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HIGHLIGHTS OF THIS ISSUE

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

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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, 1972, and specifies how they are affected.

Rules and Regulations

Title 7—AGRICULTURE

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

[Orange Reg. 69, Amdt. 9]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, 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 of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of Temple oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendation by the Growers Administrative Committee for less restrictive grade limitations on fresh shipments of Temple oranges is consistent with the external appearance and available supply of such fruit in the production area and the current and prospective demand for such fruit by fresh market outlets. The recommended grade regulation is necessary to insure a continuous supply of good quality fruit to consumers and to improve overall returns to producers.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication 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 restrictions on the handling of Temple oranges grown in Florida.

Order. The provisions of paragraph (a)(5) of § 905.536 (Orange Regulation 69; 36 F.R. 20215, 22054, 22666, 23353, 23617, 23575, 25401; 37 F.R. 2660, 5813) are amended to read as follows:

§ 905.536 Orange Regulation 69.

(a) * * *

(5) Any Temple oranges, grown in the production area, which do not grade at least U.S. No. 2.

* * * * *

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

Dated March 30, 1972, to become effective March 31, 1972.

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

[FR Doc.72–5127 Filed 4–3–72;8:51 am]

[Tangerine Reg. 42, Amdt. 5]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, 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 of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendation by the Growers Administrative Committee for less restrictive size limitations on fresh shipments of tangerines is consistent with the available supply of and current and prospective demand for such smaller sizes of tangerines by fresh market outlets. The amendment is necessary to provide a supply of tangerines to consumers and to improve overall returns to producers.

(3) 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 thereof 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 restrictions on the handling of tangerines grown in Florida.

Order. In § 905.537 (Tangerine Regulation 42; 36 F.R. 20215, 22054, 22667, 23354, 24111) paragraph (a)(2) is amended to read as follows:

§ 905.537 Tangerine Regulation 42.

(a) * * *

(2) Any tangerines, grown in the production area, which are of a size smaller than $2^{2}/_{16}$ inches in diameter, except that a tolerance of 10 percent, by count, of tangerines smaller than such minimum diameter shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Tangerines.

* * * * *

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

Dated, March 30, 1972, to become effective March 31, 1972.

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

[FR Doc.72–5128 Filed 4–3–72;8:51 am]

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIF.

Disposition of Other Than Free Dates

Notice was published in the February 29, 1972, issue of the FEDERAL REGISTER (37 F.R. 4196) regarding a proposal to amend Subpart—Administrative Rules and Regulations (7 CFR Part 987.100–987.174; 36 F.R. 23137; 37 F.R. 1159; 37 F.R. 5282) to authorize the exportation to groups of countries of restricted and other marketable dates certified as meeting the minimum grade requirements for restricted dates for further processing. The proposal was pursuant to § 987.55 of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987; 36 F.R. 15053), regulating the handling of domestic dates produced or packed in Riverside County, Calif. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was based on a unanimous recommendation of the California Date Administrative Committee.

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the

proposal; one such submission was received from the California Date Administrative Committee.

Section 987.55 authorizes, among other things, the Committee, with the approval of the Secretary, to establish by country or groups of countries such special grade requirements for any variety of restricted dates for export as are deemed essential to the promotion of orderly marketing and facilitate sales of such dates in export. That section also provides for the exportation of dates other than restricted dates (i.e., other marketable dates) if they meet the applicable requirements for export.

Currently, dates for further processing may be exported only to France and Belgium. However, processors in other countries have expressed interest in importing such dates. Date processing firms are located in the date producing countries of Morocco, Algeria, Tunisia, Libya, Egypt, and Sudan, and in the date consuming countries of Spain, West Germany, Italy, Greece, as well as France and Belgium.

To promote orderly marketing and facilitate export sales of dates meeting the applicable grade requirements for restricted dates for further processing, two groups of countries should be established. One group is to consist of the known date processing and producing countries in North Africa: Morocco, Algeria, Tunisia, Libya, Egypt, and Sudan. The other group is to consist of the known processing and consuming countries north of the Mediterranean Sea: Spain, France, Belgium, West Germany, Italy, and Greece. Additional processing countries in these areas should be designated by the Commitee, with the approval of the Secretary, as they become known and be added to the appropriate list.

It was proposed in the notice that the grade requirements prescribed in § 987.203(b)(2) for dates for further processing be applied to dates exported to those groups of countries. However, in its comments, the Committee stated that the higher grade requirements prescribed in § 987.203(b)(1) for dates for further processing should be applied to such dates. The Committee's recommendation is adopted.

Adoption of the Committee's recommendation requires insertion of a reference to § 987.155(a)(5) in § 987.203(b)(1) to make it clear that the grade requirements currently prescribed therein for certain dates for further processing for export to approved or particular countries are also applicable to the groups of countries prescribed in § 987.155(a)(5).

After consideration of all relevant matter presented, including that in the notice, the recommendation of the Committee and the written comments received from it pursuant to the notice, and other available information, it is hereby found that amendment of Subpart—Administrative Rules and Regulations establishing the two groups of countries, as hereinafter set forth, for export of restricted and other marketable dates certified as meeting the applicable grade requirements of § 987.203(b)(1) for further processing, is deemed essential to the promotion of orderly marketing and facilitate sales of such dates in export.

It is, therefore, ordered, That Subpart—Administrative Rules and Regulations (7 CFR 987.100–987.174; 36 F.R. 23137; 37 F.R. 1159; and 37 F.R. 5282) and Subpart—Grade and Size Regulations (7 CFR 987.202–987.218; 36 F.R. 23894; 37 F.R. 4900; and 37 F.R. 5282) be amended as follows:

1. In § 987.155(a)(1) "or (5)" is added immediately after "subparagraph (2)".

2. A new subparagraph (5) is added to paragraph (a) of § 987.155 reading as follows:

§ 987.155 Disposition of restricted and other marketable dates by export or diversion.

(a) * * *

(5) Restricted and other marketable dates certified as meeting the then current grade requirements in § 987.203(b)(1) for restricted dates for further processing may be exported (i) to the following designated date producing and processing countries of North Africa: Morocco, Algeria, Tunisia, Libya, Egypt, and Sudan, and (ii) to the following designated date processing and consuming countries north of the Mediterranean Sea: Spain, France, Belgium, West Germany, Italy, and Greece. Additional such date producing and processing and date processing and consuming countries may from time to time be similarly designated, after which such certified dates may be exported to such countries.

* * * * *

§ 987.203 [Amended]

3. In § 987.203(b)(1), delete the "and" between "§ 987.155(a)(1) and (2)", insert a comma after "(a)(1)" and insert "and (5)" after "(2)".

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action relieves restrictions by permitting exportation of dates for further processing to additional countries; (2) processors in foreign countries have expressed interest in importing such dates, and the California date industry should be afforded opportunity to supply such dates as soon as requests therefor are received; (3) handlers are aware of this interest, are prepared to export such dates immediately, and require no additional time for preparation; and (4) no useful purpose would be served by postponing the effective time of this action.

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

Dated March 30, 1972, to become effective upon publication in the FEDERAL REGISTER (4–4–72).

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

[FR Doc.72–5091 Filed 4–3–72;8:49 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Reg., 1971-Crop Wheat Supp., Amdt. 1]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1971-Crop Wheat Loan and Purchase Program

SUPPORT RATES, PREMIUMS AND DISCOUNTS

The regulations issued by the Commodity Credit Corporation, published at 36 F.R. 11714, containing regulations for the loan and purchase program applicable to the 1971 crop of wheat are amended to include wheat grading Ergoty which contains less than 5 percent ergot as eligible for warehouse storage loans with appropriate discounts for such quality of wheat. Significant quantities of 1971-crop wheat produced in some areas are grading "Ergoty". Without this relaxation of eligibility requirements, many producers who would otherwise be eligible for warehouse loans on wheat would be denied the advantages of the loan program. In view of this and the fact that loans are currently being made on 1971-crop wheat, it is hereby found and determined that compliance with the notice of proposed rule making procedure provided for in the Statement of Policy issued by the Secretary on July 20, 1971 (36 F.R. 13804), is impracticable and contrary to the public interest. Therefore, this amendment is being issued without following the proposed rule making procedure and will be effective on filing with the Office of the Federal Register.

This amendment to the regulations is as follows:

In § 1421.489, paragraph (b)(2), the following is added at the end of subdivision (ii):

Notwithstanding the provisions of paragraph (b)(4) of § 1421.461, wheat grading Ergoty which contains less than 5 percent of ergot will be eligible for a warehouse storage loan provided the wheat otherwise meets the eligibility requirements of § 1421.461. The following discounts shall apply:

Ergot content (percent)	*Discount (cents per bushel)*
0.31–0.40	1
0.41–0.50	2
0.51–0.60	3
0.61–0.70	4
0.71–0.80	5
0.81–0.90	6
0.91–1.00	7
1.01–4.99	10

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 107, 401, 63 Stat. 1051, 1054; 15 U.S.C. 714c, 7 U.S.C. 1441, 1421)

Effective date: Upon filing with the Office of the Federal Register.

Signed at Washington, D.C., on March 28, 1972.

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

[FR Doc.72-5133 Filed 4-3-72;8:52 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 72-EA-22, Amdt. 39-1429]

PART 39—AIRWORTHINESS DIRECTIVES

Consolidated Aeronautic Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Lake- and Colonial-type airplanes.

There has been a report of an inflight failure of a rod-end bearing on an LA-4 type airplane causing a loss of flap control. Because of the similarity of parts the foregoing deficiency can also exist on Colonial Aircraft. Thus an airworthiness directive is being issued to require a repetitive inspection and replacement when necessary.

Since the foregoing affects air safety, expeditious adoption of the amendment is required. Thus notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In view of the foregoing, the amendment is herewith made effective upon publication in the FEDERAL REGISTER (4-4-72).

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 adding the following new Airworthiness Directive:

CONSOLIDATED AERONAUTICS. Applies to Colonial Model C-1, C-2, and Lake Model LA-4, LA-4A, LA-4P, and LA-4-200 airplanes certificated in all categories, incorporating Flap Actuator Pushrod Assembly, Lake Aircraft Corporation P/N 2-7811-7.

Compliance required as indicated.

To prevent hazards in flight as a result of the failure of the rod-end bearing, P/N HM-5C, connected to the flap pushrod, P/N 2-7811-21, accomplish the following:

(a) Within the next 15 hours in service after the effective date of this AD, unless already accomplished within the last 10 hours in service, and at intervals thereafter not to exceed 25 hours in service from the last inspection:

Remove the rod-end bearing P/N HM-5C at the forward end of the flap pushrod:

(1) Visually inspect the rod-end bearing for corrosion and for freedom of motion of the ball. Lubricate the ball before reinstalling the rod end.

(2) With at least a 10-power glass, inspect the threaded portion of P/N HM-5C for cracks.

(b) Corroded, cracked, and binding parts must be replaced before further flight with parts inspected in accordance with this directive or with equivalent parts.

(c) When P/N HM-5G or an equivalent part is installed, the repetitive inspection specified in paragraph (a) may be discontinued.

(d) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the repetitive inspection interval specified in this AD. Equivalent parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region. [Lake Aircraft Division, Consolidated Aeronautics, Service Letter No. 39 pertains to this subject.]

(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 Jamaica, N.Y. on March 23, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72-5052 Filed 4-3-72;8:45 am]

[Airspace Docket No. 72-EA-26]

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

Alteration of Transition Area

The Federal Aviation Administration is amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Wrightstown, N.J., Transition Area (37 F.R. 2308).

Due to a recent cancellation of instrument approach and departure procedures to Red Bank Airport, Red Bank, N.J., there is no further need for portions of the subject transition area.

Since the foregoing is less restrictive in nature and imposes no burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective upon publication in the FEDERAL REGISTER (4-4-72), as follows:

Amend § 71.181 of Part 71, Federal Aviation Regulations, so as to amend the Wrightstown, N.J., 700-foot-floor transition area by deleting, "Within a 5-mile radius of Red Bank Airport (latitude 40°19'45" N., longitude 74°04'45" W.); within 3 miles north and 5 miles south of the Colts Neck VOR 255° and 075° radials extending from 5 miles east to 10 miles west of the VOR;" from the description.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c) of the Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on March 21, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72-5053 Filed 4-3-72;8:45 am]

[Airspace Docket No. 72-EA-30]

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

Revocation of Control Zone

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to revoke the Dublin, Va., Control Zone (37 F.R. 1359).

As of April 13, 1972, weather reporting service will no longer be available for the control zone. In view of the foregoing, it will be necessary to revoke the control zone.

Since the foregoing is a revocation of a rule 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 view of the foregoing, the proposed regulation is hereby adotped, effective 2200 G.m.t. April 12, 1972, as follows:

Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to revoke the Dublin, Va., control zone.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on March 17, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72-5054 Filed 4-3-72;8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-2165]

PART 13—PROHIBITED TRADE PRACTICES

Gregory & Goldberg, Inc., and Harry Goldberg

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Gregory & Goldberg, Inc., et al., New York, N.Y., Docket No. C-2165, Mar. 6, 1972]

In the Matter of Gregory & Goldberg, Inc., a Corporation, and Harry Goldberg, Individually and as an Officer of Said Corporation

Consent order requiring a New York City manufacturer and seller of women's apparel, including feather fabrics, to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Gregory & Goldberg, Inc., a corporation, and its officers, and Harry Goldberg, individually and as an officer of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling or offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported, in commerce, or selling or delivering after a sale or shipment in commerce, any product, fabric, or related material; or manufacturing for sale, selling or offering for sale any product made of fabric or related material which has been shipped or received in commerce, as "commerce", "product", "fabric" and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to an applicable standard or regulation issued, amended, or continued in effect, under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the feather fabric which gave rise to this complaint of the flammable nature of said feather fabric and effect recall of said feather fabric from such customers.

It is further ordered, That the respondents herein either process the feather fabric which gave rise to the complaint so as to bring it into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said feather fabric.

It is further ordered, That the respondents herein shall, within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the fabrics which gave rise to the complaint, (2) the amount of said fabrics in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said fabrics and effect the recall of said fabrics and of the results thereof, (4) any disposition of said fabrics since April 1, 1970, and (5) any action taken or proposed to be taken to bring said fabrics into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabrics, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton, or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric, or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: March 6, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-5081 Filed 4-3-72;8:48 am]

[Docket No. C-2166]

PART 13—PROHIBITED TRADE PRACTICES

Orr's of Bethlehem, Inc.

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Orr's of Bethlehem, Inc., Bethlehem, Pa., Docket No. C-2166, Mar. 6, 1972]

In the Matter of Orr's of Bethlehem, Inc., a Corporation

Consent order requiring a Bethlehem, Pa., seller and distributor of ladies', men's and children's wearing apparel and accessories, including women's fake fur coats, to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That the respondent Orr's of Bethlehem, Inc., a corporation, its successors and assigns, its officers and respondents' representatives, agents, and employees:

It is ordered, That the respondent Orr's of Bethlehem, Inc., a corporation, its successors and assigns, its officers and respondents' representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce any product, fabric, or related material; or manufacturing for sale, selling, or offering for sale, any product made of fabric or related material which has been shipped or received in commerce, as "commerce," "product," "fabric" or "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric, or related material fails to conform to any applicable standard or regulations continued in effect, issued, or amended under the provisions of the aforesaid Act.

It is further ordered, That the respondent notify all of its stores to whom have been delivered the products which gave rise to the complaint, of the flammable nature of said products, and effect recall of said products from such stores and, if identified, their customers.

It is further ordered, That the respondent herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondent herein shall, within ten (10) days after service upon it of this order, file with the Commission a special report in writing setting forth the respondent's intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products and of results thereof, (4) any disposition of said products since October 30, 1971, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton, or any other material or combination thereof in a weight of 2 ounces or less per square yard, or any product, fabric, or related material having a raised fiber surface. Upon request of the Commission the respondent shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or

any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Issued: March 6, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-5082 Filed 4-3-72;8:48 am]

[Docket No. C-2167]

PART 13—PROHIBITED TRADE PRACTICES

F. W. Woolworth Co.

Subpart—Furnishing false guaranties: § 13.1053 *Furnishing false guaranties:* 13.1053-30 Flammable Fabrics Act. Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.* Subpart—Misbranding or mislabeling: § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-80 Textile Fiber Products Identification Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717, 67 Stat. 111, as amended; 15 U.S.C. 45, 70, 1191) [Cease and desist order, F. W. Woolworth Co., New York, N.Y., Docket No. C-2167, Mar. 6, 1972]

In the Matter of F. W. Woolworth Co., a Corporation

Consent order requiring a New York City seller and distributor of textile fiber products and flammable fabrics, including ladies' pajamas, to cease violating the Textile Fiber Products Identification Act and the Flammable Fabrics Act by misbranding its textile fiber products and importing and selling any fabric which fails to conform to the standards of the Flammable Fabrics Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondent F. W. Woolworth Co., a corporation, and its officers, and respondent's representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any ladies' pajamas; or any product, fabric, or related material, imported by or manufactured under the control or direction of F. W. Woolworth Co., as the terms "commerce", "product", "fabric", or "related material" are defined in the Flammable Fabrics Act, as amended; or any other product, fabric, or related material, the manufacturer of which has not furnished a guaranty under section 8(a) of the Flammable Fabrics Act, as amended; and which ladies' pajamas, products, fabrics, or related material fail to conform to an applicable standard or regulation, issued, amended, or continued in effect under the provisions of the aforesaid Act; *Provided, however,* Nothing herein shall accord to the respondent immunity from any subsequent proceedings under section 3, 6(a), or 6(b) of the Flammable Fabrics Act, as amended. Further, nothing herein shall limit the authority of the Commission to extend the terms of the order to products, fabrics, or related materials presently excluded from this order in any subsequent proceeding against the respondent.

It is further ordered, That respondent notify all of its customers who have purchased or to whom have been delivered the products which gave rise to the complaint, of the flammable nature of said products, and effect the recall of said products from such customers.

It is further ordered, That the respondent herein either process the products which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondent herein shall, within ten (10) days after service upon it of this order, file with the Commission a special report in writing setting forth the respondent's intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since April 16, 1971, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action. Such report shall further inform the Commission as to whether or not respondent has in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton, or any other material or combinations thereof, in a weight of 2 ounces or less per square yard, or any product, fabric, or related material having a raised fiber surface. Upon request of the Commission the respondent shall submit samples of not less than 1 square yard in size of any product, fabric, or related material.

It is further ordered, That respondent F. W. Woolworth Co., a corporation and its officers, and respondent's representatives, agents, and employees, directly or through any corporate or other device, in connection with the introduction, delivery for introduction, manufacture for introduction, sale, advertising, or offering for sale, in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product, which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from misbranding textile fiber products by failing to affix labels to each such product showing in a clear, legible, and conspicuous manner each element of information required to be disclosed by section 4(b) of the Textile Fiber Products Identification Act.

It is further ordered, That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Issued: March 6, 1972.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.72-5083 Filed 4-3-72;8:48 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 53—TOMATO PRODUCTS

Tomato Catsup, Tomato Puree, and Tomato Paste; Confirmation of Effective Date of Order To Provide for Use of an Acidified Break Process

In the matter of amending the definitions and standards of identity of tomato catsup, tomato puree, and tomato paste (21 CFR 53.10, 53.20, and 53.30)

to provide for the use of an acidified break process:

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–56 as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections or requests for a hearing were filed to the order in the above-identified matter published in the FEDERAL REGISTER of December 30, 1971 (36 F.R. 25223). Accordingly, the amendment promulgated by that order became effective February 28, 1972.

Dated: March 24, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–5110 Filed 4–3–72;8:50 am]

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

FERMENTATION-DERIVED, MILK-CLOTTING ENZYME

Two petitions were filed proposing that the food additives regulation for safe use of fermentation-derived, milk-clotting enzymes in making cheese (21 CFR 121.1199) be amended to extend it to enzyme preparations derived from *Mucor miehei*. One of the petitions (FAP 1A2655) was filed by Wallerstein Laboratories, Division of Travenol Laboratories, Morton Grove, Ill. The other petition (FAP 2A2712) was filed by Novo Enzyme Corp., Mamaroneck, N.Y. Since a single amendment of the regulation is responsive to both petitions they are being approved together.

The Commissioner of Food and Drugs, having evaluated the data in both of the above-identified petitions, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use in cheese production of milk-clotting enzyme preparations derived from *Mucor miehei* by pure-culture fermentation processes.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.1199 is amended in paragraph (a) by adding a new subparagraph as follows:

§ 121.1199 Fermentation-derived, milk-clotting enzyme.

* * * * *

(a) * * *

(4) *Mucor miehei* Cooney et Emerson classified as follows: Class, Phycomycetes; subclass, Zygomycetes; order, Mucorales; family, Mucoraceae; genus, *Mucor;* species, *miehei;* variety, Cooney et Emerson.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (4–4–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: March 27, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–5109 Filed 4–3–72;8:50 am]

SUBCHAPTER C—DRUGS

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Coumaphos

The Commissioner of Food and Drugs has evaluated a new animal drug application (45–287V) filed by Chemagro Corp., Hawthorne Road, Post Office Box 4913, Kansas City, Mo. 64120, proposing an amendment to the regulations to provide for use of Coumaphos Crumbles for the control of gastrointestinal roundworms in cattle. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended by adding the following new section:

§ 135c.65 Coumaphos crumbles.

(a) *Chemical name.* *O,O*-Diethyl *O*-3-chloro-4-methyl-2-oxo-2H-1-benzopyran-7-yl-phosphorothioate.

(b) *Specifications.* Coumaphos Crumbles contain 0.32 percent coumaphos.

(c) *Sponsor.* See code No. 007 in § 135.501(c) of this chapter.

(d) *Special considerations.* Adequate directions and warnings for use must be given and shall include a statement that coumaphos is a cholinesterase inhibitor and that animals being treated with coumaphos should not be exposed during or within a few days before or after treatment with any other cholinesterase inhibiting drugs, insecticides, pesticides, or chemicals.

(e) *Related tolerances.* See 40 CFR 180.189.

(f) *Conditions of use.* It is used as a top dressing on the daily feed ration of cattle for the control of gastrointestinal roundworms (*Haemonchus* spp., *Ostertagia* spp., *Cooperia* spp., *Nematodirus* spp., and *Trichostrongylus* spp.). It is administered at the rate of 1 ounce of coumaphos crumbles per 100 pounds of body weight per day for six consecutive days. Should conditions warrant, treatment should be repeated at 30 day intervals. Not to be fed to cattle less than 3 months old. Not to be fed to sick animals or animals under stress such as those just shipped, dehorned, castrated, or weaned within the previous 3 weeks. Not to be used in conjunction with oral drenches or with feeds containing phenothiazine.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER. (4–4–72)

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

Dated: March 24, 1972.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.72–5112 Filed 4–3–72;8:50 am]

PART 165—HABIT-FORMING DRUGS

Revocation of Exemption of Paregoric From Prescription Requirements

In the FEDERAL REGISTER of October 20, 1971 (36 F.R. 20306), a notice was published proposing to remove the exemption of paregoric, a camphorated tincture of opium, and other opium-containing combinations from the prescription dispensing requirements of section 503(b)(1)(A) of the Federal Food, Drug, and Cosmetic Act under § 165.5(a)(1) of the habit-forming drug regulations (21 CFR 165.5(a)(1)).

Comments came from six different sources and were varied. The American Pharmaceutical Association, two pharmaceutical manufacturers, and a private individual opposed the proposal. A law enforcement agency and a State pharmaceutical association favored the proposal.

The following comments were made in opposition to the proposal:

1. Paregoric has served as a low-cost, readily-available, and legitimate home remedy for many years. Prescription dispensing of the drug would make it more expensive for the consumer.

2. The decision to place paregoric in prescription status should be left to the discretion of the individual States.

3. The proposed action should be revised so as not to apply to paregoric-containing combination drugs having lower levels of opium. These drugs have a limited potential for abuse and are adequately regulated by their classification in Schedule V of the Comprehensive Drug Abuse Prevention and Control Act of 1970. The Department of Justice's Bureau of Narcotics and Dangerous Drugs shares this opinion.

The following comments were made in favor of the proposal:

(1) The revocation will provide for better enforcement of the Controlled Substances Act of 1970 by eliminating problems encountered within States where paregoric is not subject to prescription dispensing.

(2) The revocation will provide for better enforcement of the Controlled Substances Act of 1970 by eliminating the problems experienced by the practicing pharmacists because of differing policies toward paregoric in adjacent States.

(3) In addition to the documented abuse by addicts, experience among law enforcement agencies indicates that paregoric may be used by "neophyte addicts" as a bridge leading to abuse of the so-called "hard" narcotics such as heroin and cocaine.

The Commissioner of Food and Drugs has considered the comments and finds that paregoric should be restricted to prescription sale. Because of the documented abuse potential of paregoric, neither long-standing availability nor price should serve as criteria for continuing its over-the-counter status. Further, the Commissioner finds that, in view of the limited potential for abuse of the paregoric-containing combinations which have lower levels of opium and are provided for in Schedule V of the Comprehensive Drug Abuse Prevention and Control Act of 1970, such preparations need not be restricted to prescription sale.

Accordingly, the Commissioner of Food and Drugs concludes that it is in the public interest for paregoric and other products containing more than 100 milligrams of opium per 100 milliliters or per 100 grams to be restricted to prescription sale. Therefore they must be labeled with the statement, "Caution: Federal law prohibits dispensing without prescription," as required by section 503 (b)(4) of the Federal Food, Drug, and Cosmetic Act.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502 (a) and (f), 503(b), 701(a), 52 Stat. 1050–52 as amended, 1055; 21 U.S.C. 352 (a) and (f), 353(b), 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), § 165.5 is amended by revising paragraph (a)(1) to read as follows:

§ 165.5 Exemption of certain habit-forming drugs from prescription requirements.

* * * * *

(a) * * *

(1) Pharmaceutical preparations containing not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

* * * * *

Effective date. This order shall become effective 60 days after its date of publication in the FEDERAL REGISTER.

(Secs. 502 (a) and (f), 503(b), 701(a), 52 Stat. 1050–52 as amended, 1055; 21 U.S.C. 352 (a) and (f), 353(b), 371(a))

Dated: March 24, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-5111 Filed 4-3-72;8:50 am]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 2—PUBLIC USE AND RECREATION

Possession and Use of Drugs and Alcohol

On page 1365 of the FEDERAL REGISTER of January 28, 1972, there was published a notice of proposed rule making to amend Title 36 of the Code of Federal Regulations by addition of § 2.37 containing regulations governing use and possession of drugs in areas of the National Park System, and to amend existing National Park Service regulations in § 2.16 concerning intoxication and possession of alcohol by minors.

The effect of the amendments is to prohibit possession and delivery of certain drugs in park areas and to transfer regulations concerning drug incapacitation from § 2.16 to the new § 2.37. Slight changes in wording were made in § 2.16.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations. No comments have been received and therefore the proposed regulations are hereby adopted without change and are set forth below.

Effective date. These regulations shall be effective 30 days after publication of this notice in the FEDERAL REGISTER.

(5 U.S.C. 553; 39 Stat. 535; as amended; 16 U.S.C. 3)

Dated: March 27, 1972.

RAYMOND L. FREEMAN,
Acting Director, National Park Service.

Section 2.16(a) is amended to read as follows:

§ 2.16 Intoxication; possession of alcohol by minors.

(a) Presence in a park area when under the influence of alcohol, to a degree that may endanger oneself, or another person, or property, or may cause unreasonable interference with another person's enjoyment of a park area is prohibited.

* * * * *

Section 2.37 is added to read as follows:

§ 2.37 Possession and delivery of controlled substances: Incapacitation.

(a) *Definitions.* (1) The term "controlled substance" means a drug or other substance, or immediate precursor, included in Schedules I, II, III, IV, or V of Part B of the Controlled Substance Act (title 21, United States Code, section 812) or any drug or substance added to these schedules pursuant to the terms of the Act.

(2) The term "practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted by the United States or the jurisdiction in which he practices to distribute or possess a controlled substance in the course of professional practice.

(3) The term "delivery" means the actual, attempted or constructive transfer of a controlled substance, whether or not there exists an agency relationship.

(b) *Offenses.* (1) The delivery of any controlled substance is prohibited, provided that distribution by a practitioner in accordance with applicable law is permitted.

(2) The possession of a controlled substance is prohibited unless such substance was obtained by the possessor directly, or pursuant to a valid prescription or order, from a practitioner acting in the course of his professional practice, or except as otherwise authorized by applicable law.

(3) Presence in a park area when under the influence of a controlled substance to a degree that may endanger oneself, or another person, or property, or may cause unreasonable interference with another person's enjoyment of a park area, is prohibited.

[FR Doc.72-5085 Filed 4-3-72;8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 4—Department of Agriculture

PROCUREMENT

Miscellaneous Amendments to Chapter

These amendments involve matters relating to agency management and to contracts and include rules interpreting and implementing existing regulations of other Federal agencies which are not subject to the notice and public procedure requirements for rule making under 5 U.S.C. 553. It is in the public interest that these provisions be made effective immediately. Accordingly, in accordance with the Secretary's Statement of Policy (36 F.R. 13804) it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest.

(Executive Order 11246, as amended; 26 U.S.C. 50)

PART 4-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

1. Section 4-4.5099 is amended by adding paragraph (d) as follows:

§ 4–4.5099 Visual services.

* * * * *

(d) *Microform Retrieval Equipment Guide.* As a guide for determining equipment selection and other general information concerning the uses of microfilm retrieval equipment, agencies may obtain from GSA supply depots the Microform Retrieval Equipment Guide. Ordering information is shown below.

Stock No.	Title
7610–181–7579	Microform Retrieval Equipment Guide

PART 4–12—LABOR

1. Section 4–12.805–5 is amended by revising paragraph (c) and adding paragraph (d) as follows:

§ 4–12.805–5 Compliance reviews.

* * * * *

(c) The following information shall be prepared by each agency for all active construction contracts exceeding $10,000 (except FHA need not report single dwelling construction and REA shall submit loan announcements and annual statistical reports in lieu of these requirements) and submitted in duplicate to the Contract and Supply Management Staff, Office of Plant and Operations, by January 20 for the 6-month period July 1 through December 31, and by July 20 for the 6-month period January 1 through June 30 of each fiscal year:

(1) Name of agency;

(2) Contract number;

(3) Description and location of project;

(4) Names and address of contractor(s);

(5) Amount of contract and date of award;

(6) Percent of completion.

(d) The Federal agency awarding or administering a federally involved construction contract in a "Hometown" or "Imposed" plan area has the responsibility of ensuring that the contractors and subcontractors are informed of their contractual obligations under Executive Order 11246, as amended. Compliance reviews are the responsibility of the Department as stated in paragraph (a) of this section. However, agencies shall take measures to provide assistance in the programs for equal employment opportunity in the construction industry. The following are construction compliance review procedures applicable to "Hometown" and "Imposed" plan areas as listed in § 4–12.810 and Part 4–52 of this chapter:

(1) *General*—(i) *Purpose.* The construction compliance review is to determine whether the contractor and all covered subcontractors are in compliance with the Executive Order.

(ii) *General method.* The time needed for a compliance review will vary according to the size of the project. There will be two important phases in each review. In phase one, taking place before the site visit, the Compliance Officer will analyze the personnel, personnel policies, practices and programs of the prime and subcontractors to determine problem areas, if any. In the second phase, the Compliance Officer will conduct site visits and prepare a detailed compliance review report.

(iii) *Site visits.* Site visits shall be scheduled in accordance with the type of construction project that is being accomplished. The projected construction flow system (PERT Chart) for major projects, which is developed by most prime contractors, will provide information as to where the project will be at various phases. An agency's engineering office can also predict anticipated progress. The site visits for building construction should be scheduled approximately as follows:

Time of visit	Percent of completion
1st	10–15 percent (Or the period when the foundation is being poured and structure is about to rise out of the excavation).
2d	45–55 percent (Or the period when the structure is going up and the framing work is underway).
3d	70–80 percent (Or the period just before the finishing work begins).

Timing of site visits for other projects, such as roads and bridges, should be based upon the principle expressed above.

(2) *Phase 1 of the review.* Most actions during this phase will be accomplished by the Compliance Officer. Thirty days prior to each site visit, the Compliance Officer shall notify the prime contractor of a visit and request a meeting space be reserved on the day of the visit at the home office or at the job site. The Contracting Officer shall be notified in a similar manner. The Contracting Officer shall also be furnished information relative to the affirmative action progress of the prime contractor and subcontractors.

(3) *Phase 2 of the review.* The Compliance Officer shall accomplish the following during each initial site visit:

(i) Inform contractor and subcontractors of the objective of the visit.

(ii) Inform the contractor how he will be advised of the results and what action may be required of him and his subcontractors.

(iii) Discussion of actual workings of the contractor's hiring practices.

(iv) The Compliance Officer shall make a physical tour of the construction site to determine whether or not EEO posters are properly displayed and physical facilities are integrated and to substantiate data by a head count and employee interview.

(v) Determination of employee job category, upgrading opportunities, and how employees were placed on the job shall be accomplished.

Subsequent reviews will involve checking on the progress of contractor's minority manpower utilization goals contained in the plan and a review of progress made concerning any deficiencies noted in the initial review.

2. Section 4–12.810(d) is revised to read as follows:

§ 4–12.810 Affirmative action compliance program.

* * * * *

(d) Bid conditions for all nonexempt Federal and federally assisted construction contracts. "Hometown" and "Imposed" plans contain bid conditions that set forth affirmative action and equal employment opportunity requirements that are to be included in all invitation for bids for use in connection with nonexempt Federal and federally assisted construction contracts located in the plan areas. Nonexempt Federal and federally assisted construction contracts are those estimated to exceed $10,000 for "Hometown" plans and $500,000 for "Imposed" plans. The bid conditions for "Imposed" plans are listed in Part 4–52 of this chapter. The following is a listing of "Hometown" plans:

(1) *Alameda.* Alameda County, Calif.

(2) *Arizona.* State of Arizona.

(3) *Boston.* Cities of Arlington, Boston, Belmont, Brookline, Burlington, Cambridge, Canton, Chelsea, Dedham, Everett, Malden, Medford, Melrose, Milton, Norwood, Reading, Revere, Sommerville, Stoneham, Wakefield, Westwood, Winthrop, Winchester, Woburn, and the Islands of Boston Harbor, Mass.

(4) *Buffalo.* Erie County and Buffalo, N.Y.

(5) *Cincinnati.* Ohio counties of Clermont, Hamilton, and Warren and in the Kentucky counties of Boone, Campbell, Kenton, and Dearborn.

(6) *Cleveland.* Cuyahoga, Carroll, Medina, Ashtabula, Erie, Geauga, Huron, Lake, Lorain, Seneca, Sandusky, Coshocton, Harrison, Holmes, Tuscarawas, Wayne, Ashland, Crawford, and Ottawa Counties, Ohio.

(7) *Contra Costa.* Contra Costa County, Calif.

(8) *Dayton.* Greene, Miami, Montgomery, and Preble Counties, Ohio.

(9) *Delaware.* State of Delaware.

(10) *Denver.* Adams, Boulder, Jefferson, Arapahoe, and Denver Counties, Colo.

(11) *Detroit.* Wayne, Oakland, and Macomb Counties, Mich.

(12) *El Paso.* El Paso County, Tex.

(13) *Evansville.* Vanderburgh County, Ind.

(14) *Fresno.* Fresno, Madera, Kings, and Tulare Counties, Calif.

(15) *Indianapolis.* Marion County, Ind.

(16) *Kansas City.* Clay, Platte, Jackson, Bates, Carroll, Lafayette, Ray, Johnson, Henry, and Cass Counties, Mo.; and Wyandotte, Johnson, and Miami Counties, Kans.

(17) *Little Rock.* Pulaski County, Ark.

(18) *Los Angeles.* Los Angeles County, Calif.

(19) *Monterey.* Monterey County, Calif.

(20) *Nashville.* City of Nashville, Tenn.

(21) *New Bedford.* New Bedford, Dartmouth, Fairhaven, Acushnett, Rochester, Marion, Mettapoisett, Wareham, Barnstable, Duke, and Nantucket Counties, Mass.

(22) *New Haven.* Includes the following cities and towns in Connecticut: Woodbridge, Guilford, Clinton, Bethany, Madison, Killingworth, New Haven, Cheshire, Chester, North Haven, Wallingford, East Haven, Hamden, North Branford, West Haven, Branford, Durham, and Orange.

(23) *New Orleans.* Orleans, Jefferson, St. Bernard, St. Tammany, St. Charles, St. John, Lafourche, Plaquemines, Washington, Terrebonne, Tangipahoa, Livingston, and St. James Parishes, La.

(24) *North Bay.* Solano, Napa, Lake, Marin, Sonoma, and Mendocino Counties, Calif.

(25) *Pittsburgh.* Allegheny County, Pa.

(26) *Rhode Island.* State of Rhode Island.

(27) *Rochester.* Area of jurisdiction of the Allied Building Trades Council of Rochester, New York, and vicinity in Monroe, Livingston, Wayne, and Ontario Counties.

(28) *San Mateo.* San Mateo County, Calif.

(29) *Santa Clara.* Santa Clara County, Calif.

(30) *Santa Cruz.* Santa Cruz County, Calif.

(31) *Seattle.* King County, Wash.

(32) *Spokane.* This area includes the following counties: Washington counties: Spokane, Whitman, Lincoln, Adams, Stevens, Pend Oreille, Columbia, Garfield, Asotin, and Ferry and in connection with Indian employment, Okanogan and parts of any other counties included in reservations incorporating portions of the above area; Idaho counties: Boundary, Bonner, Kootenai, Shoshone, Benewah, Latah, Clearwater, Nez Perce, Lewis, and Idaho, and in connection with Indian employment, any other territory included in reservations, part of which are in the above counties.

(i) All bidders must comply with the bid conditions contained in the invitation to be considered responsible bidders and hence eligible for the award. Part I of the bid conditions applies to those trades covered by the applicable "Hometown" plan. Part II of the bid conditions contains the requirement for submission of the affirmative action plan for those trades not covered by the "Hometown" plan.

(ii) Bid conditions for these plans will not be distributed to the agencies because some of the plans are being amended and agency distribution would necessitate frequent updatings. Agencies should request copies of the bid conditions for the listed "Hometown" plans, as needed from the Contracts and Supply Management Staff, Office of Plant and Operations, Washington, D.C. 20250.

PART 4–16—PROCUREMENT FORMS

1. The table of contents for Part 4–16 is amended as follows:

a. The following entries are deleted:

Sec.
4–16.950–375 Form AD–375: Invitation, bid and award (Supply—under $10,000). [Deleted]
4–16.950–376 Form AD–376: Invitation, bid, and award (Service). [Deleted]
4–16.950–384 Form AD–384: Instructions to contractors. [Deleted]

b. The following entry is revised to read as follows:

Sec.
4–16.950–425 Form AD–425: Instructions to contractors.

2. Section 4–16.150 is revised to read as follows:

§ 4–16.150 Invitation, bid, and award.

The Standard Form 33 shall be used for supply contracts when procured by formal advertising.

3. Section 4–16.500 is revised to read as follows:

§ 4–16.500 Invitation, bid, and award (Service).

The forms prescribed in §§ 1–16.101 and 1–16.201 of this title shall be utilized for advertised and negotiated nonpersonal service contracts (other than construction).

Effective date. Upon publication in the FEDERAL REGISTER (4–4–72).

Done at Washington, D.C., this 30th day of March 1972.

T. M. BALDAUF,
Director of Plant and Operations.

[FR Doc.72–5134 Filed 4–3–72;8:52 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 72–249]

PART 0—COMMISSION ORGANIZATION

Executive Advisory Council

Order. In the matter of amendment of § 0.6 to expand organizational scope of Executive Advisory Council.

1. The Executive Advisory Council was established to provide a mechanism through which the principal operating staff units in the Commission could more effectively carry out their program responsibility. Experience with and accomplishments through the use of the Council to date convince the Commission that the organizational scope of the Council should be expanded.

2. The amendments set forth in the appendix to this order relate to internal Commission organization and practice so that the prior notice provisions of section 4 of the Administrative Procedure Act, 553, do not apply, and amendments can be effective immediately. Authority for the amendment is set out in 4(i), 5(d), and 303(r) of the Communications Act of 1934, as amended.

3. In view of the foregoing: *It is ordered,* Effective April 7, 1972, that Part O of the rules and regulations is amended as set forth below.

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

Adopted: March 23, 1972.

Released: March 28, 1972.

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

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

1. Section 0.6 is revised to read as follows:

§ 0.6 Executive Advisory Council.

The Executive Advisory Council provides a forum for the interchange of information and ideas among the Commission's principal staff components. The Council coordinates Commission programs and activities; analyzes problems and issues of concern to the members of the Council; and develops recommendations for action by the Chairman and the Commission. The membership is composed of the head of each principal staff unit in the Commission.

[FR Doc.72–5064 Filed 4–3–72;8:46 am]

[FCC 72–271]

PART 0—COMMISSION ORGANIZATION

Chairman; Authority To Perform Contractual Services

Order. In the matter of amendment of § 0.211.

1. The amendment set forth below incorporates in Subpart B of Part 0 of the Commission's rules delegated authority to perform contractual services for the Commission.

2. Heretofore the delegation for contractual services has not been included in Subpart B of Part 0 of the Commission's rules. This is because the function pertains primarily to the internal affairs of the Commission. In view of the expansion of the Commission's contracting activity and the resultant public involvement, it now appears to be in the public interest to include the delegation for this activity in the Commission's published Delegations of Authority.

3. Authority for the amendment set out below is contained in 4(i), 5(d) and 303(r) of the Communications Act of 1934, as amended. As the amendment relates to matters of internal Commission organization and procedure, the prior notice and public procedure provisions of 5 U.S.C. 553 do not apply.

4. In view of the foregoing: *It is ordered,* Effective April 7, 1972, that Part 0 of the rules and regulations is amended as set forth below.

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

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

Adopted: March 23, 1972.

Released: March 28, 1972.

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

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

1. Section 0.211(e) is added to read as follows:

§ 0.211 **Chairman.**

* * * * *

(e) To act as Contracting Officer for the Commission and to designate appropriate subordinate officials to act as Contracting Officer for the Commission.

[FR Doc.72-5063 Filed 4-3-72;8:46 am]

[Docket No. 18893; FCC 72-263]

PART 73—RADIO BROADCAST SERVICES

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

Showing of Sports Events on Over-the-Air Subscription Television or by Cablecasting

Report and order. In the matter of amendment of §§ 73.643(b)(2) and 74.1121(a)(2) of the Commission's rules and regulations Pertaining to the Showing of Sports Events on over-the-air Subscription Television or by Cablecasting,[1] Docket No. 18893.

1. The Commission has before it comments and reply comments filed in response to a notice of proposed rule making released in this docket on July 1, 1970, 35 F.R. 11040, which proposed to amend the rules as indicated in the caption above.[2] Before evaluating the comments, the following information, paraphrasing the notice, is presented to set the proposed amendments in perspective.

BACKGROUND

2. In a Fourth Report and Order in Docket No. 11279, the Commission established an over-the-air subscription television service (STV). "Subscription Television," 15 FCC 2d 466 (1968). This action was affirmed in subsequent court proceedings. "National Association of Theatre Owners, et al. v. FCC," 420 F. 2d 194 (D.C. Cir. 1969), cert. denied, 397 U.S. 922 (1970). Among the rules adopted to govern the new service were the so-called antisiphoning rules, 47 CFR § 73.643(b) (1)–(3) (1969). It had been argued that if STV were established, it would outbid conventional TV for programs and that viewers would then have to pay for what they previously were able to see without direct charge. The antisiphoning rules are designed to prevent this.

3. More specifically, they are intended to prevent siphoning of three kinds of programs from conventional TV-feature films, series-type programs with interconnected plot or substantially the same cast of principal characters, and sports events—by prohibiting (with various exceptions) their showing on STV. The Commission was of the view that some competition between conventional TV and STV might result in improved and more varied fare both for STV viewers and for those who continue to rely on conventional TV, and for this reason did not adopt rules to protect against siphoning of every kind of programing appearing on conventional TV. However, since the aforementioned three kinds constitute a substantial part of what is shown on conventional television, the protection is considerable.

4. In a Memorandum Opinion and Order in Docket No. 18937, released July 1, 1970, CATV, 23 FCC 2d 825 (1970), the antisiphoning rules governing STV were extended to apply to cablecasting [5] which is accompanied by a per-program or per-channel fee, because the Commission believed that such cablecasting is akin to STV and presents the same threat of program siphoning. The rules were not made applicable to cablecasting that is unaccompanied by such fees since it does not appear to pose a significant threat of siphoning and the development of such service would be inhibited by them.

5. The instant proceeding deals with proposed amendment of the antisiphoning rules concerning the showing of sports events over STV or by cablecasting, as set forth in the notice. However, the present report and order is limited to the proposed amendment of the rule concerning the showing of sports events on STV, and consideration will only be given to comments filed herein insofar as they pertain to that subject.[4] The present sports rule for STV—§ 73.643(b)(2)—reads as follows:

Sports events shall not be broadcast which have been televised live on a nonsubscription, regular basis in the community during the 2 years preceding their proposed subscription broadcast: *Provided, however,* That if the last regular occurrence of a specific event (e.g., summer Olympic games) was more than 2 years before the proposed showing on subscription television in a community, and the event was at that time televised on conventional television in that community, it shall not be broadcast on a subscription basis.

NOTE 1: In determining whether a sports event has been televised in a community on a nonsubscription basis, only commercial television broadcast stations which place a Grade A contour over the entire community will be considered. Such stations need not necessarily be licensed to serve that community.

NOTE 2: The manner in which this subparagraph will be administered and in which "sports," "sports events," and "televised live on a nonsubscription regular basis" will be construed is explained in paragraphs 288–305 of the Fourth Report and Order in Docket No. 11279, 15 F.C.C. 2d 466.

6. The rationale of the rule is that by prohibiting the STV operator from showing sports events that have been regularly shown in his community over conventional television during the past 2 years, STV will not compete with conventional television for them and they will continue to be shown over the latter medium. However, sports events that have not been available on conventional TV during that period, such as "blacked-out" home games of professional football teams, could, under the rule, be shown over STV.

7. Doubts about the efficacy of the sports rule as a siphoning preventive were expressed prior to the adoption of the rule in the STV proceeding and also in Congressional STV hearings held after its adoption. "Hearings Before the Subcommittee on Communications and Power of the House Committee on Interstate and Foreign Commerce", 91st Cong., 1st Sess. Serial No. 91–37, at, e.g., 25–29, 55, 118–119, 247–254, 303–347, 369–380 (1969). The doubts arise from the belief that the owner of TV rights to a sports event might be willing to withhold the event from conventional TV for a period of 2 years in order to make it eligible, under the rules, for showing over STV thereafter at a greater profit.[5] In adopting the rule, the Commission observed that such rules would be avoided because of the adverse publicity that would redound to the detriment of those engaging in such practices. It also

[3] Commissioner Bartley not participating; Commissioners Robert E. Lee and Johnson absent.

[1] Section 73.643(b)(2) governs the showing of sports events on over-the-air subscription television. Section 74.1121(a)(2) governs cablecasting. This document only amends the former section (see paragraph 5 infra).

[2] Comments were filed by: American Broadcasting Co. (ABC); Association of Maximum Service Telecasters, Inc. (MST); John R. Fitzgerald (Fitzgerald); National Association of Broadcasters (NAB); National Broadcasting Co., Inc. (NBC); National Cable Television Association, Inc. (NCTA); Vue-Metrics, Inc. (Vue-Metrics); and Zenith Radio Corp., and Teco, Inc. (Zenith-Teco). Reply comments were filed by: ABC; MST; Teleglobe Pay-TV System, Inc. (Teleglobe); and Lawrence M. Turet (Turet).

[5] Commission rules define "cablecasting" as "television programing distributed on a CATV system which has been originated by the CATV operator or by another entity, exclusive of television broadcast signals distributed on the system." 47 CFR 74.1001(1) (1969).

[4] Materials in the comments that pertains to the sports rule for cablecasting will be given consideration at a later date.

[5] Actually, under the present rule, the event would only have to be withheld for 1 year in order to be eligible for STV showing. Note 2 of the rule provides that the meaning of "televised live on a nonsubscription regular basis" will be construed in accordance with what is said in paragraphs 288–305 of the Fourth Report and Order in Docket No. 11279. These paragraphs state that sports events must have been shown over conventional TV in a community during each of the 2 years preceding proposed STV showing in order to be considered as having been broadcast on a regular basis during the 2-year period. Thus, if the event appeared on conventional TV during one of the 2 years but not the other, it would be eligible for showing on STV.

announced that it had no intention of creating new markets for owners of TV rights to sports events, and that it would keep the operation of the rule under close scrutiny and take necessary action if undesired developments occurred. It indicated that such action might include amending the rule to provide a 5-year standard instead of a 2-year standard (on the theory that owners of TV rights might not wish to withhold sports events from conventional TV for a period of 5 years in order to show the events subsequently on STV because the loss of revenue would be too great).

THE PROPOSAL

8. In the notice of proposed rule making we noted the concern over the efficacy of the sports rule that had been expressed at the aforementioned Congressional hearings. We also observed that this concern was mirrored in H.R. 16418, reported out of the Committee on Interstate and Foreign Commerce of the House of Representatives on May 19, 1970, H.R. Rept. No. 91–1110, 91st Cong., 2d Sess., which was then awaiting action on the floor of the House. Among other things, that bill proposed to amend the Communications Act to provide that sports events could not be broadcast over STV if they had been televised on a regular basis in the community on conventional TV during any period in the 5 years preceding their proposed STV broadcast.

9. The notice stated that the Congressional hearings had furnished helpful information about the sports rule and that on further consideration we thought it would be in the public interest to amend the rule to make it more effective in precluding possible sports siphoning. We acknowledged the fact that if the proposed legislation were passed it would override Commission rules on the subject, but that if it were not passed, the Commission rules would naturally prevail and the new proposal, if adopted, should serve to remove all uncertainty about siphoning of sports events. The second session of the 91st Congress adjourned without passing the bill and we are today adopting an amended sports antisiphoning rule for STV.[6]

10. In the notice, we proposed the following 5-year rule to govern the showing of sports events over STV:

> Sports events may not be broadcast (live) if such events have been televised live on a nonsubscription, regular basis in the community during any one year in the 5 years preceding their proposed subscription broadcast.

The proposal also stated that Note 1 and Note 2 of the present sports rule (paragraph 5 supra) would be carried over as a part of the new rule. In addition to comments on the basic proposal, comments were specifically invited as to possible modifications in the concepts of paragraphs 288–305 referred to in Note 2. (Those paragraphs constitute the "legislative history" of the sports rule.)

DISCUSSION OF COMMENTS

11. All parties support the proposed change from a 2-year to a 5-year standard.[7] Having considered the matter carefully, we are of the view that such a change will serve the public interest by more effectively preventing siphoning, and we are amending the sports rule accordingly. However, some parties, although approving the change, point to deficiencies in our proposal which they believe should be rectified.

12. Delayed showing by STV. One such deficiency, mentioned by ABC, Fitzgerald, MST, and NAB, is that the proposed rule states that sports events "may not be broadcast over STV (live)" if such events have been televised live on a nonsubscription, regular basis over conventional TV. The word "(live)" does not appear in the present rule. It is urged that introducing this word in the proposed rule is potentially destructive of the Commission's objective since it would permit evasion of the regulatory prohibition by using the expedient of taping a sports event and then showing it on STV an hour or so later, or perhaps 5 or 10 seconds later—an "instant replay." Since they would not be live, it is argued, such delayed showings would be outside the purview of the rule. On the other hand, we are told, the present rule does not contain the word "(live)" and therefore would prohibit such delayed showings.

13. We think the point is well taken and that the proscription of the proposed rule should not be limited to live showings over STV but should extend to replays as well. It is clear, for example, that instant replays could siphon sporting events just as surely as live showing of those events could. Thus, as MST states, the entire World Series could be put on instant replay over STV under the proposed rules regardless of the fact that this event had in the past been regularly shown over conventional television.

14. However, to omit the word "(live)" from the rule, thereby leaving the rule, in this respect, exactly as it now is, presents another problem. So phrased, the rule would prohibit, as it presently does, all delayed showings. This means that if an event had been regularly shown over conventional TV, STV could not show it on instant replay 1 or 2 seconds later, or at any other time—even a week or a month later. We believe that such a rule is too broad, for it must be borne in mind that the purpose of the rule is to prevent siphoning of sports events that have been regularly shown live over conventional TV. It is in the nature of many sports events (World Series, Super Bowl, etc.) that they have allure largely because of their timeliness. Though they may hold some interest for viewers if not shown at the moment they occur or very shortly thereafter, it is likely that permitting them to be shown on STV at a considerable remove in time from the actual occurrence of the events would not result in their being siphoned from conventional TV. It is possible that, for some reason, an STV operator might, on occasion, wish to show "old" sports events. We see no reason why he should not be allowed to do so.

15. If it is conceded that some delayed showings should be prohibited and some should not, the question then resolves itself into where to draw the line. Clearly instant replays should be prohibited. What about a half-hour delay? An hour delay? A 20-hour delay? Any such decision must, to some extent, be arbitrary. We are of the view that prohibiting delayed STV showing of a sports event on the same day that the event occurs, and permitting delayed STV showing thereafter, is a reasonable standard, and the rule we adopt today reflects this view. The rule, of course, also prohibits live showing over STV.

16. Delayed showing by conventional TV. ABC, Fitzgerald, and MST point to another deficiency. The rule as it now exists and as proposed protects against the siphoning to STV of sports events that have been regularly shown live over conventional television. Paragraph 305 of the Fourth Report and Order stated:

> * * * (I)t is our belief that only sports events that are broadcast live should be afforded protection, and the rule reflects this view. It appears unlikely that STV would wish, or be able, to sell taped sports programs. To the extent that they should do so, we believe that this sort of programming should be open to competition between the two TV services. This means, then, the showing of such a program as ABC's Wide World of Sports consisting, generally, of taped sports events would not prevent the showing of similar programs on STV.

The aforementioned parties suggest that we consider giving antisiphoning protection not only to sports events that are shown live over conventional TV, but also to those which that medium shows on a delayed basis.

17. ABC, for example, urges that antisiphoning protection be extended to sports events that are presented on conventional TV as brief tape delays if the event carried is not necessarily timely. At a minimum, it argues, certain events that occasion even shorter delays arising from coast-to-coast or international time differences, in order to accommodate the viewing habits of the public, should be protected. Finally, ABC believes that conventional TV programs like the "Wide World of Sports" (in which tapes are generally shown after a relatively long delay) present, in whole or in substantial part sports events that are otherwise not available and that they develop an audience for certain sports events that should not be taken away by STV. In this connection, it avers that taped sports programs and events otherwise not covered often provide a basic program ingredient for independent UHF stations.

18. Like ABC, MST mentions that the rule does not prevent siphoning of sports programing such as "Wide World of

[6] Substantially the same bill has been introduced in the 92d Cong., 1st Sess., as H.R. 670. If that bill is passed, it will, of course, supersede the rule adopted by the Commission.

[7] NCTA opposed a 5-year standard, but since its comments were directed entirely to cablecasting, they are not considered herein. See Note 4 supra.

Sports," and adds that antisiphoning protection is likewise not given to delayed play-by-play broadcasts of regular games. It, too, states that since such programing can be of importance in the development and survival of independent UHF stations the subject should be reconsidered.

19. Fitzgerald points out that the antisiphoning rule does not prevent the siphoning of tape-delayed programs and gives a specific example in New York City. He states that out-of-town games of the New York Rangers and the New York Knickerbockers are presented over conventional TV in New York on a half-hour or 1-hour videotape delayed basis. He mentions that for most viewers the results are virtually like live broadcasts. (Since the results are not known when the viewer tunes in, he says, the situation is not like ABC's "Wide World of Sports".) Mr. Fitzgerald suggests that protection should be given to such events by defining the word "live" as a telecast that is simultaneous with the actual occurrence of the event, or that is shown within a certain number of hours (less than 24) of its occurrence, or that is shown on delayed tape while the event is still in progress.

20. We agree to some extent with the foregoing arguments that events shown on a delayed basis on conventional television should be given antisiphoning protection. Thus, we think it clear that protection should be given in the type of situation mentioned by Fitzgerald where the delayed viewing of the event is virtually like viewing it live.[8] On the other hand, where the delay is substantial, as it often is in the case of the "Wide World of Sports," we still believe that the programing should be open to STV as well as to conventional TV. As with the matter dealt with in the preceding section, the question is where to draw the line. The rules adopted herein contain what appears to be a reasonable standard—that of affording antisiphoning protection to sports events that have been given delayed showing on conventional television on the same day that the events occurred. Coupling this with what has been said heretofore, what we do today means that if sports events were regularly televised[9] live or on a same-day delayed basis on conventional TV in a community during any one year of the 5 years preceding proposed subscription showing, the event may not be shown on STV, either live or on a same-day delayed basis in that community.[10]

21. Sports programs consisting of both live and delayed showings by STV: ABC urges that sports events on conventional television that are presented live within a program such as "Wide World of Sports," that generally consists of tape-delayed broadcasts, should be extended antisiphoning protection. We see no reason why this should not be, and the rule will be construed to give protection both to live and to same-day delayed portions of such programs.

22. Other deficiencies in the proposal: In addition to arguments aimed at the foregoing fundamental shortcomings of the proposed rule, some arguments on lesser points are made. Thus, MST avers that the Olympics are broadcast only every 4 years and some other events—championship boxing matches, for example—may occur on less than an annual basis. Because of this, it is stated, such events would not have to be withheld from conventional TV too often, even under the proposed 5-year rule, to become available for showing on STV. Consequently, MST says, the new rule will offer little deterrent to the siphoning of events of this type.

23. We do not find these arguments persuasive. Whereas, for example, the televising rights of professional team games remain relatively constant over the years and those having such rights might conceivably withhold events from conventional TV in order to show them on STV thereafter, the televising rights to boxing matches may shift with changing fighters. Hence, in the case of boxing there would be no incentive to withhold. Instead, the motivation would be to take whatever revenues might be available at the time of a fight, for the opportunity to obtain STV revenues at a later date is not assured.

24. In the case of the Olympic games, even though the TV rights might be in the same hands over the years, it would seem more likely that there would be an incentive to obtain the immediate revenues at hand rather than withhold a conventional TV showing for the purpose of being able to use STV for subsequent Olympic games. Nevertheless, since we are tightening the sports rule with regard to events that usually occur annually, we are not averse to tightening it for the Olympics as well. Accordingly, the rule is being amended to provide that if the games appeared on conventional TV 1 year out of the 10 years immediately preceding proposed STV showing, they may not be shown on the latter medium. This provision will also be applied to any other events which regularly recur at intervals of more than a year.

25. MST also views as a loophole the fact that—according to paragraph 302 of the "legislative history" of the sports rule—if a conventional TV station has regularly broadcast some but not all of the home games of a local major league baseball team, STV may supplement this by showing additional home games. For example, if the conventional TV station had shown, on the average, five home games a season, STV in the community may show all but five. MST is of the opinion that "sports entrepreneurs could simply refuse to offer the games or could price them beyond the reach of free television and might be strongly motivated to do so in order to enhance the value to STV * * * of the games which they were transmitting."

26. Along the same vein, NBC states that the rule is not entirely adequate for it would be relatively simple for teams, such as professional football teams, whose "away" games are now carried on conventional TV and whose home games are not, to permit the showing of the home games on STV for a period of 5 years (while, presumably, still broadcasting the "away" games on conventional TV) and then to cease using conventional TV entirely—without jeopardizing a cent of current income.

27. In response to the foregoing suggested shortcomings of the rule, we repeat what we said in the Fourth Report and Order in Docket No. 11279. It is not our intent to create new markets for owners of television rights of sports events, and we shall observe the operation of the rule and take appropriate action to deal with any undesired developments. Thus, for example, if during one or more of the 5 years preceding proposed STV showing, some home games (e.g., on the average of five games per season) of a local major league baseball team have been shown on conventional TV, then under the rules STV could broadcast additional home games. If it should be called to our attention that the owners of TV rights to such events are refusing to offer "home" games to conventional TV or are pricing the events out of reach of that medium, we would take a close look at the matter. If our examination thereof revealed that the allegations were true, then STV would be precluded from showing those events.

28. We find unconvincing the NBC argument that teams would show home games over STV while continuing to show "away" games over conventional TV for 5 years and then discard conventional TV altogether. That they may use STV for home games not previously shown is clear under our rules. That they might simultaneously continue to use conventional TV for the "away" games is also clear, as is the fact that by doing this there would be no loss of current income. In fact there would be an increase of income since what formerly was income only from the "away" games would be supplemented by income from home games. But we do not understand why the teams would, after 5 years, decide to drop conventional TV altogether and give up the revenues from that medium for "away" games, for they could not then be shown over STV unless they were withheld for a period of 5 years.

29. Vue-Metrics, an applicant for an STV authorization for Philadelphia, poses a problem and suggests a modification of our proposed rule to meet it. The problem concerns situations in which a sports event is carried on conventional TV in a community for the first time. As examples, it mentions a new football bowl game, the regular season games of a professional soccer team, or the finals of a high school basketball championship. Vue-Metrics states that if the events were shown 1 year and were

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[8] At the time that he filed his comments, the situation as to broadcast of Knickerbocker and Ranger games was as Fitzgerald described it. Since then (commencing in October 1970), those events have been carried live by the New York TV station. However, this does not detract from the validity of his argument concerning tape-delayed broadcasts in general.

[9] For the meaning of the term "regularly televised," see paragraphs 34–35 infra.

[10] As to the argument that tape-delayed sports events often provide a basic program ingredient of UHF stations and can be of importance to their development and survival, we think that this rule would have no adverse impact on UHF.

not thereafter presented on conventional TV because they did not provide a large enough share of the audience to attract advertisers, then, under the Commission's proposed rule, they could not be shown on STV until 5 years had elapsed even though there might be enough public interest to make the presentation of such events viable over STV.

