant" means the operator filing an application.

"Application" means an application of an operator to have an order made pursuant to section 8 or section 9 of the act (30 U.S.C. 727, 728) reviewed by the Board.

"Board" means Federal Metal and Nonmetallic Mine Safety Board of Review.

"Mine" has the meaning set out in section 2 of the act (30 U.S.C. 721).

"Operator" has the meaning set out in section 2 of the act (30 U.S.C. 721).

"Operator appointee" means an appointee to the Board whose background and experience made him representative of the viewpoint of metal and nonmetallic mine operators, as required by subsection 10(c) of the act (30 U.S.C. 729(c)).

"Respondent" means the Secretary responding to the filing of an application.

"Secretary" has the meaning set out in section 2 of the act (30 U.S.C. 721).

"Worker appointee" means an appointee to the Board whose background and experience made him representative of the viewpoint of metal and nonmetallic mine workers as required by subsection 10(c) of the act (30 U.S.C. 729(c)).

###### § 400.2 Scope and descriptive guidelines.

(a) These regulations shall govern proceedings under section 11 of the act (30 U.S.C. 730) to have orders issued pursuant to section 8 or section 9 of the act (30 U.S.C. 727, 728) reviewed by the Board.

(b) These regulations are to be construed and applied to achieve the objectives set forth in subsection 11(d) of the act (30 U.S.C. 730(d)) which provides *inter alia*, "In view of the need for prompt decision . . . all action . . . shall be taken as rapidly as practicable consistent with adequate consideration of the issues involved."

###### § 400.3 Parties; intervention.

(a) The parties to any proceeding shall be the operator, who shall be des-

ignated as the applicant, and the Secretary, who shall be the respondent.

(b) The Board may in its discretion grant to any interested person, worker, or the collective bargaining agent affected by an order being reviewed the right to intervene and to participate in the review proceeding to the extent and in the manner the Board deems proper. However, issues may not be enlarged beyond those established by the operator's application, nor shall unreasonable delay or prolonging of proceedings be permitted. Intervention may be permitted at any time on motion, but an opportunity to meet all evidence presented will be given.

###### § 400.4 Filing and form of documents.

(a) *Where to file.* All initial pleadings or documents in a proceeding described in this part shall be filed with the Federal Metal and Nonmetallic Mine Safety Board of Review, 1875 Connecticut Avenue NW., Suite 707, Washington, DC 20009. If a proceeding has been assigned for hearing, as these regulations elsewhere provide, the parties may be notified of a different filing address; however, in any event, any papers filed at the above address will be promptly forwarded, and either address will be a proper place of filing.

(b) *When filed.* A document is filed only when received at a proper place of filing before 5 p.m.

(c) *Number of copies.* Except as otherwise provided, a party shall furnish an original and two copies of all documents filed.

(d) *Caption, title, and signature.* (1) All documents filed 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, the caption shall contain such docket number. The caption may include the other information appropriate for identification of the proceeding.

(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 parties 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.

(e) *Retention of documents.* All documents, books, records, papers, etc., received in evidence in a hearing or submitted for the record in any proceeding will be retained with the official record of the proceeding. However, the withdrawal of original documents may be permitted while the case is pending before the Board upon the submission of true copies in lieu thereof. When a decision has become final and no longer appealable, the Board may, upon request and after notice to the other party, in its discretion permit the withdrawal of original exhibits or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any

part thereof may be required by the Board in its discretion as condition of granting permission for such withdrawal.

#### § 400.5 Service; posting.

(a) The application for review shall be served upon the respondent by sending a copy of said document by registered or certified mail, return receipt requested, to the Secretary of the Interior, c/o Office of the Solicitor, 18th and C Streets NW., Washington, DC 20240.

(b) Copies of all documents filed in any proceeding shall be served on the parties. All documents filed subsequent to the application for review may be served by personal service or by first class mail, unless otherwise ordered by the Board. Service by mail is complete upon mailing.

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

(d) A copy of any application for review filed by an operator shall be posted on the bulletin board at the mine affected at the time it is filed, and all notices of time and place of hearing shall be similarly posted by the operator promptly on their receipt; if there is no mine bulletin board, the above documents shall be posted at a conspicuous place in the mine area.

(e) An operator initiating proceedings under these rules shall file a return receipt as proof of service of the original application for review. A certificate of service shall accompany all documents filed; the certificate accompanying an application shall also include a statement that the application has been posted, as required by paragraph (d) of this section.

#### § 400.6 Motions.

(a) Oral motions may be permitted during the course of a hearing, otherwise motions shall be in writing. Motions may be supported with documentary evidence including affidavits, transcripts of oral deposition, and answers to interrogatories.

(b) Unless otherwise ordered by the Board, a statement of opposition to a motion, supported by documentary evidence if desired, may be filed and served within 10 days of date of service. Unless requested by the Board, oral arguments on motions will not be permitted.

#### § 400.7 Transcripts of hearings.

Hearings will be recorded verbatim and transcripts thereof shall be made when requested, costs of transcripts to be borne by the requesting person(s). If the reporting is done pursuant to contract between the reporter and the Board, fees for transcripts will be at rates established by the contract.

#### § 400.8 Subpoena power and witnesses.

(a) Any member of the Board may sign and issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents. The Executive Secretary may

sign and/or issue subpoenas as provided in § 400.56(c).

(b) Subpoenas may be served by any person who is not a party and is not less than 18 years of age. The original subpoena bearing a certificate of service shall be filed with the Board.

