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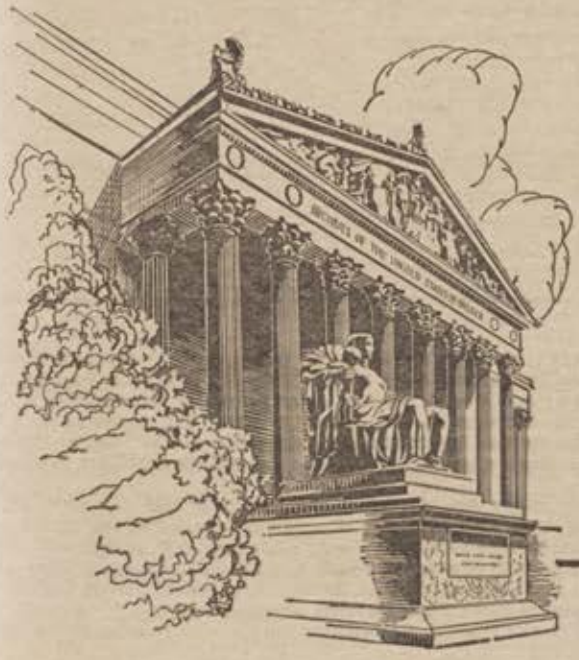

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List of CFR Parts Affected

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A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1969, and specifies how they are affected.

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Small Business Administration; Correction

In F.R. Doc. 69-10459 appearing in the FEDERAL REGISTER of September 3, 1969 on page 13968 the new paragraph (m) added to § 213.3332 should be (r) as set out below.

§ 213.3332 Small Business Administration.

* * * * *

(r) One Private Secretary for interdepartmental activities, Office of the Assistant Administrator for Congressional and Public Affairs.

(5 U.S.C. 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218)

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

[F.R. Doc. 69-10757; Filed, Sept. 9, 1969; 8:47 a.m.]

Title 7—AGRICULTURE

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

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 1]

PART 729—PEANUTS

Subpart—Regulations for Determination of Acreage Allotments and Marketing Quotas for 1969 and Subsequent Crops of Peanuts

MISCELLANEOUS AMENDMENTS

This amendment of the allotment and marketing quota regulations for peanuts of the 1969 and subsequent crops is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.). The purposes of this amendment are as follows:

(1) The recent reorganization of ASCS is reflected by changing the reference in § 729.6(b)(5) from "Farmer Programs Division" to "Commodity Programs Division" and by changing the reference in § 729.42 from "Policy, Program and Appraisal Division" to "Oilseeds and Special Crops Division".

(2) To make clear that volunteer acreage as well as seeded acreage is included in the final acreage under § 729.6 (b)(13).

(3) To clarify the condition of eligibility for a new farm allotment in § 729.19(b)(3) so that the farm is the only farm owned or operated by the farm owner or farm operator. This covers situations under § 729.19(b)(2) where the operator need not be the owner of the farm.

(4) Section 729.43 is amended to establish the basic penalty rate for the 1969 crop of peanuts.

The marketing of peanuts of the 1969 crop is now underway and it is essential that the basic penalty rate for the 1969 crop be announced immediately. Accordingly, it is hereby determined and found that compliance with the notice, public procedure and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest and this amendment shall become effective upon filing of this document with the Director, Office of the Federal Register.

The regulations for determination of acreage allotments and marketing quotas for 1969 and subsequent crops of peanuts (33 F.R. 18351, 18981) are amended as follows:

1. Subparagraphs (5) and (13) of paragraph (b) of § 729.6 are revised to read as follows:

§ 729.6 Definitions.

* * * * *

(b) *Peanut program terms.* * * *

(5) *Director.* The Director or Acting Director of the Commodity Programs Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

* * * * *

(13) *Final acreage.* The acreage, including volunteer acreage, on the farm from which peanuts are picked or threshed as determined and adjusted under § 729.29.

2. Subparagraph (3) of paragraph (b) of § 729.19 is revised to read as follows:

§ 729.19 Conditions of eligibility for new farm allotment.

* * * * *

(b) * * *

(3) The farm is the only farm in the United States, owned or operated by the farm operator or farm owner, for which a farm peanut allotment is established for the current year;

* * * * *

§ 729.42 [Amended]

3. The first sentence of paragraph (a) of § 729.42 is amended by deleting the words "Policy, Program and Appraisal" and substituting in lieu thereof the words "Oilseeds and Special Crops".

4. Section 729.43 is revised to read as follows:

§ 729.43 Penalty rate.

(a) *General.* The basic penalty rate shall be equal to 75 percent of the support price for peanuts for the marketing year.

(b) *1969 crop.* The basic support price for peanuts for the marketing year beginning August 1, 1969, and ending July 31, 1970, is $247.50 per ton or 12.4 cents per pound. Therefore, the basic penalty rate for the 1969 crop of peanuts is 9.3 cents per pound.

(Secs. 358, 359, 375, 55 Stat. 88, as amended, 55 Stat. 90, as amended, 52 Stat. 66, as amended, 7 U.S.C. 1358, 1359, 1375)

Effective date: Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on September 4, 1969.

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

[F.R. Doc. 69-10786; Filed, Sept. 9, 1969; 8:49 a.m.]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

PART 855—MAINLAND CANE SUGAR AREA

Proportionate Shares for Farms; 1970 Crop

Sec.
855.57 Definitions.
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855.59 State acreage allocations.
855.60 Determination of farm bases for old-producer farms.
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855.62 Shares for reconstituted farms.
855.63 Redetermination of bases and shares because of use of incorrect data.
855.64 Reallotment of unused acres.
855.65 Establishment of shares for new-producer farms.
855.66 Appeals or corrections.
855.67 Acreage for experimental use.

AUTHORITY: §§ 855.57 to 855.67 issued pursuant to sec. 302, Sugar Act of 1948, as amended (secs. 301, 302, 403, 61 Stat. 929, 930, as amended; 992; 7 U.S.C. 1131, 1132, 1153).

§ 855.57 Definitions.

For the purpose of this part, the terms:

(a) "Act," "Secretary," "Deputy Administrator," "State Committee," "County Committee," "Producer," "Operator," and designation of a crop of sugarcane by year shall have the meanings set forth in § 892.1 of this chapter.

(b) "Farm" shall have the meaning set forth in Part 822 of this chapter.

(c) "Cane" means sugarcane.

(d) "Old-producer farm" means a farm which includes land that comprised a farm or part of a farm for which a share was established for the 1969 crop pursuant to § 855.51, § 855.52, or § 855.55.

(e) "New-producer farm" means any farm that is not an old-producer farm.

(f) "Proportionate share" or "share" means the proportionate share for a farm in terms of planted acreage as provided in sections 301 and 302 of the Act.

(g) "Accredited acreage" or "accredited acres" means the area on the farm (within the share for such farm if shares are in effect) for any crop as designated by year on which sugarcane was grown and marketed (or processed) for the extraction of sugar or liquid sugar, except for use as livestock feed or for the production of livestock feed, or which was harvested for seed or which was determined by the county committee to have been bona fide abandoned acreage to the extent of fulfilling at least the requirements for abandonment payments set forth in paragraph (c)(1) (i) and (ii) of § 845.2 of this chapter, as shown by office records of the county committee.

§ 855.58 General provisions.

Regulations pertaining to general conditional payments provisions are set forth in Part 892 of this chapter. Such regulations include provisions in regard to conditions which must be met to be eligible for payment, instructions for filing applications for payment, requirements for harvesting within the farm share and for disposing of acreage in excess of the farm share. Also included are provisions covering sharecropper or share tenant protection, farm accredited acreage records, erroneous notice of the farm share or of excess acreage, acquisition of farm land by the right of eminent domain including the transfer of the share from the land so acquired to other land in the State, and provision for redetermination and review of determinations by county and State committees or the Deputy Administrator. Provisions pertaining to certification of acreage and land use in lieu of farm inspection and measurement are set forth in Part 718 of this title and in § 892.4 of this chapter. Provisions governing requests and appeals by producers for reconsideration or review of determinations by county or State committees or the Deputy Administrator are set forth in Part 780 of this title.

§ 855.59 State acreage allocations.

The acreage allocation shall be 179,120 acres for Florida and 287,010 acres for Louisiana, which includes the acreage made available under § 855.65 for new-producer farms, under § 855.66 for fulfilling appeals and correcting errors and under § 855.67 for increasing shares of old-producer farms to cover experimental plantings of cane.

§ 855.60 Determination of farm bases for old-producer farms.

The county committee for the county in which the farm headquarters is located shall determine a farm base for each old-producer farm or a portion thereof for the 1970 crop of cane as follows:

(a) For each old-producer farm, as constituted for the 1969 crop at the time the 1970 crop share is established, such base shall be the 1969 crop accredited acreage record of the farm, except that if the county committee determines that the 1969 crop accredited acreage is at least 90 percent of the original 1969 crop share established pursuant to § 855.51, § 855.52 or § 855.55 for the farm or is less than 90 percent of such share because of reasons beyond the control of the operator, the farm base shall be such 1969 share. If it is known at the time farm bases are to be determined that 1970 crop acreage will not be harvested on a farm for which a base could be established, and the land was not acquired under right of eminent domain, a base will not be established.

(b) For each old-producer farm or part thereof removed from cane production by acquisition by a Federal, State, or other agency or entity entitled to exercise the right of eminent domain after the 1966 crop was harvested from such land, and the owner of such land did not have the State committee add the 1969 crop share established for such farm or part pursuant to § 855.51 or § 855.52 to the 1969 crop share established for other land owned by such owner under the provisions of § 855.51 or § 855.52, the farm base shall be the 1969 crop share so established for the farm or part removed from production.

§ 855.61 Establishment of shares for old-producer farms.

The county committee shall establish a 1970 crop share for any farm for which a base is determined pursuant to § 855.60 as follows:

(a) *Farms with bases of less than 50 acres.* The share for any farm in this category shall be the larger of 5 acres or the farm base.

(b) *Farms with bases of 50 acres or more.* The share for any farm in this category shall be determined by applying to each farm base an adjustment factor computed by the State committee: *Provided,* That for any farm which had a 1969 crop base of 50 acres or more and less than 58.9 acres, the share shall not exceed the farm's 1969 crop base. The factor shall be determined by dividing the State acreage allocation in § 855.59, less the sum of the acres made available to the State in §§ 855.65, 855.66, and 855.67 and the total of the shares determined in paragraph (a) of this section, by the total of the bases established for all farms with bases of 50 acres or more.

(c) *Farm shares covering land removed from production under right of eminent domain.* The share established pursuant to paragraph (a) or (b) of this section for any farm or a part of a farm for which a base was determined pursuant to § 855.60(b) shall, as provided in § 892.18 of this chapter, be added to the 1970 crop share, if any, established for other land in the State owned by the owner of the land who lost acreage under the right of eminent domain upon application to the State committee by such owner as provided in § 892.18 of this chapter. Provision is made in § 892.18 of this chapter for holding a share or part thereof in reserve for the future use of the owner of the land lost by the right of eminent domain.

§ 855.62 Shares for reconstituted farms.

(a) *Change in farm constitutions.* If the county committee determines, after a 1970 crop share is established for the farm, that the 1970 crop farm will not be comprised of the same land as that included in the 1969 crop farm used as the basis for establishing the share or will not be comprised of the same land for which the application for a new-producer share was made, or determines that the farm was not properly constituted for the 1970 crop pursuant to the definitions of a farm and an operator, the farm or farms involved shall be reconstituted in accordance with such definitions. A share shall be determined as follows for the reconstituted farm.

(b) *Old-producer farms*—(1) *Subdivision.* The share for each subdivision of a farm which is subdivided shall be the portion of the 1970 crop share established for the farm pursuant to § 855.61, including any adjustments made in such share pursuant to § 855.64, § 855.66, or § 855.67, determined for each subdivision in accordance with the method used for dividing the accredited acreage record of the farm set forth in § 892.9 of this chapter. However, if the share as so determined for any subdivision is greater than the acreage of cane growing on the subdivision for 1970 crop harvest, the county committee shall reduce the share for such subdivision to the acreage growing thereon, except that such reduction shall not be made if the county committee determines that acreage of cane on the subdivision was plowed down without the approval of the person acquiring the subdivision in order to obtain larger shares on the other subdivision or subdivisions. If such reduction is made, the acreage made available shall be distributed to increase the share of each of the other subdivisions of the parent farm on which the acreage growing for 1970 crop harvest exceeds the share determined for such subdivision, and such distribution of acreage by the county committee shall be prorated on the basis of the acreage growing on each subdivision.

(2) *Combinations.* The share for a reconstituted farm consisting of a combination of old-producer farms, a combination of subdivisions of such farms or combination of such farms and such subdivisions shall be the sum of the 1970 crop shares for such farms and subdivisions of such farms.

(c) *New-producer farms*—(1) *Subdivision.* The share established for a new-producer farm which is subdivided shall be prorated to the subdivisions by the percentage ratio that the acreage planted on each subdivision is to the total acreage planted on the farm. If there is not acreage of cane growing on the farm prior to subdivision, the share shall be canceled.

(2) *Combinations*—(i) *Combined before planting.* The share for any new-producer farm or subdivision thereof which is combined with an old-producer farm or subdivision thereof prior to the planting of cane on the new-producer farm shall be canceled and the share established for the old-producer farm or subdivision thereof shall be the share for the reconstituted farm. If a new-producer farm or subdivision thereof is combined with another new-producer farm or subdivision thereof prior to the planting of cane on either of the new-producer farms or subdivisions thereof, the shares for the new-producer farms shall be canceled and a share shall be established pursuant to § 855.65(d) for the reconstituted farm.

(ii) *Combined after planting.* If a new-producer farm or subdivision thereof is combined with another farm or subdivision thereof after cane has been planted on the new-producer farm the share established for the new-producer farm or portion of such share determined for the subdivision shall be added to the share established for the other farm or subdivision thereof. However, if the county committee determines that the operator of the new-producer farm, at the time he applied for a new-producer share, had begun negotiations or had arranged to subsequently transfer the new-producer farm to the operator of the other farm, the share established for the new-producer farm or portion of such share determined for the subdivision shall be canceled, and the share established for the other farm or subdivision thereof shall be the share for the reconstituted farm.

§ 855.63 Redetermination of bases and shares because of use of incorrect data.

Where incorrect data was used in determining a farm base or a share, such share shall be canceled and a new base shall be computed in accordance with § 855.60 using the correct data. A new share shall be established for the farm in accordance with § 855.61. Any acreage by which the incorrect share exceeds the newly established share and any acreage available under § 855.66 shall be used to increase shares for farms whose shares were established at levels lower than those to which they were entitled. Any acreage remaining shall be reallotted under § 855.64. If there is insufficient acreage to increase shares for farms whose shares were established at levels lower than those to which they were entitled, acreage becoming available under § 855.64(b) shall first be used to increase shares for such farms.

§ 855.64 Reallotment of unused acres.

(a) *Eligibility.* Any old-producer farm for which a share is established pursuant to § 855.61 is eligible for an increase in the share established for the farm as provided in this section. A request for such increase must be filed by the operator of the farm in accordance with paragraph (c) of this section.

(b) *Source of unused acreage for increasing shares.* The following is available for reallocation:

(1) Any unused acreage, not to exceed the total of the acreage of shares reduced pursuant to paragraph (h) of this section excluding any acreage reserved by the State committee pursuant to § 892.18 of this chapter.

(2) Any acreage made available pursuant to § 855.65(a) for establishing shares for new-producer farms which is not requested by qualified applicants, and the acreage representing new-producer shares which are canceled pursuant to § 855.62(c).

(3) Any acreage made available pursuant to § 855.66 for fulfilling appeals or corrections of erroneous shares which is not used for such purpose, or under § 855.63.

(4) Any acreage made available pursuant to § 855.67 for increasing shares of old-producer farms to cover experimental plantings of cane which is not used for such purpose.

(5) Any acreage becoming available because of the provision in paragraph (b) of § 855.61 which establishes a share for a farm at a level not to exceed the farm's 1969 crop base.

(c) *Filing requests for additional acreage.* Requests shall be filed in Florida at the Hendry County ASCS Office not later than June 30, 1970. In Louisiana, requests shall be filed not later than January 12, 1970, in the county ASCS office in which the farm headquarters is located. If a farm is located in more than one county, requests also shall be filed in the county ASCS office in which the part of the farm on which the additional acreage will be utilized is located. Late requests filed before the distribution of unused acreage may be accepted as timely filed if the county committee determines that the operators delayed filing for reasons beyond their control. Other late requests may be accepted prior to harvest if there is acreage still available after filling all timely filed requests.

(d) *Priority of adjustments.* Unused acreage determined pursuant to paragraph (b) of this section shall be used first as needed to increase shares as provided in § 855.63; secondly, to adjust the shares for farms for which shares of 50 acres or less were established, and any acreage remaining shall then be used to adjust the shares for other old-producer farms. Except for the unused acreage used to increase shares pursuant to § 855.63, any adjustment in a share shall not exceed the larger of ten acres or 20 percent of the share established pursuant to § 855.61.

(e) *Increasing shares.* Subject to the provisions of paragraph (d) of this section, acreage to be reallotted pursuant to paragraph (f) of this section shall be used to increase the shares of old-producer farms whereon additional acreage may be used and requests have been filed pursuant to paragraph (c) of this section by considering the ability of the farm operator to use additional acreage in light of (1) availability and suitability of land, (2) availability of production and marketing facilities, (3) rotation practices, (4) maintenance of a proper relationship between total cane acreage and suitable cropland, and (5) the need for minimum acreage in a mill area.

(f) *Methods for reallocating unused acreage.* Pursuant to the provisions of paragraph (e) of this section, unused acreage determined pursuant to paragraph (b) of this section, shall be used to increase shares of farms, the operators of which have filed requests which have been accepted pursuant to paragraph (c) of this section, as follows:

(1) In Florida, the State committee shall determine and inform the county committees of increases to be made in the share for each farm.

(2) In Louisiana, the county committee of each county will determine the unused proportionate share acreage on farms with headquarters in the county. The unused acreage so determined shall first be used by such committee to increase the shares for farms or parts of farms located in county. The increase in the share for a farm with headquarters in the county may be utilized on any part of such farm. However, any increase which is granted to a part of a farm that does not include the farm headquarters must be planted on such part of the farm located in the county granting the increase. Any unused acreage remaining in any county in Louisiana after all requests have been satisfied subject to the limitations set forth in paragraph (d) of this section shall be released to the State committee. The Louisiana State Committee shall distribute such acreage to other counties in which the total of the additional acreage requested exceeds the unused acreages. Such distribution shall be made on the basis of the percentage relationship between the total of the shares established pursuant to § 855.61 for all farms in each such county and the total of the shares so established for all farms in all such counties: *Provided*, That the acreage distributed to any county shall not exceed the total acreage needed to increase shares to the extent requested for farms in such county.

(g) *Limitations.* No share shall be increased by an amount in excess of that requested or increased to cover acreage which was previously abandoned regardless of the cause of such abandonment.

(h) *Reduction in shares.* If the county committee determines for any farm that the total of the 1970 crop acreage of cane to be harvested for sugar and seed and the acreage of cane on the farm which has been abandoned to the extent of fulfilling at least the requirements set forth in paragraph (c)(1) (i) and (ii) of § 845.2 of this chapter is less than the farm's 1970 crop share, including

any adjustment made pursuant to this section or § 855.66 or § 855.67, the share shall be reduced to the level of such total 1970 crop acreage.

§ 855.65 Establishment of shares for new-producer farms.

(a) *Acreage available.* There are available 100 acres for use in Florida and 150 acres for use in Louisiana for establishing shares for new-producer farms.

(b) *Filing requests.* A person desiring a share for a new-producer farm shall file a request in Florida at the Hendry County ASCS Office not later than November 15, 1969, and in Louisiana at the local county ASCS office not later than September 19, 1969. Late requests may be accepted as timely filed prior to the establishment of shares for new-producer farms if the State committee determines that the person delayed filing for reasons beyond his control. Other late requests may be accepted if there is acreage still available after filling all timely filed requests.

(c) *Rating of applicants.* Subject to review and redetermination by the State committee, the county committee shall rate the applicant as "qualified" or "not qualified" to utilize a new-producer farm share by considering (1) the availability and suitability of land, (2) availability of production and marketing facilities, and (3) whether the land on which cane will be grown is under his control through ownership or lease and such land was not included in an old-producer farm: *Provided,* That no applicant will be rated as "qualified" unless the county committee determines he will be the operator of the farm as defined in paragraph (l) of § 892.1 of this chapter.

(d) *Size of share.* Each share shall be 50 acres, or a lesser acreage if requested, or such lesser acreage as the State committee determines if either the county or State committee determines that the available cropland will not support a share in the amount requested.

(e) *Establishing shares.* The State committee shall establish a share for the new-producer farm of each "qualified" applicant if the acreage provided in paragraph (a) of this section is sufficient to establish such shares: If there is insufficient acreage, the selection of "qualified" applicants to receive shares shall be by lot. Each drawing shall be supervised by a representative of the State committee. Persons included in a drawing shall be given advance notice and an opportunity to attend. Names (or farm numbers) shall be placed in a container and shall be indistinguishable to the person making the "draws". The person in charge shall announce the method of selection before the drawing.

(f) *Use of set-aside.* All acreage available for new-producers shall be allotted to qualified applicants if there are sufficient requests for such acreage. Any acreage within that provided in paragraph (a) of this section which is not requested by qualified applicants shall be used to increase shares of old-producer farms pursuant to § 855.64, however, such acreage may not be used for this purpose before June 1, 1970.

§ 855.66 Appeals or corrections.

There are available 100 acres for use in Florida and 150 acres for use in Louisiana for fulfilling increases in shares resulting from appeals or for making corrections of erroneous shares. After the county committee has acted on its own initiative or on a request for reconsideration of the establishment of a share for an old-producer farm and has found that such share was in error because of the use of incorrect data or misapplication of the regulations in this part, the State committee, upon its own initiative or upon application of the operator, may within the acreage made available under this section increase the share for such farm to a level so as to give effect to the use of correct data or proper application of the regulations in this part. Any acreage within that made available which is not used for such purposes shall be used first to increase shares of old-producer farms pursuant to § 855.63 and secondly pursuant to § 855.64.

§ 855.67 Acreage for experimental use.

(a) *Acreage available.* There are available for use by the State committees 50 acres for Florida and 75 acres for Louisiana for increasing shares established pursuant to § 855.61 or § 855.62 to cover an acreage of cane planted for experimental purposes.

(b) *Application for increase.* The operator of a farm for which an increase is desired must file an application with the State committee by not later than September 19, 1969, in Louisiana and November 15, 1969, in Florida. Such application must be accompanied with a written agreement between the operator and publicly owned agricultural experiment station to grow cane for experimental purposes. Such agreement must state the amount of acreage to be planted for such purpose.