30. To correct this anomaly, Vue-Metrics suggests that the Commission's proposed 5-year rule be amended to read as follows:

> Sports events may not be broadcast (live over STV) if such events, having been televised on a non-subscription, regular basis in the community during a period of two years or more, have been withheld from conventional television in the community, for any reason, for a period of less than five years prior to the proposed subscription broadcast.[11]

Vue-Metrics states that virtually all sports events that have been seen on conventional TV to date have been broadcast for 2 successive years or more and have proved to be commercially viable on conventional TV. Such programs, it states, could not be shown on STV, under its proposed amendment, unless they were withheld for 5 years. However, in the case of sports events that have proved to be commercial failures in their first showing over conventional TV, the events could, under the Vue-Metrics proposal, be shown the next year over STV.

31. In its reply comments, MST opposes the Vue-Metrics suggestion on two grounds. First, it states that there has been no showing that the problem posed is likely to be serious or widespread. Second, MST avers that siphoning can occur if the owner of TV rights to sports events refuses to permit their showing on conventional TV stations or if he prices the events outside the reach of such stations. It goes on to say that the latter would not be a "withholding" of the event under the Vue-Metrics proposal, and the event therefore could be shown on STV immediately. Without dwelling on the technicality of what constitutes a "withholding," we reject the Vue-Metrics proposal on the grounds that the hypothetical situation which the proposal would handle might, as MST suggests, not be serious or widespread, and on the relatively rare occasions when it might occur, the matter may be dealt with on a waiver basis on a showing that advertising support for the program on conventional TV is unavailable.

32. "Legislative history" of the sports rule—general. The notice stated that Note 2 (as well as Note 1) of the present sports rule would be carried over and made a part of the new rule (see paragraphs 5 and 10 supra). It pointed out that this meant that paragraphs 288–305 of the Fourth Report and Order in Docket No. 11279 (constituting the "legislative history" of the sports rule) would continue to be used as the basis for administering and construing the rule although some of the material therein would not be pertinent. Comments suggesting possible modifications or deletions of the concepts of the legislative history were invited.

33. We reaffirm here our statement that the aforementioned legislative history will be used as a basis for administering and construing the new sports rule. However, the concepts in the legislative history are modified as indicated in the following paragraphs in order to take into account our changing from a 2-year sports rule, and recent developments in sports.

34. "Legislative history"—showing on a regular basis: Under the present rule and the legislative history, sports events are classified as "specific" or "nonspecific," and the latter are divided into well-defined categories. (This classification is discussed in detail in the Fourth Report and Order and will not be explained here.) Most specific events are of the type that recur on a periodic basis, usually annually, such as the World Series, the Super Bowl, Rose Bowl, Kentucky Derby, or the U.S. Open Golf Tournament. Some specific events, such as heavyweight title boxing matches, do not occur on a periodic basis. Nonspecific events usually occur on a yearly basis, such as football, baseball, or basketball games played during the regular seasons for those sports.

35. The present rule provides that sports events may not be shown on STV in a community if they were shown live over conventional TV in that community on a regular basis during the 2-year period immediately preceding proposed STV showing. A specific event that recurs on a yearly basis is considered to have been regularly shown over conventional TV during that 2-year period if it was shown in each year of that period. If the event was conventionally televised in a community during only 1 of the 2 years immediately preceding the proposed STV showing, it is not considered as having been regularly shown on conventional TV and may be shown on STV there.

36. Specific events that do not recur on a periodic basis, such as heavyweight title boxing matches, are considered to have been broadcast in a community on a regular basis over conventional TV during the 2-year period if all such fights occurring in that period were broadcast on that medium. If some were so broadcast and some were not (e.g. some might have been shown only over closed circuit TV), then the fights are not considered to have been broadcast on a regular basis for the 2-year period and they may be shown on STV in the community.

37. As to nonspecific events, the matter of regular showing is dealt with on a category-by-category basis. Thus, if a substantial number of events in a category have been televised over conventional TV in a community within each of the 2 years immediately preceding proposed STV showing, the category is considered to have been shown on a regular basis during the 2-year period and may not be shown there on STV. However, if during one of the 2 years a less than substantial number of events in the category have been shown over conventional TV in the community, the category is considered not to have been regularly shown and may be transmitted over STV there.

38. The new rule adopted today proscribes STV showing in a community (live or on a same-day delayed basis) of events that have been regularly shown on conventional TV in the community (live or on a same-day delayed basis) during any one year in the 5 years immediately preceding proposed STV showing there. The immediately following paragraphs spell out how this new rule will be applied. These paragraphs do not cover every conceivable situation that might arise, for to do so is perhaps impossible. However, the setting forth and discussion of some of the fundamental problems in administering the rule will, it is hoped, give guidance in the solving of other problems that may occur.

39. Under the rule adopted today, the term "any one year" does not mean "any one calendar year." Rather, it means any of the 1-year periods counting back from the date of proposed STV showing. Thus, if a proposed STV showing is June 15, 1972, the first 1-year period is from June 15, 1971, through June 14, 1972, the next 1-year period is from June 15, 1970, through June 14, 1971, and so on. Under the new rule, any category of nonspecific event, such as professional baseball games played during the regular season, will be considered to have been regularly shown on conventional TV in a community if during any one of the 5 years immediately preceding a proposed STV showing of the events in the community a substantial number of the events were shown on conventional TV there. However, if during each of the 5 years preceding proposed STV showing none or a less than substantial number of the events were shown on conventional TV in the community, then STV showing there would be permitted.

40. As to specific events that recur on an irregular basis, such as heavyweight title boxing matches, if in any year of the 5 years immediately preceding proposed STV showing in a community, one or more such events occurred and all of them were shown on conventional TV in the community during that year, the event will be considered to have been regularly shown on conventional TV in the community for that year, and STV showing there will be prohibited. However, if there is no year in the 5-year period during which all of the occurrences of such events in the year were shown on conventional TV in the community (e.g., none of those that occurred were on conventional TV, or some were on conventional TV and some were on closed circuit TV), then the event will be considered as not having been regularly shown in any one year of the 5-year period and STV showing in the community may take place.

[11] The context in which the suggestion is made in the Vue-Metrics comments appears to indicate that "during a period of 2 years or more" means that the sports events were televised for 2 successive years or more.

41. The method in which the rule will be applied to specific events that recur on a periodic basis (usually yearly) will be slightly different from the method used for nonspecific events and for irregularly recurring specific events outlined above. The following example illustrates the special problem that exists for periodic recurring events, and is followed by our solution to that problem. The most recent Super Bowl was played on January 16, 1972. It was, of course, widely shown on conventional TV stations throughout the country. Let us assume that the event is withheld from conventional TV in 1973, 1974, 1975, and 1976, and that it is scheduled to be played on January 18, 1977. Let us further assume that a party proposes to show the 1977 Super Bowl on January 18, 1977, over STV in a community and that the event was shown over conventional TV in that community on January 16, 1972. Counting back 5 years from January 18, 1977, brings one to January 18, 1972. Under a straightforward application of the rule, since the event was not shown on conventional TV in the community during any one of the 5 years immediately preceding the proposed STV showing there on January 18, 1977, it could be shown in that community on STC in 1977. On the other hand, had the 1977 event been scheduled to be played on January 5, 1977, a straightforward application of the rule would have prevented the 1977 STV showing in that community since the 5-year period preceding the proposed STV showing would have extended back to January 5, 1972, and the January 16, 1972 game would thus have been televised on conventional TV during that period.

42. We do not believe that the determination of whether a periodic recurring specific event of the type mentioned in our example may be shown on STV should hinge on the fortuitous circumstance that the event will occur on a varying date that does or does not bring the event within the straightforward application of the rule.[12] To us, the important thing in such cases is that an event has occurred periodically at intervals of approximately 1 year and that it has or has not been shown on conventional TV one or more of the five times that it occurred immediately before the proposed STV showing. Therefore, for such recurring specific events, if the proposed STV showing in a community has been immediately preceded by five successive occurrences of the event, which occurrences have not been shown on conventional TV in the community, then STV may show the event in that community although a straightforward application of the rule might preclude such showing. This means that in the Super Bowl example above, the event could not be shown on STV whether scheduled for January 5 or January 18, 1977.

43. Attention is invited to the fact that in the discussion above we have been careful to tie the conventional and STV showing to a specific community. In other words, sports events may generally be shown nationally, but not be shown on conventional TV in some communities. It is the fact that the event was or was not regularly shown in a community during any one of the 5 years preceding proposed STV showing there that is determinative. Whether it was so shown in other communities during that period is of no import, for the underlying rationale of the rule is that STV is to serve as a supplement to conventional TV in a community, and sports events that were regularly shown to that community on conventional TV are not to be siphoned to STV there.

44. "Legislative history"—new sports events. As previously stated, under the present rule, STV showing of sports events in a community is barred if they have been carried there on a nonsubscription regular basis during the 2 years immediately preceding the proposed STV showing. If they have not been so carried, they may be shown on STV there. The rule and the legislative history do not attempt to look into the question of why there was no conventional showing in the community. The mere fact that there has been no such showing is sufficient to all STV carriage.

45. Comments filed in the present proceeding have led us to the conclusion that the rule which we adopt today should distinguish between events that were not shown on conventional TV in a community simply because the events did not exist and those events that were in existence but were not carried on conventional TV in the community for any of a number of reasons (e.g., lack of community interest or advertiser support, a team's blackout policy prohibiting carriage of home games of a professional football team that the station would have liked to carry). Under the rule adopted today, events of the latter kind fall within the regular 5-year provisions previously stated; thus, for example, STV may carry professional football home games (if the team will permit this) that were previously blacked out and hence not shown locally on conventional TV during any one of the preceding 5 years, or high school basketball games not conventionally shown in the community during any one of the preceding 5 years because of lack of advertiser support.

46. In contrast with the aforementioned types of events which STV may carry if the 5-year provision of the rule is met, are events that STV proposes to carry that never existed before. These are of two kinds: (1) New events that are the result of restructuring of an existing sport, and (2) new events that are not the result of restructuring of an existing sport. An example of the former type of event is the Super Bowl which did not exist until 5 years ago when the first such event occurred in 1967. Suppose that STV had been operational and full blown at that time and that the 2-year sports rule had been in effect (actually, it was adopted in 1968 and became effective in 1969). Under that rule, STV could have shown the Super Bowl in 1967 since it would not have been shown on conventional TV during the 2 preceding years.

47. The example of the Super Bowl is not an isolated one. There are other examples, in both professional football and baseball, of new sports events which were the result of restructuring of existing sports. Prior to 1969 when the 2-year sports rule became effective, teams in each of the two major leagues played regular games during the baseball season and compiled a percentage record for their total games played. At the end of the season, the teams having the highest percentage in each league met in the World Series. If, on rare occasions, two teams were tied for a league title, a playoff occurred. The sports rule and the legislative history took into account this pattern of events that had existed for many years, and provided that regular season games would be viewed as nonspecific events, the World Series, as a specific event, and an occasional playoff for a league title, as a specific event.

48. In 1969, after the adoption of the sports rule, the leagues were restructured into two divisions each, and the World Series was preceded by division playoffs in each league (between the high percentage teams of each division) with the playoff winners in each league competing in the World Series. The division playoffs, as new events not previously shown on conventional TV, would have been eligible for STV showing. However, no STV operations were in existence, and the playoffs have been broadcast for the past 3 years in much the same manner as the World Series—each game of the playoff was broadcast and there was no blackout of the playoff game in the community where it was played.

9. In professional football, aside from the Super Bowl, other new events, resulting from restructuring, have also appeared. In 1970 the merger of the American and the National Football Leagues was completed with a resulting National Football League consisting of an American Conference and a National Conference. Each conference consists of three divisions. At the end of the season, the three divisional champions and a fourth team engaged in playoffs and the two victorious teams meet for the conference title.[13] The two conference champions meet in the Super Bowl.

50. ABC and NBC argue that the Commission should consider means for insuring against the possibility that sports entrepreneurs will revise the structures

[12] It is not inconceivable, of course, that the holders of TV rights to a periodically recurring specific event might intentionally schedule it on a date that would place it outside the proscription of the rule. Our treatment of periodically recurring specific events, however, takes care of both fortuitous and intentional variations of dates.

[13] In administering the sports rule, professional baseball division playoffs, and professional football division playoffs and conference title games, will be dealt with as specific events. Concerning playoffs, in some sports, that are not viewed as specific events, see paragraph 297 of the legislative history in the Fourth Report and Order.

of their sports so as to "phase out" events now protected against siphoning and introduce new events that would not be so protected and hence would be eligible for STV showing. NBC urges that for the first 5 years of any new event STV be prohibited from carrying that event. This, it is argued, will favor the showing of the new events on conventional TV and allow that service to continue its expansion of sports service, and will inhibit the restructuring of sports events for the purpose of making them eligible for pay TV.

51. ABC states that the present sports rule tends to freeze conventional TV sports coverage at its present level. It argues that in recent years conventional TV has constantly expanded coverage of previously broadcast sports events and has added new events, and urges that the chance for such expanded availability of sports events should not be diminished. ABC suggests that, at a minimum, some form of notice and related procedure should be established so that interested parties would be in a position to seek a Commission ruling prior to the initial showing of a new event by STV. (It also urges that similar procedures be established to handle disputes over whether events have been regularly televised over conventional TV prior to their showing on STV.[14]) The suggestion implies, without specifically stating, that if the Commission were to find that there was a restructuring with the intent to make the new events available to STV, then it would rule that the events could not be shown immediately on STV.

52. The intent of the sports rule is to prevent siphoning of sports programing presently carried on conventional TV. Any phasing out of present events and introducing of new events for the specific purpose of showing the new events on STV would run directly counter to the intent of the rule and would not be condoned. It will be recalled that a cornerstone of our decision to establish STV as a regular service was that it could provide a beneficial supplement to the programing available on conventional TV. We are of the view that unless we devise rules to prevent it, there is a real likelihood that conventional TV sports telecasting as we know it may be undermined, as the comments suggest, and rendered minimal, so that STV would not be providing a beneficial supplement to, but, rather, a substitute for conventional TV sportscasting.

53. As mentioned above, NBC and ABC each suggest a way of handling this problem. NBC would have us adopt a rule that would "guarantee" to conventional TV for 5 years any new sports event by not permitting the showing of such an event over STV for such a period. The ABC alternative would provide for a form of notice and related procedures for new events so that the Commission could rule on whether a restructuring with intent to transfer events to STV had occurred. The ABC proposal is fraught with difficulties that would make its administration unwieldy. We are faced with the fact that sports are restructured and new events introduced for reasons entirely apart from the desire to gain revenues from STV. Witness, for example, the recent restructuring of major league baseball and professional football. It might prove to be a very difficult and time-consuming task to determine whether a restructuring was for the purpose of achieving STV showings. On the other hand, a rule based on the NBC proposal would be clear and easy to administer, and we are therefore writing into the sports rule a provision that new events that are the result of restructuring of an existing sport will be available to conventional TV and unavailable to STV until 5 years after their first occurrence.

54. To avoid confusion over this provision governing news sports events which are the result of restructuring, we shall elaborate on how it would operate. During the first 5 years after such a new event first occurred, it could only be shown on conventional TV, and would be barred from STV showing. Thereafter, whether the event could or could not be shown on STV in a community would depend on whether it had been shown there on conventional TV during the 5-year "protected period."[15] If it had not been shown at all during that period, it would be permitted on STV in the sixth year. If it had been shown on a nonsubscription regular basis (as discussed above) during any one year of the 5-year "protected period," then it would be barred from STV showing in the sixth year. In other words, after the 5-year "protected period," the regular 5-year rule would become applicable. And it would be applicable not only to proposed STV showings in the sixth year but to proposed STV showings thereafter. Thus, if it were not proposed to be shown on STV in the sixth year, but were proposed in the seventh year of the event, one would look to the 5 years immediately preceding the proposed STV showing (one of which years would be in the "unprotected period" and four of which would be in the "protected period") to see if the general 5-year rule barred STV showings.

55. In paragraph 46, supra, we stated that there are two kinds of new sports events—those that are the result of restructuring of an existing sport and those that are not the result of restructuring. The foregoing discussion has been limited to the former, and the rule affording a 5-year protected period, just described, applies only to the former.

56. As mentioned, however, there are new events that could arise for reasons other than restructuring of an existing sport. For example, a group of entrepreneurs conceivably might decide to form a National Cricket League and have regular games during a "cricket season" culminating in a championship game or series of games. Similarly, an American Jai Alai League might be founded with regular seasonal games and a championship game or series. New events of this kind will not fall within the purview of the "5-year protected period" rule. Instead, when such new events develop, we shall examine the situation existing at that time and determine, in the light of the existing circumstances, whether they will be permitted to be shown on STV. This method is consistent with our statement in the Fourth Report and Order (paragraph 304) in which we stated that we would face developing situations as they arise.

57. Finally, attention is invited to paragraphs 29–31, supra. Consistent with the discussion in those paragraphs, if a new sports event (whether or not it resulted from restructuring of an existing sport) were introduced and regularly shown on conventional TV during, say, the first and/or second year of its occurrence and then dropped by that medium thereafter because of lack of advertiser support, and if an STV operator wished thereafter to show it, we would consider granting a waiver of the general 5-year rule or the "5-year protected period" rule, as appropriate, on a proper showing that the event could not be sold to conventional TV.

ORDERS

58. Authority for the rule amendments adopted herein is contained in sections 2, 3, 4 (i) and (j), 301, 303, 307, 308, and 309 of the Communications Act of 1934, as amended.

59. *Accordingly, it is ordered,* That the rules contained below are adopted, effective May 9, 1972: *It is further ordered,* That this proceeding is terminated.

(Secs. 2, 3, 4, 301, 303, 307, 308, 309; 48 Stat., as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085; 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, 309)

Adopted: March 23, 1972.

Released: March 29, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[16]
[SEAL] BEN F. WAPLE,
Secretary.

1. Section 73.643(b)(2) of the Commission rules and regulations is amended to read as follows:

§ 73.643 General operating requirements.

* * * * *

(b) Subscription television broadcast programs shall comply with the following requirements:

* * * * *

(2) Sports events shall not be broadcast live or on a same-day delayed basis which have been televised live, or same-day delayed, on a nonsubscription, regular basis in the community during any 1

[14] We see no present need for such procedures.

[15] "Protected period," as used herein, means the first 5 years after a new event first occurs during which it may not be shown on STV.

[16] Commissioner Bartley dissenting and issuing a statement which is filed as part of the original document. Commissioners Robert E. Lee and Johnson absent.

year in the 5 years preceding their proposed subscription broadcast. If a regularly recurring event takes place at intervales of more than 1 year (e.g., summer Olympic games), the aforementioned proscription shall be 1 year in the preceding 10 years, rather than 1 year in the preceding 5 years. Moreover, new sports events that result from the restructuring of existing sports shall not be broadcast on a subscription basis until 5 years after their first occurrence; thereafter, subscription showing will be governed by the provisions of the first sentence of this subparagraph. Determinations as to whether new sports events that are not the result of the restructing of existing sports may be shown on a subscription basis will be made by the Commission as such new events occur.

NOTE 1: In determining whether a sports event has been televised in a community on a nonsubscription basis, only commercial television broadcast stations which place a Grade A contour over the entire community will be considered. Such stations need not necessarily be licensed to serve that community.

NOTE 2: The manner in which this subparagraph will be administered and in which "sports," "sports events," "New sports events," and "televised on a nonsubscription, regular basis" will be construed is explained in paragraphs 288–305 of the fourth report and order in Docket No. 11279, 15 FCC 2d 466, as modified by paragraphs 32–57 of the report and order in Docket No. 18893, ------ FCC 2d -------.

* * * * *

[FR Doc.72-5065 Filed 4-3-72;8:46 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1488]

[GSM–4, Rev. II]

EXPORT CREDIT SALES PROGRAM

Financing of Export Sales of Agricultural Commodities From Private Stocks

Pursuant to the authority contained in section 5(f), 62 Stat. 1072 and section 4, 80 Stat. 1538, the Commodity Credit Corporation proposes to amend paragraphs A.1. of Supplements I and II to GSM–4, Revision II, Regulations Covering Export Financing of Sales of Agricultural Commodities under the CCC Export Credit Sales Program.

Interested persons may submit written comments, suggestions, or objections related to the proposed amendments to Director, CCC Credit Sales Division, Export Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received not later than 30 days following the publication of this notice in the FEDERAL REGISTER. The comments, suggestions, or objections will be open to public inspection during this 30-day period at the office of the Director from 8:15 a.m. to 4:45 p.m. (local time) of each business day (7 CFR 1.27 (b)).

1. The amendment of paragraph A.1. of Supplement I redefines "port value" by increasing the financing limits for beef breeding animals under the CCC Export Credit Sales Program. As amended, paragraph A.1. of Supplement I to GSM–4, Revision II, will read as follows:

1. "Port value" means the net amount of the exporter's sales price for beef breeding cattle to be exported under the financing agreement, basis f.a.s. or f.o.b. export carrier at U.S. ports, at U.S. border points of exit, or at U.S. airports if shipped by air. The point of exportation for animals shall be designated by the Agricultural Research Service, U.S. Department of Agriculture. The port value shall not include the ocean freight for a c.i.f. sale or ocean freight and marine and war risk insurance for a c.i.f. sale, and shall also not include any animal care or servicing cost incurred after such animals are loaded aboard the export carrier. The net amount of the exporter's sales price means the contract price for the animals less any payments made by the importer and less any discounts, credits, or allowances to the importer. Such net amount shall not exceed (a) for registered bulls, $1,350 each or, with prior approval of the Assistant Sales Manager for Commercial Credit and Barter, $2,750 if performance has been superior to the performance records specified in Exhibit II to this supplement; (b) for registered females, $750 each or, with prior approval of the Assistant Sales Manager for Commercial Credit and Barter, $1,100 if performance has been superior to the performance records specified in Exhibit I to this supplement; (c) for nonregistered females, an average, for the sale, of $500 each or, with prior approval of the Assistant Sales Manager for Commercial Credit and Barter, $700 if performance has been superior to the performance records specified in said Exhibit I. The difference, if any, between the maximum net amount specified in (a), (b), or (c) of this paragraph A.1. and the contract price for the individual animal, if registered, or the average contract price for the individual animal, if nonregistered, shall not be included as part of the port value.

2. The amendment of paragraph A.1. of Supplement II redefines "port value" by increasing the financing limits for dairy breeding animals under the CCC Export Credit Sales Program. As amended, paragraph A.1. of Supplement II to GSM–4, Revision II, will read as follows:

1. "Port value" means the net amount of the exporter's sales price for dairy breeding cattle to be exported under the financing agreement, basis f.a.s. or f.o.b. export carrier at U.S. ports, at U.S. border points of exit, or at U.S. airports if shipped by air. The point of exportation for animals shall be designated by the Agricultural Research Service, U.S. Department of Agriculture. The port value shall not include the ocean freight for a c.i.f. sale or ocean freight and marine and war risk insurance for a c.i.f. sale, and shall also not include any animal care or servicing cost incurred after such animals are loaded aboard the export carrier. The net amount of the exporter's sales price means the contract price for the animals less any payments made by the importer and less any discounts, credits, or allowances to the importer. Such net amount shall not exceed (a) $2,000 each for registered bulls which have an acceptable performance index as set out in paragraph D.1., Exhibit II to this supplement, or, with prior approval of the Assistant Sales Manager for Commercial Credit and Barter, $3,500 if such animal has a superior performance index as set out in paragraph D.2. of Exhibit II; (b) $900 each for registered females which have an acceptable performance index as set out in paragraph D.1., Exhibit I to this supplement, or with prior approval of the Assistant Sales Manager for Commercial Credit and Barter, $1,500 if such animal has a superior performance index as set out in paragraph D.2. of Exhibit I; (c) with prior approval of the Assistant Sales Manager for Commercial Credit and Barter, $1,750 each for registered mature cows which have a superior performance index as set out in paragraph D.3. of Exhibit I; (d) with prior approval of the Assistant Sales Manager for Commercial Credit and Barter, $925 each for nonregistered mature cows which have a superior performance index as set out in paragraph D.3. of Exhibit I; or (e) $750 average for the sale of nonregistered females, other than mature cows with a superior performance index, if each such animal has an acceptable performance index as set out in paragraph D.1. of Exhibit I. The difference, if any, between the maximum net amount specified in (a), (b), (c), (d), or (e) of this paragraph A.1. and the contract price for individual registered animals or nonregistered mature cows with a superior performance index, or the average contract price for nonregistered females, other than mature cows with a superior performance index, shall not be included as a part of the port value.

Signed at Washington, D.C., on March 28, 1972.

CLIFFORD G. PULVERMACHER,
Vice President, Commodity Credit Corporation, and General Sales Manager, Export Marketing Service.

[FR Doc.72–5132 Filed 4–3–72;8:52 am]

Consumer and Marketing Service

[7 CFR Part 1201]

TYPE 62 SHADE-GROWN, CIGAR-LEAF TOBACCO GROWN IN DESIGNATED PRODUCTION AREA OF FLORIDA AND GEORGIA

Proposed Expenses and Rate of Assessment for 1972–73 Fiscal Period

Consideration is being given to the following proposals submitted by the Control Committee, established under the amended marketing agreement and Amended Order No. 195 (7 CFR Part 1201), regulating the handling of type 62 shade-grown, cigar-leaf tobacco grown in designated production area of Florida and Georgia, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(a) Expenses in the amount of $7,200 are reasonable and likely to be incurred by the Control Committee for its maintenance and functioning during the fiscal period ending January 31, 1973.

(b) The following rate of assessment which each handler who first handles tobacco shall pay, in accordance with the applicable provisions of the said amended marketing agreement and amended order, is hereby fixed as such handler's pro rata share of the aforesaid expenses: $1.60 per 1,000 pounds of tobacco handled by such handler as the first handler thereof during the fiscal period ending January 31, 1973.

(c) Terms used in this section shall have the same meaning as when used in said amended marketing agreement and amended order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 15th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to the notice will be made available for public

inspection at the office of the Hearing Clerk during official hours of business.

Done at Washington, D.C., this 30th day of March 1972.

JACK THOMASON,
Director, Tobacco Division,
Consumer and Marketing Service.

[FR Doc.72-5129 Filed 4-3-72;8:52 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-CE-7]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Moberly, Mo.

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 Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

A new public use instrument approach procedure has been developed for the Omar Bradley Airport, Moberly, Mo. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Moberly, Mo.

In consideration of the foregoing, the Federal Aviation Administration proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (37 F.R. 2143), the following transition area is added:

MOBERLY, MO.

That airspace extending upwards from 700 feet above the surface within a 6.5-statute-mile radius of the Omar N. Bradley Airport (latitude 39°27'50" N., longitude 92°25'40" W.) and 3 miles either side of the 317° bearing from the airport extending from the 6.5-mile radius to 8 miles northwest, and that airspace extending upwards from 1,200 feet above the surface 9.5 miles southwest and 5 miles northeast of the 317° bearing from the airport extending from the airport to 18.5 miles northwest and 6.5 miles southeast.

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

Issued in Kansas City, Mo., on March 9, 1972.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.72-5055 Filed 4-3-72;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-CE-8]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area as Mason City, Iowa.

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 Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

New public use instrument approach procedures have been developed for the Mason City Municipal Airport, Mason City, Iowa. Accordingly, it is necessary to alter the Mason City transition area to adequately protect aircraft executing the new approach procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (37 F.R. 2143), the following transition area is amended to read:

MASON CITY, IOWA

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Mason City Municipal Airport (latitude 43°09'25" N., longitude 93°19'54" W.); within 5 miles each side of the Mason City VORTAC 002° radial, extending from the 9-mile radius area to 24½ miles north of the VORTAC; and within 4½ miles west and 9½ miles east of the Mason City VORTAC 182° and 002° radials, extending from 5 miles north to 24½ miles south of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within a 24-mile radius of Mason City VORTAC; and within 4½ miles east and 10 miles west of the Mason City VORTAC 002° radial, extending from the 24-mile radius area to 34½ miles north of the VORTAC, excluding the portion which overlies the Albert Lea, Minn., transition area and Charles City, Iowa transition area.

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

Issued in Kansas City, Mo., on March 9, 1972.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc.72-5056 Filed 4-3-72;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 72-EA-27]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Middletown, N.Y., Transition Area (37 F.R. 2240).

A new NDB-A instrument approach procedure has been developed for Randall Airport, Middletown, N.Y., which requires alteration of the transition area to contain IFR arrivals and departures at Randall Airport.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with the Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region. Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Middletown, N.Y., proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Middletown, N.Y., 700-foot-floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center 41°25'54" N., 74°23'40" W., of Randall Airport, Middletown, N.Y., and within 2 miles each side of the Huguenot, N.Y., VORTAC 082° radial, extending from the 7-mile-radius area to the VORTAC, excluding the portion that coincides with the Newburgh, N.Y., 700-foot-floor transition area. This transition area is effective from sunrise to sunset, daily.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on March 21, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[F.R. Doc. 72-5057; Filed, 4-3-72; 8:46 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 72-EA-28]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Meadville, Pa., Transition Area (37 F.R. 2238).

A revision of the VOR instrument approach procedure for Port Meadville Airport, Meadville, Pa., requires alteration of the Meadville, Pa., 700-foot-floor transition area to protect IFR arrivals and departures at Port Meadville Airport.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with the Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region. Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Meadville, Pa., proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Meadville, Pa., 700-foot-floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the center 41°37'37" N., 80°12'51" W., of Port Meadville Airport, Meadville, Pa.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on March 21, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.72-5058 Filed 4-3-72;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 72-EA-29]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Gaithersburg, Md., Transition Area (37 F.R. 2199).

A revision of the NDB instrument approach procedure for Montgomery County Airport, Gaithersburg, Md., requires alteration of the transition area to protect IFR arrivals and departures at Montgomery County Airport.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with the Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region. Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Gaithersburg, Md., proposes the airspace action hereinafter set forth:

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of Gaithersburg, Md., 700-foot-floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center 39°09'54" N., 77°10'00" W. of Montgomery County Airport, Gaithersburg, Md., and within 3 miles each side of the 008° bearing from the Gaithersburg, Md., RBN 39°10'06" N., 77°09'42" W., extending from the 8.5-mile-radius area to 8.5 miles north of the RBN.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on March 21, 1972.

ROBERT H. STANTON,
Acting Director, Eastern Region.

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Hazardous Materials Regulations Board

[49 CFR Parts 171, 173, 178]

[Docket No. HM-99; Notice 72-3]

TRANSPORTATION OF HAZARDOUS MATERIALS

Specifications 3AX, 3AAX, and 3T Cylinders

The Hazardous Materials Regulations Board is considering amendments to §§ 171.7, 173.34, 173.301, 173.302, and 173.304, and addition of a new § 178.45, to provide for the shipment of certain gases in large cylinders or tubes mounted on a motor vehicle.

These proposed changes are based on several outstanding permits and two petitions for rule change from the Compressed Gas Association, Inc. Nineteen shippers, including most major gas suppliers, are involved in the special permits which have been outstanding for up to 4 years. Consequently, the Board has evaluated considerable experience data. It has found that, without exception, all reports have cited satisfactory experience, without loss of any product.

Although not specifically covered by petitions, the Board specified several special conditions of transportation in the permits and is proposing them in this rule making action. These special conditions are covered essentially by the proposed new paragraph (l) to § 173.301.

Also covered by this notice are matters relating to manufacturer's registration

and method of maintaining cylinder reports. However, the purposes of the Board regarding these new items have been the subject of similar rule making actions in Dockets HM-27 and HM-69, and, therefore, are not discussed specifically in this docket.

In consideration of the foregoing, 49 CFR Parts 171, 173, and 178 would be amended as follows:

PART 171—GENERAL INFORMATION AND REGULATIONS

In § 171.7 paragraphs (c) (13) and (d) (8) would be added to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(c) * * *

(13) Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(d) * * *

(8) U.S. Department of Commerce, National Bureau of Standards Handbook H 28 (1957)—Part II is titled, "Screw-Thread Standards for Federal Services 1957", December 1966 edition.

PART 173—SHIPPERS

§ 173.34 [Amended]

(A) In § 173.34 paragraph (e) Table, the following would be added as the ninth entry: "3T----------5/3 times service pressure------5".

(B) In § 173.301 paragraph (h) Table would be amended by adding, "DOT-3AX" and "DOT-3AAX" as the fifth and eighth entries respectively in the first column and "DOT-3T" as the third entry in the second column; paragraph (d) (1) would be amended; paragraph (l) would be added to read as follows:

§ 173.301 General requirements for shipment of compressed gases in cylinders.[1]

* * * * *

(d) * * *

(1) Manifolding is authorized for containers of the following gases: argon, air, carbon dioxide, helium, neon, nitrogen, nitrous oxide, or oxygen provided that each container is individually equipped with safety relief devices as required by § 173.34(d) or § 173.315(i).

* * * * *

(*l*) Specifications 3AX, 3AAX, and 3T cylinders are authorized for transportation only when horizontally mounted on a motor vehicle and when valves and safety devices are protected, as follows:

(1) Each cylinder must be fixed at the rear end of each vehicle with provisions for thermal expansion at the forward attachment to the vehicle;

(2) The valve and safety relief device protective structure must be sufficiently strong to withstand a force equal to twice the weight involved with a safety factor of four, based on the ultimate strength of the material used; and

(3) Each discharge for a safety relief device on a cylinder containing a flammable gas must be upward and unobstructed.

(C) In § 173.302, paragraph (a) (3), the introductory text of paragraph (c), (c) (3) Table, and paragraph (f) would be amended to read as follows:

§ 173.302 Charging of cylinders with non liquefied compressed gases.

(a) * * *

(3) Specification 3AX, 3AAX, or 3T (§§ 178.36, 178.37, 178.45 of this chapter) cylinders are authorized only for the following non liquefied gases: air, argon, carbon monoxide, ethane, ethylene, helium, hydrogen, methane, neon, nitrogen, or oxygen, except that specification 3T is not authorized for hydrogen.

* * * * *

(c) *Special filling limits for Specifications 3A, 3AX, 3AA, 3AAX, and 3T cylinders.* Specifications 3A, 3AX, 3AA, 3AAX, and 3T (§§ 178.36, 178.37, 178.45 of this chapter) cylinders may be charged with compressed gases, other than liquefied, dissolved, poisonous, or flammable gases to a pressure 10 percent in excess of their marked service pressure, provided:

* * * * *

(3) * * *

Type of steel	Average wall stress limitation	Maximum wall stress limitation
(add)		
Steel of analysis and heat treatment specified in Spec. DOT-3T----------	87,000	94,000

* * * * *

(f) *Carbon monoxide.* Carbon monoxide must be shipped in a specification 3A, 3AX, 3AA, 3AAX, 3, 3E, or 3T (§§ 178.36, 178.37, 178.42, 178.45) cylinder having a minimum service pressure of 1,800 p.s.i.g. The pressure in the cylinder must not exceed 1,000 p.s.i.g. at 70° F. except that if the gas is dry and sulfur free, a cylinder may be charged to five-sixths the cylinder service pressure or 2,000 p.s.i.g., whichever is the lesser.

(D) In § 173.304 paragraph (a) (2) the table would be amended as follows:

§ 173.304 Charging of cylinders with liquefied compressed gas.

(a) * * *

(2) * * *

Kind of gas	Maximum permitted filling density (see note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in §§173.34 (a), (b), 173.301(j) (see notes following table)
(change)	*Percent*	
Carbon dioxide, liquefied (see Notes 3, 4, 7, and 8).	68	DOT-3A1800; DOT-3AX1800; DOT-3AA1800; DOT-3AAX1800; DOT-3; DOT-3E1800; DOT-3T1800; DOT-3HT2000; DOT-39.
Carbon dioxide-nitrous oxide mixture (see Notes 7 and 8).	68	DOT-3A1800; DOT-3AX1800; DOT-3AA1800; DOT-3AAX1800; DOT-3; DOT-3E1800; DOT-3T1800; DOT-3HT2000; DOT-39.
Ethane (see Notes 8 and 9)----------	35.8	DOT-3A1800; DOT-3AX1800; DOT-3AA1800; DOT-3AAX1800; DOT-3; DOT-3E1800; DOT-3T1800; DOT-39.
Do----------	36.8	DOT-3A2000; DOT-3AX2000; DOT-3AA2000; DOT-3AAX2000; DOT-3T2000; DOT-39.
Ethylene (see Notes 8 and 9)--------	31.0	DOT-3A1800; DOT-3AX1800; DOT-3AA1800; DOT-3AAX1800; DOT-3; DOT-3E1800; DOT-3T1800; DOT-39.
Do----------	32.5	DOT-3A2000; DOT-3AX2000; DOT-3AA2000; DOT-3AAX2000; DOT-3T2000; DOT-39.
Do----------	35.5	DOT-3A2400; DOT-3AX2400; DOT-3AA2400; DOT-3AAX2400; DOT-3T2400; DOT-39.
Nitrous oxide (see Notes 7 and 8)----	68	DOT-3A1800; DOT-3AX1800; DOT-3AA1800; DOT-3AAX1800; DOT-3; DOT-3E1800; DOT-3T1800; DOT-3HT2000; DOT-39.

* * * * *

PART 178—SHIPPING CONTAINER SPECIFICATIONS

(A) In Part 178 Table of Contents, § 178.45 would be added to read as follows:

Sec.
178.45 Specification 3T; seamless steel cylinder.

(B) Section 178.45 would be added to read as follows:

§ 178.45 Specification 3T; seamless steel cylinder.

§ 178.45–1 Compliance.

Each cylinder must meet the applicable requirements of § 173.24 of this chapter.

§ 178.45–2 Type, size, and service pressure.

(a) *Type.* Each cylinder must be of seamless construction with integrally formed heads concave to pressure at both ends. The inside head shape must be hemispherical, ellipsoidal in which the major axis is two times the minor axis, or a dished shape falling within these two limits. Permanent closures formed by spinning are prohibited.

(b) *Size.* The minimum water capacity is 1,000 pounds.

(c) *Service pressure.* The minimum service pressure is 1,800 p.s.i.

§ 178.45–3 Inspection by whom and where.

Inspection of each cylinder must be performed by a competent and disinter-

[1] Requirements covering cylinders are also applicable to spherical pressure vessels.

ested inspector, acceptable to the Bureau of Explosives. Chemical analyses and tests must be performed within the limits of the United States.

§ 178.45–4 Duties of the inspector.

(a) The inspector must determine that all materials are in compliance with the requirements of this specification.

(b) The inspector must verify compliance with the requirements of § 178.45–5 by making a chemical analysis or obtaining a certified chemical analysis from the material manufacturer for each heat of material. If an analysis is not provided by the material manufacturer, a sample from each heat must be analyzed.

(c) The inspector must determine that each cylinder is made and marked in compliance with this specification by:

(1) Complete internal and external inspection;

(2) Verification of proper heat treatment;

(3) Selection of samples to be tested;

(4) Witnessing all tests;

(5) Verification of threads by gage; and

(6) Preparation of required report.

§ 178.45–5 Material, steel.

(a) Only open hearth, basic oxygen, or electric furnace process steel of uniform quality is authorized. The steel analysis must conform to the following:

ANALYSES TOLERANCES

Element (percent)	Ladle analysis	Check analysis	
		Under	Over
Carbon	0.35–0.50	0.03	0.04
Manganese	0.75–1.05	0.04	0.04
Phosphorus (max)	0.035	.....	0.01
Sulfur (max)	0.04	.....	0.01
Silicon	0.15–0.35	0.02	0.03
Chromium	0.80–1.15	0.05	0.05
Molybdenum	0.15–0.25	0.02	0.02

(b) A heat of steel made under these specifications, the ladle analysis of which is slightly out of the specified range, is acceptable if satisfactory in all other respects. However, the check analysis tolerances shown in the above table may not be exceeded except as approved by the Department.

(c) Material with seams, cracks, laminations, or other injurious defects is not permitted.

(d) Material used must be identified by any suitable method.

§ 178.45–6 Manufacture.

(a) General manufacturing requirements are as follows:

(1) Dirt and scale must be removed prior to inspection and processing.

(2) Surface finish must be uniform and reasonably smooth.

(3) Inside surfaces must be clean, dry, and free of loose particles.

(4) No defect of any kind is permitted if it is likely to weaken a finished cylinder.

(b) If the cylinder surface is not originally free from the defects described in paragraph (a) of this section, the surface may be machined or otherwise treated to eliminate these defects provided the minimum wall thickness is maintained.

(c) Welding or brazing on a cylinder is not permitted.

§ 178.45–7 Wall thickness.

(a) The minimum wall thickness must be such that the wall stress at the minimum specified test pressure does not exceed 67 percent of the minimum tensile strength of the steel as determined by the physical tests required in §§ 178.45–14 and 178.45–15. A wall stress of more than 90,500 p.s.i. is not permitted. The minimum wall thickness for any cylinder may not be less than 0.225 inch.

(b) Calculation of the stress for cylinders must be made by the following formula:

$$S=\frac{P\,(1.3D^2+0.4d^2)}{D^2-d^2}$$

where:

S=Wall stress in pounds per square inch;
P=Minimum test pressure, at least 5/3 service pressure;
D=Outside diameter in inches;
d=Inside diameter in inches.

(c) Each cylinder must meet the following additional requirements which assumes a cylinder horizontally supported at its two ends and uniformly loaded over its entire length. This load consists of the weight per inch of length of the straight cylindrical portion filled with water compressed to the specified test pressure. The wall thickness must be increased when necessary to meet this additional requirement.

(1) The sum of two times the maximum tensile stress in the bottom fibers due to bending (see subdivision (i) of this subparagraph), plus the maximum tensile stress in the same fibers due to hydrostatic testing (see subdivision (ii) of this subparagraph) may not exceed 80 percent of the minimum yield strength of the steel at this maximum stress.

(i) The following formula must be used to calculate the maximum tensile stress due to bending:

$$S=\frac{Mc}{I}$$

where:

S=Tensile stress in pounds per square inch;
M=Bending moment in inch-pounds $\left(\frac{wl^2}{8}\right)$;
I=Moment of inertia—0.04909 (D^4-d^4) in inches fourth;
c=Radius $\left(\frac{D}{2}\right)$ of cylinder in inches;
w=Weight per inch of cylinder filled with water;
l=Length of cylinder in inches;
D=Outside diameter in inches;
d=Inside diameter in inches.

(ii) The following formula must be used to calculate the maximum longitudinal tensile stress due to hydrostatic test pressure:

$$S=\frac{A_1P}{A_2}$$

where:

S=Tensile stress in pounds per square inch;
A_1=Internal area in cross section of cylinder in square inches;
P=Hydrostatic test pressure in pounds per square inch;
A_2=Area of metal in cross section of cylinder in square inches.

§ 178.45–8 Heat treatment.

(a) Each completed cylinder must be uniformly and properly heat treated prior to testing, as follows:

(1) Each cylinder must be heated and held at the proper temperature for at least 1 hour per inch of thickness based on the maximum thickness of the cylinder and then quenched in a suitable liquid medium having a cooling rate not in excess of 80 percent of water. The steel temperature on quenching must be that recommended for the steel analysis, but it must never exceed 1,750° F.

(2) After quenching, each cylinder must be reheated to a temperature below the transformation range but not less than 1,050° F., and must be held at this temperature for at least 1 hour per inch of thickness based on the maximum thickness of the cylinder. Each cylinder must then be cooled under conditions recommended for the steel.

§ 178.45–9 Openings.

(a) Openings are permitted on heads only.

(b) The size of any centered opening in a head may not exceed one-half the outside diameter of the cylinder.

(c) Openings in a head must have ligaments between openings of at least three times the average of their hole diameter. No off-center opening may exceed 2.625 inches in diameter.

(d) All openings must be circular.

(e) All openings must be threaded. Threads must be in compliance with the following:

(1) Each thread must be clean cut, even, without any checks, and to gage.

(2) Taper threads, when used, must be the American Standard Pipe thread (NPT) type and must be in compliance with the requirements of NBS Handbook H–28, Part II, section VII.

(3) Taper threads conforming to National Gas Taper thread (NGT) standards must be in compliance with the requirements of NBS Handbook H–28, Part II, sections VII and IX.

(4) Straight threads conforming with National Gas Straight thread (NGS) standards are authorized. These threads must be in compliance with the requirements of NBS Handbook H–28, Part II, sections VII and IX.

§ 178.45–10 Safety devices and protection for valves, safety devices, and other connections.

Safety devices and protection arrangements for valves, safety devices, and other connections must be in compliance with § 173.34(d) of this chapter. See also § 173.301(l) of this chapter.

§ 178.45–11 Hydrostatic test.

(a) Each cylinder must be tested at an internal pressure by the water jacket method or other suitable method. The testing apparatus must be operated in a

manner that will obtain accurate data. Any pressure gage used must permit reading to an accuracy of 1 percent. Any expansion gage used must permit reading of the total expansion to an accuracy of 1 percent.

(b) Any internal pressure applied to the cylinder after heat treatment and before the official test may not exceed 90 percent of the test pressure.

(c) The pressure must be maintained sufficiently long to assure complete expansion of the cylinder. In no case may the pressure be held less than 30 seconds.

(d) If, due to failure of the test apparatus, the required test pressure cannot be maintained, the test may be repeated at a pressure increased by 10 percent or 100 p.s.i., whichever is the lower.

(e) Permanent volumetric expansion of the cylinder may not exceed 10 percent of its total volumetric expansion at the required test pressure.

(f) Each cylinder must be tested to at least 5/3 times its service pressure.

§ 178.45–12 Ultrasonic examination.

After the hydrostatic test, the cylindrical section of each vessel must be examined in accordance with ASTM Standard A–388–67 using the angle beam technique. The equipment used must be calibrated to detect a notch equal to 5 percent of the design minimum wall thickness. Any discontinuity indication greater than that produced by the 5 percent notch shall be cause for rejection of the cylinder unless the discontinuity is repaired within the requirements of this specification.

§ 178.45–13 Basic requirements for tension and Charpy impact tests.

(a) When the cylinders are heat treated in a batch furnace, two tension specimens and three Charpy impact specimens must be tested from one of the cylinders or a test ring from each batch. The lot size represented by these tests may not exceed 200 cylinders.

(b) When the cylinders are heat treated in a continuous furnace, two tension specimens and three Charpy impact specimens must be tested from one of the cylinders or a test ring from each 4 hours or less of production. However, in no case may a test lot based on this production period exceed 200 cylinders.

(c) Each specimen for the tension and Charpy impact tests must be taken from the side wall of a cylinder or from a ring which has been heat treated with the finished cylinders of which the specimens must be representative. The axis of the specimens must be parallel to the axis of the cylinder. Each cylinder or ring specimen for test must be of the same diameter, thickness, and metal as the finished cylinders they represent. A test ring must be at least 24 inches long with ends covered during the heat treatment process so as to simulate the heat treatment process of the finished cylinders it represents.

(d) A test cylinder or test ring need represent only one of the heats in a furnace batch provided the other heats in the batch have previously been tested and have passed the tests and that such tests do not represent more than 200 cylinders from any one heat.

(e) The test results must conform to the requirements specified in §§ 178.45–14 and 178.45–15.

(f) When the test results do not conform to the requirements specified, the cylinders represented by the tests may be reheat treated and the tests repeated. Paragraph (e) of this section applies to any retesting.

§ 178.45–14 Basic conditions for acceptable physical testing.

(a) The following criteria must be followed to obtain acceptable physical test results:

(1) Each tension specimen must have a gage length of 2 inches with a width not exceeding 1½ inches. Except for the grip ends, the specimen may not be flattened. The grip ends may be flattened to within 1 inch of each end of the reduced section.

(2) A specimen may not be heated after heat treatment specified in § 178.45–8.

(3) The yield strength in tension must be the stress corresponding to a permanent strain of 0.2 percent of the gage length.

(i) This yield strength must be determined by the "offset" method or the "extension under load" method described in ASTM Standard E8–69.

(ii) For the "extension under load" method, the total strain (or extension under load) corresponding to the stress at which the 0.2 percent permanent strain occurs may be determined with sufficient accuracy by calculating the elastic extension of the gage length under appropriate load and adding thereto 0.2 percent of the gage length. Elastic extension calculations must be based on an elastic modulus of 30 million. However, when the degree of accuracy of this method is questionable, the entire stress-strain diagram must be plotted and the yield strength determined from the 0.2 percent offset.

(iii) For the purpose of strain measurement, the initial strain must be set with the specimen under a stress of 12,000 p.s.i. and the strain indicator reading set at the calculated corresponding strain.

(iv) The crosshead speed of the testing machine may not exceed one-eighth inch per minute during the determination of yield strength.

(4) Each impact specimen must be Charpy V-notch type size 10 mm x 10 mm taken in accordance with paragraph 11 of ASTM Standard A–333–67. When a reduced size specimen is used, it must be the largest size obtainable.

§ 178.45–15 Acceptable physical test results.

(a) Results of physical tests must conform to the following:

(1) The tensile strength may not exceed 155,000 p.s.i.

(2) The elongation must be at least 16 percent for a 2-inch gage length.

(3) The Charpy V-notch impact properties for the three impact specimens, which must be tested at 0° F., may not be less than the values shown below:

Size of specimen (mm)	Average value for acceptance 3 specimens	Minimum value 1 specimen only of the 3
	Foot pounds	*Foot pounds*
10.0 x 10.0	25	20
10.0 x 7.5	21	17
10.0 x 5.0	17	14

(4) After the final heat treatment, each vessel must be hardness tested on the cylindrical section. The tensile strength equivalent of the hardness number obtained may not be more than 165,000 p.s.i. (R_c 36). When the result of a hardness test exceeds the maximum permitted, two or more retests may be made; however, the hardness number obtained in each retest may not exceed the maximum permitted.

§ 178.45–16 Rejected cylinders.

(a) Reheat treatment is authorized. However, each reheat treated cylinder must subsequently pass all the prescribed tests.

(b) Repair by welding is not authorized.

§ 178.45–17 Markings.

(a) Marking must be done by stamping into the metal of the cylinder. All markings must be legible and located on a shoulder.

(b) Required markings are as follows:

(1) DOT–3T, followed by the service pressure (for example: DOT–3T1800);

(2) A serial number;

(3) The registration number of the manufacturer (M ****);

(4) The inspector's official mark near the serial number;

(5) The tare weight in pounds; and

(6) The date of the test (for example 5–72 for May 1972), so placed that dates of subsequent tests may be easily added.

(c) Markings must be at least one-half inch high.

(d) The markings prescribed by paragraphs (b) (1), (2), and (3) of this section must be displayed one immediately below the previous one as follows:

DOT–3T1800
1234
M 6789

(e) No person may mark any cylinder with the specification identification "DOT–3T" unless (1) it was manufactured in compliance with the requirements of this section and (2) its manufacturer has a registration number (M ****) from the Office of Hazardous Materials, Department of Transportation, Washington, D.C. 20590.

§ 178.45–18 Inspector's report.

(a) The inspector's report must be retained indefinitely by the manufacturer as long as DOT–3T cylinders are authorized for use by these regulations and a copy must be supplied the purchaser and owner of each cylinder. Upon sale by the original purchaser or owner,

a copy of the report must be furnished the buyer. The manufacturer and owner must keep all reports available for examination upon request by representatives of the Department.

(b) Each report must be legible, and contain at least the following information:

INSPECTION REPORT COVERING THE MANUFACTURE OF SPECIFICATION DOT–3T CYLINDERS

The cylinders covered by this report were manufactured for _____ _____ located at _____. They were manufactured by _____ _____ located at _____ _____. The cylinders are _____ inches in diameter (OD), _____ inches in length, and have a minimum wall thickness of _____ inches. The calculated stress is _____ p.s.i. under a test pressure of _____ p.s.i. The marks stamped into the shoulder of the cylinder are:

Specification DOT– _____;
Serial Nos. _____ to _____ inclusive;
Inspector's mark _____;
DOT registration number M_____;
Tare weight _____;
Test date _____;
Other marks (if any) _____.

These cylinders were made by process of _____. The cylinders were heat treated by the process of _____ _____. The metal used was identified by the following _____
(heat-purchase order)
numbers _____ _____. The metal used was verified as to chemical analysis as shown in the "Record of Chemical Analysis of Metal" attached hereto. The heat numbers _____
(were–were not)
_____ marked on the metal.

All material was inspected visually and by ultrasonic means and all that was accepted was found free of injurious defects which might significantly affect the strength of the cylinder. The processes of manufacture and heat treatment of cylinders were observed and found satisfactory.

The cylinder walls and outside diameter were measured and the calculated stress for the cylinder design covered herein was verified.

Hydrostatic test, physical tests of the material, and other tests as prescribed in specification DOT–3T were made in the presence of the inspector. All materials, tests results, and cylinders accepted were found to be in compliance with the requirements of that specification and records therefor are attached hereto.

I hereby certify that all these cylinders proved satisfactory in every way and are in compliance with the requirements of Department of Transportation Specification 3T.

Inspector's name _____
(Print)
Signed _____
(Inspector)
Inspector's employer _____
(Name and address)
Place _____
Date _____

(Place) _____
(Date) _____

RECORD OF CHEMICAL ANALYSIS OF MATERIAL FOR CYLINDERS

Numbered _____ to _____ inclusive.
Size _____ inches outside diameter by _____ inches long.
Made by _____ Company
For _____ Company

Test No.	Heat No.	Check analysis No.	Cylinders represented (serial Nos.)	Chemical analysis						
				C	P	S	Si	Mn	Cr	Mo

The analyses were made by _____
(Signed) _____
Inspector's name _____
(Print)
Inspector's employer _____
(Name and address)

(Place) _____
(Date) _____

RECORD OF PHYSICAL TESTS OF MATERIAL FOR CYLINDERS

Numbered _____ to _____ inclusive. Size _____ inches outside diameter by _____ inches long made by _____ Company for _____ _____ Company.

Test No.	Cylinders represented by test (serial nos.)	Yield strength at 0.2 percent offset (pounds per square inch)	Tensile strength (pounds per square inch)	Elongation (percent in 2 inches)	Reduction of area (percent)	Charpy V-notch	
						Average value for 3 specimens	Minimum value for one specimen

Signed _____
Inspector's name _____
(Print)
Inspector's employer _____
(Name and address)

(Place) _____
(Date) _____

RECORD OF HYDROSTATIC TESTS ON CYLINDERS

Numbered _____ to _____ inclusive. Size _____ inches outside diameter by _____ inches long made by _____ Company for _____ _____ Company.

Serial Nos. of cylinders tested arranged numerically	Actual test pressure (pounds per square inch)	Total expansion (cubic centimeters) [1]	Permanent expansion (cubic centimeters) [1]	Percent ratio of permanent expansion to total expansion [1]	Tare weight (pounds) [2]	Volumetric capacity

[1] If the tests are made by a method involving the measurement of the amount of liquid forced into the cylinder by the test pressure, then the basic date, on which the calculations are made, such as the pump factors, temperature of liquid, coefficient of compressibility of liquid, etc., must also be given.
[2] State whether with or without valve. These weights must be accurate to a tolerance of 1 percent.

(Signed) _____
Inspector's name _____
(Print)
Inspector's employer _____
(Name and address)

NOTE: Any omission of analyses by heats, if authorized, must be accounted for by notation hereon reading "The prescribed certificate of the manufacturer of material has been secured, found satisfactory, and placed on file." or by attaching a copy of the certificate.

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before July 11, 1972, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831–835 of title 18, United States Code, and section 9 of the Department of Transportation Act (49 U.S.C. 1657).

Issued in Washington, D.C., on March 28, 1972.

WILLIAM K. BYRD,
Acting Chairman, Hazardous Materials Regulations Board.

[FR Doc.72-5009 Filed 4-3-72;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 1, 81, 87, 89, 91, 93]

[Docket No. 19484; FCC 72-272]

SAFETY AND SPECIAL RADIO SERVICES

Applications or Petitions To Deny Applications

In the matter of amendment of Parts 1, 81, 87, 89, 91, and 93 of the Commission's rules relating to the time in which applications, and amendments thereto, or petitions to deny applications, may be filed in the Safety and Special Radio Services Docket No. 19484.

1. Notice of proposed rule making in the above-captioned matter is hereby given.

2. We propose to establish cutoff dates in our rules for the filing of mutually exclusive applications, major amendments thereto, and petitions to deny applications in the Safety and Special Radio Services of which public notice is required by section 309(b) of the Communications Act. The proposed changes are consonant with cutoff rules now applicable in the Broadcast and Common Carrier Services. The proposed cutoff rules will apply, generally, to applications for fixed microwave stations, industrial radio positioning stations for which frequencies are assigned on an exclusive basis, aeronautical advisory, en route, fixed and airborne control stations; and for maritime public coast stations. The cutoff times proposed are reasonable related to the time when the applications would normally be reached for processing by the Commission's staff. In substance, the proposed rules will require:

a. Applications that are mutually exclusive with an application already on file will be accepted for filing only if the later application is filed either (i) by the close of business 1 business day before the date of the Commission's order which first designated for hearing the first prior application or applications with which such application is in conflict, or (ii) within 60 days after the date of the public notice [1] listing the first prior filed application with which the subsequently filed application is in conflict, as having been accepted for filing, whichever date is earlier;

b. That a petition to deny an application may be filed no later than 30 days after the date of the public notice listing the application, or substantial amendment to the application, as having been accepted for filing.

c. Substantial amendments to mutually exclusive applications, and amendments, which will improve the applicant's position in any comparative hearing or which will change the issues in any hearing will be accepted if filed within 30 days after public notice is given of the filing of the mutually exclusive applications.

d. Amendments (those described in para. c above) to applications against which petitions to deny have been filed will be accepted if filed within 30 days of the filing of the first petition to deny.

3. It is to be noted, that the proposed cutoff dates set forth in the Rule Sections as amended, for filing a mutually exclusive application are stated in the alternative, whichever is earlier; (1) the close of business one business day before the Commission's designation order, or (2) within 60 days from the date of the public notice listing the first application for filing. Thus, the date fixed by the public notice is no guarantee that an application will be entitled to consideration with listed applications if filed by the end of the 60-day period, but rather that date is the last possible filing date for comparative consideration only if the earlier application has not been designated for hearing by that time.

4. It is also noted, that according to the language and intent of these sections as amended, the consolidation rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications. Thus, if application B is timely filed for consideration with application A, and application C is not timely filed for consideration with application A, application C will not be consolidated in the hearing on applications A and B though it was timely filed as to B, unless of course, application C is mutually exclusive with application B only.

5. The proposed amendments to the rules, as set forth below, are issued pursuant to the authority contained in sections 4(i), 303(r), and 309(d)(1) of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before May 9, 1972, and reply comments on or before May 19, 1972. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its main offices in Washington, D.C.

Adopted: March 23, 1972.

Released: March 28, 1972.

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

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

1. Section 1.227(b) (2) and (3) is amended to read as follows:

§ 1.227 Consolidations.

* * * * *

(b) * * *

(2) In cases of applications filed in the Safety and Special Radio Services, any application that is mutually exclusive with another application or applications will be consolidated for hearing with such other application or applications only if the later application in question is substantially complete and tendered for filing by whichever date is earlier: (i) Not later than the close of business 1 business day before the Commission adopted an order which first designated for hearing the prior application or applications with which such application is in conflict; or (ii) within 60 days after the date of public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change (i.e., substantial change as defined by § 1.962(c) will, for the purpose of this section, be considered to be a newly filed application.

(3) In common carrier cases, other than Public Coast stations in the Maritime Mobile Services which are provided for in subparagraph (2) of this paragraph and except those involving Domestic Public Radio Service any application that is mutually exclusive with another previously filed application will

[1] During the course of each week a public notice is issued listing, inter alia, certain applications, for which public notice is required by section 309(b) of the Communications Act, accepted for filing in the Safety and Special Radio Services, and applications requesting major amendment to applications previously subject to public notice.

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

be considered with such prior filed application only if the later filed application is substantially complete and tendered for filing prior to the close of business on the day preceding the day the earlier filed application is designated for hearing. In the Domestic Public Radio Services no application will be consolidated for hearing as mutually exclusive with a previously filed application or applications unless such application, or such application as amended so as to constitute a major change therein as defined in § 21.33 of this chapter, is substantially completed and tendered for filing by whichever date is earlier: (i) The close of business 1 business day preceding the day on which the Commission designates the earlier filed application for hearing; or (ii) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will, for the purpose of this section, be considered to be a newly filed application. Where major changes which do not relate to the mutually execlusive aspect of a proceeding are warranted, or in the case of multiple mutually exclusive issues where the warranted major changes serve to resolve one or more of the issues but do not relate to the mutually exclusive aspect of the proceeding, such changes or amendments will not serve to alter the existing mutually exclusive status so long as new conflicts are not created.

* * * * *

2. In § 1.918, paragraph (b) is amended, a new paragraph (c) is added and the existing paragraph (c) is redesignated paragraph (d), to read as follows:

§ 1.918 Amendment of applications.

* * * * *

(b) Any application may be amended as a matter of right prior to the grant of such application by filing the appropriate number of copies of the amendments in question duly executed: *Provided, however,* That when an application is mutually exclusive with another application, or when a petition to deny such an application has been filed, an application to amend the application substantially, as defined in § 1.962(c) of this chapter, or in a way that would improve the applicant's position in any comparative hearing, or to change the issues in any hearing, must be filed not later than 30 days after the filing at the Commission of the petition to deny such application or, in the case of mutually exclusive applications, within 30 days of the public notice of the filing of the mutually exclusive application. If a petition to deny has been filed, or the application is mutually exclusive with another application, the amendment shall be served on the petitioner, or the other applicant, as the case may be.

(c) An application to amend an application after it has been designated for hearing will be considered only upon written petition addressed to the hearing examiner and served upon the parties of record, and will be granted only for good cause shown. A petition which requests a substantial change or to change the applicant's position, or the issues, in a hearing, must be accompanied by a signed statement of a person with knowledge of the facts as to whether or not consideration has been promised to or received by the petitioner, directly or indirectly, in connection with the filing of such petition for amendment. If consideration has been promised, or received, the statement shall set forth in full detail all the relevant facts with sufficient itemization of the consideration to enable the examiner to determine to what extent, if any, that the consideration represents only the reasonable costs of prosecuting the petitioner's application.

* * * * *

3. Section 1.962(g) of the rules is amended to read as follows:

§ 1.962 Public notice of acceptance for filing; petitions to deny application of specified categories.