(c) Fees payable to witnesses:

(1) Witnesses subpoenaed by any party shall be paid the same fees and mileage as are paid for like service 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.

(2) Any witness who attends any hearing or the taking of any deposition at the request of either party to the controversy without having been subpoenaed to do so shall be entitled to the same mileage and attendance fees, to be paid by such party, to which he would have been entitled if he had been first duly subpoenaed as a witness on behalf of such party. This paragraph does not apply to Government employees who are called as witnesses by the Government.

#### § 400.9 Time.

(a) *Computation of time for filing and service.* Except as otherwise provided by law, in computing any period of time prescribed for filing and serving a document, the day upon which the decision or document to be appealed from or answered was served, or the day of any other event after which the designated period of time begins to run, is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday, Federal legal holiday, or other nonbusiness day, in which event the period runs until the end of the next day which is not a Saturday, Sunday, Federal legal holiday, or other nonbusiness day. When the time prescribed or allowed is 7 days or less, intermediate Saturdays, Sundays, Federal legal holidays and other nonbusiness days shall be excluded in the computation.

(b) *Extensions of time.* A hearing date or the time for filing or serving any document may, on good cause shown, be extended by the Board, except for the time for filing a notice of appeal. A request for an extension of time must be filed within the time allowed for the filing or serving of the document.

#### SUBPART B—INITIATION OF PROCEEDINGS AND PRELIMINARY MATTERS

#### § 400.20 Application of operators.

(a) An operator notified of an order made pursuant to section 8 of the act (30 U.S.C. 727) may apply to the Board for annulment or revision of such order without seeking its annulment or revision under section 9 of the act (30 U.S.C. 728). An operator notified of an order made pursuant to section 9 of the act (30 U.S.C. 728) may apply to the Board for annulment or revision of such order. The operator must apply in writing and the application must meet the requirements of these rules as to filing, form, and manner of service and posting.

(b) The operator shall be designated as the applicant in such proceeding and the Secretary as the respondent. The application shall recite the order complained of and other facts sufficient to advise the Board of the nature of the proceeding. He may allege in such application:

(1) That danger as set out in such order does not exist at the time of filing of such application,

(2) That violation of a mandatory safety standard, as set out in such order, has not occurred,

(3) That such violation has been totally or partially abated,

(4) That the period of time within which such violation should be totally abated, as fixed in the findings upon which such order was based, was not reasonable, or

(5) That the area of the mine described in such order is not so affected at the time of the filing of such application.

#### § 400.21 Time and place of hearing.

Immediately upon the filing of an application, the Board shall fix the time for the prompt hearing thereof. As soon thereafter as necessary arrangements are completed, the Board shall fix the place for such hearing. Prompt notice of the time and place of the hearing will be given the parties.

#### § 400.22 Answer.

Within 10 days of service of an application on him, unless otherwise ordered by the Board, the respondent shall file and serve upon the applicant an answer to applicant's application. The answer shall be in sufficient factual detail to informatively meet the allegations contained in the application.

#### § 400.23 Temporary relief.

Pending a hearing on the merits, the applicant may file with the Board a written request that the Board grant such temporary relief from an order issued pursuant to section 8 or section 9 of the act (30 U.S.C. 727, 728) as the Board may deem just and proper. Such temporary relief may be granted by the Board only after a hearing by the Board at which both the parties were afforded an opportunity to be heard, and only after ample notice was given to respondent of the filing of applicant's request and of the time and place of the hearing thereon as fixed by the Board.

#### § 400.24 Accelerated procedure.

The applicant may file a written request based on extreme urgency to have proceedings under these rules accelerated and have the Board undertake to have the applicant's application heard and determined without regard to its normal position on the docket. Said request shall set forth:

(a) The reasons for urgency which shall include the number of workers, if any, which have been withdrawn from an affected area of the mine pursuant to the order under review and who are not at work elsewhere in the mine.

(b) How soon the applicant will be prepared to appear at a hearing on the merits, and (1) does the applicant wish to take oral depositions or serve interrogatories and (2) does the applicant feel that the filing of an answer by the respondent is necessary to his adequate preparation, and will he waive the filing of an answer.

(c) Such other matter as the applicant wishes to put in his petition. Proceedings will be accelerated to the extent the Board in its discretion feels the objectives of the act will be furthered, but no case will be unreasonably delayed to accelerate another and in no case will there be a hearing on the merits with less than 5 days' notice to the parties.

#### § 400.25 Depositions.

(a) *When permitted:* The Board 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 for the purpose of discovery.

(b) *Order on depositions:* Unless otherwise stipulated by the parties when a deposition of a party is taken, the time, place, and manner of taking depositions shall be governed by the order of the Board.

(c) Written notice of the name of a witness and the time and place of taking his deposition must be served by the party taking such deposition on the other party 5 days prior to taking such deposition unless a different time is ordered by the Board.

#### § 400.26 Interrogatories and production of documents.

(a) Either party may serve written interrogatories or a request for admission of facts upon the other party to a proceeding brought under these rules.

(b) A party served with written interrogatories shall answer such interrogatories within 15 days of service unless the proponent of the interrogatories agrees to a longer time or unless the Board by order specifies a different time or excuses the party from answering on good cause shown.

(c) For good cause shown, the Board may order a party to produce and permit inspection and copying or photographing of designated documents relevant to the proceeding.

### SUBPART C—HEARINGS

#### § 400.36 General.

Hearings shall be conducted by the Board, or a panel of one or more members of the Board, at such time and place as the Board may order.