(c) *Increasing shares.* The State committee shall increase the share for a farm for which a timely filed application is made by no more than the smaller of the acreage to be planted as specified in the agreement or 25 acres. Applications shall be accepted on the basis of first filed first accepted.

(d) *Use of set-aside.* All acreage available shall be used for increasing shares for which applications are timely filed. Any acreage within that provided in paragraph (a) of this section which is not requested shall be used to increase shares of old-producer farms pursuant to § 855.64.

STATEMENT OF BASES AND CONSIDERATIONS

Sugar Act requirements. The provisions with respect to producer compliance with the conditions for receiving payment, the basis for such payment, considerations required for establishing individual shares, and the protection of interests of new and small producers, tenants and sharecroppers are set forth in sections 301 and 302 of the Act (7 U.S.C. 1131, 1132).

General. The Act requires that shares be established for farms in an area for a given crop when the Secretary determines that production will be greater than the quantity needed to enable the area to meet the quota and provide a normal carryover inventory as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed.

Proportionate shares have been required in the Mainland Cane Sugar Area for the last 5 crops. The acreage allocated to the two States for the 1969 crop was 15 percent less than that for the 1968 crop and represents a total reduction of about 28 percent from the record acreage of the 1964 crop, the last for which shares were not in effect.

When the 1969 crop proportionate share determination was issued, it appeared that sugar production from the 1968 crop would come within 5 percent of the 1967 record crop of 1,457,000 tons and that the effective inventory of sugar at the beginning of this year would be almost 200,000 tons larger than a year earlier.

Sugar production from the 1968 crop actually amounted to 1,212,000 tons and only slightly exceeded the area's 1968 marketing quota. Thus, the effective inventory of sugar on January 1, 1969, was 1,075,000 tons or less than 10,000 tons larger than a year earlier.

The 1969 crop is growing on 15 percent less acreage than the 1968 crop. If the average of the 1967 and 1968 sugar yields per acre or the 1960–68 trend yield were to be attained, production from the 1969 crop would be about 70,000 tons less than the likely 1969 marketing opportunity for the area.

In the absence of controls, 1970 crop acreage would undoubtedly greatly exceed that for the current crop. The production of sugar from such increased acreage would considerably exceed the quantity needed to enable the area to meet its quota and provide a normal carryover inventory. Hence, restriction of 1970 crop acreage to the extent provided by this regulation is necessary.

Public hearing. On June 6, 1969, an informal public hearing was held in Miami Beach, Fla., to obtain the views and recommendations of interested persons on all matters relating to establishing 1970 crop shares. In the press release announcing the hearing, the Department proposed as a basis for discussion that separate State allocations be established at the total of final 1969 crop shares established in each State factored to the level of the acreage required to bring sugar supplies into line with quota and carryover requirements. Views as to what the level of 1970 crop acreage should be were requested. The Department proposed to set aside acreage within each State allocation for establishing shares for new farms (not to exceed 50 acres each) and for handling appeals. Recommendations were requested as to the level of these set-asides. It was proposed that farm bases for old-producer farms be established in the same manner as for

the three prior crops. Bases would be the larger of (a) the farm's 1969 crop acreage record, or (b) the 1969 crop farm's original share if the farm operator used at least 90 percent of such share or used less than 90 percent for reasons beyond his control. The Department suggested that an appropriate adjustment factor be applied to the farm base to compute each share, except that minimum shares of 5 acres would be established for old-producer farms. Each State would be enabled to utilize its total allocation through distribution of unused acres to other farms which could use additional acreage.

The spokesman for the American Sugar Cane League, the Louisiana Farm Bureau Federation and the Florida Sugar Cane League recommended that the 1970 crop acreage level be established at the same level as that in effect for the 1968 crop. He stated that there is a need for the mainland cane area to carry a substantial inventory to provide a reservoir of readily available supplies which may be needed on short notice to help fulfill consumer needs. He cited the long waterfront strike early this year as an illustration of the kind of situation which can arise. In making this recommendation, he further stated that the industry is willing to stand the consequences of the inventory that would result if the 1970 crop acreage were to be established at the same level as that for the 1968 crop. In this connection he said the processors had the ability and the will to store excess inventories and to phase their marketings in a way to avoid price depressing practices. With respect to the other items mentioned in the press release, he recommended the following: (1) Separate State allocations be continued; (2) that 100 acres in Florida and 150 acres in Louisiana be set aside for new-producer shares of a maximum of 25 acres each; (3) that acreage set aside for handling appeals should not exceed 100 acres in Florida and 150 acres in Louisiana; (4) that the share for a 1969 crop new-producer farm be its 1969 crop accredited acreage; (5) that the share for each farm with a 1969 base of less than 58.9 acres be the larger of such base or the 1969 crop final share; (6) that for farms with a 1969 base of more than 58.9 acres, a farm base be established in the manner mentioned in the press release and an appropriate adjustment factor be applied to all such bases; (7) that farms having shares of 5 acres of less be given preference in the reallotment of unused acres and (8) that the provisions covering the sugarcane acreage record of a farm which is to be divided be amended to permit the interested parties to agree upon a manner of division.

Additional witnesses supported the statement made by the industry spokesman.

Several persons submitted briefs subsequent to the hearing. Those operating in the Mainland Cane Sugar Area documented the need for higher acreages for the 1970 crop. The American Sugar Cane League, the Louisiana Farm Bureau, and the Florida Sugar Cane League in a brief filed by their spokesman, in response to a question raised at the hearing, proposed that preference be extended in allocating unused acreage to farms having shares up to 50 acres if the 1970 acreage level for the area is established at the 1968 level and that farms with 1969 crop shares of less than 50 acres be given no acreage increase in establishing initial 1970 shares.

Regulation. In view of (1) the substantial reduction in acreage in this producing area since 1964, (2) the production of substantially less sugar from the 1968 crop than was anticipated, (3) the possibility of freeze and hurricane damage which can seriously impair the accuracy of a forecast of production from both the 1969 and 1970 crops, (4) the industry's ability and willingness to carry the possible increased inventories of sugar, and (5) the expected below-quota production from the 1969 crop, this determination provides 466,130 acres for the 1970 crop. The effect of this determination is to restore for the 1970 crop, two-thirds of the acreage reduction applied to the 1969 crop in comparison with the 1968 crop. State allocations of 179,120 acres for Florida and 287,010 acres for Louisiana are established.

Farm bases will be determined in the same manner as for the three prior crops. This method appears equitable and has wide acceptance among affected persons. A base will be the larger of the 1969 crop accredited acreage record or the 1969 crop original share if the farm operator utilized at least 90 percent of such share or was prevented from utilizing such percentage of the share for reasons beyond his control. Thus, unless an operator elected to underplant his farm's 1969 crop share by more than 10 percent, the base for his farm will not be less than the farm's original 1969 crop share. A base will also be determined for any farm for which production was lost or reduced after 1966 crop harvest through the transfer of acreage to any agency having the right of eminent domain.

The proportionate share for any farm having a base of less than 50 acres will be established at the larger of 5 acres or the farm's base. The large majority of these farms are located in Louisiana. Statistics for the 1968 crop indicate that there were 86 farms of less than 5 acres which collectively have a total of 255 acres. Less than 200 acres would be needed to provide minimum shares for these very small farms and enable them to expand their acreage to a better operating level and to obtain additional income. Since the shares for farms having 50 acres or less were not reduced for the 1969 crop, the Department believes it equitable that those with shares between 5 and 50 acres not participate directly in the acreage increase for the 1970 crop. This action is in accord with the industry's recommendation. However, farms with shares of 50 acres or less will have a priority in receiving reallotted unused acres. Based on the amount of acreage reallotted in prior crops, it is expected that substantial acreage will become available for increasing shares for these farms.

An adjustment factor will be applied to old-producer farm bases of 50 acres or more. Hence, except for the small acreage used to increase the shares of farms of less than 5 acres, the larger farms will receive the full benefit of the overall acreage increase. Farms having 1969 crop bases of between 50.1 and 58.9 acres were not factored down to the same extent as farms having bases of 58.9 acres and over to absorb the 15 percent acreage reduction in 1969. Therefore, the Department believes they should not for the 1970 crop receive a larger increase than the acreage decrease they sustained for the 1969 crop. Accordingly, this regulation provides that the 1970 crop shares for such farms shall not reflect more than the acreage reduction made in 1969.

Special provision is made to increase shares by no more than 25 acres for farms on which cane is planted for experimental purposes in conjunction with a publicly owned agricultural experiment station.

Careful consideration has been given to the industry's recommendation for dividing the sugarcane acreage record of a farm when it is subdivided solely on the basis of an agreement among the parties involved. Present provisions for dividing such record recognize the factors of "past production" and "ability to produce" specified in the Sugar Act as the prime criteria for establishing proportionate shares, whereas the division of the record by agreement alone as recommended could result in the transfer of a record without regard to such factors. The Department feels that the examples of farm reconstitutions presented at the public hearing can be handled under existing provisions and accomplish the results desired by the recommended method.

Other provisions of this regulation, such as establishing shares for land lost because of eminent domain and the method used to reallot unused acres are similar to those which were in effect for the 1969 program. Provisions covering requirements for harvesting within the farm share, disposition of acreage in excess of the farm share, protection of sharecroppers and share tenants and acquisition of farm land by the right of eminent domain are now included in the General Conditional Payments Provisions.

The 1970 crop sugarcane acreage resulting from this regulation should provide a quantity of sugarcane which will enable the area to meet its quota under the Act and provide a normal carryover inventory.

The provisions of this regulation constitute an equitable basis for establishing shares for farms in the area for the 1970 crop of sugarcane.

Accordingly, I hereby find and conclude that the foregoing regulation will effectuate the applicable provisions of the Act.

Effective date: Date of publication.

Signed at Washington, D.C., on September 4, 1969.

J. PHIL CAMPBELL,
Acting Secretary.

[F.R. Doc. 69-10740; Filed, Sept. 9, 1969; 8:46 a.m.]

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

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIF.

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

On August 14, 1969, notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 13157) regarding proposed expenses and the related rate of assessment for the period April 1, 1969, through March 31, 1970, and carryover of unexpended funds, pursuant to the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, Calif., effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Industry Committee (established pursuant to said amended marketing agreement and order) it is hereby found and determined that:

§ 926.209 Approval of expenses and fixing of rate of assessment for 1969–70 fiscal period and carryover of unexpended funds.

(a) Expenses: Expenses that are reasonable and likely to be incurred by the Industry Committee during the period April 1, 1969, through March 31, 1970, will amount to $32,541.

(b) Rate of assessment: The rate of assessment for said period, payable by each handler in accordance with § 926.46, is fixed at $0.015 per standard package or equivalent quantity of grapes.

(c) Reserve: Unexpended assessment funds, in excess of expenses incurred during the period ending March 31, 1969, shall be carried as a reserve in accordance with the applicable provisions of § 926.47 of said marketing agreement and order.

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

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of Tokay grapes are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular fiscal period shall be applicable to all assessable Tokay grapes from the beginning of such period; and (3) such period began on April 1, 1969, and the rate of assessment herein fixed will automatically apply to all assessable grapes beginning with such date.

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

Dated: September 5, 1969.

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

[F.R. Doc. 69-10789; Filed, Sept. 9, 1969; 8:49 a.m.]

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

Expenses of Prune Administrative Committee and Rate of Assessment for 1969–70 Crop Year

Notice was published in the August 21, 1969, issue of the FEDERAL REGISTER (34 F.R. 13478) regarding proposed expenses of the Prune Administrative Committee for the 1969–70 crop year and rate of assessment for that crop year, pursuant to §§ 993.80 and 993.81 of the marketing agreement, as amended, and Order No. 993, as amended (7 CFR Part 993), regulating the handling of dried prunes produced in California. 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 notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. None were submitted within the prescribed time.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Prune Administrative Committee, and other available information, it is found that the expenses of the Prune Administrative Committee and the rate of assessment for the crop year beginning August 1, 1969, shall be as follows:

§ 993.320 Expenses of the Prune Administrative Committee and rate of assessment for the 1969–70 crop year.

(a) *Expenses.* Expenses in the amount of $124,500 are reasonable and likely to be incurred by the Prune Administrative Committee during the crop year beginning August 1, 1969, for its maintenance and functioning and for such other purposes as the Secretary may, pursuant to the applicable provisions of the marketing agreement, as amended, and this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for such crop year which each handler is required, pursuant to § 993.81 to pay to the Prune Administrative Committee as his pro rata share of the said expenses is fixed at $1.10 per ton of salable prunes handled by him as the first handler thereof.

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) The relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular crop year shall be applicable to all salable prunes handled by handlers as the first handlers thereof; and (2) the current crop year began on August 1, 1969, and the rate of assessment herein fixed will automatically apply to all such prunes beginning with that date.

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

Dated: September 5, 1969.

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

[F.R. Doc. 69-10788; Filed, Sept. 9, 1969; 8:49 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1969 Crop Rice Supp., Amdt. 1]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1969 Crop Rice Loan and Purchase Program

CHANGE OF VALUE FACTORS

Paragraph (a) of § 1421.328 of the regulations issued by the Commodity Credit Corporation, and published in 34 F.R. 7370 which set forth specific requirements with respect to price support for the 1969 crop of rice, is hereby amended to increase the value factors for all classes of head rice 13 cents per hundredweight. The amended paragraph (a) reads as follows:

§ 1421.328 Support rates.

* * * * * * *

(a) * * *

VALUE FACTORS FOR HEAD AND BROKEN RICE

Rough rice class	Head rice	Broken rice
	(*Cents per pound*)	
Long grains	8.21	4.00
Medium grains	7.21	4.00
Short grains	7.16	4.00

* * * * * * *

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

Signed at Washington, D.C., on September 4, 1969.

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

[F.R. Doc. 69-10787; Filed, Sept. 9, 1969; 8:49 a.m.]

[Rev. 3, Amdt. 5]

PART 1475—EMERGENCY FEED PROGRAM

Subpart—Livestock Feed Program

MISCELLANEOUS AMENDMENTS

The regulations issued by the Commodity Credit Corporation published in 29 F.R. 13475, 30 F.R. 2854, 30 F.R.

6909, 31 F.R. 13532, and 32 F.R. 14372 which contain specific requirements for the continuing Livestock Feed Program are amended as follows:

1. Section 1475.201 is revised to read:

§ 1475.201 General statement.

The regulations in this subpart contain the terms and conditions of a Livestock Feed Program formulated under Public Law 86-299, and sections 407 and 421 of the Agricultural Act of 1949 as amended. The objective of the program is to give assistance to eligible livestock owners in designated emergency areas through sales of feed grain at beneficial prices to provide feed for eligible livestock. The program shall be in effect in those designated emergency areas where the Secretary determines there is a shortage of feed because of flood, drought, fire, hurricane, storm, tornado, earthquake, disease, infestation or other catastrophe.

2. In § 1475.205, subparagraph (2) of paragraph (d) is amended to read:

§ 1475.205 Application and approval.

* * * * *

(d) * * *

(2) The feed grain gross allowance for the authorized period shall not exceed 10 pounds per day per animal unit (or whatever lesser quantity is established by the State committee or county committee), times the number of days in the authorized period.

* * * * *

3. In § 1475.208, paragraphs (a), (b), and (c) are amended to read:

§ 1475.208 Pricing of grains.

(a) *Price for primary livestock.* The sale price of feed grain approved for primary livestock shall be 80 percent of the applicable county base price.

(b) *Price for secondary livestock.* The sale price of feed grain shall be 105 percent of the applicable county base price.

(c) *Base price.* (1) The county base price shall be the total of the basic support rate for loans on and purchases of the feed grain by CCC for the county in which the grain is delivered as set forth in the applicable annual crop supplement to the CCC price support regulations plus: 13 cents per bushel for barley; 19 cents per bushel for corn; and 34 cents per hundredweight for grain sorghums. The basis for the price shall be in store for farm stored grain and f.o.b. purchaser's conveyance at delivery point for all other grain.

(2) If no such county basic support rate for loans on and purchases of the feed grain is set forth in the CCC annual crop supplement, it shall be a comparable rate as determined by DASCO. Notwithstanding the foregoing, in cases where it results in savings of delivery costs to CCC and it is determined to be necessary to effectuate the purposes of the program, DASCO may authorize delivery of grain in a county other than the county in which the application is filed using the base price for the county in which the application is filed.

* * * * *

(Secs. 1-4, 73 Stat. 574 as amended; secs. 407, 421, 63 Stat. 1055 as amended; secs. 4 and 5 of 62 Stat. 1070 as amended; 7 U.S.C. 1427; 15 U.S.C. 714 b and c)

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

Signed at Washington, D.C., on September 3, 1969.

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

[F.R. Doc. 69-10741; Filed, Sept. 9, 1969; 8:46 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 69-CE-21-AD; Amdt. 39-836]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 99 and 99A Airplanes

An airworthiness directive was adopted on August 25, 1969, and made effective as to all known owners of Beech Models 99 and 99A airplanes which were affected by one or more of the modifications required by the airworthiness directive. This airworthiness directive was issued because recent investigations have revealed that conditions exist in these model airplanes which are either not in compliance with the type certificate regulations or otherwise constitute a potentially hazardous condition which adversely affects the safe operation of these airplanes in air commerce. This airworthiness directive requires, in paragraph A, modification of all Models 99 and 99A airplanes. Paragraphs B and C of the airworthiness directive require modification of certain serial numbered airplanes of these models.

Paragraph A of this airworthiness directive requires the inspection, cleaning, and insulation of electrical components in the power distribution panel and the installation of covers on the power distribution panel and the upper equipment panel located under the floor in the forward part of the cabin, in accordance with Beechcraft Service Instructions No. 0258-095. This modification is required in order to prevent contamination and possible short circuiting and malfunctioning of the electrical connections contained in this panel.

Paragraph B requires replacement of the instrument air filter, P/N EBDO-30012, with instrument air filter, P/N 202563. It also requires strengthening of the support system for the instrument air filter installation. Both the replacement of the instrument air filter and the strengthening of the support system are covered by Beechcraft Service Bulletin No. 0255-194. This modification is required because failure of the instrument air filter or its supporting pressure lines will result in complete loss of instrument air pressure and consequent loss of instrument flight capability. A modified instrument air pressure system is being developed, and the airworthiness directive requires the installation of such a system when approved on all Models 99 and 99A airplanes by not later than November 15, 1969.

Paragraph C requires insulation of the terminals on the main and standby trim relays located in the pedestal on those airplanes which have not been modified by the manufacturer, in accordance with Beechcraft Service Instructions No. 0241-351. This insulation is necessary in order to prevent inadvertent malfunctioning of the relays due to possible shorting of the relay terminals or connections.

Since the occurrence of the faults or failures which this airworthiness directive is designed to prevent could create a hazardous condition, the modifications required by this airworthiness directive must be accomplished within 10 hours time-in-service after the effective date of this airworthiness directive.

Since it was found that immediate corrective action was required, notice and public procedures thereon was impracticable and contrary to the public interest and good cause existed for making the airworthiness directive effective immediately as to the owners of Beech Models 99 and 99A airplanes as specified in paragraphs A, B, and C by individual telegrams dated August 25, 1969.

This condition still exists and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

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

BEECH. Applies to Models 99 and 99A airplanes as hereinafter specified. Compliance: Required as indicated, unless already accomplished.

To reduce the possibility of faults or failure, accomplish the following:

(A) Within 10 hours time-in-service after the effective date of this airworthiness directive, on all Beech Model 99 and 99A airplanes; (1) inspect, clean and insulate the electrical components in the power distribution panel and install a protective cover on the upper equipment panel as specified in Beechcraft Service Instructions No. 0258-095, and (2) reinstall Beech P/N 99-364040-7 cover in accordance with Item 5 of said service instructions.

(B) Within 10 hours time-in-service after the effective date of this airworthiness directive, on all Beech Model 99 and 99A airplanes, Serial Numbers U1 through U130, (1) replace instrument air filter P/N EBDO-30012 with instrument air filter P/N 202563 in accordance with Beechcraft Service Instruction No. 0255-194, and (2) support pressure line installation in accordance with instructions contained in said service instructions. Paragraphs (1) and (2) may also be accomplished by FAA approved equivalent.

In addition, a replacement instrument air pressure system approved by the FAA must be installed in these model airplanes no later than November 15, 1969.

(C) Within 10 hours time-in-service after the effective date of this airworthiness directive, on Beech Model 99 and 99A airplanes,

Serial Numbers U2 through U60, U62 through U95, U97 through U103, U105 through U111, U114 through U118, and U124, insulate terminals on main and standby trim relays in accordance with instructions contained in Beechcraft Service Instruction No. 0241-351.

This amendment becomes effective September 10, 1969, for all persons except those to whom it was made effective by telegram dated August 25, 1969.

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

Issued in Kansas City, Mo., on September 2, 1969.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 69-10731; Filed, Sept. 9, 1969; 8:45 a.m.]

[Docket No. 9828; Amdt. 39-840]

PART 39—AIRWORTHINESS DIRECTIVES

Dornier Model Do-28D-1

There have been cases reported of the rubber grommet eye on the elevator control damper becoming displaced on its bushing on certain Dornier Model Do-28D-1 airplanes. This condition could cause jamming of the elevator control system and restrict the normal elevator movement. In view of the serious consequences of such a condition and since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive (AD) is being issued to require inspection of the elevator control damper mounted on the elevator control bellcrank for lateral displacement of the rubber grommet eye on the bushing.

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

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

DORNIER INTERNATIONAL GmbH. Applies to Dornier Model Do-28D-1 airplanes, Serial Numbers 4002 through 4019.

To prevent possible jamming of the elevator control, accomplish the following:

(a) Within the next 10 hours time in service after the effective date of this AD, unless already accomplished, visually inspect the elevator control bellcrank for lateral displacement of the rubber grommet eye on the bushing, in accordance with Dornier Service Bulletin No. 001-1403 dated 12 May 1969 or an FAA-approved equivalent.

(b) If the displacement of rubber grommet eye on the bushing is found to be 0.10 inches or more, before further flight, rework the bushing P/N 28.01.403-040.10 in accordance with Dornier Service Bulletin No. 001-1403, dated 12 May 1969 or an FAA-approved equivalent.

(c) If the displacement of rubber grommet eye on the bushing is found to be less than 0.10 inches, within the next 100 hours time in service after the effective date of this AD, unless already accomplished, rework the bushing P/N 28.01.403-040.10 in accordance with Dornier Service Bulletin No. 001-1403, dated 12 May 1969 or an FAA-approved equivalent.

This amendment becomes effective September 15, 1969.

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

Issued in Washington, D.C., on September 3, 1969.

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

[F.R. Doc. 69-10732; Filed, Sept. 9, 1969; 8:45 a.m.]