* * * * *

(g) Any party in interest may file with the Commission a petition to deny any application, whether as filed originally or as subsequently amended by a substantial amendment as defined in paragraph (c) of this section, subject to the provisions of this section, no later than 30 days after the date of the public notice listing the application, or substantial amendment to the application, as having been accepted for filing. A petitioner shall serve a copy of such petition on the applicant. A petition shall contain specific allegations of fact sufficient to show that the petitioner is a party in interest and that a grant of the application would be prima facie inconsistent with the public interest, convenience, and necessity. Such allegations of fact, except for those of which official notice may be taken, shall be supported by affidavit of a person or persons with personal knowledge thereof.

* * * * *

§§ 81.28, 87.39, 89.69, 91.61, 93.61 [Amended]

4. Sections 81.28(b), 87.39(b), 89.69 (a), 91.61(a), 93.61(a) are amended identically to read as follows:

Any application, except for mutually exclusive applications or those against which a petition to deny has been filed, may be amended as a matter of right at any time prior to the time the application is granted or designated for hearing. Each amendment to an application shall be signed and submitted in the same manner as required for the original application. The procedures for amending applications mutually exclusive under this part, applications against which a petition to deny has been filed, and applications designated for hearing are set forth in § 1.918 of this chapter.

[FR Doc.72-5068 Filed 4-3-72;8:47 am]

[47 CFR Part 73]

[Docket No. 19483; FCC 72-265]

FM BROADCAST STATIONS IN SODDY-DAISY, TENN.

Proposed Table of Assignments

In the matter of amendment of § 73.202, *Table of Assignments,* FM Broadcast Stations (Soddy-Daisy, Tenn.), Docket No. 19483, RM-1810.

1. Notice is hereby given concerning the amendment of the FM Table of Assignments (§ 73.202 of the rules) to add a first channel for Soddy-Daisy, Tenn.

2. Petitioner, Robert Allen Mayer, requests the assignment of Channel 272A to Soddy-Daisy, Tenn., which are located in Hamilton County, northeast of Chattanooga. Both are within the Chattanooga Standard Metropolitan Statistical Area. According to the petition the proposed assignment could be made without disturbing any existing assignments and without having any significant preclusionary effect.

3. In support of the proposed assignment, petitioner contends that the communities, which have a combined population of 7,569,[1] lack local nighttime radio service. Such service as they have (principally from Chattanooga) is said to be unattentive to the particular needs of these communities. Petitioner is licensee of WPJD-AM a daytime-only station in Daisy, Tenn.

4. From our study of the petition it appears that the proposed assignment would not have a significant preclusionary effect and could be made consistent with our rules and without disturbing any existing assignments. For these reasons we believe that the proposal to serve this area merits consideration. There is another matter however, which bears upon this situation. In a notice of proposed rule making in Docket 19160, we proposed, and have since adopted, a Class A assignment for Red Bank-White Oak, Tenn. Like Soddy-Daisy, these communities are located in Hamilton County and in the Chattanooga SMSA, close enough to Soddy-Daisy so a station using the new assignment would provide 1.0 mv/m or better service to Red Bank-White Oak. From currently available information it appears that the proposed Red Bank-White Oak assignment would provide 1 mv/m service to Soddy-Daisy. Although both assignments could be made, petitioner and others desiring to comment, should address themselves to the need for an additional assignment in this area in view of our recent action. Finally, commenting parties should address themselves to the question of whether it would be appropriate to assign the channel on a hyphenated basis rather than to either community separately if it appears that an additional assignment in the area is warranted.

5. Cutoff procedure. As in other recent FM rule making proceedings, the following procedures will govern:

[1] 1970 Census. The petition also points out that the Soddy-Daisy joint Civil Division has a 1970 population of 10,918.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with any of the proposals in this notice, they will be considered as comments in the proceedings, and public notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

6. In view of the foregoing, and pursuant to authority found in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as concerns the communities below:

City	Channel No.	
	Present	Proposed
Soddy-Daisy, Tenn.		272A

7. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested persons may file comments on or before May 9, 1972, and reply comments on or before May 19, 1972. All submissions by parties to this proceeding or persons acting in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

8. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. These documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

Adopted: March 23, 1972.

Released: March 28, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-5066 Filed 4-3-72;8:46 am]

[47 CFR Part 73]

[Docket No. 19401]

FM BROADCAST STATIONS IN CERTAIN CITIES IN IOWA, WEST VIRGINIA, AND FLORIDA

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Hampton, Pella, Cedar Rapids, and Charles City, Iowa; Keyser, W. Va.; Crystal River and Gainesville, Fla.), Docket No. 19401, RM-1750, RM-1756, RM-1757, RM-1777, RM-1790, RM-1829.

1. The further notice of proposed rule making in the above-entitled proceeding was adopted on February 9, 1972, released February 14, 1972, and published in the FEDERAL REGISTER on February 17, 1972, 37 F.R. 3548. The dates for filing comments and reply comments are presently March 24, 1972 and April 5, 1972, respectively.

2. On March 23, 1972, Tri-County Broadcasters, Inc. (Tri-County), licensee of Stations WTRS and WTRS-FM, Dunnellon, Fla., by its attorney, filed a request for an extension of time to and including April 7, 1972, in which to file comments. Counsel states that Tri-County desires to participate in this proceeding but due to the short time of its operation of the Dunnellon stations additional time is needed in order to allow it to make a showing in the public interest.

3. We are of the view that the requested extension of time is warranted and would serve the public interest: *Accordingly, it is ordered*, That the time for filing comments in the above docket, RM-1757, RM-1777, and RM-1790 only, is extended to and including April 7, 1972, and for the filing of reply comments to and including April 19, 1972.

4. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: March 24, 1972.

Released: March 28, 1972.

[SEAL] ROBERT J. RAWSON,
Deputy Chief, Broadcast Bureau.

[FR Doc.72-5069 Filed 4-3-72;8:47 am]

[47 CFR Part 73]

[Docket No. 19116; FCC 72-268]

FM BROADCAST STATIONS IN CERTAIN CITIES IN MAINE, NEW HAMPSHIRE AND NEW YORK

Memorandum Opinion and Order Terminating Proceeding

In the matter of amendment of § 73.202, *Table of Assignments*, FM Broadcast Stations. (Skowhegan, Augusta, Westbrook, and South Paris, Maine; Plymouth and Dover, N.H.; Waterbury, Vt.; and Plattsburgh, N.Y.) Docket No. 19116, RM-1442, RM-1464.

1. The Commission here considers petitions for reconsideration of the report and order in this proceeding which made certain changes, while denying others, in the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations), adopted November 10, 1971, and released November 12, 1971, 32 FCC 2d 549. The petitions were filed by Lakes Region Broadcasting Corp. (Lakes Region), WIRY, Inc. (WIRY), and Oxford Hills Radio Communications, Inc., licensee of WNWY-FM, Norway, Maine. The latter petition dealing only with reimbursement was voluntarily dismissed; see paragraph 14, below. Lakes Region also filed a petition for stay which we are denying; see paragraph 3, below. Lakes Region's petition for reconsideration was opposed by Kennebec Valley Broadcasting, Inc., licensee of Station WGHM-FM, Skowhegan, Maine (Kennebec Valley) and Eastminster Broadcasting Corp., licensee of FM Station WDNH, Dover, N.H. (Eastminster). The petition of WIRY is opposed by Kennebec Valley and partially by Lakes Region; WIRY filed a reply to Kennebec Valley's opposition. Lakes Region filed replies to the oppositions of Kennebec Valley and Eastminster.

2. The proceeding in brief involved proposals for Class C assignments at Skowhegan, Maine, proposed by Kennebec Valley (RM-1442), and at Plymouth, N.H., proposed by Lakes Region (RM-1464), which were in conflict and thus considered together because of the adjacent mileage separation shortage between the Channel 286 assignment at Skowhegan proposed by Kennebec Valley and Channel 287 which Lakes Region proposed to substitute for Channel 248 for Station WDNH, Dover, N.H., with Channel 248 being allocated to Plymouth, N.H. There were other concomitant changes. In general, Kennebec Valley's proposal was adopted while Lakes Region's proposal and counterproposal were not. WIRY, Inc., licensee of Class IV AM Station WIRY at Plattsburgh,[1] became a party because of its petition to assign Channel 281 or 287 at Plattsburgh and its having filed comments in this proceeding to comply with the "cut off" procedure in FM rule making proceedings. Its proposal for Channel 281 might have conflicted with the alternative Channel 281 substitute for Augusta, Maine, to which the Report and Order assigned Channel 294 (although the Canadian authorities have been requested to reconsider the Channel 282 alternative; see paragraph 15 of the report and order, 32 FCC 2d at 556). The Channel 287 proposal conflicted with that of Green Mountain Radio Associates to assign that channel to Rutland, Vt., and was linked to the principal proceeding because of Lakes Region's proposed substitute for Station WDNH; the Rutland proposal was withdrawn (see paragraph 8 of the report and order, 32 FCC 2d at 552). We denied both of WIRY's proposals because each seriously violated minimum mileage separations of the Working Arrangement of 1963 under the Canadian-United States FM Agreement of 1947.

3. We first discuss Lakes Region's petition for stay, which was opposed by Kennebec Valley and Eastminster. We did

[2] Commissioners Robert E. Lee and Johnson absent.

[1] Other aural facilities at Plattsburgh are Stations WEAV (Class III, unlimited time) and WEAV-FM, licensed to Plattsburgh Broadcasting Co., and daytime AM Station WKDR, licensed to Metro Group Broadcasting Co.

not act on the stay separately because of Lakes Region's failure to establish a right to one under classic criteria, see "Capitol Broadcasting Company, Inc.," 1 F.C.C. 2d 376 (1965); "WHDH, Inc., 20 R.R. 410a (1960); and "Saratoga-Bradentown Florida Television Co., Inc," 29 FCC 2d 520 (1971). To the extent that Lakes Region was specifically concerned with adherence to the schedule(s) in Paragraphs 18 and 19 of the report and order for Stations WGHM–FM (Kennebec Valley) and WNWY–FM to agree to channel changes and file technical data, these steps were meaningless without further Commission action. Indeed, Station WNWY–FM requested leave to defer compliance with paragraph 19; see paragraph 14 below. Further, Kennebec Valley had already filed its assent to the change and it was about to file the technical data, and we felt that we could defer denial until acting on Lakes Region's petition for reconsideration, since such acts alone could not prejudice Lakes Region's petition for reconsideration.

4. We now discuss WIRY's petition for reconsideration. WIRY, aware of the mileage separation shortages to Canadian channel assignments, endeavored to show that Plattsburgh, on the basis of population (18,715 according to the 1970 Census [2]), is entitled to an additional FM channel. FM Channel 260 already is assigned to that community; it is occupied by Station WEAV–FM, and there are other aural services including Class IV AM Station WIRY, licensed to the petitioner (see footnote 1). As WIRY states in the petition for reconsideration, the short-spacings referred to in fn. 8 of the report and order (32 FCC 2d at 553) were noted by it, and WIRY proposed limited radiation toward Canada (a Class A facility). The Channel 287 alternative, which also conflicted with Lakes Region's proposal for Dover, N.H., was not deemed technically feasible even with the proposed suppressed radiation because of great shortages of mileage separations to the three Canadian channels involved. With suppression in radiation, Channel 281 would have meet Class A spacings to two Canadian channels and the other two were within the 5-mile tolerance permitted under the FM agreements with Canada; however, we are especially concerned with the wide angle of suppression required to the Canadian border and the concomitant limitation on radiation in the opposite direction brought about by the 15 decibel restriction in maximum to minimum radiation in § 73.316(c). Thus, a station on Channel 281 at Plattsburgh could never effectively operate as a Class C channel domestically where it would be necessary to maintain Class C separations, and there would be a large preclusion area to the south of Plattsburgh where Channel 281 might be allocated. If Channel 281 were assigned to Plattsburgh, there would be a substantial area where allocation of Channel 280A would be precluded irrespective of Canadian FM channel assignments. In sum, in our judgment, assignment of Channel 281 to Plattsburgh would be a highly inefficient allocation in the circumstances as concerns our domestic situation, considering the mandate of Section 307(b) of the Communications Act of 1934, as amended, about a fair, efficient, and equitable distribution of radio service among the States and communities.

5. In its petition for reconsideration, WIRY now proposes terrain shielding in the direction of Canada. More specifically, WIRY suggests the allocation of Channel 281 to Plattsburgh but at a selected transmitter site which would protect the Canadian allocations by utilizing natural obstacles; the specific example is a site west of Plattsburgh which in the direction of St. Jerome, Quebec, to whose Channel 280B there is a mileage separation shortage, an antenna with a center of radiation of 500 feet above ground is 223 feet below average terrain. WIRY's engineer further states that similar shielding would be obtained at other sites. This is a novel approach, for in the FM service we have not recognized terrain shielding for allocation purposes along the United States-Canadian border as well for domestic purposes. This concept is not specifically contemplated by our accord with Canada. However, this aside, and as pointed out above, allocation of Channel 281 to Plattsburgh would be inefficient.

6. We now turn to Lakes Region's petition for reconsideration. Its main argument is that its counterproposal should have been adopted. As to the principal commmunities involved, it states that Class C channels could be assigned to Skowhegan (Channel 277), Plymouth (Channel 248), and Dover (substitute Channel 287 for 248). Lakes Region contends that the report and order in some respects is based on errors of fact and law and fails to consider critical public interest factors. We disagree and adhere to the views expressed in the Report and Order. Lakes Region's petition for reconsideration viewed in its proper light mainly is a reargument of contentions considered and rejected by the Commission. Contrary to this party's contentions the report and order was not based on misconception of fact or law.[3]

7. Lakes Region's argument that Plymouth is entitled to a Class C channel was predicated on two separate grounds. The predominant one was that such an allocation would provide a first or second "in-state" service to large areas in New Hampshire. As stated in the report and order (paragraph 11, 32 FCC 2d at 554), Lakes Region erroneously assumes that Station WWMT–FM (Channel 235, Mount Washington, N.H.) is not a New Hampshire assignment. This novel argument of "in-state" service, we rejected on the broader ground that Lakes Region failed to show unserved and underserved areas under the "Roanoke Rapids and Goldsboro, North Carolina," 9 FCC 2d 672 (1967), case as the touchstone of fair, efficient, and equitable service in the circumstances as required by section 307(b) of the Communications Act of 1934, as amended. This point was made earlier in the notice of proposed rule making (paragraph 10(c)). Lakes Region contends that it also argued that Plymouth needed a Class C channel because of terrain and service to dispersed populations. There is no doubt that the "Roanoke Rapids" case doctrine applies in the latter respect and, despite Lakes Region's contrary contention, we found that no showing was made that a Class C channel would provide service to unserved areas.[4] This aside, allocation of Channel 248 to Plymouth, N.H.—the only possible Class C channel that could be assigned under mileage criteria—depended on a suitable substitute channel for Station WDNH, Dover, N.H., being available. (That station could not continue to operate on Channel 248, if that channel were to be allocated to Plymouth.) The proposed substitution of Channel 287 in lieu of 248 at Dover was limited not only by the proposed assignment of Channel 286 to Skowhegan but by a cochannel Station WPJB–FM, Providence, R.I. Footnote 5 of the notice of proposed rule making stated that Lakes Region's suggested waiver of the separation rules would not be considered and that no convincing argument had been made why we should derogate from the integrity of the separation rules. In its petition for reconsideration, Lakes Region suggests another course of action restricting Station WDNH on Channel 287 at its present site with a maximum antenna height of 300 feet (its actual height is 292 feet) thus affording Station WPJB–FM what Lakes Region characterizes as "equivalent distance protection", and, should Station WDNH in the future seek to operate as a maximum Class B facility, it could remove the restriction by selecting a new site. It is essential to this concept that the Commission adopt Lakes Region's counterproposal which includes allocation of Channel 277 at Skowhegan and concomitant changes elsewhere. These include the substitution of Channel 295 for Station WMOU–FM, Berlin, N.H.

[2] The seat and largest city of Clinton County (with a population of 72,934). Plattsburgh is about 22 miles from the Canadian border.

[3] In fact, Lakes Region's assertions are the ones not free from factual error. For example, it states that Plymouth is comparable in size to Rumford. According to the 1970 Census, Plymouth has a population of 4,225 (a 31.6 percent growth since 1960), and that of Rumford is 9,363 (a 6.4 percent loss since 1960). The higher percentages of increase and loss relied on by Lakes Region are for Plymouth Compact (38.5 percent) and Rumford Compact (14.3 percent decrease), whose respective populations are 3,109 and 6,198. At another point, Lakes Region says that the Commission in discussing preclusion at Athol and Orange, Mass., no mention was made of service from stations at Keene, N.H., and Fitchburg and Worcester, Mass. Paragraph 9(d) of the notice of proposed rule making said: "Athol and Orange * * * received service from stations * * * fairly close by such as Keene * * * Fitchburg and Worcester * * *".

[4] There is a minimal underserved area. Lakes Region estimates this to be 600 square miles.

(Channel 279), which in turn requires the substitution of Channel 284 for 298 at Lewiston, Maine.

8. In our report and order, we rejected the counterproposal because proposed Channel 295 at Berlin would be short spaced to Channel 295B at Three Rivers, Quebec. We also referred to the note to § 73.207(a) (IF taboo) as limiting the proposed assignment of Channel 284 at Lewiston. As to the short spacing between Berlin and Three Rivers, Quebec, Lakes Region contends that the Three Rivers assignment was not in existence until 8 months after Lakes Region submitted its counterproposal. Here, reliance is placed on the filing of comments on February 26, 1971, and the first announcement about the Three Rivers allocation not appearing in the FEDERAL REGISTER until October 20, 1971 (36 F.R. 20316–7).

9. In fact, under the Canada-United States FM Agreement of 1947 and the Working Arrangement of 1963, the channel change for Three Rivers was agreed to in January 1970, a little more than 1 year before Lakes Region's counterproposal. Although the Commission from time to time issues a "public notice" and the FEDERAL REGISTER, when the Commission submits such data, publishes an up-dated Table A of the Working Agreement, neither step is one required by the 1947 Agreement or 1963 Working Arrangement, any law, or Commission Rule or Regulation. Indeed, any such information is cumulative and recapitulates information furnished by the Department of Communications of Canada. Lakes Region, however, was not without recourse to ascertain whether its counterproposal conflicted with a Canadian assignment, for, under §§ 0.451 and 0.455 of the Commission's rules, interested persons are entitled to have such data made available. Despite the short-spacing to Three Rivers, Lakes Region focuses on other benefits which could accrue from the substitution of Channel 295 for Channel 279 for Station WMOU–FM at Berlin because this would eliminate the 55-mile short-spacing[5] to Station WKNE–FM (Channel 279), Keene, N.H., and the 19.1 mile short-spacing to Channel 278A at Granby, Quebec. In the reply to the opposition of Kennebec Valley to its petition for reconsideration, Lakes Region states that there is another 23-mile short-spacing from Station WMOU–FM to Channel 280 at Rochester, N.H., that would be obviated and so 97 miles of short-spacing would be reduced to 32.8 miles. The additional mileage includes: 2.9 miles from the Berlin reference point to Station WKXR–FM, Exeter, N.H. (Channel 296A); 1.4 miles between the proposed Channel 277 at Skowhegan and its cochannel at Fredericton, New Brunswick, Canada; and the 4.5 miles short-spacing between Stations WDNH (the proposed Channel 287) and WPJB–FM.

[5] Our engineering study shows this to be 50 miles.

10. Lakes Region makes two different arguments about Channel 284. First it proposes that both Lewiston's channels be classified as B's (Station WCOU–FM, Channel 230, already is, because its transmitter site is located in Zone I; see § 73.207(b)). Lakes Region says that by so doing, there would be no loss of existing service, there would be no injury to any operating FM, and this would allow the assignment of additional channels in the New England area where FM is in very short supply. As a precedent, Lakes Region says that this rationale prompted changing the FM channels at Rutland, Vt., from Class C to B. We do not agree. We read the first report and order in Docket No. 18801, adopted May 13, 1970 (FCC 70–502), as saying that the reason for changing the class of FM channels at Rutland was that the channel assignments were made on the basis of the community being in Zone I while in fact in Zone II. Since neither channel would meet minimum mileage separations as Class C channels and no Class C assignment could be made to Rutland, the Rutland channels were designated as Class B as an "exceptional departure" from basing classification on location and the "reclassification" was a formal recognition of the inadvertent designation. This is not a precedent for Lewiston.

11. In its reply to the opposition of Kennebec Valley of its petition for reconsideration, Lakes Regions states that § 73.205(a) of the rules makes all Lewiston channels Class B, for in delineating Zone I, when a city is astride the lines demarcating Zone I, the channels are Class B's. At least this is the interpretation that Lakes Region would give the last sentence of that paragraph, which reads:

> When any of the above lines pass through a city, the city shall be considered to be located in Zone I.

On the other hand, § 73.207(b) says:

> The zone in which the transmitter of an FM station is located or proposed to be located determines the applicable rules with respect to minimum required spacings.

If the latter controls, quite clearly, Channel 284 would have to be west of Lewiston in Zone II, which raises a question of principal city coverage, for the required IF taboo spacing of C to B is 25 miles. It should be noted that the Commission in adding the Note to § 73.207(b) said that "(t)he problem (which the Note deals with) will be considered on a case-by-case basis". (5 R.R. 2d 1679, 1680 (1965).) Insofar as the apparent conflict between §§ 73.205(a) and 73.207(b), we tend toward the view that the latter is controlling, and thus we are faced with Lakes Region's strained interpretation of the "Rutland" proceeding as precedent. Kennebec Valley observed in its reply comments that the proposed Channel 284 assignment to Lewiston would be short-spaced to adjacent channels at Fitchburg (5 miles to Station WFMP) and Gloucester (1 mile to WVCA–FM), if the proposed Lewiston Channel 284 is classified as a C rather than as a B.

12. There is no question in our mind that in Lakes Region's own words its counterproposal is "sui generis" (Petition for Reconsideration, p. 19). We address ourselves first to Lakes Region's counterproposal as concerns Skowhegan and Berlin. Both Station WMOU–FM at Berlin and Station WKNE at Keene were authorized stations preexisting the current FM table of assignments. Thus, to point to elimination of the vast mileage shortage between these stations as some special result of Lakes Region's proposal is beside the point. If it were deemed advantageous to have done so, this shortage could have been eliminated in 1963 when the FM table of assignments was adopted. For whatever reason, it was deemed best to leave that situation remain as it is. This aside, to make reallocations on the basis of minimizing shortages rather than serving some other public interest, convenience, and necessity, consideration is not sufficient. This sort of pragmatic approach would be placing emphasis on nonconsequential facts. Moreover, in order to eliminate a single 19.1 mile shortage, we would have to propose two shortages totaling 26.4 miles—25 miles between Three Rivers, Quebec, and Berlin, and a 1.4 mile shortage between Skowhegan and Fredericton, New Brunswick. Considering generally the situation in the northeastern United States along the Canadian border, we feel that it would be better not to establish two short spacings to Canada.

13. Indeed, we need not even reach consideration of the international aspect discussed above, if we give full consideration to the implications of Lakes Region's proposal for Dover. It appears that what Lakes Region is saying is that if Station WDNH remains at present power and height (and limited to 300 (feet), we should allow a cochannel short spacing of 4.5 miles because Station WPJB–FM in effect is receiving equivalent protection and should Station WDNH want to increase height and power it could with a different transmitter site (and for which reason Lakes Region proposes the allocation of Channel 277 to Skowhegan and the concomitant changes at Berlin and Lewiston). This is all posited on Lakes Region's having clearly demonstrated that the public interest, convenience, and necessity would be served by the allocation of a Class C channel to Plymouth, N.H.; of all of its arguments, the most persuasive is the subsidiary one that a Class C channel would be appropriate because of terrain but Lakes Region has never made a full showing in this respect but rather has urged the unprecedented theory that there would be "in-state service" to unserved and underserved areas. In the latter respect, the only showing is based on service from New Hampshire stations—contrary to the "Roanoke Rapids" case—and on the assumption that Station WWMT–FM is not a New Hampshire station. Further, to accomplish this objective, Lakes Region would permit 4.5 miles cochannel short spacing despite our clearly

indicating that for allocation purposes we must adhere to the integrity of mileage separations. Even assuming that the short spacing between Stations WDNH and WPJB–FM is only an accommodation to allow the former to continue its present operation, Lakes Region would have us make further changes which would increase the number and amount of short spacings to Canadian allocations. To do so would clearly be antithetical to the needs and exigencies of the situation.

14. As noted above, Oxford Hills, licensee of Station WNWY–FM, withdrew its petition for reconsideration. This was accomplished by an Agreement with Kennebec Valley filed with the Commission February 15, 1972. Oxford Hills also requested that the agreement "constitute * * * (1) notification to the Commission of WNWY–FM's acceptance of the modification of license * * * (2) that such notification be treated as compliance with paragraph 19(a) of the Report; and * * * (3) a request that the date for submitting the (technical) information called for by paragraph 19(b) of the report and order be extended until 30 days after WGHM–FM commences construction of its Channel 286 facilities on Sugarloaf Mountain." In the latter respect, Stations WGHM–FM and WNWY–FM agreed that the former give the latter legal and engineering assistance and advice. Since compliance with paragraph 19 is not crucial to our report and order, we accept the late filing by Station WNWY–FM to the change of its channel. Nor does the anticipated delay in filing technical data have any serious impact.

15. Accordingly, and for the reasons stated, the petitions for reconsideration of WIRY, Inc. and Lakes Region Broadcasting Corp. are denied. Lakes Region's petition for stay also is denied. The request for late filing (and actual late filing) of acquiescence to channel change by Oxford Hills Radio Communications, Inc. is granted; and its request for leave to comply with paragraph 19(b) of the report and order is granted:

16. *It is ordered*, That this proceeding is terminated.

Adopted: March 23, 1972.

Released: March 28, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[6]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-5070 Filed 4-3-72;8:47 am]

[47 CFR Part 91]

[Docket No. 19478; FCC 72-250]

BUSINESS RADIO SERVICE

Medical Telemetry and Other Low-Power Uses on Offset Frequencies

Notice of inquiry and proposed rule making. In the matter of amendment of Part 91 of the Commission's rules to permit medical telemetry and other low-power uses on offset frequencies in the Business Radio Service, Docket No. 19478, RM–1842.

1. The Commission has under consideration expanded utilization of the Business Radio Service "offset" frequencies in the 450–470 MHz band which are 12.5 kHz removed from regularly assignable mobile frequencies. The "offset" frequencies became available as a result of action in Docket 13847 (33 F.R. 3114) in order to meet a "requirement for low-power multiple frequency operation within the confines of manufacturing plants". There are currently approximately 125 of these frequencies and use is limited to low-power (3 watts or less) operation within "an industrial complex".

2. Additional low-power communications uses have rapidly developed which the Commission feels could also be accommodated on these "offset" frequencies. Examples are intra-building communication in office complexes, biological research telemetry and physiological parameter telemetry in hospitals. The subject frequencies are particularly well-suited for operations of these types since user density on the frequencies will be quite low, and the likelihood of interference is remote and would not increase with additional loading due to the low output power utilized. Further, they would complement frequencies provided in other bands for bio-medical telemetry under Part 15 of the rules.[1]

3. One of the new uses which we have under consideration for these frequencies is described in a petition filed by Hewlett-Packard requesting amendment of the rules to permit operation of low-power, portable, medical telemetry systems for monitoring cardiac patients. The medical transmitters are worn by and continuously monitor cardiac patients in coronary care units, relaying pertinent data to a nearby receiver. Consequently, the equipment requires a unique carrier frequency for each patient continuously monitored. Hewlett-Packard describes the problems:

> In these medical telemetry applications, the patient of a coronary unit must remain near emergency assistance equipment and is thus ambulatory over a limited region of a few hundred feet or, at most, over only the immediate grounds of the hospital. In this respect, such mobile transmitters as are carried about by telemetered patients, are confined to operation within the region of a hospital. And the low-power levels of these medical telemetry units (typically several milliwatts) assure that spurious emissions are negligibly low a short distance away from the limited operating region within the hospital.

4. To support its request, petitioner states that operation on low-power frequencies is necessary to minimize the likelihood of interference to these telemetry units. However, although frequencies regularly designated for low-power operation (3 watts or less) in the Business Radio Service are well suited for the use of medical telemetry equipment, there is an insufficient number to supply the need for each transmitter to have a separate discrete frequency. For these reasons and the growing need for large medical telemetry systems, Hewlett-Packard has requested the use of the numerous low-power, offset frequencies in the 450–470 MHz band.

5. As noted, these offset frequencies are separated by 12.5 kHz from mobile frequencies in the Business Radio Service, and their use is restricted to low-power mobile operation where the area of operation is limited to the confines of an industrial complex. Hewlett-Packard states "[i]n view of the similarities between operations of low-power mobile transmitters within the confines of hospitals and industrial complexes, there appears to be no reason for distinguishing between these business entities for purposes of operation on the split frequencies between 450 MHz and 470 MHz".

6. Utilization of these telemetry devices in hospitals appears to the Commission to be an important medical advancement and accommodation for such use should be maximized to the extent possible. Consequently, we propose to amend the rules as recommended by the petitioner, to permit operation of low-power medical telemetry units on the frequencies as requested. The proposed amendment would permit one-way, non-voice, low-power (100 mw) telemetry within the confines of a hospital complex, or medical or convalescent center, on any frequency 12.5 kHz removed from a mobile frequency in the Business Radio Service 450–470 MHz band.[2] Since the output of the telemetry unit is nominal the possibility of harmful interference to adjacent channel users is negligible. Also, offset operation adjacent to regular mobile frequencies involves minimal interference potential to hospital telemetry since it normally requires a coincidence of factors before a problem develops (i.e., a mobile unit transmitting particularly close to a hospital on a channel adjacent to the particular offset frequency being used). Additionally, since most medical telemetry operation will be in a hospital, interference is further reduced by shielding characteristics of the building structure. Nevertheless, comments are requested concerning the effect of interference upon medical telemetry operations.

7. The Commission believes that there are other valuable uses to which these frequencies can be put which will not reduce the effectiveness of industrial complex uses or the medical telemetry uses being proposed. Therefore, in addition to the above proposal, comments are also solicited as to the possibility of extending the use of these frequencies to other areas. Interested parties are spe-

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[6] Commissioners Robert E. Lee and Johnson absent.

[1] Report and order, released Mar. 13, 1972, Docket 19231, 75068, 37 F.R. 5497, FCC 72-217.

[2] If this amendment is adopted, transmitters could operate in the continuous carrier transmit mode in accordance with § 91.555.

cifically requested to consider the following questions:

(1) What operational requirements exist for allowing uses other than those located in hospital or industrial complexes?

(2) Is the 100-milliwatt power specified for hospital telemetry sufficient for successful operation in similar environments for different purposes, i.e., paging in office buildings, medical and scientific research, etc.

(3) What limitations, other than power, should be placed on these frequencies?

(4) What interference factors exist either to or from operation on these offset frequencies?

8. Authority for the proposed amendments is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before May 9, 1972, and reply comments on or before May 19, 1972. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments by this notice.

9. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C.

Adopted: March 23, 1972.

Released: March 28, 1972.

FEDERAL COMMUNCATIONS COMMSSION,[2]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-5067 Filed 4-3-72;8:47 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Releases Nos. 34-9546, IC-7087]

ADJOURNMENT OF SHAREHOLDERS' MEETING AND SOLICITATION OF ADDITIONAL PROXIES

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration the adoption of Rule 20a-4 (17 CFR 270.20a-4) under the Investment Company Act of 1940 (Act) (15 U.S.C. 80a-1 et seq.), to prohibit, except under certain circumstances, the adjournment of a meeting of shareholders of any investment company registered under the Act and any additional solicitation of proxies to be used at a reconvened meeting of shareholders.

The Commission has been concerned with recent practices whereby investment company shareholder meetings have been repeatedly adjourned, notwithstanding the presence of a quorum under State law, in an effort to gain sufficient additional votes to carry certain proposals.

The proposed rule is designed to prohibit the adjournment of a meeting of shareholders at which is present in person or by proxy a quorum under State or applicable law or corporate charter or other instrument pursuant to such law, for the purpose of soliciting additional proxies in the event that there are insufficient votes cast to approve pursuant to the Act a proposal recommended by management. However, the rule would also preclude an adjournment intended to affect a vote pertaining to a shareholder proposal. The rule would not limit adjournments where less than the aforesaid number of voting securities were present.

The Commission recognizes that certain unusual circumstances may warrant or necessitate adjournments and additional solicitations despite the presence of a quorum. Although the Commission would not anticipate that many such situations would arise, where, for example, a material factual change has occurred so as to render the proxy soliciting material misleading, an adjournment would be necessary and not within the intent of the rule's prohibition.

The proposed rule would be adopted pursuant to sections 20(a) and 38(a) of the Act (15 U.S.C. 80a-20(a), 80a-37(a)). Section 20(a) states that it is unlawful for any person by use of the mails or any means or instrumentality of interstate commerce or otherwise, to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any security of which a registered investment company is the issuer in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors. Section 38(a) states, in part, that the Commission shall have the authority from time to time to make, issue, and amend such rules and regulations as are necessary or appropriate to the exercise of the powers conferred upon the Commission elsewhere in the Act.

Additionally, Rule 20a-1 would be amended to incorporate a reference to Rule 20a-4.

The text of the proposed Commission action is as follows:

Commission action. The Commission proposes to amend Part 270 of Chapter II of Title 17 of the Code of Federal Regulations as indicated below.

I. Section 270.20a-1 is proposed to be amended by deleting, in the first sentence of paragraph (a), the words "§§ 270.20a-2 and 270.20a-3" and inserting in lieu thereof the words "§§ 270.20a-2, 270.20a-3 and 270.20a-4". As proposed to be amended § 270.20a-1 would read as follows:

§ 270.20a-1 Solicitation of proxies, consents and authorizations.

(a) No person shall solicit or permit the use of his name to solicit any proxy consent or authorization in respect of any security of which a registered investment company is the issuer, except upon compliance with §§ 270.20a-2, 270.20a-3 and 270.20a-4 and all rules and regulations adopted pursuant to section 14(a) of the Securities Exchange Act of 1934 that would be applicable to such solicitation if it were made in respect of a security registered on a national securities exchange. Unless the solicitation is made in respect of a security registered on a national securities exchange, none of the soliciting material need be filed with such exchange.

(b) If the solicitation is made by or on behalf of the management of the investment company, then the investment adviser or any prospective investment adviser and any affiliated person thereof as to whom information is required in the solicitation shall upon request of the investment company promptly transmit to the investment company all information necessary to enable the management of such company to comply with the rules and regulations applicable to such solicitation. If the solicitation is made by any person other than the management of the investment company, on behalf of and with the consent of the investment adviser or prospective investment adviser, then the investment adviser or prospective investment adviser and any affiliated person thereof as to whom information is required in the solicitation shall upon request of the person making the solicitation promptly transmit to such person all information necessary to enable such person to comply with the rules and regulations applicable to the solicitation.

II. Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended by adding a new § 270.20a-4 reading as follows:

§ 270.20a-4 Prohibition against adjournment of certain meetings of shareholders.

No meeting of shareholders of any registered investment company which relates to a proposal requiring shareholder approval shall be adjourned if there is present at such meeting, in person or by proxy, a quorum under state or applicable law or corporate charter or other instrument pursuant to such law.

All interested persons are invited to submit their written views and comments on the proposed rule to Ronald F. Hunt, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before May 19, 1972. All communication to the Secretary in this regard should

[2] Commissioners Robert E. Lee and Johnson absent; Commissioner Wiley concurring in the result.

refer to File No. S7-434, and will be available for public inspection.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

MARCH 31, 1972.

[FR Doc.72-5118 Filed 4-3-72;8:51; am]

DEPARTMENT OF COMMERCE

Maritime Administration

[46 CFR Part 251]

CONSTRUCTION-DIFFERENTIAL SUBSIDY

Notice of Proposed Rule Making

Pursuant to section 204, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114) and in accordance with the provisions of section 3(a)(3), Administrative Procedure Act, 5 U.S.C. 552, (a)(1)D, notice is hereby given that the Maritime Subsidy Board is contemplating the adoption of regulations to be followed in connection with the granting and administration of construction-differential subsidy under title V of the Merchant Marine Act, 1936.

Accordingly, it is proposed that the present provisions of Title 46, Code of Federal Regulations will be revoked and the regulations following this notice will be codified therein.

While the subsidy program is exempt from the requirements of section 4, Administrative Procedure Act, 5 U.S.C. 553, the Board invites interested parties to submit any written views on the proposed regulations for consideration by the Board, in triplicate, by the close of business on May 9, 1972.

Dated: March 30, 1972.

By order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
Secretary.

PART 251—CONSTRUCTION-DIFFERENTIAL SUBSIDY

Sec.

AUTHORITY: The provisions of this Part 251 issued under sec. 204(b), 49 Stat. 1987, as amended, 46 U.S.C. 1114(b), unless otherwise noted.

§ 251.1 Purpose.

The purpose of this part is to prescribe rules and regulations to carry out the provisions of title V of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1151–1161), as it relates to construction-differential subsidy.

§ 251.2 Definitions.

(a) *Act.* The word "Act" shall mean the Merchant Marine Act, 1936, as amended.

(b) *Administration.* The word "Administration" shall mean the Maritime Administration of the U.S. Department of Commerce.

(c) *Board.* The word "Board" shall mean the Maritime Subsidy Board, which has been delegated and assigned the function of performing certain duties under title V of the Act, pursuant to Department of Commerce Organization Orders 10–8 (October 21, 1970), as amended, and 25–2 (September 28, 1971), as amended.

(d) *Citizen of the United States.* For purposes of construction-differential subsidy, the words "citizen of the United States" shall include persons, corporations, partnerships, or associations, but only if they are citizens of the United States within the meaning of section 2 of the Shipping Act, 1916, as amended (46 U.S.C. 802).

(e) *Cost of construction or cost of constructing, reconstructing or reconditioning.* The terms "cost of construction" or "cost of constructing, reconstructing, or reconditioning" shall mean the contract price plus the purchaser's cost of design work, plan approval, and inspections, if applicable.

(f) *Construction contract.* The term "construction contract" shall mean the contract between the purchaser and the contractor for the construction, reconstruction, or reconditioning of an eligible vessel, as indicated in § 251.12.

(g) *Construction-differential subsidy.* The term "construction-differential subsidy" shall mean the excess of the bid or negotiated price of constructing, reconstructing, or reconditioning a vessel in a shipyard of the United States (excluding the cost of any features incorporated in the vessel for national defense uses, which shall be paid by the Secretary in addition to the construction-differential subsidy), over the fair and reasonable estimated cost, as determined by the Secretary, for constructing, reconstructing, or reconditioning that type vessel under similar plans and specifications (excluding national defense features as above provided) in a foreign shipbuilding center which is deemed by the Secretary to furnish a fair and representative example for determining the estimated foreign cost of similar construction, reconstruction, or reconditioning.

(h) *Contract price.* The term "contract price" shall mean the total amount paid to the contractor for constructing, reconstructing, or reconditioning an eligible vessel (i.e., the applicant's foreign cost plus the Board's construction-differential subsidy cost), but shall not include the cost of national defense features.

(i) *Contractor.* The term "contractor" shall apply to a shipyard of the United States which enters into a construction contract with a ship purchaser.

(j) *Eligible vessel.* For purposes of this part, the term "eligible vessel" shall mean a vessel which will engage in the foreign commerce of the United States. The term "eligible vessel" as used in this part is not to be confused with the term "eligible vessel" as used in section 607 of the Act.

(k) *Exceptional cases.* The term "exceptional cases" shall mean those instances when the Secretary determines that construction-differential subsidy may be allowed for the reconstruction or reconditioning of an existing vessel.

(l) *Foreign commerce of the United States.* The term "foreign commerce of the United States" shall mean the following:

(1) The carriage of cargo loaded in the United States, its territories, or possessions, or the District of Columbia, and discharged in a foreign country, or cargo loaded in a foreign country and discharged in the United States, its territories, or possessions, or the District of Columbia, and

(2) In the case of a liquid and/or dry bulk cargo vessel, the carriage of cargo as authorized by Part 278 of this chapter.

(m) *Purchaser or proposed ship purchaser.* The terms "purchaser" or "proposed ship purchaser" shall mean a citizen of the United States who enters into, or proposes to enter into, a construction contract for the construction, reconstruction, or reconditioning of an eligible vessel with a shipyard of the United States.

(n) *Secretary.* The term "Secretary" shall include the Secretary of Commerce, the Assistant Secretary of Commerce for Maritime Affairs, and all other officials of the Maritime Administration

authorized from time to time to perform the duties and functions of the Assistant Secretary of Commerce for Maritime Affairs, and

(o) *United States.* The term "United States" shall mean the United States, its territories or possessions, or the District of Columbia.

§ 251.3 Statement of policy.

(a) *General.* No application for construction-differential subsidy shall be approved by the Board unless it also makes the following determinations:

(1) The plans and specifications call for a vessel which will meet the requirements of the foreign commerce of the United States, will aid in the promotion and development of such commerce, and be suitable for use by the United Statee for national defense or military purposes in time of war or national emergency (this determination shall not be made unless the Secretary of the Navy first certifies that such vessel shall be suitable for economical and speedy conversion into a naval or military auxiliary, or otherwise be suitable for use by the U.S. Government in time of war or national emergency);

(2) The purchaser, shipyard (if the shipyard is to own the vessel), and any lessee or bareboat charterer possesses the ability, experience, financial resources, and other qualifications necessary for the operation and maintenance of the proposed new vessel; and

(3) The granting of the aid applied for is reasonably calculated to carry out effectively the purposes and policy of the Act.

(b) *Criteria to be employed by Board—vessel selection.* The Board will allocate Federal financial assistance for the construction, reconstruction, or reconditioning of an eligible vessel so as to give priority to those proposals which, having met all the requirements of title V of the Act, and this Part 251, will in the Board's opinion utilize such assistance to accomplish the following objectives:

(1) Reduction of construction-differential subsidy to the applicable percentages set forth in section 502(b) of the Act and § 251.6, or to lower percentages;

(2) Reduction or elimination of operating-differential subsidy;

(3) Provision of vessels to meet the economic needs of the United States;

(4) Provision of vessels suitable for emergency ocean transportation; and

(5) Production of ships of high transport capability and productivity.

In determining the productivity of a proposed vessel or vessels, the Board may take into consideration the following factors:

(i) Cubic and/or deadweight capacity and speed;

(ii) Proposed cargo handling equipment and techniques for transfer of cargo in and out of vessels and to and from inland points. In this respect, the Board may require an applicant to supplement his application by setting forth the estimated rate of loading and discharge of cargo, as well as the adaptability of the proposed vessel to integrated systems of transportation embracing both ocean and overland transportation; and

(iii) Estimated revenue and costs of operation.

§ 251.4 Persons eligible to apply for construction-differential subsidy.

Any citizen of the United States or any shipyard of the United States shall be eligible to apply for construction-differential subsidy.

§ 251.5 Construction, reconstruction, reconditioning.

In addition to the items indicated in §§ 251.7 and 251.8 the following types of work shall be eligible for construction-differential subsidy.

(a) *Construction.* The cost of constructing an eligible vessel.

(b) *Reconstruction or reconditioning.* The cost of reconstructing or reconditioning an eligible vessel: *Provided, however,* That construction-differential subsidy for reconstructing or reconditioning an eligible vessel shall be granted only in exceptional cases, as determined by the Board. Such determinations may be made when reconstruction or reconditioning is necessary to make a vessel suitable for operation, or continued operation, in the foreign commerce of the United States (e.g., the jumboizing of a container vessel to increase the container capacity) but only when the Board determines that the proposed reconstruction or reconditioning is consistent with the criteria outlined in § 251.3.

§ 251.6 Statutory limitations on amount of construction-differential subsidy for construction, reconstruction or reconditioning.

(a) *General.* The amount of construction-differential subsidy allowable under § 251.5 shall not exceed fifty (50) percent of the cost of constructing, reconstructing or reconditioning an eligible vessel in a shipyard of the United States (exclusive of national defense features), subject, however, to the additional limitations outlined in paragraphs (b) through (e) of this section.

(b) *Negotiated price contracts.* (1) An applicant may enter into a negotiated price contract with a shipyard of the United States: *Provided,* That the amount of construction-differential subsidy in such instances shall not exceed the following percentages of domestic cost:

(i) Forty-three (43) percent in fiscal year 1972, and

(ii) Forty-one (41) percent in fiscal year 1973

(2) If the applicant proposes to enter into a negotiated price contract with a shipyard of the United States, the following conditions shall also apply:

(i) The proposed purchaser and the shipyard must submit backup cost details and evidence (see § 251.10(d) that the negotiated price is fair and reasonable, and

(ii) The Secretary must determine that the negotiated price is fair and reasonable before construction-differential may be granted.

(3) The award of construction-differential subsidy, pursuant to this paragraph (b) shall be implemented by means of the two contracts indicated in § 251.12 (b) and (c) (use of the contract indicated in paragraph (a) is optional), and the method of paying construction-differential subsidy shall be as indicated in § 251.11(d).

(4) The Secretary's authority to accept negotiated price contracts expires June 30, 1973.

(c) *Shipyard applications.* If the applicant is a shipyard of the United States, its application shall be treated as though it were an application for a negotiated price contract and shall be subject to the limitations indicated in paragraph (b) of this section.

(d) *Competitively bid contracts.* (1) A contract for the construction, reconstruction, or reconditioning of an eligible vessel may be awarded on a competitive bid basis, and in such instances the contract shall be awarded to the lowest bidder, unless otherwise authorized by section 502(f) of the Act, or as below indicated, *Provided,* That the Secretary first determines that the price is fair and reasonable, and *Further provided,* That the award does not result in the payment of construction-differential subsidy which exceeds the following percentages of domestic cost:

(i) Forty-three (43) percent in fiscal year 1972;

(ii) Forty-one (41) percent in fiscal year 1973;

(iii) Thirty-nine (39) percent in fiscal year 1974;

(iv) Thirty-seven (37) percent in fiscal year 1975;

(v) Thirty-five (35) percent in fiscal year 1976 and thereafter.

(2) If the low bid reflects a price which the Secretary determines is not fair and reasonable, the Secretary may negotiate [1] with the low bidder for the purpose of reducing the low bidder's price to a fair and reasonable level. The Secretary may negotiate only with the low bidder if his bid (before negotiation with the Secretary) would have resulted in an amount of construction-differential subsidy that did not exceed the applicable percentage set out in the above subparagraph.

(3) If the low bid reflects a contract price which the Secretary determines is not fair and reasonable and if the low bid also would have resulted in an amount of construction-differential subsidy that exceeds the applicable percentage as set out above, the Secretary may negotiate with any of the bidders, whether or not such bidder was the lowest bidder, and notwithstanding the provisions of section 505 of the Act with respect to competitive bidding, for the purpose of reducing the contract price

[1] The Secretary's authority to "negotiate" a contract is not to be confused with the term "negotiated price contract" as used in paragraph (b) of this section between an applicant and the shipyard.

to a fair and reasonable level: *Provided*, That—

(i) The Secretary first determines that a fair and reasonable price and the applicable percentage cannot be met in a subsequent invitation for bids, and that the national commitment to the ship construction program may not otherwise be continued,

(ii) The resulting contract price is the lowest which can be obtained, and

(iii) The resulting payment of construction-differential subsidy is reduced to the applicable percentage, or as close thereto as possible, or less, but in no event in excess of fifty (50) percent.

(4) If the low bid reflects a price which the Secretary determines is fair and reasonable but would have resulted in an amount of construction-differential subsidy that exceeds the applicable percentage as set out above, the Secretary may negotiate with any of the bidders in accordance with all applicable provisions of subparagraph (3) of this paragraph.

(5) The Secretary shall notify the Commission on American Shipbuilding (established pursuant to section 41, Merchant Marine Act of 1970 [Public Law 91–469; 84 Stat. 10371]) in the event contracts are entered into pursuant to subparagraphs (3) and (4) of this paragraph.[1]

(6) The award of construction-differential subsidy, pursuant to this paragraph (d) shall be implemented by means of the three contracts indicated in § 251.12, and the method of paying construction-differential subsidy shall be as indicated in § 251.11(d).

(e) *Fiscal year.* As used in this section, the term "fiscal year" means the Administration's fiscal year, for accounting purposes, whose term begins July 1 of one calendar year and ends June 30 of the next calendar year.

§ 251.7 Design work, engineering inspection and review, and plan approval.

(a) Design work, engineering inspection and review, and plan approval (together with related travel, reproduction, communication, equipment, and other related items of expense) costs incurred by the purchaser in constructing an eligible vessel shall be eligible for construction-differential subsidy, whether the applicant finds it necessary to procure these services from his own employees or from an outside source: *Provided*, That the amount of construction-differential subsidy as to such costs shall be limited by the applicable fiscal year percentage indicated in § 251.6, and further limited as follows:

(1) Administrative overhead shall not be included as a subsidized item.

(2) A purchaser's engineering expense for inspection, covering the construction of an eligible vessel, shall be entitled to subsidization. Three hundred fifty thousand dollars of such costs shall be entitled to subsidization if the contract is completed within 24 months after it was entered into. An additional $30,000 of such costs per month shall be entitled to subsidization for each month beyond the 24 month and until the contract is completed. However, there shall be a corresponding $30,000 reduction for each month that start of shipyard fabrication is deferred more than 12 months. For example, the maximum amount of this type of cost which may be subsidized, on a contract to be completed in 36 months, would be $710,000. During fiscal year 1973, therefore, the amount of subsidy on this item would be 41 percent of $710,000.

(3) Post contract award engineering costs incurred by a purchaser for engineering review and plan approval of a newly constructed vessel will be limited for subsidy purposes to 2 percent of the contract price per vessel: *Provided*, That the contract price per vessel does not exceed $25 million, plus an additional one half percent of the contract price per vessel in excess of this amount.

(4) The percentage figures in the two immediately preceding subparagraphs may be adjusted downward to take into account features including, but not limited to, standardized design, successive flights of ships in the same yard, or successive flights of ships in different yards.

(b) The costs indicated in paragraph (a) of this section shall also be entitled to subsidization in the event an eligible vessel is reconstructed or reconditioned, except that the limitations on such costs shall be determined on an individual basis.

(c) Notwithstanding any of the foregoing limitations on subsidy, the Board will in exceptional cases authorize additional subsidy for design work, engineering inspection and review, and plan approval costs for new ship concepts or individual ship features whose economic justification lie in the possibility of future major advances in ship construction or operation and which in the Board's judgment may lead to greater efficiency and economy.

§ 251.8 Change orders.

(a) Construction-differential subsidy may be allowed for change orders in the following circumstances:

(1) When it can be demonstrated with reasonable certainty that the net effect of such changes will decrease the amount of construction-differential subsidy and/or operating-differential subsidy projected over the life of the vessel, or

(2) When it can be demonstrated with reasonable certainty that the change order will produce a return to the owner that justifies the added investment, or

(3) When it becomes necessary to correct a substantial design defect which will materially reduce the economic life or value of the unchanged vessel, or

(4) When it becomes necessary to comply with a change in the requirement of a regulatory body which becomes effective after 30 days preceding bid opening or agreement on a negotiated price, or

(5) When it becomes necessary to comply with any new law or rule, the promulgation of which renders it illegal to own or operate the unchanged vessel.

(b) In considering changes under paragraph (a) (1) and (2) of this section, consideration may be given to what the work would have cost if it had been included in the bidding specification.

(c) The procedure for the payment of construction-differential subsidy as to change orders in standard form contracts is outlined in § 251.15.

(d) The percentage of construction-differential subsidy allowed for change orders shall not exceed the percentage awarded by the Board, pursuant to the provisions of § 251.6, for the original contract work affected by the change orders.

(e) Any changes desired by the applicant, which do not qualify for subsidy under this section, shall be for the applicant's own account.

(f) Changes which would violate the requirements of any regulatory body or alter the general dimensions and/or characteristics of a vessel must be presented to the Board for prior approval, whether or not subsidization is sought for such change orders.

§ 251.9 Determination of construction-differential subsidy.

(a) *Purpose.* The purpose of this section is to prescribe regulations governing determination of the amount of construction-differential subsidy payable for construction, reconstruction, or reconditioning of a vessel or vessels under title V of the Act.

(b) *Establishment of vessel types.* (1) For purpose of this section, the Secretary shall from time to time establish specific categories of vessels. Each vessel category shall encompass vessels of one specific genus (e.g., liquid bulk carriers, dry bulk carriers, barge-carrying ships, containerships, etc.), one general design (e.g., oil tanker; ore-bulk-oil carrier; LNG vessel; etc.), and a size or range of sizes (e.g., 40,000–80,000 d.w.t.; 100,000–150,000 M^3, etc.): *Provided*, That where a range of sizes is used in any category, the vessels within that range shall be sufficiently similar to justify treatment as equivalents for construction-differential subsidy purposes.

(2) Each category established in accordance with subparagraph (1) of this paragraph shall be referred to as a "vessel type."

(c) *Determination of construction-differential subsidy rates by vessel type.* (1) The Secretary shall, as soon as practicable after establishment of a vessel type, determine the set of construction-differential subsidy rates applicable to all vessels within that vessel type. The set of construction-differential subsidy rates for the vessel type shall be determined as follows:

[1] The Commission on American Shipbuilding is required, not later than 6 months after such notification, to submit a report to Congress.

(i) The Secretary shall select one vessel within the type as a reasonable representative of all vessels within the type. Such vessel shall be referred to as the "representative vessel";

(ii) The Secretary shall determine the fair and reasonable estimated cost of constructing, reconstructing, or reconditioning such representative vessel (exclusive of national defense features) under similar plans and specifications in a representative foreign shipbuilding center (as defined in section 502(b) of the Act): *Provided*, That the estimated foreign cost shall be determined for one vessel, each of two vessels, each of three vessels and so on up to the maximum number of vessels of that type which the Secretary deems might practically be built as a single flight;

(iii) The Secretary shall determine the fair and reasonable estimated cost of constructing, reconstructing, or reconditioning such representative vessel (exclusive of national defense features) under similar plans and specifications in the United States: *Provided*, That the estimated domestic cost shall be determined for one vessel, each of two vessels, each of three vessels and so on up to the maximum number of vessels of that type which the Secretary deems might practically, be built as a single flight;

(iv) The Secretary shall subtract from the estimated domestic costs for one vessel, each of two vessels, each of three vessels, etc., the corresponding estimated foreign costs. Each difference so determined shall be divided by the corresponding estimated domestic cost to determine the percentage that each difference bears to the corresponding estimated domestic cost.

(2) The set of percentages so found shall constitute the set of construction-differential subsidy rates applicable to all vessels within the vessel type from which representative vessel was selected.

(3) The Secretary shall recompute the set of construction-differential subsidy rates applicable to each vessel type annually unless, in the opinion of the Secretary, there has been a significant change in shipbuilding market conditions sufficient to justify recomputation prior to the scheduled annual date.

(4) The Secretary shall publish notice of his intention to compute or recompute the set of construction-differential subsidy rates for each vessel type and shall give interested persons, including but not limited to shipyards and shipowners and associations thereof, an opportunity to file written statements.

(5) As soon as practicable after computation or recomputation the Secretary shall publish in the FEDERAL REGISTER the set of construction-differential subsidy rates applicable to each vessel type established. Interested persons, including but not limited to shipyards and shipowners and associations thereof, shall be given an opportunity to file written comments on the construction-differential subsidy rates so published. Notice of adoption of final construction-differential subsidy rates shall be published in the FEDERAL REGISTER after the opportunity for comment has expired.

(d) *Application of construction-differential subsidy rates to specific vessels within an established vessel type.* (1) Any vessel or vessels which a qualified applicant proposes to construct, reconstruct, or recondition under title V of the Act, which satisfy all requirements under that title, and which fall within a vessel type established by the Secretary, shall be eligible for construction-differential subsidy at the construction-differential subsidy rates established by the Secretary for that vessel type under paragraph (c) of this section and in effect at the time the applicant's application for construction-differential subsidy is granted or such other time as the Secretary, in his discretion, deems appropriate.

(2) The number of vessels proposed in an appropriate application to be constructed, reconstructed, or reconditioned shall determine the specific construction-differential subsidy rate within the pertinent set of construction-differential subsidy rates which will apply, i.e., a one vessel application will qualify for the one vessel construction-differential subsidy rate, a two vessel application for the two vessel construction-differential subsidy rate and so on: *Provided*, That where more than one application is filed and the vessels encompassed by such applications are to be constructed as one flight of vessels in the same shipyard, the number of vessels in all such applications combined shall determine the applicable construction-differential subsidy rate within the pertinent set of rates.

(3) Where an application calls for construction, reconstruction, or reconditioning of a vessel or vessels and the applicable construction-differential subsidy rate, determined in accordance with paragraph (d)(2) of this section, exceeds the applicable fiscal year ceiling rate established by section 502(b) of the Act, as set out in § 251.6, the application will not be granted unless the applicant affirmatively demonstrates the existence of extraordinary circumstances sufficient, in the Secretary's opinion, to justify:

(i) Payment of construction-differential subsidy at a rate in excess of the applicable fiscal year ceiling rate, but not in excess of fifty (50) percent, or

(ii) Treatment of the application as equivalent in price to an application for a greater number of vessels, the applicable construction-differential subsidy rate for which (determined in accordance with paragraph (d)(2) of this section) does not exceed the applicable fiscal year ceiling rate.

(4) The dollar amount of construction-differential subsidy payable upon the granting of a proper application shall be the applicable construction-differential subsidy rate, determined in accordance with this paragraph (d), times the actual domestic price stated in the application and found by the Secretary, where appropriate, to be fair and reasonable.

(e) *Payment of construction-differential subsidy for specific vessels not within an established vessel type.* (1) Any vessel or vessels which a qualified applicant proposes to construct, reconstruct, or recondition under title V of the Act, which satisfy all requirements under that title, but which do not fall within a type established by the Secretary or fall within an established vessel type for which a set of construction-differential subsidy rates has not been established by the Secretary, shall be eligible for construction-differential subsidy equal to the excess of the bid or fair and reasonable negotiated price of the shipyard constructing, reconstructing, or reconditioning the proposed vessel or vessels over the fair and reasonable estimated cost, as determined by the Secretary, of constructing, reconstructing, or reconditioning that vessel (exclusive of national defense features) in a representative foreign shipbuilding center (as defined in section 502(b) of the Act). The Secretary shall publish notice of his intention to compute such estimated foreign cost and shall give interested persons, including but not limited to shipyards and shipowners and associations thereof, an opportunity to file written statements.

(2) Where an application for construction, reconstruction, or reconditioning of a vessel or vessels and the applicable construction-differential subsidy rate, determined in accordance with paragraph (e)(1) of this section, exceeds the applicable fiscal year ceiling rate established by section 502(b) of the Act, as set out in § 251.6, the application will not be granted unless the applicant affirmatively demonstrates the existence of extraordinary circumstances sufficient, in the Secretary's opinion, to justify payment of construction-differential subsidy at a rate in excess of the applicable fiscal year ceiling rate but not to exceed fifty (50) percent.

(f) *Example.* (1) Under paragraph (b) of this section, the following vessel type might be established:

Genus: Liquid Bulk Carriers.
General design: Ore/Bulk/Oil Carrier.
Size range: 70,000–100,000 dwt.

(2) Under paragraph (c) of this section, the following set of CDS rates might be established for new vessel construction (all numbers are hypothetical):

(i) Representative vessel: Liquid Bulk Carrier, Ore/Bulk/Oil Carrier, 80,500 dwt.

(ii) Estimated foreign cost (constructed in Japan):

(a) Each of 1	$19,000,000
(b) Each of 2	17,000,000
(c) Each of 3	16,600,000
(d) Each of 4	16,400,000
(e) Each of 5	16,200,000
(f) Each of 6	16,150,000

(iii) Estimated domestic cost:

(a) Each of 1	$34,000,000
(b) Each of 2	30,000,000
(c) Each of 3	29,000,000
(d) Each of 4	28,500,000
(e) Each of 5	28,000,000
(f) Each of 6	27,500,000

(iv) CDS percentages:

(a) Each of 1:

$$\frac{15{,}000{,}000}{34{,}000{,}000}=44.1\%$$

(b) Each of 2:

$$\frac{13,000,000}{30,000,000}=43.4\%$$

(c) Each of 3:

$$\frac{12,400,000}{29,000,000}=42.8\%$$

(d) Each of 4:

$$\frac{12,100,000}{28,500,000}=42.5\%$$

(e) Each of 5:

$$\frac{11,800,000}{28,000,000}=42.2\%$$

(f) Each of 6:

$$\frac{11,350,000}{27,500,000}=42.0\%$$

The percentages listed in paragraph (f)(2)(iv) of this section would constitute the set of construction-differential subsidy percentages applicable to all vessels falling within the vessel type listed in paragraph (f)(1) of this section.

(3) Under subparagraph (2)(iv) of this paragraph, an applicant seeking to construct three OBO's falling within the vessel type would be eligible to receive a construction-differential subsidy rate of 42.8 percent. Assuming that the set of construction-differential subsidy rates in the above example was applicable during fiscal year 1972, when the section 502(b) fiscal year ceiling rate is 43 percent (see § 251.6), the application could be granted, as provided in subparagraph (2)(iv)(c) of this paragraph, without a showing of extraordinary circumstances. The construction-differential subsidy payable for construction of the three OBO's would be 42.8 percent of the bid or fair and reasonable negotiated price listed in the application. If, for example, the application called for construction of three OBO's, 90,000 dwt, at a negotiated price of $32 million per vessel, the construction-differential payable (if the application meets all requirements of title V and is granted) would be 42.8 percent of $32 million or $13,696,000.

(4) Under subparagraph (2)(iv) of this paragraph, an applicant seeking to construct two OBO's falling within the vessel type would be eligible to receive a construction-differential subsidy rate of 43.4 percent. If the fiscal year 1972 ceiling rate of 43 percent is in effect, however, paragraph (d)(3) of this section would bar the granting of the application absent a showing of extraordinary circumstances sufficient to justify the 43.4 percent rate or a showing that the contract price for the two vessels proposed in the application was in fact equivalent to, say, a three ship price, in which case the 42.8 percent each of three rate could, at the Secretary's discretion, be applied.

§ 251.10 Procedure for filing construction-differential subsidy applications.