#### § 400.37 Nature of hearings.

All hearings held under this act shall be public. Hearings will be recorded verbatim, and concise opening and closing statements may be made, before and after the presentation of evidence, and will be recorded. Briefs, and/or oral arguments (in addition to the aforementioned closing statements) may be presented to the Board prior to its rendering

a decision only if the Board in its discretion so permits.

#### § 400.38 Panel.

(a) The Chairman of the Board, with the concurrence of at least two members, including one worker appointee and one operator appointee, may order that a hearing be conducted by a panel of one or more members of the Board. The hearing will be conducted in a manner similar to a hearing before the Board, and the panel may:

(1) Rule on offers of proof and receive relevant evidence,

(2) Take depositions or have depositions taken when the ends of justice would be served,

(3) Regulate the course of the hearing,

(4) Hold conferences for settlement or simplification of the issues,

(5) Dispose of procedural request or similar matters,

(6) Rule on motions to intervene.

(b) The panel shall submit the transcript of such hearing to the entire Board for its action thereon.

(c) The order appointing the panel to hear a case shall designate the member of the panel who is to preside at a hearing; however, if the panel is composed of more than two members, any ruling of the presiding member may be submitted to the entire panel for a decision upon request of a party, or member of the panel, and the presiding member may be overruled by a majority of the panel.

(d) If a hearing is being conducted by the Board and all of its members are not present, it may at any time declare itself to be a panel and proceed accordingly.

#### § 400.39 Preliminary rulings; different filing address.

(a) At any time after the filing of an application by an operator, the Chairman, with the concurrence of two other members of the Board, may designate a member of the Board to rule on preliminary matters related to the conducting of any hearing in that case, including motions for the taking of depositions, requests for the production of documents, requests for pretrial conferences, and the granting of continuances.

(b) If the Board believes that proceedings will be expedited, it may designate an address for the filing of documents different from that set out in § 400.4(a).

#### § 400.40 Evidence and official notice.

(a) Any relevant evidence may be received in a hearing; however, the Board in its discretion may exclude evidence which is unreliable or unduly repetitious.

(b) The Board shall not make or cause to be made any inspection of a mine for the purpose of determining any pending application for review; however, the Board may require or receive evidence in addition to that offered by the parties. Such evidence must be presented at a public hearing in the particular case in which it is to be considered and all parties shall be given a chance to cross-examine or rebut such evidence.

(c) Any 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.

(d) Official notice may be taken of any matter of which courts take judicial notice or any matter which is of general knowledge within a mining industry or trade or profession thereof and such general matter as is capable of being readily verified.

(e) The Board shall not be bound by any previous findings of fact by the respondent. If the respondent claims that imminent danger or violation of a mandatory safety standard, as set out in such order, existed at the time of the filing of the application, the burden of proving the then existence of such danger or violation shall be upon the respondent, and the respondent shall present his evidence first to prove the then existence of such danger or violation. Following presentation of respondent's evidence, the applicant may present his evidence, and thereupon the respondent may present evidence to rebut the applicant's evidence.

#### § 400.41 Consolidation of proceedings.

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

#### § 400.42 Waiver of hearing upon the stipulation of the parties.

A hearing may be waived and the case submitted to the Board for decision upon the record, including any stipulation of facts entered into by the parties; however, if the Board determines that the case presents factual issues which require a hearing, the case will again be set for a hearing.

#### § 400.43 Summary decision.

At any time prior to a hearing on the merits, a party may file a written motion for a summary decision disposing of all or part of a pending case. Such motion must clearly show that there is no issue of fact for the Board to decide and the Board's decision shall be based on the entire record of the case, including any documents filed with such motion and any that may be filed with a statement in opposition to the motion.

### SUBPART D—OPERATION OF THE BOARD AND THE MAKING OF FINAL ORDERS

#### § 400.53 Principal office.

The principal office of the Board shall be at 1875 Connecticut Avenue NW., Suite 707, Washington, DC 20009. Whenever the Board deems that the convenience of the public or of the parties may be promoted or delay or expenses may be minimized, it may hold hearings or conduct proceedings at any other place.



**§ 400.54 Members and staff.**

(a) The Board consists of a Chairman and four (4) other members appointed by the President with the advice and consent of the Senate.

(b) The staff of the Board shall consist of an Executive Secretary and such legal counsel and other personnel the Board deems necessary in exercising its powers and duties.

**§ 400.55 Quorum; convening; records.**

(a) Three members of the Board shall constitute a quorum, and official actions of the Board shall be taken on the affirmative vote of at least three members.

(b) The Board shall convene with such frequency and at such time and place as is required to efficiently handle the cases before it. The Chairman of the Board will convene the Board, and, when present, will preside at all proceedings or appoint another member to do so. The Chairman will convene the Board at a time and place that a quorum may be assembled and on such notice, if any, he believes the exigencies of the situation permit. Notice of the time, place, and purpose of convening will be given promptly to all members of the Board by the Executive Secretary pursuant to instructions from the Chairman. When any two members call for a meeting of the Board, the Chairman will attempt to convene the Board as herein described.

(c) Except for the purpose of making such findings and orders as are described in subsections 11(f) and 11(g) of the act (30 U.S.C. 730(f), 730(g)), or for the holding of a hearing, the Chairman may convene the Board via telephone by plac-

ing a long distance conference call to all members of the Board. At least a quorum of the Board must be in simultaneous communication for the Board to be convened and meetings will be conducted similarly to those when the members are in each other's physical presence.

(d) Every official act of the Board shall be entered of record, and its records shall be open to the public.