[Docket No. 9829; Amdt. 39-841]

PART 39—AIRWORTHINESS DIRECTIVES

Slingsby Model T.53B Gliders

Cases have been reported in which the tailplane incidence of the Slingsby Model T.53B Gliders has been found to be different than the approved configuration. During aero-tow operations this difference could result in loss of the additional down elevator control necessary to counteract glider pitchup forces. In view of the serious consequences of such a condition and since this condition is likely to exist or develop in other aircraft of the same type design, an airworthiness directive (AD) is being issued to require a check of the tailplane incidence on the Slingsby Gliders and a change in any found incorrect.

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

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

SLINGSBY. Applies to Model T.53B Gliders.

To ensure that the glider can be trimmed when being aero-towed, within the next 10 hours' time in service after the effective date of this AD, unless already accomplished, check to determine that the tailplane incidence is 1°50'±20'. If it is incorrect change the incidence of the tailplane to 1°50'±20' measured from the aircraft datum in accordance with Slingsby Aircraft Company Ltd., Technical Instruction No. 40, dated July 1969 or later ARB issue or an FAA approved equivalent.

This amendment becomes effective September 15, 1969.

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

Issued in Washington, D.C., on September 3, 1969.

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

[F.R. Doc. 69-10733; Filed, Sept. 9, 1969; 8:45 a.m.]

[Airspace Docket No. 69-SW-53]

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

Alteration of Federal Airway

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to realign a segment of VOR Federal airway No. 66 from Hyman, Tex., via the INT of Hyman 074° T (064° M) and Abilene, Tex., 251° T (241° M) radials; to Abilene. This would improve air navigation and air traffic control by relocating the changeover point on this airway segment at approximately midpoint between the stations in lieu of 9 nautical miles from Hyman. It would also provide a lower minimum en route altitude for the segment based on the Hyman VOR.

Since this amendment is minor in nature and will not assign additional airspace, notice and public procedure hereon are unnecessary. However, since it is necessary to allow sufficient time to make the appropriate changes to aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended effective 0901 G.m.t., November 13, 1969, as hereinafter set forth.

Section 71.123 (34 F.R. 4509) is amended as follows: In V-66 "12 AGL INT Hyman 085°" is deleted and "INT Hyman 074°" is substituted therefor.

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

Issued in Washington, D.C., on September 5, 1969.

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

[F.R. Doc. 69-10764; Filed, Sept. 9, 1969; 8:47 a.m.]

[Airspace Docket No. 69-CE-35]

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

Alteration of Federal Airway

On August 19, 1969, F.R. Doc. 69-9743 was published in the FEDERAL REGISTER (34 F.R. 13363) and amended Part 71 of the Federal Aviation Regulations. These amendments will become effective October 16, 1969. In Item 2 VOR Federal Airway No. 132 was amended. Through an oversight, the document did not include an amendment made to V-132 in Airspace Docket No. 69-CE-66 (34 F.R.

12943) which lowered the floor on a segment of V–132 to 65 MSL. Accordingly, action is taken herein to include that amendment in the description of V–132.

Since this amendment is editorial in nature, notice and public procedure hereon are unnecessary, and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER, F.R. Doc. 69–9743 (34 F.R. 13363) is amended as follows:

In Item 2, "97 miles, 92 MSL" is deleted and "97 mi. 65 MSL" is substituted therefor.

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

Issued in Washington, D.C., on September 5, 1969.

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

[F.R. Doc. 69–10765; Filed, Sept. 9, 1969; 8:47 a.m.]

[Airspace Docket No. 68–SW–62]

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

PART 75—ESTABLISHMENT OF JET ROUTES

Alteration of Jet Routes and Positive Control Areas

On June 28, 1969, F.R. Doc. 69–7639 was published in the FEDERAL REGISTER (34 F.R. 9985) and in part realigned Jet Route No. 98 from Oklahoma City, Okla., via Tulsa, Okla., to Farmington, Mo. This action is to become effective September 18, 1969. This alignment should have read from Oklahoma City, via Tulsa, Springfield, Mo., to Farmington. Corrective action is taken herein.

Since this amendment is corrective in nature and no substantive change in the regulation is affected, notice and public procedure hereon are unnecessary, and good cause exists for making this amendment effective on less than 30 days' notice.

In consideration of the foregoing, F.R. Doc. 69–7639 (34 F.R. 9985) is corrected upon publication in the FEDERAL REGISTER as follows:

Item 2.b. (2) is amended to read as follows:

(2) In the text "From Springfield, Mo.," is deleted and "From Oklahoma City, Okla., via Tulsa, Okla.; Springfield, Mo.;" is substituted therefor.

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

Issued in Washington, D.C. on September 5, 1969.

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

[F.R. Doc. 69–10763; Filed, Sept. 9, 1969; 8:47 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 34–8685]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Registration Procedures

The Securities and Exchange Commission has amended Form 8–A and has rescinded Form 8–C and Rule 12b–35 under the Securities Exchange Act of 1934. These two forms and the rule provide separate procedures for the registration under the Act of securities by certain issuers which have previously registered securities under the Act or under the Securities Act of 1933. The amendment of Form 8–A, in effect, consolidates the three registration procedures into a single procedure for which the amended form would be used. This will avoid the confusion which sometimes arises as to which form or rule is the appropriate one to use.

§ 240.12b–35 [Rescinded]

I. Section 240.12b–35 is hereby rescinded under Part 240 of Chapter II of Title 17 of the Code of Federal Regulations, and said section is reserved for future use.

§ 249.208c [Rescinded]

II. Section 249.208c Form 8–C is hereby rescinded under Part 249 of Chapter II of Title 17 of the Code of Federal Regulations and the following notation is added thereto:

NOTE: Amended Form 8–A replaces former Form 8–C; see § 249.208a of this chapter.

§ 249.208a [Amended]

III. Copies of amended Form 8–A (§ 249.208a of this chapter) have been filed as part of this document with the Office of the Federal Register and copies of such Form are available from the Securities and Exchange Commission, Washington, D.C. 20549.

The Commission finds that notice and procedure pursuant to the Administrative Procedure Act is not necessary because the amendments to Form 8–A and the recission of Form 8–C and Rule 12b–35 merely consolidate into a single form, the registration procedures heretofore provided by the two forms and the rule and does not substantially increase the previously existing disclosure requirements.

The foregoing action shall become effective October 30, 1969, except that any issuer entitled to use the amended Form 8–A may, at its option, do so prior to that date.

(Secs. 12, 13, 15(d), 23(a), Securities Exchange Act of 1934; 48 Stat. 892, 894, 895, and 901, as amended; 15 U.S.C. 78*l*, 78m, 78*o*(d), 78w(a))

By the Commission, September 4, 1969.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 69–10747; Filed, Sept. 9, 1969; 8:46 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER A—ADMINISTRATION

PART 806—DISCLOSURE OF UNCLASSIFIED RECORDS

Miscellaneous Amendments

Part 806 of the Code of Federal Regulations is amended as follows:

1. Section 806.1 is revised to read as follows:

§ 806.1 Purpose.

This part states basic policies and instructions governing the disclosure of unclassified records and tells members of the public what they must do to inspect or obtain copies of records. It applies Air Force wide. In case of a conflict, this part takes precedence over any existing directive dealing in whole or in part with the disclosure of unclassified records.

2. Section 806.2 is revised to read as follows:

§ 806.2 Types of requests covered by this part.

This part governs the disclosure or denial of documentary material to the general public. Requests by members of Congress or congressional staffs for information and documentary material are processed under AFR 11–7 (Air Force Relations with Congress). Requests from the General Accounting Office are processed under AFR 11–8 (Air Force Relations with General Accounting Office—GAO). Requests for documentary material for use in litigation are processed under Part 840, Subchapter D of this chapter and this part. Requests for unclassified records of trial after courts-martial are processed under Subpart F of this part. Requests by news media or their representatives require compliance with AFR 190–12 (Release of Information to the Public) and this part. Guidance on disclosure of information from military personnel records is contained in Part 806a, Subchapter A of this chapter. More detailed instructions for handling requests for specialized types of records or other documentary material are contained in other directives, such as the Armed Services Procurement Regulation and AFR 120–3 (Inspector General Reports).

3. Section 806.4 is revised by amending paragraph (b) and adding new paragraphs (g) and (h). It reads as follows:

§ 806.4 Specific policies on disclosure.

* * * * *

(b) In determining whether documentary material qualifies as a "record", 44 U.S.C. 3301, quoted below, should be used as a guide.

As used in this chapter, "records" include all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the U.S. Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them.

* * * * *

(g) Official requests for records or other documentary material received from foreign governments, their representatives or international commands, will be sent to Hq USAF (AFCVFB), Washington, D.C. 20330 for approval or denial.

(h) Individual requests received from foreign nationals not officially representing their government will be processed as any other request in accordance with paragraph (d) of this section. Charges may be waived in accordance with Part 813, Subchapter B of this chapter.

§ 806.5 [Amended]

4. Section 806.5 is amended by deleting the last six words from the introductory text.

5. Section 806.6 is revised to read as follows:

§ 806.6 Persons authorized to disclose or not to disclose records requested by members of the public.

(a) Anyone having the authority to disclose and release unclassified records and other documentary material is called a disclosure authority. Except for categories of records listed in paragraph (d) of this section, or as specially authorized by other Air Force directives, the following have authority to make available unclassified records or other documentary material:

(1) Chiefs of offices at directorate or higher level at Hq USAF.

(2) Commanders at major command or comparable level. Major commands may delegate this authority to directorate or comparable level at major command headquarters, and to the level of installation, wing or comparable commanders.

(b) In each case the authority to release records and documentary material of a routine nature which heretofore by policy or practice have been made available to the general public may be delegated to a lower level, but must be maintained high enough to insure that releases are made by a responsible authority and are in accordance with this part. Examples of such types of records and documentary material are: unclassified publications, photographs, local reports and statistics, etc., not designated "For Official Use Only."

(c) When appropriate under this part, a disclosure authority at the major command or comparable level or directorate or higher authority within Hq USAF is authorized to refuse to make available unclassified records or other documentary material to members of the public. Commanders of major commands may delegate this authority to directorate or comparable level at major command headquarters, and to the level of installation, wing, or comparable commanders. Such delegation must be made with sufficient restrictions to insure uniformity in release policies, and must include, as a minimum safeguard, a procedure for consultation with the major command Staff Judge Advocate before denial of request.

(d) The activities and persons listed in this paragraph may either disclose, or refuse to disclose the types of records cited when appropriate under this part.

Type of Record	*Disclosure Authority*
For use in litigation	The judge Advocate General, or other authority listed in Part 840, Subchapter D of this chapter.
Records of trial after courtsmartial.	The Judge Advocate General, or other authority listed in Subpart F of this part.
Medical records	The director of base medical services or a designated medical officer, subject to the requirements of AFM 168-4 (Administration of Medical Activities)
Inspector General reports of investigation.	Secretary of the Air Force as outlined in AFR 120-3.

6. Section 806.9 is revised to read as follows:

§ 806.9 Addressing requests.

Requesters should address their requests as follows:

(a) For matters of official record for use in litigation: Hq USAF (AFJALF), Washington, D.C. 20330, or the activity where the record is located, if known.

(b) For matters of record concerning civilian employees currently employed by the Air Force: Civilian personnel officer of base or activity where person is employed.

(c) For matters of record concerning civilian employees no longer employed in the Federal service, National Personnel Records Center, GSA (Civilian Personnel Records), 9700 Page Boulevard, St. Louis, Mo. 63132.

(d) For matters of record concerning members and former members of the Air Force, Air Force Reserve, or Air National Guard: See § 806.10.

(e) For matters of record concerning engineering data (exclusive of Research and Development): AFLC (SGLD), Wright-Patterson AFB 45433.

(f) For matters of record concerning technical orders and technical manuals: OCAMA (OCNSU), Tinker AFB, Oklahoma 73145.

(g) For other records, where the location of the record is known: Director or Chief of Administration, activity where record is located.

(h) For other records, where location is not known: Hq USAF (AFDASBA), Washington, D.C. 20330.

§ 806.10 [Amended]

7. Section 806.10 is amended by changing the last entry in the third column from "NPRC (MPR) GSA, 9700 Page Boulevard, St. Louis, MO. 63132" to "FRC (MPR) GS, 111 Winnebago Street, St. Louis, MO. 63118".

8. Section 806.11 is amended by adding a new paragraph (d) to read as follows:

§ 806.11 Filing an appeal.

* * * * *

(d) The appeal should be addressed to Hq USAF (AFJAL), Washington, D.C. 20330.

9. Section 806.12 is revised to read as follows:

§ 806.12 Processing an appeal.

(a) A decision on the appeal must not be unnecessarily delayed. If the request to copy or inspect a record is denied on appeal, the decision must be explained to the requester in writing.

(b) A copy of this explanation is sent to the General Counsel, Department of Defense, Washington, D.C. 20301, in instances where the requester seeks reconsideration by the Secretary, or initiates legal action to compel release of the record.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012; 5 U.S.C. 552; DoD Directive 5400.7, June 1967, except as otherwise noted)
[AFR 12-30, July 16, 1969]

By order of the Secretary of the Air Force.

ALEXANDER J. PALENSCAR, Jr.,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 69-10721; Filed, Sept. 9, 1969; 8:45 a.m.]

PART 809—ISSUE AND CONTROL OF IDENTIFICATION CARDS

Miscellaneous Amendments

Part 809 of the Code of Federal Regulations is amended as follows:

1. The introductory text of § 809.2 is revised to read as follows:

§ 809.2 Types of identification cards.

Individuals, except active duty members serving as OSI special agents, may be issued only one the types of cards described in paragraphs (a), (b), (c) and (d) of this section.

* * * * *

2. Section 809.3 is revised by amending subparagraphs (3) and (4) of paragraph (f) to read as follows:

§ 809.3 **Definitions.**

* * * * *

(f) *Dependent.* * * *

(3) The lawful husband.

(4) The unremarried widower.

* * * * *

§ 809.11 **[Amended]**

3. The introductory text of § 809.11 is amended by changing "DD Form 1172" to "DD Form 1173".

4. Section 809.21 is revised by amending the entry of line I, second column of chart; note (d) following table is revised and a new note (e) is added. This section now reads as follows:

§ 809.21 **Applicants' requirements as to DD Form 1172 and supporting documents.**

* * * * *

I. Must furnish a copy of retirement order is not included in Vol. II, Retired List, AF Register. Presentation of sponsor's DD Fm 2AF (Ret) (gray) by sponsor is an acceptable alternative under Rule 8.	* * *

* * * * *

NOTES: * * *

(d) If a dependency determination for medical care was in effect on date of death of service member, the AFAFC determination of dependency is not a requirement for reissue or renewal. The DD Form 1172 will reflect the circumstances as they existed at the time of the AFAFC determination.

(e) For benefits and privileges other than medical care, eligibility for commissary and theater is determined on the basis of residency in the household of the sponsor. The residency requirement does not apply to children of deceased military personnel (active or retired). See § 809.22 for exchange privileges. Adopted child, step-child, and parent must be dependent upon the member for over one half of his/her support. Parents-in-law are not eligible for exchange privileges.

§ 809.22 **[Amended]**

5. Section 809.22 is revised by amending the following entries on the chart and adding a new entry 13; Notes 1, 2, 14, and 15 immediately following chart are revised and new notes 18 and 19 are added:

Entry 8c (1) and (2). Under sixth column entitled "Theater", change both entries from "No" to "2".

Entry 10c (1) and (2). Under the fifth column entitled "Exchange", change both entries from "15" to "yes".

Entry 10f(1). Under the fifth column entitled "Exchange", change the entry from "Yes" to "15".

Entry 10f(2). Under the first column entitled "Eligible Recipients", after the words "Outside CONUS" add the following: "(U.S. Citizen)", under the fourth column entitled "Commissary", change the entry from "No" to "Yes".

Entry 12 (d) and (e). Under the third column entitled "Service Facility", change both entries from "(1)" to "(No)".

A new entry 13 is added to read as follows:

Eligible recipients	Medical care		Commissary	Exchange	Theater
	Civilian facility	Service facility			
13. Foreign military personnel training under U.S. sponsorship at an oversea Air Force installation outside their own country are eligible for the benefits indicated below:					
a. Lawful wife	No	(11)	(3)	(19)	(2).
b. Lawful husband	No	(11)	(3)	(19)	(2).
c. Unmarried legitimate children, including adopted and step-children:					
(1) Under 21 years of age	No	(11)	(3)	(19)	(2).
(2) Over 21 years of age	No	(11)	(3)	(19)	(2).
d. Parents	No	No	(3)	(19)	(2).
e. Parents-in-law	No	No	(3)	No	(2).

NOTES: 1. Adopted children, step-children, parents, and husband must be dependent upon the member for over one-half of his/her support. Unmarried legitimate children under 21 are not subject to dependency provisions.

2. Yes, if actually residing in the sponsor's household. Children attending school and residing away from the sponsor's household are also eligible for theater privileges.

* * * * * * *

14. Limited exchange privileges to employees residing on a military installation upon approval of the installation commander and the Secretary of the Air Force. Dependents are not entitled to exchange privileges.

15. CONUS—limited exchange privileges to the employee only. Outside CONUS, upon approval of major commander (dependents may be afforded exchange privileges).

* * * * * * *

18. Only to the extent prescribed by Part 823 of this chapter.

19. Only to the extent consistent with applicable international agreements and subject to such limitations and restrictions as the oversea commander may consider necessary to impose.

(Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012 [AFR 30-20, Aug. 1, 1969])

By order of the Secretary of the Air Force.

ALEXANDER J. PALENSCAR, Jr.,
Colonel, U.S. Air Force, Chief, Special Activities Group, Office of The Judge Advocate General.

[F.R. Doc. 69-10722; Filed, Sept. 9, 1969; 8:45 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER B—MILITARY PERSONNEL

[CGFR 69-85]

PART 40—CADETS OF THE COAST GUARD

Appointment

The purpose of the amendments in this document is to revise and relax the entrance requirements for applicants seeking appointment into the U.S. Coast Guard Academy.

Since this is a matter relating to agency personnel, it is excepted from notice of proposed rule making by the Administrative Procedure Act (5 U.S.C. 553 (a)). In addition, being statements of policy, the Administrative Procedure Act (5 U.S.C. 553(d)) grants an exception to the 30 days effective date requirement.

1. Section 40.2 is revised to read as follows:

§ 40.2 **Applications.**

Applications for cadetship will be accepted from all men who meet the requirements outlined in the regulations in this part.

2. Section 40.3(e) is revised to read as follows:

§ 40.3 **General requirements for eligibility.**

* * * * *

(e) He must be physically sound and not less than 5'4'' nor more than 6'10'' in height, stripped.

* * * * *

3. Section 40.4(a) is revised to read as follows:

§ 40.4 **Specific requirements for eligibility.**

(a) No waivers of educational or physical requirements are granted except that the Superintendent may waive the visual acuity requirements for up to 3 percent of the applicants offered appointments provided that all applicants accepted must have visual acuity in each eye of at least 20/100 correctible to 20/20.

* * * * *

4. Section 40.8 is amended by revising paragraph (f)(1) and by adding a new subdivision (x) to paragraph (q)(5) to read as follows:

§ 40.8 **Physical standards and disqualifications.**

* * * * *

(f) * * *

(1) Minimum uncorrected visual acuity of 20/40 each eye is acceptable

provided that vision is correctible to 20/20 each eye and that refraction by an ophthalmologist reports eye free from disease with no indication of an accelerated progression toward further decreased visual acuity. Refraction is not required where the vision in each eye is 20/20 uncorrected, unless medically indicated. No more than 40 percent of the candidates admitted each year shall have less than 20/30 uncorrected acuity in each eye.

* * * * *

(q) * * *
(5) * * *

(x) Orthodontic appliances attached to the teeth for continued treatment. Retainer appliances are permissible if active treatment is not required.

* * * * *

§ 40.8 [Amended]

5. Table 40.8(a1) of § 40.8 is amended by adding columns 16, 17, 18, and 19 to the existing column headings consisting of the following figures:

Height (inches)	* * *	79	80	81	82
Weight (pounds):					
Minimum	* * *	172	176	180	184
Maximum	* * *	246	253	260	267

6. Table 40.8 (a2) of § 40.8 is amended by changing the figure for maximum height (line 2) from "78" to "82".

§ 40.11 [Amended]

7. Section 40.11 is amended by deleting the word, "December" in lines 3 and 4 of paragraph (a), by deleting paragraph (c) and by revising paragraph (b) to read as follows:

(b) Only those College Entrance Examination Board scores from regularly scheduled College Entrance Examination Board administrations prior to and inclusive of the December administration of the year of application will be used. Applicants failing to comply with these testing regulations will not be considered in the competition. Any exception to these established testing dates in rare and clearly proven cases involving extreme hardship or emergency may be granted by the Superintendent of the U.S. Coast Guard Academy at his discretion provided that all required examination scores are submitted in time to be considered in the regular applicant processing schedule.

§ 40.12 [Amended]

8. Section 40.12 is amended by changing the words "approximately 7 weeks" to "approximately 10 weeks" in lines 17 and 18 of paragraph (d), by deleting paragraph (f), and revising paragraph (g)(1) to read as follows:

(1) The Superintendent of the Academy will designate a board of Coast Guard Officers charged with the duty of assigning an evaluation mark to each candidate who has satisfied the minimum score requirements of the competitive examination. The evaluation shall include all the factors known to influence success as a cadet and officer. The marks will be based on the relative merit of candidates as shown by tests, and questionnaires noted in paragraph (c) of this section. The Board's decision will be based on factual objective information such as the following:

(i) The candidate's attitude toward assigned tasks and his willingness to work as shown by the consistency and pattern of his previous school work.

(ii) The candidate's previous extracurricular and athletic interests and experience, with particular attention to evidence of leadership and teamwork.

(iii) The candidate's personal qualities as shown by his reference questionnaire, evaluations and comments by his high school counselor, principal, and teachers, and similar officials.

(iv) The candidate's physical build, appearance, and his bearing, as shown by the photographs and the interviewer's report.

(v) The candidate's score on one or more tests of emotional stability, social adjustment, vocational interest, study habits, background, and personality characteristics as may be administered for the purpose.

§§ 40.15, 40.16, 40.17, 40.18, 40.19, 40.20, 40.21 [Deleted]

9. Part 40 is amended by deleting §§ 40.15, 40.16, 40.17, 40.18, 40.19, 40.20, and 40.21.

§ 40.22 [Amended]

10. Section 40.22(b) is amended by deleting the first two sentences in subparagraph (1).

(Sec. 182, 632, 63 Stat. 508, 545, sec. 6(b)(1), 80 Stat. 937; 14 U.S.C. 182, 632, 49 U.S.C. 1655(b)(1); 49 CFR 1.4(a)(2))

Effective date. This amendment shall become effective on the date of its publication in the FEDERAL REGISTER.

Dated: September 4, 1969.