(a) *Form.* Applications for construction-differential subsidy to aid in the construction of a new vessel or the reconstruction or reconditioning of an existing vessel shall be filed on Form —— in accordance with the instructions annexed thereto.

(b) *General requirements.* (1) Applications shall be submitted in triplicate original with 12 conformed copies. Each of the applications shall be completed by the insertion of appropriate and full information as indicated on the form; shall be executed by a duly authorized official of the applicant; and shall be accompanied by an Affidavit of U.S. Citizenship in accordance with Part 355 of this title, unless (with the concurrence of the Secretary) reference is made to an affidavit or report of U.S. citizenship previously filed. Items or parts of items which are inapplicable may, however, be omitted, with a notation as to their inapplicability. The applicant may incorporate by specific reference information previously furnished the Board, provided that such information so incorporated shall have been furnished at least in triplicate and is readily available in the files of the Administration. If any information called for by an applicable item is not furnished, an explanation of the omission shall be given. The applicant may furnish such relevant information as it may desire, in addition to that specified in the form.

(2) Any additional information called for by the Board from time to time (e.g., see § 251.3(b)(5)(ii)) shall be furnished by amending the application. Each amendment to an application shall be filed in the same manner as the application with the same number of originals and conformed copies as indicated in the preceding subparagraph. Each amendment shall be numbered and dated and shall make specific references to the application being amended. Without any specific request from the Board, the applicant shall file from time to time any amendments necessary to keep all information contained or furnished in connection with a pending application current and correct.

(3) In the event a concurrent application for aid under sections 507, 510, or 601, or under title XI of the Act is being submitted, the applicant may incorporate in its construction-differential subsidy application by specific reference any information contained in such contemporary application.

(4) Detailed contract plans and specifications shall be submitted with the construction-differential subsidy application. To facilitate application processing it is recommended that the specifications conform to those in Standard Specification for Cargo Ship Construction by section and article to the maximum extent possible. (Copies of this publication may be obtained from the National Technical Information Service, Springfield, Va. 22151, by ordering Stock No. PB 177493 at a price of $9 per copy.) These specifications shall include, where applicable, value engineered features as described in the Administration's Value Engineering Information Letters. (These letters may be obtained without charge from the chief, Office of Ship Construction, Maritime Administration, Department of Commerce, Washington, D.C. 20235.)

(c) *Plan submission.* (1) When the applicant proposes the construction of a new vessel whose design has never been approved as part of a construction-differential subsidy application, he should first submit a preliminary design study consisting of a table of characteristics, preliminary arrangement and profile plans, and cost estimates. If the Board approves in principle such fundamental matters as speed, cargo capacity, etc., the applicant should then proceed with the submission of the actual preliminary design. If the Board later approves the application and the Secretary of the Navy certifies as to the national defense value of the vessel (see § 251.3(a)(1)) the applicant should then proceed with the submission of the contract plans and specifications, as required for the award of a shipyard contact, in accordance with the provisions of this section.

(2) When the applicant proposes the reconstruction or reconditioning of an existing vessel, the procedure outlined in the immediately preceding subparagraph should be followed.

(d) *Additional information to be supplied.* (1) When the applicant proposes to enter into a negotiated price contract for the construction, reconstruction, or reconditioning of an eligible vessel (§ 251.6(b)), the following material, where applicable, shall be submitted with application:

(i) A copy of all of the detailed estimate backup sheets upon which the proposed price is based;

(ii) A full set of contract plans, guidance plans, and specifications;

(iii) A statement of the proposed performance time and vessel delivery sequence. In this connection, advice should be given if changed conditions of performance would result in any reduction in cost;

(iv) A breakdown of vessel weights in usual administration form, if possible. However, the shipyard form will be accepted;

(v) A set of all vendor and subcontractor price quotations obtained by the shipyard for all shipbuilding materials, supplies, or equipment in excess of $25,000 per ship;

(vi) Labor rates for both engineering and production labor, including support computations for the determination of such average rate. Copies of union agreements, historical actual cost labor data, as well as projected labor cost should be included also;

(vii) Estimated reduction in labor hours and material requirements for repeat ships;

(viii) Overhead rate as projected for this construction, historical data for overhead cost experienced in the past along with justification for rate proposed for such contract. Write off of any proposed new facility shall be included separately; and

(ix) Profit rates included for each multiple of vessels to be constructed.

(2) When the applicant is a shipyard, the same information as outlined in the immediately preceding subparagraph shall be submitted.

(e) *Mailing address.* All applications, including supplementary material, shall be submitted to the Secretary, Maritime Administration, U.S. Department of Commerce, Washington, D.C. 20235.

(f) *Government response.* The Secretary, upon receipt of an application or bid, will proceed to determine in reasonableness by relying on all or a combination of the following:

(1) Complete and thorough review and assessment of all facets of the applicant's detailed estimate supporting the proposed contract;

(2) Independent Administration estimate of the reasonable cost of construction;

(3) Solicitation of quotations from suppliers of shipbuilding materials, supplies, or equipment;

(4) Assessment of the magnitude of domestic shipbuildng activity as a guide to market conditions and competitiveness of the pricing;

(5) Comparison of material pricing and labor rates against data from Government sources (Bureau of Labor Statistics, etc.);

(6) Relationship of the proposed pricing to the contract prices for other current vessel construction;

(7) Factors bearing upon pricing such as material and labor escalation, financing, terms of payment, performance time, delivery sequence, etc.

§ 251.11 Methods of paying construction-differential subsidy.

(a) *Shipyard applicants.* If the applicant is a shipyard, the Board may pay the shipyard construction-differential subsidy, in an amount and for the items authorized by these regulations, and in a manner further provided for by contract between the Board and the shipyard.

(b) *Vessel construction other than for shipyard applicants.* In such instances, the Board may adopt either of the methods outlined in paragraphs (c) and (d) of this section.

(c) *Section 502(a) of the Act.* (1) The Board may enter into a contract with a shipyard, pursuant to which the Board shall undertake for the Government's account the entire cost, including national defense features, of constructing the vessel.

(2) Simultaneously, the Board shall enter into a contract with the applicant in which the applicant shall agree to purchase the vessel from the Board.

(3) The applicant's price shall be the Board's cost of constructing the vessel, less construction-differential subsidy and the cost of national defense features.

(4) Before he takes possession, the applicant shall have made cash payments to the Board of not less than twenty-five (25) percent of the price at which the vessel is sold to him. These cash payments shall be made at the time and in the same proportion (i.e., not less than twenty-five (25) percent) as the Government's payments to the shipyard become due.

(5) The balance of such purchase price shall be paid by the applicant, within 25 years after delivery of the vessel and not to exceed 25 equal annual installments, the first of which shall be payable 1 year after the delivery of the vessel by the Secretary to the applicant.

(6) The applicant shall pay, not less frequently than annually, interest on those portions of the Secretary's payments as made to the shipbuilder which are chargeable to the applicant's portion of the price of the vessel (after deduction of the purchaser's cash payments) at a rate not less than—

(i) A rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of one per centum, plus

(ii) An allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs.

(7) The standard form contracts referred to in § 251.12 (b) and (c), may be used in this type of financing, with appropriate modifications where necessary.

(d) *Section 504 of the Act.* (1) In this method, the Board's payments to the shipyard shall be limited to construction-differential subsidy and the cost of national defense features.

(2) The standard form contracts referred to in § 251.12 (b) and (c), shall be used in this type of financing if a purchaser enters into a negotiated price contract with a shipyard of the United States pursuant to § 251.6(b).

(3) The standard form contracts referred to in § 251.12 (a), (b), and (c), shall be used in this type of financing if a purchaser enters into a competitively bid contract with a shipyard of the United States pursuant to § 251.6(d).

(e) *Vessel reconstruction or reconditioning.* If the applicant is a shipowner who applies for construction-differential subsidy for reconstruction or reconditioning of his vessel, the procedure outlines in paragraph (d) of this section shall be followed—i.e., the method shall be in accord with section 504 of the Act.

§ 251.12 Construction-differential subsidy standard forms of contract.

An award of construction-differential subsidy shall be implemented by the execution of a "construction contract" between the proposed purchaser (or shipowner) and the contractor, a contract between the proposed purchaser (or shipowner) and the Board, and a contract between the Board and the contractor. In the case of competitive bid procurement, the following three contract forms shall be used:

(a) "Contract MA/MSB—between the contractor and the purchaser," adopted by the Board, 1972;

(b) "Contract MA/MSB—between the Board and the purchaser," adopted by the Board, 1972.

(c) "Contract MA/MSB—between the Board and the contractor," adopted by the Board, 1972.

In the case of negotiated price procurement, only those forms listed in paragraphs (b) and (c) of this section shall be required provided only that the negotiated contract entered into by the contractor and the purchaser does not impair the right of the Board under contract forms in paragraphs (b) and (c) of this section and provided that the Board shall have the right to ask for modification of a contract clause which the Board determines has an unreasonable impact on price. Copies of contract forms in paragraphs (a)–(c) of this section may be obtained from the Secretary, Maritime Administration, Washington, D.C. 20235.

§ 251.13 Domestic preference.

(a) In all construction, reconstruction, or reconditioning undertaken with the assistance of construction-differential subsidy, only articles, materials, and supplies of the growth, production, or manufacture of the United States (see section 401(h), Tariff Act of 1930, as amended, 19 U.S.C. 1401(h), for a definition of the term "United States" as used in this section) shall be employed.

(b) This requirement may be waived by the Board if the Board determines that—

(1) Such articles, materials, or supplies are customarily not manufactured in the United States, or

(2) The domestic cost of such articles, materials, or supplies is more than twice the foreign costs, or

(3) With respect to other than major components of the hull, superstructure, and any material used in the construction thereof, this domestic preference requirement will unreasonably delay the construction, reconstruction, or reconditioning of an eligible vessel.

(c) The Board will not consider a waiver under paragraph (b) (1) or (2) of this section unless the request for such waiver is accompanied by a concise explanation. In the case of paragraph (b)(3) of this section, such request shall be accompanied by the following:

(1) An erection schedule showing the latest dates the material or equipment for which a waiver is sought is required in order not to delay completion of the work beyond a reasonable delivery date,

(2) A procurement schedule showing the earliest dates the material or equipment, for which a waiver is sought, can be placed,

(3) Any technical information which the Board may require in order to make its determination,

(4) Evidence (e.g., letters from vendors or other indications) that all qualified U.S. suppliers, without regard for price, cannot meet the latest required delivery dates, when ordered on the earliest practical date, and

(5) The proposed foreign vendor's agreement to deliver the material or equipment to the U.S. shipyard on or before the latest required delivery date.

(d) If the Board waives the domestic preference requirements provided above, the Board, where it determines that the estimated domestic cost exceeds the estimated foreign cost, will reduce the construction-differential subsidy by an amount equal to the construction-differential subsidy rate times the estimated domestic cost (as determined by the Board) of the equipment or material to be purchased foreign.

(e) If the Board does not waive this domestic preference requirement, and a shipyard fails to abide by the provisions of section 505 of the Act, the Board, pursuant to the provisions of Subpart 1–1.6 of Title 41 of the Code of Federal Regulations, may debar that shipyard.

§ 251.14 Contract clauses applicable to all shipyards constructing, reconstructing, or reconditioning vessels with construction-differential subsidy aid.

All agreements between the Board and a shipyard of the United States for the award of construction-differential subsidy relating to the construction, reconstruction, or reconditioning of an eligible vessel, and all agreements between such shipyards and their subcontractors, materialmen, and suppliers shall be subject to the following contract clauses:

(a) Domestic preference (see § 251.13),

(b) Contingent fees (see 41 CFR 1–1.5),

(c) Assignment of claims (see 41 CFR 1–30.703),

(d) Officials not to benefit or be employed (see 41 CFR 1–7.101–19),

(e) Anti-kickback provisions (see 40 U.S.C. 874),

(f) Overtime compensation (see 41 CFR 1–12.4),

(g) Convict labor (see 41 CFR 1–12.2),

(h) Equal employment opportunity (see 41 CFR 1–12.803–2),

(i) Minority business (see 41 CFR 1–1.13),

(j) Small business concerns (see 41 CFR 1–1.7),

(k) Renegotiation Act of 1951 (U.S.C. App. 1211, et seq.), and

(l) A clause permitting audit of a shipyard's books and records (to the extent examination of a shipyard's books and records is authorized by § 251.20), and

(m) Any other contract clause which the Board deems necessary.

§ 251.15 Contract administration, standard form contracts.

(a) *Progress payments.* (1) The Board shall make to the contractor periodic progress payments of the Board's portion of the contract price. These progress payments shall coincide with the purchaser's progress payments to the contractor.

(2) The Board shall make to the contractor periodic progress payments of the cost of national defense features.

(3) Progress payments will be measured by the percentage of work completed, as attested by representatives of the Board, the purchaser, and the contractor. However, at no time prior to delivery of each vessel shall cumulative progress payments made by the Board and the purchaser exceed the recorded book cost of each such vessel incurred by the contractor in the performance of the contract work, plus five (5) percent of such cost.

(4) The balance of the Board's portion of the contract price and the balance of the cost of national defense features as to each of the vessels shall be payable by the Board at delivery.

(5) The balance of the purchaser's portion of the contract price shall be paid in accordance with the provisions of the construction contract.

(6) The representatives indicated in the preceding paragraph will, on such terms and conditions as the Board prescribes, include as part of the value of the work performed, work performed by any subcontractor on materials, machinery, or equipment to be installed in the vessel although not yet delivered, if the title to such materials, machinery, or equipment included as part of the value of the work done on the vessel shall have vested in the contractor, subject, however, to the subcontractor agreeing to bear the risk of the loss of such materials, machinery, or equipment until delivered to the contractor, and further provided that all amounts in respect of any such subcontractor's work shall have been paid.

(7) The Board shall make no payments, except on bills, vouchers, or invoices submitted in such number or form and executed and attested in such manner as shall be prescribed by the Board.

(b) *Progress payments, as affected by change orders on items other than national defense features.* (1) In the event the Board elects to subsidize a change, resulting in an increase in the contract price, the Board's grant of subsidy and the level of the Board's progress payments shall be increased accordingly and shall reflect the percentage of subsidization which the Board has awarded on the change.

(2) In the event the Board elects not to subsidize a change resulting in an increase in the contract price, the increase in the level of progress payments shall be for the sole account of the purchaser.

(3) In the event the Board has not yet decided whether to subsidize a change resulting in an increase in the contract price, any increase in the level of progress payments shall be for the sole account of the purchaser until such time as the Board arrives at its decision. If the Board later elects to subsidize the change, the increase in the level of the Board's progress payments, for which the purchaser shall have made payment to the contractor pursuant to the provisions of the preceding sentence, shall be remitted directly to the purchaser by the Board.

(4) In the event a change results in a decrease in the cost of the contract work, the Board's grant of subsidy and the Board's obligation to make progress payments shall be decreased accordingly in the remaining payments.

(5) The Board shall have the right to determine for subsidy purposes whether any change by the purchaser regarding performance of the contract work, which is accepted by the contractor as a no-cost change, results in a decrease in the cost of the contract work. If the Board determines that any such change does result in a decrease in the cost of the construction work, the Board's grant of subsidy and the Board's obligation to make progress payments shall be decreased accordingly.

(6) In the event that an increase or decrease in the contract price due to a change is not finally determined prior to delivery of the vessel to which the increased or decrease applies, appropriate adjustment shall be made promptly upon final determination of the increase or decrease.

(c) *Progress payments, as affected by change orders on national defense features.* (1) One hundred ten (110) percent of the net increase in the estimated cost of the contract work resulting from the change cost estimates approved by the Board shall be added to the cost of national defense features and the level of the Board's progress payments as to national defense features shall be increased accordingly.

(2) In the event of a net decrease in the estimated cost of the contract work resulting from the change cost estimates approved by the Board, the cost of national defense features and the level of the Board's progress payments as to such items will be decreased accordingly.

(d) *Change orders*—(1) *General.* No change in the contract work under the construction contract shall be aided with subsidy unless the purchaser notifies the Board in writing of its intention to request for subsidy for the change. The purchaser shall submit its request for subsidy to the Board within the time period established in the contract between the purchaser and the Board. At the same time, the purchaser or the contractor shall submit the following:

(i) The contractor's—

(*a*) Detailed estimate of the major components of the cost of such change, including labor, materials, engineering, and overhead,

(*b*) Estimate of the effect on weight, moments, and centers,

(*c*) Estimate of delay in delivery of the vessel,

(*d*) Description of any completed work eliminated or modified and any acquired materials which would not be used, and

(*e*) Detailed estimate as to the increase, or decrease, in the cost of the contract work, as well as

(ii) Any agreement between the purchaser and the contractor as to the cost and delay attributable to the change.

(2) *National defense features.* Within 30 days (or such longer period as the Board may approve) after receipt of the Board's written direction of a change in the national defense features, the contractor shall submit to the Board its

detailed estimate of the net increase or decrease in the cost of contract work and the probable delay, if any, in delivery of any of the vessels to result from such change. The contractor's estimate shall include the major components of the cost of the change, including labor, materials, engineering, overhead, and the effect on the scheduling of other work in the contractor's yard or other commitments of the yard then pending. The purchaser shall be invited to comment on the contractor's estimate. The Board shall review the estimate and the purchaser's comments, if any, along with any other cost data available to the Board and shall determine the amount of any net increase or decrease in the estimated cost of the contract work. The Board may at the same time determine the delay in the delivery of the vessels to result from said change or may determine to make such delay determination without prejudice to the rights of the contractor after the vessels are delivered.

§ 251.16 Documentation.

(a) Each vessel constructed with the assistance of construction-differential subsidy, other than vessels capable for use as liquid bulk carriers, shall remain documented under the laws of the United States for not less than 25 years from the date of delivery by the contractor to the purchaser or so long as there is outstanding a preferred ship mortgage from the purchaser insured under title XI of the Act, whichever is the longer period, subject, however, to the provisions of section 611 of the Act.

(b) Each vessel constructed with the assistance of construction-differential subsidy, capable of use as a liquid bulk carrier, shall remain documented under the laws of the United States for not less than 25 years from the date of delivery by the contractor to the purchaser or so long as there is outstanding a preferred ship mortgage from the purchaser insured under title XI of the Act, whichever is the longer period, subject, however, to the provisions of section 611 of the Act.

(c) In the event a vessel is reconstructed or reconditioned with the assistance of construction-differential subsidy, the period during which the vessel shall remain documented under the laws of the United States shall be determined by the Board on an ad hoc basis prior to the award of subsidy.

§ 251.17 Sale, transfer, or charter.

(a) No vessel constructed, reconstructed, or reconditioned with the assistance of construction-differential subsidy shall be sold or transferred during the period within which it must also remain documented under the laws of the United States, without the prior written approval of the Board, nor shall such vessel be leased, bareboat chartered or time chartered, if such time charter extends for more than 10 years, without Board approval.

(b) The findings under sections 501 (a), 502, and 504 of the Act with respect to an applicant's ability, experience, financial resources, and other qualifications necessary to enable it to operate and maintain the vessel shall be the basis for the Board's approval or disapproval under paragraph (a) of this section.

(c) A sale, transfer lease, or charter of any vessel by a purchaser shall not release the purchaser from any of its obligations to the Board or the contractor unless the Board approves such sale, transfer, lease, or charter and agrees to release the purchaser: *Provided, however,* That the following shall be conditions precedent to the operative effect of any Board approval:

(1) The agreement of the proposed purchaser or transferee to be bound by all the provisions of the purchaser's contract with the Board, and

(2) The inclusion in any bill of sale or document of transfer of all the restrictions which run with title of the vessel.

§ 251.18 Scope of permissible domestic trading.

(a) *Purpose.* The purpose of this section is to prescribe regulations pursuant to section 506 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1156) governing the extent to which vessels on which a construction-differential subsidy has been paid, may engage in domestic trade and establishing the conditions applicable in the event of such trade.

(b) *Definitions.* For the purpose of this section the following definitions are applicable:

(1) *Foreign trade.* "Foreign trade" shall mean both United States Export-Import Foreign Commerce and Foreign-to-Foreign Commerce as defined in Part 278 of this chapter. Nothing in this part shall be construed to affect any obligations under Part 278 of this chapter.

(2) *Gross revenue.* "Gross revenue derived from the domestic trade" in any year shall mean total revenues received for the carriage of all cargo in the domestic trade discharged during that year; "gross revenue derived from the entire voyages completed" in any year shall mean total revenues received from all voyages terminated during that year. "Gross revenue derived from the domestic trade" shall hereinafter be referred to as "domestic gross revenue." "Gross revenue derived from the entire voyages completed" shall hereinafter be referred to as "total gross revenue."

(3) *Round-the-world voyage.* "Round-the-world voyage" shall mean a voyage originating at a U.S. port moving outbound to a foreign port or ports and then moving inbound to the originating port (or another U.S. port on the same coast), where the outbound and inbound movements constitute circumnavigation of the earth.

(4) *Round voyage.* "Round voyage" shall mean a voyage originating at a U.S. port moving outbound to a foreign port or ports and then moving inbound to the originating port (or another U.S. port on the same coast) where the outbound and inbound movements do not constitute circumnavigation of the earth.

(5) *United States.* "United States" shall mean the United States, its territories or possessions (including the Commonwealth of Puerto Rico) or the District of Columbia.

(6) *Atlantic coast.* "Atlantic coast" shall mean the eastern coast and gulf coast of the contiguous 48 States.

(7) *West coast.* "West coast" shall mean the western coast of the contiguous 48 States and the coast of Alaska.

(8) *Domestic trade.* "Domestic trade" shall mean trade between ports in the United States.

(9) *Intercoastal trade.* "Intercoastal trade" shall mean trade by water between ports on the Atlantic coast and ports on the west coast by way of the Panama Canal or the Straits of Magellan.

(10) *Intercoastal port.* "Intercoastal port" is a port involved in intercoastal trade as defined in subparagraph (9) of this paragraph.

(11) *Island territory.* "Island territory" shall mean any island which has the status of a U.S. territory and any island that has the status of a U.S. commonwealth (e.g., Puerto Rico).

(12) *Island possession.* "Island possession" shall mean any island which has the status of a U.S. possession.

(13) *Year.* "Year" shall mean an annual period and not a calendar year.

(14) *Annual period.* "Annual period" shall mean 365 days (or 366 days if appropriate).

(c) *Scope of permissible domestic trade.* (1) Except as provided in paragraph (g) of this section, vessels for which a construction-differential subsidy has been paid shall be operated—

(i) Exclusively in foreign trade, or

(ii) On a round-the-world voyage, which includes intercoastal ports of the United States, or

(iii) On a round voyage from the west coast of the United States to a European port or ports which include intercoastal ports of the United States, or

(iv) On a round voyage from the Atlantic coast of the United States to the Orient which includes intercoastal ports of the United States, or

(v) On a voyage in foreign trade (defined above) on which the vessel may stop at the State of Hawaii, or an island possession or island territory of the United States, or

(vi) On a combination of subdivisions (ii) and (v), or (iii) and (v), or (iv) and (v) of this subparagraph.

(2) The domestic trade permitted within the statutorily enumerated voyages referred to in subparagraph (1) of this paragraph shall as to subparagraph (1) (ii), (iii), and (iv) of this paragraph, be limited to intercoastal trade, as to subparagraph (1) (v) of this paragraph be limited to stops at the State of Hawaii or an island possession or island territory of the United States, provided the stop at the State of Hawaii or an island possession or island territory is an intermediate stop in foreign trade, and as to subparagraph (1) (vi) of this paragraph be limited to intercoastal trade and stops at the State of Hawaii or an

island possession or island territory of the United States.

(d) *Computation of proportional repayment of subsidy pursuant to the first sentence of section 506 of the Act.* (1) If a vessel subsidized with construction-differential subsidy is operated in any of the permissible domestic services enumerated in paragraph (c) of this section, the owner shall pay annually to the Board that proportion of one-twenty-fifth, or one-twentieth,[1] of the construction-differential subsidy paid for such vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year.

(2) To compute the subsidy payback due to the Board, an owner shall determine the ratio of the domestic gross revenue for a completed annual period and the total gross revenue for the same annual period. The owner shall then take one-twenty-fifth (1/25th) or one-twentieth (1/20th)[2] of the total amount of construction-differential subsidy paid for such vessel and multiply that amount by the ratio of domestic gross revenue to total gross revenue. The amount so computed shall be paid to the Board within 120 days of the end of the completed annual period unless the Board grants a written request for an extension of time. The computation formula for subsidy payback may be stated as follows:

FORMULA

$$\frac{D}{T}\times\frac{S}{25^{2}}=A$$

FORMULA SYMBOLS EXPLAINED

D=Domestic gross revenue for annual period.
T=Total gross revenue for annual period.
S=Total CDS paid on vessel.
25=25 years, or statutory life of the vessel.[2]
A=Amount of subsidy payback.

(3) For subsidy payback purposes, the owner's first annual period shall commence with delivery of the vessel.

(4) In the event that the economic life of a vessel is extended pursuant to § 251.16(c) as a result of reconstruction or reconditioning, the computation of subsidy payback shall, commencing after the effective date of the extension, be based upon a subsidy amortization ratio whose denominator is the sum of the remaining years of economic life on the date of completion of reconstruction or reconditioning plus the number of years in the extension and whose numerator is the sum of the unamortized subsidy (if any) for the original construction plus the subsidy paid for the reconstruction or reconditioning.

(e) *Interest charge on subsidy payback.* The owner shall pay, in addition to the proportional repayment of subsidy, interest on the amount of the repayment, at a rate determined by the Board, taking into consideration the current average market yield on outstanding marketable obligations of the United States in effect at the time of delivery of the vessel. Such interest shall be computed from the first day on which the vessel was delivered until the date of repayment of subsidy.

(f) *Filing statement.* (1) Within 120 days from the termination of an annual period, the owner of a vessel subject to this part shall submit to the Secretary of the Board a report stating the domestic gross revenues earned by that vessel during the annual period, the total gross revenues earned by that vessel during the annual period and the amount of subsidy payback due for that period computed in accordance with paragraph (d) of this section. The owner's report shall be accompanied by payment of the amount which the report shows is due for the annual period plus interest due in accordance with paragraph (e) of this section.

(2) The owner's report and the repayment of subsidy and interest accompanying the report in accordance with the immediately preceding subparagraph shall be subject to approval and verification by the Board.

(g) *Special emergency domestic service pursuant to the second sentence of section 506 of the Act.* (1) No vessel subsidized with construction-differential subsidy shall engage in domestic trade other than that enumerated in paragraph (c) of this section without the prior written consent of the Board. The Board may grant written consent to the temporary transfer of such a vessel to domestic trade other than the enumerated domestic services for periods not exceeding 6 months in any year whenever the Board may determine that such transfer is necessary or appropriate to carry out the purposes of the Act or necessary for emergency purposes and will not result in unfair competition to any person, firm, or corporation operating in the domestic noncontiguous, coastal, or intercoastal service. Such an application shall include the following:

(i) The nature of proposed service,

(ii) All facts demonstrating emergency criteria,

(iii) The requested duration of such emergency service,

(iv) The names of other operators, if any, serving the same route, and

(v) Any other pertinent information thereto.

(2) *Consent procedure.* Application for written consent as specified in subparagraph (1) of this paragraph shall be made to the Secretary of the Maritime Subsidy Board, Washington, D.C. 20235 and timely notice of such application, circumstances permitting, shall be published in the FEDERAL REGISTER. Every person, firm or corporation having any interest in such application shall be permitted to submit written statements of position as to the propriety of the particular request for consent. No hearing shall be granted except under those circumstances in which the Board in its discretion determines a hearing to be necessary. All determinations of the Board shall constitute final administrative action: *Provided,* That if the Secretary of Commerce undertakes to review a determination of the Board, the Secretary's review decision shall constitute final administrative action.

(3) *Subsidy payback.* Subsidy payback pursuant to the second sentence of section 506, shall be an amount which bears the same proportion to the construction-differential subsidy paid by the Board as such temporary period bears to the entire economic life of the vessel.[1] A computation formula for CDS payback pursuant to the second sentence of section 506 of the Act is as follows:

FORMULA

$$\frac{P}{365}\times\frac{S}{(EL)}=A$$

FORMULA SYMBOLS EXPLAINED

P=Period of time consent is given for temporary transfer to domestic service.
365=Three hundred sixty-five day annual period (or a 366 day annual period if appropriate).
S=Total subsidy paid on the vessel.
EL=Economic life of the vessel (25 years for dry bulk carriers and 20 years for liquid bulk carriers).
A=Amount of subsidy payback.

(4) *Interest charge.* Where Board consent is given to the owner of a vessel subsidized with construction-differential subsidy to transfer the vessel to temporary domestic service, the owner shall pay in addition to the required repayment of subsidy, interest at a rate determined by the Board, taking into consideration the current average market yield on outstanding maketable obligations of the United States in effect at the time of the delivery of the vessel. Such interest shall be computed from the first day on which the vessel was delivered until the date of repayment of subsidy.

(h) *Failure to comply with regulations.* The failure in any year of an owner of a vessel, on which construction-differential subsidy has been paid, to comply with the requirements of this part shall disqualify the owner or any parent, subsidiary, affiliated or related corporation or person from operating any vessel upon which construction-differential subsidy has been paid in any domestic trade for a period of 2 years from the date the failure to comply is established by the Board unless the Board shall in its discretion, determine that the failure to comply was excusable.

(i) *Transfer of ownership.* The restrictions on domestic trading of a vessel set forth in this section shall run with title to the vessel and shall not be altered in any way by a transfer of ownership of the vessel. If an owner's compliance with the restrictions set forth in this part in the year of transfer has been rendered impossible by the acts or omissions of a prior owner, the owner shall be excused from the provisions of paragraph (h) of this section for that year, provided that the owner operates for the remainder of the year exclusively in foreign commerce. The prior owner whose acts or omissions rendered compliance with the restrictions in this part impossible shall be subject to the provisions of paragraph (h) of this section.

[1] In the case of liquid bulk carriers, the statutory life shall be 20 years. (See § 251.16.)
[2] *Ibid.*

[1] Ibid.

§ 251.19 National defense features.

The Secretary of the Navy may require certain national defense features, which will be paid for by the Board and not the applicant, to be incorporated in a vessel built with construction-differential subsidy assistance. (See § 251.15 for contract administration as affecting national defense features.) If during the statutory life of such vessel the owner utilizes a national defense feature in the commercial operation of the vessel, a proportional repayment of its foreign cost shall be made to the Board.

§ 251.20 Audit.

(a) *Contractor or shipyard.* (1) The books, files, and other records of a contractor or shipyard and of any holding, subsidiary, affiliated or associated company which contain information pertinent to a construction contract or a contract between a shipyard and the Board shall, until the expiration of 3 years after final payment, be subject to inspection and audit by representatives of the Board.

(2) In accord with section 502 of the Act, the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of 3 years after final payment, have access to, and the right to examine, any pertinent books, documents, papers, and records.

(b) *Purchaser or shipowner.* If, pursuant to the provisions of § 251.7 a purchaser or shipowner is awarded construction-differential subsidy for the cost of design work, plan approval, etc., such costs shall be subject to audit by representatives of the Board for a period of 3 years following final payment.

(c) For purposes of this section, the term "final payment" shall mean final resolution or settlement of all claims, rights, and liabilities, disputes, lawsuits, or other proceedings arising under the contracts between the contractor or shipyard and the Board, or the purchaser or shipowner and the Board.

(d) For purposes of this section, the term "contractor or shipyard" shall include all subcontractors related to the performance of any contract applicable to this Part 251.

(e) Each contractor shall include in its subcontracts the provisions of this section.

§ 251.21 Government liability and Government monetary obligations.

(a) In the event an Administration design is used for the construction, reconstruction, or reconditioning of any vessel, neither the Administration, nor the Board, nor any other instrumentality of the U.S. Government shall be liable for any defect in such design.

(b) Except as provided in the contracts between the Board and the purchaser or the contractor, the grant of construction-differential subsidy and payment for national defense features shall be the exclusive monetary obligations of the U.S. Government and the Board under this Part 251. Neither a purchaser nor a contractor shall have any recourse, under this Part 251, for the consequences of Government priorities, the acts of civil, naval, or military authorities, or other acts or omissions of the U.S. Government, acting in its sovereign capacity.

§ 251.22 Allocation of work among U.S. shipyards.

The construction, reconstruction, or reconditioning of any eligible vessel under title V of the Act may be allocated to any shipyard or shipyards of the United States, to the extent such allocation is authorized by section 502(f) of the Act.

§ 251.23 Sources of vessel design.

Designs with respect to the construction, reconstruction, or reconditioning of any vessel under this Part 251 may include those developed by—

(a) The proposed ship purchaser,

(b) The shipyard, or

(c) Subject to § 251.21, the Administration.

§ 251.35 Prospective application of regulations.

The regulations set forth in this part shall apply prospectively from the date of approval by the Board.

[FR Doc.72-5135 Filed 4-3-72;8:52 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 72-92]

PERSONS DEEMED NONRESIDENTS

Exemptions From Duties and Taxes on Imported Merchandise

MARCH 27, 1972.

There is set forth below the operative portion of a ruling issued March 20, 1972. This ruling clarifies the exemptions from Customs duties and internal revenue taxes on imported merchandise which may be granted persons arriving in the United States who are deemed to be nonresidents under the provisions of § 10.16 (c) of the Customs regulations (19 CFR 10.16(c)). The ruling also describes procedures applicable to the processing of persons claiming this status. The Customs regulations will be amended to incorporate this clarification.

[SEAL] LEONARD LEHMAN,
Assistant Commissioner,
Office of Regulations and Rulings.

The Bureau has determined that a person who would otherwise be considered a "returning resident of the United States" may be classified as a "nonresident" upon entering the United States for a short visit before returning abroad, pursuant to § 10.16(c), Customs regulations. The traveler claiming this status may import articles free of duty and internal revenue taxes under the provisions of items 812.10, 812.20, 812.25 and 812.30, Tariff Schedules of the United States (TSUS), upon the condition that he will, except for gifts imported under item 812.25, and articles consumed during his visit, export all such articles upon his departure from the United States. The assertion of this status by the traveler will, of course, deny him any privileges afforded returning residents of the United States under items 813.10–813.40, TSUS.

Furthermore, where the Customs officer receiving the traveler's baggage declaration decides that protection of the revenue dictates such a course, such an arriving traveler will be required to list imported articles of substantial value, in duplicate, on an appropriate form designated by the Customs officer, and to note thereon the expected duration of his visit. He must present one copy of the form to the inspecting officer, who will initial both copies. The duplicate copy will be retained by the traveler and presented to a Customs officer at the time the traveler departs the United States at the end of his visit.

Should any traveler who temporarily enters merchandise as a nonresident under the provisions of section 10.16(c), Customs regulations, find that his circumstances have changed and that he will not return abroad, whether or not he has been required to list his importations, in duplicate, he must immediately report this information to the District Director of Customs at the port of his entry. The District Director will advise the traveler of the amount of duty and taxes due.

[FR Doc.72-5099 Filed 4-3-72;8:49 am]

[T.D. 72-88]

TOMATO PRODUCTS FROM GREECE

Countervailing Duties

Correction

In F.R. Doc. 72-4819 appearing at page 6360 in the issue for Tuesday, March 28, 1972, the heading reading "Tomato Producers From Greece" should read "Tomato Products from Greece", as set forth above.

Internal Revenue Service

NOTICE OF GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C. 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding 1 year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and tions of crimes punishable by imprisonment for a term exceeding 1 year.

Anderson, James Edward, Jr., Box 242, Blackwell, OK, convicted on April 26, 1962, in the District Court of Kay County, Okla.

Babcock, Dennis H., 310 North Second Street, Apt. 1, Springfield, OR, convicted on February 23, 1966, in the Circuit Court of the State of Oregon for the County of Lane.

Bilquist, Walter R., R.R. 1, Abrams, Wis., convicted on July 16, 1969, in the Brown County Court, Branch No. 4, Green Bay, Wis.

Brown, Larry Julian, 2210 Burbank Street, Dallas, TX, convicted on December 20, 1968, in the District Court of Dallas County, Tex.

Collias, John Frank, 1051 Charest, Pontiac, MI, convicted on November 30, 1951, in the Circuit Court for the county of Oakland, State of Michigan.

Daniels, Montie D., 3303 Delano Street, Midland, TX, convicted on February 6, 1958, and on September 21, 1961, in the District Court, 142d Judicial District, Midland County, Tex.

Dohler, Arthur A., Jr., 8515 Willow Oak Road, Baltimore, MD, convicted on July 16, 1956, in the Fullerton Magistrate Court, Baltimore County, Md.

Gordon, Orville Raymond, Jr., 1486 Bayview, Blaine, WA, convicted on December 22, 1967, in the Superior Court of the State of Washington in and for King County, Seattle, Wash.

Hilliard, DeWayne L., 823 Fourth Street, Story City, IA, convicted on June 13, 1962, in the U.S. District Court, Northern Judicial District of Iowa, Sioux City, Iowa.

Jackson, Otis Clarence, 6325 Le Grand Street, Detroit, MI, convicted on June 12, 1950, in the Wayne County Circuit Court, Detroit, Mich.

Komiak, Peter, 15 Briarcliff Drive, North Merrick, NY, convicted on January 27, 1964, in the Nassau County Court, State of New York.

Lee, William E., Sr., 2336 Tyler Street, Detroit, MI, convicted on August 17, 1926, at Quarter Sessions Court, Fayette County, Pa.

Lewandowski, Edward, 8621 Mount Elliott, Detroit, MI, convicted on April 24, 1951, in the Recorder's Court for the city of Detroit, county of Wayne, State of Michigan.

Lilley, Mont, 19112 Alpenglow Lane, Brookeville, MD, convicted on March 29, 1962, Rockville Court, Rockville, Md.; and on May 3, 1962, in the U.S. Court for the District of Columbia.

Modich, Anton Robert, Box 414, Keewatin, MN, convicted on August 1, 1968, in the Ninth Judicial District Court, Grand Rapids, Minn.

Mullican, John Robert, Jr., 13820 Drake Drive, Rockville, MD, convicted on July 27, 1953, in general Court-Martial, Camp Gordon, Ga.

Palmer, Richard Lee, Route 2, Box 62, Hixton, WI, convicted on April 26, 1968, in Branch One County Court, Waupaca County, Waupaca, Wis.

Payne, William Arthur, 3114 Magnolia, St. Louis, MO, convicted on January 14, 1943, in the Circuit Court for the county of Phelps in the State of Missouri.

Sanders, Michael E., 11415 Manchester Street, Kansas City, MO, convicted on February 12, 1960, in the U.S. District Court for the Western District of Missouri.

Schryver, George Donald, 625 Delaware Avenue, Kingston, NY, convicted on June 27, 1950, in the Ulster County Court, Kingston, N.Y.

Strommer, Donald John, 3520 North 20th Street, Milwaukee, WI, convicted on May 12, 1960, in the Muncipal Court, city and county of Milwaukee, Wis.

Williams, Gene E., Route 1, Box 37, Ringgold, VA, convicted on September 11, 1967, in the U.S. District Court for the Western District of Virginia.

Wolfe, Duane Allen, 1010 Monroe Street, Wausau, WI, convicted on May 19, 1970, in the Marathon County Court, Branch No. 2, Wausau, Wis.

Yates, Phillip Harris, Sr., Box 204, Keswick, VA, convicted on December 9, 1968, in the U.S. District Court, Charlottesville, Va.

Zuckerman, Abie, Wild Life Aquarium Pet Shop, 1829 Mott Avenue, Far Rockaway, NY, convicted on March 10, 1958, in the Kings County Court, State of New York.

Zultowski, Stanley J., 317 Madison Avenue, Bridgeport, CT, convicted on January 12, 1940, in the Fairfield County Superior Court, Bridgeport, Conn.

Signed at Washington, D.C., this 27th day of March, 1972.

[SEAL] REX D. DAVIS,
Director, Alcohol,
Tobacco and Firearms Division.

[FR Doc.72-5100 Filed 4-3-72;8:49 am]

DEPARTMENT OF THE INTERIOR

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, or Corrections

By notice in the FEDERAL REGISTER of March 15, 1972, Part II, there was published a list of the properties included in the National Register of Historic Places through Feb. 1, 1972 (37 F.R. 5428). This list has been amended by a notice in the FEDERAL REGISTER of March 7 (pp. 4923–24). Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following properties have been added to the Register since March 7:

ALASKA

Fairbanks North Star Borough

Fairbanks, *George C. Thomas Memorial Library*, 901 1st Avenue.

Greater Sitka Borough

Sitka, *Alaska Native Brotherhood Hall, Sitka Camp No. 1*, Katlean Street.

Sitka, *Sheldon Jackson Museum*, Lincoln Street.

Kodiak Island Borough

Kodiak Island, *Three Saints Bay Archeological Site*, north of Cape Kasiak, T. 35 S., R. 27 W.

Southeastern District

Metlakatla, *Duncan, Father William, House*, Fifth Avenue and Atkinson Street.

Yakutat vicinity, *New Russia Archeological Site*, southwest of Yakutat on Phipps Peninsula.

ARKANSAS

Lee County (also in Monroe and Phillips Counties)

Blackton vicinity, *Louisiana Purchase Survey Marker*, southeast of Blackton at the corner of the three counties.

Monroe County

Louisiana Purchase Survey Marker (see Lee County).

Phillips County

Louisiana Purchase Survey Marker (see Lee County).

Washington County

Fayetteville, *Washington County Courthouse*, College Avenue and East Center Street.

CALIFORNIA

Amador County

Jackson, *Amador County Hospital Building*, 810 Court Street.

Butte County

Chico vicinity, *Patrick, William G., Home*, 3 miles southeast of Chico off U.S. 99 E.

Calaveras County

San Andreas, *Calaveras County Courthouse*, Main Street.

San Andreas, *Thorn House*, 87 East St. Charles Street.

Lake County

Clearlake Oaks vicinity, *Patwin Indian Site*, 6 miles northwest of Clearlake Oaks.

Los Angeles County

Los Angeles, *Domiciliary No. 9, Veterans Administration Center*, Dewey Avenue.

Mendocino County

Pine Grove vicinity, *Point Cabrillo Site*, 0.75 mile west of Pine Grove and California 1.

Napa County

St. Helena, *Rhine House*, 2000 Main Street.

San Francisco County

San Francisco, *McElroy Octagon House*, 2645 Gough Street.

Santa Clara County

Morgan Hill vicinity, *Poverty Flat Site*, west of Morgan Hill in Henry Williard Coe State Park.

Palo Alto, *Squire, John Adam, House*, 900 University Avenue.

Tulare County

Allensworth, *Allensworth Historic District*.

CONNECTICUT

Hartford County

East Granby, *Viets' Tavern*, Newgate Road.

Litchfield County

Woodbury, *Woodbury Historic District No. 2*, both sides of Main Street from the Woodbury-Southbury town line to Middle Quarter.

Middlesex County

Chester, *Old Town Hall (Second Congregational Meetinghouse)*, on the green between Liberty Street and Goose Hill Road.

New Haven County

Southbury, *Bullet Hill School*, west side of Main Street at the intersection of Seymour Road.

New London County

Norwich, *Huntington, Colonel Joshua, House*, 11 Huntington Lane.

Tolland County

Mansfield, *Mansfield Center Historic District*, Storrs Road.

DELAWARE

New Castle County

Newark, *England House (Red Mill Farm)*, 81 Red Mill Road.

Sussex County

Lewes, *DeVries Palisade*, Pilottown Road at DeVries Monument.

FLORIDA

Franklin County

Sumatra vicinity, *Fort Gadsden Historic Memorial*, 6 miles southwest of Sumatra.

Nassau County

Fernandina Beach vicinity, *Fort Clinch*, 3 miles north of Fernandina Beach on Florida AIA.

GEORGIA

Bibb County

Macon, *Central City Park Bandstand*, Central City Park.

Macon, *Monroe Street Apartments*, 641–661 Monroe Street.

Clayton County

Jonesboro, *Stately Oaks*, Tara Boulevard.

Coweta County

Newnan vicinity, *Gordon-Banks House*, U.S. 29 south of Newnan.

Muscogee County

Columbus, *Rankin House*, 1440 Second Avenue.

Richmond County

Augusta, *Old Medical College Building*, corner of Telfair and Sixth Streets.

Augusta, *Sacred Heart Catholic Church*, northwest corner of Greene and 13th Streets.

IDAHO

Lemhi County

Salmon vicinity, *Fort Lemhi (Salmon River Mission)*, about 18 miles southeast of Salmon.

KANSAS

Douglas County

Lawrence, *Blood, Colonel James, House*, 1015 Tennessee.

Lawrence, *Old West Lawrence Historic District*, bounded approximately by Tennessee, Eighth, Indiana, and Sixth.

Ellis County

Ellis, *Chrysler, Walter P., House*, 104 West 10th Street.

Ellsworth County

Kanopolis, *Fort Harker Guardhouse*, corner of Wyoming and Ohio Streets.

Ford County

Dodge City, *Mueller-Schmidt House*, 112 East Vine.

Franklin County

Ottawa, *Dietrich Cabin*, Main and Fifth Streets.

Kiowa County

Greensburg, *Greensburg Well*, Sycamore Street.

Leavenworth County

Leavenworth, *Brewer, David J., House*, 403 Fifth Avenue.

Logan County

Russell Springs, *Old Logan County Courthouse*, Main Street.

Lyon County

Hartford, *Hartford Collegiate Institute*, southwest corner of Plumb and College Avenues.

McPherson County

Lindsborg, *Smoky Valley Roller Mill*, Mill Street.

Marshall County

Blue Rapids vicinity, *Alcove Springs*, 4 miles north of Blue Rapids on secondary roads.

Ness County

Ness City, *Ness County Bank*, Main Street and Pennsylvania Avenue.

KENTUCKY

Warren County

Bowling Green, *Riverview (Hobson House)*, Hobson Grove Park, Main Street.

MAINE

Cumberland County

Portland, *Clapp, Charles Q., House*, 97 Spring Street.

Portland, *Park Street Row*, 88–114 Park Street.

Portland, *Woodman Building*, 133–141 Middle Street.

Franklin County

West Farmington vicinity, *Little Red Schoolhouse*, south of West Farmington on Wilton Road.

Lincoln County

Wiscasset, *Scott, George, House (Octagon House)*, Federal Street.

Penobscot County

Bangor, *Bangor House*, 174 Main Street.

Sagadahoc County

Richmond, *Southard Block*, 25 Front Street.

MARYLAND

Anne Arundel County

Annapolis, *Paca House and Garden*, 186 Prince George Street.

MASSACHUSETTS

Barnstable County

Provincetown, *First Universalist Church*, 236 Commercial Street.

Berkshire County

Lanesborough, *St. Luke's Episcopal Church*, U.S. 7.
South Lee, *Merrell Tavern*, Massachusetts 102.

Franklin County

Buckland, *Griswold, Major Joseph, House*, Upper Street.

Plymouth County

Plymouth, *Old County Courthouse*, corner of Leyden and Market Streets.

Suffolk County

Boston, *Crowninshield House*, 164 Marlborough Street.
Boston, *First Baptist Church (Brattle Square Church)*, Commonwealth Avenue and Clarendon Street.
Boston, *Trinity Rectory*, northeast corner of Clarendon and Newbury Streets.

Worcester County

Northborough, *Northborough Town Hall*, northeast corner of West Main and Blake Streets.

MINNESOTA

Brown County

New Ulm, *Kiesling House*, 220 North Minnesota Street.

Ramsey County

St. Paul, *Minnesota State Capitol*, Aurora between Cedar and Park.

MISSOURI

Atchison County

Watson vicinity, *The Gibbs Site*, 4 miles northeast of Watson.

Dent County

Salem, *Dent County Courthouse*, Main and Fourth Streets.

Jackson County

Kansas City, *Coates House Hotel*, 1005 Broadway.

Saline County

Arrow Rock, *Arrow Rock Tavern*, Main Street.

NEVADA

Churchill County

Austin vicinity, *Cold Springs Station*, 51 miles west of Austin on U.S. 50.
Fallon vicinity, *Grimes Point*, 12 miles southeast of Fallon on U.S. 50.

White Pine County

Ely vicinity, *Fort Schellbourne*, 43 miles north of Ely via U.S. 93 and east 3 miles on Nevada 2.

NEW YORK

New York County

New York, *Blackwell House*, Welfare Island.

NORTH DAKOTA

Benson County

Bismarck, *Camp Hancock Site*, 101 Main Avenue.

OHIO

Clark County

Enon, *Enon Mound*, Mound Street.

Franklin County

Columbus, *Wyandotte Building*, 21 West Broad Street.

Greene County

Cedarville vicinity, *Pollock Works*, west of Cedarville off U.S. 42.
Fairborn vicinity, *Wright-Patterson Air Force Base Mound*, Area B, P Street between Seventh and Eighth Streets.

Lucas County

Toledo, *Old Central Post Office*, 13th Street between Madison and Jefferson Avenues.
Toledo, *Philipps, Henry, House*, 220 Columbia.
Toledo, *Pythian Castle (Bleckner Music Company)*, 801 Jefferson Avenue.
Toledo, *St. Patrick's Catholic Church*, 13th Street and Avondale Avenue.
Toledo, *Toledo City Market (city of Toledo Service Building)*, 237 South Erie Street.
Toledo, *Toledo News-Bee Building*, 604 Jackson Street.

Ottawa County

Mineyahta-on-the-Bay, *War of 1812 Battle Site*, East Bay Shore Road, 1 mile west of the junction with T-142.

Ross County

Bourneville vicinity, *Spruce Hill Works*, east of Bourneville at Spruce Hill.

OKLAHOMA

Woodward County

Fort Supply, *Fort Supply Historic District*, NE¼ sec. 9, T. 24 N., R. 22 W.

RHODE ISLAND

Newport County

Newport, *House*, 295 Thames Street.
Newport, *Rogers, Joseph, House*, 37 Touro Street.
Newport, *White Horse Tavern*, 26 Marlborough Street.

Providence County

Berkeley, *Berkeley Mill Village*. Bounded by properties on both sides of Martin Street and Mendon Road on the northeast and northwest, by the railroad on the southwest, and the cemetery on the southeast.

Washington County

Wickford vicinity, *Smith's Castle*, north of Wickford on the Post Road.

SOUTH CAROLINA

Charleston County

Charleston vicinity, *Fenwick Hall*, on John's Island approximately 10 miles south of Charleston.

Fairfield County

Winnsboro, *Rural Point (Robertson House)*, Old Camden Road.

Jasper County

Robertville, *Robertville Baptist Church*, intersection of U.S. 321 and County Route 26.

Marlboro County

Bennettsville, *Jennings-Brown House*, 121 South Marlboro Street.

Richland County

Columbia, *Lorick-Baker House*, 1727 Hampton Street.
Columbia, *Wilson, Thomas Woodrow, Boyhood Home*, 1705 Hampton Street.

TENNESSEE

Davidson County

Donelson, *Two Rivers (David H. McGavock House)*, McGavock Pike.
Nashville, *Gymnasium, Vanderbilt University*, southwest corner of West End and 23d Avenues.
Nashville, *The Parthenon*, Centennial Park.
Nashville, *Second Avenue Commercial District*, Second Avenue North between Brandon Street and Broadway.

Franklin County

Huntland vicinity, *Falls Mill*, 1 mile off U.S. 64.

Williamson County

Franklin, *St. Paul's Episcopal Church*, 510 Main Street.

TEXAS

Bexar County

San Antonio, *Mission San Francisco de la Espada*, Espada Road.
San Antonio, *Mission San Juan Capistrano*, Mission Road.

Cameron County

Port Isabel vicinity, *Garcia Pasture Site*, Loma del Mesquite about 2 miles south-southwest of Port Isabel.

Concho County

Paint Rock vicinity, *Paint Rock Indian Pictograph Site*, 1 mile northwest of Paint Rock off U.S. 83.

El Paso County

El Paso, *Old Fort Bliss*, 1800 block Doniphan Street; property between Doniphan Street and the Rio Grande, north of Franklin Canal.

Oldham County

Adrian vicinity, *Rocky Dell*, 9 miles northwest of Adrian and 2.7 miles north of U.S. 40.

Travis County

Austin, *Hardeman House*, 401 East 16th Street.

UTAH

Cache County

Logan, *Old Main, Utah State University*, Utah State University campus.

Washington County

Rockville, *Deseret Telegraph and Post Office*, Utah 15.

Wayne County

Fruita, *Fruita Schoolhouse*, Utah 24.
Green River vicinity, *Horseshoe (Barrier) Canyon Pictograph Panels*, 43 miles south of Green River secs. 17, 19, T. 27 S., R. 16 E.

VIRGINIA

Albermarle County

Cismont vicinity, *Castle Hill*, 0.8 mile northwest of Route 231, 2 miles northeast of the intersection with Route 600.

Arlington County

Arlington, *The Glebe*, 4527 North 17th Street.

Goochland County

Pemberton vicinity, *Howard's Neck*, 1 mile northwest of Pemberton.

Hampton (independent city)

Herbert House, east end of Marina Road on Hampton Creek.

Loudoun County

Middleburg vicinity, *Welbourne*, 0.1 mile south of Route 743, 1.2 miles northwest of its intersection with Route 6111.

Lunenburg County

Lunenburg
Lunenburg Courthouse Historic District, 0.2 mile west and north of the intersection of Routes 40 and 49; and 0.4 mile east and south of the intersection of Routes 40 and 675.

Prince William County

The Plains vicinity, *Beverley Mill (Chapman Mill)*, north side of the intersection of Routes 600 and 55.

Richmond (independent city)

Barrett House, 15 South Fifth Street.

Broad Street Station, Broad and Robinson Streets.

Confederate Memorial Chapel, 2900 Grove Avenue.

Crozet House (Curtis Carter House), 100 East Main Street.

Staunton (independent city)

Sears House, Sears Hill Road in Woodrow Wilson City Park.

WASHINGTON

Clallam County

Olympic Peninsula, *Tatoosh Island*, northwest of Cape Flattery.

Douglas County

East Wenatchee vicinity, *Pangborn-Herndon Memorial*, 3 miles northeast of East Wenatchee.

King County

Seattle, *Assay Office*, 613 Ninth Avenue.
Seattle, *Colman Building*, 811 First Avenue.
Seatle, *Park Department, Division of Playgrounds*, 301 Terry Avenue.
Seattle, snagboat *W. T. Preston*, Lake Washington Ship Canal, Hiram Chittenden Locks.
Seattle, *Ward Home*, 1427 Boren Avenue.

Klickitat County

The Dalles vicinity, *Wishram Indian Village Site*, 5 miles northeast of The Dalles.

Okanogan County

Winthrop vicinity, *Parson Smith Tree*, 40 miles north of Winthrop on the Canadian border.

Whatcom County

Bellingham, *Gamwell House*, 1001 16th Street.

WEST VIRGINIA

Greenbrier County

Lewisburg, *Old Stone Church (Presbyterian)*, Church and Foster Streets.
Lewisburg, *Supreme Court Library Building (Greenbrier County Library and Museum)*, U.S. 60 west and Courtney Drive.

Lewis County

Jackson Mill vicinity, *Jackson's Mill*, east of Jackson Mill on Route 1 (Route 12).

WISCONSIN

Dane County

Madison, *Bradley, Harold C., House*, 106 North Prospect Avenue.
Madison, *State Historical Society of Wisconsin*, 816 State Street.

Grant County

Platteville, *Mitchell-Roundtree House*, Jewett and Lancaster Streets.

Jefferson County

Watertown, *First Kindergarten*, 919 Charles Street.

Lafayette County

New Diggings, *St. Augustine Church*, just off County Route W.

Milwaukee County

Milwaukee, *Church, Benjamin, House*, Parkway Drive, Estabrook Park.
Wauwatosa, *Damon House*, 2107 North Wauwatosa Avenue.

Walworth County

Elkhorn, *Webster, Joseph P., House*, 9 East Rockwell Street.

Waukesha County

Delafield, *Hawks Inn*, 428 Wells Street.
Delafield, *St. John Chrysostom Church*, 1111 Genesee Street.
Nashotah vicinity, *Chapel of St. Mary the Virgin*, 1 mile south and 1 mile west of Nashotsh on Nasotah House Road.

WYOMING

Albany County

Laramie, *Ivinson Mansion and Grounds*, lots 1–8, block 178.

ROBERT M. UTLEY,
Acting Director, Office of Archeology and Historic Preservation.

[FR Doc.72–5079 Filed 4–3–72;8:48 am]

Office of the Secretary

[INT FES 72–6]

AUTHORIZED MOUNTAIN PARK PROJECT, OKLAHOMA

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the authorized Mountain Park project, Oklahoma.

The environmental statement concerns a water project for the purpose of furnishing municipal and industrial water supplies for the cities of Altus, Snyder, and Frederick, Okla.

Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, telephone (202) 343–4991.
Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colo. 80225, telephone (303) 234–3007.
Office of the Regional Director, Bureau of Reclamation, Herring Plaza, Box H–4377, Amarillo, Tex. 79101, telephone (806) 376–2408.
Oklahoma City Development Office, Bureau of Reclamation, Post Office Box 495, Federal Office Building, Oklahoma City, Okla. 73101 telephone (405) 231–4515.

Single copies of the statement may be obtained on request to the Commissioner of Reclamation, Regional Director, or Oklahoma City Planning Officer. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: March 27, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72–5084 Filed 4–3–72;8:48 am]

[DES 72–49]

PROPOSED STRIP MINED AREA RECLAMATION AND RECREATION CENTER DEVELOPMENT PROJECT; LACKAWANNA COUNTY, PA.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Mines, Department of the Interior, has prepared a draft environmental statement concerning the conduct of a strip mined area reclamation project as part of an overall public recreation area/anthracite museum-mine tour complex development program coordinated by Lackawanna County, Pa. Written comments are invited for a period of 30 days after publication of this notice.

The proposed project will eliminate the scars of past surface coal mining activities on 125 acres of county owned land located within the adjoining communities of Scranton and Taylor, Pa. The Bureau of Mines will cooperate in finalization of the park land-use plan, fill coal strip mine pits with material from adjoining spoil banks, grade the park area to stable rolling contours, plant reclaimed and graded areas, and reconstruct and seal the channel of Lucky Run Creek which flows across the park area.

Single copies of the draft statement are available from:

Director, Bureau of Mines, Room 4614, Department of the Interior, Washington, D.C. 20240.
Chief, Environmental Affairs Field Office, Veterans Building, 19 North Main Street, Wilkes-Barre, PA 18701.

In requesting this document, please refer to the statement number above.

Dated: March 30, 1972.

W. W. LYONS,
Deputy Assistant Secretary of the Interior.

[FR Doc.72–5203 Filed 4–3–72;8:53 am]

DEPARTMENT OF AGRICULTURE

Forest Service

COOPERATIVE 1972 GYPSY MOTH SUPPRESSION AND REGULATORY PROGRAM

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Cooperative 1972 Gypsy Moth Suppression and Regulatory Program, USDA–FS–FES (Adm) 72–16.

The environmental statement concerns a suppression effort using carbaryl on about 200,000 acres to assist cooperating States in Pennsylvania, New Jersey, and New York in preventing defoliation of hardwoods and to protect forest and forest-related resources from imminent damage by the gypsy moth.

This final environmental statement was filed with CEQ on March 27, 1972.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3230, 12th Street and Independence Avenue SW., Washington, DC 20250.

USDA, Forest Service, 1621 North Kent Street, Rosslyn Plaza, Room 1205–B, Arlington, VA 22209.

USDA, Forest Service, 6816 Market Street, Room 207, Upper Darby, PA 19082.

U.S. Department of Agriculture, Animal and Plant Health Service, Administration Building, Room 302–E, 12th Street and Independence Avenue, SW., Washington, DC 20250.

A limited number of single copies are available upon request to Edward P. Cliff, Chief, U.S. Forest Service, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC 20250.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151 for $3 each. Please refer to the name and number of statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

LAWRENCE M. WHITFIELD,
Acting Deputy Chief,
Forest Service.

MARCH 30, 1972.

[FR Doc.72-5092 Filed 4-3-72;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CELANESE FIBERS MARKETING CO.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2B2773) has been filed by Celanese Fibers Marketing Co., Post Office Box 1414, Charlotte, NC 28201 proposing that § 121.2536 *Filters, resin-bonded* (21 CFR 121.2536) be amended to provide for the safe use of polyethylene terephthalate fibers in the manufacture of resin-bonded filters.

Dated: March 24, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-5060 Filed 4-3-72;8:46 am]

[DESI 9036]

OXYTETRACYCLINE HYDROCHLORIDE AND POLYMYXIN B SULFATE VAGINAL TABLETS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on Terramycin Vaginal Tablets with Polymyxin B Sulfate, containing oxytetracycline hydrochloride and polymyxin B sulfate; Pfizer, Inc., 235 East 42d Street, New York, N.Y. 10017 (NDA 61–009).

The Food and Drug Administration concludes that oxytetracycline hydrochloride with polymyxin B sulfate vaginal tablets are effective for the indications described in the labeling conditions in this announcement.

Preparations containing oxytetracycline and polymyxin B sulfate are subject to the antibiotic certification procedures under section 507 of the Federal Food, Drug, and Cosmetic Act. Within 60 days following publication of this announcement in the FEDERAL REGISTER drugs in the dosage form described above for which certification or release is requested should contain labeling information in accord with this reevaluation of the drug published in this announcement.

The above-named firm and any other holders of applications approved for a drug of the kind described above are requested to submit within 60 days following publication of this announcement in the FEDERAL REGISTER, amendments to their antibiotic applications to provide for revised labeling. Such labeling should comply with all requirements of the Act and regulations, bear adequate information for safe and effective use of the drug, and be in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section of the labeling should be as follows:

INDICATIONS

For use in the treatment of acute or chronic vaginitis due to one or more susceptible bacterial organisms.

The Food and Drug Administration concludes that the above drug is possibly effective for use in trichomonas vaginitis; prophylaxis before vaginal surgery; and following cauterization of the cervix. Batches of the drugs which bear labeling with the indications evaluated as possibly effective and are otherwise in accord with the labeling conditions herein will be accepted for release or certification by the Food and Drug Administration for a period of 6 months from the publication date of this announcement to allow any applicant to obtain and submit data to provide substantial evidence of effectiveness of the drug for use in a condition for which it has been evaluated as possibly effective.