**§ 400.56 Executive secretary.**

The Executive Secretary of the Board:

(a) Shall keep custody of, and an adequate index system for, the case files and other records of the Board.

(b) Shall keep the members of the Board informed of the pending business before the Board as such is filed.

(c) May:

(1) Fix the time and/or place for hearings,

(2) Rule on motions for the taking of depositions or production of documents and make any order necessary to effectuate such ruling,

(3) Order parties to appear at preliminary conferences prior to hearing,

(4) Sign and/or issue subpoenas.

The above powers shall be exercised only pursuant to instructions from the Board, but the Executive Secretary may consult with individual members of the Board concerning matters necessary for scheduling or relating to personal availability for a hearing date.

(d) Shall answer correspondence.

(e) Shall take custody of the official seal of the Board and perform such administrative or clerical functions as are necessary for the operation of the Board. The foregoing powers and duties shall be exercised by an alternate designated by the Board when the Executive Secretary is unavailable to exercise them.

**§ 400.57 Findings; orders and opinions.**

(a) The Board in any proceedings before it may make such findings and orders as are described in subsections 11(f) and 11(g) of the act (30 U.S.C. 730(f), 730(g)). Each finding and order made by the Board shall be in writing. It shall show the date on which it is made, and shall bear the signatures of the members of the Board who concur therein. Upon making a finding and order, the Board shall cause each such finding and order to be entered on its official record, together with any written opinion prepared by any members in support of, or dissenting from, any such finding or order.

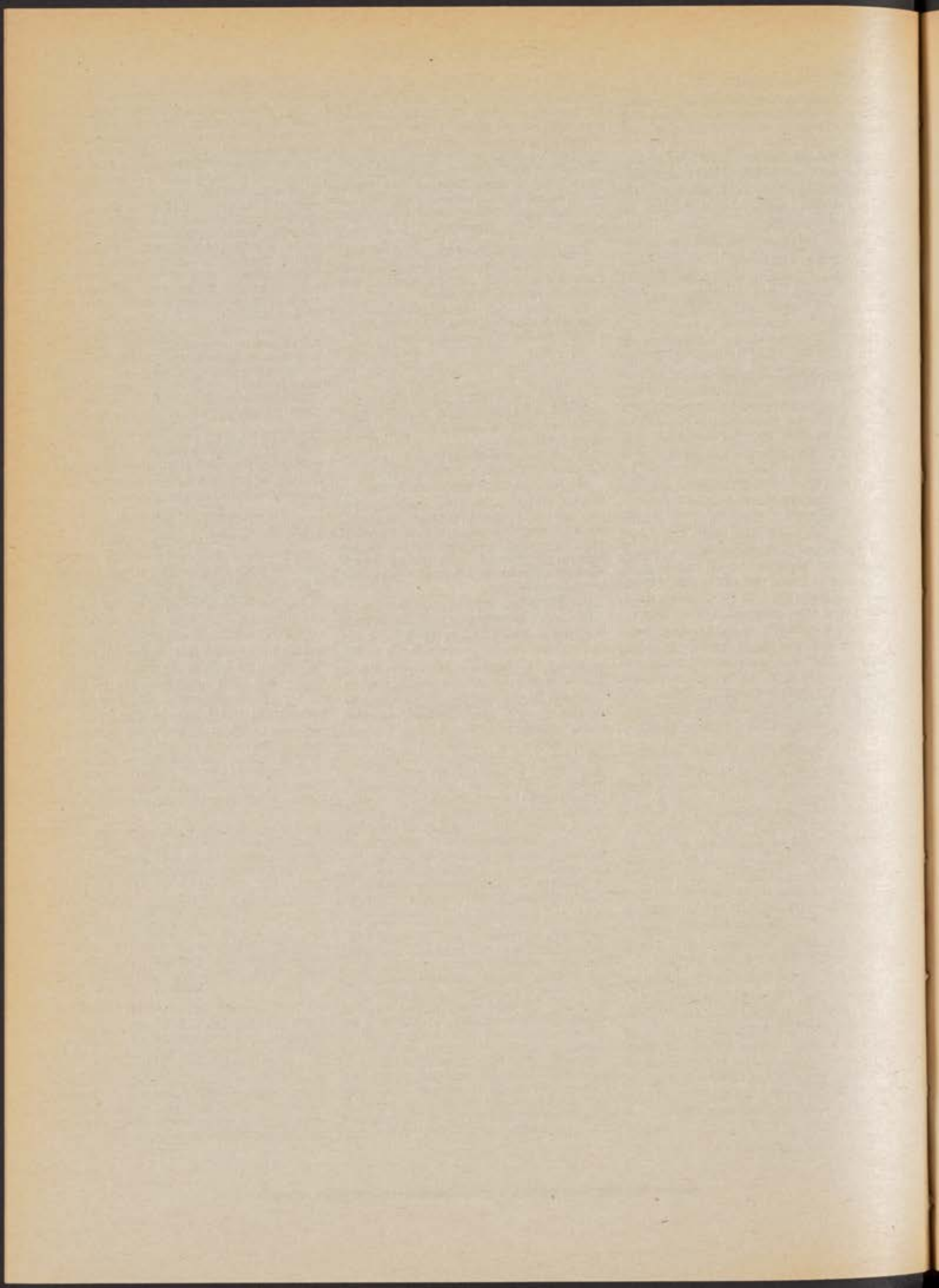
(b) Before reaching a final decision, the Board in its discretion may submit a tentative decision to the parties for comment, request filing of briefs and/or oral argument, or may order that further hearings be held.