W. J. SMITH,
Admiral, U.S. Coast Guard,
Commandant.

[F.R. Doc. 69-10762; Filed, Sept. 9, 1969; 8:47 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 5—COMMERCIAL AND PRIVATE OPERATIONS

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Commercial Passenger-Carrying Motor Vehicles

Pursuant to the authority contained in sections 1 and 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 1, 3), section 1 of the Act of March 2, 1933 (47 Stat. 1420; 16 U.S.C. 9a), section 2 of the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 462), the Act of May 7, 1894 (28 Stat. 73, as amended; 16 U.S.C. 26), the Act of May 22, 1902 (32 Stat. 202; 16 U.S.C. 122), the Act of June 29, 1906 (34 Stat. 616, as amended; 16 U.S.C. 111), the Act of August 9, 1916 (39 Stat. 444; 16 U.S.C. 202), the Act of February 6, 1919 (40 Stat. 1175; 16 U.S.C. 222), the Act of February 25, 1927 (44 Stat. 1240; 16 U.S.C. 221b), and the Act of April 25, 1928 (45 Stat. 458; 16 U.S.C. 117c), notice is given that the general and special regulations of Parts 5 and 7 of Title 36 of the Code of Federal Regulations are hereby amended as set forth below.

The purpose of these amendments is to modify the restrictions on the use of commercial passenger-carrying motor vehicles in certain National Park Service areas. Sections 5.4, 7.4, and 7.13 are hereby amended.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. However, comment on these amendments is deemed to be unnecessary and not in the public interest since they are generally less restrictive than the prior provisions. Therefore, the amendments will take effect on the 30th day following the date of publication thereof in the FEDERAL REGISTER.

1. The introductory text of (a) of § 5.4 is amended to read as follows:

§ 5.4 Commercial passenger-carrying motor vehicles.

(a) The commercial transportation of passengers by motor vehicles, except as authorized under a contract or permit from the Secretary or his authorized representative, is prohibited in Bryce Canyon, Crater Lake (prohibition is limited to sightseeing tours on the Rim Drive), Glacier (prohibition does not apply to that portion of the park road from the Sherburne entrance to the Many Glacier area), Grand Canyon (prohibition does not apply to nonscheduled tours as defined in § 7.4 of this chapter), Grand Teton (prohibition does not apply to that portion of Highways Nos. 89, 187, 287, and 26, commencing at the south boundary of the park and running in a northerly direction to the east boundary of the park), Mesa Verde (prohibition does not apply to transportation between points within the park and outside points), Mount McKinley (prohibition does not apply to that portion of the Denali Highway between the Nenana River and the McKinley Park Hotel), Sequoia-Kings Canyon, Yellowstone (prohibition does not apply to nonscheduled tours as defined in § 7.13 of this chapter, nor to that portion of U.S. Highway 191 traversing the northwest corner of the park), Yosemite, and Zion National Parks, and Cedar Breaks National Monument. The following principles will govern the interpretation and enforcement of the section:

* * * * *

2. Section 7.4(g) is amended to read as follows:

§ 7.4 Grand Canyon National Park.

* * * * *

(g) *Commercial passenger-carrying motor vehicles.* The prohibition against the commercial transportation of passengers by motor vehicles to Grand Canyon National Park contained in § 5.4 of this chapter shall be subject to the following exception: Motor vehicles operated on a general, infrequent, and nonscheduled tour on which the visit to the park is an incident to such tour, carrying only round-trip passengers traveling from the point of origin of the tour, will be accorded admission to the park.

* * * * *

3. Section 7.13(f) is amended to read as follows:

§ 7.13 Yellowstone National Park.

* * * * *

(f) *Commercial automobiles and buses.* The prohibition against the commercial transportation of passengers by motor vehicles to Yellowstone National Park contained in § 5.4 of this chapter, shall be subject to the following exception: Motor vehicles operated on a general, infrequent and nonscheduled tour on which the visit to the park is an incident to such tour, carrying only round-trip passengers traveling from the point of origin of the tour, will, subject to the conditions set forth in this paragraph, be accorded admission to the park for the purpose of delivering passengers to a point of stay in the park and exit from the park. After passengers have completed their stay, such motor vehicles shall leave the park by the most convenient exit station, considering their destination. Motor vehicles admitted to the park under this paragraph shall not, while in the park, engage in general sightseeing operations. Admission will be accorded such vehicles upon establishing to the satisfaction of the Superintendent that the tour originated from such place and in such a manner as not to provide, in effect, a regular and duplicating service conflicting with, or in competition with, the services provided for the public at or outside of the park, pursuant to contract authorization from the Secretary. The Superintendent shall have the authority to specify the route to be followed by such vehicles within the park.

* * * * *

Dated: August 28, 1969.

RUSSELL E. TRAIN,
Acting Secretary of the Interior.

[F.R. Doc. 69-10729; Filed, Sept. 9, 1969; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 12—Department of Transportation

[OST Docket No. 19, Amdts. 12-1-2, 12-3-1, 12-7-1]

MISCELLANEOUS AMENDMENTS TO CHAPTER

The purpose of the following amendments is to add eight new sections and five new subparts to the Department's procurement regulations.

Since these amendments relate to Departmental management, procedures and practises, notice and public procedure thereon is unnecessary.

These amendments are made under authority of section 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)) and the Armed Services Procurement Act (10 U.S.C. ch. 137).

In consideration of the foregoing, Title 41 of the Code of Federal Regulations is amended by adding new §§ 12-1.254, 12-1.255, 12-1.351, 12-1.352, 12-1.353, 12-7.100, 12-7.150, 12-7.151, and by adding new subparts 12-1.4—Procurement Responsibility and Authority; 12-1.51—Novation Agreements and Change of Name Agreements; 12-1.52—Value Engineering; 12-1.53—Voluntary Refunds; and 12-3.8—Price Negotiation Policies and Techniques, effective October 15, 1969.

Issued in Washington, D.C., on September 4, 1969.

JAMES W. WILLIAMS,
Acting Assistant Secretary for Administration.

PART 12-1—GENERAL

The table of contents for Part 12-1 is amended to restate Subparts 12-1.2 and 12-1.3 and to add new Subparts 12-1.4, 12-1.51, 12-1.52, and 12-1.53 as follows:

Subpart 12-1.2—Definition of Terms

Sections 12-1.254 and 12-1.255 are added to read as follows:

§ 12-1.254 Shall.

"Shall" is imperative.

§ 12-1.255 May.

"May" is permissive. However, the words "no person may * * *" means that no person is required, authorized or permitted to do the act proscribed.

Subpart 12-1.3—General Policies

Sections 12-1.351, 12-1.352, and 12-1.353 are added to read as follows:

§ 12-1.351 Industrial security.

(a) Pursuant to Executive Order 10865 (3 CFR, 1959-1963 Comp.) an agreement between the Department of Defense and the Department of Transportation was entered into on June 1, 1967, extending regulations prescribed by the Secretary of Defense under the Executive order to apply to protect releases of classified information relating to DOT contracts and releases of other classified information which DOT has the responsibility for safeguarding. The Office of Investigations and Security, OST, has been designated as the Department of Transportation liaison for industrial security matters. The Defense Supply Agency will perform all cognizant security office functions specified in, and will have the authority and responsibilities prescribed by Department of Defense Industrial Security Regulations (ISR)

DoD 5220.22R), and Department of Defense Industrial Security Manual (DoD 5220.22M).

(b) Any DOT contract or prospective contract which would require access to classified information by the contractor or any of his employees in the bid, negotiation, award, performance, or termination of the contract, including clearances required for visit purposes, is considered to be a "classified contract" subject to the procedures of this section, even though the contract document itself is unclassified.

(c) All proposed procurements shall be reviewed specifically to determine if access to classified information will be required by prospective contractors during the solicitation period or by a contractor at any time in the performance of the contract. If access to classified information will be required during solicitation period, the security staff of the headquarters of the operating administration or NTSB, as designated in DOT Order 1600.22, shall be advised immediately and furnished the list of firms to be solicited. Invitations for Bids or Requests for Proposals shall not be issued until notification has been received from the appropriate security staff that the firms to be solicited have a valid facility security clearance. If access to classified information will not be required during the solicitation period but will be required during the performance of the contract, the Invitation for Bids or Requests for Proposals shall so state, and award shall only be made after the facility security clearance of the proposed contractor has been verified and approved by the appropriate security staff.

(d) Immediately upon the award of a classified contract, or in connection with precontract negotiations, if appropriate, the contracting officer shall furnish a copy of DD Form 254, Contract Security Classification Specification, to the prime contractor.

(e) Any DOT contract, the performance of which will require access to classified information by the contractor or any of his employees, shall contain a security requirements clause. For classified fixed price supply contracts, the Military Security Requirements clause as set forth in the Armed Services Procurement Regulations, paragraph 7-104.12, shall be used, except that paragraph (d) of the clause shall be modified as follows:

> Representatives of the cognizant security office and representatives of the contracting administration of the Department of Transportation shall have the right to inspect at reasonable intervals the procedures, methods, and facilities utilized by the Contractor in complying with the security requirements under this contract. Should the Government, through these representatives, determine that the Contractor is not complying with the security requirements of this contract the Contractor shall be informed in writing by the cognizant security office of the proper action to be taken in order to effect compliance with such requirements.

(f) Other types of classified contracts shall contain the appropriate Military Security Requirements clause of section VII of ASPR, appropriately modified as in paragraph (e) of this section.

(g) The Industrial Security Program encompassed by the publications cited in paragraph (a) of this section applies only to contracts involving access to classified information which are performed within the United States, its territories, Puerto Rico, and Canada. Offices which may wish to let classified contracts for performance outside the United States, its territories, or Puerto Rico shall consult with their appropriate security staff.

§ 12-1.352 Variation in quantity.

(a) To the extent that a variation in quantity is caused by any of the conditions specified in the Variation and Quantity Clause at FPR 1-7.101-4, the varied quantity may be accepted only to the extent specified in the schedule. The Extent of Quantity Variation clause in § 12-7.150 of this chapter or a substantially similar clause, shall be used for this purpose. The acceptable variation stated in the Extent of Quantity Variation clause shall be stated as a percentage of the required quantity, and may be an increase, a decrease, or a combination of both. There should be no standard or usual percentage or variation. The variation in quantity permitted in any procurement should be based upon the normal commercial practices of the particular industry for the particular times, and the permitted percentage should be no larger than is necessary to afford a contractor reasonable protection against the conditions specified in the Variation and Quantity clause. In no event may the acceptable variation exceed plus or minus 10 percent. The clause set forth in § 12-7.101-4 of this chapter, may be included in the schedule only when one or more of the conditions specified in the Variation and Quantity Clause is foreseeable at the time of solicitation in the case of an advertised procurement, or at the time of award in the case of a negotiated procurement.

(b) Consideration shall be given to the quantity to which the percentage variation applies. For example, when it is contemplated that delivery will be made to multiple destinations and it is desired that the quantity variation extend to the item quantity for each destination, this requirement must be set forth with particularity. Similarly, when it is desired that the quantity variation extend to the total quantity of each item and not to the quantity for each destination, it may be desirable to express a percentage limitation for each destination to prevent unrealistic distribution of any increase or decrease.

§ 12-1.353 Standards of conduct.

All governmental personnel engaged in procurement and related activities shall conduct business dealings with industry in a manner above reproach in every respect. Transactions relating to expenditure of public funds require the highest degree of public trust to protect the interests of the Government. While many Federal laws and regulations place restrictions on the actions of governmental personnel, the latter's official conduct must, in addition, be such that the individual would have no reticence about making a full public disclosure thereof. DOT regulations on Employee Responsibilities and Conduct are set forth in the Department of Transportation regulations (49 CFR Part 99).

Subpart 12-1.4—Procurement Responsibility and Authority

Part 12-1 is amended by adding Subpart 12-1.4, as follows:

Sec.

AUTHORITY: The provisions of this Subpart 12-1.4 issued under sec. 205(c), Federal Property and Administrative Services Act of 1949, 40 U.S.C. 486(c); Armed Services Procurement Act, 10 U.S.C. Ch. 137.

§ 12-1.402 Authority of contracting officers.

§ 12-1.402-51 Contracting officer's representatives.

(a) A contracting officer may designate Government personnel to act as his authorized representatives for such functions as inspection, approval of shop drawings, testing, approval of samples and other functions of a technical nature not involving a change in the scope, price, terms or conditions of the contract or order. Such designation shall be in writing and shall contain specific instructions as to the extent to which the representative may take action for the contracting officer, but will not contain authority to sign contractual documents. The responsibilities and limitations of the contracting officer's representatives may be set forth in the contract or in a separate letter, a copy of which shall be furnished to the contractor.

(b) A person assigned to and performing his primary duty within a procurement office, and who is under the supervision of a contracting officer, does not require designation as a representative to perform his assigned duties. Such a person is considered to be an employee of the contracting officer, acting in his behalf and as such has the authority to perform acts as assigned by the contracting officer. The contracting officer cannot, without delegating contracting officer authority, authorize his employees to sign any contract document or letter where the signature of a contracting officer is required.

§ 12-1.450 Responsibility of procurement personnel to question requirements and reaffirm their validity.

(a) Procurement personnel have a responsibility to question any contemplated procurement action which appears inconsistent with their knowledge of commodities, markets, prices, and normal processes of doing business.

(b) When the award of a proposed procurement has been prolonged over an extended period of time or when during the processing of the procurement, matters are disclosed which give rise to questioning the magnitude of or necessity for the requirement, procurement personnel should reaffirm the validity of the requirement before award of contract.

Subpart 12–1.51—Novation Agreements and Change of Name Agreements

Part 12–1 is amended by adding Subpart 12–1.51, as follows:

Sec.
12–1.5100 Scope of subpart.
12–1.5101 Agreement to recognize a successor in interest.
12–1.5102 Agreement to recognize change of name of Contractor.
12–1.5103 Processing novation agreements and change of name agreements.

AUTHORITY: The provisions of this Subpart 12–1.51 issued under sec. 205(c), Federal Property and Administrative Services Act of 1949, 40 U.S.C. 486(c); Armed Services Procurement Act, 10 U.S.C. Ch. 137.

§ 12–1.5100 Scope of subpart.

This subpart prescribes the policy and procedures for (a) recognition of a successor in interest to Government contracts when such interests are acquired incidental to a transfer of all the assets of a contractor or such part of his assets as is involved in the performance of the contracts, (b) a change of name of a contractor, and (c) single Administration execution of novation agreements and change of name agreements affecting more than one Administration of the Department of Transportation. (See also FPR 1–30.710 on assignment of claims in the case of transfer of a business or corporate mergers).

§ 12–1.5101 Agreement to recognize a successor in interest.

(a) The transfer of a Government contract is prohibited by law (41 U.S.C. 15). However, the Government may recognize a third party as the successor in interest to a Government contract where the third party's interest is incidental to the transfer of all the assets of the contractor, or all that part of the contractor's assets involved in the performance of the contract. Examples include, but are not limited to:

(1) Sale of such assets;

(2) Transfer of such assets pursuant to merger or consolidation of corporation; and

(3) Incorporation of a proprietorship or partnership.

(b) When a contractor requests that the Government recognize a successor in interest the contractor shall be required to provide the Administration concerned, or the Office of the Secretary of Transportation (OST), if appropriate (see § 12–1.5103(b)) with one copy of each of the following, as applicable:

(1) A properly authenticated copy of the instrument by which the transfer of assets was effected, as for example, a bill of sale, certificate of merger, indenture of transfer, or decree of court;

(2) A list of all contracts and purchase orders which have not been finally settled between the Department of Transportation and the transferor, showing the contract number, the name and address of the purchasing office involved, the total dollar value of each contract as amended, the type of contract involved, and the balance remaining unpaid;

(3) A certified copy of the resolutions of the boards of directors of the corporate parties authorizing the transfer of assets;

(4) A certified copy of the minutes of any stockholders' meetings of the corporate parties necessary to approve the transfer of assets;

(5) A properly authenticated copy of the certificate and articles of incorporation of the transferee if such corporation was formed for the purpose of receiving the assets involved in the performance of the Government contracts;

(6) Opinion of counsel for the transferor and transferee that the transfer was properly effected in accordance with applicable law and the effective date of transfer;

(7) Evidence of the capability of the transferee to perform the contracts;

(8) Balance sheets of the transferor and the transferee as of dates immediately prior to and after the transfer of assets;

(9) Evidence of security clearance requirements; and

(10) Consent of sureties on all contracts listed under subparagraph (2) of this paragraph where bonds are required.

(c) When it is consistent with the Government's interest to recognize a successor in interest to a Government contract, the Administration concerned, or OST, if appropriate, shall execute a novation agreement with the transferor and the transferee, which shall ordinarily provide in part that:

(1) The transferee assumes all the transferor's obligations under the contract;

(2) The transferor waives all rights under the contract as against the Government;

(3) The transferor guarantees performance of the contract by the transferee (a satisfactory performance bond may be accepted in lieu of such guarantee); and

(4) Nothing in the agreement shall relieve the transferor or the transferee from compliance with any Federal law.

(d) All agreements, prior to execution, shall be reviewed by Government counsel for legal sufficiency. A format for such an agreement for use when the transferor and transferee are corporations, and all the assets of the transferor are transferred, is set forth herein. This format may be adapted to fit specific cases and may be used as a guide in preparing similar agreements for use in other situations.

NOVATION AGREEMENT

This Agreement, entered into as of (date upon which the transfer of assets became effective pursuant to applicable state law) 19--, by and between the ABC Corp., a corporation duly organized and existing under the laws of the State of_____with its principal office in the city of_____ (hereinafter referred to as the "Transferor"); the XYZ Corp., [add if appropriate] (formerly known as the LMN Corp.), a corporation duly organized and existing under the laws of the State of_____with its principal office in the city of_____ (hereinafter referred to as the "Transferee"); and the United States of America (hereinafter referred to as the "Government").

WITNESSETH

1. Whereas, the Government, represented by various contracting officers of (insert appropriate administrations, and OST if appropriate) of the Department of Transportation, has entered into certain contracts and purchase orders with the Transferor [namely: _____] (or) [as set forth in the attached list marked "Exhibit A" to this Agreement and herein incorporated by reference]; and the term "the contracts" as hereinafter used means the above contracts and purchase orders, and all other contracts and purchase orders, including modifications thereto, heretofore made between the Government, represented by various contracting officers within the Department of Transportation and the Transferor (whether or not performance and payment have been completed and releases executed, if the Government or the Transferor has any remaining rights, duties or obligations thereunder), and including modifications thereto hereafter made in accordance with the terms and conditions of such contracts and purchase orders between the Government and the Transferee;

2. Whereas, as of _____, 19 --, the Transferor assigned, conveyed, and transferred to the Transferee all the assets of the Transferor by virtue of a [term descriptive of the legal transaction involved] between the Transferor and the Transferee;

3. Whereas, the Transferee, by virtue of said assignment, conveyance and transfer, has acquired all the assets of the Transferor;

4. Whereas, by virtue of said assignment, conveyance and transfer, the Transferee has assumed all the duties, obligations, and liabilities of the Transferor under the contracts;

5. Whereas, the Transferee is in a position fully to perform the contracts, and such duties and obligations as may exist under the contracts;

6. Whereas, it is consistent with the Government's interest to recognize the Transferee as the successor party to the contracts;

7. Whereas, there has been filed with the Government evidence of said assignment, conveyance or transfer;

[Where a change of name is also involved, such as prior or concurrent change of name of the transferee, an appropriate recital shall be used; for example:

8. Whereas, there has been filed with the Government a certificate date _____, 19 --, signed by the Secretary of the State of _____, to the effect that the corporate name of LMN Corp. was changed to XYZ Corp. on _____, 19 --;]

Now, Therefore, in consideration of the premises, the parties hereto agree as follows:

The Transferor hereby confirms said assignment, conveyance and transfer to the transferee, and does hereby release and discharge the Government from, and does hereby waive, any and all claims, demands, and rights against the Government which it now has or may hereafter have in connection with the contracts.

10. The Transferee hereby assumes, agrees to be bound by, and undertakes to perform each and every one of the terms, covenants, and conditions contained in the contracts.

The Transferee further assumes all obligations and liabilities of, and all claims and demands against, the Transferor under the contracts, in all respects as if the Transferee were the original party to the contracts.

11. The Transferee hereby ratifies and confirms all actions heretofore taken by the Transferor with respect to the contracts with the same force and effect as if the action had been taken by the Transferee.

12. The Government hereby recognizes the Transferee as the Transferor's successor in interest in and to the contracts. The Transferee hereby becomes entitled to all right, title, and interest of the Transferor in and to the contracts in all respects as if the Transferee were the original party to the contracts. The term "Contractor" as used in the contracts shall be deemed to refer to the Transferee rather than to the Transferor.

13. Except as expressly provided herein, nothing in this Agreement shall be construed as a waiver of any rights of the Government against the Transferor.

14. Notwithstanding the foregoing provisions, all payments and reimbursements heretofore made by the Government to the Transferor and all other action heretofore taken by the Government, pursuant to its obligations under any of the contracts, shall be deemed to have discharged pro tanto the Government's obligations under the contracts. All payments and reimbursements made by the Government after the date of this Agreement in the name of or to the Transferor shall have the same force and effect as if made to said Transferee and shall constitute a complete discharge of the Government's obligations under the contracts, to the extent of the amounts so paid or reimbursed.

15. The Transferor and the Transferee hereby agree that the Government shall not be obligated to pay or reimburse either of them for, or otherwise give effect to, any costs, taxes or other expenses, or any increases therein, directly or indirectly arising out of or resulting from (i) said assignment conveyance and transfer, or (ii) this Agreement, other than those which the Government in the absence of said assignment, conveyance and transfer, or this Agreement, would have been obligated to pay or reimburse under the terms of the contracts.

16. The Transferor hereby guarantees payment of all liabilities and the performance of all obligations which the Transferee (i) assumes under this Agreement, or (ii) may hereafter undertake under the contracts as they may hereafter be amended or modified in accordance with the terms and conditions thereof; and the Transferor hereby waives notice of and consents to any such amendment or modification.

17. Except as herein modified, the contracts shall remain in full force and effect.

In witness whereof, each of the parties hereto has executed this Agreement as of the day and year first above written.

UNITED STATES OF AMERICA
By _____
Title _____

ABC CORP.
[CORPORATE SEAL] By _____
Title _____

XYZ CORP.
[CORPORATE SEAL] By _____
Title _____

CERTIFICATE

I, _____, certify that I am the Secretary of ABC Corp., named above; that _____, who signed this Agreement on behalf of said corporation, was then _____ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and seal of said corporation this _____ day of _____, 19__.

[CORPORATE SEAL] By _____

CERTIFICATE

I, _____, certify that I am the Secretary of XYZ Corp., named above; that _____, who signed this Agreement on behalf of said corporation, was then _____ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and seal of said corporation this _____ day of _____, 19__.

[CORPORATE SEAL] By _____

(End of Agreement)

§ 12–1.5102 Agreement to recognize change of name of Contractor.