To be acceptable for consideration in support of the effectiveness of a drug, any such data must be previously unsubmitted, well-organized, and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12(a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for the approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

At the end of the 6-month period, any such data will be evaluated to determine whether there is substantial evidence of effectiveness for such uses. After that evaluation, the conclusions concerning the drug will be published in the FEDERAL REGISTER. If no studies have been undertaken, or if the studies do not provide substantial evidence of effectiveness, such drug will no longer be eligible for release or certification when labeled with those indications.

A copy of the Academy's report has been furnished to the firm referred to above. Communications forwaded in response to this announcement should be identified with the reference number DESI 9036, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852:

Amendments (identify with NDA number, if known): Division of Anti-Infective Drug Products (BD–140), Office of Scientific Evaluation, Bureau of Drugs.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD–67), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–60), Bureau of Drugs.

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

Dated: March 23, 1972.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.72-5062 Filed 4-3-72;8:46 am]

[DESI 11659; Docket No. FDC-D-289; NDA 11-659]

PREPARATION CONTAINING STERILE UREA AND INVERT SUGAR INJECTION

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drug for intravenous use:

Urevert containing sterile urea and invert sugar injection; Travenol Laboratories, Inc., 6301 Lincoln Avenue, Morton Grove, IL 60053 (NDA 11-659).

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

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

1. Thirty percent (w/w) urea solutions are effective for use in the reduction of intracranial or intraocular pressure and in the control of cerebral edema.

2. Four percent urea solutions lack substantial evidence of effectiveness for use in the management of edema associated with surgery, trauma, or burns and for the prevention of postoperative sodium retention.

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

1. *Form of drug.* Such preparations are in a form suitable for intravenous use.

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

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

INDICATIONS

When administered as a 30 percent solution, this preparation is indicated for the reduction of intracranial pressure (in the control of cerebral edema) and of intraocular pressure.

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

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a)(1)(i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application as described in paragraph (a)(3)(i) of that notice.

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

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and/or all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A.2 of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Any related drug for human use, not the subject of an approved new drug application, offered for the indications for which substantial evidence of effectiveness is lacking, may be affected by this action.

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

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

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

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference number DESI 11659, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852:

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

Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67), Bureau of Drugs.

Request for a hearing (identify with docket number): Hearing Clerk; Office of General Counsel (GC-1), Room 6-88, Parklawn Building.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

Received requests for a hearing may be seen in the office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

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

Dated: March 20, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-5061 Filed 4-3-72;8:46 am]

[Docket No. FDC-D-274; NADA 11-388V]

BARNES-HIND PHARMACEUTICALS, INC.

Prednisolone Injection Veterinary; Withdrawal of Approval of New Animal Drug Application

A notice of opportunity for a hearing was published in the FEDERAL REGISTER of April 29, 1971 (36 F.R. 8065). Said notice gave the named holders of various NADA's (new animal drug applications) 30 days in which to request an opportunity for a hearing.

Barnes-Hind Pharmaceuticals, Inc., 895 Kifer Road, Sunnyvale, Calif. 94086, the holder of NADA No. 11-388V for the product Prednisolone Injection Veterinary filed a written appearance requesting an opportunity for a hearing. However, said appearance was not supported by well-organized and full-factual analysis of clinical and other investigational data to support their opposition to the grounds for said notice. Therefore, the

firm's request for a hearing is denied.

The Commissioner of Food and Drugs, based on his evaluation of information before him with respect to said drug finds that there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended or suggested in the labeling. Accordingly, the Commissioner concludes that approval of said new animal drug application should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 11–388V including all amendments and supplements thereto is hereby withdrawn effective on the date of publication of this document (4–4–72).

Dated: March 24, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–5107 Filed 4–3–72;8:50 am]

OVER-THE-COUNTER ANTIMICROBIAL INGREDIENTS IN DRUG PRODUCTS

Safety and Efficacy Review; Request for Data and Information

A notice was published in the FEDERAL REGISTER, January 7, 1972 (37 F.R. 235), inviting submission of data by interested parties on over-the-counter antibacterial ingredients (excluding mercurials, antibiotics, and methyl, ethyl, or propyl alcohols) in drug products for repeated daily human use. The notice was corrected on January 26, 1972 (37 F.R. 1182). The Commissioner of Food and Drugs has concluded that the scope of the panel should be expanded; therefore the notice as corrected is replaced by the following (responses to the prior "antibacterial" notice will be considered as responses submitted to this notice):

The FDA is undertaking a review of all over-the-counter (OTC) drug products currently marketed in the United States, to determine that these OTC products are safe and effective for their labeled indications. This review will utilize expert panels working with FDA personnel.

A notice of proposed rule making outlining procedures and explaining the purpose for this review was published in the FEDERAL REGISTER of January 5, 1972.

To facilitate this review and a determination as to whether an OTC drug for human use is generally recognized as safe and effective and not misbranded under its recommended conditions of use, and to provide all interested persons an opportunity to present for the consideration of the reviewing experts the best data and information available to support the stated claims for these categories of antimicrobial-containing products for which drug claims are made, we are inviting published and unpublished data and other information pertinent to all active ingredients utilized as antimicrobial components of such products. (This includes soaps, surgical scrubs, skin washes, skin cleansers, and first aid preparations. Excluded at this time, but to be considered at a later date, are OTC drug products containing antimicrobial agents, offered for treatment or prophylaxis of specific disorders such as seborrhea, dandruff, acne, athletes foot, and vaginitis.)

FDA is aware that the following active ingredients are used in such products:

Bis-phenols (Hexachlorophene).
Phenolic Compounds.
Salicylanilides (Tribromsalan).
Salicylic Acid.
Quaternary Ammonium Compounds.
Carbanilides (Triclorcarban, Cloflucarban).
Iodophors.
Iodine.
Irgasans.

Interested parties are also invited to submit data on any other active antimicrobial ingredients which they may wish to be considered.

The FDA is aware that safety data on these ingredients is available as a result of testing related to nondrug products (such as cosmetics, economic poisons, coatings, and other products). In vitro and in vivo data on the antimicrobial effectiveness of such ingredients is also available from these other sources. All interested parties are encouraged to submit, at this time, all available safety and antimicrobial effectiveness data for these antimicrobial ingredients, so that the conclusions reached will reflect the best information available.

This panel is not charged with reviewing the safety or effectiveness of the use of antimicrobial ingredients in nondrug products such as cosmetics (e.g. deodorants), economic poisons, wall coatings, air filters, and other common uses. However, the conclusions of the panel with respect to these ingredients for drug use may be utilized by the Food and Drug Administration in determining whether their use in cosmetics and hazardous household products can continue to be justified, and the Environmental Protection Agency may similarly use this information in reviewing their continued use in economic poisons. Thus, although the report and monograph prepared by this panel will cover only OTC drug use, the conclusions may well have a direct and substantial impact on all uses of antimicrobial ingredients in consumer products.

To be considered, eight copies of the data and/or views must be submitted in the following format:

OTC DRUG REVIEW INFORMATION

I. Label(s) and all labeling.
II. A statement of the complete quantitative composition of the drug.
III. Animal safety data.
A. Individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
B. Combinations of the individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
C. Finished drug product.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
IV. Human safety data.
A. Individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports (not testimonial reports).
4. Pertinent marketing experiences that may influence a determination as to the safety of each individual active component.
B. Combinations of the individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports (not testimonial reports).
4. Pertinent marketing experiences that may influence a determination as to the safety of combinations of the individual active components.
C. Finished drug product.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports (not testimonial reports).
4. Pertinent marketing experiences that may influence a determination as to the safety of the finished drug product.
V. Efficacy data.
A. Individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports (not testimonial reports).
B. Combinations of the individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports (not testimonial reports).
C. Finished drug product.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports (not testimonial reports).
VI. A summary of the data and views setting forth the medical rationale and purpose (or lack thereof) for the drug and its ingredients and the scientific basis (or lack thereof) for the conclusion that the drug and its ingredients have been proven safe and effective for the intended use. If there is an absence of controlled studies in the material submitted, an explanation as to why such studies are not considered necessary must be included.

Data should be submitted to: Food and Drug Administration, Bureau of Drugs, OTC Drug Products Evaluation Staff (BD–106), 5600 Fishers Lane, Rockville, Md. 20852. These data shall be submitted wtihin 30 days from date of this publication.

Voluntary submission of data pursuant to this request or any other form of cooperation with the Food and Drug Administration with respect to the OTC drug review does not constitute agreement with the legality of the procedure or the resulting monograph. Any person submitting data or information or otherwise cooperating with the review retains the right to challenge at any time any

aspect of the procedure or monograph on any legal ground.

Dated: March 24, 1972.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.72-5105 Filed 4-3-72;8:50 am]

[Docket No. FDC-D-274; NADA 2-923V, 6-521V]

U.S.V. PHARMACEUTICAL CORP.

Pervinal and Aquasol A Parenteral Veterinary; Notice of Withdrawal of Approval of New Animal Drug Applications

A notice of opportunity for a hearing was published in the FEDERAL REGISTER of April 29, 1971 (36 F.R. 8065). Said notice gave the named holders of various NADA's (new animal drug applications) 30 days in which to request an opportunity for a hearing.

U.S.V. Pharmaceutical Corp., 1 Scarsdale Road, Tuckahoe, NY 10707 the holder of NADA No. 2-923V for the product Pervinal and NADA No. 6-521V for the product Aquasol A Parenteral Veterinary, filed a written appearance requesting an opportunity for a hearing. However, said written appearance was not supported by well-organized and full-factual analysis of clinical and other investigational data to support their opposition to the grounds for said notice. Therefore, the firm's request for a hearing is denied.

The Commissioner of Food and Drugs, based on his evaluation of information before him with respect to said drugs finds that there is a lack of substantial evidence that the drugs will have the effect they purport and are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. Accordingly, the Commissioner concludes that approval of said new animal drug applications should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 2-923V and NADA No. 6-521V including all amendments and supplements thereto is hereby withdrawn effective on the date of publication of this document (4-4-72).

Dated: March 24, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-5106 Filed 4-3-72;8:50 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 72-64N]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of livesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from December 7, 1971, to February 24, 1972 (List No. 6-72). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160-164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner canceled or suspended by proper authority.

SIGNALS, DISTRESS, COMBINATION FLARE AND SMOKE, HAND, FOR MERCHANT VESSELS

Approval No. 160.023/4/0, signal distress, combination flare and smoke, hand-held, Propellex's drawing Model 13, Revision A dated October 7, 1969, manufactured by Propellex Company, Post Office Box 387, Edwardsville, IL 62025, effective February 23, 1972.

WATER, EMERGENCY DRINKING (IN HERMETICALLY SEALED CONTAINERS), FOR MERCHANT VESSELS

Approval No. 160.026/39/0, container for emergency provisions, dwg. No. 313 dated January 31, 1972, and Specification No. 313C dated January 31, 1972, manufactured by Globe Equipment Corp., 257 Water Street, Brooklyn, NY 11201, effective February 18, 1972.

DAVITS FOR MERCHANT VESSELS

Approval No. 160.032/150/3, mechanical davit, steel straight boom sheath screw, Type B-47; approved for a maximum working load of 9,450 pounds per set (4,725 pounds per arm) using not less than 2-part falls; identified by general arrangement dwg. 80049, Rev. C dated January 15, 1969, and drawing list dated January 17, 1972, manufactured by Welin Davit and Boat Division, Lake Shore, Inc., Iron Mountain, Mich. 49801, formerly Welin Davit Division of Lane Marine Technology, Inc., effective February 10, 1972. (It supersedes Approval No. 160.032/150/2 dated April 17, 1970 to show change of name and address of manufacturer and minor drawing revisions.)

LIFEBOATS

Approval No. 160.035/338/2, 28' x 9' x 3.96' aluminum, oar-propelled lifeboat, 59-person capacity, identified by general arrangement dwg. No. 28-1E Rev. E dated February 9, 1972, alternate aluminum interior, 46 CFR 160.035-13(c) Marking. Weights: Wood Interior: Condition "A"=3,120 pounds; Condition "B"=13,901 pounds, Aluminum Interior: Condition "A"=3,055 pounds; Condition "B"=13,836 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, effective February 18, 1972. (It reinstates and supersedes Approval No. 160.035/338/1 terminated September 24, 1970.)

Approval No. 160.035/444/1, 28' x 9' x 3.96' aluminum, hand-propelled lifeboat, 59-person capacity, identified by general arrangement dwg. No. 28-1F Rev. D dated February 10, 1972, alternate aluminum interior, 46 CFR 160.035-13(c) Marking. Weights: Wood Interior: Condition "A"=3,450 pounds; Condition "B"=14,195 pounds, Aluminum Interior: Condition "A"=3,660 pounds; Condition "B"=14,405 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, effective February 22, 1972. (It reinstates and supersedes Approval No. 160.035/444/0 terminated September 24, 1970.)

Approval No. 160.035/449/2, 26' x 9' x 3.83' aluminum, motor-propelled lifeboat without radio cabin or searchlight (Class 1), 48-person capacity, identified by general arrangement dwg. No. 26-15 Rev. D dated November 20, 1969, or motor-propelled lifeboat with a searchlight and without radio cabin (Class 2), identified by general arrangement dwg. No. 26-18 dated October 16, 1969, to be fitted with Rottmer Type S-1 Release Gear 160.033/39/3 or Rottmer Type B-1 Release Gear 160.033/52/0, 46 CFR 160.035-13(c) Marking. Weights: Class 1 Condition "A"=3,765 pounds; Condition "B"=12,881 pounds, Class 2 Condition "A"=3,765 pounds; Condition "B"=13,050 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, effective February 15, 1972. (It reinstates and supersedes Approval No. 160.035/449/0 terminated December 8, 1971 in error.)

Approval No. 160.035/466/0, 30' x 10' x 4.33' steel, hand-propelled lifeboat, 78-person capacity, identified by general arrangement dwg. No. 30-6 Rev. A dated December 22, 1971, 46 CFR 160.035-13(c) Marking. Weights: Condition "A"=5,660 pounds; Condition "B"=19,799 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, effective February 15, 1972.

Approval No. 160.035/467/0, 30' x 10' x 4.33' steel, motor-propelled lifeboat, without radio or searchlight (Class 1), 74-person capacity, identified by general arrangement dwg. No. 30-7, Rev. A dated December 15, 1971, 46 CFR 160.035-13 (c) Marking. Weights: Condition "A"=6,825 pounds; Condition "B"=20,631 pounds, manufactured by Marine Safety Equipment Corp., Foot of Wycoff Road, Farmingdale, N.J. 07727, effective February 14, 1972.

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

Approval No. 160.050/82/0, 30-inch unicellular plastic ring life buoy, USCG Specification Subpart 160.050 and B. F. Goodrich dwg. No. 12988, revision 3 dated January 13, 1960, manufactured by Goodenow Manufacturing Co., 1301 West 18th Street, Erie, PA 16501, effective February 24, 1972.

SAFETY RELIEF VALVES, LIQUEFIED COMPRESSED GAS

Approval No. 162.018/78/0, Type 91, pressure vacuum relief valves, made of ASTM–A–216 Grade WCB, in 2", 3", 4", and 6" sizes, for a maximum pressure of 50 p.s.i.g., as shown on the drawings listed below, Type 93, pilot valve, made of ASTM A–107, Grade C1018, as per dwg. Nos. 3–0569 dated July 8, 1967, and 3–0566 dated June 16, 1967, manufactured by Anderson, Greenwood & Co., 5425 South Rice Avenue, Houston, TX 77036, effective December 7, 1971. (It supersedes Approval No. 162.018/78/0 dated November 8, 1971, to show minor changes.)

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/142/0, "Nadisco" fibrous glass cloth faced incombustible fibrous glass thermal insulation board, identical to that described in National Bureau of Standards Test Report No. FR3767 dated July 6, 1971, approved in a density of 4 pounds per cubic foot and a thickness of 1 inch, manufactured by Jamestown Fiberglass, Inc., 140 Blackstone Avenue, Jamestown, NY 14701, effective February 14, 1972.

Dated: March 29, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72–5102 Filed 4–3–72;8:49 am]

[CGD 72–63N]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Termination of Approval Notice

1. Certain laws and regulations (46 CFR Ch. I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from February 2, 1972, to February 18, 1972 (List No. 5–72). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of title 46, United States Code, section 1333 of title 43, United States Code, and section 198 of title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160–164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

BUOYS, LIFE, RING, CORK, OR BALSA WOOD FOR MERCHANT VESSELS AND MOTORBOATS

The Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, NY 11201, Approvals Nos. 160.009/11/0 and 160.009/13/0 expired and were terminated effective February 17, 1972.

BUOYANT APPARATUS FOR MERCHANT VESSELS

The Tapatco, Inc., Post Office Box 49, Fairfield, CA 94533, no longer manufactures certain buoyant apparatus and Approvals Nos. 160.010/59/1 and 160.010/60/1 were therefore terminated effective February 2, 1972.

DECK COVERINGS FOR MERCHANT VESSELS

The Thos. Moulding Floor Co., Inc., 2519 West Peterson, Chicago, IL 60645, no longer manufactures certain deck coverings and Approval No. 164.006/15/0 was therefore terminated February 18, 1972.

Dated: March 29, 1972.

G. H. READ,
Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc.72–5101 Filed 4–3–72;8:49 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50–247]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Order Extending Facility Operating License Expiration Date

Consolidated Edison Co. of New York, Inc., having filed a request dated March 9, 1972, for extension of the expiration date of Facility Operating License No. DRP–26 which authorizes fuel loading and subcritical testing of the Indian Point Nuclear Generating Unit No. 2, located in the town of Buchanan, Westchester County, N.Y.; and

Good cause having been shown in the application for this extension pursuant to Part 50 of the Commission's regulations in 10 CFR: *It is hereby ordered,* That the expiration date of Facility Operating License No. DRP–26 is extended from April 19, 1972, to July 19, 1972.

Dated at Bethesda, Md., this 24th day of March 1972.

For the Atomic Energy Commission.

RICHARD C. DEYOUNG,
Assistant Director for Pressurized Water Reactors, Division of Reactor Licensing.

[FR Doc.72–5048 Filed 4–3–72;8:45 am]

[Docket No. 50–268]

GENERAL ELECTRIC CO.

Order Extending Provisional Construction Permit Completion Date

By Amendment No. 23 dated March 2, 1972, General Electric Co. requested an extension of the latest completion date specified in Provisional Construction Permit No. CPCSF–3. The permit authorizes General Electric Co. to construct an irradiated fuel reprocessing plant, known as the Midwest Fuel Recovery Plant, at the company's site in Grundy County, Ill.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered,* That the latest completion date specified in Provisional Construction Permit No. CPCSF–3 is extended from April 1, 1972 to April 1, 1973.

Dated at Bethesda, Md., this 28th day of March 1972.

For the Atomic Energy Commission.

S. H. SMILEY,
Director,
Division of Materials Licensing.

[FR Doc.72–5080 Filed 4–3–72;8:48 am]

[Dockets Nos. 50–250, 50–251]

FLORIDA POWER AND LIGHT CO.

Notice of Hearing on a Facility Operating License

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, Licensing of Production and Utilization Facilities, and Part 2, Rules of Practice, notice is hereby given that a hearing will be held at a time and place to be set in the future by an Atomic Safety and Licensing Board, in or in the vicinity of Dade County, Fla., to consider the application filed under section 104b. of the Act by the Florida Power and Light Co. (applicant) for facility operating licenses which would authorize the operation of the pressurized water reactors (facility), identified as Turkey Point Nuclear Generating Unit No. 3 and Unit No. 4 at steady-state power levels up to a maximum of 2,200 megawatts thermal each, at the applicant's site in Dade County, Fla.

The hearing will be conducted by an Atomic Safety and Licensing Board (Board) designated by the Atomic

Energy Commission (Commission). Notice of the Licensing Board's membership will be published in the FEDERAL REGISTER.

Construction of the facility was authorized by Provisional Construction Permits Nos. CPPR–27 and CPPR–28 issued by the Commission on April 27, 1967, following a public hearing.

A notice of consideration of issuance of an operating license for the facility was published by the Commission on October 30, 1971 (36 F.R. 20906). The notice provided that, within 30 days from the date of publication, any person whose interest may be affected by the issuance of a license could file a petition for leave to intervene in accordance with the requirements of 10 CFR Part 2, Rules of Practice. A petition for leave to intervene was thereafter filed by Paul Siegel, a resident of the city of Miami. Answers to the petition were filed by the applicant and by the Atomic Energy Commission's regulatory staff.

As set forth in a memorandum and order on this matter dated March 30, 1972, the Commission has determined that a public hearing will be held and that Paul Seigel should be admitted as a party to the proceeding.

As to the matters to be considered in the ensuing proceeding the Commission's memorandum and order provided that the issue for hearing consideration will by the steam line safety valve header failure incident referred to in paragraph 5b. of the petition, as refined through appropriate prehearing procedure.

Depending on the resolution of those matters, authorization for issuance of the license may be granted or denied, or the license may be authorized as appropriately conditioned. An operating license would be issued only after appropriate findings are made by the Director of Regulation on the matters set forth below which are not embraced by the Board's decision (and upon compliance with the applicable provisions of Appendix D to 10 CFR Part 50, dealt with hereinafter):

1. Whether construction of the facility has been substantially completed in conformity with the construction permit and the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.

2. Whether the facility will operate in conformity with the application, as amended, the provisions of the Act, and the rules and regulations of the Commission.

3. Whether there is reasonable assurance (i) that the activities authorized by the operating license can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the regulations of the Commission.

4. Whether the applicant is technically and financially qualified to engage in the activities authorized by the operating license in accordance with the regulations of the Commission.

5. Whether the applicable provisions of 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," of the Commission's regulations have been satisfied.

6. Whether the issuance of the license will be inimical to the common defense and security or to the health and safety of the public.

A prehearing conference will be held by the Board at a date and place to be set by it to consider pertinent matters in accordance with the Commission's "Rules of Practice," 10 CFR Part 2, including section 11 of appendix A. The date and place of the hearing will be set by the Board at or after the prehearing conference. Notices as to the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

The Commission has issued revised regulations for the implementation in its licensing proceedings of the National Environmental Policy Act of 1969 (NEPA), Appendix D to 10 CFR Part 50. The instant proceeding is covered by section D.1 of said appendix D (the notice of opportunity for hearing was issued prior to October 31, 1971, but the requirements of sections A.1 through 9 of that appendix have not been completed for this application). In accordance with the provisions of section D.1, the Board will proceed expeditiously with consideration of the hearing issue (as appropriately defined) set forth above pending compliance with the requirements specified in said appendix D.

While the matter of the full power operating license is pending before the Board, the applicant may make a motion in writing pursuant to § 50.57(c) of 10 CFR Part 50 for an operating license authorizing low power testing (operation at not more than 1 percent of full power for the purpose of testing the facility), and further operations short of full power operation.[1] The Board, in accordance with section D.2 of said appendix D, may grant the motion upon a finding that the proposed licensing action will not have a significant, adverse impact on the quality of the environment and upon satisfaction of the requirements of § 50.57(c) of 10 CFR Part 50. In addition, under section D.2, the Board may grant a motion, pursuant to § 50.57(c) of 10 CFR Part 50, upon satisfaction of the requirements of that paragraph, after consideration and balancing of the following factors:

(a) Whether it is likely that limited operation during the prospective review period will give rise to a significant, adverse impact on the environment; the nature and extent of such impact, if any; and whether redress of any such adverse environmental impact can reasonably be effected should modification or termination of the limited license result from the ongoing NEPA environmental review.

(b) Whether limited operation during the prospective review period would foreclose subsequent adoption of alternatives in facility design or operation of the type that could result from the ongoing NEPA environmental review.

(c) The effect of delay in facility operation upon the public interest. Of primary importance under this criterion are the power needs to be served by the facility; the availability of alternative sources, if any, to meet those needs on a timely basis; and delay costs to the licensee and to consumers.

Operation beyond twenty percent (20%) of full power will not be authorized except on specific approval of the Commission, upon the Commission's finding that there exists an emergency situation or other situation requiring such operation in the public interest.

Prior to taking any action on a motion pursuant to § 50.57(c) of 10 CFR Part 50 which any party opposes, the Board shall, with respect to the contested activity sought to be authorized, make findings on the hearing issue (as appropriately refined) specified above, and determine whether the proposed licensing action will have a significant, adverse impact on the quality of the environment or make findings on the factors specified in the paragraph preceding the one above, as appropriate, in the form of an initial decision. The licensing action will be taken by the Director of Regulation only after appropriate findings are made on items 1 through 6 above. If the license is one which requires the specific approval of the Commission, the Board will certify directly to the Commission for determination, without ruling thereon, the matter of whether operation beyond 20 percent (20%) of full power should be authorized.

Any license issued pursuant to the foregoing will be without prejudice to subsequent licensing action which may be taken by the Commission with regard to the environmental aspects of the facility, and any license issued will be conditioned to that effect.

As they become available, the application, the proposed operating license, the applicant's summary of the application, the report of the Commission's Advisory Committee on Reactor Safeguards (ACRS), the Safety Evaluation by the Commission's regulatory staff, the applicant's Environmental Report, the AEC's Detailed Statement on Environmental Considerations, and the transcripts of the prehearing conference and of the hearing, will be placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public. Copies of those documents will also be made available at the Lily Lawrence Bow Public Library, 212 Northwest, First Avenue, Homestead, FL 33030, for inspection by members of the public between the hours of 10 a.m. to 8 p.m. on Monday and 10 a.m. to 5:30 p.m. on Tuesday through Saturday. Copies of the proposed operating license, the ACRS report, the regula-

[1] The applicant's answer, filed on Feb. 24, 1972, included an application for authority to load fuel in Turkey Point Unit No. 3 and to conduct certain testing and other limited operations of that unit.

tory staff's Safety Evaluation, the applicant's Environmental Report, and the Commission's Detailed Statement on Environmental Considerations may be obtained, to the extent extra copies are available, by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified, but who has not filed either a petition for leave to intervene or a request for a hearing as noted above, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's Rules of Practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's Rules of Practice, must be filed by the parties to the proceeding (other than the regulatory staff) not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's Rules of Practice, an original and 20 copies of each such paper with the Commission.

With respect to this proceeding, the Commission has delegated to the Atomic Safety and Licensing Appeal Board the authority and the review function which would otherwise be exercised and performed by the Commission. The Commission has established the Appeal Board pursuant to 10 CFR 2.785 of the Commission's Rules of Practice, and has made the delegation pursuant to subparagraph (a)(1) of this section. The Appeal Board is composed of the Chairman and vice chairman and a third member who is technically qualified and designated by the Commission. The Commission has designated Dr. Lawrence Quarles, Dean of the School of Engineering and Applied Science, the University of Virginia, as this third member.

Dated at Germantown, Md., this 30th day of March 1972.

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

[FR Doc.72-5212 Filed 4-3-72;8:53 am]

[Dockets Nos. 50-400—50-403]

CAROLINA POWER AND LIGHT CO.

Notice of Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in appendix D to 10 CFR Part 50, notice is hereby given that a report entitled "Environmental Report" submitted by the Carolina Power and Light Co. is being placed in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Wake County Public Library, 104 Fayetteville Street, Raleigh, NC 27601. The report is also being made available at the Clearinghouse and Information Center, Post Office Box 1351, Raleigh, NC 27602, and the Research Triangle Regional Planning Commission, Post Office Box 12255, Research Triangle Park, NC 27709.

This report discusses environmental considerations related to the proposed construction of the Shearon Harris Nuclear Power Plant, Units 1, 2, 3, and 4, located in Wake and Chatham Counties, N.C., and supersedes the environmental report submitted on September 7, 1971.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft detailed statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of the availability of the draft detailed statement. The summary notice will request comments from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 29th day of March 1972.

For the Atomic Energy Commission.

R. C. DEYOUNG,
Assistant Director for Pressurized Water Reactors, Division of Reactor Licensing.

[FR Doc.72-5113 Filed 4-3-72;8:50 am]

[Dockets Nos. 50-338, 50-339, 50-404, 50-405]

VIRGINIA ELECTRIC & POWER CO.

Notice of Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in appendix D to 10 CFR Part 50, notice is hereby given that the "Applicant's Environmental Report Supplement, Volumes 1 and 2," for the North Anna Power Station, Units 1, 2, 3, and 4, submitted by the Virginia Electric & Power Co., has been placed in the Commission's Public Document Room at 1717 H Street, NW., Washington, DC 20545, and in the Office of the Executive Secretary of the Board of Supervisors, Louisa County Courthouse, Louisa, Va. 23093.

The report is also being made available at the Virginia Division of Planning and Community Affairs, 1010 James Madison Building, Richmond, VA 23219.

This report discusses environmental considerations related to the proposed operation of the North Anna Power Station, Units 1 and 2, and the proposed construction of Units 3 and 4, located in Louisa County, Va. This report supersedes the environmental report submitted on June 17, 1970, and the supplemental letter of September 29, 1970.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft detailed statement of environmental considerations related to the proposed action will be prepared. Upon preparation of the draft detailed statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft detailed statement. The summary notice will request comments from interested persons on the proposed action and on the draft statement. The summary notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials thereon will be available when received.

Dated at Bethesda, Md., this 29th day of March 1972.

For the Atomic Energy Commission.

R. C. DEYOUNG,
Assistant Director for Pressurized Water Reactors, Division of Reactor Licensing.

[FR Doc.72-5114 Filed 4-3-72;8:50 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Notice of Appointment of Alternate Appeal Board Chairman

The Commission has delegated its authority and review function in this proceeding to the Atomic Safety and Licensing Appeal Board, consisting of the Chairman and Vice-Chairman of the Appeal Board (Algie A. Wells, Esq., and

Dr. John H. Buck) and a third member (Dr. Lawrence R. Quarles) designated by the Commission. By memorandum dated March 17, 1972, the Chairman has disqualified himself from participation in this proceeding.

Accordingly, in accordance with § 2.787 of the rules of practice, the Commission has designated Sidney G. Kingsley, Esq., as Chairman of the Appeal Board for purposes of the above-captioned proceeding.

It is so ordered, by the Commission.

Dated at Germantown, Md., this 29th day of March 1972.

W. B. McCool,
Secretary of the Commission.

[FR Doc.72-5094 Filed 4-3-72;8:49 am]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Order Canceling Session and Convening Evidentiary Hearing

The Atomic Safety and Licensing Board has undertaken consultation with the attorneys for the parties actively participating in the evidentiary sessions respecting their readiness to proceed with the presentation or cross-examination of evidence at the session which has been contemplated for April 10, 1972, in Brattleboro, Vt. The parties reported that arrangements were under consideration regarding the preparation of evidence, that additional time was needed in some respects, and that in general the parties are endeavoring to develop means which will expedite the proceedings. All attorneys are agreed that April 10 does not appear to be a feasible date for convening the proceeding and that the next session is suggested to extend for 3 weeks of continuous hearing commencing on May 30, 1972. No objection was made by any attorney to this proposed schedule.

The Atomic Safety and Licensing Board, after a consideration of these representations from the attorneys, concludes that good cause has been shown to omit the April 10 session, that this proceeding will be expedited by permitting complete preparation of the proposed evidence, and that the next session of hearings should convene on May 30, 1972.

Wherefore, it is ordered, in accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, that the proposed April 10, 1972, session of hearings in this proceeding is canceled, and take notice that the next session of evidentiary hearings in this proceeding shall convene at 2:30 p.m. on Tuesday, May 30, 1972, in Brattleboro, Vt., at a location therein to be designated later by order.

Issued: March 30, 1972, Germantown, Md.

Atomic Safety and Licensing Board,
Samuel W. Jensch,
Chairman.

[FR Doc.72-5141 Filed 4-3-72;8:52 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24124]

GUYANA AIRWAYS CORP.

Notice of Prehearing Conference and Hearing Regarding Georgetown, Guyana-Miami, Florida, Foreign Air Carrier Permit

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 18, 1972, at 10 a.m., local time, in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Milton H. Shapiro.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before April 11, 1972.

Dated at Washington, D.C., March 30, 1972.

[SEAL] Ralph L. Wiser,
Chief Examiner.

[FR Doc.72-5121 Filed 4-3-72;8:51 am]

AIR WEST

Order Granting Motion for Immediate Hearing and Consolidating Applications

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of March 1972. Application of Hughes Air Corp. doing business as Air West, Docket 24052, for amendment of its certificate of public convenience and necessity for route 76 so as to delete Baker, Oreg., and Ontario, Oreg./Payette, Idaho; Application of Hughes Air Corp. doing business as Air West, Docket 23827, for amendment of its certificate of public convenience and necessity for route 76 to delete Roseburg, Oreg.

On December 10, 1971, Hughes Air Corp. doing business as Air West (Air West), filed an application (Docket 24052) requesting that its certificate of public convenience and necessity for route 76 to be amended so as to delete Baker, Oreg., and Ontario, Oreg./Payette, Idaho. On December 13, 1971, Air West filed a motion requesting an immediate hearing on its application.

In support of its motion, Air West states, inter alia, that Baker and Ontario/Payette are among the least productive airline cities in the United States, averaging 1.2 and 0.7 daily enplaned passengers respectively in 1970; that despite the provision of varied service patterns over the last 25 years in an attempt to maximize traffic, Air West has never enplaned more than three passengers per day at Baker and 3.3 at Ontario/Payette; that its present service pattern to Baker and Ontario/Payette involves an annual subsidy need of $209,000 [1]; and that service to the cities has not been examined since 1963 when the Board found that the subsidy need to serve Baker would not exceed $10,000 per year and that service to Ontario was costing $2,400 annually.

On February 17, 1972, the Public Utility Commissioner for the State of Oregon filed a motion seeking consolation of Air West's application to delete Baker and Ontario/Payette for simultaneous consideration with its pending application in Docket 23827 to delete Roseburg, Oreg. The latter case was set down for hearing by Order 71-12-68, December 16, 1971, and is presently awaiting Prehearing Conference. No answers to the motion of either Air West or the Public Utility Commissioner have been filed.

Upon consideration of the pleadings and all the relevant facts, we have decided that Air West's motion for an immediate hearing meets the criteria set forth in § 399.60 of the Board's policy statements and, accordingly, the motion will be granted. In addition, we find that consolidation of the three deletion applications is warranted in view of the facts that the PUC has urged that consolidation will facilitate its ability to participate in the proceedings; that no party has objected to consolidation; and that the points involved are located in a single state and two of them are served on the same flights. In these circumstances, we find that consolidation will be conducive to the proper dispatch of the Board's business and to the ends of justice and will not unduly delay the proceedings. Accordingly, we will grant the motion to consolidate Air West's applications in Dockets 24052 and 23827 for consideration in a single proceeding.

Accordingly, it is ordered, That:

1. Air West's motion for immediate hearing on its application in Docket 24052 be and it hereby is granted;

2. The application set for hearing herein shall be consolidated for contemporaneous consideration with the application set for hearing in Docket 23827, and shall be heard before an Examiner of the Board at a time and place hereinafter to be designated;

3. Applications, motions to consolidate, and 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

4. A copy of this order shall be served upon Hughes Air Corp. doing business as Air West, United Air Lines, Western Air Lines, Frontier Airlines, American Airlines, Continental Air Lines, Braniff International Airways, Eastern Air Lines,

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[1] Air West presently serves Baker and Ontario/Payette on one F-27 round trip 5 days a week. The itinerary of the flight is Baker-Ontario/Payette-Boise-Idaho Falls-Pocatello. Air West estimates that the different service pattern (to Pasco and Portland) which it provided Baker and Ontario/Payette in 1971 resulted in an annual subsidy need of $230,000. The latter service pattern generated more traffic than the present service to Boise.

Northwest Airlines, Pan American World Airways, the Civil Executive Offices of Baker, Ontario, and Roseburg, Oreg., and Payette, Idaho; the Airport Managers at Roseburg, Baker, and Ontario/Payette, the Governors of Oregon and Idaho, D. F. O'Scannlan, Public Utility Commissioner of Oregon; the Idaho Public Utilities Commission, and the State Aviation Commission of Oregon and Idaho.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.72-5122 Filed 4-3-72;8:51 am]

[Docket No. 24359; Order 72-3-97]

NORTHEAST AIRLINES, INC.

Order of Investigation and Suspension Regarding Midweek Excursion Fares to Florida

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of March 1972.

By tariff revisions [1] marked to become effective April 3 and 25, 1972, Northeast Airlines, Inc. (Northeast) proposes to establish new midweek excursion fares between certain northeastern points and Florida. The fares would replace existing southbound-only weekday 7–21 day fares applicable to Florida from the same northeastern points on Tuesday, Wednesday, and Thursday. Present weekday fares would remain in effect on Monday and on Friday and the somewhat higher weekend 7–21 day fares would remain unchanged. The midweek excursion fares are priced at the level of present weekend excursion fares [2]—all points (except those in New England north of Boston) are common fared at $92.59 during the periods of April 10 through June 30, and September 1 through December 15, and at $101.85 during the peak months of July and August. Minimum-stay requirements are to be reduced from 7 days to the first Tuesday after departure from point of origin, while the 21-day maximum is retained. Children's fares applicable to the new midweek fares have been extended to apply to children 12 through 17 years of age when accompanied by two adult-fare-paying passengers. The fare is 50 percent of the midweek fare for the first child and 25 percent for additional children.

In support of its proposal, Northeast alleges that Monday and Friday have become unquestionably peak days due largely to the introduction of the southbound weekend excursion fare. As a consequence, Northeast claims it is unable to accommodate demand at desirable departure times, while during the midweek it has capacity enough for three times the traffic it carries. The midweek fares are intended to divert some traffic from the peak travel days thereby freeing high demand space which can be sold at a premium, and also to generate new traffic.

National Airlines, Inc. (National) has filed a complaint against the proposal requesting suspension and investigation.[3] National alleges that the present low weekend fare level would virtually supplant the normal individual coach fare (since it would be available 4 days of the week); that the weekend peaking problem was caused by the weekend excursion fares and the proper solution would be modification of that fare rather than expansion of such low-level fares to additional days of the week; that the proposal is contrary to the Board's policy as set forth in Order 72–2–62 concerning peak season fares to Florida proposed by United; and that the children's fares result in ludicrously low yields which are uneconomic.

In answer to the complaint, Northeast contends that it is not introducing a 40-percent discount but is merely increasing the existing discount by 7 percent, while imposing significant new travel restrictions which it believes justify the small additional discount. Northeast alleges that it is incorrect to assume that the weekend fare level would be less profitable during the midweek since it has more available capacity then than during the weekend; and that the proposal will free weekend capacity to accommodate higher-fare traffic. Regarding the allegation that the children's fares would be uneconomic, Northeast alleges that there is no time in the foreseeable future when its normal midweek capacity will be outstripped by demand.

Upon consideration of all relevant matters, the Board finds those portions of the proposal which provide for a 50-percent discount from the adult midweek fare for one child 12 through 17, and for a 75-percent discount for additional children through 17 years of age may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful. We further conclude that this portion of the tariff in question should be suspended pending investigation.

Except for the children's fare provisions the proposal appears to constitute a reasonable attempt to alleviate a demonstrated peaking problem which we believe warrants experimentation during the off season Florida period. As Northeast alleges, the fares should both stimulate travel on the midweek days when sufficient capacity is available, and reduce the severity of weekend peaks, thereby permitting the sale of high demand weekend space at higher fares. Moreover, we note that the proposed fares are not significantly lower than those now in effect during midweek. However, we will expect the carriers offering these fares to bear the risk of the experiment, and we will also expect the carriers to maintain records of traffic, revenues, and expenses sufficient for a full evaluation of profit impact. These reports will be submitted no later than January 15, 1973.

The expanded children's fares, on the other hand, result in substantially greater discounts for family travel. For example, the fares for a family of four in the New York-Miami market would be 40 percent below regular family fares, and the overall yield for the family would be less than 3 cents a mile. Discounts for a family of five would approximate 50 percent of regular family fares, and in some markets the overall yield approaches 2 cents a mile. Notwithstanding that the fares would apply on off-peak days of the week, we believe they may be unreasonably and should not be permitted to become effective without investigation. We also question the soundness of providing discounts from an already substantially discounted fare of the magnitude here proposed.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions in "Exception 1" and "Exception 2" to Rule 4.(B) on 1st Revised Page 6 of Eastern Air Lines, Inc.'s, CAB No. 375, in "Exception 1" and "Exception 2" to Rule 4.(B) on 1st and 2nd Revised Pages 5 of National Airlines, Inc.'s, CAB No. 153, and in "Exception 1" and "Exception 2" to Rule 4.(B) on 1st Revised Page 2–A of Northeast Airlines, Inc.'s CAB No. 136, and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions.

2. Pending hearing and decision by the Board, "Exception 1" and "Exception 2" to Rule 4.(B) on 1st Revised Page 6 of Eastern Air Lines, Inc.'s, CAB No. 375, "Exception 1" and "Exception 2" to Rule 4.(B) on 1st and 2d Revised Pages 5 of National Airlines, Inc.'s, CAB No. 153, and "Exception 1" and "Exception 2" to Rule 4.(B) on 1st Revised Page 2–A of Northeast Airlines, Inc.'s, CAB No. 136 are suspended and their use deferred to and including July 1, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaints in Dockets 24263 and 24308 are hereby dismissed;

4. The proceeding ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

5. Copies of this order be filed in the aforesaid tariffs and be served upon

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[1] Northeast Airlines, Inc., Tariff CAB No. 136.

[2] Weekend excursion fares from northeast points to Florida and return over the same weekend.

[3] National has also filed a defensive tariff, as has Eastern, and Delta has filed a complaint in support of the National complaint.

Delta Air Lines, Inc., Eastern Air Lines, Inc., National Airlines, Inc., and Northeast Airlines, Inc., which are hereby made parties to this proceeding.

This order will be filed in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

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

[FR Doc.72-5124 Filed 4-3-72;8:51 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Availability

Environmental impact statements received by the Council on Environmental Quality March 20–24, 1972.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, (202) 388-7803.

ANIMAL AND PLANT HEALTH SERVICE

Final March 17

Imported Fire Ant Cooperative Federal-State Control and Regulatory Program. Proposed aerial treatment of 20 million acres in the South and Southwest with 1.7 grams of mirex per acre, in order to control the imported fire ant. The lasting effects of the pesticide are not fully known. It is slow to break down, and its residue is easily absorbed by biological organisms. Comments made by DOC, EPA, and HEW. (ELR Order No. 3051, 103 pages) (NTIS Order No. PB-205 344-F)

AGRICULTURAL RESEARCH SERVICE

Draft March 10

Agricultural Research Center, Beltsville, Md. Approximately 1,200 tons of digested sewage sludge will be ultilized on 4 acres of soil to evaluate its use as a soil amendment. (ELR Order No. 3050, 13 pages) (NTIS Order No. PB-207 544-D)

FOREST SERVICE

Draft March 9

Sinulaw National Forest, Oreg. The proposed use of the herbicides 2, 4-D, 2, 4, 5-T, Amitrole-T, Atrazine, Picoloram, and Dicamba to control specific types of vegetation. Some nontarget plants will be destroyed. (ELR Order No. 2081, 32 pages) (NTIS Order No. PB-207 465-D)

Draft March 17

Pelican Butte Winter Sports Development, Klamath County, Oreg. Proposed development of a comprehensive winter sports complex. Clearing the area will affect soil, water, and visual resources. Increase in resident and transitory population will occur, with related impact. (ELR Order No. 3088, 15 pages) (NTIS Order No. PB-207 570-D)

Tonto Working Circle, Tonto National Forest, Ariz. A proposal to allow timber cutting on the Tonto Working Circle. Dust, smoke, and fire hazards will increase with the cutting. (ELR Order No. 3090, 33 pages) (NTIS Order No. PB-207 564-D)

RURAL ELECTRIFICATION ADMINISTRATION

Draft, March 16

Alma and Cassville Stations, Buffalo County, Wis. A proposed REA loan of $11,320,000 to the Dairyland Power Cooperative to finance air pollution reducing plant modifications. The installation would minimize fly ash emissions. (ELR Order No. 3091, 199 pages) (NTIS Order No. PB-207 560-D)

Draft March 20

El Paso, Elbert, and Lincoln Counties, Colo. An application by Tri-State Generation and Transmission Association, Inc., for a loan of $3,708,600 from REA, in order to construct 80 miles of 230 kv. transmission line from Midway to Limon, including a substation at Limon. The line will cause a visual intrusion upon the landscape. (ELR Order No. 4022, 60 pages) (NTIS Order No. PB-207 587-D)

Cochise and Pima Counties, Ariz. Proposed change of purpose for $5,409,028 of prior loaned REA funds to construct 73 miles of 230 kv. transmission line and 16 miles of 115 kv. line. The lines will be an intrusion upon the landscape. (ELR Order No. 4023, 60 pages) (NTIS Order No. PB-207 573-D)

SOIL CONSERVATION SERVICE

Draft March 16

Coushatta, Red River Parish, La. Proposed construction of 7.6 miles of flood prevention channels, with appurtenant structures. Approximately 20 acres of woodland will be lost. (ELR Order No. 4003, 15 pages) (NTIS Order No. PB-207 575-D)

ATOMIC ENERGY COMMISSION

Contact: For Nonregulatory Matters: Joseph J. DiNunno, Director, Office of Environmental Affairs, Washington, D.C. 29545, (202) 973-5391.

For Regulatory Matters: Christopher L. Henderson, Assistant Director of Regulation for Administration, Washington, D.C. 20545, (202) 973-7531.

Draft March 17

Morris, Grundy County, Ill. The proposed issuance of an operating permit to the General Electric Co. for the operation of the Midwest Fuel Recovery Plant. The plant will recover uranium, plutonium, and neptunium from irradiated nuclear fuels. It has a capacity of 300 tons of enriched uranium oxide fuel per year. There is potential for detrimental effects from released fluoxide; this will require monthly testing. (ELR Order No. 3053, 83 pages) (NTIS Order No. PB-207 549-D)

Draft March 22

Colorado, Utah, and N. Mex. Proposed leasing of 25,000 acres of AEC controlled land along the Uravan Mineral Belt to private industries. The purpose of the action is to encourage maximum recovery of the remaining resources of uranium and vanadium in the area. (ELR Order No. 4011, 130 pages) (NTIS Order No. PB-207 582-D)

DEPARTMENT OF DEFENSE

DEPARTMENT OF AIR FORCE

Contact: Col. Cliff M. Whitehead, Room 5E 425, The Pentagon, Washington, D.C. 20330, (202) OX 5-2889.

Draft March 3

Sonic Booms. A study of the environmental impact of supersonic flight. Adverse effects discussed are: cumulative physiological-psychological effect on animal life; annoyance and startle effects; and damage to structures. (ELR Order No. 2085, 31 pages) (NTIS Order No. PB-207 467-D)

Draft March 14

Over the Horizon (OTH) Radar System. The CONUS OTH-B System is an over the horizon backscatter radar which uses ionospheric refraction techniques to illuminate targets beyond the optical horizons. Two sites are proposed, one to be located in Maine, the other in the state of Washington. Adverse environmental effects include: radiation hazards to personnel and wildlife within 180' of the antenna, and to those wearing cardiac pacemakers within 5100' of the antenna; emission of diesel exhaust fumes from a 6MW standby power plant; noise pollution; and clearing of foliage from 600 acres at each site. (ELR Order No. 4017, 72 pages) (NTIS Order No. PB-207 572-D)

DEPARTMENT OF ARMY

Contact: George A. Cunney, Jr., Acting Chief, Environmental Office, Directorate of Installations, Office of the Deputy Chief of Staff for Logistics, Washington, D.C. 20310, (202) OX 4-4269.

Draft March 13

Fort Peck, Mont. Proposed high explosive cratering experiments, known collectively as DIAMOND ORE. Phases II B and II C of DIAMOND ORE, planned for the fall of 1972 and the summer of 1973, respectively, use chemical high explosives (HE) to simulate nuclear energy source cratering. Craters produced by the explosions will vary in depth from 25' to 30', and in radius from 52' to 62'. Present plans call for backfilling and reseeding the cratered area. (ELR Order No. 3021, 55 pages) (NTIS Order No. PB-207 472-D)

DEFENSE SUPPLY AGENCY

Draft March 8

The subject of the statement is the procurement of coal by the Defense Supply Agency for military and Federal Government activities in the United States. Underground and/or surface mining operations in the following states are considered: Alabama, Alaska, Colorado, Illinois, Indiana, Kentucky, New Mexico, North Dakota, Ohio, Oklahoma, Pennsylvania, Utah, Virginia, West Virginia, and Wyoming. (ELR Order No. 2088, 61 pages) (NTIS Order No. PB-207 469-D)

DEPARTMENT OF ARMY

Corps of Engineers

Contract: Francis X. Kelly, Assistant for Conservation Liaison, Public Affairs Office, Office, Chief of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, (202) 693-6346.

Draft March 8

Wells County, Ind. Removal and burning of two log jams on the Salamonie River. The purpose of the action is to control possible flood conditions. (ELR Order No. 2083, 9 pages) (NTIS Order No. PB-207 453-D)

Draft, March 6

Chicago River, Cook County, Ill. Clearing a 12 mile length of the North Bend of the Chicago River of debris. (ELR Order No. 2087, 11 pages) (NTIS Order No. PB-207 464-D)

[4] Members Minetti and Murphy filed a partial dissenting statement which is filed as part of the original document.

Draft March 13
Rouge River Flood Control Project, Wayne County, Mich. Enlargement, realignment, and paving of the mainstream of the Rouge River, from the Detroit-Dearborn city limits to Michigan Avenue in Dearborn, a distance of 5.8 miles. The natural river bottom will be replaced by concrete pavement; an existing greenbelt will be permanently lost; and reduced water levels could alter upstream flora. (ELR Order No. 2089, 24 pages) (NTIS Order No. PB–207 451–D)

Draft March 15
New Melones Lake, Stanislaus River, Calif. Proposed contruction of New Melones Dam, a 625′ high rockfill structure which will create New Melones Lake, a multipurpose (flood control, irrigation, power generation, recreation, reservoir and downstream fisheries, and water quality control) lake with a gross pool surface area of 12,500 acres. The powerplant will have an installed capacity of 300,000 kw. Approximately 22,700 acres of land will be required by the project; numerous historical and Indian sites, as well as significant wildlife habitat, will be inundated; and whitewater stretches of the Stanislaus River will be lost. (ELR Order No. 3041, 124 pages) (NTIS Order No. PB–207 435–D)

Draft March 14
Obion and Forked Deer Rivers, Tenn. and Ky. Proposed concrete lining of channels on Harris Fork Creek and South Fulton Branch; enlargement of channels from South Fulton to the junction with North Fork, Obion River (a distance of 10 miles), for flood control. Timberland and wildlife habitat will be lost. (ELR Order No. 3078, 48 pages) (NTIS Order No. PB–207 557–D)

Susquehanna River Basin, Pa. Raising of 22,400′ of levee, 1065′ of steel sheet-pile wall, installing of 1930′ of new sheet pile wall, and providing rip rap. Increased sediment loads from run-off will result from the project, as well as adverse visual effects. (ELR Order No. 3081, 36 pages) (NTIS Order No. PB–207 567–D)

Draft March 20
Lower Columbia River, Oreg. and Wash. Construction of bank protection walks along channels in the flood plain of the Columbia River. Loss of shoreline habitat and scenic value will occur. (ELR Order No. 3085, 33 pages) (NTIS Order No. PB–207 562–D)

Draft March 17
Hampton Harbor, N.H. Proposed maintenance dredging of the channel and anchorage basin. Short-term damage to marine life will result. (ELR Order No. 3086, 12 pages) (NTIS Order No. PB–207 563–D)

Andrews River, Mass. Proposed maintenance dredging of the channel and anchorage basin. Short-term damage to marine life will result. (ELR Order No. 3087, 9 pages) (NTIS Order No. PB–207 561–D)

St. Catherine Sound, Md. Maintenance dredging of the Wicomico River Channel and St. Catherine Sound. Temporary damage to marine life will occur. (ELR Order No. 3089, 12 pages) (NTIS Order No. PB–207 565–D)

Draft March 20
Treasure Island, Dunklin County, Mo. Construction of a 150 cfs pumping plant to augment a 25 cfs pumping plant now serving a leveed area. (ELR Order No. 4002, 13 pages) (NTIS Order No. PB–207 576–D)

Draft, March 17
Bullocks Point Cove, R.I. Maintenance dredging of channels, mooring and turning basins. Temporary damage to marine life will result. (ELR Order No. 4004, 10 pages) (NTIS Order No. PB–207 574–D)

Draft, March 15
Phoenix, Maricopa County, Ariz. Construction of a detention basin and associated channel works, for flood control. (ELR Order No. 4005, 15 pages) (NTIS Order No. PB–207 580–D)

Draft, March 17
Guilford Harbor, Conn. Maintenance dredging of two channels and an anchorage basin in Guilford Harbor. Temporary damage to marine life will occur. (ELR Order No. 4007, 10 pages) (NTIS Order No. PB–207 578–D)

Final, March 15
Crescent City Harbor, Del Norte County, Calif. Proposed construction of a 20′ deep inner harbor, 200′ wide at the entrance and extending north a distance of 325′; and a 400′ extension of the inner harbor breakwater. Dredging and blasting will cause destruction of marine life. Comments made by USDA, DOC, EPA, DOI, NOAA, state agencies and concerned citizens. (ELR Order No. 3056, 48 pages) (NTIS Order No. PB–204 380–F)

Lake Forest, Lake County, Ill. Replacement of 30′ of permeable steel sheet piling grain by an impermeable 110′ section and the extension of a second section by 140′. The purpose of the project is prevention of beach erosion. Comments made by USDA, USCG, EPA, DOI, state and local agencies. (ELR Order No. 3057, 29 pages) (NTIS Order No. PB–204 663–F)

Desmoines River, Jackson, Minn. Proposed construction of earthen levees, concrete floodwalls, closure structures, ponding area, and modification of sanitary and storm sewer system. The purpose of the action is flood control. Approximately 25 acres of land will be lost to the project. Comments made by EPA, DOI, State and local agencies. (ELR Order No. 3059, 29 pages) (NTIS Order No. PB–198 726–F)

Final, March 17
Fort Scott Lake, Marmaton River, Kans. Construction of a multipurpose (flood control, water quality control, water supply, recreation, and wildlife enhancement) lake. The lake will inundate 5,000 acres, eliminate 25 miles of river, tributary streams and wildlife habitat; displace 395 people and one town. Comments made by USDA, EPA, DOI, State and local agencies. (ELR Order No. 3064, 37 pages) (NTIS Order No. PB–201 520–F)

Final, March 15
Gulf Intercoastal Waterway, Tex. Proposed relocation of two portions of the authorized shallow-draft navigation project in Matagorda and Corpus Christi Bays. Dredeging and filling will destroy marine life, wildlife, and their habitats. Comments made by USDA, EPA, DOI, NOAA, State, local, and regional agencies. (ELR Order No. 3071, 58 pages) (NTIS Order No. PB–198 927–F).

Final March 17
Chowan River, N.C., and Blackwater River, Va. Construction of three cutoff channels to control flooding. Twenty-eight acres will be inundated and other acreage will be covered with spoil. Comments made by EPA, DOI, and state agencies. (ELR Order No. 3084, 23 pages) (NTIS Order No. PB–206 258–F)

Final March 22
Panama City Harbor, Fla. Proposed dredging and deepening of harbor. Marine ecosystems will be lost (including 400 acres of bay bottom, and 60 acres of land will be covered by dredge spoils. Comments made by DOC, EPA, HEW, DOI, DOT, and one State agency. (ELR Order No. 4027, 38 pages) (NTIS Order No. PB–200 196–F)

DEPARTMENT OF THE NAVY

Contact: Joseph A. Grimes, Jr., Special Civilian Assistant to the Secretary of Navy, Washington, D.C. 20350, (202) 697–0892.

Final March 22
Norfolk Station, Norfolk, Va. Proposed acquistion of 508 acres of railroad yard facilities at Sewell's Point. Naval facilities will be constructed on the site. Comments made by EPA, DOI, and state agencies. (ELR Order No. 4014, 16 pages) (NTIS Order No. PB–201 855–F)

Draft March 16
Bethany Beach Regional Wastewater Treatment Plant, Sussex County, Del. Proposed construction of a sewerage project to serve Bethany Beach. Wastewater effluent will be discharged into the Assawoman Canal. At issue is the extent to which completion of the project will affect development of seasonal homes. (ELR Order No. 3070, 99 pages) (NTIS Order No. PB–207 542–D)

FEDERAL POWER COMMISSION

Contact: Frederick H. Warren, Advisor on Environmental Quality, 441 G. Street NW., Washington, DC 20426, (202) 386–6084.

Draft March 8
Project No. 176, San Diego County, Calif. Proposed approval of a renewal operating license for Escondido Mutual Water Co.'s Lake Wohlford Project. The project consists of a combination rock and hydraulic fill dam, a 224 acre reservoir, and the Rincon and Bear Valley powerhouses, with a total installed capacity of 760 kw. (ELR Order No. 3010, 89 pages) (NTIS Order No. PB–207 457–D)

Draft March 17
Project No. 1218, Dougherty and Lee Counties, Ga. Proposed approval of a renewal operating license to the Georgia Power Co. for its Flint River Project. The project consists of 2 dams, a connecting dike, a 3-generator powerhouse, a reservoir, and appurtenant facilities. (ELR Order No. 3077, 46 pages) (NTIS Order No. PB–207 555–D)

Draft March 16
Project No. 1888, Dauphin, Lancaster, and York Counties, Pa. Proposed approval for a renewal operating license to the York Haven Power Co. The project consists of a main dam across the Susquehanna River, a secondary dam, a headrace, a 3½ mile long reservoir, and a powerhouse containing 20 generators with a total (combined) capacity of 19,620 kw. (ELR Order No. 3082, 41 pages) (NTIS Order No. PB–207 566–D)

DEPARTMENT OF INTERIOR

Contact: Office of Communications, Room 7214, Washington, D.C. 20240, (202) 343–6416.

Final March 20
Trans-Alaska Pipeline, Alaska. Application from Alyeska Pipeline Service Co. for a 48-inch oil pipeline right-of-way across Federal lands in Alaska between a point south of Prudhoe Bay on the North Slope

and Port Valdez, a port on the south coast. The company would design, construct, operate, and maintain the 789-mile long pipeline system. Impact would result from construction, operation, and maintenance, and would occur on abiotic, biotic, and socio-economic components of the human environment far beyond the relatively small part of Alaska which would be occupied by the pipeline system and oil field. The statement includes six volumes, with three supplemental volumes on the economic and security aspects of the pipeline. Titles are as follows: Volume I, "Introduction and Summary;" Volume II, "Environmental Setting of the Proposed Trans-Alaska Pipeline;" Volume III, "Environmental Setting Between Port Valdez, Alaska, and West Coast Ports;" Volume IV, "Evaluation of Environmental Impact;" Volume V, "Alternatives to the Proposed Action" and Volume VI, "Other Sections and Attachments." (ELR Order No. 4034) (NTIS Orders Nos. Volume I–VI, PB–206 921–1 to PB–206 921–6, respectively; or PB–206 921–Set; supplemental material, Volumes I–III, PB–205 744, PB–205 745, and PB–207 254, respectively)

BUREAU OF MINES

Draft March 15

Federal Mine Health and Safety Academy, Beckley, W. Va. Proposed construction of a 600 student, multibuilding facility. The school would train mine inspectors to help administer the Federal Coal Mine Health and Safety Act of 1969. (ELR Order No. 3074, 34 pages) (NTIS Order No. PB–207 543–D)

BUREAU OF RECLAMATION

Draft March 7

Lake Havasu, Ariz. Construction of the Havasu Intake Channel and Pumping Plant, and the Buckskin Mountains Tunnel. The pumping plant will house six 500 c.f.s. pumps, which will pump water from Lake Havasu through two 13-foot-diameter pipes 3,000' up the hillside to the tunnel inlet portal. These facilities are part of the Central Arizona Project. (ELR Order No. 3009, 24 pages) (NTIS Order No. PB–207 454–D)

Draft March 10

Lake Berryessa, Napa County, Calif. A proposed management plan for the development of Lake Berryessa as a recreational area. (ELR Order No. 3083, 116 pages) (NTIS Order No. PB–207 554–D)

BUREAU OF SPORT FISHERIES AND WILDLIFE

Draft March 16

Green Lake National Fish Hatchery, Hancock County, Maine. Construction of a fish hatchery for the propagation of Atlantic Salmon to help restore the species in New England waters. (ELR Order No. 3075, 45 pages) (NTIS Order No. PB–207 541–D)

NATIONAL PARK SERVICE

Draft, March 15

City of Refuge National Historical Park, Hononau Bay, Hawaii. Proposed master plan for management of the Park, which will serve as a center for preservation of Hawaiian culture of the Kona Coast. Approximately 50 people may be displaced by the action. (ELR Order No. 4021, 79 pages) (NTIS Order No. PB–207 583–D)

NATIONAL SCIENCE FOUNDATION

Contact: William J. Hoff, General Counsel, Washington, D.C. 20550.

Final March 15

National Hail Research Experiment. A proposed 5-year series of experiments (beginning in the summer of 1972) which will involve silver iodide seeding of hail cells. The purpose of the project is the development and testing of techniques for modifying hailstorms to suppress the formation of hail and damaging size. The test area, a 50 mile square, is centered on the Pawnee National Grasslands, in northeastern Colorado. Comments made by USDA, AEC, DOD, EPA, DOI, NASA, DOT, and concerned citizens. (ELR Order No. 3052, 21 pages) (NTIS Order No. PB–207 539–F)

POSTAL SERVICE

Contact: James J. Wilson, Assistant General Counsel, Contracts and Property Division, Washington, D.C. 20260.

Draft March 13

United States Post Office, Honolulu, Hawaii. Construction of a one-story general industrial-type building with a two-story office wing. Auxiliary construction consists of parking areas, paved maneuvering areas, an underpass, and all necessary utilities and landscaping. Facility will occupy about 400,000 gross sq. ft. (ELR Order No. 3025, 20 pages) (NTIS Order No. PB–207 470–D)

DEPARTMENT OF TRANSPORTATION

Contact: Martin Convisser[1], Director, Office of Program Coordination, 400 Seventh Street SW., Washington, DC 20590, (202) 462–4357.