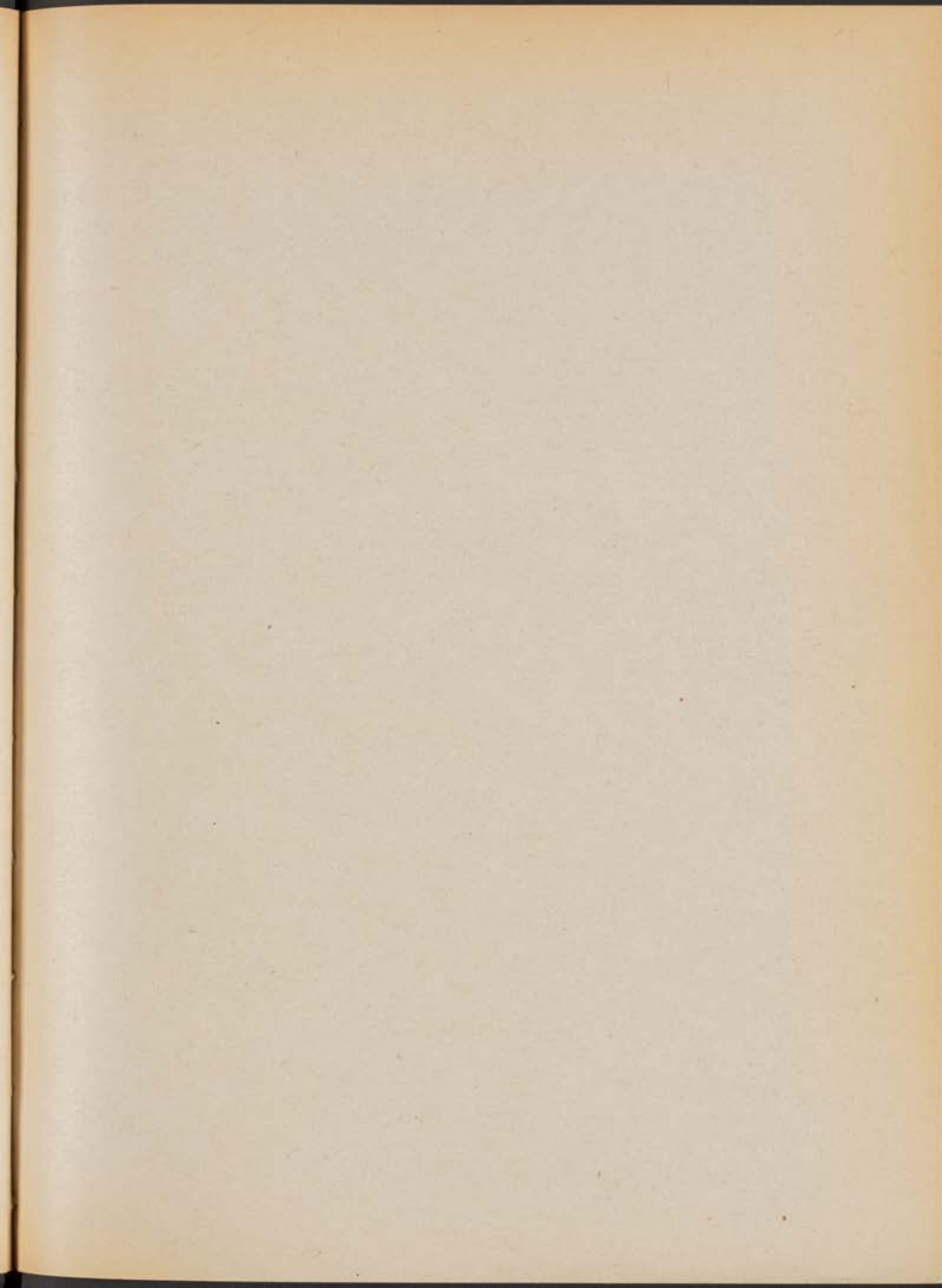
(c) Unless the Board orders otherwise, the filing of a petition for reconsideration shall not stay the effect of any decision or order and shall not affect the finality of any decision or order for purposes of judicial review.