(a) Where only a change of name is involved, so that the rights and obligations of the parties remain unaffected, an agreement between the Administration concerned, or OST, if appropriate (see § 12–1.5103), and the contractor shall be executed effecting the amendment of all existing contracts between the parties so as to reflect the contractor's change of name. Prior to the execution of such agreement, one copy of each of the following shall be deposited by the contractor with the Administration concerned:

(1) A copy of the instrument by which the change of name was effected, authenticated by a proper official of the State having jurisdiction;

(2) Opinion of counsel for the contractor as to the effective date of the change of name and that it was properly effected in accordance with applicable law; and

(3) A list of all contracts and purchase orders which have not been finally settled between the Department of Transportation and the transferor, showing the contract number, the name and address of the purchasing office involved, the total dollar value of each contract as amended, and the balance remaining unpaid.

(b) A format for such an agreement which shall be adapted for specific cases is set forth below.

CHANGE OF NAME AGREEMENT

This Agreement, entered into as of _____, 19__ by and between the AEC Corporation (formerly the XYZ Corp. and hereinafter sometimes referred to as the "contractor"), a corporation duly organized and existing under the laws of the State of _____, and the United States of America, represented by the Department of Transportation (hereinafter referred to as the "Government").

WITNESSETH

1. Whereas, the Government, represented by various contracting officers of (insert appropriate administrations, and OST if appropriate) of the Department of Transportation, has entered into certain contracts and purchase orders with the XYZ Corp. [namely: _____] (or) [as set forth in the attached list marked "Exhibit A" to this agreement and herein incorporated by reference;] and the term "the contracts" as hereinafter used means the above contracts and purchase orders, and all other contracts and purchase orders, including modifications thereto, entered into between the Government, represented by various contracting officers within the Department of Transportation, and the contractor (whether or not performance and payment have been completed and releases executed, if the Government or the contractor has any remaining rights, duties, or obligations thereunder);

2. Whereas, the XYZ Corp., by an amendment to its certificate of incorporation, dated _____, 19__, has changed its corporate name to ABC Corp.;

3. Whereas, a change of corporate name only is accomplished by said amendment, so that rights and obligations of the Government and of the contractor under the contracts are unaffected by said change; and

4. Whereas, there has been filed with the Government documentary evidence of said change in corporate name;

Now, therefore, in consideration of the premises, the parties hereto agree, that the contracts covered by this agreement are hereby amended by deleting therefrom the name "XYZ Corp." wherever it appears in the contracts and substituting therefor the name "ABC Corp.".

In witness whereof, each of the parties hereto has executed this Agreement as of the day and year first above written.

UNITED STATES OF AMERICA
By _____
Title _____

ABC CORP.
[CORPORATE SEAL] By _____
Title _____

CERTIFICATE

I, _____, certify that I am the Secretary of ABC Corp., named above; that _____ who signed this Agreement on behalf of said corporation, was then _____ of said corporation; and that this Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its corporate powers.

Witness my hand and seal of said corporation this _____ day of _____, 19__.

[CORPORATE SEAL] By _____

(End of Agreement)

§ 12–1.5103 Processing novation agreements and change of name agreements.

(a) When only one Administration or the Office of the Secretary of Transportation has outstanding contracts with the contractor or contractors seeking a novation or change of name agreement, the documents pertaining thereto shall be forwarded to the appropriate addressee in paragraph (b) of this section. This addressee may authorize the procuring activity of its Administration (or OST having the largest unsettled (unbilled plus billed but unpaid) dollar balance with the contractor or contractors to process and execute the agreement.

(b) When more than one Administration (including OST) has outstanding contracts with the contractor or contractors seeking a novation or change of name agreement, a single agreement covering all such contracts shall be executed by the Administration having the largest

unsettled (unbilled plus billed but unpaid) dollar balance with the contractor or contractors. Such agreements shall be executed by a duly authorized official of the appropriate office listed herein.

Federal Aviation Administration, Director, Logistics Service, 800 Independence Avenue SW., Washington, D.C. 20590.
Federal Highway Administration, Director, Office of Administration, 400 Sixth and D Streets SW., Washington, D.C. 20591.
U.S. Coast Guard, Commandant (F), 1300 E Street NW., Washington, D.C. 20591.
Federal Railroad Administrator, Director, Office of Administration, 400 Sixth and D Streets SW., Washington, D.C. 20591.
St. Lawrence Seaway Development Corporation, Administrative Services Officer, Post Office Box 520, Massena, N.Y. 13662.
Office of the Secretary of Transportation, Director of Administrative Operations, 800 Independence Avenue SW., Washington, D.C. 20590.
Urban Mass Transportation Administration, c/o Office of the Secretary of Transportation, Director of Administrative Operations, 800 Independence Avenue SW., Washington, D.C. 20590.
National Transportation Safety Board, c/o Office of the Secretary of Transportation, Director of Administrative Operations, 800 Independence Avenue SW., Washington, D.C. 20590.

(c) The Administration processing a proposed novation agreement shall promptly provide notice of the proposed agreement, including the list of contracts as required by § 12–1.5101(b)(2) to the other Administrations (and OST, if applicable) having contracts with the contractor or contractors concerned. Such notice shall be transmitted to the appropriate addressee listed in paragraph (b) of this section. Within 30 days after receipt of such notice, the Administration(s) may submit comments to the processing Administration, which comments shall be considered prior to execution of the proposed agreement. The absence of comment from an Administration within 30 days after its receipt of notice of a proposed novation agreement shall be construed as approval by that Administration. When only a single Administration is concerned, the procuring activity processing a proposed novation agreement shall give similar notice of it to all other interested procuring activities in that Administration.

(d) Where substantial alterations or additions to the formats set forth in §§ 12–1.5101 and 12–1.5102 are considered appropriate by the Administration processing the proposed agreement, that Administration shall coordinate the agreement with the other Administrations prior to execution. Any objection shall be resolved before the agreement is executed.

(e) A signed copy of the executed novation agreement or change of name agreement shall be forwarded to the contractor, a signed copy shall be retained in the Administration executing the agreement, and where more than one Administration is involved, two copies of the agreement shall be distributed to the appropriate addressee listed in § 12–1.5103(b).

(f) After execution and distribution of an agreement, an administrative change (Standard Form 30) shall be prepared by the processing activity incorporating a summary of the agreement and attaching thereto a complete list of the contracts affected. For single Administration agreements, three copies of the Standard Form 30 shall be furnished for each contract to the procuring activities concerned, and for multi-Administration agreements, to the appropriate addressee listed in § 12–1.5103(b).

Subpart 12–1.52—Value Engineering

Part 12–1 is amended by adding Subpart 12–1.52, as follows:

Sec.

AUTHORITY: The provisions of this Subpart 12–1.52 issued under sec. 205(c), Federal Property and Administrative Services Act of 1949, 40 U.S.C. 486(c); Armed Services Procurement Act, 10 U.S.C. Ch. 137.

§ 12–1.5201 Policy.

(a) Value engineering is concerned with the elimination or modification of anything that contributes to the cost of a contract item or task but is not necessary for needed performance, quality, maintainability, reliability, or interchangeability. Specifically, value engineering as contemplated by this subpart constitutes a systematic and creative effort, not required by any other provision of the contract, directed toward analyzing each contract item or task to insure that its essential function is provided at the lowest overall cost. Overall cost may include, but need not be limited to, the cost of acquiring, operating, and logistically supporting an item or system.

(b) In order to realize fully the cost reduction potential of value engineering, provisions which encourage or require value engineering shall be incorporated in all contracts, including letter contracts, of sufficient size and duration to offer reasonable likelihood for cost reduction. All such provisions shall offer the contractor a share in cost reductions ensuing from change proposals he submits under such contracts. To realize the cost reduction potential of value engineering, it is imperative that value engineering change proposals be processed by all parties as expeditiously as possible.

§ 12–1.5202 Value Engineering Incentives.

§ 12–1.5202–1 Description.

(a) A Value Engineering Incentive clause permits the contractor to share in cost reductions that ensue from change proposals he submits. Many types of contracts, when properly used, provide the contractor with an incentive to control and reduce costs while performing within the specifications and other contract requirements. However, the practice of reducing the contract price (or fee in the case of cost-reimbursement type contracts) under the Changes clause tends to discourage contractors from submitting cost reduction proposals requiring a change to the specification or other contract requirements even though such proposals could be beneficial to the Government. The objective of a value engineering incentive provision is to encourage the contractor to submit such cost reduction proposals. To be acceptable, a value engineering change proposal must involve some change in the contract specifications, purchase description, or statement of work; this may include the elimination or modification of any requirement found to be in excess of actual needs in the areas of, for example, design, components, materials, material processes, tolerances, packaging requirements, technical data requirements, or testing procedures and requirements, and consequent reduction in the contract cost. Furthermore, even when the contract cost may be increased, the incentive provisions encourage contractors to submit value engineering change proposals that are likely to lead to overall savings resulting from significant net reductions in collateral costs of Government-furnished property, operational requirements or logistic support requirements.

(b) Value engineering proposals which satisfy the above requirements shall not be rejected on the ground that they also involve a termination, in whole or in part, of contract line items; moreover, the cost savings resulting from such quantitative reductions shall be shared with the contractor. On the other hand, contractor proposals which concern the quantitative requirements of the Government but do not satisfy the above criteria are not within the intent of the value engineering provisions, and the contractor will not share, under the Value Engineering Incentive clause, in savings resulting solely from such quantitative proposals.

(c) In all cases, the contractor's share in overall cost savings resulting from the Government's acceptance of a cost reduction proposal shall be determined as provided in the Value Engineering Incentive clause.

§ 12–1.5202–2 Use of value engineering incentive clause.

(a) Except as provided in paragraph (b) of this section, a value engineering incentive clause as specified in § 12–1.5207, or a substantially similar clause, shall be included in all advertised and negotiated contracts in excess of $100,000, unless it is determined by the contracting officer that the value engineering offers no potential for cost reduction, as for example, where a particular contract or class of contracts is of insufficient duration to allow value engineering proposals to be processed, or where the item or class of items being procured is a commercial product whose design and cost are primarily controlled by the commercial market.

(b) Normally, a value engineering incentive clause shall not be included in contracts for architect-engineering, research, or exploratory development unless the contracting officer affirmatively determines that the contract has a clear potential for value engineering cost reductions and that a value engineering incentive clause will provide the effective stimulus to the contractor. In addition, with the exception of cost-plus-incentive-fee contracts, value engineering incentive provisions shall not be included in cost-reimbursement type contracts.

§ 12–1.5202–3 Types of savings to be shared with the contractor.

(a) The value engineering incentive provisions discussed in this subpart provide for contractor participation in cost savings realized under the instant contract, i.e., the contract under which the value engineering change proposal was submitted, as a result of the contractor's value engineering change proposal and for his participation in ascertainable collateral savings. However, the greater the financial incentives afforded the contractor, the more effective his value engineering efforts are likely to be. When it is anticipated that additional requirements of an item will be procured in the future, consideration should be given for contractor participation in future acquisition savings, as described in the Armed Services Procurement Regulation, Part 1–17 of this title.

(b) Instant contract savings:

(1) Every value engineering clause shall provide for contractor participation in cost savings realized under the instant contract as a result of the contractor's value engineering change proposal.

(2) For purposes of computing the contractor's share under the instant contract sharing provisions paragraph (d) of the basic clause (see § 12–1.5207–2), the "instant contract" shall not include any supplemental agreements to or other modifications of the instant contract, executed subsequent to the acceptance of the particular value engineering change proposal, by which the Government increases the quantity of any item or adds any item, nor shall it include any extension of the instant contract by exercise of an option subsequent to acceptance of the proposal.

(3) Where the contract involved is an estimated requirement or other indefinite quantity type contract, the "instant contract", for purposes of computing the contractor's share under the instant contract sharing provisions in paragraph (d) of the basic clause shall include only those orders actually placed by the Government up to the time the particular value engineering change proposal is accepted.

(4) With respect to orders placed by the Government pursuant to a basic ordering agreement, each order is a separate contract. Accordingly, for purposes of determining the contractor's share under the instant contract sharing provisions in paragraph (d) of the basic clause, the "instant contract" shall be the order under which the particular value engineering change proposal is submitted.

(5) Where the contract involved is a multiyear contract the Government is contractually bound for the total multiyear quantity (subject to cancellation). Accordingly, for purposes of determining the contractor's share under the instant contract sharing provisions in paragraph (d) of the basic clause, the "instant contract" shall be the entire contract for the total multiyear quantity.

(6) The value engineering clauses provide that the contractor and the Government will share in the cost savings realized on the "instant contract" as a result of the contractor's value engineering change proposal. In general, the cost savings to be shared will be determined by subtracting from the total decrease in contract price (or target cost) the sum of (i) the contractor's costs of developing the value engineering proposal, insofar as such are properly direct charges under the contract involved and (ii) the contractor's cost of implementing the change. For purposes of the above determination, deductible development costs will normally include those incurred after the contractor has identified a specific value engineering project. Developmental costs shall not be deductible where they are otherwise reimbursable under the contract (i.e., directly pursuant to a Program Requirement clause or indirectly through overhead accounts). Implementation costs are considered to be those costs of incorporating a change which are incurred after the value engineering proposal has been accepted by the Government.

(7) Where the contract involved is a service contract, contractor proposals which eliminate, modify, or substitute new procedures for contractually required work procedures shall qualify for instant contract savings sharing. Where the service contract is a time and material or labor-hour contract, the "effect of the proposal on the contractor's cost of performance", for purposes of the instant contract sharing paragraph (d) of the basic clause, shall be determined by (i) multiplying the time per item saved by the elimination, modification, or substitution by the labor hour rate agreed upon for the workers involved, and then (ii) multiplying the result by the number of items over which the task has been deleted, and (iii) taking into account in the usual manner the contractor's cost of developing the proposal and of implementing the change.

(c) Collateral savings: In addition to contractor sharing in instant contract savings, the value engineering clause normally shall provide for contractor participation in any ascertainable net reduction in the government's overall projected costs including but not limited to cost of operation, maintenance, logistic support, and Government-furnished property, where such collateral savings result from the change proposal submitted by the contractor. This additional incentive enables the contractor to share in collateral savings (less any increase in acquisition costs) whether or not there is any change in the acquisition cost of the item. However, when the contracting officer determines that the item or class of items being procured offers no reasonable potential for significant collateral savings, the collateral savings provision may be omitted from a contract or class of contracts.

§ 12–1.5203 Percentage of contractor sharing.

(a) The precise extent to which the contractor should share savings resulting from decreases in his cost of performance and in future acquisition cost must be tailored to the particular procurement. For advertised contracts, the percentages of contractor sharing shall be stated in the Value Engineering Incentive clause in the invitation for bids. For negotiated contracts, the percentage of contractor sharing shall be stated in the Value Engineering clause in the request for proposals, although the percentage may be a subject of negotiation prior to award. In two-step formal advertising, although discussion of the appropriate percentages of contractor sharing is permissible in connection with step one, the percentages shall be specified in the Value Engineering Incentive clause in the invitation for bids that is issued at the beginning of step two.

(b) In firm fixed-price contracts, fixed-price contracts providing for escalation, and fixed-price contracts providing for prospective redetermination, the contractor's share in the cost reduction on the instant contract normally should be 50 percent and in no event shall be greater than 75 percent; however, if such contracts are not awarded on the basis of adequate price competition, a contractor's share of less than 50 percent may be appropriate. In an incentive-type contract, if it is determined that costs and savings can be estimated with reasonable accuracy, the contractor's share may be as much as 50 percent; if costs and savings cannot be estimated with reasonable accuracy, his share should be in accordance with the maximum overall cost incentive sharing rate of the contract.

(c) When a collateral savings provision is included in any contract, the contractor's percentage share of collateral savings in such areas as Government-furnished property (other than

Government-furnished material under the instant contract), operations, and logistics support shall be 10 percent of projected savings which it is estimated will accrue to the Government during an average or typical year's use of the item incorporating the change. The contracting officer's determination of the amount of projected collateral savings shall be final and shall not be subject to the Disputes clause. With respect to savings due to a reduction in the amount of Government-furnished material under the instant contract, the contractor's share shall be the same as his share in instant contract savings.

§ 12–1.5204 Other considerations.

§ 12–1.5204–1 Submission of identical value engineering change proposals under more than one contract.

Contractors should be encouraged to submit cost reduction proposals under any of their contracts where the likelihood of savings is present even though an identical proposal may have been accepted under another contract with the contractor or another contractor. When identical value engineering change proposals are submitted under more than one contract for substantially the same items, either with the same contractor or with different contractors, and both are accepted, the value engineering clauses provide that (a) instant contract savings shall be paid under each contract and (b) collaeral savings will be paid only to the extent provided for by the contract under which the proposal is first received by the contracting officer and not pursuant to the other contract.

§ 12–1.5204–2 Revision of performance incentive provisions.

When a value engineering clause is to be included in a contract that will also include performance incentives, the contract shall include an appropriate provision to permit equitable revisions to the performance incentive provisions in the event that a cost reduction proposal is accepted and utilized which substantially affects the basis for computing the performance incentive.

§ 12–1.5204–3 Cost allowability.

(a) *General.* Since the Value Engineering Incentive clause does not require the contractor to perform value engineering, the inclusion of such a clause should not in itself increase costs to the Government.

(b) *Cost-type contracts.* In accordance with paragraph (a) of this section, value engineering shall not be allowed as a direct change against cost-type contracts containing the Incentive clause. The cost of value engineering is an allowable indirect charge to the extent that, under FPR Part 1–15, it is reasonable in the conduct of the contractor's business as a whole and allocable to the particular contract.

(c) *Negotiated fixed-price type contracts.* With respect to negotiated fixed-price type contracts, the normal price negotiation policies and techniques in FPR Subpart 1–3.8 shall be followed in determining whether and to what extent the cost of value engineering may be included in the contract price.

(d) *Developmental costs.* Notwithstanding the provisions of paragraphs (b) and (c) of this section, developmental costs of successful value engineering proposals shall be deductible from overall cost savings in accordance with § 12–1.5202–3(b)(6) and the provisions of the applicable instant contract sharing provision in § 12–1.5207–2.

§ 12–1.5204–4 Effect of value engineering payments.

The sharing of cost savings with a contractor under a value engineering incentive constitutes payment for services rendered and does not constitute profit or fee for purposes of the statutory limitations imposed by 10 U.S.C. 2306(d) or 41 U.S.C. 254(b).

§ 12–1.5205 Evaluation and acceptance.

(a) The expeditious processing of, evaluation of, and determination as to the acceptability of any value engineering change proposal under a contract shall be the responsibility of the contracting officer, whose decision shall be final and shall not be subject to the Disputes Clause of the contract.

(b) When it is determined that acceptance of a value engineering change proposal will result in overall cost reduction to the Government, the contracting officer shall accept the proposal by giving the contractor written notice thereof reciting acceptance pursuant to the value engineering clause. Where performance under the contract has not yet been completed and application of the proposed changes to the remaining performance is advisable and appropriate, the written notice of acceptance may be given by issuance of a change order.

(c) Before accepting a cost reduction proposal under a value engineering clause providing for contractor sharing in collateral savings, the contracting officer must make sure that sufficient funds are available for expenditure under the instant contract to cover any increase in the contract price which will result from such acceptance. When necessary, the contract under which the proposal was accepted shall be modified to provide funds sufficient to cover the savings sharing payments to the contractor.

§ 12–1.5206 Value engineering program requirement.

In selected instances, a Value Engineering Program Requirement clause may be considered more appropriate than a Value Engineering Incentive clause. A Value Engineering Program Requirement clause obligates the contractor to engage in value engineering of the scope and at the level of effort required by the Government as an item of work in the contract schedule. The principle reason for requiring a value engineering program is to get early results (i.e., in the initial stages of design, development, or production), so that specifications, drawings, and production methods will reflect the full benefit of value engineering. The value engineering program requirement is set forth in the contract schedule as a separately priced line item. Since under the value engineering program requirement, as contrasted to the value engineering incentive clause, the Government is obligated to pay for value engineering effort whether or not acceptable value engineering proposals result, this method should be used with discretion. Detailed procedures and an appropriate clause may be found in Armed Services Procurement Regulation Part 1–17 of this title.

§ 12–1.5207 Value engineering incentive clauses.

The appropriate form of the basic clause in § 12–1.5207–1 or a substantially similar clause shall be used, with the appropriate instant contract sharing provision from § 12–1.5207–2.

§ 12–1.5207–1 The basic clause.

VALUE ENGINEERING INCENTIVE

(a) (1) This clause applies to those cost reduction proposals initiated and developed by the Contractor for changing the drawings, designs, specifications, or other requirements of this contract. This clause does not, however, apply to any such proposal unless it is identified by the Contractor, at the time of its submission to the Contracting Officer, as a proposal submitted pursuant to this clause.

(2) The cost reduction proposals contemplated are those that:

(i) Would require, in order to be applied to this contract, a change to this contract; and

(ii) Would result in savings to the Government by providing * * *

(A) A decrease in the cost of performance of this contract, without impairing any of the items' essential functions and characteristics such as service of life, reliability, economy of operation, ease of maintenance, and necessary standardized features; or

(B) Items, regardless of the acquisition cost, producing a net reduction in the cost of Government-furnished property, operations, maintenance, or other areas which exceeds any increased acquisition cost, without impairing any of the items' essential functions and characteristics.

(b) As a minimum, the following information shall be submitted by the Contractor with each proposal:

(i) A description of the difference between the existing contract requirement and the proposed change and the comparative advantages and disadvantages of each;

(ii) An itemization of the requirements of the contract which must be changed if the proposal is adopted, and a recommendation as to how to make each such change (e.g., a suggested revision);

(iii) An estimate of the reduction in performance costs, if any, that will result from adoption of the proposal, taking into account the cost of development and implementation by the Contractor (including any amount attributable to subcontracts in accordance with paragraph (e) below) and the basis for the estimate;

(iv) A prediction of any effects the proposed change would have on collateral costs to the Government such as Government-furnished property costs, costs of related items and costs of maintenance and operation;

(v) A statement of the time by which a change order adopting the proposal must be issued so as to obtain the maximum cost reduction during the remainder of this contract, noting any effect on the contract completion time or delivery schedule; and

(vi) The dates of any previous submissions of the proposal; the numbers of the Government contracts under which submitted, and the previous actions by the Government, if known.

(c) (1) Cost reduction proposals shall be submitted to the Contracting Officer. Cost reduction proposals shall be processed expeditiously; however, the Government shall not be liable for any delay in acting upon any proposal submitted pursuant to his clause. The Contractor does have the right to withdraw, in whole or in part, any value engineering change proposal not accepted by the Government within the period specified in the proposal. The decision of the Contracting Officer as to the acceptance of any such proposal under this contract shall be final and shall not be subject to the "Disputes" clause of this contract.

(2) The Contracting Officer may accept, in whole or in part, before performance has been completed under this contract, any cost reduction proposal submitted pursuant to this clause by giving the Contractor written notice thereof reciting acceptance under this clause. This written notice may be given by issuance of a change order to this contract. Unless and until a change order or other contract modification applies a value engineering change proposal to this contract, the Contractor shall remain obligated to perform in accordance with the terms of the existing contract.