FEDERAL AVIATION AGENCY

Draft March 15

Holly Springs, Marshall County, Miss. Request for Federal financial assistance to acquire 83 acres and construct a 3200' x 60' runway, a taxiway, an apron, and an access road. (ELR Order No. 3060, 15 pages) (NTIS Order No. PB–207 540–D)

Thomson-McDuffie Airport, McDuffie County, Ga. Request for Federal funds in order to expand existing facilities to accommodate 70 percent of turbojet powered aircraft of less than 60,000 lbs. Eleven acres of land will be lost to the project. (ELR Order No. 3062, 41 pages) (NTIS Order No. PB–207 245–D)

Final March 16

Sitka, Alaska. Construction of runway extension; relocation of REIL and VASI, etc. Comments made by Army COE, USCG, DOC, EPA, State and local agencies. (ELR Order No. 3066, 26 pages) (NTIS Order No. PB–205 193–F)

Aniak Airport, Aniak, Alaska. Reconstruction and/or extension of existing facilities, including runway, apron, lighting, and access road. Comments made by Army COE, HEW, DOI, NOAA, and State agencies. (ELR Order No. 3067, 22 pages) (NTIS Order No. PB–205 332–F)

FEDERAL HIGHWAY ADMINISTRATION

Draft March 7

Pike County, Ky. Reconstruction of 3.55 miles of U.S. 119, from a two to a four-lane highway. A permanent loss of 185 acres, and the displacement of 77 residences and 21 businesses will result. (ELR Order No. 2082, 24 pages) NTIS Order No. PB–207 471–D)

[1] Mr. Convisser's office will refer you to the regional office from which the statement originated.

Draft March 9

F–05–1 (_____), Wise County, Va. Reconstruction of alternate State Route 58 from three to four lanes for a total distance of 2.771 miles. The project will disrupt the ecological balance of a stream system and remove a portion of a school playground. (ELR Order No. 3004, 31 pages) (NTIS Order No. PB–207 458–D)

Legislative Route 1142, Centre County, Pa. Construction of L.S. 1142, a four-lane limited access highway, for a distance of 7.4 miles. The loss of an unspecified amount of farmland and number of homes will result; two streams will be crossed by the project. (ELR Order No. 3005, 24 pages) (NTIS Order No. PB–207 459–D)

Draft March 8

Project S–275–H, Elmore County, Ala. Reconstruction of Alabama State Route 14, with both two- and four-lane sections, for a distance of approximately 17 miles. Approximately 528 acres of land, 18 residences and one business will be lost to the project. (ELR Order No. 3006, 19 pages) (NTIS Order No. PB–207 456–D)

Draft March 2

Grand Forks, N. Dak. Reconstruction of Fifth Street North for a distance of 11 city blocks. One business and an unspecified amount of land will be required for right-of-way. A 4(f) statement is included for park land. (ELR Order No. 3007, 14 pages) (NTIS Order No. PB–207 461–D)

Draft March 13

Project S–1755–A, Montgomery County, Ala. Construction of a four-lane divided highway for a total distance of 2.3 miles and total cost of $5 million. Fifty acres of land will be required by the project; 90 families and 10 businesses will be displaced. (ELR Order No. 3022, 17 pages) (NTIS Order No. PB–207 438–D)

Draft March 10

Vernon, Tolland, and Willington, Conn. Reconstruction of a section of Interstate Route 86, widening the paved area by 30 percent to 50 percent. Nine families and two businesses will be displaced. A 4(f) statement attached refers to encroachment upon the Nipmuck State Forest. (ELR Order No. 3023, 166 pages) (NTIS Order No. PB–207 452–D)

Draft March 14

Route 25, Dunklin County, Mo. Construction of two 12-foot lanes of highway in two unconnected sections with a total length of 2.6 miles. Approximately 47 acres and one residence will be lost to the project. (ELR Order No. 3029, 20 pages) (NTIS Order No. PB–207 413–D)

State Route 525, Snohomish County, Wash. Relocation and reconstruction of State Route 525, a four-lane highway with auxiliary lanes and full access control. Thirty-nine families will be displaced and an unspecified amount of land lost. (ELR Order No. 3030, 23 pages) (NTIS Order No. PB–207 412–D)

Project I–17–2(44), Yavapai County, Ariz. Construction of a section of four-lane Interstate Route 17, a controlled access highway, for a total distance of 6.78 miles. (ELR Order No. 3033, 18 pages) (NTIS Order No. PB–207 411–D)

Draft March 13

F.A.P. 21, Cumberland County, Ky. Relocation and reconstruction of Corridor "J", a section of the Appalachian Development Highway System, for a total of 6.4 miles. The project is of two-lane initial and four-lane ultimate construction. Approximately 250 acres will be lost to the project; 23 residents and two businesses

will be displaced. (ELR Order No. 3037, 26 pages) (NTIS Order No. PB–207 416–D)

Draft March 14

I–94, Hennepin County, Minn. Construction of a new 2.63 mile section of I–94 and reconstruction of a smaller, existent section in Minneapolis and Brooklyn Center. The total length of the project is 4.4 miles. A 4(f) statement is included due to encroachment upon two local parks. An unspecified number of homes and business will be lost to the project. (ELR Order No. 3040, 51 pages) (NTIS Order No. PB–207 414–D)

Draft March 10

Project S–0953(1), Douglas Island, Alaska. Proposed construction of a 5.3-mile road to provide access to the recreational area in the Fish Creek Basin. A 4(f) statement is included as all land involved is park land. (ELR Order No. 3042, 69 pages) (NTIS Order No. PB–207 436–D)

Draft March 9

F.A.S. Route 119, Cook County, Ill. Construction of a four-lane highway and bridge project with a total length of 3,700'. The project is being built to replace three existing bridges. A 4(f) statement is included due to encroachment upon wooded park area. (ELR Order No. 3047, 108 pages) (NTIS Order No. PB–207 434–D)

Draft March 20

Route I–44, St. Louis, Mo. Proposed reconstruction of 1.1 miles of I–44 from six to eight lanes. An unspecified number of homes and one school will be lost to the project. (ELR Order No. 4012, 32 pages) (NTIS Order No PB–207 585–D)

Routes J and M, Reynolds County, Mo. Proposed construction of 6.7 miles of two-lane roadway. Eighty acres of land will be lost to the project. A 4(f) statement is required as some of the land is in a State park. (ELR Order No. 4013, 28 pages) (NTIS Order No. PB–207 586–D)

Final March 1

Rome, Oneida County, N.Y. Proposed construction of several miles of arterial highway in the city of Rome. Approximately 3800' of the Mohawk River will be rechanneled by the project; 43 residences, two farms, five businesses, and one church will be lost. Comments made by EPA, DOI, State and local agencies. (ELR Order No. 2075, 50 pages) (NTIS Order No. PB–199 258–F)

Final March 9

U.S. 17, Georgetown County, S.C. Reconstruction of 6.8 miles of U.S. 17, from two to four lanes. Five businesses and one residence will be lost to the project. Comments made by HUD. (ELR Order No. 2090, 15 pages) (NTIS Order No. PB–207 463–F)

Buncombe and Madison Counties, N.C. Proposed construction of a new four-lane highway between Weaverville and Marshall, a total distance of 8.8 miles. Eighteen families will be displaced by the project, and an unspecified amount of woodland lost. Comments made by USDA, Army COE, DOC, EPA, GSA, DOI, OEO, TVA, State and local agencies. (ELR Order No. 2091, 51 pages) (NTIS Order No. PB–199 618–F)

Project No. F–010–1 (19), Volusia County, Fla. Reconstruction of 10.4 miles of U.S. 92, from two to four lanes. An unspecified amount of marsh and woodland will be lost to the project. Comments made by USDA, DOC, EPA, HUD, DOI, and State agencies. (ELR Order No. 2092, 62 pages) (NTIS Order No. PB–200 769–F)

Cass County, Ill. Reconstruction of F.A. Route 48 for a total distance of 1.5 miles. Comments made by USDA, DOC, EPA, HUD, DOI, and State agencies. (ELR Order No. 2095, 34 pages) (NTIS Order No. PB–202 084–F)

Project S–43 (------), Amherst County, Va. Proposed reconstruction of 2.061 miles of Route 622. Four families will be displaced by the project. Comments made by EPA, DOI, and State agencies. (ELR Order No. 2096, 39 pages) (NTIS Order No. PB–202 316–F)

Project I–27–7, Lubbock County, Tex. Reconstruction of 6.45 miles of U.S. 87. Five residences and five businesses will be displaced as a result of the project. Comments made by USDA, Army COE, HEW, HUD, and DOT. (ELR Order No. 2097, 27 pages) (NTIS Order No. PB–201 709–F)

Project S–346(1), Whitley County, Ky. Construction of a bridge and approaches; the total length of the project is 0.16 mile. Seven residences and 2 acres of land will be lost to the project. Comments made by USDA, EPA, DOI, TVA, and State agencies. (ELR Order No. 2098, 27 pages) NTIS Order No. PB–202 430–F)

Project PIN 13320.00, Franklin and Essex Counties, N.Y. Proposed reconstruction of 0.55 mile of highway. A 4(f) statement is attached, as the project is located in the Adirondack Park. Comments made by DOI. (ELR Order No. 2099, 81 pages) (NTIS Order No. PB–200 802–F)

Project F–055–1 (------), Robertson County, Tenn. Proposed construction of 7.68 miles of two-lane highway. An unspecified amount of land and number of residences will be lost to the project. Comments made by USDA, Army COE, DOI, TVA, State and local agencies. (ELR Order No. 3000, 78 pages) (NTIS Order No. PB–207 468–F)

Project APD–127(30), Pike County, Ky. Proposed reconstruction of 4.95 miles of U.S. 23, a four-lane highway. Approximately 380 acres of land will be lost to the project. Comments made by USDA, DOC, EPA, HUD, DOI, State and local agencies. (ELR Order No. 3002, 44 pages) (NTIS Order No. PB–202 002–F)

State Route 5, Chester and Madison Counties, Tenn. Construction of a four-lane highway to provide a continuous facility from Henderson to Jackson. Six creeks will be crossed, 16 houses and 1 business and an unspecified amount of land will be lost as a result of the action. Comments made by USDA, Army COE, DOI, TVA, DOT, and State and local agencies. (ELR Order No. 3012, 51 pages) (NTIS Order No. PB–207 433–F)

U.S. 69, Angelina County, Tex. Reconstruction of U.S. 69 from two to four lanes for a distance of 4 miles. Two families will be displaced by the project and sections of nine front lawns lost. Comments made by USDA, EPA, and State and local agencies. (ELR Order No. 3013, 18 pages) (NTIS Order No. PB–199 863–F)

Project F–1081, Galveston County, Tex. Reconstruction of existing two-lane State Highway 146 to a six-lane limited access highway, and construction of a new bridge. The total length of the project is 4.9 miles. An unspecified amount of land will be lost to the project. Comments made by USDA, EPA, HEW, DOT, State and local agencies. (ELR Order No. 3014, 30 pages) (NTIS Order No. PB–200 758–F)

Project S 0260(1), Dane County, Wis. Proposed reconstruction of County Trunk Highway "D" for a total length of 6.08 miles. An unspecified amount of land will be lost to the project. Comments made by USDA, EPA, HUD, DOI, DOT, State and local agencies. (ELR Order No. 3015, 33 pages) (NTIS Order No. PB–202 657–F)

Project F–03–2 (------), Winnebago County, Wis. Proposed reconstruction of U.S. 41 to limited access freeway standards. An unspecified number of residences and amount of land will be lost to the project. Comments made by USDA, EPA, HEW, HUD, DOI, and State agencies. (ELR Order No. 3016, 29 pages) (NTIS Order No. PB–200 940–F)

Final, March 21

Project RS–96(4), Woodbridge, Conn. Proposed reconstruction of a 0.85-mile section of Route 69. Comments made by USDA, Army COE, EPA, DOI, State and local agencies. (ELR Order No. 3093, 61 pages) (NTIS Order No. PB–201 528–F)

Project No. F–061–1(6), Fairbanks, Alaska. Proposed construction of a four-lane limited access highway in urban Fairbanks, from Gaffney Road to Farmer's Loop Road. An unspecified number of residences will be displaced. A 4(f) statement is required for park land which would be taken by the project. (ELR Order No. 3094, 156 pages) (NTIS Order No. PB–202 141–F)

I–90–1, King County, Wash. Reconstruction of State Route 90 from four to six lanes, for a distance of 4.06 miles. Comments made by USDA, Army COE, EPA, HUD, State, and local agencies. (ELR Order No. 3095, 76 pages) (NTIS Order No. PB–204 167–F)

Project I–459–4(1), Jefferson County, Ala. Construction of Highway I–459 for a total distance of 23.4 miles. The highway will displace 768 persons and four businesses. Comments made by USDA, Army COE, DOC, HUD, DOI, State, and local agencies. (ELR Order No. 3096, 48 pages) (NTIS Order No. PB–201 233–F)

Project F–20 (36), Douglas County, Nebr. Reconstruction of a 0.9-mile section of U.S. 6 in Omaha. One residence and an unspecified number of businesses will be displaced by the project. Comments made by USDA, EPA, DOI, State, and local agencies. (ELR Order No. 3097, 25 pages) (NTIS Order No. PB–201 857–F)

Crile Appalachia Access Road, Washington Pa. Proposed construction of a 1,300' access road to serve an industrial park. Comments made by EPA, DOI, State, and local agencies. (ELR Order No. 3098, 31 pages) (NTIS Order No. PB–202 298–F)

Project S 10(9), Wayne County, Ky. Reconstruction of a new section of Kentucky 90, a four-lane highway, for approximately 4 miles. Approximately 95 acres will be lost to the project and 18 residences displaced. Comments made by AEC, Army COE, DOI, TVA, State, and local agencies. (ELR Order No. 3099, 45 pages) (NTIS Order No. PB–199 573–F)

Route 460, Prince Edward County, Va. Construction of 8.4 miles of two-lane highway and 15 bridges. An unspecified amount of land will be lost to the project. Comments made by EPA, DOI, and State agencies. (ELR Order No. 4000, 31 pages) (NTIS Order No. PB–207 558–F)

Project F–07–1, Henry County, Va. Construction of 18.06 miles of four-lane highway to bypass Martinsville. Approximately 230 individuals will be displaced, along with seven businesses; an unspecified amount of land will be lost. Comments made by USDA, HUD, DOI, and State agencies. (ELR Order No. 4001, 48 pages) (NTIS Order No. PB–200 322–F)

Final March 22

Power Highway, Coos County, Oreg. Proposed reconstruction of 19 miles of two-lane highway. Comments made by EPA, DOI, and State agencies. (ELR Order No. 4015, 21 pages) (NTIS Order No. PB–207 588–F)

State Route 169, King County, Wash. Reconstruction of 1.50 miles of two-lane State Route 169. The displacement of three homes and two businesses will result. Comments made by USDA, Army COE, EPA, HUD, State and local agencies. (ELR Order No. 4016, 44 pages) (NTIS Order No. PB-201 858-F)

Project F-125 (------), Davies County, Ky. Proposed widening of 1.56 miles of highway. Comments made by EPA, DOI, TVA, and State agencies. (ELR Order No. 4018, 23 pages) (NTIS Order No. PB-202 178-F)

S-9102(8) St. Mary's County, Md. Proposed widening of Maryland Route 235, for a distance of 1.392 miles. Comments made by USDA, HUD, State, and local agencies. (ELR Order No. 4019, 16 pages) (NTIS Order No. PB-200 760-F)

Project S-079(1), Northway, Alaska. Construction of 7.6 miles of two-lane highway. Comments made by DOI and State agencies. (ELR Order No. 4020, 32 pages) (NTIS Order No. PB-203 108-F)

COAST GUARD

Contact: D.B. Charter, Jr., Commander, U.S. Coast Guard, Chief, Environmental Coordination Branch, 400 Seventh Street, S.W., Washington, DC 20591, (202) 426-9573.

Final March 14

U.S. Coast Guard Reserve Training Center, Yorktown, Va. Proposed reconstruction of an access road and construction of family housing. Comments made by USDA, DOI, DOT, and the State of Virginia. (ELR Order No. 3058, 14 pages) (NTIS Order No. PB-204 163-F)

U.S. WATER RESOURCES COUNCIL

Contact: W. Don Maughan, U.S. Water Resources Council, 2120 L Street NW., Washington, DC 20037, (202) 254-6408.

Draft March 13

Genesee River Basin, N.Y. The statement is a study of the problems and needs of the river basin, with proposed projects and programs. Structural projects proposed by the plan include construction of 16 upland reservoirs; 10 reservoirs in the Ontario Lake Plain; the Canaserago multipurpose project; and the Stannard multipurpose reservoir. (ELR Order No. 3024, 22 pages) (NTIS Order No. PB-207 437-D)

Draft March 10

Big Muddy River Basin, Ill. The statement is a study of the problems and needs of the river basin, with proposed projects and programs. Structural projects proposed by the plan include construction of 10 reservoirs. Significant Indian cultural remains are located in the basin. (ELR Order No. 3036, 20 pages) (NTIS Order No. PB-207 415-D)

BRIAN P. JENNY,
Acting General Counsel.

[FR Doc.72-5089 Filed 4-3-72;8:48 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19480-19482; FCC 72-282]

A-W BROADCASTING CO., ET AL.

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

In regard applications of Gary Acker and Billy Wolfe, doing business as A-W Broadcasting Co., Springfield, Mo., Requests: 1550 kc., 500 w., Day, Docket No. 19480, File No. BP-18,321; Charles Burton, Paul L. Bradshaw, Don Burrell, Jerry Carter, and Joseph H. Pyle, doing business as Queen City Broadcasting Co., Springfield, Mo., Requests: 1550 kc., 1 kw., Day, Docket No. 19481, File No. BP-18,460; William B. Neal (KQYX), Joplin, Mo., Has: 1560 kc., 250 w., Day, Requests: 1560 kc., 10 kw., DA, Day, Docket No. 19482, File No. BP-18,480; for construction permits.

1. The Commission has before it for consideration the above mutually exclusive applications.

2. A "Suburban"[1] issue is required with respect to A-W Broadcasting Co. Although it recently amended the community survey portion of its application, A-W has not fully complied with the "Primer."[2] No demographic data was submitted. Since the applicant did not make a community analysis, we cannot conclude that its contacts with community leaders reflect the composition of the Springfield area. Moreover, the survey conducted of the general public appears to be a mere solicitation of programing tastes, and not an inquiry into the problems, needs, and interests of the area. Accordingly, the applicant will be provided an opportunity to demonstrate its responsiveness to the community in hearing.

3. For the following reasons, the Commission does not find A-W financially qualified to operate its proposed station. The applicant projects first-year construction and operation costs to be $31,968, itemized as follows: Equipment (first-year payments under lease-purchase agreement), $5,648; land, $3,000; building, $1,000; miscellaneous, $5,000; and working capital, $16,500. To cover these expenditures, A-W proposes to use cash on hand of $6,000, a manufacturer's lease-purchase agreement, and the sale of business property and negotiable first mortgages. However, since the applicant has not substantiated the values attributed to or the marketability of the business property and mortgages relied upon, we cannot conclude A-W is financially qualified. Finally, when measured against similar operations manned by six employees, the applicant's estimate of $16,500 for first-year operating expenses appears inordinately low. This amount does not appear sufficient to cover wages, much less the other ordinary and reasonable expenses needed to operate a radio station.

4. Subsequent to the filing of this application, Gary Acker, a partner in A-W Broadcasting Co., acquired Shelby County Broadcasting Co., licensee of WTNN, Millington, Tenn. Acker's acquisition of another station is a significant matter which could have an effect on the outcome of this proceeding. However, A-W has not amended its application as required by § 1.65 of the Commission's rules. Therefore, an issue will be included to determine whether the applicant failed to perform the responsibilities of continuing accuracy and completeness of information furnished in a pending application as required by § 1.65 of the rules.

5. We also conclude that a "Suburban" issue must be included as to Queen City. The applicant's demographic breakdown of Springfield shows that several important economic and social groups exist in the community. These identifiable factions, however, are not reflected in the contacts the applicant made with community leaders. Since it appears that the applicant has not established a dialog with all the significant groups known to exist in the community, further inquiry into the survey is required in hearing. Moreover, Queen City's proposed program format contains several inconsistencies. The most recent amendment, tendered in response to a Commission letter informing the applicant of the defects in its ascertainment survey, lists 16 programs totaling at least 10.6 hours per week which the applicant proposes to broadcast to meet the problems, needs, and interests of the community. However, section IV-A, part III of its application allots only 5 hours per week of broadcast time for public affairs matters. We believe this discrepancy must also be examined in hearing.

6. When originally filed, Queen City's financial plan did not show the applicant possessing sufficient liquid assets to meet its proposed first-year construction and operating costs. Subsequent thereto it amended the financial section. In an effort to match the funds needed to the funds available, the applicant merely reduced the amount allocated for operating expenses. Now, Queen City projects its first-year costs to be $34,805, as follows: Down payment on equipment, $4,177; first-year payments on equipment, with interest, $4,929; land, $600; building, $1,500; miscellaneous, $2,500; and working capital, $21,099. To meet these expenses, Queen City relies upon a manufacturer's letter of credit, existing capital of $2,665, and new capital of $32,000, for a total of $34,665. Moreover, we believe a station operating 84 hours per week by seven employees would require more for salaries than the $14,300 projected by the applicant. Thus, a question obtains whether the applicant's estimates are reasonable. Since the liquid assets available to the applicant still do not match the proposed expenses, and a question has been raised as to the reasonableness of the applicant's proposed costs, a financial issue must be included as to Queen City.

7. Joplin is located approximately 70 miles west of Springfield, Mo. Due to the distance involved, an increase in the power of KQYX would result in only a slight overlap of service areas. Thus, as between the Joplin and Springfield proposals, the section 307(b) issue will be determinative. In the event it is determined that one of the proposals for Springfield is to be preferred, it will be necessary, on a comparative basis, to determine which of the two applicants is better qualified.

[1] Suburban Broadcasters, 20 RR 951 (1961).
[2] Primer on Ascertainment of Community Problems by Broadcast Applicants, 36 F.R. 4092, 27 FCC 2d 650 (1970).

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

9. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from the Springfield proposals and the availability of other primary aural service (1 mv/m or greater in the case of FM) to such areas and populations.

(2) To determine the areas and populations which may be expected to gain or lose primary service from the proposed operation of station KQYX and the availability of other primary aural service (1 mv/m or greater in the case of FM) to such areas and populations.

(3) To determine the efforts made by A–W Broadcasting Co. and Queen City Broadcasting Co. to ascertain the community needs and interests of the area to be served and the means by which the applicants propose to meet those needs and interests.

(4) To determine with respect to the application of A–W Broadcasting Co.:

(a) The basis for the estimate of the first-year's operating expense and whether such estimate is reasonable;

(b) Whether the applicant has sufficient liquid assets to finance construction and operation of the proposed station; and

(c) Whether, in light of the evidence adduced pursuant to (a) and (b), above, the applicant is financially qualified.

(5) To determine whether A–W Broadcasting Co. has complied with the provisions of § 1.65 of the Commission's rules by keeping the Commission advised of substantial and significant changes as required by § 1.65, and, if not, the effect of such noncompliance on its basic and/or comparative qualifications to be a Commission licensee.

(6) To determine with respect to the application of Queen City Broadcasting Co.:

(a) The basis for the estimate of the first-year's operating expenses and whether such estimate is reasonable;

(b) Whether the applicant has sufficient liquid assets to finance construction and operation of the proposed station; and

(c) Whether, in light of the evidence adduced pursuant to (a) and (b), above, the applicant is financially qualified.

(7) To determine the amount of time to be devoted by Queen City Broadcasting Co. to the various program categories and whether part III of section IV–A of the application form accurately reflects the applicant's proposed programing.

(8) To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient, and equitable distribution of radio service.

(9) To determine, in the event it is concluded that a choice between the applications should not be based on considerations relating to section 307(b), which of the proposed Springfield operations would, on a comparative basis, better serve the public interest.

(10) To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if any, of the applications should be granted.

10. *It is further ordered,* That, in the event of a grant of any of the applications the construction permit shall include the following condition:

Permittee shall assume responsibility for the installation and adjustment of filter circuits or other equipment in the antenna system of the proposed operation and any existing station which may be necessary to prevent adverse effects due to internal cross-modulation and reradiation.

11. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

12. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: March 23, 1972.

Released: March 29, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[3]

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

[FR Doc.72-5073 Filed 4-3-72;8:47 am]

[Docket No. 19479; FCC 72-255]

MEADVILLE MASTER ANTENNA, INC.

Memorandum Opinion and Order Instituting a Hearing

In regard Meadville Master Antenna, Inc., Meadville, Pa., request for waiver of § 74.1103 of the Commission's rules, Docket No. 19470, File No. SR–76177.

1. This proceding involves a petition for waiver of the program exclusivity provision of § 74.1103 of the Commission's rules. The proceeding comes before the Commission as a result of the United States Court Appeals for the Third Circuit's action setting aside the Commission's May 6, 1969, Memorandum Opinion and Order and remanding the case to the Commission "Meadville Master Antenna, Inc. v. F.C.C. and U.S.A.", 443 F. 2d 282 (3d Cir. 1971). The Court's opinion fully sets forth the history of procedings before the Commission and the allegations and counterclaims of the parties.

2. In its opinion (Slip Op., p. 6), the Court stated that Meadville Master Antenna, Inc.,

Contends that waiver of the nonduplication rule is justified because the signal strength of WICU–TV is such that its predicted contour does not in fact encompass large sections of the community and is in fact equal to or inferior to that of WFMJ–TV([1]) and because the quality of both black and white and color signals of WICU–TV is substantially inferior to that of WFM–TV.([2])

The hearing is instituted to take further evidence on these questions. All pleadings comprising the record in this case before the Court of Appeals are hereby made part of the record on hearing. It is believed that the formal taking of further evidnce, coupled with an in-depth analysis by an examiner, will enable the Commission to more fully "set forth its conclusions and the reasons for them" as requested by the Court.[3]

3. The point from which the examiner is to begin his inquiry is that Lamb Communications, Inc., licensee of WICU–TV, has met its burden of establishing the applicability of the nonduplication protection provision "by establishing the predicted contours of the stations and the manner in which the CATV system has failed to provide nonduplication protection." (Slip Op., pp. 6–7.) No party contested this finding before the Court. Meadville Master Antenna, Inc., has met its initial burden of going forward by submission of engineering data to put in question the actual contour and quality of the WICU–TV signal, therefore requiring the initiation of this hearing.

4. The public interest requires that the hearing process be conducted as expeditiously as possible. The examiner is so directed and shall issue his initial decision as promptly as possible after the conclusion of the hearing.

Accordingly, it is ordered, That the request for waiver herein is designated for hearing, at a time and place to be specified in a subsequent order, on the following issues:

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[3] Commissioners Robert E. Lee and Johnson absent.

[1] This language is in part derived from the Commission's statement in its Second Report and Order, 2 FCC 2d 725, 753, n. 40 (1966), that "carriage will not be required where a sufficient showing is made that a predicted signal is not in fact present in the county, or that a good signal is not obtainable because of technical deficiencies on the part of the station."

[2] See 2 FCC 2d at 751, par. 62.

[3] Various requests and objections, subsequent to the handing down of the Court's opinion, for on-site inspection of MMA's head-end facilities by WICU–TV engineers accompanied by Commission engineers are now moot since any engineering evidence deemed necessary will be determined by the hearing examiner.

(1) To determine (a) whether the community served by Meadville Master Antenna, Inc., is encompassed in whole or in part by the actual Grade B contour of WICU–TV, and (b) whether the actual signal contour of WFMJ–TV has the same or higher priority, in terms of the priorities established by § 74.1103 [New § 76.91 effective March 31, 1972] of the Commission's Rules, compared with the actual signal of WICU–TV.

(2) To determine whether the technical quality of WICU–TV's black-and-white signal reception in the community served by Meadville Master Antenna, Inc., is substantially inferior to that of WFMJ–TV.

(3) To determine whether the technical quality of WICU–TV's color signal reception in the community served by Meadville Master Antenna, Inc., is substantially inferior to that of WFMJ–TV.

(4) To determine whether, in light of the evidence adduced on the above issues, a grant of the request for waiver would be consistent with the public interest.

It is further ordered, That Lamb Communications, Inc., licensee of Station WICU–TV, and Chief, Cable Television Bureau, are made parties to the hearing.

It is further ordered, That Meadville Master Antenna, Inc., (a) proceed with the initial presentation of evidence on issues (1), (2), and (3), and (b) has the burden of proof on issues (1), (2), and (3), and the burden of establishing under issue (4) that a grant of its request for waiver would serve the public interest, convenience, and necessity.

It is further ordered, That to avail themselves of the opportunity to be heard, Meadville Master Antenna, Inc., and Lamb Communications, Inc., pursuant to § 1.221(e) of the Commission's rules and regulations, in person or by attorney, shall within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date set for the hearing and present evidence on the issues specified in this order.

It is further ordered, That all pleadings comprising the record in this case before the Court of Appeals shall be made part of the record on hearing.

It is further ordered, That the examiner shall conduct the hearing expeditiously and issue an initial decision as promptly as possible, in accordance with paragraph 4, supra.

It is further ordered, That the Secretary of the Commission shall send copies of this order by certified mail to the parties to the case.

Adopted: March 23, 1972.

Released: March 29, 1972.

FEDERAL COMMUNICATIONS COMMISSION [4]
BEN F. WAPLE,
Secretary

[FR Doc.72–5074 Filed 4–3–72;8:47 am]

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

[Docket No. 18759–18761; FCC 72R–79]

RKO GENERAL, INC., ET AL.

Memorandum Opinion and Order Enlarging Issues

In regard applications of RKO General, Inc. (WNAC–TV), Boston, Mass., for renewal of broadcast license, Docket No. 18759, File No. BRCT–63; Community Broadcasting of Boston, Inc., Boston, Mass., Docket No. 18760, File No. BPCT–4198; The Dudley Station Corp., Boston, Mass., for construction permit for new television broadcast station, Docket No. 18761, File No. BPCT–4277.

1. The above-captioned applications were designated for consolidated hearing by Commission Order, FCC 69–1335, released December 11, 1969, 34 F.R. 19852, 20 FCC 2d 846.[1] The Commission specified various issues, including a financial qualifications issue against The Dudley Station Corp. (Dudley) inquiring into its overall costs and sources of financing. The Board now has before it a petition to enlarge issues, filed on February 3, 1972, by Community Broadcasting of Boston, Inc. (Community) [2] which seeks the inclusion of a § 1.65 issue,[3] a misrepresentation issue and an issue to determine whether Bertram M. Lee, President of Dudley, is engaged in "profiteering" from the prosecution of the application.

2. Dudley, on December 30, 1971, filed a petition to amend its application and tendered an amendment which would include a new letter of credit from RCA to finance equipment valued at $2,600,000; letters of credit and supporting documents from four banks and five individuals which in total purport to advance credit to Durley in the amount of $5,488,000.00; and a Statement Concerning Issuance and Subscription for Class B Stock in The Dudley Station Corp., and other material showing that the following shares of Class B stock had been issued or subscribed:

	Issued		Subscribed	
	No. shares	Cost	No. shares	Cost
Henry M. Morgan [4]	4 000	$30, 000	0	0
Jerome B. Wiesner	2, 000	15, 000	0	0
Ruth Batson	240	1, 800	0	0
Henry W. Kendall	1, 600	20, 000	0	0
Anne Peretz	1, 200	15, 000	400	$5, 000
Harry Levine [5]	1, 200	15, 000	400	5, 000

[4] Counsel's transmittal letter dated Dec. 30, 1971, showed that Morgan subscribed to 5,600 shares with 5,200 issued and 400 to be subsequently issued. The "Statement Concerning Issuance and Subscription of Class B Stock in Dudley Station Corporation" submitted with the amendment showed only 4,000 shares issued to Morgan and no outstanding subscription. The SEC Prospectus showed Morgan owning 5,200 shares of Class B common and asserts that Dr. Morgan has subscribed to 1 unit and that 1,200 shares of that unit have been issued.

[5] The "Statement Concerning Issuance and Subscription for Class B Stock in The Dudley Station Corporation" submitted as part of the amendment has no listing for Levine as either owning or subscribed to stock. However, the transmittal letter shows Levine as having subscribed to 1,600 shares, 1,200 issued and 400 yet to be issued. Also, the information concerning shareholders, required by FCC Form 301, includes information as to Levine with 1,200 shares of Class B issued and 400 shares yet to be issued.

The amendment also states that Dudley has filed a Form 1–A–Notification Under Regulation A and an offering circular with the Securities Exchange Commission which looks toward the sale of 11 additional units of Class B nonvoting common stock in Dudley, each unit to consist of 1,600 shares and to be sold at $20,000 per unit. The amendment also tendered information with respect to stockholders required by section II of FCC Form 301 as to Mortimer B. Zuckerman, Henry W. Kendall, Harry Levine and Anne L. Peretz. Community contends that based on information contained in Dudley's amendment and the material submitted to the SEC, referred to in the amendment and supplied to the Commission by letter of December 27, 1971, the issues it requests should be added in the instant proceeding.

THE § 1.65 ISSUE

3. More particularly with respect to the requested section 1.65 issue, Community contends that Dudley's failure to report its bank loan commitments and certain bank loans already executed, the first of which was dated December 3, 1969, within 30 days from the date the commitment was received by Dudley is a violation of § 7.65 of the Commission's rules. Community also contends that Dudley's failure to report: the sale of 4,000 shares of Class B stock at $7.50 per share for $30,000 prior to December 31, 1969; the sale of 2,240 additional shares of Class B stock at $7.50 per share for $16,800 [6] prior to December 31, 1970; and the subscription of an additional 3,200 shares of Class B stock at $12.50 per share for $40,000, constitutes a further violation of § 1.65 of the Commission's rules.[7] Community also notes that the above-described transaction brought four

[1] This proceeding was redesignated for hearing, incorporating the original designation Order by reference and affording all applicants 30 days from publication to amend their applications by Commission Order, FCC 72–145, released Feb. 24, 1972, 37 F.R. 4382, ------ FCC 2d ------.

[2] The Board also has before it: (a) Comments, filed Feb. 23, 1972, by the Broadcast Bureau; (b) opposition, filed Feb. 23, 1972, by The Dudley Station Corp.; and (c) replies to (a) and (b), filed Mar. 1, 1972, by Community Broadcasting of Boston, Inc.

[3] Section 1.65 of the Commission's rules reads in pertinent part as follows:

Each applicant is responsible for the continuing accuracy and completeness of information furnished in a pending application or in Commission proceedings involving a pending application. Whenever the information furnished in the pending application is no longer substantially accurate and complete in all significant respects, the applicant shall as promptly as possible and in any event within 30 days, unless good cause is shown, amend or request the amendment of his application so as to furnish such additional or corrected information as may be appropriate * * *.

[6] Apparently the figure $56,800 was erroneously used by Dudley in its Statement of Cash Receipts and Disbursements when reporting this sale. Note 2 to the statement reports the sale of 2,240 shares of Class B stock at $7.50. The receipts from such sale would be $16,800.

new stockholders into the company. Community argues that Dudley's failure to comply with § 1.65 of the Commission's rules as described above raises serious questions as to that applicant's qualifications to be a station licensee which must be resolved in the hearing process.

4. In opposition to the requested § 1.65 issue, Dudley takes the position that it had no obligation to report its bank loan commitment letters at this stage of the proceeding since it did not purport to make a specific showing of its financial qualifications in its application and a general issue with respect to its financial qualifications was included in the proceeding; it only submitted the commitment letters well before the hearing date to apprise the Commission and the parties of the material on which Dudley intends to rely at the hearing. As to the sale of Class B stock, Dudley contends that it had no obligation to report those transactions since the shares involved were nonvoting stock and had no effect on the control of the applicant corporation. Moreover, Community contends that since the amendments relate to basic qualifications, not matters for comparative consideration, Community cannot possibly be prejudiced by their disclosure well in advance of the hearing.

5. The Review Board agrees with Dudley and with the Broadcast Bureau that Dudley's failure to report the loan commitments does not constitute an adequate basis for addition of a § 1.65 issue. Dudley did not detail its financial plan in its application. Consequently, an issue concerning its financial qualifications was included in the proceeding. It would have been required to do no more until it presented evidence of its financial qualifications at the hearing. Instead, Dudley chose to amend its application to put the Commission and the parties on notice of the matters which it would rely on at the hearing. The failure to provide this information earlier cannot be the basis for an issue against Dudley. "Cf. WPIX, Inc. (WPIX)," FCC 72R–29, __ FCC 2d __, released February 7, 1972. The Class B stock sales present a different problem. FCC Form 301, Application for Authority to Construct a New Broadcast Station or Make Changes In An Existing Broadcast Station, in section II requires extensive information concerning the shareholders of a corporate applicant. In this case Dudley supplied the required information as to those shareholders of record at the time the application was filed. However, the applicant neglected to advise the Commission of subsequent sales of Class B common stock as soon thereafter as possible and in any event not later than 30 days after the sale of stock or execution of the subscription contract. We cannot accept Dudley's argument that since the sale of Class B shares did not have any bearing on the control of the corporation, which by the charter is vested in the owners of Class A stock, it had no obligation to report the sale of Class B stock. On the contrary, Form 301 makes no distinction as to class of stockholders; it requires the pertinent information as to all stockholders where there are 20 or less shareholders in the corporation. Information with respect to the Class B stockholder is then clearly required by Form 301, and it is "significant information" within the scope of § 1.65 of the rules. Failure of Dudley to promptly report such information raises questions as to its qualifications to be a station licensee. Nevertheless, in the circumstances before us there is no evidence of intent to withhold pertinent information. Dudley did voluntarily come forward with an appropriate amendment supplying all of the necessary information, albeit not timely filed; and there has apparently been only one violation of the rule. The Board does not believe that this incident should reflect on the applicant's basic qualifications. Therefore, an issue will be specified inquiring into this matter and its effect on Dudley's comparative qualifications.

MISREPRESENTATION ISSUE

6. Community contends that certain statements made by Dudley in an "offering circular" submitted to the SEC and subsequently transmitted to the Commission by Dudley constitute misrepresentation. Community first points to the following statement by Dudley: "Among the three applicants (RKO, Community, Dudley) only the Company (Dudley) has stated its intention to have as many as three of its directors involved on a full-time basis in the operation of the station," and contends that since exhibits on this matter have not yet been exchanged Dudley's statement must be regarded as intentional misrepresentation. Community also notes that in the same offering circular Dudley identifies Thomas J. White, a building contractor, as Community's president and David C. Mugar as a supermarket executive. In fact, petitioner alleges, White is not president of Community and Mugar is not a supermarket executive. Community concedes, however, that both of these statements were deleted from the offering circular before it was published. Community also contends that Dudley's detailed financial proposal at page 10 of its offering circular is inconsistent with its declaration of intent to engage in experimentation in local programming and devotion of "substantial resources to community activity, to sponsor and supervise community workshops, regional festivals, conferences, talent hunts and other related activities." In its reply to the opposition on this point, Community notes that Dudley's financial projections anticipate earnings before taxes of $1,622,000 for the first year, $2,499,400 for the second year, $3,538,500 for the third year while projected production expenses are $826,500 during the first year, $982,600 for the second and $964,000 for the third year. The disproportionate relationship between increased income and increased production expenses, Community argues, refutes Dudley's claim concerning its proposed "experimentation to local programming, etc." and warrants a misrepresentation issue. Community also notes that in its amendment of December 2, 1969, Dudley states that within 2 weeks it expected to have a credit commitment letter with respect to its proposed Ampex antenna and that, although many months have passed, Dudley has not come forth with such a letter.

7. Considering all of Community's allegations, even as amplified by its reply, we find no basis for the addition of a misrepresentation issue. The first Dudley statement upon which Community relies is in fact technically accurate. At the time the statement was made Dudley was the only applicant which had "stated its intention [to the Commission] to have as many as three of its directors involved on a full-time basis in the operation of the station." The second alleged misrepresentation involves a transposition of the offices held by Mr. White and Mr. Mugar. David Mugar is in fact president of Community and Mr. David Mugar is the son of Stephen Mugar, the founder of Star Supermarket grocery chain.[8] While Dudley's characterization of David Mugar is not entirely accurate it is of no significance in the context of this proceeding. Moreover, both of the foregoing statements were deleted from the "offering circular" before it was published. Community's third contention is based on no solid factual allegations and the Board will not presume to draw the inferences from Dudley's income and production expense projection which would be necessary to support the addition of a misrepresentation issue. Nor can we regard Dudley's failure to come forward with the Ampex credit letter as warranting such an issue. While the absence of such a letter may have a bearing on Dudley's financial qualifications, Dudley's failure to produce such a letter before going to hearing is no indication of bad faith.

PROFITEERING ISSUE

8. Community notes that Bertram Lee appears to be the primary promoter of Dudley; that he owns 46.7 percent of the Class A voting stock for which he paid a total of $1,600 at $2.50 per share; that as of August 31, 1971, $126,800[9] had been reiceived from sale of Class B stock, none of which was purchased by Lee; that $131,433 in loans had been received but none of the money was lent by Lee and

[7] In paragraphs five and six of its petition, Community catalogues at some length what it regards as deficiencies in the several loan commitments submitted by Dudley. While these matters may eventually be pertinent to a resolution of the existing financial qualifications issue they have no bearing on the issues requested in Community's petition.

[8] In its reply, Community notes that D. Mugar has never been an executive of Star Supermarket and S. Mugar sold his interest in that company in 1964.

[9] This figure appears to be the function of a $40,000 error as to the value of Class B shares sold in 1970. (See footnote 6, supra.) The correct figure appears to be $86,800.

that each share of Lee's stock acquired at $2.50 per share had increased in value with the sale of each share of Class B stock at $7.50 or $12.50 per share. Community also asserts that $59,362 was expended for management fees during this period, that Dudley owes Mr. Lee's company $13,096 and that there was $52,134 in other disbursements. Community concludes that a large portion of Dudley's total expenditure went to Lee and that because at the same time his shares have increased in value he has been engaged in something it calls "profiteering." [10]

9. Assuming that all of Community's factual allegations concerning Mr. Lee's relationship with Dudley are true, we find no evidence of profiteering or other wrongdoing. Moreover, in its opposition, Dudley alleges that any funds which Lee has received from Dudley were authorized by the Board of Directors as compensation for his services. This allegation is supported by a corporate resolution. Furthermore, the corporate minutes of April 7, 1969, authorize the president of the corporation to hire such additional clerical help, not to exceed $500 per month, as might be necessary to conduct the affairs of the corporation. Copies of both of these documents were supplied to Community in response to discovery proceedings in March of 1970. In these circumstances, the Board finds no basis for inclusion of an issue to determine whether Bertram Lee has been engaged in profiteering in the prosecution of Dudley's application for a television station in Boston.

10. *It is therefore ordered*, That the petition to enlarge issues in the above-captioned proceeding, filed February 3, 1972, by Community Broadcasting of Boston, Inc. is granted to the extent that the issues in this proceeding are enlarged as follows and is denied in all other respects;

To ascertain the facts with respect to the Dudley Station Corp.'s failure to promptly notify the Commission of changes in its stockholders, as required by § 1.65 of the Commission's rules, and the effect of such failure on The Dudley Station Corp's. comparative qualifications to be the licensee of a television station.

Adopted: March 27, 1972.

Released: March 29, 1972.

FEDERAL COMMUNICATIONS COMMISSION [11]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-5072 Filed 4-3-72;8:47 am]

[10] The word profiteer is defined in Websters New World Dictionary of the American Language, College Edition, as "a person who makes excessive profits by taking advantage of a shortage of supply to charge unreasonably high prices". Community explains its meaning in its reply by stating that Mr. Lee's activities with respect to Dudley are analogous to those of a C.P. holder, who, having sold the C.P., retains an interest in the CP disproportionate to his obligation to make future contributions and thus raises a trafficking issue.

[11] Board Member Berkemeyer dissenting in part and issuing a statement which is filed as part of the original document.

[Docket No. 19154; FCC 72-284]

FORMULATION OF POLICIES RELATING TO BROADCAST RENEWAL APPLICANT STEMMING FROM COMPARATIVE HEARING PROCESS

Order Regarding Oral Argument En Banc

1. On February 23, 1971, the Commission issued its Notice of Inquiry in this proceeding, and on August 20, 1971, following the issuance of the Court's decision in Citizens Communications Center v. FCC, —— U.S. App. D.C. ——, 447 F. 2d 1021 (1971), the Commission issued its Further Notice. The comments and reply comments have now been received. In light of the nature of the issues in this important and far-ranging inquiry, the Commission believes it desirable to afford interested persons an opportunity to make oral presentations.

2. Persons wishing to be heard should submit notices of appearance within 5 days of the release of this order. Parties with a common viewpoint are urged to select a single spokesman in order to avoid unnecessary duplication of arguments; arguments may be made by nonlawyers as well as lawyers representing clients. The Commission, by further order, will specify the order of appearance of the participating parties; it will also announce the amount of time allocated to each participant.

3. The issues have been pointed up in the notice, further notice, and the comments received. The proposals of the Commission are contained in the February 23 Notice. Persons addressing those proposals should be prepared to state specifically their differences, if any, and the alternative approach which they believe would better serve the public interest. Finally, further action in Docket 19153 will await the oral proceedings here, in Docket No. 19260 (the overall fairness inquiry), and in Docket 19142 (children's programing inquiry).

4. *Accordingly, it is ordered*, That oral argument will be held before the Commission en banc at its offices in Washington, D.C., beginning at 10 a.m. on May 4, 1972. Persons desiring to participate in the oral argument shall file a notice of appearance within 5 days of the date of release of this order.

Adopted: March 23, 1972.

Released: March 28, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-5075 Filed 4-3-72;8:47 am]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

MARCH 29, 1972.

Pursuant to the Commission's action of March 15, 1972, waiving the "freeze" criteria of § 1.571 of its rules and accepting the following application, it will be considered as ready and available for processing May 12, 1972.

BP-19042 KLLR, Walker, Minn.
Edward P. de la Hunt, Jr.
Has: 1600 kc., 500 w., Day.
Req: 1600 kc., 1 kw., Day.

Pursuant to §§ 1.227(b)(1), 1.591(b) and Note 2 to § 1.571 of the Commission's rules,[1] an application, in order to be considered with the above application must be in direct conflict with said application, substantially complete and tendered for filing at the offices of the Commission by the close of business on May 11, 1972.

The attention of any party in interest desiring to file pleadings concerning this application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

Adopted: March 28, 1972.

Released: March 29, 1972.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-5077 Filed 4-3-72;8:47 am]

[FCC 72-241]

STATION KUTV, SALT LAKE CITY, UTAH

Memorandum Opinion and Order Regarding "Prime Time" Waiver

In the matter of request by Station KUTV, Salt Lake City, Utah, for waiver of the "prime time access rule" (§ 73.658(k)) for Saturdays in March.

1. The Commission here considers a "Petition for Partial Reconsideration" filed on March 6, 1972, by KUTV, Inc., the licensee of Television Station KUTV, Salt Lake City, Utah (NBC affiliated), seeking reversal of that portion of our action of February 16, 1972 (FCC 72-166), which denied its request for waiver of the "prime time access rule" for Saturdays, March 11, 18, and 25, 1972, in connection with NBC movies which will run over 2 hours (generally 2½ hours). In this action, we granted its request for the three previous Saturdays in February and March, largely on the basis that KUTV serves as an NBC "feed" to some 11 other mountain zone stations in smaller markets and we did not wish to disrupt these arrangements on short notice; otherwise we held that grant of the waiver under the circumstances was not warranted, and denied the request for the remainder of March.

2. KUTV now seeks reversal of the latter part of the decision, and grant of waiver for the remaining three Saturdays in March. It advances a number of arguments in support of its position, including: (1) The unique problems of

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

[1] See Report and Order released July 18, 1968, FCC 68-739, Interim Criteria to Govern Acceptance of Standard Broadcast Applications, 33 F.R. 10343, 13 RR 2d 1667.

mountain zone stations in the "top 50 markets" as long as their prime hours remain 7 to 11, since they must present, during the latter part of their prime time network, material which in the rest of the United States falls outside of prime time (such as the movie overruns involved here); (2) the small number of homes in the three "top 50" markets which are in the mountain zone, less than 3 percent of the total U.S. "top 50" homes, so that there will assertedly be no appreciable impact on fulfillment of the objectives of the prime time access rule; (3) the asserted difficulty and undesirability of any course of action which would comply with the rule, including canceling one NBC program ("The Bold Ones") early in the evening, or running it after the movie (to which the network and advertisers would likely not agree, since half of it would be outside of prime time), or running the movie later (so that the overrun would fall outside of prime time in Salt Lake City) which would mean canceling KUTV's regular late evening news, and, in any event, having to replace some attractive NBC programing, on rather short notice, with nonnetwork material from its supply, all of which has been shown repeatedly in prime time in the market previously.

3. Of perhaps more significance, statements supporting KUTV's petition were filed by four of the 11 mountain zone stations to which it feeds NBC programs (those in Billings and Great Falls, Mont., Idaho Falls, Idaho, and Casper, Wyo.). These stations urge that reduction of NBC programing resulting from strict application of the rule would mean loss of desirable and accustomed NBC programs to their viewers, and thus disruption of viewing habits. For some of these stations, KUTV is the only source of NBC material except film prints. It is asserted that the resulting loss of NBC programs would require finding expensive and inferior replacements, would affect a total audience (for these stations) substantially greater than KUTV's own audience in the Salt Lake City area and thus would in effect be applying the "prime time access rule" far outside of its intended area, and would therefore be difficult to explain to viewers.

CONCLUSIONS

4. On further consideration, we are of the view that this matter should be reconsidered and our earlier decision reversed insofar as it denied the last half of KUTV's request. We are herein granting the petition for reconsideration and the waivers. Essentially, our decision is based on another look at three circumstances prevailing, which, taken together, lead us to the conclusion that the public interest would be better served by grant of waiver than by reiterated denial. These are: (1) The fact that the "prime time access rule" is not yet in full effect anyhow, since stations may still (until October 1972) fill the cleared time with off-network material and feature films recently shown in the market, and thus the impact on availability of valuable time to new, independent program sources is less than even the relatively small impact which it might have in future seasons; (2) the fact that we intend to resolve these problems very shortly through rule making looking toward a change in the rules as to what is "prime time" in the mountain zone, so that, as KUTV says, these situations are but temporary; and (3) the position of KUTV in "feeding" NBC programs to other stations, in small markets, and the resulting disruption which would occur in the service to audiences lying well outside of the ambit of large-city stations which are the subject of the rule. In view of all these considerations, it appears that the disadvantages from denial of waiver are overshadowed by the benefits which would result.

5. However, we emphasize that this decision is based on all three circumstances mentioned. When one or more of them are absent or different in the future, denial of a similar request might well be required. For example, in connection with the "feed" function mentioned, as we have observed in other connections, it is appropriate only to a very limited extent to base regulation in the broadcast area on the function which stations sometimes serve in point-to-point communications, as sources of programs for other stations. When the rule is in full effect, and whatever change is necessary to resolve the particular mountain zone problems has been made, it does not appear that this consideration in itself would be grounds for further waiver.

6. In view of the foregoing: *It is ordered*, That:

(a) The "Petition for Partial Reconsideration" filed by KUTV, Inc. on March 6, 1972, is granted; and

(b) Waiver of § 73.658(k) is granted to Station KUTV, Salt Lake City, Utah, to present up to 3½ hours of NBC programs on the nights of March 11, March 18, and March 25, 1972, only.

Adopted: March 15, 1972.

Released: March 28, 1972.

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

[FR Doc.72-5071 Filed 4-3-72;8:47 am]

FEDERAL HOME LOAN BANK BOARD

[H.C. 120]

8.8 CORP. AND OAK CLIFF SAVINGS & LOAN ASSOCIATION

Notice of Receipt of Application for Permission To Acquire Control of Mutual Savings Institution

MARCH 30, 1972.

Notice is hereby given that the Federal Savings & Loan Insurance Corp. has received an application from the 8.8 Corporation, Dallas, Tex., a multiple savings and loan holding company which is controlled by the Oak Cliff Savings & Loan Association, Dallas, Tex., for approval of acquisition of control of the Mutual Savings Institution, Austin, Tex., an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the Regulations for Savings and Loan Holding Companies, said acquisition to be effected by an exchange of stock of Oak Cliff Savings & Loan Association for stock of the Mutual Savings Institution. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] EUGENE M. HERRIN,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.72 5104 Filed 4-3-72;8:49 am]

FEDERAL MARITIME COMMISSION

CANADIAN GULF LINE OF FLORIDA, INC., ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street, NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Wesley W. Kurtz, Assistant to the President, Port Everglades Terminal Co., Port Everglades Station, Fort Lauderdale, FL 33316.

[1] Commissioner Johnson dissenting.

Agreement No. T-2592, between Canadian Gulf Line of Florida, Inc.; Gulfstream Shipping Corp.; Harrington & Co., Inc.; Port Everglades Terminal Co.; Shaw Co. (a division of Luckenbach Steamship Co., Inc.); and Strachan Shipping Co., provides for the creation of an association to be known as Port Everglades Freight Handlers (PEFH) to govern the parties' operations at Port Everglades, Fla. The agreement provides for the parties to: (1) Agree upon and establish rates and charges for freight handling and all services, facilities, rates, and charges incidental thereto; (2) agree upon and establish tariffs, tariff amendments, and supplements; (3) make rules and regulations relating to freight handling and all services, facilities, rates, and charges incidental thereto; and (4) keep such records and statistics as may be required by the parties or deemed helpful to their interest. Port Everglades Freight Handlers will file with the Commission all tariffs, rates, charges, classifications, rules, regulations, and changes thereto adopted pursuant to the agreement. All changes in the PEFH tariff will become effective after 30 days' notice to the public, unless good cause exists for a change on shorter notice. Admission to PEFH is open to any company holding a valid Port Everglades freight handling license upon a majority vote of the members of the PEFH.

Dated: March 29, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-5095 Filed 4-3-72;8:49 am]

PORT OF HOUSTON AUTHORITY AND TERMINAL SERVICES HOUSTON, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street, NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Robert Eikel, Esq., Eikel & Davey, 1442 Esperson Building, Houston, Tex. 77002.

Agreement No. T-2445-1, between the Port of Houston Authority (Port) and Terminal Services Houston, Inc. (TSH), amends the basic agreement which provides for the lease to TSH of a public container marshaling yard. Under the terms of the amendment, Port will lease to TSH a container crane for operation on a nondiscriminatory basis in accordance with established practices and priorities in the Port of Houston, subject to the direction and assignment of the Port. Rates to be charged the public for hire of the crane will be published in the Port's applicable tariff.

Dated: March 29, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-5097 Filed 4-3-72;8:49 am]

PORT OF OAKLAND AND SEATRAIN TERMINALS OF CALIFORNIA, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La. and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. J. Kerwin Rooney, Port Attorney, Port of Oakland, 66 Jack London Square, Post Office Box 2064, Oakland, CA 94607.

Agreement No. T-2605, between the Port of Oakland (Port) and Seatrain Terminals of California, Inc. (Seatrain), provides for the nonexclusive preferential assignment to Seatrain of three parcels of land (aggregating 15.6507 acres) adjoining the facility leased to Seatrain by the Port under Agreement No. T-2480. The primary uses of the facility are the (1) docking, mooring, and berthing of Seatrain vessels; (2) docking, mooring, and berthing of any other vessels (including barges) when cargo moving over the facility to or from such vessels is either transferred to such vessels from Seatrain vessels or is transferred to Seatrain vessels from such other vessels; (3) receipt, handling, loading, unloading, storage, and delivery of cargo and containers; (4) operation and maintenance of container facilities and warehouses; and (5) uses incidental to any of the above functions. Secondary use of the premises is to cover all use in connection with vessels and cargo not included in the above definition of primary use, and is granted to the Port and its designees to the extent that it does not interfere with Seatrain's operations. Seatrain is also granted the right to permit the limited secondary use of the premises by its designees, provided that all dockage, wharfage, wharf demurrage, wharf storage, and crane rental charges (terminal charges) in accordance with the Port's Tariff will accrue to the Port. The agreement provides that all terminal charges received from secondary users will be apportioned equally between the Port and Seatrain, with Seatrain's portion to be deposited in the principal and interest fund established under FMC Agreement No. T-2480, such amount to be applied to reduce the annual base rental paid by Seatrain to the Port pursuant to the terms of Agreement No. T-2480. Initial monthly land rental is $10,028.37 and will increase to $12,953.17 upon addition of Parcel B to the assigned premises. In addition, improvement rentals shall commence upon the completion of improvements to the premises and shall be based upon the total cost for the improvements. Seatrain will also reimburse the Port for the cost of maintenance and maintenance dredging performed by the Port. The land rental for the facility is to be increased by a sum equal to 12½ percent of the land rentals during the preceding 5-year period at the end of the fifth, 10th, 20th, 25th years of the agreement's term. As improvements to the facility, the Port is to construct a 200-foot section of wharf with utilities and crane rails, dredge a 110-foot-wide

berth adjacent to the wharf, and install fencing, paving, utilities, yard lighting, and striping.

Dated: March 29, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-5096 Filed 4-3-72;8:49 am]

ZIM ISRAEL CO., LTD., AND INTERNATIONAL TRANSPORTATION SERVICE, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularily. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

K. Abe, President, International Transportation Service, Inc., 1281 Pier J Avenue, Long Beach, CA 90802.

Agreement No. T-2615, between Zim Israel Navigation Co., Ltd. (Zim) and International Transportation Service, Inc. (ITC), is a Container Stevedoring and Terminal Freight Station Service Agreement whereby ITC will perform stevedoring and terminal services for Zim in accordance with rates which are agreed to by the parties and filed with the Federal Maritime Commission. The services to be performed by ITC are set forth in the agreement.

Dated: March 29, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-5098 Filed 4-3-72;8:49 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by section 11(p)(1) of the Federal Water Pollution Control Act, as amended, and, accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

Certificate No.	*Owner/operator and vessels*
01466---	Common Brothers (Management), Ltd.:
	Caribbean Progress.
01479---	General Shipping Co., Ltd.:
	General Aguinaldo.
	General Lim.
01755---	Hugo Stinnes Zweigniederlassung Hamburg:
	Schirokko.
	Volta Vision.
01892---	Michigan Tankers, Inc.:
	Detroit.
01894---	Aktiebolaget Svenska Amerika Linien:
	Mont Royal.
02039---	Gryf Deep Sea Fishing Co., Szczecin, Poland:
	Halniak.
02210---	American Mail Line, Ltd.:
	Philippine Mail.
02330---	Oriental Shipping Corp.:
	Midas Rhein.
	Midas Seine.
	Oriental Empire.
	Caspian Trader.
	Oriental Titan.
	Midas Apollo.
02520---	Northern Petroleum and Bulk Freighters, Ltd.:
	Tyne Bridge.
02548---	Compania Maritima San Basilio S.A.:
	Eurytion.
	Eurysthenes.
	Eurypylus.
02719---	Berwick Bay Transportation Co., Inc.:
	Bill Lueck.
02975---	Venture Shipping (Managers), Ltd.:
	Peace Venture.
	Grace Venture.
03128---	Global Seas, Inc.:
	Tichi.
03129---	Orion Navigation Corp.:
	First Lady.
03158---	Aquarius Navigation Corp.:
	Taktikos.
03169---	Libra Navigation Corp.:
	Kontiki.
03397---	Hilmar Reksten:
	Arrian.
	Hadrian.
03399---	Audun Reksten Rederi A/S:
	Arapride.
03415---	Ghiyoda Kisen K.K.:
	Papyrus Maru.
03422---	Daiwa Kaiun Kabushiki Kaisha:
	Tacoma Maru.
03434---	Hoko Suisan K.K.:
	Ebisu Maru.
	Shintoku Maru No. 26.
03436---	Iino Kaiun K.K.:
	Toho Maru.
03453---	Kyosei Kisen Kabushiki Kaisha:
	Seikou Maru.
03475---	Nissho Kisen K.K.:
	Nichio Maru.
	Nichiju Maru.
03480---	Osaka Senpaku K.K.:
	Akagisan Maru.
03489---	Sanwa Shosen K.K.:
	Oji Maru.
03518---	Tokyo Senpaku K.K.:
	Tjirebon Maru.
	Kyoto Maru.
	Djakarta Maru.
	Bandung Maru.
	Nagoya Maru.
	Surabaya Maru.
	Semarang Maru.
03561---	Skibsaktieselskapet "Solvang":
	Concordia Fjell.
03674---	City Ice and Fuel of Point Pleasant, Inc.:
	OR-134.
03692---	Marmac Corp.:
	Sinclair-8.
04091---	H. R & W Marine Corp.:
	IFS-209.
	MCD-1041.
	SF-11.
04173---	Foss Launch & Tug Co.:
	Henry Foss.
04183---	Vita Food Products Inc., Aleutian King Crab:
	Vita.
04433---	Allied Chemical Corp.:
	MG23.
	MG24.
04601---	American Tunaboat Association:
	Saratoga.
	Elizabeth C.J.
	Courageous.
04624---	Ketchikan Pulp Co.:
	KP-10.
04625---	American Commercial Lines, Inc.:
	Wilbur Mills.
	Chem 402.
04770---	Texaco Panama Inc.:
	Texaco Darien.
05004---	Flowers Transportation, Inc.:
	Magnolia.
05046---	Magnolia Marine Transport Co.:
	MM-8.
	MM-7.
05100---	Coral Petroleum Co., Ltd.:
	Esso Centam.
05405---	Linea Amazonica S.A.:
	Atahualpa.
05471---	Belcher Oil Co.:
	Ceco 2501.
05630---	Newport News Shipbuilding & Dry Dock Co.:
	Narrows No. 1.
	Narrows No. 2.
05740---	Fina France:
	Fina-Canada.
05754---	A. E. Sorensen A/S:
	Elin S.
	Renate S.
06013---	Osaka Asahi Kaiun Kabushiki Kaisha:
	Nanyo Maru.
06042---	Luzon Stevedoring Corp.:
	Stanford.
	Viking.
	L-1906.
06053---	Nissen & Co. KG.:
	Cap Breton.
06172---	Mercandia Chartering, Copenhagen:
	Merc Maris.
	Merc Enterprise.
06248---	Commercial Corp. "Sovrybflot":
	Shantar.
	Yantar.
06346---	Celomar Compania Naviera S.A. of Panama:
	Athena.
06358---	Zeta Fishing Co., Inc.:
	Eileen M.
06369---	Spartan Endeavour Shipping Co., Ltd.:
	Tachys.
06370---	Pisces Navigation Corp.:
	Tekton.