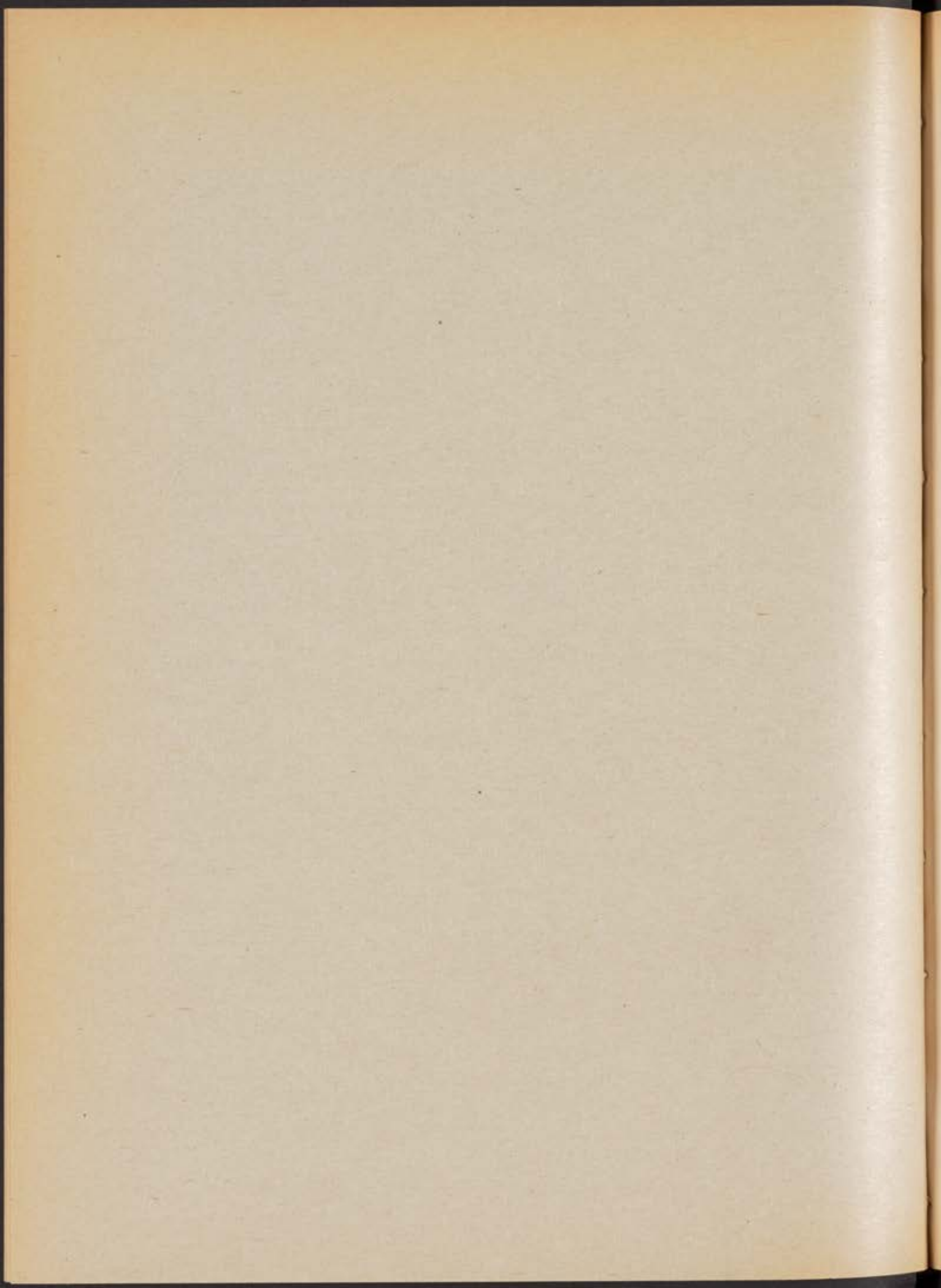
**SUBPART E—APPEALS****§ 400.70 Appeals.**

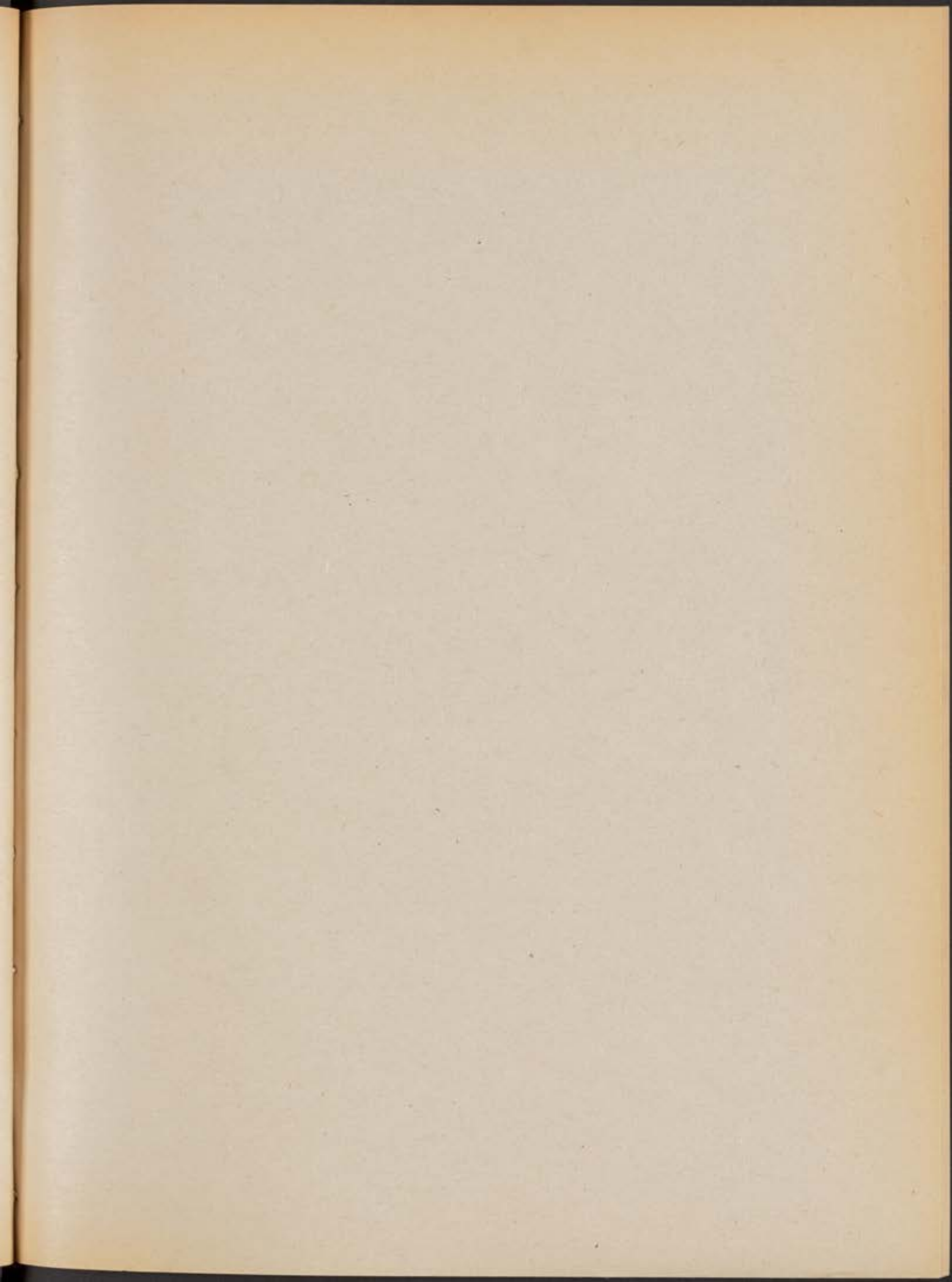
Any final order issued by the Board shall be subject to judicial review by the U.S. Court of Appeals for the circuit in which the mine affected is located, upon the filing in such court of a notice of appeal by the Secretary or the operator aggrieved by such final order within 30 days from the date of the making of such final order. The procedure for making such appeal is set forth in section 12 of the act (30 U.S.C. 731).