(3) If a cost reduction proposal submitted pursuant to this clause is accepted by the Government, the Contractor is entitled to share in instant contract savings and collateral savings, not as alternatives, but rather to the full extent provided for in this clause.

(4) Contract modifications made as a a result of this clause will state that they are made pursuant to it.

(d) [Insert the appropriate instant contract sharing provision from § 12–1.5207–2.]

(e) The Contractor will use his best efforts to include appropriate value engineering arrangements in any subcontract which, in the judgment of the Contractor, is of such a size and nature as to offer reasonable likelihood of value engineering cost reductions. For the purpose of computing any equitable adjustment in the contract price under paragraph (d) above, the Contractor's cost of development and implementation of a cost reduction proposal which is accepted under this contract shall be deemed to include any development and implementation costs of a subcontractor and any value engineering incentive payments to a subcontractor, or cost reduction share accruing to a subcontractor, which clearly pertain to such proposal and which are incurred, paid or accrued in the performance of a subcontract under this contract.

(f) (1) In the event that an accepted cost reduction proposal results in a projected net reduction in ascertainable costs in such areas as Government-furnished property (other than Government-furnished material under this contract), operations, or logistic support which exceeds any increase in acquisition cost, the contract price or fee, as applicable shall be increased by ten percent (10%) of the projected net reduction in ascertainable collateral costs, i.e., collateral savings, estimated to accrue to the Government during an average or typical year of use of the item in which the change is incorporated. The determination of the amount of collateral savings, if any, will be made solely by the Government and shall not be subject to the "Disputes" clause of this contract.

(2) In the event that an accepted cost reduction proposal results in a net reduction in the amount of Government-furnished material under this contract, involving savings to the Government in excess of any increase in cost of performance of this contract, then in addition to any adjustment made pursuant to the "Changes" clause by reason of such increase, the contract price or fee, as applicable, shall be increased by _____ per cent (_____%)* of the net savings estimated to accrue to the Government in the acquisition of the items under this contract. If the proposal results in a decrease in the cost of performance as well as a net reduction in the amount of Government-furnished material under this contract, an appropriate adjustment in the contract price shall be made pursuant to paragraph (d) in addition to the adjustment provided for by this paragraph (f).

(g) (1) A cost reduction proposal identical to one submitted under any other contract with the Contractor or another contractor may also be submitted under this contract.

(2) If the Contractor submits under this clause a proposal which is identical to one previously received by the Contracting Officer under a different contract with the Contractor or another contractor for substantially the same items and both proposals are accepted by the Government, the Contractor shall share instant contract savings realized under this contract, pursuant to paragraph (d) of this clause.

(h) The Contractor may restrict the Government's right to use any sheet of a value engineering proposal or of the supporting data, submitted pursuant to this clause, in accordance with the terms of the following legend if it is marked on such sheet:

> This data furnished pursuant to the Value Engineering clause of contract _____ shall not be disclosed outside the Government, or duplicated, used, or disclosed, in whole or in part, for any purposes other than to evaluate a value engineering proposal submitted under said clause. This restriction does not limit the Government's right to use information contained in this data if it is or has been obtained, or is otherwise available, from the Contractor or another source, without limitations. If such a proposal is accepted by the Government under said contract after the use of this data in such an evaluation, the Government shall have the right to duplicate, use, and disclose any data reasonably necessary to the full utilization of such proposal as accepted, in any manner and for any purpose whatsoever, and have others so do.

In the event of acceptance of value engineering proposal, the Contractor hereby grants to the Government all rights to use, duplicate or disclose, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so, any data reasonably necessary to fully utilize such proposal.

(i) (1) For purposes of sharing under paragraph (d) above, the term "instant contract" shall not include any supplemental agreements to or other modifications of the instant contract, executed subsequent to acceptance of the particular value engineering change proposal, by which the Government increases the quantity of any item or adds any item, nor shall it include any extension of the instant contract through exercise of an option (if any) provided under this contract after acceptance of the proposal.

(2) If this contract is an estimated requirement or other indefinite quantity type contract, the term "instant contract" for purposes of sharing under paragraph (d) above shall include only those orders actually placed by the Government up to the time the particular value engineering change proposal is accepted.

(3) If this clause is included in a basic ordering agreement, the "instant contract" for purposes of sharing under paragraph (d) above shall be the order under which the particular value engineering change proposal is submitted.

(4) If this contract is a multiyear contract, the "instant contract" shall be the entire contract for the total multiyear quantity.

*Insert the appropriate percentage, i.e., the Contractor's share, as determined for instant contract sharing under paragraph (d).

§ 12–1.5207–2 Instant contract sharing provisions (clause paragraph (d)).

The appropriate one of the instant contract sharing provisions in paragraphs (a) through (d) of this section shall be inserted as paragraph (d) of the Value Engineering Incentive clause.

(a) *Firm fixed-price contracts and fixed-price contracts providing for escalation.* Insert the following paragraph (d) of the Value Engineering Incentive clause in § 12–1.5207–1.

(d) If a cost reduction proposal submitted pursuant to this clause is accepted and applied to this contract, an equitable adjustment in the contract price and in any other affected provisions of this contract shall be made in accordance with this clause and the "Termination for Convenience," "Changes", or other applicable clause of this contract. The equitable adjustment shall be established by determining the effect of the proposal on the Contractor's cost of performance, taking into account the Contractor's cost of developing the proposal, insofar as such is properly a direct charge not otherwise reimbursed under this contract, and the Contractor's cost of implementing the change (including any amount attributable to subcontracts in accordance with paragraph (e) below). When the cost of performance of this contract is decreased as a result of the change, the contract price shall be reduced by the following amount: the total estimated decrease in the Contractor's cost of performance less _____ percent (_____%)* of the difference between the amount of such total estimated decrease and any net increase in ascertainable collateral costs to the Government which must reasonably be incurred as a result of application of the cost reduction proposal to this contract. When the cost of performance of this contract is increased as a result of the change, the equitable adjustment increasing the contract price shall be in accordance with the "Changes" clause rather than under this clause, but the resulting contract modification shall state that it is made pursuant to this clause.

(b) *Fixed-price contracts providing for prospective price redetermination.* Insert the following as paragraph (d) of the Value Engineering Incentive clause in § 12–1.5207–1.

(d) If a cost reduction proposal submitted pursuant to this clause is accepted and applied to this contract, an equitable adjustment in the contract price and in any other affected provisions of this contract shall be made in accordance with this clause and the "Termination for Convenience," "Changes," or other applicable clause of this contract. The equitable adjustment shall be established by determining the effect of the proposal on the Contractor's cost of performance, taking into account the Contractor's cost of developing the proposal insofar as such is

*Insert the appropriate percentage, i.e., the contractor's share (see § 12–1.5203).

properly a direct charge not otherwise reimbursed under this contract and the Contractor's cost of implementing the change (including any amount attributable to subcontracts in accordance with paragraph (e) below). When the cost of performance of this contract is decreased as a result of the change, the contract price shall be reduced by the following amount: The total estimated decrease in the Contractor's cost of performance attributable to the period for which the price has been established, less ------ percent (------%)* of the difference between the amount of such total estimated decrease and any net increase in ascertainable collateral costs to the Government which must reasonably be incurred as a result of application of the cost reduction proposal to this contract; then in any redetermination of price, under the "Price Redetermination" clause of this contract, having an effective date subsequent to the effective date of any change order or notice of partial termination issued pursuant to this clause, the redetermination price shall not be reduced as a consequence of such change order or notice of partial termination by more than ------ percent (------%)** of the estimated decrease in that part of the Contractor's cost of performance which is attributable to the pertinent price redetermination period. When the cost of performance of this contract is increased as a result of the change, the equitable adjustment increasing the contract price shall be in accordance with the "Changes" clause rather than under this clause, but the resulting contract modification shall state that it is made pursuant to this clause.

(c) *Fixed-price incentive (firm target) contracts.* Insert the following as paragraph (d) of the Value Engineering Incentive Clause in § 12–1.5207–1.

(d) If a cost reduction proposal submitted pursuant to this clause and affecting any of the items described in paragraph (a) of the "Incentive Price Revision (Firm Target)" clause of this contract is accepted and applied to this contract, an equitable adjustment in the total target price of such items and in any other affected provisions of this contract shall be made in accordance with this clause and the "Termination for Convenience," "Changes" or other applicable clause of this contract. The equitable adjustment in such total target price shall be established by determining the effect of the proposal on the Contractor's cost of performance, taking into account the contractor's cost of developing the proposal, insofar as such is properly a direct charge not otherwise reimbursed under this contract and the Contractor's cost of implementing the change (including any amount attributable to subcontracts in accordance with paragraph (e) below). When the cost of performance of this contract is decreased as a result of the change, (i) the total target cost of the affected items shall be reduced by the full amount of the total estimated decrease in the Contractor's cost of performance, (ii) the total target profit relating to such items shall be increased by ------ percent (------%)* of the difference between the total estimated decrease and any net increase in ascertainable collateral costs to the Government which must reasonably be incurred as a result of application of the cost reduction proposal to this contract, and (iii) the maximum dollar limit on the total final price of such items shall be decreased by ------ percent (------%)** of the total estimated decrease. When the cost of performance of this contract is increased as a result of the change, the equitable adjustment increasing the contract price shall be in accordance with the "Changes" clause rather than under this clause, but the resulting contract modification will state that it is made pursuant to this clause.

(d) *Cost-plus-incentive-fee contracts.* Insert the following as paragraph (d) of the Value Engineering Incentive clause in § 12–1.5207–1.

(d) If a cost reduction proposal submitted pursuant to this clause is accepted and applied to this contract, an equitable adjustment in target cost and fee and in any other affected provisions of this contract shall be made in accordance with this clause and the "Termination," "Changes," or other applicable clause of this contract. The equitable adjustment shall be established by determining the effect of the proposal on the Contractor's cost of performance, taking into account the Contractor's cost of developing the proposal, insofar as such is properly a direct charge not otherwise reimbursed under this contract, and the Contractor's cost of implementing the change (including any amount attributable to subcontracts in accordance with paragraph (e) below). When the cost of performance of this contract is decreased as a result of the change, the target cost shall be reduced by the full amount of the total estimated decrease in the Contractor's cost of performance, and the minimum target, maximum fees shall be increased by ------ percent (------%)* of the difference between the total estimated decrease in the Contractor's cost of performance and any net increase in ascertainable collateral costs to the Government which must reasonably be incurred as a result of application of the cost reduction proposal to this contract. When the cost of performance of the contract is increased as a result of the change, the equitable adjustment shall be in accordance with the "Changes" clause rather than under this clause, but the resulting contract modification shall state that it is made pursuant to this clause.

§ 12–1.5207–3 Exclusion of collateral savings provisions.

Where the contracting officer has determined that the item or class of items being procured offers no reasonable potential for significant collateral savings, the Value Engineering Incentive clause in § 12–1.5207–1 shall be modified by deleting subparagraph (a)(2)(ii)(B), (c)(3), and paragraph (f) thereof and the appropriate paragraph (d) thereof shall be modified by deleting the last sentence.

Subpart 12–1.53—Voluntary Refunds

Part 12–1 is amended by adding Subpart 12–1.53, as follows:

Sec.
12–1.5301 General.
12–1.5302 Solicited refunds.
12–1.5303 Disposition of voluntary refunds.

AUTHORITY: The provisions of this Subpart 12–1.53 issued under sec. 205(c), Federal Property and Administrative Services Act of 1949, 40 U.S.C. 486(c); Armed Services Procurement Act, 10 U.S.C. Ch. 137.

§ 12–1.5301 General.

A voluntary refund is a payment or credit, not required by any contractual or other legal obligation, made to the Government by a contractor or subcontractor either as a payment or as an adjustment under one or more contracts or subcontracts. It may be unsolicited or it may be made in response to a request by the Government. Where it is desired to solicit a voluntary refund from a subcontractor, the prime contractor should be encouraged to facilitate the making of such refund. In deciding whether to solicit a voluntary refund or to accept an unsolicited refund, the contracting officer shall ask legal counsel to review the contract or contracts and all data relevant thereto to determine whether the Government rights would be jeopardized or impaired by the contracting officer's proposed action.

§ 12–1.5302 Solicited refunds.

Voluntary refunds may be requested during or after contract performance. They shall be requested only when it is considered that the Government was overcharged under a contract or was inadequately compensated for the use of Government-owned property, or in the disposition of contractor inventory, and retention by the contractor or subcontractor of the amount in question would be contrary to good conscience and equity. Generally, retention by the contractor or subcontractor shall not be considered contrary to good conscience and equity, and thus a voluntary refund shall not be requested, unless the overcharged or inadequate compensation was due, at least in part, to the fault of the contractor or subcontractor. The decision to solicit a voluntary refund shall be made by the Head of the Procuring Activity.

§ 12–1.5303 Disposition of voluntary refunds.

(a) If a refund is offered prior to final payment, it is preferable that the contract price be appropriately modified to reflect the refund. In such a case, the amount of the refund shall be credited to the applicable appropriation cited in the contract.

(b) In cases where the refund is to be made by check rather than by an adjustment in the contract price, the check shall be made payable to the Treasurer of the United States, and shall be forwarded in accordance with the procedures of each Administration.

PART 12–3—PROCUREMENT BY NEGOTIATION

The table of contents for Part 12–3 is amended to add new Subpart 12–3.8, as follows:

Subpart 12–3.8—Price Negotiation Policies and Techniques

Sec.
12–3.801 Basic policy.

*Insert the appropriate percentage, i.e., the contractor's share (see § 12–1.5203).

**Insert the appropriate percentage, i.e., the Government's share (see § 12–1.5203).

*Insert the appropriate percentage, i.e., the contractor's share (see § 12–1.5203).

**Insert the appropriate percentage, i.e., the Government's share (see § 12–1.5203).

Sec.
12-3.801-2 Responsibility of contracting officers.
12-3.809 Contract audit as a pricing aid.

AUTHORITY: The provisions of this Subpart 12-3.8 issued under sec. 205(c), Federal Property and Administrative Services Act of 1949, 40 U.S.C. 486(c); Armed Services Procurement Act, 10 U.S.C. Ch. 137.

Part 12-3 is amended by adding Subpart 12-3.8, as follows:

Subpart 12-3.8—Price Negotiation Policies and Techniques

§ 12-3.801 Basic policy.

§ 12-3.801-2 Responsibility of contracting officers.

(a) In the event a contractor insists on a price or demands a profit or fee which the contracting officer considers unreasonable, and if the contracting officer is unable to obtain a satisfactory solution after exhausting the courses of action set forth in FPR 1-3.801-2(c), the matter shall be referred for resolution to the Head of the Agency with a statement of facts and the contracting officer's recommendations.

§ 12-3.809 Contract audit as a pricing aid.

(a) In establishing the due date for receipt of the auditor's report, the minimum time which will be allowed by DOT contracting officers shall normally be 30 days. Exceptions to this 30-day minimum period may be made only when program considerations require a shorter time. Urgency caused by end-of-year funding considerations will not be a justification for requiring a shorter period for advisory audit review.

(b) When DCAA is assigned post-award audit responsibility under cost reimbursable contracts, the contractor shall be instructed to forward the first and final vouchers to the cognizant auditor for audit review. The cognizant auditor shall also be furnished a paid copy of each voucher furnished under the contract. Where contracts continue for more than 1 year, an annual report will be issued by the auditor to the contracting organization's Office of Audit after the close of the contractor's fiscal year.

PART 12-7—CONTRACT CLAUSES

The table of contents for Part 12-7 is amended to restate Subpart 12-7.1 as follows:

Subpart 12-7.1—Fixed Price Supply Contracts

Sec.
12-7.100 Scope of subpart.
12-7.101-35 Late proposals and modifications.
12-7.150 Extent of quantity variation.
12-7.151 Value Engineering Incentive.

Subpart 12-7.1—Fixed Price Supply Contracts

Sections 12-7.100, 12-7.150, and 12-7.151 are added to read as follows:

§ 12-7.100 Scope of subpart.

This subpart sets forth the contract clauses for use in fixed price supply contracts in addition to those prescribed in Subpart 1-7.1 of this title.

§ 12-7.150 Extent of quantity variation.

The following clause is prescribed for use in accordance with § 12-1.352.

EXTENT OF QUANTITY VARIATION

The permissible variation under the clause of the General Provisions entitled "Variation in Quantity" shall be limited to:
Increase (Insert: ------ Percent or None).
Decrease (Insert: ------ Percent or None).
This increase or decrease shall apply to ----.

(Insert in the blank the designation(s) to which the percentages apply, such as (1) the total contract quantity; (2) item 1 only; (3) each quantity specified in the delivery schedule of the "Time of Delivery" clause; (4) the total item quantity for each destination; (5) the total quantity of each item without regard to destination.)

§ 12-7.151 Value Engineering Incentive.

When value engineering incentive requirements are to be included in a contract, insert the clause set forth in § 12-1.5207 of this chapter.

[F.R. Doc. 69-10777; Filed, Sept. 9, 1969; 8:48 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 69-953]

PART 73—RADIO BROADCAST SERVICES

Antenna Systems

In the matter of amendment of § 73.316(f) of the Commission's rules to remove the requirement for filing an AM application when an FM applicant proposes to sidemount an FM antenna on a standard broadcast station tower without increasing the overall height of that structure.

1. At the present time, § 73.316(f) of the rules requires the filing of an AM application for construction permit or modification of construction permit when it is proposed to sidemount an FM antenna on an existing standard broadcast station tower, whether or not such installation requires a change in the tower height of the supporting structure. Practice has demonstrated that such AM applications serve no useful purpose where no change in height of the AM towers occur, and are not necessary to the processing of the FM applications. Too, it must be noted that the construction permit issued after the approval of the FM application always contains conditions that the standard broadcast station shall determine the operating power by the indirect method during construction of the FM broadcast station antenna, and there is a requirement to remeasure the antenna resistance and current after installation of the FM broadcast station antenna on the standard broadcast station tower, and report the results of such measurements on FCC Form 302.

2. In view of the above, and the fact that the present requirement is burdensome and unnecessary, the Commission finds that it is in the public interest to amend § 73.316(f) of its rules to abolish the requirement of the filing of an AM application when an FM station is simply sidemounting an FM antenna on an AM tower and not increasing the overall height of the structure.

3. Authority for the adoption of the amendment herein adopted, is contained in sections 4(i), 303(f), and 303(r) of the Communications Act of 1934, as amended.

4. Because the change in our rules herein ordered is purely procedural in nature and relaxes an existing requirement, compliance with the usual notice and effective date provisions of the Administrative Procedure Act (5 U.S.C. sec. 553) is unnecessary and would serve no useful purpose.

5. In view of the foregoing: *It is ordered*, That effective September 12, 1969, § 73.316(f) of the Commission's rules and regulations is amended, as set forth below.

Adopted: September 4, 1969.

Released: September 5, 1969.

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

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

Section 73.316(f) of the Commission's rules and regulations is amended to read as follows:

§ 73.316 Antenna systems.

* * * * *

(f) In cases where it is proposed to use a tower of a standard broadcast station as a supporting structure for an FM broadcast antenna, an application for construction permit (or modification of construction permit) for such standard broadcast station must be filed for consideration with the FM application, only in the event the overall height of the standard broadcast station tower changes. Applications may be required for other classes of stations when their towers are to be used in connection with FM stations.

* * * * *

[F.R. Doc. 69-10759; Filed, Sept. 9, 1969; 8:47 a.m.]

[Docket No. 18431; FCC 69-954]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations, Williamsport, Pa.

Report and order. In the matter of amendment of the table of assignments for television channels, § 73.606(b) of the rules and regulations, to substitute Channel 20 for Channel 66 at Williamsport, Pa.; Docket No. 18431.

[1] Commissioner Johnson absent.

1. The Commission has under consideration its proposal to replace Channel 66 with Channel 20 at Williamsport, Pa., upon which comments were invited in the notice of proposed rule making released on January 23, 1969 (FCC 69-27), and published in the FEDERAL REGISTER on January 28, 1969 (34 F.R. 1329). Because of mileage separation requirements, the unused Channel 66 assignment at Williamsport limits the availability of channels in the upper 14-channel UHF band (i.e., Channels 70-83) for translator use in the Williamsport area. The replacement was proposed to permit use of a greater number of channels in this upper UHF band to meet the demand for translator stations in this area.

2. Supporting comments were filed by applicants for UHF translator stations at Williamsport: Scranton Broadcasters, Inc., licensee of UHF Station WDAU-TV, Scranton, Pa., and WHP, Inc., licensee of UHF Station WHP-TV, Harrisburg, Pa., each seeking Channel 66 for a translator,[1] and by WGAL Television, Inc., licensee of VHF Station WGAL-TV, Lancaster, Pa., which seeks Channel 80 for a translator station. WGAL states that adoption of the subject proposal will permit the use of Channel 80 for translator use in Williamsport without the need for a waiver of separation requirements. Scranton Broadcasters states that if Channel 20 is substituted for Channel 66 at Williamsport it will amend its pending application for Channel 66 to one of the channels made available by the change. No opposing comments were received.

3. Channel 66 is the only television channel assigned to Williamsport, a community with a 1960 population of 41,967, located about 57 miles west of Wilkes Barre, 70 miles west of Scranton, 68 miles northwest of Harrisburg and 90 miles northwest of Lancaster, Pa. While the channel is not occupied or sought by an applicant for a regular local station at this time, licensees of television stations in those other communities have demonstrated interest and demand for use of Channel 66 and other UHF channels in the upper 14-channel band for translator stations at Williamsport to retransmit the programing of their licensed stations. With Channel 66 at Williamsport, however, no more than four channels in the upper UHF range can be used for translators in the Williamsport area consistent with spacing requirements. This is insufficient to meet present demand. Four applications have been granted, authorizing translators at Williamsport on Channels 72, 76, 78, and 82. Three translator applications are pending, filed by the two competing applicants for Channel 66 and the applicant for Channel 80 noted in paragraph 2 above.

4. Since it appears that the most realistic means of furthering our goals for UHF growth and the expansion of television service in the Williamsport area at present, and perhaps for some time to come, is through the use of translators, we believe that the public interest will be served by replacing the unused Channel 66 Williamsport assignment with another which would permit the use of more UHF channels above 69 for translator use in this area without the need for extensive deviations from the rules. Assignment replacement possibilities at Williamsport examined with the Commission's electronic computer indicate that Channel 20 is the most satisfactory replacement for Channel 66. This replacement will comply with all required geographic separations, will require no change in assignments to other communities, and is the most efficient in terms of impact on other available but unassigned channels in the area affected by a Williamsport assignment. It also appears that Channel 20 at Williamsport would be as satisfactory as Channel 66 to meet any demand arising in the future for a regular local television station.