Certificate No.	Owner/operator and vessels
06371	Aires Navigation Corp.: Tropis.
06372	Achernar Navigation Corp.: Techni.
06472	Taiheiyo Kisen Kaisha, Ltd.: Shinryu Maru.
06499	Koshin Kaiun K.K.: Kosei Maru.
06522	Alioth Navigation Corp.: Pola N.
06523	Acamar Navigation Corp.: Despina N.
06524	Aldebaran Navigation Corp.: Trias.
06526	Bellatrix Navigation Corp.: Angelica.
06527	Eltanin Navigation Corp.: Sandra N.
06529	Capella Navigation Corp.: Mersinidi.
06530	Markab Navigation Corp.: Maria K.
06531	Denebola Navigation Corp.: Semira.
06610	N.J. Vardinoyannis: Vardis V.
06643	Terminal Installations Inc. at Monrovia (Liberia): Installer I.
06653	Franz Scheldbauer: Murtal.
06654	Nelson Shipping: Inntal.
06655	Friederick Glatz Ohg: Donautal.
06670	Swiftsure Towing Co. Ltd.: Forest Prince.
06701	Mary C Transportation Co.: Trinity. Curtis Jr. Hirim King.
06702	Jean D. Towing Co.: Shasta. Rainier. Shavano.
06708	Cia Fuji De Navegacion S.A.: Tachibana.
06716	Golden Agiogalusena Steamship, Inc.: Golden Chariot.
06733	Western Sealanes Corp.: Pythia.
06749	Antares Ocean Transport, Ltd.: M/T Maraki.
06755	Tonin Shipping Corp.: Tonin.
06757	Adelais Maritime Co., Ltd.: Aegis Dignity.:
06758	Avlon Shipping Co., Lt.: Aegis Myth.
06761	Sinclair Memphis Marine Service, Inc.: Sinclair-St. Louis. Sinclair 17. Sinclair 9. Sinclair 16. Arco 7.
06762	Voyager, Inc.: M/V Voyager.
06767	Northsea Shipping Co., Ltd.: Arietta Livanos.
06772	Nagasaki-Ken: Chosui-Maru.
06773	Kaga Gyogyo: Kaijin Maru No. 28.
06775	Whitco (Marine Services) Ltd.: Gladiola. Orchidea. Orange. Lapland. Glasgow Clipper. Edinburgh Clipper.
06783	Jacob Compania Naviera S.A.: Barbadinos.
06784	R.M.P. Liberia, Inc.: M/Y Pegasus II.
06785	Universal Enterprise, Inc.: Oriental Ace. Oriental Charger. Oriental Destiny.
06786	Incaica Compania Armadora S.A.: Orestia.
06802	Wealth Carriers, Inc.: Wealth Venture.
06803	Quintessence Navigation S.A.: Quintessence.
06805	Spartan Pride Shipping Co., Ltd.: Aris.
06806	Korea Marine Transport Co., Ltd.: Pagoda.
06807	Compania Maritima Laconia, Ltd.: Spartan Lady.
06808	Eternity Carriers, Inc.: Nego Venture.
06809	Liberian Achilles Transports, Inc.: Asia Lark.
06826	Ajita-Prefectural Government: Funakawa-Maru.
06834	Hongkong Steamship Co., Ltd.: Sea Pioneer.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72-5115 Filed 4-3-72;8:50 am]

FEDERAL RESERVE SYSTEM

AFFILIATED BANKSHARES OF COLORADO, INC.

Acquisition of Bank

Affiliated Bankshares of Colorado, Inc., Boulder, Colo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of University National Bank of Fort Collins, Fort Collins, Colo. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 21, 1972.

Board of Governors of the Federal Reserve System, March 29, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-5049 Filed 4-3-72;8:45 am]

UB FINANCIAL CORP.

Order Approving Retention of H. S. Pickrell Co.

UB Financial Corp., Phoenix, Ariz., a bank holding company within the meaning of the Bank Holding Company Act of 1956, as amended, has applied for the Board's approval under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to retain all of the voting shares of H. S. Pickrell Co., Phoenix, Ariz. Said shares were purchased by applicant in May 1970, and under the provisions of section 4(a)(2) of the Act may not be retained beyond December 31, 1980, without prior Board approval. Notice of the application affording opportunity for interested persons to submit comments and views was duly published. Time for filing comments and views has expired and none have been received.

Applicant owns the United Bank of Arizona (Bank), Phoenix, the sixth largest bank in Arizona. Bank's total deposits of $130.6 million represent 3.4 percent of all commercial bank deposits in the State.[1] Bank is engaged in the business of originating mortgage loans for its own account, consisting primarily of conventional residential mortgages and shorter term commercial mortgages. In 1970, Bank originated $231 thousand in conventional single-family residential loans, and $3.7 million in commercial real estate loans. Its mortgage servicing portfolio of $12.7 million represented the total volume of real estate loans serviced for its own account. Bank does not service loans for others.

H. S. Pickrell Co. is engaged in the business of originating and servicing mortgage loans through its head office in Phoenix and one branch located in Tucson, Ariz. In 1969, its last full year of operation as an independent mortgage company, it originated $10.5 million in residential mortgages (all FHA or VA loans). In 1970, this volume increased to $14.6 million. Its commercial loan originations have fluctuated between $8.1 million in 1968; $3.6 million in 1969; and $17 million in 1970. H. S. Pickrell Co.'s total mortgage originations in the Phoenix area in 1970 accounted for 3.2 percent of all mortgages recorded in the Phoenix market, while those of applicant accounted for less than 0.4 percent. Based upon a mortgage servicing portfolio of $125 million,[2] H. S. Pickrell Co. ranks as the 167th largest mortgage banking company in the country.

The Board concludes that applicant's proposed retention of H. S. Pickrell Co. would have no adverse effects on competition, as neither institution has more than a minor share of the mortgage banking business in any local market in Arizona, or in the State as a whole. Nor is there anything in the record to indicate that the proposed retention would lead to an undue concentration of resources, conflicts of interests, or unsound banking practices. To the contrary, it appears that the public would benefit from the strengthening of H. S. Pickrell Co. through the continuance of its enhanced ability to offer larger lines of credit to its customers, and to compete more effectively with the larger financial institutions in the State. These public benefits clearly outweigh any possible adverse effects on competition.

In addition to engaging in the activity of mortgage banking, applicant seeks permission to retain H. S. Pickrell Co. for the purpose of: (1) Engaging in the

[1] Deposit data as of June 30, 1971.
[2] Servicing portfolio as of June 30, 1971.

purchase and sale of land, and (2) acting as a joint venturer in real estate development. It appears that H. S. Pickrell is not currently engaged in any real estate joint ventures but in June 1971, it purchased 19 acres of land, which it subsequently subdivided and improved and has contracted to sell to an independent builder. Such land development activity was not then and is not now permissible for bank holding companies. The Board is of the opinion that the activities of purchasing and selling of land or participating as a joint venturer in real estate development are not so closely related to banking as to be a proper incident thereto, and that insofar as the application pertains to these activities, it should be denied.

Based upon the foregoing and other considerations reflected in the record, the application is approved provided that H. S. Pickrell Co. shall not engage in the activities of purchasing and selling land or participating in real estate joint ventures. This approval is subject further to the Board's authority is to require reports by and make examinations of, holding companies and their subsidiaries and to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[3] March 28, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-5117 Filed 4-3-72;8:51 am]

SECURITIES AND EXCHANGE COMMISSION

[70-5176]

COLUMBIA GAS SYSTEM, INC.

Notice of Proposed Intrasystem Financing

MARCH 27, 1972.

Notice is hereby given that the Columbia Gas System, Inc., 20 Montchanin Road, Wilmington, DE 19807 (Columbia), a registered holding company, and its above-named wholly owned subsidiary companies (hereinafter referred to as "Columbia of W. Va.", "Columbia of Ky.", "Columbia of Va.", "Columbia of Ohio", "Ohio Valley", "Preston", "Columbia of Pa.", "Columbia Transmission", "Columbia of N.Y.", "Columbia of Md.", "Hydrocarbon", "Columbia LNG", "Coal Gasification", "Columbia Gulf", "Columbia Development", and "Development Canada") have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 6(b), 7, 9(a), 10, 12(b), and 12(f) of the Act and Rules 43 and 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration which is summarized below, for a complete statement of the proposed transactions.

The subsidiary companies propose to issue and sell, and Columbia proposes to acquire, prior to April 1, 1973 (a) unsecured installment notes not in excess of the respective amounts set forth below and (b) common stock, at the par value, in the respective amounts set forth below. Columbia also proposes to advance on open account to certain of the subsidiary companies, from time to time during 1972, up to the respective amounts set forth below:

	Advances	Common stock	Installment notes
Columbia of W. Va.	$3,100,000	$10,000,000	$2,400,000
Columbia of Ky.	2,400,000		1,225,000
Columbia of Va.	600,000		475,000
Columbia LNG		19,300,000	23,600,000
Development Canada		24,100,000	
Hydrocarbon			350,000
Columbia Transmission	53,700,000	20,500,000	19,500,000
Columbia of Ohio	19,000,000		7,650,000
Ohio Valley	1,000,000	493,200	
Preston		1,000,000	
Columbia of Pa.	4,400,000		5,800,000
Columbia of N.Y.	500,000		1,700,000
Columbia of Md.	300,000		100,000
Columbia Gulf			6,000,000
Columbia Development		29,000,000	21,500,000
Coal Gasification		6,500,000	
Total	85,000,000	110,893,200	90,300,000

The subsidiary companies will use the proceeds from the issue and sale of their notes and common stock to finance a part of their respective construction programs, which, in the aggregate, are estimated for 1972 to require expenditures of $260,083,200. The proceeds of the open account advances will be used by the subsidiary companies to finance the purchase of Winter Service gas, current inventories and other short-term seasonal purposes.

The installment notes will be acquired no later than March 31, 1973, will be dated when issued, will, except in the case of Columbia LNG, be payable in twenty-five (25) equal annual installments on May 31, of each of the years 1974–98, inclusive, and may be prepaid at any time, in whole or in part, without premium. The Installment Notes issued by Columbia LNG for financing the Green Springs, Ohio, reformed gas facility, in the amount of $16 million will be due in ten (10) equal annual installments on April 1st of each of the years 1975 to 1984, inclusive. Columbia LNG Installment Notes for the Cove Point, Md., storage and regasification facility, in the amount of $7,600,000, will be due in twenty (20) equal annual installments on October 1st of each of the years 1977 to 1996, inclusive. Interest on all of the notes will accrue from the date of issue and is to be paid semiannually on the unpaid principal balance. The interest rate will be the actual cost of money to Columbia with respect to its last sale of debentures prior to the issuance of said notes, decreased by an amount necessary in order that the interest rate be a multiple of one-tenth of 1 percent.

The proposed open account advances will be made by Columbia from time to time during 1972 and will be paid by the subsidiary companies in three equal installments on February 23, March 23, and April 25, 1973. The open account advances will initially bear interest at the prime commercial bank rate in effect from time to time at Morgan Guaranty Trust Company of New York. The interest charges will be adjusted, after the storage financing period, to the effective interest cost Columbia achieves on its short-term borrowing for this purpose.

The expenses to be paid by Columbia and by the subsidiary companies in connection with the proposed transactions are estimated at $8,520, including legal fees of $600.

The application-declaration states that the following State commissions have jurisdiction over certain of the proposed transactions: The Pennsylvania Public Utility Commission, the Public Service Commission of West Virginia, the Public Utilities Commission of Ohio, the State Corporation Commission of Virginia, the Kentucky Public Service Commission, and the New York Public Service Commission. It is also stated that the orders of said commissions will be filed with this Commission by amendment. No other State commission and no Federal commission, other than this Commission, is stated to have jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 20, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

[3] Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Brimmer, and Sheehan. Absent and not voting: Governors Daane and Maisel.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-5020 Filed 4-3-72;8:45 am]

[70-5178]

POTOMAC EDISON CO., ET AL.

Notice of Proposed Increase in Authorized Capital Stock and Issue and Sale of Common Stock by Subsidiary Companies, and Acquisition and Pledge Thereof by Holding Company

MARCH 29, 1972.

Notice is hereby given that the Potomac Edison Co., Downsville Pike, Hagerstown, Md. 21740 (Potomac Edison), an electric utility company and a registered holding company, and its subsidiary companies, the Potomac Edison, Company of Pennsylvania (PE-Pa.), the Potomac Edison Company of Virginia (PE-Va.), and the Potomac Edison Company of West Virginia (PE-W. Va.), have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6, 7, 9, 10, and 12 of the Act and Rules 43 and 44 promulgated thereunder as applicable to the proposed transactions. Potomac Edison is a subsidiary company of Allegheny Power System, Inc., also a registered holding company. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

PE-Pa. proposes to amend its charter to increase the authorized shares of its capital stock by the number shown below; PE-Pa., PE-Va., and PE-W. Va. (Subsidiary Companies) propose to issue and sell additional shares of their authorized and unissued capital stocks; and Potomac Edison proposes to acquire such shares, in each case in the amounts and for the consideration shown below:

Subsidiary company and title of issue	Proposed increase in authorized shares	Proposed issuance of shares	Cash consideration
PE-Pa.: Capital stock, no par, stated value $5 per share	160,000	240,000	$1,200,000
PE-Va.: Common stock, par value $100 per share		17,000	1,700,000
PE-W. Va.: Common stock, par value $100 per share		7,000	700,000

The application-declaration states that funds derived from the proposed issuance and sale of capital stock will be used by each of the Subsidiary Companies to finance necesary property additions and improvements. Construction expenditures for 1972 are estimated to be $2,041,000 for PE-Pa., $3,140,000 for PE-Va., and $2,362,000 for PE-W. Va.

Potomac Edison now owns all the outstanding shares of capital stock of each of the Subsidiary Companies, and such shares are pledged under the Indenture of Potomac Edison dated as of October 1, 1944, as supplemented, securing its First Mortgage and Collateral Trust Bonds. The filing states that the additional shares proposed to be acquired by Potomac Edison will be issued by the Subsidiary Companies from time to time as necessary prior to December 31, 1972, and on issuance will be pledged by Potomac Edison under said indenture in accordance with the requirements thereof.

The application-declaration states that the Pennsylvania Public Utility Commission has jurisdiction over the issuance of the stock of PE-Pa.; the State Corporation Commission of Virginia has jurisdiction over the issuance and acquisition of the stock of PE-Va.; and the Public Service Commission of West Virginia has or asserts jurisdiction over the acquisition of the stocks of the Subsidiary Companies. Appropriate orders of these Commissions are to be filed by amendment. The fees and expenses to be incurred in connection with the proposed transactions are estimated to be $4,300, including legal fees of $300.

Notice is further given that any interested person may, not later than April 20, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-5119 Filed 4-3-72;8:51 am]

[File No. 500-1]

TOPPER CORP.

Order Suspending Trading

MARCH 29, 1972.

The common stock, $1 par value, of Topper Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Topper Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period March 30, 1972 through April 8, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-5120 Filed 4-3-72;8:51 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 4.4-1 (Region II) for Disaster No. 890]

MANAGER, BUFFALO BRANCH OFFICE

Redelegation of Authority

I. Pursuant to the authority delegated to the District Director by Delegation of Authority No. 4.4 (Revision No. 1) 36 F.R. 7291, the following authority is hereby redelegated to the positions as indicated herein for purposes of Class B Disaster No. 890 resulting from flooding in West Seneca, Erie County and Sunset Bay Area of Chautauqua County, N.Y.

A. Manager, Buffalo Branch Office to decline direct disaster and immediate participation disaster loans in any amount and to approve such loans up to the total SBA funds of (I) $10,000 per household for repairs or replacement of the home and/or not to exceed an additional $5,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $15,000 for a single disaster on home loans; and (II) $25,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan.

II. To decline disaster guaranteed loans in any amount and to approve such loans up to an SBA guaranty of the following amount: $25,000.

III. The authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

IV. The authority delegated herein may not be redelegated.

Effective date: March 23, 1972.

J. WILSON HARRISON,
District Director,
Syracuse District Director.

[FR Doc. 72-5088 Filed 4-3-72;8:48 am]

[Declaration of Disaster Loan Area 893; Class B]

ILLINOIS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of March 1972, because of the effects of a certain disaster, damage resulted to homes located in Illinois;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitutes a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Assistant Administrator for Administration and Operations 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 whose property situated in the town of Mahomet, Ill., suffered damage or destruction resulting from a hail and windstorm occurring on March 12, 1972.

OFFICE

Small Business Administration Branch Office, Ridgely Building, Room 816, 502 East Monroe Street, Springfield, IL 62701.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to September 30, 1972.

Dated: March 22, 1972.

CLAUDE ALEXANDER,
Assistant Administrator for Administration and Operations.

[FR Doc.72-5087 Filed 4-3-72;8:48 am]

[Declaration of Disaster Loan Area 892; Class B]

NEW HAMPSHIRE

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of March 1972, because of the effects of certain disasters damage resulted to business property located in the State of New Hampshire;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitutes a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Assistant Administrator for Administration and Operations 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 offices below indicated from persons or firms whose property situated in the town of Rochester, N.H., suffered damage or destruction resulting from fire on March 9, 1972.

OFFICE

Small Business Administration District Office, 55 Pleasant Street, Concord, NH 03301.

2. A temporary office will be established in the Mayor's Office Council Chamber, Rochester, N.H.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to September 30, 1972.

Dated: March 22, 1972.

CLAUDE ALEXANDER,
Assistant Administrator for Administration and Operations.

[FR Doc.72-5086 Filed 4-3-72;8:48 am]

[Declaration of Disaster Loan Area 891; Class B]

NORTH DAKOTA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of March 1972, because of the effects of a certain disaster, damage resulted to homes located in North Dakota;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitutes a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Assistant Administrator for Administration and Operations 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 whose property situated in the county of Mercer, N.D., suffered damage or destruction resulting from floods occurring during the week of March 13, 1972.

OFFICE

Small Business Administration District Office, Federal Office Building, Room 218, 635 Second Avenue North, Fargo, ND 58102.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to September 30, 1972.

Dated: March 20, 1972.

CLAUDE ALEXANDER,
Assistant Administrator for Administration and Operations.

[FR Doc.72-5050 Filed 4-3-72;8:45 am]

TARIFF COMMISSION

[337-L-49]

ELECTRONIC PIANOS

Notice of Complaint Received

The U.S. Tariff Commission hereby gives notice of the receipt on March 6, 1972, of a complaint under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), filed by the Wurlitzer Co. of Chicago, Ill., alleging unfair methods of competition and unfair acts in the importation and sale of electronic pianos embraced within the claims of U.S. Patents Nos. 3,038,363; 2,942,512; 2,949,053; 3,154,997, owned by the complainant. Electrokey, Inc., Rhythm Band, Inc., and Tommy Moore of 1212 East Lancaster, Fort Worth, Tex., and the Chicago Musical Instrument Co. of 7373 West Cicero, Lincolnwood, Ill., have been named as importers of the subject products.

In accordance with the provisions of § 203.3 of its rules of practice and procedure (19 CFR 203.3), the Commission has initiated a preliminary inquiry into the allegations of the complaint for the purpose of determining whether there is good and sufficient reason for a full investigation.

A copy of the complaint is available for public inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC 20436, and at the New York Office of the Tariff Commission located in room 437 of the Customhouse.

Information submitted by interested persons which is pertinent to the aforementioned preliminary inquiry will be considered by the Commission if it is received not later than May 1, 1972. Such information should be sent to the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC 20436. A signed original and nineteen (19) true copies of each document must be filed.

Issued: March 30, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-5123 Filed 4-3-72;8:51 am]

[TEA-W-137]

KAYSER-ROTH CORP.

Workers' Petition for a Determination; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers of the Kayser-Roth Corp., Burlington,

N.C., the U.S. Tariff Commission, on March 29, 1972, instituted an investigation under section 301(c)(2) of the act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with panty hose (of the types provided for in item No. 382.78 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such company, or an appropriate subdivision thereof.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, 8th and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in room 437 of the Customhouse.

Issued: March 30, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-5125 Filed 4-3-72;8:51 am]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATE AUTHORIZING EMPLOYMENT OF LEARNERS AT SPECIAL MINIMUM WAGES

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.) and Administrative Order No. 621 (36 F.R. 12819) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.20 to 522.25, as amended).

The following normal labor turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

C & J Manufacturing Co., Eastman, Ga.; 1-22-72 to 1-21-73 (boys' shirts).

Collinwood Manufacturing Co., Collinwood, Tenn.; 1-19-72 to 1-18-73 (women's and men's washable service garments).

Corbin, Ltd., Huntington, W. Va.; 1-22-72 to 1-21-73 (men's trousers).

Donlin Sportswear, Inc., New Tazewell, Tenn.; 1-27-72 to 1-26-73. (men's sport shirts).

East Salem Manufacturing Co., Mifflintown, Pa.; 12-28-71 to 12-27-72. (women's blouses).

Edric Manufacturing Corp., Columbia, Tenn.; 12-30-71 to 12-29-72 (men's shirts).

Edward Hyman Co., Hazlehurst, Miss.; 1-27-72 to 1-26-73 (men's work shirts, coveralls, and pants).

Flushing Shirt Manufacturing Co., Inc., Grantsville, Md.; 1-11-72 to 1-10-73 (men's shirts).

Fordham-Bardell Shirt Corp., Livingston, Tenn.; 12-31-71 to 12-30-72 (men's shirts).

Garan, Inc., Starkville, Miss.; 1-3-72 to 1-2-73 (juveniles' knit shirts and infants' wear).

Guntown Slacks, Inc., Guntown, Miss.; 1-12-72 to 1-11-73 (men's and boys' slacks).

Henry I. Siegel Co., Inc., Trezevant, Tenn.; 12-26-71 to 12-25-72 (men's and boys' pants).

Johnsonville Manufacturing Co., Johnsonville, S.C.; 1-21-72 to 1-20-73 (ladies' jeans).

L & H Shirt Co., Cochran, Ga.; 1-22-72 to 1-21-73 (boys' shirts).

The H. D. Lee Co., Inc., Boaz, Ala.; 1-3-72 to 1-2-73 (men's and boys' pants and work clothing).

Marcus Manufacturing Co., Nowata, Okla.; 1-18-72 to 1-17-73 (men's slacks).

Oshkosh B'Gosh, Inc., Columbia, Ky.; 1-22-72 to 1-11-73 (men's and boys' work clothing).

Princess Kent, Inc., Fort Kent, Maine; 1-15-72 to 1-14-73; 10 learners (children's nightwear).

Publix Tenn Corp., Huntingdon, Tenn.; 1-12-72 to 1-11-73 (men's and boys' shirts).

Punxy Sportswear Co., Inc., Punxsutawney, Pa.; 12-22-71 to 12-21-72 (misses' and women's slacks and blouses).

Richfield Manufacturing Co., Richfield, Pa.; 12-28-71 to 12-27-72 (men's and boys' dress and sport shirts).

Ridgely Manufacturing Co., Inc., Ridgely, Tenn.; 1-11-72 to 1-10-73 (men's car coats and field jackets).

Royal Manufacturing Co., Inc., Sandersville, Ga.; 12-26-71 to 12-25-72 (women's blouses and children's shirts).

Salant & Salant, Lawrenceburg, Tenn.; 1-20-72 to 1-19-73 (men's and boys' shirts and jackets).

Salant & Salant, Loretto, Tenn.; 1-20-72 to 1-19-73 (men's and boys' pants).

Salant & Salant, Parsons, Tenn.; 1-16-72 to 1-15-73 (men's pants).

Stein-Way Clothing Co., Inc., Johnson City, Tenn.; 12-21-71 to 12-20-72 (men's and boys' trousers and shorts).

W. E. Stephens Manufacturing Co., Inc., Pulaski, Tenn.; 1-5-72 to 1-4-73; 10 learners (men's and boys' work and sport pants).

W. E. Stephens Manufacturing Co., Inc., Watertown, Tenn.; 1-14-72 to 1-13-73; 10 learners (men's and boys' pants and work shirts).

Stitchcraft, Inc., Athens, Ga.; 1-25-72 to 1-24-73; 10 learners (ladies' dresses)

Vernon Manufacturing Co., Inc., Vernon, Tex.; 12-31-71 to 12-30-72 (men's and boys' trousers and shorts).

Warner's, Marianna, Fla.; 12-28-71 to 12-27-72 (women's corsets and brassieres).

Warner's, Moultrie, Ga.; 1-5-72 to 1-4-73 (women's corsets and brassieres).

Wilker Bros. Co., Inc., McKenzie, Tenn.; 1-17-72 to 1-16-73 (men's and boys' pajamas).

The following plant expansion certificates were issued authorizing the number of learners indicated.

Coatesville Garment Co., Coatesville, Pa.; 1-12-72 to 7-11-72; 5 learners, (ladies' dresses and pants suits).

Eudora Garment Corp., Eudora, Ark.; 1-6-72 to 7-5-72; 100 learners (washable service apparel and work clothing).

Kellwood Co., Grenada, Miss.; 12-28-71 to 6-27-72; 50 learners (boys' jeans).

Kellwood Co., Frederick, Okla.; 1-3-72 to 7-2-72; 50 learners (boys' jeans).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.60 to 522.65, as amended).

Indianapolis Glove Co., Inc., Mount Ida, Ark.; 1-22-72 to 1-21-73; 10 percent of the total number of machine stitchers for normal labor turnover purposes (work gloves).

Monte Glove Co., Pheba, Miss.; 1-14-72 to 1-13-73; 10 learners for normal labor turnover purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.40 to 522.43, as amended).

Danville Knitting Mills, Danville, Va.; 1-4-72 to 1-3-73; 5 percent of the total number of factory production workers for normal labor turnover purposes (boys' seamless hosiery).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended and 29 CFR 522.30 to 522.35, as amended).

Sylvester Textile Corp., Sylvester, Ga.; 1-20-72 to 1-19-73; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' lingerie, sleepwear, and loungewear).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 15 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR Part 528.

Signed at Washington, D.C., this 24th day of March 1972.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc.72-5116 Filed 4-3-72;8:50 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

MARCH 30, 1972.

Cases assigned for hearing, postponement, cancellation or oral argument ap-

pear 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 55429, Air-Freight Trucking Service, Inc., and MC 66101 Sub 1, Aft Services, Inc., now being assigned hearing June 8, 1972, at New York, N.Y., in a hearing room to be later designated.

MC 107515 Sub 764, Refrigerated Transport Co., Inc., now being assigned hearing June 6, 1972, at New York, N.Y., in a hearing room to be later designated.

MC 117940 Sub 59, Nationwide Carriers, Inc., now being assigned hearing June 5, 1972, at New York, N.Y., in a hearing room to be later designated.

FD 26950, Baltimore & Ohio Railroad Co., abandonment portion of its Midvale Branch, between Monroe and Midvale, in Randolph and Barbour Counties, W. Va., now being assigned hearing June 12, 1972, at Elkins, W. Va., in a hearing room to be later designated.

I & S No. 8707, Refrigeration Provisions, Florida East Coast Railway now being assigned hearing May 16, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

FD 26904, Seaboard Coast Line Railroad Co., abandonment between Garland and Hanover, in Sampson, Pender, and New Hanover Counties, N.C., now being assigned hearing June 12, 1972, at Wilmington, N.C., in a hearing room to be later designated.

MC 123613 Sub 9, Claremont Motor Lines, Inc., now being assigned hearing June 14, 1972, at Charlotte, N.C., in a hearing room to be later designated.

MC 44053 Sub 6, Towne Services Household Goods Transportation Co., Inc., now being assigned hearing June 12, 1972, at Dallas, Tex., in a hearing room to be later designated.

NO. 35085, Edward S. Watts et al., V-Missouri-Kansas-Texas Railroad Co., now being assigned hearing June 19, 1972, at Dallas, Tex., in a hearing room to be later designated.

FD 13273 Sub 2, in the matter of the application of E. Spencer Miller under section 20a(12) of the Interstate Commerce Act, now being assigned hearing June 19, 1972, at Portland, Maine, in a hearing room to be later designated.

FD 26564, Penn Central Transportation Co. (George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirts, Trustees) abandonment southbridge branch between West Dudley and Southbridge, Worcester County, Mass., now being assigned hearing June 12, 1972, at Southbridge, Mass., in a hearing room to be later designated.

MC-F-11292, Trans-World Movers, Inc.—Purchase (Portion)—R. M. Ormes Transportation, Inc., now being assigned hearing June 15, 1972, at Boston, Mass., in a hearing room to be later designated.

MC-C-7377, J. J. Sullivan The Mover, Inc.—Revocation of Certificate now being assigned hearing June 14, 1972, at Boston, Mass., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 72-5139 Filed 4-3-72;8:52 am]

FOURTH SECTION APPLICATION FOR RELIEF

MARCH 30, 1972.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42392—*Beet or cane sugar from points in Montana and WTL territories.* Filed by Western Trunk Line Committee, Agent (No. A-2661), for interested rail carriers. Rates on sugar, beet or cane, dry, in bulk, in carloads, as described in the application, from points in Montana and western trunkline territories, to points in Illinois, Indiana, Missouri, and Wisconsin.

Grounds for relief—Market competition and rate relationship.

Tariffs—Supplement 126 to Western Trunk Line Committee, agent, tariff ICC A-4481, and two other schedules named in the application. Rates are published to become effective on May 3, 1972.

By the Commission

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-5140 Filed 4-3-72;8:52 am]

[Notice 46]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 29, 1972.

The following are notices of filing of applications[1] for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

[1] Except as otherwise specifically noted, each applicant (on applications filed after Mar. 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

MOTOR CARRIERS OF PROPERTY

No. MC 20793 (Sub-No. 45 TA), filed March 15, 1972. Applicant: WAGNER TRUCKING COMPANY, INC., Monmouth Road, Jobstown, NJ 08014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building block*, from Trenton, N.J., to Boston, Mass., and points within the commercial zone of Boston, for 150 days. Supporting shipper: Glazed Products, Inc., Post Office Box 2731, Trenton, NJ 08607. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 74195 (Sub-No. 4 TA), filed March 16, 1972. Applicant: YOUNG AND HAY TRANSPORTING COMPANY, Route No. 3, Post Office Box No. 58, Worthington, MN 56187. Applicant's representative: Charles J. Kimball, 605 South 14th Street, Post Office Box 82028, Lincoln, NB 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, coconut and pineapple*, (1) from Council Bluffs, Iowa to points in Nebraska, North Dakota, South Dakota, Minnesota, and Iowa; (2) from Inver Grove, Minn., to points in Minnesota, Wisconsin, North Dakota, and South Dakota; and (3) from Denver, Colo., to points in Colorado, Nebraska, South Dakota, and Wisconsin. Restriction: Restricted to traffic moving in chassis-mounted containers having a prior or subsequent movement by rail, for 180 days. Supporting shipper: Chiquita Brands, Inc., 1250 Broadway, New York, NY 10001. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building, and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 106674 (Sub-No. 88 TA), filed March 15, 1972. Applicant: SCHILLI MOTOR LINES, INC., Post Office Box 122, Delphi, IN 46923. Applicant's representative: Thomas R. Schilli (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, from (1) Huntington, Ind., to points in Michigan and Ohio; and (2) from Crawfordsville, Ind., to points in Illinois, Michigan, and Ohio, for 180 days. Supporting shipper: Occidental Chemical Co., 4671 Southwest Freeway, Post Office Box 1185, Houston, TX 77001. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, Room 204, 345 West Wayne Street, Fort Wayne, IN 46802.

No. MC 126118 (Sub-No. 14 TA), filed March 16, 1972. Applicant: GEORGE M. HILL, doing business as HILL TRUCKING COMPANY, Route No. 7, Johnson City, Tenn. 37601. Applicant's representative: R. Cameron Rollins, 321 East Center Street, Kingsport, TN 37660. Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Detroit, Mich., to Johnson City and Cookeville, Tenn., for 180 days. NOTE: Applicant does not intend to tack authority here applied for to other authority held by it as indicated on the application. Supporting shippers: Boggs Distributing Co., 400 Steel Street, Johnson City, Tenn.; Whitson Distributing Co., Cookeville, Tenn. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803 1808 West End Building, Nashville, Tenn. 37203.

No. MC 126196 (Sub-No. 7 TA), filed March 15, 1972. Applicant: LUVERNE S. CHRISTENSEN, doing business as CHRISTENSEN TRUCK LINE, 230 East Second, Box 325, Redwood Falls, MN 56283. Applicant's representative: Gene P. Johnson, 514 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer compounds*, dry, in bulk, from Minneapolis, St. Paul, Maplewood, Red Rock, Savage, and Pine Bend, Minn., to points in Iowa and Wisconsin, for 180 days. Supporting Shipper: Midland Cooperatives, Inc., Interstate 694 at Main Street NE., Minneapolis, Minn. 55421. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building, and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 128355 (Sub-No. 10 TA), filed March 20, 1972. Applicant: HURLIMAN TRUCKING COMPANY, Post Office Box 17204, Portland, OR 97127. Applicant's representative: John R. Hamlett, 2200 Erie County Savings Bank Building, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts*, as described in section A and B of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 76 (except commodities in bulk in tank vehicles), from Denison, Des Moines, Fort Dodge, Glenwood, Iowa Falls, Sioux City, Sioux Center, Waterloo, and Spencer, Iowa; Omaha and West Point, Nebr., under a contract wih W. M. Tynan & Co., New York, N.Y., for 180 days. Supporting shipper: W. M. Tynan & Co., 76 Ninth Avenue, New York, NY 10011. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 128575 (Sub-No. 7 TA), filed March 15, 1972. Applicant: GOLDEN WEST TRUCKING CO., 12780 Southwest Prince Albert Street, Tigard, OR 97223. Applicant's representative: M. C. Risser, 1410 Southwest Morrison, Portland, OR 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laminated wood beams, trusses and arches, plywood, groundwood sheets, lumber, timbers, fabricated or not fabricated, and necessary connecting hardware items*, (1) from points in Lane County, Oreg., to points in Washington; and (2) from Snohomish, Lewis, Cowlitz, Skamania, and Clark Counties, Wash., to points in Oregon, for 180 days. Supporting shipper: Al Disdero Lumber Co., 2855 Southeast 15th Avenue, Post Office Box 42247, Portland, Oreg. Send protests to: A. E. Odoms, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, Portland, Oreg.

No. MC 134665 (Sub-No. 4 TA), filed March 20, 1972. Applicant: DWAYNE C. ATKINS, doing business as ATKINS TRUCKING, Post Office Box 4, Tea, SD 57064. Applicant's representative: Charles J. Kimball, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed ingredients*, from points in Cass County, Nebr., Hennepin and Goodhue Counties, Minn., and Woodbury, Webster, Floyd, Hardin, and Linn Counties, Iowa; to the plantsite and storage facilities of Zip Feed Mills, Inc., at or near Huron, S. Dak., for 180 days. Supporting shipper: Zip Feed Mills, Inc., 304 East Eighth, Sioux Falls, SD 57102, Vernon Nordsy, vice president. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 136008 (Sub-No. 2 TA), filed March 15, 1972. Applicant: JOE BROWN COMPANY, INC., 20 Third Street, NE., Ardmore, OK 73401. Applicant's representative: Dale Brown (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed gypsum rock*, in bulk, from the Harrison Gypsum Co., plantsite near Cement, Okla., to Fort Worth and Dallas, Tex., and points within a 5-mile radius thereof, for 180 days. Supporting shipper: M. T. Power, General Traffic Manager, Portland Cement Co., 4400 Republic National Bank Tower, Post Office Box 324, Dallas, Tex. 75221. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 136464 (Sub-No. 1 TA), filed March 20, 1972. Applicant: CAROLINA WESTERN EXPRESS, INC., 650 Eastwood Drive, Gastonia, NC 28052. Applicant's representative: Philip R. Hedrick, Eighth Floor, City National Bank Building, Charlotte, NC 28202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Slide fasteners* (zippers) finished and/or semifinished; *slide fastener parts; miscellaneous materials, supplies or equipment* necessary for the manufacture, sale and distribution of slide fasteners; *sewing thread* on spools, cotton and/or nylon; and *binding, braid, lace, ribbon, tape, webbing* in packaged units of less than 24 continuous yards, under a continuing contract with Talon Division of Textron, for 180 days. Supporting shipper: Talon, Division of Textron, Meadville, Pa. 16335. Send protests to: Frank H. Wait, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 316 East Morehead, Suite 417 (BSR Building), Charlotte, NC 28202.

No. MC 136511 TA, filed March 20, 1972. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, Post Office Box 48, Big Island, VA 24526. Applicant's representative: Frank B. Hand, Jr., The Union Trust Building, 740 15th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, crated, as described in Appendix II to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, from Stanleytown, Va., and West End, N.C., to points in Arizona and California, for 180 days. Supporting shipper: Stanley Furniture Co., Stanleytown, Va. 24168. Send protests to: Clatin M. Harmon, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 215 Campbell Avenue SW., Roanoke, VA 24011.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-5138 Filed 4-3-72;8:52 am]

[Notice 39-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 30, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-73605. By application filed March 27, 1972, FREDERICK DOUGLAS HOLMES, doing business as HARFORD MOTOR COACH CO., 2739-41 Greenmount Avenue, Baltimore, MD, seeks temporary authority to lease the operating rights of HARFORD MOTOR COACH, INC., also of Baltimore, Md., under section 210a(b). The transfer to FREDERICK DOUGLAS HOLMES, doing business as HARFORD MOTOR COACH CO., of the operating rights of HARFORD MOTOR COACH, INC., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-5136 Filed 4-3-72;8:52 am]

[Notice 39–B]

MOTOR CARRIER TRANSFER PROCEEDINGS

MARCH 30, 1972.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC–FC–73611. By application filed March 1, 1972, GALE B. ALEXANDER, 120 South Ward Street, Ottumwa, IA 52501, seeks temporary authority to lease the operating rights of INTERCITY EXPRESS, INC., Post Office Box 1055, Fort Dodge, IA 50501, under section 210a(b). The transfer to GALE B. ALEXANDER, of the operating rights of INTERCITY EXPRESS, INC., is presently pending.

By the Commission.

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

[FR Doc.72–5137 Filed 4–3–72;8:52 am]

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TUESDAY, APRIL 4, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 65

PART II

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

Regulations affecting Federal Register

■

OFFICE OF THE FEDERAL REGISTER

Incorporation by Reference

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

[1 CFR Ch. I]

REGULATIONS AFFECTING FEDERAL REGISTER, AND SPECIAL EDITIONS THEREOF

Notice of Proposed Rule Making

The Administrative Committee of the Federal Register is considering a complete revision of its regulations. The proposed revision contains several significant substantive changes as well as a complete restatement and reorganization of the present regulations.

The organization of the regulations in the proposed revision would be such that those regulations of most interest to the general public would be stated first, followed by the regulations primarily directed to Federal agencies. In the revision an effort has been made to state each regulation in clear simple terms. A number of provisions have been dropped as unnecessary or surplus. To assist reviewers, each section in the proposed revision is followed by a bracketed indication of the source for the requirements of that section. Thus for example proposed § 2.0 is based on present § 1.0. In addition, a complete distribution table is set forth at the end of the document to facilitate finding the revision of any present requirement.

The most significant proposed substantive changes are:

(1) Sections 5.6 and 17.2(b) would change the publication dates of the Saturday FEDERAL REGISTER to Monday and of issues which under present procedures would carry a holiday dateline to the day after the holiday. Thus, a FEDERAL REGISTER would be published on each official Federal work day. This would not affect the present work procedures of the Office of the Federal Register or of the Government Printing Office. However, it would eliminate the confusion that frequently arises because of the existence of a Saturday and holiday FEDERAL REGISTER and the absence of a Monday FEDERAL REGISTER and a FEDERAL REGISTER for a work day following a holiday. More importantly, it will make time periods as measured from publication dates more meaningful, particularly for documents published in a Monday issue. In the past the FEDERAL REGISTER usually received on Monday carried a Saturday date and thus 2 days were already lost for any time period measured from the publication date. It is rare today for interested persons to obtain the FEDERAL REGISTER on Saturday whereas when the present schedule was established most Government and business offices were open at least part time on Saturday.

(2) Section 7.5 would liberalize the policy for having a document published as a separate Part of the FEDERAL REGISTER where a substantial number of copies of the document are required. This practice has proved so popular as a time and money-saver that requests for "Part II's" have steadily increased. It appears that a separate Part can frequently be justified even if the document is less than the 16 FEDERAL REGISTER pages that has been the minimum specified in the Committee's regulations. Proposed § 7.5 eliminates any such minimum and also the references to "Part II" since at times it has been necessary to have "Part III's" to satisfy the number of requests for separate Parts.

(3) Section 8.3(b) would change the cutoff date for the annual CFR so that all documents filed with the Office of the Federal Register on or before December 31 would be reflected in the CFR revised as of the following January first. At present the requirement for publication in the FEDERAL REGISTER before January first causes an annual work increase at the Office of the Federal Register and at the Government Printing Office that becomes increasingly burdensome each year. The Administrative Committee has also considered changing the annual CFR update to a staggered system. Each CFR volume would be updated at least once a year as at present but all volumes would not be updated as of January first. This would significantly shorten the time lag between the annual cutoff date for a volume and the publication of the revised volume. If the Committee decides to convert to such a staggered publication then the cutoff date provisions of § 8.3 would be revised accordingly.

(4) Section 16.1(b) would require that before designating a liaison officer an agency must submit the name of the person it intends to designate, and a short statement of that person's qualifications to the Director of the Federal Register. This will enable the Director to review a proposed appointment and to consult with the appointing agency, if necessary, to insure that each liaison officer is in the best position to serve the interests of his agency, the Office of the Federal Register, and the public they both serve.

(5) Section 18.12 would require that each notice of proposed rule making document submitted for filing and publication "contain a clear preamble statement that discusses the substance of the proposed rules and the major issues involved"; and that each final rule document "contain a concise general preamble statement that discusses the basis and purpose thereof." As was indicated in the preamble to the amendment to 1 CFR Ch. I prescribing the "highlights" requirement (36 F.R. 5203) the Administrative Committee believes that in adopting the original Administrative Procedure Act in 1946 it was the intent of the Congress that rule making documents contain such statements. The Committee urged each Federal agency submitting documents for publication in the FEDERAL REGISTER to review its rule making program to insure that each document is written in the clearest possible manner, and that each document include an adequate preamble explanation of the significance of the action taken or being proposed. While some improvement has been noted since then, the Committee now believes that further efforts in this direction are warranted. Under the proposed revision, the Director of the Federal Register would be authorized to return to the issuing agencies each document submitted for publication that does not meet the stated requirements.

(6) Section 18.13 would make clear the status of a document revoked by the issuing agency after it has been submitted to the Office of the Federal Register and filed for public inspection but before it is published. Once a document is filed for public inspection it remains on file with the Office of the Federal Register even if revoked by a subsequent document. However, when the rescinding document is received in time neither would be published.

(7) During the time that the "highlights" listing has appeared in the FEDERAL REGISTER a number of agencies have questioned the usefulness of listing relevant dates in the highlights listing. It is argued that any person interested in the subject matter of the highlight entry would consult the actual document. Many documents contain several relevant dates and if any dates are included in a highlight entry it is misleading not to include all. The Administrative Committee believes that inclusion of relevant dates in highlights entries has some merit. However, the Committee recognizes the validity of the above-referenced comments and is interested in the opinions of FEDERAL REGISTER users as to whether relevant dates should continue to be included in the highlights listings.

(8) Since present Part 7 is a codification of sections 1–6 of Executive Order 11030 and Executive Order 11354, proposed Part 19 is merely a republication without change of present Part 7.

(9) Proposed Part 20 spells out more clearly the requirements for preparation and transmittal of material submitted for publication in the U.S. Government Organization Manual. A new section (20.5) would make the "sources of information" listings which were introduced in the 1971/72 edition of the Manual a permanent feature and would require each agency to furnish the necessary information for these listings.

(10) Since present Part 20—Incorporation by Reference—is a regulation of the Director of the Federal Register rather than of the Administrative Committee its revision is not proposed to be included in Chapter I. Rather, it is proposed that a new Chapter II—Office of

the Federal Register—be established and that the regulations governing incorporation by reference be included in a proposed Part 51. Several proposed substantive changes in the existing incorporation by reference regulations are described in a separate document published in this issue of the FEDERAL REGISTER at page 6817.

Interested persons are requested to comment on the proposed new regulations of the Administrative Committee by submitting their comments to the Secretary, Administrative Committee, Office of the Federal Register, NARS, Washington, D.C. 20408. All comments received by June 5, 1972, will be considered.

By order of the Administrative Committee of the Federal Register.

FRED J. EMERY,
Secretary.

Title 1—GENERAL PROVISIONS

Chapter I—Administrative Committee of the Federal Register

SUBCHAPTER A—GENERAL

PART 1—DEFINITIONS

§ 1.1 Definitions.

As used in this chapter, unless the context requires otherwise—

"Administrative Committee" means the Administrative Committee of the Federal Register established under section 1506 of title 44, United States Code;

"Agency" means each authority, whether or not within or subject to review by another agency, of the United States, other than the Congress, the courts, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

"Document" includes any Presidential proclamation or Executive order, and any rule, regulation, order, certificate, code of fair competition, license, notice, or similar instrument issued, prescribed, or promulgated by an agency;

"Document having general applicability and legal effect" means any document issued under proper authority prescribing a penalty or course of conduct, conferring a right, privilege, authority, or immunity, or imposing an obligation, and relevant or applicable to the general public, members of a class, or persons in a locality, as distinguished from named individuals or organizations; and

"Regulation" and "rule" have the same meaning.

(44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189)

[Based on Part 40–40.2, 40.4, 40.6, 40.7, 40.10, 40.11, 40.12, 40.13, 40.14, 40.15, and 40.16 are omitted as unnecessary or executed in text]

PART 2—GENERAL INFORMATION

Sec.
2.1 Scope and purpose.
2.2 Administrative Committee of the Federal Register.
2.3 Office of the Federal Register; location; office hours.
2.4 General authority of Director.
2.5 Publication of statutes, regulations, and related documents.
2.6 Unrestricted use.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 2.1 Scope and purpose.

(a) This chapter sets forth the policies, procedures, and delegations under which the Administrative Committee of the Federal Register carries out its general responsibilities under Chapter 15 of Title 44, United States Code.

(b) A primary purpose of this chapter is to inform the public of the nature and uses of Federal Register publications.

[Based on 1.0]

§ 2.2 Administrative Committee of the Federal Register.

(a) The Administrative Committee of the Federal Register is established by section 1506 of Title 44, United States Code.

(b) The Committee consists of—

(1) The Archivist, or Acting Archivist, of the United States, who is the Chairman;

(2) An officer of the Department of Justice designated by the Attorney General; and

(3) The Public Printer or Acting Public Printer.

(c) The Director of the Federal Register is the Secretary of the Committee.

(d) Any material required by law to be filed with the Committee, and any correspondence, inquiries, or other material intended for the Committee or which relate to Federal Register publications shall be sent to the Director of the Office of the Federal Register.

[Based on 1.1 and 2.1]

§ 2.3 Office of the Federal Register; location; office hours.

(a) The Office of the Federal Register is a component of the National Archives and Records Service of the General Services Administration.

(b) The Office is located at 633 Indiana Avenue NW., Washington, D.C.

(c) The mailing address is: Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

(d) Office hours are 8:45 a.m. to 5:15 p.m., Monday through Friday, except for official Federal holidays.

[Based on 1.2]

§ 2.4 General authority of Director.

The Director of the Federal Register is delegated authority to administer generally this chapter, the related provisions of Chapter 15 of Title 44, United States Code, and the pertinent provisions of statutes and regulations contemplated by section 1505 of Title 44, United States Code.

[Based on 1.3]

§ 2.5 Publication of statutes, regulations, and related documents.

(a) The Director of the Federal Register is responsible for the central filing of the original acts enacted by Congress and the original documents containing the Executive orders, proclamations, other Presidential documents, regulations, and notices of proposed rule making and other notices, submitted to the Director by officials of the Executive branch of the Federal Government.

(b) Based on the acts and documents filed under paragraph (a) of this section, the Office of the Federal Register publishes the "slip laws," the "United States Statutes at Large," the daily FEDERAL REGISTER, and the "Code of Federal Regulations."

(c) Based on source materials that are officially related to the acts and documents filed under paragraph (a) of this section, the Office also publishes the "United States Government Organization Manual," the "Public Papers of the Presidents of the United States," and the "Weekly Compilation of Presidential Documents."

[Based on 1.4]

§ 2.6 Unrestricted use.

Any person may reproduce or republish, without restriction, any material appearing in any regular or special edition of the FEDERAL REGISTER.

[Based on 10.5 and 30.3]

PART 3—SERVICES TO THE PUBLIC

Sec.
3.1 Information services.
3.2 Public inspection of documents.
3.3 Reproductions and certified copies of acts and documents.
3.4 Availability of Federal Register publications.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 3.1 Information services.

Except in cases where the time required would be excessive, information concerning the publications described in § 2.5 of this chapter and the original acts and documents filed with the Office of the Federal Register is provided by the staff of that Office. However, the staff may not summarize or interpret substantive text of any act or document.

[Based on 2.2]

§ 3.2 Public inspection of documents.

(a) Current documents filed with the Office of the Federal Register pursuant to law are available for public inspection in Room 405, 633 Indiana Avenue NW., Washington, D.C., during the Office of the Federal Register office hours. There are no formal inspection procedures or requirements.

(b) The Director of the Federal Register shall cause each document received by the office to be filed for public inspection not later than the working day preceding the publication day for that document.

(c) The Director shall cause to be placed on the original and certified copies of each document a notation of the day and hour when it was filed and made available for public inspection.

(d) Manual, typewritten, or other copies of excerpts may be made at the inspection desk.

[Based on 2.3 and 12.3]

§ 3.3 Reproductions and certified copies of acts and documents.

The regulations for the public use of records in the National Archives (41 CFR Part 105–61) govern the furnishing of reproductions of acts and documents and certificates of authentication for them. Section 105–61.108 of those regulations provides for the advance payment of appropriate fees for reproduction services and for certifying reproductions.

[Based on 2.4]

§ 3.4 Availability of Federal Register publications.

(a) The publications described in § 2.5 of this chapter are published by the Government Printing Office and are sold by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. They are not available for free distribution to the public.

(b) Federal Register publications are available through subscription, as follows:

(1) *Slip laws.* See section 709 of Title 44, United States Code.

(2) *U.S. Statutes at Large.* See section 728 of Title 44, United States Code.

(3) *Federal Register.* Daily issues are furnished to subscribers on a monthly or yearly basis, at a price determined by the Administrative Committee and paid in advance to the Superintendent of Documents. Limited quantities of current or recent copies may be obtained from the Superintendent of Documents at a price determined by him.

(4) *Code of Federal Regulations.* Subscription services on a yearly basis to the volumes comprising the Code, and individual copies thereof, are sold by the Superintendent of Documents at prices determined by him, under the general direction of the Administrative Committee.

(5) *U.S. Government Organization Manual.* Placed on sale by the Superintendent of Documents at a price determined by him, under the general direction of the Administrative Committee.

(6) *Public Papers of the Presidents of the United States.* Annual volumes are placed on sale by the Superintendent of Documents at a price determined by him, under the general direction of the Administrative Committee.

(7) *Weekly Compilation of Presidential Documents.* Placed on sale by the Superintendent of Documents at a price determined by him, under the general direction of the Administrative Committee.

[Based on 1.5, 2.5, 15.10, 15.11, 30.16, 30.17, 31.28, 32.22, and 32.50]

SUBCHAPTER B—THE FEDERAL REGISTER

PART 5—GENERAL

Sec.
5.1 Publication policy.
5.2 Documents required to be filed and published.
5.3 Publication of other documents.
5.4 Publication not authorized.
5.5 Supplement to the Code of Federal Regulations.
5.6 Daily publication.
5.7 Delivery and mailing.
5.8 Form of citation.
5.9 Categories of documents.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 5.1 Publication policy.

(a) Pursuant to Chapter 15 of Title 44, United States Code, and this chapter, the Director of the Federal Register shall publish a serial publication called the "FEDERAL REGISTER" to contain the following:

(1) Executive orders, proclamations, and other Presidential documents.

(2) Documents required to be published therein by law.

(3) Documents accepted for publication under § 5.3.

(b) Each document required or authorized to be filed for publication shall be published in the FEDERAL REGISTER as promptly as possible, within limitations imposed by considerations of accuracy, usability, and reasonable costs.

(c) In prescribing regulations governing headings, preambles, effective dates, authority citations, and similar matters of form, the Administrative Committee does not intend to affect the validity of any document that is filed and published under law.

[Based on 10.1]

§ 5.2 Documents required to be filed and published.

(a) The following documents are required to be filed with the Office of the Federal Register and published in the FEDERAL REGISTER:

(1) Presidential proclamations and Executive orders in the numbered series, and each other document that the President submits for publication or orders to be published.

(2) Each document or class of documents required to be published by act of Congress.

(3) Each document, issued under proper authority, that prescribes a penalty, imposes an obligation or duty, or confers a right, privilege, or immunity, and that is relevant or applicable to the general public, members of a class, or persons in a named locality, as distinguished from named individuals or organizations.

(b) Each document covered by paragraph (a)(3) of this section is hereby determined to have general applicability and legal effect.

(c) The Director of the Federal Register may not accept any document for filing and publication unless it is the official action of the agency concerned. Chapter 15 of Title 44, United States Code, does not authorize or require the filing and publication of other papers from an agency.

[Based on 11.1, 11.2, 11.3, and 11.22]

§ 5.3 Publication of other documents.

Whenever the Director of the Federal Register considers that publication of a document not covered by § 5.2 would be in the public interest, he may allow that document to be filed with the Office of the Federal Register and published in the FEDERAL REGISTER.

[Based on 11.5]

§ 5.4 Publication not authorized.

(a) Chapter 15 of Title 44, United States Code, does not apply to treaties, conventions, protocols, or other international agreements, or proclamations thereof by the President.

(b) Chapter 15 of Title 44, United States Code, prohibits the publication in the FEDERAL REGISTER of comments or news items.

[Based on 11.20 and 11.21]

§ 5.5 Supplement to the Code of Federal Regulations.

The FEDERAL REGISTER serves as a daily supplement to the Code of Federal Regulations. Each document that is subject to codification and published in a daily issue shall be keyed to the Code of Federal Regulations.

[Based on 10.3 and 30.6]

§ 5.6 Daily publication.

There shall be an edition of the FEDERAL REGISTER for each official Federal working day.

[Based on 10.2]

§ 5.7 Delivery and mailing.

The Government Printing Office shall distribute the FEDERAL REGISTER by delivery or by deposit at a post office at or before 9 a.m. on the publication day.

[Based on 15.1]

§ 5.8 Form of citation.

Without prejudice to any other form of citation, FEDERAL REGISTER material may be cited by volume and page number, and the short form "FR" may be used for "FEDERAL REGISTER". For example, "35 FR 3456" refers to material beginning on page 3456 of volume 35 of the daily issues.

[Based on 10.4]

§ 5.9 Categories of documents.

Each document published in the FEDERAL REGISTER shall be placed under one of the following categories, as indicated:

(a) *The President.* Containing each Executive order or Presidential proclamation, and each other Presidential document that the President submits for publication or orders to be published.

(b) *Rules and regulations.* Containing each document subject to codification, except those covered by paragraph (a) of this section.

(c) *Proposed rule making.* Containing each notice of proposed rule making submitted pursuant to section 553 of Title 5, United States Code, or any other law, and each notice of a similar nature voluntarily submitted by an issuing agency.

(d) *Notices.* Containing miscellaneous documents not covered by paragraph (a), (b), or (c) of this section, such as notices of hearings that are not included under proposed rule making documents and documents accepted for publication on the basis of public interest.

[Based on 13.1, 13.2, 13.3, 13.4, and 13.5]

PART 6—INDEXES AND ANCILLARIES

Sec.
6.1 Index to daily issues.
6.2 Analytical subject indexes.
6.3 Daily lists of parts affected.
6.4 Monthly list of sections affected.
6.5 Index-digests and guides.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 6.1 Index to daily issues.

Each daily issue of the FEDERAL REGISTER shall be appropriately indexed under the names of the issuing agencies.

[Based on 14.1]

§ 6.2 Analytical subject indexes.

Analytical subject indexes covering the contents of the FEDERAL REGISTER shall be published as currently as practicable, and shall be cumulated and separately published at least once each calendar year.

[Based on 14.2]

§ 6.3 Daily lists of parts affected.

(a) Each daily issue of the FEDERAL REGISTER shall carry a numerical list of the parts of the Code of Federal Regulations specifically affected by documents published in that issue.

(b) Beginning with the second issue of each month, each daily issue shall also carry a cumulated list of the parts affected by documents published during that month.

[Based on 14.5]

§ 6.4 Monthly lists of sections affected.

A monthly list of sections of the Code of Federal Regulations affected shall be separately published on a cumulative basis during each calendar year. The list shall identify the sections of the Code specifically affected by documents published in the FEDERAL REGISTER during the period it covers.

[Based on 14.6]

§ 6.5 Index-digests and guides.

(a) The Director of the Federal Register may cause to be prepared and published, yearly or at other intervals as necessary to keep them current and useful, index-digests and similar guides, based on laws, Presidential documents, regulations, and notice materials published by the Office and which serve a need of users of the FEDERAL REGISTER.

(b) Each digest and guide is considered to be a special edition of the FEDERAL REGISTER whenever the public need requires special imposition or special binding in substantial numbers.

[Based on 14.9]

PART 7—DISTRIBUTION WITHIN FEDERAL GOVERNMENT

Sec.
7.1 Members of Congress.
7.2 The Judiciary.
7.3 Executive agencies.
7.4 Requisitions for quantity overruns of specific issues.
7.5 Requisitions for quantity overruns of separate Part II issues.
7.6 Extra copies.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 7.1 Members of Congress.

Each Senator and each Member of the House of Representatives is entitled to not more than 5 copies of each daily issue of the FEDERAL REGISTER, without charge.

[Based on 15.3]

§ 7.2 The Judiciary.

(a) *The Supreme Court.* The Supreme Court is entitled to the number of copies of each daily issue of the FEDERAL REGISTER that it needs for official use, without charge.

(b) *Other courts.* Each other constitutional or legislative court of the United States is entitled to the number of copies of each daily issue of the FEDERAL REGISTER that it needs for official use, without charge, based on a written authorization submitted to the Director of the Federal Register by the Director of the Administrative Office of the U.S. Courts specifying the number needed.

[Based on 15.4]

§ 7.3 Executive agencies.

(a) Each Federal executive agency is entitled to the number of copies of each daily issue of the FEDERAL REGISTER that it needs for official use, without charge.

(b) The person in each agency concerned who is authorized under §§ 16.1 and 16.4 of this chapter to list the officers and employees of that agency who need the FEDERAL REGISTER for daily use shall send a written request to the Director of the Federal Register for placement of the names of those officers and employees on the mailing list.

[Based on 15.5]

§ 7.4 Requisitions for quantity overruns of specific issues.

(a) To meet its needs for special distribution of the FEDERAL REGISTER in substantial quantity, any agency may request an overrun of a specific issue.

(b) An advance printing and binding requisition on Standard Form 1 must be submitted by the agency directly to the Government Printing Office, to be received not later than 12 noon on the day before publication.

[Based on 15.6]

§ 7.5 Requisitions for quantity overruns of separate Part issues.

(a) Whenever it is determined by the Director of the Federal Register to be in the public interest, one or more documents may be published as a separate Part (e.g., Part II, Part III) of the FEDERAL REGISTER.

(b) Advance arrangements for this service must be made with the Office of the Federal Register.

(c) Any agency may request an overrun of such a separate Part by submitting an advance printing and binding requisition on Standard Form 1 directly to the Government Printing Office, to be received not later than 12 noon on the working day before the publication date.

[Based on 15.7]

§ 7.6 Extra copies.

An agency may order limited quantities of extra copies of a specific issue of the FEDERAL REGISTER, for official use, from the Superintendent of Documents, to be paid for by that agency.

[Based on 15.8]

SUBCHAPTER C—SPECIAL EDITIONS OF THE FEDERAL REGISTER

PART 8—CODE OF FEDERAL REGULATIONS

Sec.
8.1 Policy.
8.2 Orderly development.
8.3 Periodic updating.
8.4 Indexes.
8.5 Ancillaries.
8.6 General format and binding.
8.7 Agency cooperation.
8.8 Official distribution.
8.9 Form of citation.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 8.1 Policy.

(a) Pursuant to Chapter 15 of Title 44, United States Code, the Director of the Federal Register shall publish periodically a special edition of the FEDERAL REGISTER to present a compact and practical code called the "Code of Federal Regulations", to contain each Federal regulation of general applicability and current or future effect.

(b) The Administrative Committee intends that every practical means be used to keep the Code as current and readily usable as possible, within limitations imposed by dependability and reasonable costs.

[Based on 30.1]

§ 8.2 Orderly development.

To assure orderly development of the Code of Federal Regulations along practical lines, the Director of the Federal Register may establish new titles in the Code and rearrange existing titles and subordinate assignments. However, before taking an action under this section, the Director shall consult with each agency directly affected by the proposed change.

[Based on 30.4]

§ 8.3 Periodic updating.

(a) Criteria: Each book of the Code shall be updated at least once each calendar year. If no change in its contents has occurred during the year, a simple notation to that effect may serve as the supplement for that year. More frequent updating of any unit of the Code may be made whenever the Director of the Federal Register determines that the content of the unit has been substantially superseded or otherwise determines that such action would be consistent with the intent and purpose of the Administrative Committee as stated in § 8.1.