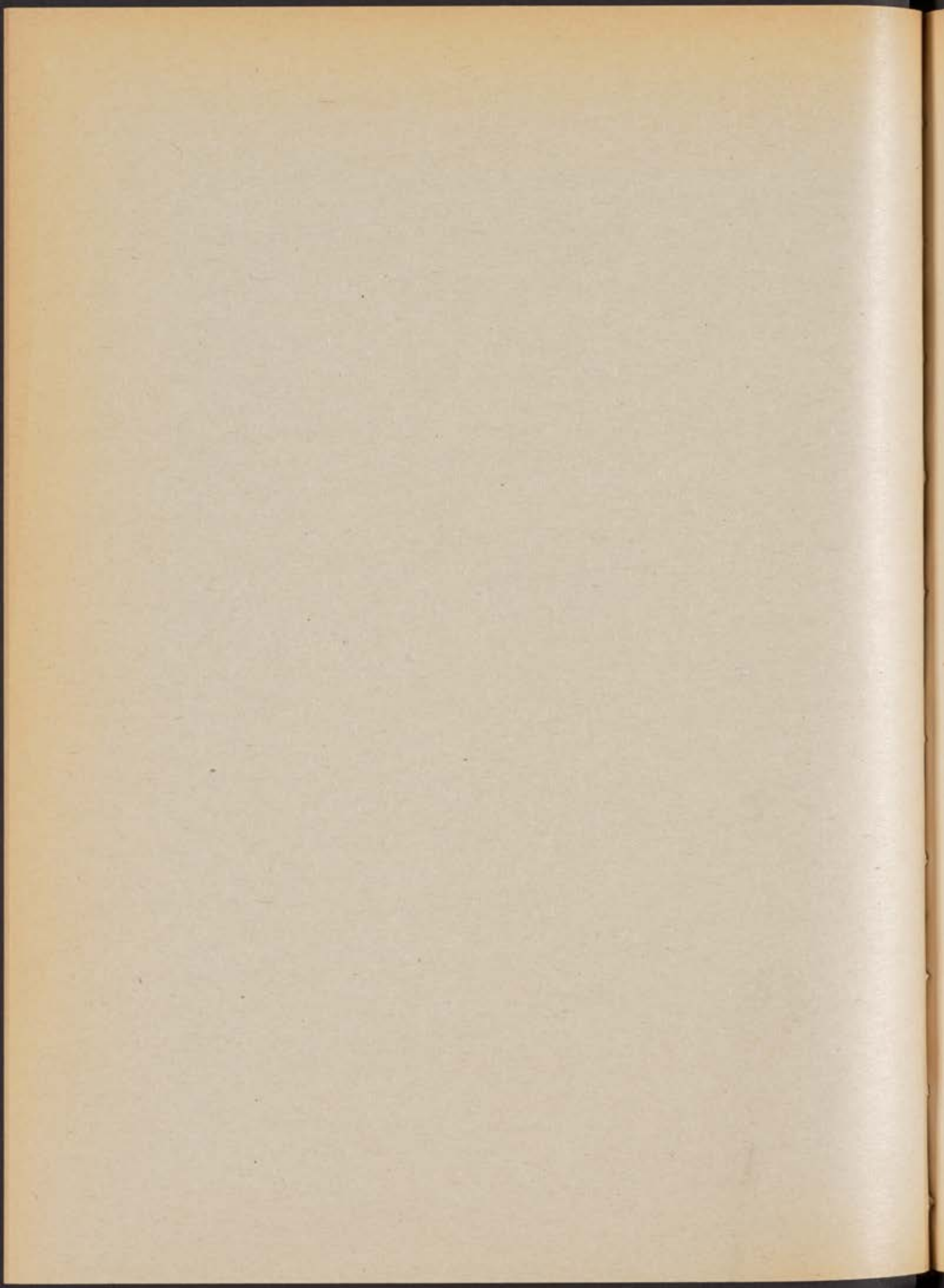
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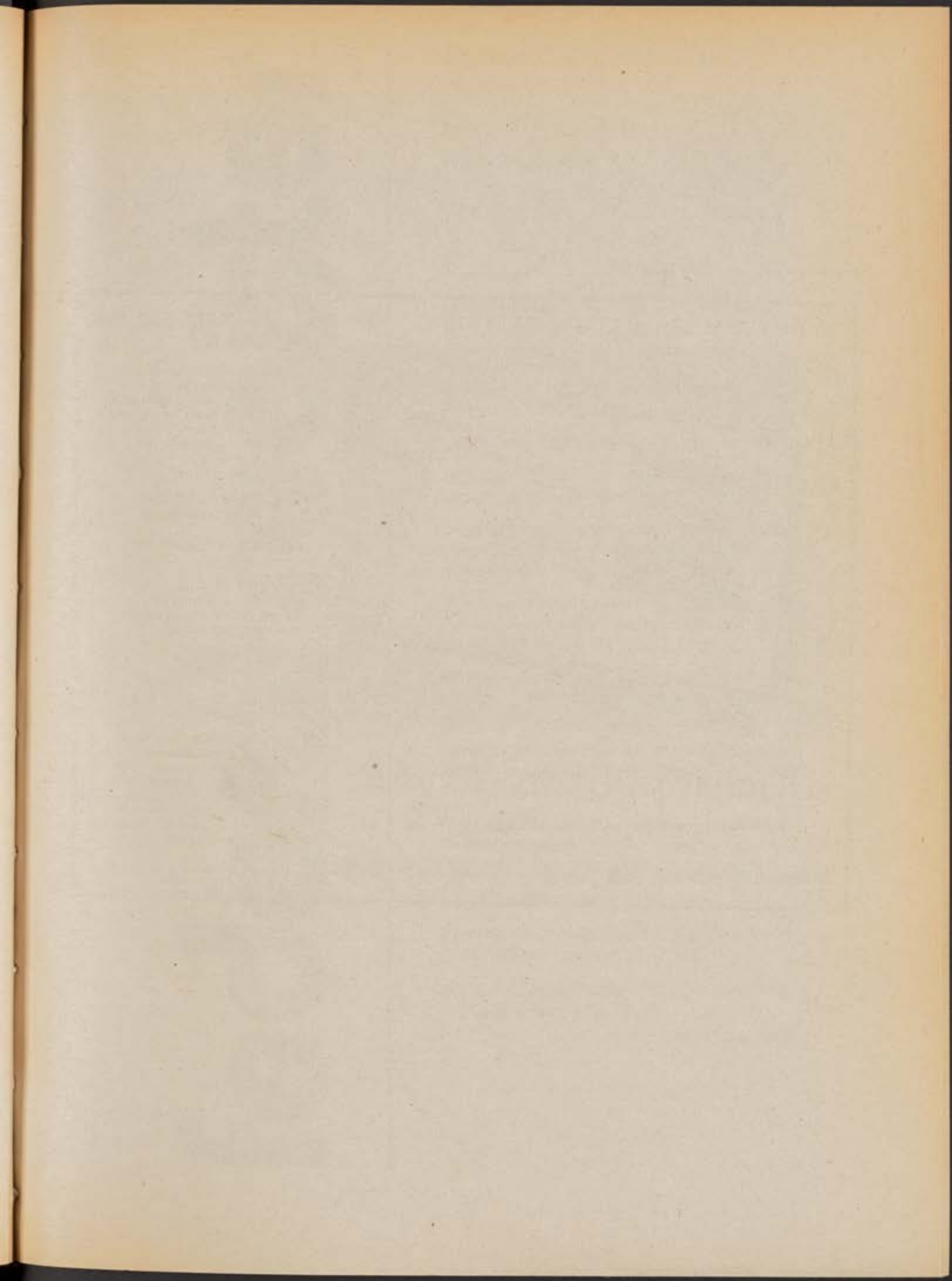