5. With Channel 20 instead of Channel 66 at Williamsport, additional UHF channels in the upper 14 range will be released for translator use in the general area. At Williamsport, it will become possible to use Channel 80, for which an application is pending, without the need for a waiver of separation requirements. It will also make it possible to accommodate an additional translator on Channel 74 at Williamsport with but one waiver of separation requirements to permit a short-spacing of approximately 6 to 13 miles to the Channel 59 assignment at Lebanon, Pa.[2] Channel 70 would also be available for translator use at Williamsport if waivers were granted to permit short-spaced operation of approximately 2 miles to the unused Channel 56 assignment at Hazelton, Pa., and of approximately 20 miles to the unused Channel 55 assignment at State College, Pa. Since a Williamsport Channel 70 translator would be required to furnish interference protection to any television stations in those communities operating on those frequencies, such waivers may be warranted if other public interest considerations dictate.

6. We are, of course, aware that there is under consideration in another proceeding (Docket No. 18261) possible use, to some extent, of the lowest 7 UHF channels, 14 through 20, by the land mobile services, particularly for use in major metropolitan areas where there appears to be a shortage of frequencies for land mobile use in view of growing needs. One of these is the Philadelphia, Pa.-New Jersey urbanized area, about 130 miles southeast of Williamsport. However, it would not appear that the assignment of Channel 20 at Williamsport could, of itself, have a substantial restrictive effect on possible land mobile use in that area of the frequency band occupied by this channel, in view of the slightly closer existing assignment of Channel 20 at Washington, D.C. We therefore do not believe that action on this proposal should be withheld pending the outcome of that proceeding.

7. Accordingly, pursuant to the authority contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended: *It is ordered*, That, effective October 13, 1969, the Table of Assignments in § 73.606(b) of the Commission's rules is amended, insofar as the city listed below is concerned, to read as follows:

City	Channel No
Williamsport, Pa.	20

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

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: September 4, 1969.

Released: September 5, 1969.

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

[F.R. Doc. 69-10758; Filed, Sept. 9, 1969; 8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 10—MIGRATORY BIRDS

Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds

Correction

In F.R. Doc. 69-10471 appearing at page 14028 in the issue of Thursday, September 4, 1969, the following changes should be made in § 10.53:

1. In footnote 6 of paragraph (b) on page 14029, the dates for Kentucky reading "Nov. 23-Dec. 6" should read "Nov. 28-Dec. 6".

2. In the first column of the table in paragraph (h) on page 14031, the entry under "Seasons in Colorado" reading "East of Continental Divide" should read "West of Continental Divide".

[1] UHF translators are normally authorized for operation on Channels 70-83. They may, however, also be authorized on any lower UHF channel assigned to a community if the channel is not occupied by a regular television broadcast station. (§ 74.702 (c) and (h) of the rules.)

[2] The exact distance would depend on whether the measurement is made from the reference points of the communities involved, or sites specified in pending applications.

[3] Commissioner Johnson absent.

Proposed Rule Making

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[26 CFR Part 151]

REGULATORY TAXES ON NARCOTIC DRUGS

Excepted Narcotic Pharmaceutical Preparations

Notice is hereby given pursuant to the provisions of section 4702(a)(3) of the Internal Revenue Code of 1954, as amended by section 4(c) of the Narcotics Manufacturing Act of 1960 (74 Stat. 58); § 151.426 of Title 26 of the Code of Federal Regulations; and under the authority vested in the Attorney General by Reorganization Plan No. 1 of 1968 (33 F.R. 5611) and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs by § 0.200 of Title 28 of the Code of Federal Regulations, that the regulations set forth in tentative form below are proposed to be prescribed by the Director, Bureau of Narcotics and and Dangerous Drugs to restrict the existing abusive use of Class "X" exempt pharmaceutical preparations and to insure that such preparations are used for medicinal purposes only by withdrawing in part certain existing practices:

Section 151.424 of Title 26 of the Code of Federal Regulations is amended by adding to the existing section the following new paragraphs as follows:

§ 151.424 **Conditions of exemption for Class "X" products.**

* * * * *

(d) *Retail sale restrictions.* A Class "X" product may only be sold at retail without a prescription by a registered pharmacist and not by a nonpharmacist employee even if under the direct supervision of a pharmacist. A pharmacist must exercise professional discretion in the sale of a Class "X" product to insure that the product is being sold for medical purposes only. An abuse of such discretion shall subject the pharmacist to the penalties provided for violations of the law relating to narcotic drugs.

(e) *Age of purchaser and identification.* A Class "X" product may only be sold at retail without a prescription to a person at least 18 years of age. The pharmacist must require every retail purchaser of a Class "X" product to furnish suitable identification, including proof of age when appropriate, in order to purchase a Class "X" product. The name and address obtained from such identification shall be entered in the record of disposition to consumers required by paragraph (b)(2) of this section.

(f) *Quantity restrictions.* Not more than 2 ounces of camphorated opium tincture (paregoric), nor more than 8 ounces of any other Class "X" product containing opium, nor more than 4 ounces of any other Class "X" product, may be sold at retail to the same consumer in any given 48-hour period without a prescription.

Consideration will be given to any written data, views, or arguments pertaining to the proposed restrictions for Class "X" preparations, which are received by the Director, Bureau of Narcotics and Dangerous Drugs, prior to October 10, 1969. Any person desiring to be heard on the proposed regulations will be furnished the opportunity in the Headquarters of the Bureau of Narcotics and Dangerous Drugs, 1405 I Street, NW., Washington, D.C. 20537 at 10 a.m., October 3, 1969: *Provided*, That such person furnishes written notice of his desire to be heard to the Director, Bureau of Narcotics and Dangerous Drugs not later than 20 days from the publication of this notice in the FEDERAL REGISTER. If no written notice of a desire to be heard shall be received within 20 days from the date of publication of this notice in the FEDERAL REGISTER, no hearing shall be held.

Dated: September 5, 1969.

JOHN E. INGERSOLL,
Director, Bureau of Narcotics and Dangerous Drugs.

[F.R. Doc. 69-10818; Filed, Sept. 9, 1969; 8:51 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Parts 112, 113, 114]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Notice of Extension of Time To Submit Written Data, Views, or Arguments

Notice is hereby given in accordance with section 553(b), title 5, United States Code (1966), that the time for filing data, views and arguments with respect to the proposed amendments to the regulations relating to viruses, serums, toxins, and analogous products in Parts 112, 113 and 114 of Title 9, Code of Federal Regulations, as published in the FEDERAL REGISTER on July 11, 1969 (34 F.R. 11489), and republished on July 17, 1969 (34 F.R. 12042), is extended to October 17, 1969.

Interested persons are to submit written comments, suggestions, or objections regarding the proposed amendments to such regulations to the Veterinary Biologics Division, Federal Center Building, Hyattsville, Md. 20782.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 4th day of September 1969.

GEORGE W. IRVING, Jr.,
Administrator, Agricultural Research Service.

[F.R. Doc. 69-10739; Filed, Sept. 9, 1969; 8:46 a.m.]

Consumer and Marketing Service

[7 CFR Part 927]

BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

Expenses and Rate of Assessment for 1968–69 Fiscal Period

Consideration is being given to the following proposals submitted by the Control Committee, established pursuant to the marketing agreement, as amended, and Order No. 927, as amended (7 CFR Part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and necessary to be incurred by the Control Committee, during the period July 1, 1969, through June 30, 1970, will amount to $49,700.

(2) That the rate of assessment for such period, payable by each handler in accordance with § 927.41, be fixed at $0.01 per standard western pear box of pears, or an equivalent quantity of pears in other containers or in bulk.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112A, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: September 5, 1969.

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

[F.R. Doc. 69-10790; Filed, Sept. 9, 1969; 8:49 a.m.]

[7 CFR Part 932]

OLIVES GROWN IN CALIFORNIA

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

Consideration is being given to the following proposals submitted by the Olive Administrative Committee, established under the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), regulating the handling of olives grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(a) That the Secretary of Agriculture find that the expenses that are reasonable and likely to be incurred by said committee, in accordance with this part, during the period September 1, 1969, through August 31, 1970, will amount to $292,500.

(b) That the Secretary of Agriculture fix the rate of assessment for said period, payable by each first handler in accordance with § 932.39, at $6.50 per ton of olives.

(c) That unexpended assessment funds, in excess of expenses incurred during the fiscal period ended August 31, 1969, in the amount of $30,000 shall be carried over as a reserve in accordance with the applicable provisions of § 932.40.

Terms used in the amended marketing agreement and order, shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: September 5, 1969.

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

[F.R. Doc. 69-10791; Filed, Sept. 9, 1969; 8:49 a.m.]

[7 CFR Part 948]

[Area 2]

IRISH POTATOES GROWN IN COLORADO

Limitation of Shipments

Consideration is being given to the issuance of the limitation of shipments regulation for Area No. 2 Colorado, hereinafter set forth, which was recommended by the Area No. 2 Committee, established pursuant to Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR Part 948), regulating the handling of Irish potatoes grown in the State of Colorado. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

This notice is based on the recommendation and information submitted by the Colorado Area No. 2 Potato Committee, established pursuant to said marketing agreement and order and other available information. The recommendation of the committee reflects its appraisal of the composition of the 1969 crop in Area No. 2 and of the marketing prospects for this season.

The grade, size, quality, and maturity requirements as provided herein are necessary to prevent potatoes of poor quality, or undesirable sizes from being distributed into fresh market channels. They will also provide consumers with good quality potatoes consistent with the overall quality of the crop, and maximize returns to the producers for the preferred quality and sizes.

The proposed regulations, with respect to special purpose shipments for other than fresh market use, are designed to meet the different requirements for such outlets.

All persons who desire to submit data, views, or arguments in connection with this proposal may file the same in quadruplicate with the Hearing Clerk, Room 112, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 5 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposed regulation is as follows:

§ 948.362 Limitation of shipments.

During the period September 22, 1969, through June 30, 1970, no person shall handle any lot of potatoes grown in Area No. 2 unless such potatoes meet the requirements of paragraphs (a) and (b) of this section, or unless such potatoes are handled in accordance with paragraphs (c), (d), (e), and (f) of this section. The maturity requirements specified in paragraph (b) of this section shall terminate October 15, 1969, at 11:59 p.m., m.s.t.

(a) *Minimum grade and size requirements*—(1) *Round varieties.* U.S. No. 2, or better grade, 2⅛ inches minimum diameter.

(2) *Long varieties.* U.S. No. 2, or better grade, 2 inches minimum diameter or 4 ounces minimum weight.

(b) *Maturity (skinning) requirements*—(1) *Russet Burbank and Red McClure varieties.* For U.S. No. 2 grade not more than "moderately skinned" and for other grades not more than "slightly skinned."

(2) *All other varieties.* Not more than "moderately skinned."

(c) *Special purpose shipments*—(1) *Chipping stock.* Potatoes may be handled for chipping if they meet the requirements of 1½ inches minimum diameter, and if U.S. No. 2, or better grade, except for (i) scab, and (ii) the maturity requirements of paragraph (b) of this section, if such potatoes are handled in accordance with paragraph (d) of this section.

(2) *Other special purposes.* The grade, size and maturity requirements of paragraphs (a) and (b) of this section and the inspection and assessment requirements of this part shall not be applicable to shipments of potatoes for livestock feed, relief, charity, or for seed pursuant to § 948.6.

(d) *Safeguards.* Each handler of potatoes which do not meet the grade, size and maturity requirements of paragraphs (a) and (b) of this section and which are handled pursuant to paragraph (c) of this section for any of the special purposes set forth therein shall,

(1) Prior to handling, apply for and obtain a Certificate of Privilege from the committee,

(2) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver as to the use of such potatoes, and

(3) Bill each shipment directly to the applicable processor or receiver.

(e) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes without regard to inspection and the requirements of paragraphs (a) and (b) of this section, but this exception shall not apply to any shipment which exceeds 1,000 pounds of potatoes.

(f) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purposes of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspection certificate shall be valid for a period not to exceed 5 days following the date of inspection as shown on the inspection, except that inspection certificates issued on potatoes for use as potato chips handled pursuant to paragraph (c)(1) of this section shall be exempt from this 5-day requirement.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by, and made available for examination at any time upon request, a copy of the inspection certificate applicable thereto.

(g) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "slightly skinned," "moderately skinned," and "scab" shall have the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540–51.1556 of this title), including the tolerances set forth therein. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(h) *Applicability to imports.* Pursuant to section 608e-1 of the act and § 980.1, *Import regulations* (980.1 of this chapter), Irish potatoes of the red skinned

round type, except certified seed potatoes, imported into the United States during the period September 22, 1969, through June 30, 1970, shall meet the grade, size, quality and maturity requirements specified in paragraphs (a) and (b) of this section.

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

Dated: September 5, 1969.

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

[F.R. Doc. 69–10792; Filed, Sept. 9, 1969; 8:49 a.m.]

[7 CFR Part 1126]

MILK IN NORTH TEXAS MARKETING AREA

Notice of Proposed Termination of Certain Provision of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the termination of a certain provision of the order regulating the handling of milk in the North Texas marketing area is being considered.

The provision proposed to be terminated, in § 1126.41(b)(2)(i), reads: "during the months of March through August" and relates to the classification of milk disposed of to commercial bakeries or food product manufacturing plants.

The effect of this language is to provide Class II classification for such disposition March through August of each year. In the September–February period such disposition is Class I.

A cooperative association has requested termination of the provision effective September 1, 1969, so that milk moved to bakeries, soup companies, or other food product manufacturing plants where it is used for manufactured product uses will be Class II milk in every month.

The cooperative states that commercial food establishments in the market serve as an outlet for the efficient and economical disposal of milk in excess of the fluid needs of the market. The cooperative indicates that it will be unable to make use of such outlets for reserve milk disposition in the September–February period unless Class II classification is provided.

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

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

Signed at Washington, D.C., on September 5, 1969.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[F.R. Doc. 69–10742; Filed, Sept. 9, 1969; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 9830]

AIRWORTHINESS DIRECTIVE

Hawker Siddeley Model DH–104 Dove Airplanes

Amendment 454 (27 F.R. 5793), AD 62–14–2, requires inspection of the aileron levers on Model D.H. 104 Dove Airplanes. Subsequent to Amendment 454, further investigation of the fatigue problem indicates the need for replacement of the cast aileron lever. The FAA, therefore, proposes to supersede Amendment 454 with a new AD that requires replacement of the cast aileron lever with a forged aileron lever.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC–24, 800 Independence Avenue SW, Washington, D.C. 20590. All communications received on or before October 10, 1969, will be considered by the Administration before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

HAWKER SIDDELEY AVIATION, LTD. Applies to Model DH–104 Dove Airplanes which have aileron lever, P/N 4 WA.315 installed.

Compliance required as indicated unless already accomplished.

To prevent fatigue failure of the aileron lever, accomplish the following:

(a) Visually inspect the aileron lever, P/N 4 WA.315 for cracks at the lugs for the attachment of the connecting rod and in the counterbored portion which receives the mass balance arm within the next 50 hours' time in service after the effective date of this AD unless already accomplished within the last 50 hours' time in service, and thereafter at intervals not to exceed 50 hours' time in service from the last inspection. If evidence of cracks is found, verify using dye penetrant or other FAA-approved equivalent inspection methods.

(b) If cracks are found during the inspection required by paragraph (a), before further flight, install a new forged aileron lever, P/N 4 WA.491 in accordance with Hawker Siddeley Aviation, Ltd. Dove Modification No. 967, or an equivalent approved by the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Region.

(c) If no cracks are found during the inspections required by paragraph (a), within the next 1,000 hours' time in service after the effective date of this AD, install a new forged aileron lever P/N 4 WA.491 in accordance with Hawker Siddeley Aviation, Ltd. Dove Modification No. 967, or an equivalent approved by the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Region.

(d) The inspections required in paragraph (a) may be discontinued after the new aileron lever, P/N 4 WA.491 or an equivalent approved by the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Region is installed.

(Hawker Siddeley Aviation, Ltd. Technical News Sheet CT(104) No. 151, Issue 4, dated 14 July 1969 covers this subject.)

This supersedes Amendment 454, Part 507 (27 F.R. 5793) AD 62–14–2.

Issued in Washington, D.C., on September 4, 1969.

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

[F.R. Doc. 69–10734; Filed, Sept. 9, 1969; 8:46 a.m.]

[14 CFR Part 39]

[Docket No. 9831]

AIRWORTHINESS DIRECTIVE

Hawker Siddeley Model DH–114 Heron Airplanes

Amendment 453 (27 F.R. 5793), AD 62–14–1 requires inspection of the aileron levers on Model D.H. 114 Heron Airplanes. Subsequent to Amendment 453, further investigation of the fatigue problem indicates the need for replacement of the cast aileron lever. The FAA, therefore, proposes to supersede Amendment 453 with a new AD that requires replacement of the cast aileron lever with a forged aileron lever.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before October 10, 1969, will be considered by the Administration before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments

received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

HAWKER SIDDELEY AVIATION, LTD. Applies to Model DH-114 Heron Airplanes which have aileron lever, P/N 14 WA.199 installed.

Compliance required as indicated unless already accomplished.

To prevent fatigue failure of the aileron lever, accomplish the following:

(a) Visually inspect the aileron lever, P/N 14 WA.199 for cracks at the lugs for the attachment of the connecting rod and in the counterbored portion which receives the mass balance arm within the next 50 hours' time in service after the effective date of this AD unless already accomplished within the last 50 hours' time in service, and thereafter at intervals not to exceed 50 hours' time in service from the last inspection. If evidence of cracks is found, verify using dye penetrant or other FAA-approved equivalent inspection methods.

(b) If cracks are found during the inspection required by paragraph (a), before further flight, install a new forged aileron lever, P/N 14 WA.245 in accordance with Hawker Siddeley Aviation, Ltd. Heron Modification No. 662, or an equivalent approved by the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Region.

(c) If no cracks are found during the inspections required by paragraph (a), within the next 1,000 hours' time in service after the effective date of this AD, install a new forged aileron lever P/N 14 WA.245 in accordance with Hawker Siddeley Aviation, Ltd. Heron Modification No. 662, or an equivalent approved by the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Region.

(d) The inspections required in paragraph (a) may be discontinued after the new aileron lever, P/N 14 WA.245 or an equivalent approved by the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Region is installed.

(Hawker Siddeley Aviation, Ltd. Technical News Sheet Heron No. W.3, Issue 3, dated 14 July 1969 covers this subject.)

This supersedes Amendment 453, Part 507 (27 F.R. 5793), AD 62-14-1.

Issued in Washington, D.C., on September 4, 1969.

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

[F.R. Doc. 69-10735; Filed, Sept. 9, 1969; 8:46 a.m.]

[14 CFR Part 39]

[Docket No. 9827]

AIRWORTHINESS DIRECTIVE

Messerschmitt-Bolkow Model Bolkow Junior Aircraft Serial Numbers 505 Through 684

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive (AD) applicable to certain Messerschmitt-Bolkow Model Bolkow Junior Aircraft. There have been fatigue cracks found in the lower engine-attaching bolts that could jeopardize the integrity of the engine mounting structure. Since this condition is likely to exist or develop in other airplanes of the same type design, the proposed airworthiness directive would require replacement of the existing bolts with new bolts having improved fatigue resistance.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. All communications received on or before October 9, 1969, will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

MESSERSCHMITT-BOLKOW GMBH. Applies to Bolkow Model Bolkow Junior Aircraft, Serial Numbers 505 through 684.

To prevent fatigue failures of the lower engine-mounting bolts, within the next 100 hours' time in service after the effective date of this AD, unless already accomplished, replace the lower engine-mounting bolts P/N 298-21093.22 with new bolts P/N 208-21093.22 in accordance with Messerschmitt-Bolkow Mounting Instructions No. 04/68, dated October 1968 or an FAA-approved equivalent. (Messerschmitt-Bolkow Service Bulletin No. 208-1/68, dated 14 November 1968 covers this same subject.)

Issued in Washington, D.C., on September 2, 1969.

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

[F.R. Doc. 69-10736; Filed, Sept. 9, 1969; 8:46 a.m.]

[14 CFR Part 75]

[Airspace Docket No. 69-SW-42]

JET ROUTE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 75 of the Federal Aviation Regulations that would extend Jet Route No. 52 from Greater Southwest, Tex., via Ardmore, Okla., INT of Ardmore 309° T (300° M) and Liberal, Kans., 137° T (126° M) radials; Liberal; Lamar, Colo.; to Denver, Colo. This action would reduce the route mileage between these terminals.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

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

Issued in Washington, D.C., on September 5, 1969.

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

[F.R. Doc. 69-10766; Filed, Sept. 9, 1969; 8:48 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 210]

[Release Nos. 33-4998, 34-8686, 35-16460]

FORM AND CONTENT OF FINANCIAL STATEMENTS

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposed amendment to Regulation S-X (17 CFR 210.1 et seq.) to implement proposed revisions of Forms 10 (17 CFR 249.210) and 10-K (17 CFR 249.310). Regulation S-X is the basic regulation governing the form and content of financial statements.

The proposed amendment relates to the statement of source and application of funds, which is also often referred to as the funds statement.

In 1961 when Dr. Perry Mason's report on "'Cash Flow' Analysis and the Funds Statement" was released by the American Institute of Certified Public Accountants, it was indicated that of the annual reports of 600 industrial companies studied in 1969, 190 (32 percent) included one type or another of "funds" statement. That Institute has recently

disclosed that in 1967, 524 (87 percent) of the annual reports of the 600 companies surveyed contained a funds statement and that such statement was referred to in the auditors' report in 413 of the 524 cases. (Accounting Trends and Techniques, 1968).

In October 1963 the Accounting Principles Board of the American Institute of CPAs issued its Opinion No. 3, "The Statement of Source and Application of Funds." Paragraph 8 of that Opinion states that the Board believes that such a statement should be presented as supplementary information in financial reports but indicated that (a) inclusion was not mandatory, and (b) coverage thereof in the report of the certifying accountants was optional. The Opinion was endorsed by the New York Stock Exchange and by the Directors of the Financial Analysts Federation.

The Commission's Staff Study on Disclosure to Investors (The Wheat Report) has recommended that certified comparative statements of source and application of funds should be included in initial registration statements and in annual reports filed with the Commission. The proposed amendment to Regulation S–X is intended to implement those recommendations in regard to Forms 10 and 10–K. As other forms to be filed are revised, appropriate reference to this amendment will be effected.

This amendment is proposed to be made pursuant to authority contained in sections 6, 7, 8, 10, and 19(a) of the securities Act of 1933, 48 Stat. 78, 79, 81, and 85, as amended, 15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a); sections 12, 13, 15(d), and 23(a) of the Securities Exchange Act of 1934, 48 Stat. 892, 894, 895, and 901, as amended, 15 U.S.C. 78*l*, 78m, 78o(d), and 78w(a); sections 5(b), 14, and 20(a) of the Public Utility Holding Company Act of 1935; 49 Stat. 812, 827, and 833, 15 U.S.C. 79e(b), 79n, and 79t.