(b) Each document affecting the Code of Federal Regulations received from an

agency and filed by the Office of the Federal Register on or before December 31 of that year will be published in the appropriate title of the Code for the following year.

[Based on 30.9]

§ 8.4 Indexes.

A subject index to the entire Code shall be annually revised and separately published. An agency-prepared index for any individual book may be published with the approval of the Director of the Federal Register.

[Based on 30.9]

§ 8.5 Ancillaries.

The Code shall provide, among others, the following-described finding aids:

(a) *Parallel tables of statutory authority and rules.* In Title 2 of the Code of Federal Regulations or at such other place as the Director of the Federal Register considers appropriate, numerical lists of all sections of the current edition of the United States Code (except section 301 of Title 5) which are cited by issuing agencies as rule making authority for currently effective regulations in the Code of Federal Regulations. The lists shall be arranged in the order of the titles and sections of the United States Code with parallel citations to the pertinent titles and sections of the Code of Federal Regulations.

(b) *Parallel tables of Presidential documents and agency rules.* In Title 3 of the Code of Federal Regulations, or at such other place as the Director of the Federal Register considers appropriate, tables of proclamations, Executive orders, and similar Presidential documents which are codified, cited as authority, quoted, cited in text, or included or referred to in currently effective regulations as published in the Code of Federal Regulations.

(c) *List of sections affected.* Following the text of each book or cumulative supplement, a numerical list of sections which are affected by documents published in the FEDERAL REGISTER. (A separate volume, "List of Sections Affected, 1949–1963" lists all sections of the Code which have been affected by documents published during the period January 1, 1949 to December 31, 1963.) Listings shall refer to FEDERAL REGISTER pages and shall be designed to enable the user of the Code to assure himself of the precise text that was in effect on a given date in the period covered.

[Based on 30.10]

§ 8.6 General format and binding.

The Director of the Federal Register shall provide for the binding of the Code into as many separate books as are indicated by the needs of users and compatible with the facilities of the Government Printing Office.

[Based on 30.5]

§ 8.7 Agency cooperation.

Each agency shall cooperate in keeping publication of the Code current by complying promptly with deadlines set by the Director of the Federal Register and the Public Printer.

[Based on 30.11]

§ 8.8 Official distribution.

(a) The Code shall be distributed to the following, without charge:

(1) *Congress.* To each committee of the Senate and House of Representatives in the quantity needed for official use, upon the written authorization of the committee chairman or his delegate, to the Director of the Federal Register.

(2) *Supreme Court.* To the Supreme Court in the quantity needed for official use.

(3) *Other courts.* To other constitutional and legislative courts of the United States, in the quantity needed for official use, upon the written authorization of the Director of the Administrative Office of the U.S. Courts to the Director of the Federal Register.

(4) *Executive agencies.* To officials, libraries, and major organizational units of the executive agencies in the quantity needed for official use, upon the written authorization of the authorizing officer or his alternate designated under § 16.1 of this chapter.

(b) Legislative, judicial, and executive agencies of the Federal Government may obtain selected units of the Code, as needed in substantial quantity for special distribution, by the timely submission of a printing and binding requisition to the Government Printing Office on Standard Form 1.

[Based on 30.12, 30.13, 30.14, and 30.15]

§ 8.9 Form of citation.

The Code of Federal Regulations may be cited by title and section, and the short form "CFR" may be used for "Code of Federal Regulations." For example, "1 CFR 10.2" refers to Title 1, Code of Federal Regulations, Part 10, section 2.

[Based on 30.2]

PART 9—U.S. GOVERNMENT ORGANIZATION MANUAL

Sec.
9.1 Publication required.
9.2 Scope.
9.3 Distribution to Government agencies.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 9.1 Publication required.

The Director of the Federal Register shall separately publish annually or at times designated by the Administrative Committee of the Federal Register a special edition of the FEDERAL REGISTER called the "United States Government Organization Manual" or any other title that the Administrative Committee of the Federal Register considers appropriate. The Director of the Federal Register may issue special supplements to the Manual when he considers such supplementation to be in the public interest.

[Based on 31.1 and 31.2]

§ 9.2 Scope.

(a) The Manual shall contain appropriate information about the Executive, Legislative, and Judicial branches of the Federal Government, which for the major Executive agencies shall include—

(1) Descriptions of the agency's public purposes, programs and functions;

(2) Established places and methods whereby the public may obtain information and make submittals or requests; and

(3) Lists of officials heading major operating units.

(b) Brief information about quasi-official agencies and supplemental information that in the opinion of the Director of the Federal Register is of enough public interest to warrant inclusion shall also be published in the Manual.

[Based on 31.6, 31.7, and 31.8]

§ 9.3 Distribution to Government agencies.

(a) The Manual shall be distributed to the following, in the quantities indicated, without charge:

(1) *Members of Congress.* Each Senator and each Member of the House of Representatives shall be furnished two copies, and is entitled to not more than 10 additional copies upon his written authorization to the Director of the Federal Register.

(2) *Congressional committees.* Each committee is entitled to the quantity needed for official use, upon the written request of the chairman of the committee, or his delegate, to the Director, for placement on the mailing list.

(3) *Supreme Court.* The Supreme Court is entitled to 18 copies.

(4) *Other courts.* Each other constitutional or legislative court is entitled to one copy, upon the written authorization of the Director of the Administrative Office of the U.S. Courts to the Director of the Federal Register.

(5) *Executive agencies.* The head of each executive agency and each liaison officer designated under § 16.1 or § 20.1 of this chapter is entitled to one copy.

(b) Legislative, judicial, and executive agencies of the Federal Government may obtain additional copies of the Manual, at cost, for official use by submission, before the press run, of a printing and binding requisition to the Government Printing Office on Standard Form 1. After the press run, each request for extra copies of the Manual must be addressed to the Superintendent of Documents, to be paid for by the agency or official making the request.

[Based on 31.21, 31.22, 31.23, 31.24, 31.25, and 31.26]

PART 10—PRESIDENTIAL PAPERS

Subpart A—Annual Volumes

Sec.
10.1 Publication required.
10.2 Coverage of prior years.
10.3 Scope and sources.
10.4 Format, indexes, and ancillaries.
10.5 Distribution to Government agencies.
10.6 Extra copies.

Subpart B—Weekly Compilation

10.10 Publication required.
10.11 Format and indexes.
10.12 Distribution to Government agencies.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

Subpart A—Annual Volumes

§ 10.1 Publication required.

The Director of the Federal Register shall publish, at the end of each calendar year, a special edition of the FEDERAL REGISTER called the "Public Papers of the Presidents of the United States." Unless the amount of material requires otherwise, each volume shall cover one calendar year.

[Based on 32.1]

§ 10.2 Coverage of prior years.

After consulting with the National Historical Publications Commission on the need therefor, the Administrative Committee may authorize the publication of volumes of papers of the Presidents covering specified years before 1957.

[Based on 32.2]

§ 10.3 Scope and sources.

(a) The basic text of each volume shall consist of oral statements by the President or of writings subscribed by him, and selected from—

(1) Communications to the Congress;
(2) Public addresses;
(3) Transcripts of news conferences;
(4) Public letters;
(5) Messages to heads of State;
(6) Statements released on miscellaneous subjects; and
(7) Formal executive documents promulgated in accordance with law.

(b) In general, ancillary text, notes, and tables shall be derived from official sources.

[Based on 32.10 and 32.11]

§ 10.4 Format, indexes, and ancillaries.

(a) Each annual volume, divided into books whenever appropriate, shall be separately published in the binding and style that the Administrative Committee considers suitable to the dignity of the Office of the President of the United States.

(b) Each volume shall be appropriately indexed and contain appropriate ancillary information respecting significant Presidential documents not printed in full text.

[Based on 32.3]

§ 10.5 Distribution to Government agencies.

(a) The Public Papers of the Presidents of the United States shall be distributed to the following, in the quantities indicated, without charge:

(1) *Members of Congress.* Each Senator and each Member of the House of Representatives is entitled to one copy of each annual volume published during his term of office, upon his written request to the Director of the Federal Register.

(2) *Supreme Court.* The Supreme Court is entitled to 12 copies of each annual volume.

(3) *Executive agencies.* The head of each executive agency is entitled to one copy of each annual volume upon application to the Director.

(b) Legislative, judicial, and executive agencies of the Federal Government may obtain copies of the annual volumes, at cost, for official use, by the timely submission of a printing and binding requisition to the Government Printing Office on Standard Form 1.

[Based on 32.15, 32.16, 32.17, and 32.18]

§ 10.6 Extra copies.

Each request for extra copies of the annual volumes must be addressed to the Superintendent of Documents, to be paid for by the agency or official making the request.

[Based on 32.19]

Subpart B—Weekly Compilation

§ 10.10 Publication required.

The Director of the Federal Register shall publish a special edition of the FEDERAL REGISTER called the "Weekly Compilation of Presidential Documents."

[Based on 32.30]

§ 10.11 Format and indexes.

(a) The Weekly Compilation shall be published in the binding and style that the Administrative Committee considers suitable for public and official use.

(b) The Director of the Federal Register shall provide indexes and any other finding aids that he considers appropriate for effective use.

[Based on 32.31]

§ 10.12 Distribution to Government agencies.

(a) The Weekly Compilation shall be distributed regularly to Members of the Senate and House of Representatives and to officials of the legislative, judicial, and executive branches of the Federal Government in the quantities needed for official use.

(b) Requests for copies shall be made in writing by the authorizing officer to the Director of the Federal Register.

(c) Special needs for selected issues in substantial quantity shall be filled by the timely submission of a printing and binding requisition to the Government Printing Office on Standard Form 1.

[Based on 32.40]

SUBCHAPTER D—PREPARATION, TRANSMITTAL, AND PROCESSING OF DOCUMENTS

PART 15—SERVICES TO FEDERAL AGENCIES

Subpart A—General

Subpart B—Special Assistance

Subpart C—Supplemental Printing and Editorial Services

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

Subpart A—General

§ 15.1 Cooperation.

The Director of the Federal Register shall assist each agency in complying with the pertinent publication laws to assure efficient public service in promulgating administrative documents having the effect of legal notice or of law.

[Based on 3.1]

§ 15.2 Information services.

The Director of the Federal Register shall provide for the answering of each appropriate inquiry presented in person, by telephone, or in writing. Each written communication and each matter involving classified material or the Administrative Committee shall be sent to the Director, Office of the Federal Register, National Archives and Records Service, Washington, DC 20408.

[Based on 3.2]

§ 15.3 Staff assistance.

The staff of the Office of the Federal Register shall provide informal assistance and advice to officials of the various agencies with respect to general or specific programs of regulatory drafting, procedures, and promulgation practices.

[Based on 3.4]

§ 15.4 Reproduction of certified copies of acts and documents.

The Director of the Federal Register shall furnish to requesting agencies, without charge, reproductions or certified copies of original acts and documents filed with that Office that are needed for official use. However, in a case involving voluminous material or numerous copies, the requesting agency may be required to reimburse the cost of reproduction.

[Based on 3.5]

§ 15.5 Official subscriptions and requisitions of Federal Register publications.

The following governs the availability of Federal Register publications for official use.

(a) *Slip laws.* Single copies may be obtained from the House or Senate Document Room, U.S. Congress. Quantity overruns of any slip law may be obtained by the timely submission of a requisition to the Government Printing Office on Standard Form 1.

(b) *U.S. Statutes at Large.* Written requests should be directed to the Joint Committee on Printing, United States Capitol, Washington, D.C. 20510. General provisions relating to the distribution of the U.S. Statutes at Large are set forth in section 728 of Title 44, United States Code.

(c) *Federal Register.* See §§ 7.1 to 7.6 of this chapter.

(d) *Code of Federal Regulations.* See § 8.8 of this chapter.

(e) *U.S. Government Organization Manual.* See § 9.3 of this chapter.

(f) *Public Papers of the Presidents of the United States.* See §§ 10.5 and 10.6 of this chapter.

(g) *Weekly Compilation of Presidential Documents.* See § 10.12 of this chapter.

[Based on 3.6]

Subpart B—Special Assistance

§ 15.10 Information on drafting and publication.

The Director of the Federal Register may prepare, and distribute to agencies, information and instructions designed to promote effective compliance with the purposes of Chapter 15 of Title 44, United States Code, sections 553–554 of Title 5, United States Code, related statutes, and this chapter. The Director may also develop and conduct programs of technical instruction.

[Based on 3.10 and 3.11]

Subpart C—Supplemental Printing and Editorial Services

§ 15.15 Purpose.

The Director of the Federal Register may provide special services to agencies to promote efficiency and economy through the use of printing and editorial facilities developed in editing and publishing Federal Register publications.

[Based on 3.15]

§ 15.16 Use of Federal Register standing type.

Type used in printing the FEDERAL REGISTER is available for reuse by agencies in making reprints, on their own requisition, by submitting a printing and binding requisition on Standard Form 1 to the Office of the Federal Register for forwarding to the Government Printing Office.

[Based on 3.16]

§ 15.17 Special editorial service.

Upon written request by an appropriate agency official, the staff of the Office of the Federal Register may compile and collate Code units, as of a given date, to assist an issuing agency to prepare a document for publication in the FEDERAL REGISTER.

[Based on 3.18]

§ 15.18 Supplemental loose-leaf services.

The Director of the Federal Register may cooperate with agencies in developing supplemental loose-leaf services for special items in which the need would justify the cost.

[Based on 3.19]

PART 16—AGENCY REPRESENTATIVES

Sec.
16.1 Designation.
16.2 Liaison duties.
16.3 Certifying duties.
16.4 Authorizing duties.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 16.1 Designation.

(a) Each agency shall designate, from its officers or employees, persons to serve in the following capacities with relation to the Office of the Federal Register:

(1) A liaison officer and an alternate.

(2) A certifying officer and an alternate.

(3) An authorizing officer and an alternate.

The same person may be designated to serve in one or more of these positions.

(b) Before designating its liaison officer, each agency shall send the name of the person it intends to designate, and a short statement of that person's qualifications, to the Director of the Federal Register.

(c) Each agency shall notify the Director of the name, title, address, and telephone number of each person it designates under this section and shall promptly notify the Director of any changes.

[Based on 4.1 and 4.2]

§ 16.2 Liaison duties.

Each liaison officer shall—

(a) Represent his agency in all matters relating to the submission of documents to the Office of the Federal Register, and respecting general compliance with this chapter;

(b) Be responsible for the effective distribution and use within his agency of FEDERAL REGISTER information on document drafting and publication assistance authorized by § 15.10 of this chapter; and

(c) Promote his agency's participation in the technical instruction authorized by § 15.10 of this chapter.

[Based on 4.3]

§ 16.3 Certifying duties.

The certifying officer is responsible for attaching the required number of true copies of each original document submitted by his agency to the Office of the Federal Register and for making the certification required by §§ 18.5 and 18.6 of this chapter.

[Based on 4.4]

§ 16.4 Authorizing duties.

The authorizing officer is responsible for furnishing, to the Director of the Federal Register, a current mailing list of officers or employees of his agency who are authorized to receive the FEDERAL REGISTER, the Code of Federal Regulations, and the Weekly Compilation of Presidential Documents for official use.

[Based on 4.5]

PART 17—PUBLICATION SCHEDULES

Sec.
17.1 Receipt and processing.

REGULAR SCHEDULE

17.2 Procedure and timing for regular schedule.

EMERGENCY SCHEDULE

17.3 Criteria for emergency schedule.
17.4 Procedure and timing for emergency schedule.
17.5 Transmittal from distant points.

DEFERRED SCHEDULE

17.6 Criteria.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 17.1 Receipt and processing.

Unless special arrangements are made with the Director of the Federal Register, the Office of the Federal Register receives documents only during official working hours. Upon receipt, each document shall be held for confidential processing until it is filed for public inspection.

[Based on 12.2]

REGULAR SCHEDULE

§ 17.2 Procedure and timing for regular schedule.

(a) Each document received shall be assigned to the regular schedule unless the issuing agency makes special arrangements otherwise. Receipt of a document in the ordinary course of business is considered to be a request for publication on the regular schedule.

(b) The regular schedule for publication is as follows:

Received	Filed	Published
Monday	Wednesday	Thursday.
Tuesday	Thursday	Friday.
Wednesday	Friday	Monday.
Thursday	Monday	Tuesday.
Friday	Tuesday	Wednesday.

[Based on 12.11 and 12.12]

EMERGENCY SCHEDULE

§ 17.3 Criteria for emergency schedule.

The emergency schedule is designed to provide the fastest possible publication of a document involving the prevention, alleviation, control, or relief of an emergency situation.

[Based on 12.6 (first sentence)]

§ 17.4 Procedure and timing for emergency schedule.

(a) Each agency requesting publication on the emergency schedule shall briefly describe the emergency and the benefits to be attributed to immediate publication in the FEDERAL REGISTER. The request shall be made by letter if time permits.

(b) The Director of the Federal Register shall assign a document to the emergency schedule whenever he concurs with a request for that action and it is feasible. The Director shall confirm the assignment as soon as possible.

(c) Each document assigned to the emergency schedule shall be published as soon as possible.

[Based on 12.5, 12.6 (less first sentence), and 12.7]

§ 17.5 Transmittal from distant points.

The text of a document assigned to the emergency schedule may be transmitted from a distant field installation to the Washington Office of the agency concerned by telecommunication. A certified transcription of the text may be filed in advance of receipt of the original document. The agency must file the original document at the earliest possible time. In such a case, the publication date is based on receipt of the certified transcribed copies by the Office of the Federal Register.

[Based on 12.8]

DEFERRED SCHEDULE

§ 17.6 Criteria.

A document may be assigned to the deferred schedule under the following conditions:

(a) There are technical problems, unusual tabulations, or illustrations, or the document is of such size as to require extraordinary processing time.

(b) The agency concerned requests a deferred publication date.

[Based on 12.15, 12.16, and 12.17]

PART 18—PREPARATION AND TRANSMITTAL OF DOCUMENTS GENERALLY

Sec.
18.1 Original and copies required.
18.2 Prohibition on combined documents.
18.3 Submission of documents and letters of transmittal.
18.4 Form of document.
18.5 Certified copies.
18.6 Form of certification.
18.7 Signature.
18.8 Seal.
18.9 Style.
18.10 Illustrations and tabular material.
18.11 Forms.
18.12 Minimum requirements for documents.
18.13 Withdrawal of filed documents.
18.14 Correction of errors in documents.
18.15 Correction of errors in printing.
18.16 Highlights; submission of summary statements.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 18.1 Original and copies required.

(a) Except as provided in § 19.2 of this subchapter for Executive orders and proclamations, each agency submitting a document to be filed and published in the FEDERAL REGISTER shall send an original and two duplicate originals or certified copies. However, if the document is printed or processed on both sides, the agency shall send, in addition to the original, three duplicate originals or certified copies.

(b) In the case of a document issued outside of the District of Columbia, an agency may submit certified text in place of the original. However, it must replace the certified text with the original document as soon as practicable for filing as required by Chapter 15 of Title 44, United States Code.

[Based on 16.1]

§ 18.2 Prohibition on combined documents.

The Director of the Federal Register may not accept a document for filing and publication if it combines material that must appear under more than one category in the FEDERAL REGISTER. For example, a document may not contain both rule making and notice of proposed rule making material.

[New section added]

§ 18.3 Submission of documents and letters of transmittal.

(a) Each document authorized or required by law to be filed with the Office of the Federal Register, published in the FEDERAL REGISTER, or filed with the Administrative Committee shall be sent to the Director of the Federal Register.

(b) Except for cases involving special handling or treatment, there is no need for a letter of transmittal for a document submitted for filing and FEDERAL REGISTER publication.

[Based on 3.3 and 16.2]

§ 18.4 Form of document.

(a) Except as provided in paragraph (b) of this section, to be eligible for filing and publication in the FEDERAL REGISTER, a document must be typewritten on white bond paper approximately 8 by 10½ inches in size, double spaced, with a left-hand margin of approximately 1½ inches and a right-hand margin of approximately 1 inch.

(b) A printed or processed document may be accepted for filing and publication if it is suitable as an archival original. However, a photostatic copy may not be accepted as an original document.

(c) A document in the form of a letter may not be accepted for filing or publication in the rules and regulations, proposed rule making, or notices sections of the FEDERAL REGISTER.

[Based on 16.3, 16.4, and 16.5]

§ 18.5 Certified copies.

(a) The certified copies or duplicate originals of each document must be attached to the original. Each copy or duplicate must be entirely clear and legible.

(b) Copies of a typewritten original may be the first two carbon copies of the ribbon original, positive photostats on paper with a matte surface, or electrostatic copies.

(c) Publication dates are determined at the time when clear and legible copies are received.

[Based on 16.6]

§ 18.6 Form of certification.

Each copy of each document submitted for filing and publication, except a Presidential document or a duplicate original, must be certified substantially as follows:

(Certified to be a true copy of the original)

signed by a certifying officer designated under § 16.1 of this chapter.

[Based on 16.7]

§ 18.7 Signature.

The original and each duplicate original document must be signed in ink, with the name and title of the official signing the document typed or stamped beneath his signature. Initialed or impressed signatures may not be accepted.

[Based on 16.8]

§ 18.8 Seal.

Use of a seal on an original document or certified copy is optional with the issuing agency.

[Based on 16.9]

§ 18.9 Style.

Each agency submitting a document for filing and publication shall prepare it in accordance with the following:

(a) Punctuation, capitalization, spelling, and other matters of style must conform, in general, to the current edition of the U.S. Government Printing Office Style Manual.

(b) The spelling of geographic names must conform to the decisions of the Board on Geographic Names, established by section 2 of the act of July 25, 1947, 61 Stat. 456 (43 U.S.C. 364a).

(c) Descriptions of land must conform, so far as practicable, to the current edition of the "Specifications for Descriptions of Tracts of Land for Use in Executive Orders and Proclamations" prepared by the Bureau of Land Management, Department of the Interior.

[Based on 16.15, 16.16, and 16.17]

§ 18.10 Illustrations and tabular material.

(a) An original drawing, or a clear reproduction, of each map, chart, graph, or other illustration that is found to be a necessary part of a document to be filed and published may be accepted only after submission to the Director of the Federal Register at least 6 working days before the date on which publication is desired.

(b) A clear and legible reproduction of the original illustration, approximately 8 by 10½ inches, shall be included in the original document and each certified copy.

(c) Tabular material consisting of more than two typewritten pages that is to be a part of a document to be filed and published shall be submitted to the Director at least 6 working days before the date on which publication is desired.

[Based on 16.20]

§ 18.11 Forms.

Except when considered necessary by the Director of the Federal Register, tabulated blank forms for applications, registrations, reports, contracts, and similar items, and the instructions for preparing the forms, may not be published in full. In place thereof, the agency concerned shall submit for publication a simple statement describing the purpose and use of each form and stating the places at which copies may be obtained.

[Based on 16.21]

§ 18.12 Minimum requirements for documents.

Each document shall—

(a) In the case of a notice of proposed rule making, contain a clear preamble statement that discusses the substance of the proposed rules and the major issues involved;

(b) In the case of a rule or regulation, contain a concise general preamble statement that discusses the basis and purpose thereof and, where the rule was preceded by a notice of proposed rule making, that also discusses the disposition of the significant comments received; and

(c) Otherwise substantially conform to the requirements of this chapter.

The Director of the Federal Register may return to the issuing agency any document submitted for filing and publication that does not comply with this section.

[New section added]

§ 18.13 Withdrawal of filed documents.

A document that has been filed with the Office of the Federal Register and placed on public inspection as required by this chapter, may be withdrawn from publication by the submitting agency only by a timely written instrument revoking that document, signed by the issuing officer or an officer of his agency superior to him. Both the original and the revoking document shall remain on file.

[New section added]

§ 18.14 Correction of errors in documents.

After a document has been filed for public inspection and publication, a substantive error in the text may be corrected only by the filing of another document effecting the correction.

[Based on 11.10]

§ 18.15 Correction of errors in printing.

Typographical or clerical errors made in the printing of the FEDERAL REGISTER shall be corrected by insertion of an appropriate notation or a reprinting in the FEDERAL REGISTER published without further agency documentation, if the Director of the Federal Register determines that—

(a) The error would tend to confuse or mislead the reader; or

(b) The error would affect text subject to codification.

[Based on 11.11]

§ 18.16 Highlights; submission of summary statements.

(a) Except as provided in paragraph (b) of this section, each agency which submits a document for publication in the FEDERAL REGISTER shall furnish with the document two copies of a descriptive catchword or phrase and a brief statement that:

(1) Names the agency issuing the document; and

(2) Summarizes the principal subject of the document.

The language of the summary statement submitted under this section and the headings required by Parts 17 and 22 of this chapter may be the same whenever appropriate. The following are examples of the kinds of statements intended by this requirement:

DETERGENTS—Proposed FTC labeling and advertising requirements for synthetic detergents.

COAL MINE SAFETY—Interior Department procedures to assess civil penalties for violations.

(b) A summary statement need not be submitted with a document that is making nonsubstantive changes that are corrective or editorial in nature. The Director of the Federal Register may grant additional exceptions to the requirements of this section. The Director shall publish once each month in the FEDERAL REGISTER a list of the classes of documents exempted under this section during the preceding month, stating the agency involved and the document or class of documents.

(c) Selected summary statements submitted under this section shall be included in a highlights listing which will be printed in a prominent place in the daily FEDERAL REGISTER. The Director shall exercise final editorial control over the wording of each summary statement and make the final determination as to its inclusion in the highlights listing.

(d) Neither failure to submit a summary statement under this section, nor failure to print such a statement in the highlights listing in the FEDERAL REGISTER affects the legal status of a document printed in the FEDERAL REGISTER. Highlights listings printed in the FEDERAL REGISTER are intended solely to serve as an aid to readers and the wording of a listed item is not intended to interpret the language of the document. FEDERAL REGISTER readers should continue to use the Table of Contents to identify the documents published in each issue and the text of a document to determine its legal effect.

[Based on 16.25]

PART 19—EXECUTIVE ORDERS AND PRESIDENTIAL PROCLAMATIONS

Sec.
19.1 Form.
19.2 Routing and approval of drafts.
19.3 Routing and certification of originals and copies.
19.4 Proclamations calling for the observance of special days or events.
19.5 Proclamations of treaties excluded.
19.6 Definition.

NOTE: The provisions of this Part 19 derived from sections 1 to 6 of Executive Order 11030, 27 FR 5847, 3 CFR 1959–1963 Comp., p. 610, and E.O. 11354, 32 FR 7695, 1966–1970 Comp., p. 652.

§ 19.1 Form.

Proposed Executive orders and proclamations shall be prepared in accordance with the following requirements:

(a) The order or proclamation shall be given a suitable title.

(b) The order or proclamation shall contain a citation of the authority under which it is issued.

(c) Punctuation, capitalization, spelling, and other matters of style shall, in general, conform to the most recent edition of the U.S. Government Printing Office Style Manual.

(d) The spelling of geographic names shall conform to the decisions of the Board on Geographic Names, established by section 2 of the act of July 25, 1947, 61 Stat. 456 (43 U.S.C. 364a).

(e) Descriptions of tracts of land shall conform, so far as practicable, to the most recent edition of the "Specifications for Descriptions of Tracts of Land for Use in Executive Orders and Proclamations," prepared by the Bureau of Land Management, Department of the Interior.

(f) Proposed Executive orders and proclamations shall be typewritten on paper approximately 8 x 13 inches, shall have a left-hand margin of approximately 1½ inches and a right-hand margin of approximately 1 inch, and shall be double-spaced except that quotations, tabulations, and descriptions of land may be single-spaced.

(g) Proclamations issued by the President shall conclude with the following-described recitation:

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, in the year of our Lord _____, and of the Independence of the United States of America the _____.

§ 19.2 Routing and approval of drafts.

(a) A proposed Executive order or proclamation shall first be submitted, with seven copies thereof, to the Director of the Office of Management and Budget, together with a letter, signed by the head or other properly authorized officer of the originating Federal agency, explaining the nature, purpose, background, and effect of the proposed Executive order or proclamation and its relationship, if any, to pertinent laws and other Executive orders or proclamations.

(b) If the Director of the Office of Management and Budget approves the proposed Executive order or proclamation, he shall transmit it to the Attorney General for his consideration as to both form and legality.

(c) If the Attorney General approves the proposed Executive order or proclamation, he shall transmit it to the Director of the Office of the Federal Register, National Archives and Records Service, General Services Administration: *Provided*, That in cases involving sufficient urgency the Attorney General may transmit it directly to the President: *And provided further*, That the authority vested in the Attorney General by this section may be delegated by him, in whole or in part, to the Deputy Attorney General, Solicitor General, or to such Assistant Attorney General as he may designate.

(d) After determining that the proposed Executive order or proclamation conforms to the requirements of § 19.1 and is free from typographical or clerical error, the Director of the Office of the Federal Register shall transmit it and three copies thereof to the President.

(e) If the proposed Executive order or proclamation is disapproved by the Director of the Office of Management and Budget or by the Attorney General, it shall not thereafter be presented to the President unless it is accompanied by a statement of the reasons for such disapproval.

§ 19.3 Routing and certification of originals and copies.

(a) If the order or proclamation is signed by the President, the original and two copies shall be forwarded to the Director of the Federal Register for publication in the FEDERAL REGISTER.

(b) The Office of the Federal Register shall cause to be placed upon the copies of all Executive orders and proclamations forwarded as provided in paragraph (a) of this section the following notation, to be signed by the Director or by some person authorized by him to sign such notation: "Certified to be a true copy of the original."

§ 19.4 Proclamations calling for the observance of special days or events.

Except as may be otherwise provided by law, responsibility for the preparation and presentation of proposed proclamations calling for the observance of special days, or other periods of time, or events, shall be assigned by the Director of the Office of Management and Budget to such agencies as he may consider appropriate. Such proposed proclamations shall be submitted to the Director at least 60 days before the date of the specified observance.

§ 19.5 Proclamations of treaties excluded.

Consonant with the provisions of Chapter 15 of Title 5 of the United States Code (44 U.S.C. 1511), nothing in these regulations shall be construed to apply to treaties, conventions, protocols, or other international agreements, or proclamations thereof by the President.

§ 19.6 Definition.

The term "Presidential proclamations and Executive orders," as used in Chapter 15 of Title 5 of the United States Code (44 U.S.C. 1505(a)), shall, except as the President or his representative may hereafter otherwise direct, be deemed to include such attachments thereto as are referred to in the respective proclamations or orders.

PART 20—HANDLING OF U.S. GOVERNMENT ORGANIZATION MANUAL STATEMENTS

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

§ 20.1 Liaison officers.

Each of the following shall appoint an officer to maintain liaison with the Office on matters relating to the Manual:

(a) Agencies of the legislative and judicial branches.

(b) Executive agencies that do not have a liaison officer designated under § 16.1 of this chapter or who wish to appoint a liaison officer for Manual matters other than the one designated under such § 16.1.

(c) Quasi-official agencies represented in the Manual.

(d) Any other agency that the Director believes should be included in the Manual.

Each liaison officer will insure his agency's compliance with Part 9 of this chapter and this Part 20.

[Based on 31.11 and 31.12]

§ 20.2 Preparation of agency statements.

In accordance with schedules established under § 20.7 each agency shall submit for publication in the Manual an official draft of the information required by § 9.2 of this chapter and this Part 20.

[Based in part on 31.16 and 31.17]

§ 20.3 Organization.

(a) Information about lines of authority and organization may be reflected in a chart if the chart clearly delineates the agency's organizational structure. Charts must be submitted in duplicate in the form of clear prints suitable for photographing. Charts should be prepared so as to be perfectly legible when reduced to the size of a Manual page. Charts that do not meet this requirement will not be included in the Manual.

(b) Listings of heads of operating units should be arranged wherever possible to reflect relationships between units.

(c) Verbal descriptions of organization that duplicate information conveyed by charts or by lists of officials will not be published in the Manual.

[Based in part on 31.16 with new material added]

§ 20.4 Description of program activities.

Descriptions should state clearly the public purposes that the agency serves, and the programs that carry out those purposes. Detailed descriptions of the responsibilities of individuals will not be accepted for publication in the Manual.

[New section added]

§ 20.5 Sources of information.

Pertinent sources of information useful to the public, in areas of public interest such as employment, consumer activities, contracts, services to small business, and other topics involving public participation must be provided with each agency statement. These sources of information shall plainly identify the places at which the public may obtain information or make submittals or requests.

[New section added]

§ 20.6 Form, style, arrangement and apportionment of space.

The form, style, and arrangement of agency statements and other material included in the Manual and the apportionment of space therein shall be determined by the Director of the Federal Register. The U.S. Government Printing Office Style Manual is the applicable reference work in determining style.

[Based in part on 31.19]

§ 20.7 Deadline dates.

The Manual is published on a schedule that insures the information in it is available to the public on a timely basis. Therefore, agencies must comply with the deadline dates established by the Director of the Federal Register for transmittal of statements and charts and for the verification of proofs. Failure to do so may result in publication of an outdated statement or the omission of important material, thus depriving members of the public of information they have a right to expect in a particular edition of the Manual.

[New section added]

PART 21—PREPARATION OF DOCUMENTS SUBJECT TO CODIFICATION

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

Subpart A—General

§ 21.1 Drafting.

(a) Each agency that prepares a document that is subject to codification shall draft it as an amendment to the Code of Federal Regulations, in accordance with this subchapter, before submitting it to the Office of the Federal Register.

(b) The agency shall place a promulgation statement in the document precisely describing the relationship of the new provisions to the Code.

[Based on 17.1]

§§ 21.2, 21.3 [Reserved]

§ 21.4 Descriptions of organization.

The Director of the Federal Register may designate documents submitted under section 552(a)(1)(A) of Title 5, United States Code, as "documents subject to codification" under special agreement with the issuing agency. The agreement must be in writing, signed by the head of the agency, or his designee, and stating that—

(a) Publication in the Code is necessary or desirable for the effective discharge of the agency's functions or activities; and

(b) Publication in the Code may be discontinued by the Administrative Committee for failure of the agency to keep publication current.

[Based on 17.2]

§ 21.5 Separate documents for each title and chapter amended.

Whenever an agency is taking an action that will amend more than one title, or more than one chapter, of the Code of Federal Regulations, it shall prepare a separate document for each title and each chapter that is to be amended.

[New section added]

§ 21.6 Notice of expiration of codified material.

(a) Whenever a document subject to codification expires after a specified period by its own terms or by law, the issuing agency shall submit a notification by document for publication in the FEDERAL REGISTER.

(b) If the preparation of the document is not practicable, the agency shall send a timely notice, in writing, to the Director of the Federal Register, stating that the document is no longer in effect, citing the pertinent terms.

[Based on 11.7]

CODE STRUCTURE

§ 21.7 Titles and subtitles.

(a) The major divisions of the Code are titles, each of which brings together broadly related Government functions.

(b) Subtitles may be used to distinguish between materials emanating from an overall agency and the material issued by its various components. Subtitles may also be used to group chapters within a title.

[Based on 17.4 and 17.8]

§ 21.8 Chapters and subchapters.

(a) The normal divisions of a title are chapters, assigned to the various agencies within a title descriptive of the subject matter covered by the agencies' regulations.

(b) Subchapters may be used to group related parts within a chapter.

[Based on 17.5 and 17.9]

§ 21.9 Parts, subparts, and undesignated center heads.

(a) The normal divisions of a chapter are parts, consisting of a unified body of regulations applying to a specific function of an issuing agency or devoted to specific subject matter under the control of that agency.

(b) Subparts or undesignated center heads may be used to group related sections within a part. Undesignated center heads may also be used to group sections within a subpart.

[Based on 17.6 and 17.10]

§ 21.10 Sections.

(a) The normal divisions of a part are sections. Sections are the basic units of the Code.

(b) When internal division is necessary, a section may be divided into paragraphs, and paragraphs may be further subdivided using the lettering indicated in § 21.11.

[Based on 17.7 and 17.16 (first 18 words)]

NUMBERING

§ 21.11 Divisions of the Code of Federal Regulations.

(a) Titles are numbered consecutively in Arabic throughout the Code.

(b) Subtitles are lettered consecutively in capitals throughout the title.

(c) Chapters are numbered consecutively in Roman capitals throughout each title.

(d) Subchapters are lettered consecutively in capitals throughout the chapter.

(e) Parts are numbered in Arabic throughout each title.

(f) Subparts may be lettered in capitals or be undesignated.

(g) Sections are numbered in Arabic throughout each part. A section number includes the number of the part followed by a decimal point and the number of the section. For example, the section number for section 15 of Part 21 is "§ 21.15".

(h) The lettering for divisions of a section is as follows:

Division	*Illustrative lettering*
Paragraph	(a), (b), etc.
Further subdivision of a paragraph.	(1), (2), etc. (i), (ii), etc. (A), (B), etc. (*1*), (*2*), etc. (*i*), (*ii*), etc.

[Based on 17.12, 17.13, 17.14, 17.15, 17.16 (less first 18 words), and 17.17]

§ 21.12 Reservation of numbers.

In a case where related parts or related sections are grouped under a heading, numbers shall be reserved at the end of each group to allow for expansion.

[Based on 17.18]

§ 21.13 Addition of new units between existing units.

(a) Whenever it is necessary to introduce a new part or section between existing consecutive parts or sections, the new part or section shall be designated by the addition of a lower case letter to the number of the preceding part or section. For example, a part inserted between Parts 31 and 32 is numbered "31a", and a section inserted between § 31.1 and § 31.2 is numbered "§ 31.1a".

(b) Whenever it is necessary to insert a paragraph between existing consecutive paragraphs, and revision of the entire paragraph is not desired, the new paragraph shall be designated by the addition of a hyphen and an Arabic number to the letter designating the preceding paragraph. For example, a paragraph inserted between paragraph (a) and (b) is designated "(a–1)".

[Based on 17.20]

§ 21.14 Keying to agency numbering systems.

The Director of the Federal Register may allow the keying of section numbers to correspond to a particular numbering system used by an agency only when, in his opinion, the keying will benefit both that agency and the public.

[Based on 17.22]

§ 21.15 Statements of policy and interpretations.

(a) Whenever a statement of general policy or an interpretation, submitted pursuant to section 552(a)(1)(D) of Title 5, United States Code, applies to an entire part, it shall be included in or appended to that part.

(b) Whenever a statement of general policy or an interpretation applies to a specific section it shall be appended to that section.

(c) Statements of policy and interpretations that are broader in scope than those covered by paragraphs (a) and (b) of this section shall be assigned to a part or group of parts within the chapter affected.

[Based on 17.23]

HEADINGS

§ 21.16 Required Code headings.

(a) The title, chapter, and part headings, in that order, shall be set forth in full on separate lines at the beginning of each document. Subtitle, subchapter, and subpart headings shall, if applicable, also be set forth.

(b) Each section shall have a brief descriptive heading, preceding the text, on a separate line.

[Based on 17.26]

§ 21.17 Additional captions.

(a) For the purpose of publication in the FEDERAL REGISTER, a brief caption more specifically describing the scope of a document constituting a partial

amendment of the material in a part shall be provided immediately below the part heading.

(b) An agency that uses regulation numbers or other identifying symbols shall place them in brackets centered immediately above the part heading.

[Based on 17.27]

§ 21.18 Tables of contents.

A table of contents shall be used at the beginning of the part whenever a new part is introduced, an existing part is completely revised, or a group of sections is revised or added and set forth as a subpart or otherwise separately grouped under a center head. The table shall follow the part heading and precede the text of the regulations in that part. It shall also list the headings for the subparts, undesignated center headings, and sections in the part.

[Based on 17.28]

§ 21.19 Composition of part headings.

Each part heading shall indicate briefly the general subject matter of the part. Phrases such as "Regulations under the Act of July 28, 1955" or other expressions that are not descriptive of the subject matter may not be used. Introductory expressions such as "Regulations governing" and "Rules applicable to" may not be used.

[Based on 17.29]

AMENDMENTS

§ 21.20 General requirements.

(a) Each amendatory document shall include a statement of the nature and extent of the changes made.

(b) The number and heading of each section amended shall be set forth in full on a separate line.

[Based on 17.32]

REFERENCES

§ 21.21 General requirements.

(a) Each reference to the Code of Federal Regulations shall be in terms of the specific titles, chapters, parts, sections, and paragraphs involved. Ambiguous references such as "herein", "above", "below", and similar expressions may not be used.

(b) Each document that contains a reference to material published in the Code shall include the Code citation as a part of the reference.

[Based on 17.34]

§ 21.22 References between or within titles.

Unless the meaning is otherwise precisely expressed and an undue or awkward repetition would result, the following references shall be used:

(a) *Between titles.* When reference is made to material codified in a title other than that in which the reference occurs, the short form of citation shall be used. For example, a reference within Title 41 to § 2.4 of Title 1 is "1 CFR 2.4".

(b) *Within titles.* When reference is made to material codified in the same title, the following forms shall be used, as appropriate:

Chapter ------ of this title.
Part ------ of this title.
§ ------ of this title.

(c) *Within chapters.* When reference is made to material codified in the same chapter, the following forms shall be used, as appropriate:

Part ------ of this chapter.
§ ------ of this chapter.

(d) *Within sections.* When reference is made to material codified in the same section, the following forms shall be used, as appropriate:

Paragraph (------) of this section.

[Based on 17.36]

§ 21.23 Parallel citations of Code and Federal Register.

For parallel reference, the Code of Federal Regulations and the FEDERAL REGISTER may be cited in the following forms, as appropriate:

------ CFR ------ (------ FR ------).
§ ------ of this chapter (------ FR ------).

[Based on 17.37]

§ 21.24 References to 1938 edition of Code.

When reference is made to material codified in the 1938 edition of the Code of Federal Regulations, or a supplement thereto, the following forms may be used, as appropriate:

------ CFR, 1938 Ed., ------.
------ CFR, 1943, Cum. Supp., ------.
------ CFR, 1946 Supp., ------.

[Based on 17.38]

EFFECTIVE DATE STATEMENT

§ 21.30 General.

Each document subject to codification shall include a clear statement as to the date or dates upon which its contents become effective.

[Based on 17.41]

Subpart B—Citations of Authority

§ 21.40 General requirements.

(a) Each section in a document subject to codification shall include, or be covered by, a complete citation of the authority under which the section is issued, including—

(1) General or specific authority delegated by statute; and

(2) Executive delegations, if any, necessary to link the statutory authority to the issuing agency.

[Based on 17.45]

§ 21.41 Agency responsibility.

(a) Each issuing agency is responsible for the accuracy and integrity of the citations of authority in the documents it issues.

(b) Each issuing agency shall formally amend the citations of authority in its codified material to reflect any changes therein.

[Based on 17.46]

§ 21.42 Exceptions.

The Director of the Federal Register may make exceptions to the requirements of this subpart relating to placement and form of citations of authority in any case in which he determines that strict application would impair the practical use of the citations.

[Based on 17.47]

PLACEMENT

§ 21.43 Coverage.

(a) *Single section.* Authority covering a single section shall be cited in parentheses on a separate line immediately following the text of the section. For example:

(Sec. 5, Pub. L. 89-670, 80 Stat. 935 (49 U.S.C. 1654))

(b) *Blanket coverage.* Authority covering two or more consecutive sections shall be cited following the word "AUTHORITY" and placed as a text note immediately preceding the first section of the group. For example:

AUTHORITY: Sec. 5, Pub. L. 89-670, 80 Stat. 935 (49 U.S.C. 1654).

(c) *Combined blanket and separate coverage.* Whenever individual sections within a group covered by a blanket citation reflect additional authority, a combined form shall be used. For example:

AUTHORITY: Sec. 5, Pub. L. 89-670, 80 Stat. 935 (49 U.S.C. 1654), unless otherwise noted.

(d) *Combined blanket coverage.* Whenever a group of two or more consecutive sections within a broader group covered by a blanket citation reflects the same additional authority, a combined blanket citation shall be used. For example:

AUTHORITY: Sec. 5, Pub. L. 89-670, 80 Stat. 935 (49 U.S.C. 1654). §§ 7.1 to 7.11 also issued under sec. 313, Pub. L. 85-726, 72 Stat. 752 (49 U.S.C. 1354).

[Based on 17.50, 17.51, 17.52, and 17.53]

§ 21.44 Documents involving various amendments.

(a) Whenever a document prescribes several amendments issued under common authority, the citation to that authority shall be placed in parentheses on a separate line after the last amendment.

(b) Whenever a document prescribes several amendments issued under varying authorities, each amendment shall be followed by the appropriate citation in parentheses on a separate line.

[Based on 17.54]

§ 21.45 Nonstatutory authority.

Citation to a document as authority shall be placed after the statutory citations. For example:

AUTHORITY: Sec. 9, Pub. L. 89-670, 80 Stat. 944 (49 U.S.C. 1657). E.O. 11222, 30 FR 6469, 3 CFR 1965 Comp.

[Based on 17.55]

FORM

§ 21.51 General.

(a) Formal citations of authority shall be in the shortest form compatible with

positive identification and ready reference.

(b) The Office of the Federal Register shall assist agencies in developing model citations.

[Based on 17.60]

§ 21.52 Statutory materials.

(a) *Public laws.* Citations to current public laws shall include reference to the volume and page of the U.S. Statutes at Large to which they have been assigned. For example:

Sec. 5, Pub. L. 89–670, 80 Stat. 935 (49 U.S.C. 1654)

(b) *U.S. Statutes at Large.* Citations to the U.S. Statutes at Large shall refer to section, page, and volume. The page number should refer to the page on which the section cited begins. If the cited material is contained in a title of the United States Code that has not been positively enacted, the parallel United States Code citation shall also be given. For example:

Sec. 5, Pub. L. 89–670, 80 Stat. 935 (49 U.S.C. 1654); sec. 313, Pub. L. 85–726, 72 Stat. 752 (49 U.S.C. 1354)

(c) *Positive law titles of the United States Code.* Citations to titles of the United States Code that have been enacted into positive law (such as 1, 5, 10, etc.) shall be cited as follows, without public law or U.S. Statutes at Large citation:

10 U.S.C. 501.

[Based on 17.61]

§ 21.53 Nonstatutory materials.

Nonstatutory documents shall be cited by document designation and by FEDERAL REGISTER volume and page, followed, if possible, by the parallel citation to the Code of Federal Regulations. For example:

Special Civil Air Reg. SR–422A, 28 FR 6703, 14 CFR Part 4b. E.O. 11130, 28 FR 12789; 3 CFR 1959–63 Comp.

[Based on 17.62]

PART 22—PREPARATION OF NOTICES AND RULE MAKING PROPOSALS

NOTICES IN GENERAL

Sec.
22.1 Name of issuing agency and subdivision.
22.2 Authority citation.

NOTICES OF PROPOSED RULE MAKING

22.5 General requirements.
22.6 Code designation.
22.7 Codification.

AUTHORITY: 44 U.S.C. 1506; sec. 6, E.O. 10530, 19 FR 2709; 3 CFR 1954–1958 Comp. p. 189.

NOTICES IN GENERAL

§ 22.1 Name of issuing agency and subdivision.

(a) The name of the agency issuing a notice shall be placed at the beginning of the document.

(b) Whenever a specific bureau, service, or similar unit within an agency issues a notice, the name of that bureau, service, or unit shall be placed on a separate line below the name of the agency.

(c) An agency that uses file numbers, docket numbers, or similar identifying symbols shall place them in brackets immediately below the other headings required by this section.

(d) A suitable short title identifying the subject shall be provided beginning on a separate line immediately after the other required caption or captions. Whenever appropriate, an additional brief caption indicating the nature of the document shall be used.

[Based on 18.2, 18.3, 18.4, and 18.5]

§ 22.2 Authority citation.

The authority under which an agency issues a notice shall be cited in narrative form within text or in parentheses on a separate line following text.

[Based on 18.6]

NOTICES OF PROPOSED RULE MAKING

§ 22.5 General requirements.

Each notice of proposed rule making required by section 553 of title 5, United States Code, or any other statute, and any similar notice voluntarily issued by an agency shall include a statement of—

(a) The time, place, and nature of public rule making proceedings; and

(b) Reference to the authority under which the regulatory action is proposed.

[Based on 18.10]

§ 22.6 Code designation.

The area of the Code of Federal Regulations directly affected by a proposed regulatory action shall be identified by placing the appropriate CFR citation in brackets immediately below the name of the issuing agency. For example:

[1 CFR Part 22]

[Based on 18.11]

§ 22.7 Codification.

Any part of a notice of proposed rule making document that contains the full text of a proposed regulation shall also conform to the pertinent provisions of Part 21 of this chapter.

[Based on 18.12]

DISTRIBUTION TABLE

Current section	Revised section	Current section	Revised section
1.0	2.1	3.4	15.3
1.1	2.2	3.5	15.4
1.2	2.3	3.6	15.5
1.3	2.4	3.10	15.10
1.4	2.5	3.11	15.10
1.5	3.4	3.15	15.15
2.1	2.2	3.16	15.16
2.2	3.1	3.17	Surplus
2.3	3.2	3.18	15.17
2.4	3.3	3.19	15.18
2.5	3.4	4.1	16.1
3.1	15.1	4.2	16.1
3.2	15.2	4.3	16.2
3.3	18.2	4.4	16.3

DISTRIBUTION TABLE—Continued

Current section	Revised section	Current section	Revised section
4.5	16.4	17.36	21.22
7.1	19.1	17.37	21.23
7.2	19.2	17.38	24.24
7.3	19.3	17.41	21.30
7.4	19.4	17.45	21.40
7.5	19.5	17.46	21.41
7.6	19.6	17.47	21.42
10.1	5.1	17.50	21.43
10.2	5.6	17.51	21.43
10.3	5.5	17.52	21.43
10.4	5.8	17.53	21.43
10.5	2.6	17.54	21.44
11.1	5.2	17.55	21.45
11.2	5.2	17.60	21.51
11.3	5.2	17.61	21.52
11.5	5.3	17.62	21.53
11.7	21.5	18.1	Surplus
11.10	18.14	18.2	22.1
11.11	18.15	18.3	22.1
11.20	5.4	18.4	22.1
11.21	5.4	18.5	22.1
11.22	5.2	18.6	22.2
12.1	Surplus	18.10	22.5
12.2	17.1	18.11	22.6
12.3	3.2	18.12	22.7
12.5	17.4	Part 20	To be published in a separate document.
12.6	17.3, 17.4		
12.7	17.4		
12.8	17.5	30.1	8.1
12.11	17.2	30.2	8.9
12.12	17.2	30.3	2.6
12.15	17.6	30.4	8.2
12.16	17.6	30.5	8.6
12.17	17.6	30.6	5.5
13.1	5.9	30.7	8.3
13.2	5.9	30.8	Surplus
13.3	5.9	30.9	8.4
13.4	5.9	30.10	8.5
13.5	5.9	30.11	8.7
14.1	6.1	30.12	8.8
14.2	6.2	30.13	8.8
14.5	6.3	30.14	8.8
14.6	6.4	30.15	8.8
14.9	5.5	30.16	3.4
15.1	5.7	30.17	3.4
15.3	7.1	31.1	9.1
15.4	7.2	31.2	9.1
15.5	7.3	31.6	9.2
15.6	7.4	31.7	9.2
15.7	7.5	31.8	9.2
15.8	7.6	31.11	20.1
15.10	3.4	31.12	20.1
15.11	3.4	31.16	20.2, 20.3
16.1	18.1	31.17	20.2
16.2	18.3	31.18	Unnecessary
16.3	18.4	31.19	20.6
16.4	18.4	31.21	9.3
16.5	18.4	31.22	9.3
16.6	18.5	31.23	9.3
16.7	18.6	31.24	9.3
16.8	18.7	31.25	9.3
16.9	18.8	31.26	9.3
16.15	18.9	31.28	3.4
16.16	18.9	32.1	10.1
16.17	18.9	32.2	10.2
16.20	18.10	32.3	10.4
16.21	18.11	32.10	10.3
16.25	18.16	32.11	10.3
17.1	21.1	32.15	10.5
17.2	21.4	32.16	10.5
17.3	21.3	32.17	10.5
17.4	21.7	32.18	10.5
17.5	21.8	32.19	10.6
17.6	21.9	32.22	3.4
17.7	21.10	32.30	10.10
17.8	21.7	32.31	10.11
17.9	21.8	32.40	10.12
17.10	21.9	32.50	3.4
17.12	21.11	40.1	1.1
17.13	21.11	40.2	Executed
17.14	21.11	40.3	Executed
17.15	21.11	40.4	Unnecessary
17.16	21.10, 21.11	40.5	1.1
17.17	21.11	40.6	Executed
17.18	21.12	40.7	Executed
17.20	21.12	40.8	1.1
17.21	Unnecessary	40.9	1.1
17.22	21.14	40.10	Unnecessary
17.23	21.15	40.11	Executed
17.26	21.16	40.12	Executed
17.27	21.17	40.13	Unnecessary
17.28	21.18	40.14	Executed
17.29	21.19	40.15	Executed
17.32	21.20	40.16	Executed
17.34	21.21		
17.35	Surplus		

[FR Doc.72–5215 Filed 4–3–72;8:54 am]

OFFICE OF THE FEDERAL REGISTER

[1 CFR Ch. II]

INCORPORATION BY REFERENCE

Notice of Proposed Rule Making

The Director of the Federal Register is considering amending the regulations concerning the "incorporation by reference" of certain documents in the FEDERAL REGISTER. The present regulations governing incorporation by reference are contained in Part 20 of Chapter I of Title 1 of the Code of Federal Regulations. By a separate document published in this issue of the FEDERAL REGISTER, the Administrative Committee of the Federal Register is proposing a general revision of its regulations. Since present Part 20 is a regulation of the Director of the Federal Register (sec. 5 U.S.C. 552(a)) rather than of the Administrative Committee, it is proposed to transfer its requirements to a new Part 51 in a new Chapter II—Office of the Federal Register.

For the most part, proposed Part 51 is merely a renumbering with minor revisions of present Part 20. However, several significant changes are proposed, as follows:

(1) It is proposed that present paragraph (c) of § 20.4 (proposed § 51.3) be deleted. This paragraph now attempts to make a distinction between the "legal promulgation of a document in the FEDERAL REGISTER" and the use of "incorporation by reference within a document." It is generally agreed that incorporation by reference, if overused, could eventually result in emasculation of the Code of Federal Regulations. Thus, there is a legitimate reason for rejecting many proposed incorporations that could be considered "promulgation by reference." On the other hand, there may be cases, such as the postal service procurement regulations (see 36 F.R. 23217) where the public interest is better served by avoiding the publication in the FEDERAL REGISTER/CFR system of detailed regulations aimed at a fairly small class of persons who may be adequately served by a separate publication. Furthermore, there is no really clear line between "promulgation by reference" and "incorporation by reference" as is demonstrated by an examination of the incorporations that have previously been approved under Part 20. Deletion of present § 20.4(c) would not be an invitation to extensive use of incorporation by reference. The Director of the Federal Register would continue to examine each case on its merits and would approve only those where the incorporation would appear to serve the public interest.

(2) A new § 51.5 is proposed to require the filing of copies of all material that is approved for incorporation by reference (including copies of each amendment or revision) with the Office of the Federal Register. This new requirement is proposed for at least two reasons. First, it will permit the Office of the Federal Register to maintain a complete historical file of all material that is approved for incorporation by reference. Secondly, it will ensure that the intent of the original Federal Register Act (44 U.S.C. 1501–1511) concerning the filing of regulatory material is carried out. It has been argued by some in the past that a reading of 44 U.S.C. 1503, together with 5 U.S.C. 552(a), in fact already requires such a filing.

(3) Paragraph (c) of proposed § 51.8 contains new material not presently in Part 20. This proposed paragraph makes it clear that future amendments or revisions of a document that is incorporated by reference cannot automatically be included without further publication in the FEDERAL REGISTER. Automatic inclusion of future amendments or revisions to a document incorporated by reference is considered inappropriate for several reasons. For one, it could in many instances amount to an unlawful delegation of legislative authority to a private organization. Secondly, in cases where the proposed rule making requirements of 5 U.S.C. 553 apply, automatic inclusion of changes to an incorporated document would violate these requirements since the public would have no opportunity to comment thereon.

(4) Paragraph (c) of § 51.10 also contains new material not presently in Part 20. This paragraph is intended to clarify the status of any incorporation by reference that is included in a regulatory document without the approval of the Director of the Federal Register and that is inadvertently published in the FEDERAL REGISTER. The staff of the Office of the Federal Register makes every effort to prevent the publication of unapproved incorporations by reference. However, because of the constantly increasing number of documents processed daily, it is possible for one to slip through the editing process.

Interested persons are invited to comment on the proposed new regulations governing incorporation by reference by submitting their comments to the Director of the Federal Register, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408. All comments received by June 5, 1972 will be considered.

FRED J. EMERY,
Director of the Federal Register.

Chapter II—Office of the Federal Register

PART 51—INCORPORATION BY REFERENCE

GENERAL

AUTHORITY: 5 U.S.C. 552(a).

GENERAL

§ 51.1 Policy.

(a) Section 552(a) of Title 5, United States Code, provides, in part, that "matter reasonably available to the class of persons affected thereby is deemed published in the FEDERAL REGISTER when incorporated by reference therein with the approval of the Director of the Federal Register".

(b) The Director will strictly interpret the language quoted in paragraph (a) of this section to provide fairness and uniformity in administrative proceedings involving publication in the FEDERAL REGISTER.

(c) The Director will interpret and apply the language quoted in paragraph (a) of this section with full regard to the significance of related instruments governing publication in the FEDERAL REGISTER and the Code of Federal Regulations. Related instruments include—

(1) Subchapter II of Chapter 5 of Title 5, United States Code;

(2) Chapter 15 of Title 44, United States Code;

(3) Chapter I of this title; and

(4) Special statutory provisions, listed in appendix B to Chapter I of this title, that require publication in the FEDERAL REGISTER.

(d) The Director will assume that the language quoted in paragraph (a) of this section is—

(1) Designed to cover the limited purposes of section 552(a) of Title 5, United States Code;

(2) Intended to benefit both the Federal Government and the members of the classes affected by reducing the volume of matter printed in the FEDERAL REGISTER; and

(3) Not intended to detract from the legal or practical attributes of the system established under the basic instruments listed in paragraph (c) of this section.

[Based on 20.1 and 20.2]

§ 51.2 Matter eligible.

To be eligible for incorporation by reference, under section 552(a) of Title 5, United States Code, in a document to be published in the FEDERAL REGISTER, material must conform to the policy stated in § 51.1 and be in the nature of published data, criteria, standards, specifications, techniques, illustrations, or other published information reasonably available to the members of the class that would be affected by the publication.

[Based on 20.3]

§ 51.3 Distinctions.

(a) *Ordinary references.* For the purposes of this part, informational references and cross references that do not purport to incorporate outside matter within a FEDERAL REGISTER document are not considered to be legal incorporations

by reference under section 552(a) of Title 5, United States Code.

(b) *Regulations governing availability of agency issuances.* Regulations governing the availability of agency issuances are not considered to be legal incorporation by reference under section 552(a) of Title 5, United States Code.

[Based on 20.4]

§ 51.4 Elements on which approval may be based.

The Director of the Federal Register will approve an incorporation by reference only when the following considerations are favorable and reasonably stable:

(a) The matter is eligible.

(b) Incorporation will substantially reduce the volume of material published in the FEDERAL REGISTER.

(c) The matter incorporated is in fact available to the extent necessary to afford fairness and uniformity in the administrative process.

(d) The incorporating document is drafted and submitted for publication in accordance with this part.

[Based on 20.5]

§ 51.5 Filing.

Copies of material approved for incorporation by reference including copies of all amendments or revisions to that material, shall be filed with the Office of the Federal Register.

DRAFTING STANDARDS

§ 51.6 Language of incorporation.

(a) The language incorporating material by reference shall be as precise and complete as possible.

(b) The words expressing the incorporation shall make it clear that the incorporation by reference is intended and completed by the document in which it appears.

[Based on 20.10]

§ 51.7 Identification and description.

(a) Each incorporation by reference shall include an identification and subject description of the matter incorporated, in terms as precise and useful as practicable within the limits of reasonable brevity.

(b) Titles, dates, editions, numbers, authors, and publishers shall be stated whenever they would contribute to clear identification.

(c) A brief subject description shall be included to inform the user of his potential need to obtain the matter incorporated.

[Based on 20.11]

§ 51.8 Statement of availability.

(a) *Information.* Each incorporation by reference shall include a statement covering the availability of the material incorporated, including current information as to where and how copies of it may be examined and be readily obtained with maximum convenience to the user.

(b) *Official showing.* Inclusion of the statement required by paragraph (a) of this section constitutes an official showing by the issuing agency that the material incorporated is, in fact, reasonably available to the class of persons affected.

(c) *Future amendments or revisions.* In any case in which incorporated material will be subject to change, the statement required by paragraph (a) of this section shall set forth that information. However, the incorporation of material in a FEDERAL REGISTER document by reference is limited to the material as it exists on the effective date of the document. Future amendments or revisions of material incorporated by reference are not included. They may be added as they become available, or at any later time, by the issuance of an amendatory document. Separate approval of the Director of the incorporation of each amendment whose original incorporation was approved need not be obtained if all other requirements of this part are met.

[Based on 20.12 plus new material]

PUBLICATION PROCEDURES

§ 51.10 Advance consultation.

(a) To avoid delay, each issuing agency shall consult in advance with the Director of the Federal Register regarding the approval of any specific incorporation by reference. The consultation should take place at least 10 working days before the proposed date of submission of the document.

(b) After completion of the consultation, the Director will notify the agency of his decision, at least 5 working days before the proposed date of submission of the document.

(c) If a document containing an incorporation by reference is published without the specific approval of the Director, the agency concerned must re-present the document for specific approval and republication.

[Based on 20.20 and 20.21]

§ 51.11 Letter transmitting final document.

Each agency submitting a document under this part shall send with it a letter of transmittal covering the matter of incorporation by reference and referring specifically to the advance consultation.

[Based on 20.22]

§ 51.12 Stamp of approval.

(a) Whenever the Director of the Federal Register accepts a document under this part it will be stamped with a statement substantially as follows:

Incorporation by reference provisions approved by the Director of the Federal Register _____
(date)

(b) The language of the stamped statement will be printed in the FEDERAL REGISTER as a part of the document.

[Based on 20.23]

[FR Doc.72-5216 Filed 4-3-72;8:54 am]