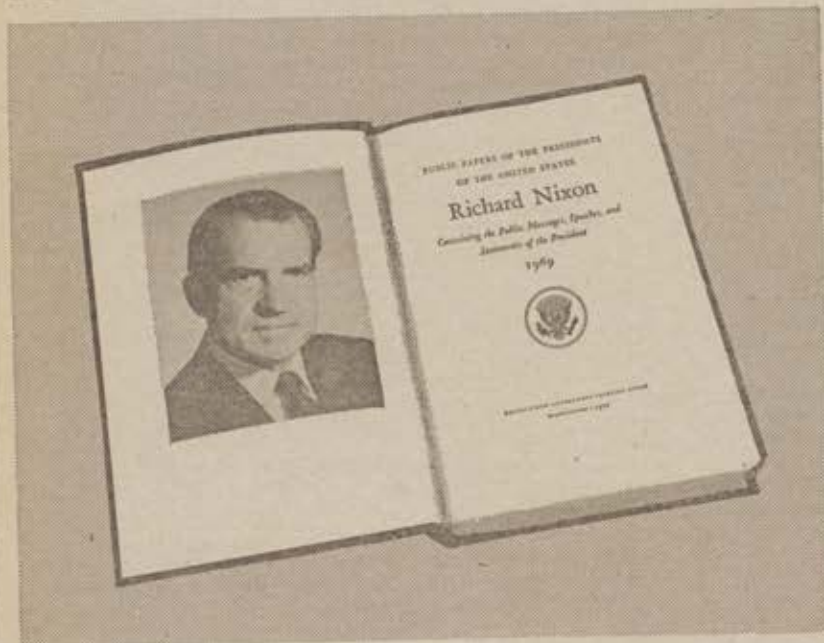








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