The Commission proposes to amend Part 210 of Chapter II of Title 17 of the Code of Federal Regulations by adding the following caption and new §§ 210.-11A–01 and 210.11A–02 immediately following § 210.11–02, reading as follows:

STATEMENT OF SOURCE AND APPLICATION OF FUNDS

§ 210.11A–01 Application of §§ 210.-11A–01 and 210.11A–02.

These sections prescribe the content of the statement of source and application of funds and shall be filed for each person filing financial statements pursuant to §§ 210.5–01 et seq., 210.7–01 et seq., and 210.7a–01 et seq.

§ 210.11A–02 Statement of source and application of funds.

(a) The statement of source and application of funds shall summarize the changes in financial condition, showing the sources from which funds have been obtained and their disposition. (See § 210.3–01).

(b) Material changes in the components of working capital shall be shown in the statement or in a supporting tabulation.

(c) As a minimum, the following shall be reported:

(1) *Sources of funds.* (i) Current operations (showing separately net income or loss and the addition and deduction of specific items which did not require the expenditure of funds, e.g., depreciation and amortization, deferred income taxes, undistributed earnings or losses of unconsolidated persons, etc.)

(ii) Sale of noncurrent assets (identifying separately such items as investments, fixed assets, intangibles, etc.).

(iii) Issuance of securities or other long-term debt.

(iv) Issuance of capital stock.

(2) *Disposition of funds.* (i) Purchase of noncurrent assets (identifying separately such items as investments, fixed assets, intangibles, etc.).

(ii) Redemption of securities or repayment of other long-term debt.

(iii) Redemption of capital stock.

(iv) Dividends.

All interested persons are invited to submit their views and comments on the proposed amendment, in writing, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before October 30, 1969. Except where it is requested that such communications not be disclosed, they will be considered available for public inspection.

By the Commission, September 4, 1969.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69–10750; Filed, Sept. 9, 1969; 8:46 a.m.]

[17 CFR Part 230]

[Release No. 33–4997]

UNDERWRITERS, NONPUBLIC OFFERINGS, AND BROKERS' TRANSACTIONS

Notice of Proposed Rule Making

The rules proposed herein are designed to implement the fundamental purposes of the Securities Act of 1933 (hereinafter "Act") expressed in its preamble:

> To provide full and fair disclosure of the character of securities sold in interstate and foreign commerce and through the mails, and to prevent fraud in the sale thereof * * *.

In accord with these purposes the proposed rules operate to inhibit the creation of public markets in securities of issuers which do not disclose information to the public in appropriate filings with the Commission. At the same time, where issuers do make such filings, the proposed rules would permit public sale without registration in ordinary trading transactions of limited quantities of their securities by both control persons and persons who acquired the securities in private placements.

In the view of the Commission, the consideration of these proposed rules is vitally related to consideration of the revisions of Forms 10 (17 CFR 249.210) and 10–K (17 CFR 249.310) and new Form 10–Q (17 CFR 249.308a) also being proposed today. If the proposed rules are adopted, the Commission would expect to monitor their operation with care.

They will apply on a prospective basis only. In other words, with respect to sales of securities acquired prior to the effective date of the proposed rules, sellers would have the option of complying with the new rules or with presently existing interpretations of the Act.

The proposed rules are necessarily technical. In order to assist persons interested in considering them, this release contains a general discussion of the background, purpose and general effect of the proposed rules. Also included are more detailed analyses of each of the proposed rules.

BACKGROUND, PURPOSE AND GENERAL EFFECT OF THE PROPOSED RULES

Consideration of the proposed rules was prompted by a report to the Commission in March 1969 entitled "Disclosure to Investors—A Reappraisal of Administrative Policies Under the '33 and '34 Acts" (hereinafter "Report"). The Report was the product of a group drawn from the staff of the Commission under the direction of Commissioner Francis M. Wheat (Securities Act Release No. 4885, Nov. 29, 1967).

Other recommendations of the Report are being considered by the Commission. Among these are revisions of various rules, including Rule 133 (17 CFR 230.-133), relating to business combinations.

The rules here proposed are designed to provide objective tests for determining when a person who acquires securities from an issuer or a person controlling an issuer (an "affiliate") is an underwriter under section 2(11) of the Act. A person who is an underwriter may resell the securities in compliance with the Act in several ways: The securities of course, be registered under the Act if there is to be a public offering. They can also be sold in transactions not involving any public offering (section 4(1)). An exemption may be available for the intrastate sale of securities (section 3(a)(11)). Regulation A under section 3(b) provides for the public sale of limited amounts of securities without registration but with the disclosures required by that regulation. The Commission and its staff are considering certain recommendations of the Report for broadening the use of the $300,000 exemption now available under Regulation A, particularly as they relate to secondary offerings.

The absence of satisfactory objective tests for determining who is an underwriter under section 2(11) of the Act both affects the ability of persons who acquire securities to realize on legitimate investments and burdens the staff of the Commission with a large number of requests for interpretations of the law and "no-action" letters. Moreover, the present rules permit sale of large quantities of securities without any of the disclosures provided by the Act or the Securities Exchange Act of 1934 (hereinafter "Exchange Act").

Proposed Rule 160 (17 CFR 230.160) provides that a person is an underwriter if he sells restricted securities (defined in proposed Rule 161; 17 CFR 230.161) in a distribution (defined in proposed Rule 162; 17 CFR 230.162).

In proposed Rule 161 a restricted security is defined as any security acquired directly or indirectly from its issuer or an affiliate of its issuer in a transaction or chain of transactions none of which was a public offering or other public disposition. A restricted security would cease to be a restricted security 5 years after it is acquired if during each of 5 years the issuer has had at least $250,000 in gross revenues from operations.

In proposed Rule 162 a distribution is defined as any public offering of a security except certain limited brokerage transactions in the securities of an issuer filing appropriate reports with the Commission under the Exchange Act.

In proposed Rule 163 the issuers who file the appropriate reports ("qualified issuers") are defined.

To illustrate generally the operation of the proposed rules, assume that a person acquires securities in a private transaction from an issuer which is in active business but not required to file reports with the Commission under the Exchange Act. The purchaser of the securities would be required to hold those securities for 5 years before he could sell them without registration under the Act, unless in the interim the issuer became subject to the reporting requirements. On the other hand, assume a person acquires securities in a private transaction from an issuer required to file the appropriate reports with the Commission under the Exchange Act. The purchaser would, generally speaking, be able to sell specifically limited quantities of those securities in ordinary brokerage transaction after 1 year.

As noted earlier, these proposals are related to and dependent on the Commission's proposals to improve disclosure reports filed under the Exchange Act (see Exchange Act Releases 8680 to 8684, inclusive, infra.). The improved disclosure which would be produced if these proposals are adopted should provide a continuing source of information to the trading markets concerning issuers filing reports with the Commission. This would reduce the need for the disclosure required by the registration process under the Act in connection with trading transactions where no substantial selling effort is involved, such as those permitted by proposed Rule 162.

The foregoing discussion has been general. The proposed rules are technical and contain a number of exceptions. Attention is therefore directed to the detailed analysis of the proposed rules set forth below and the proposed rules themselves.

Analysis of Proposed Rules

Rule 101 (§ 230.101) *Definition of affiliate.* An affiliate of an issuer would be defined for purposes of the rules and regulations under the Act as a person directly or indirectly controlling or controlled by or under direct or indirect common control with an issuer.

Article 5. Rules relating to underwriters, non-public offerings and brokers' transactions under Sections 2(11), 4(1), 4(2) and 4(4).

Present Article 5, amendments to rules and regulations, contains just one rule (Rule 161). That rule would be moved to present Article 1 as Rule 102 without substantive change.

Preliminary note: A preliminary note to the proposed rules in Article 5 is provided for better understanding of the rules.

Rule 160 (§ 230.160) *Certain persons deemed to be "underwriters".* For purposes of section 2(11) of the Act a person who sells a "restricted security" (as defined in proposed Rule 161 (17 CFR 230.161)) in a "distribution" (as defined in proposed Rule 162) is an underwriter. However, the definition of underwriter in section 2(11) of the act is not limited to such persons. For example, professional investment bankers when assisting issuers in distributing securities are clearly underwriters. Securities sold to such underwriters or securities subject to options, warrants or rights granted to such underwriters in connection with a registered public offering are considered part of the offering and should be registered under the Act.

Rule 161 (§ 230.161) *Definition of restricted security.* A restricted security is defined in paragraph (a) of proposed Rule 161 as a security acquired directly or indirectly from its issuer or an affiliate of its issuer in a transaction or chain of transactions none of which was a public offering or other public disposition.

Paragraph (b) of Rule 161 provides that if a restricted security has been such for a period of 5 consecutive years during each of which its issuer has had gross revenues from operations of at least $250,000 then the security ceases to be restricted. This avoids applying the 5-year period to essentially "shell" corporations. Paragraph (b) also provides that with respect to a security acquired from an affiliate of its issuer the 5-year period is to be determined from the date of the acquisition of the security from the affiliate. The Commission believes that it would not be feasible or in the public interest for restricted securities to remain such indefinitely.

Paragraph (c) provides, in effect, that if three persons, all highly sophisticated persons with access to material information concerning the issuer, purchase securities in a private transaction and one of them then immediately makes a public offering of securities acquired in the transaction either in violation of the Act or pursuant to an exemption such as Regulation A, the securities acquired by the other two in the transaction are still deemed to be restricted.

Paragraph (d) of proposed Rule 161 provides that securities issued as a result of a stock dividend on, stock split up or conversion of or recapitalization affecting outstanding restricted securities are deemed to be acquired at the same time as the previously outstanding restricted securities.

Under the proposed rules privately placed convertible securities and the securities issuable on their conversion generally would remain restricted securities for at least 5 years. Existing Rule 155 would therefore appear to be unnecessary, and the Commission is presently proposing to rescind that rule. However, the Commission is concerned that such an elimination of all the protections offered by Rule 155 to investors might be inappropriate. Accordingly, the Commission would welcome comments on this proposal.

Rule 162 (§ 230.162) *General definition of distribution in section 2(11).* Paragraph (a) of proposed Rule 162 defines distribution as any public offering of a security unless specified requirements are met. It should be noted, however, that a person who makes a distribution is not necessarily an underwriter unless he makes a distribution of a restricted security.

Subparagraphs (1) through (4) of proposed Rule 162(a) establish requirements which must be met if a public offering is not to be deemed a distribution. In substance, these subparagraphs provide that restricted securities of an issuer which files the appropriate reports with the Commission may be sold without registration, if held for a 1 year period, in specified limited quantities in ordinary brokerage transactions.

Subparagraph (1) requires that the issuer be a "qualified issuer" (defined in proposed Rule 163 (§ 230.163)).

Subparagraph (2) provides that restricted securities must have been held for a period of generally 1 year (as more particularly provided in paragraph (c) of proposed Rule 162). An affiliate selling securities purchased in the open market would not be holding restricted securities.

Subparagraphs (3) and (4) set the limitations on transactions with some variation, the limitations, which relate to the method of sale and the amount of securities that may be sold, are those set forth in present Rule 154 (17 CFR 230.154) for brokerage transactions on behalf of affiliates.

The offering must be made through a broker acting as agent for the seller. The broker may not solicit buy orders and may charge no more than the minimum commission applicable on the exchange on which the security is listed or no more than the minimum commission applicable on the New York Stock Exchange if the security is not listed on the exchange. The prohibition against solicitation does not prevent the broker from making inquiry of other brokers or publishing of bid and offer quotations in an interdealer quotation service if the broker has been making a market in the security for the specified period. The offeror may not solicit or arrange for others to solicit buy orders and the offeror may not make any payment except the specified commission in connection with the transaction.

As provided in subparagraph (4), the amount involved in the transaction must not be substantial in relation to the number of shares of the security outstanding or the aggregate trading volume of the security. Without limiting the generality of the foregoing, the rule indicates specific limits on the amount of securities which may be sold in any 6-month period by an "offeror" (as defined in Rule 162(b)). For a security not listed on the exchange, this limit is generally 1 percent of the shares of the security outstanding. For a security listed on an exchange the limit is generally the lesser of 1 percent of the shares of the security outstanding or the largest aggregate reported trading volume during any 1 week within the 4 calendar weeks preceding the receipt of the order. Sales limited as described could be made in successive 6-month periods without violations of the rule.

Paragraph (b) of proposed Rule 162 defines "offeror" (person offering restricted securities) for purposes of Rule 162 to include certain other persons such as relatives and corporations controlled by the person offering a restricted security. The relationship of these other persons to the offeror is such that it is appropriate to include securities sold by them within 6 months with those of the offeror for purposes of determining the amount of securities which may be sold pursuant to proposed Rule 162.

Paragraph (c) of proposed Rule 162 establishes the appropriate holding period for restricted securities which are to be offered pursuant to proposed Rule 162. Generally the requirement is that the restricted security must have been fully paid for and held by the offerer for at least 1 year prior to the transaction. To avoid a continuing distribution by an issuer seeking to finance its operations through a series of private placements and resales under proposed Rule 162, the rule also provides that the offeror must not have purchased any other restricted securities of the same issuer for 1 year prior to the transaction.

Subparagraphs (2) through (5) of proposed Rule 162(c) provide exceptions to the general rule of a 1 year holding period.

Subparagraph (2) provides that with respect to restricted securities acquired in connection with business combinations, the one year holding period is to be determined by combining the period for which the restricted security was held with the period for which the offeror's interest in the business which represented the consideration for the issuance of the restricted securities was held, if the business had gross revenues from operations of at least $250,000 for 1 year prior to the time the restricted security was acquired. (In addition, securities issued as installment payments in connection with a purchase of assets are deemed to have been held from the time of the purchase (paragraph (1) of Rule 162(b))). The gross revenues requirement is intended to prevent evasion of the registration requirements of the Act through the formation of essentially "shell" entities designed to be acquired later by the issuance of restricted securities.

Subparagraphs (3) and (4) of proposed Rule 162(c) provide that the holding period for restricted securities acquired by reason of death, gift, termination of bona fide trusts or bona fide pledge may be determined by combining the period during which the offeror held the restricted securities and the period during which the decedent, donor, trustee or pledgor held such securities. These exceptions appear appropriate, since it is unlikely in most instances that a donee of a gift, a beneficiary of an estate or bona fide trust or a bona fide pledgee would be a conduit for financing an issuer so as to require registration under the Act.

Proposed Rule 163 (§ 230.163) *Qualified issuers.* Proposed Rule 163 determines the class of issuers whose securities may be sold in limited quantities pursuant to Rule 162. Paragraph (a) of Rule 163 limits the class to those issuers with securities registered under section 12 of the Exchange Act or required to file reports under section 15(d) of that Act.

Issuers filing registration statements on Form 10 pursuant to section 12(g) of the Act are not qualified under Rule 163 until 6 months after the effective date of the registration statement or such shorter period as the Commission may determine in the public interest.

The Commission is giving consideration to a possible modification of this requirement to provide that such an issuer is not qualified under Rule 163 until such time as it has furnished to its shareholders an annual report and a proxy or information statement prepared in accordance with Regulation 14A or 14C under the Exchange Act (17 CFR 240.14a–1 et seq., 240.14c–1 et seq.). Such a provision might ensure wider dissemination of information concerning issuers registering securities under section 12(g) of the Exchange Act prior to the time such issuers become qualified under proposed Rule 163. Accordingly, the Commission would welcome comments on this proposal.

Paragraph (b) of proposed Rule 163 provides that the issuer must be required to file annual reports on Form 10–K (17 CFR 249.310), 12–K (17 CFR 249.312), U5–S (17 CFR 249.450) or N1–R (17 CFR 249.330). The Commission believes that issuers required to file reports on those forms provide the trading markets with sufficient information to permit sales without registration of securities of such issuers in accordance with the limitations provided in Rule 162. The quality and timeliness of information with respect to issuers filing reports on Form 10–K will be enhanced should the Commission adopt its proposed amendments to that form (Securities Exchange Act Release No. 8682, *infra*. Moreover, the Commission and its staff are considering a recommendation in the report to revise Form 12–K, and Form N1–R was recently revised (Investment Company Act of 1940 Release No. 5325 (34 F.R. 5750)).

Most issuers filing annual reports on the enumerated forms also would be required to file quarterly reports including financial information on the proposed Form 10–Q (Securities Exchange Act Release No. 8683, infra).

Paragraph (c) of proposed Rule 163 provides that securities of an issuer which is subject to certain specified administrative proceedings before the Commission relating to disclosure matters may not be sold under proposed Rule 162. The Commission may in its discretion waive the requirements of Rule 163(c) on request of the issuer.

Paragraphs (d) and (e) of proposed Rule 163 provide that the Commission may by order temporarily declare a particular issuer not qualified under that Rule if the disclosures made by that issuer under the requirements of the 1934 Act are deficient or tardy. A hearing would be held after the Commission issued the temporary order if the issuer so requests. After hearing, the order would either be vacated or made permanent.

Proposed Rule 163 represents a departure from the recommendations in the report in one respect. The report recommended that the Commission maintain and widely disseminate a current list of those issuers who were required to file the enumerated reports, and who were not otherwise disqualified. The securities of such issuers could be sold pursuant to what is now proposed Rule 162. The list would have been available to brokers and others to determine, in part, whether an issuer's securities could be sold pursuant to the rule. Brokers relying on the list would have the protection from liability provided by a Commission rule, assuming the other conditions for sales pursuant to Rule 162 had been met.

The Commission has been advised by its staff that the wide dissemination of such a list on a current basis might not be feasible as a practical matter. As an alternative to such a list the Commission proposes the following:

(1) The standards and procedures set forth in proposed Rule 163;

(2) The Commission will maintain currently in its files, with the assistance of its electronic data processing equipment, information to enable it to determine those issuers meeting the standards of proposed Rule 163;

(3) The Commission will provide a service whereby a person desiring to ascertain the status of an issuer under proposed Rule 163 can obtain that information;

(4) The Commission proposes to adopt Rule 164 discussed below in this release, which will make available the exemption provided in section 4(4) of the Act for unsolicited brokerage transactions to brokers who make reasonable inquiry and believe that a transaction meets the requirements of Rule 162;

(5) Copies of releases announcing administrative proceedings or entry of

orders under Rule 163(d) will be mailed to all broker-dealers registered with the Commission.

Rule 164 (§ 230.164) *Definition of certain terms used in section 4(4)*. Section 4(4) of the Act provides an exemption for unsolicited brokers' transactions. Rule 154 presently defines the terms of this exemption in cases of unsolicited brokers' transactions effected on behalf of persons controlling an issuer. Since proposed Rule 162, if adopted, would serve to define the terms of the exemption for such persons, the Commission believes that the broker's part of the transaction should also be dealt with in the same series of rules. Proposed Rule 164 would therefore be substituted for present Rule 154.

Proposed Rule 164 provides that a broker acting for the account of an affiliate of an issuer or of any person disposing of a restricted security is engaged in "brokers' transactions" as that term is used in section 4(4), if he has made reasonable inquiry of his customer and has no grounds for believing and does not believe that the transaction is a distribution under proposed Rule 162.

Thus, a broker's transaction satisfying the requirements of Rule 164 would be exempt under section 4(4) even if the transaction was in fact part of a distribution. For example, if the broker ascertained after reasonable inquiry that a security might be sold under proposed Rule 162 and sold the security for the offeror, and it was subsequently determined that the offeror, unknown to the broker, had paid another person to solicit orders which would violate the terms of Rule 162, the broker's part of the transaction would nevertheless be exempt. The offeror's part of the transaction would not be exempt.

"Reasonable inquiry" under proposed Rule 164 should include inquiry as to:

Offeror (as defined in Rule 162(b)). (1) Whether the offeror is an affiliate of the issuer under Rule 101.

(2) The number of years the offeror has held the security since he purchased and paid for the security or otherwise acquired it. If practicable the inquiry should include physical inspection of the stock certificates held by the offeror. It may also be necessary to determine where and under what circumstances the security was acquired.

(3) Acquisition by the offeror of any other securities of the issuer within the past year.

(4) Sales of securities of the issuer by the offeror within the past 6 months.

(5) Whether the offeror intends to sell securities of the same issuer through any other means.

(6) Whether the offeror has solicited or made any arrangements for the solicitation of buy orders in connection with the proposed transaction.

Issuer. (7) The total number of shares of the issuer outstanding or the relevant trading volume.

(8) Whether the issuer is qualified under Rule 163.

(9) Whether the issuer or any of its securities are subject to an administrative proceeding before the Commission, or whether the Commission has issued any orders under Rule 163(d). This information can be verified by checking Commission releases announcing such proceedings or the entry of such orders.

(10) Any other information the broker may deem relevant to establish an exemption under section 4(4).

Proposed Rule 180 (§ 230.10) *Effect of transactions not constituting "distributions" under Rule 162 on applicability of the exemption contained in section 4(2) of the Act*. Proposed Rule 180 provides that resales under proposed Rule 162 of securities acquired in a private transaction will not affect the exemption available for the issuer under section 4(2) of the Act for the private transaction. Resales which are not made under Rule 162 may, depending upon the circumstances, cause the exemption for the issuer under section 4(2) to be unavailable on the ground that the transaction was one "involving a public offering."

The proposed rules are set forth below:

Proposed Commission action. Pursuant to authority granted in sections 6, 7, 10, and 19(a) of the Securities Act of 1933, as amended,[1] the Commission proposes to amend Part 230 of Chapter II of Title 17 of the Code of Federal Regulations by adding thereunder new §§ 230.101, 230.160, 230.162, 230.163, 230.164, and 230.180; by adding new captions preceding §§ 230.100, 230.110, 230.120, 230.130, and 230.170 respectively; by adding a new caption and note immediately following present § 230.156; by redesignating present § 230.161 as § 230.102; and by rescinding §§ 230.154 and 230.115; all as set forth below:

I. The following caption is to be inserted immediately following the heading "General" and preceding § 230.100:

ARTICLE 1—DEFINITION OF TERMS USED IN THE RULES AND REGULATIONS AND APPLICATION OF RULES AND REGULATIONS

II. A new § 230.101 would be added reading:

§ 230.101 Definition of "affiliate".

As used in the rules and regulations under the Act an "affiliate" of, or a person "affiliated" with, a specified person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is common control with, the person specified.

§ 230.102 [Redesignated]

III. Present § 230.161 would be redesignated as § 230.102.

IV. The following caption is to be inserted immediately preceding § 230.110:

ARTICLE 2—OFFICE OF THE COMMISSION

V. The following caption is to be inserted immediately preceding § 230.120:

ARTICLE 3—INSPECTION AND PUBLICATION OF REGISTERED INFORMATION

VI. A caption is to be inserted immediately preceding § 230.130.

VII. The following caption and note are to be inserted immediately following present § 230.156, and new §§ 230.162, 230.163 and 230.164, respectively, added thereafter:

ARTICLE 5 RULES RELATING TO UNDERWRITERS, NONPUBLIC OFFERINGS AND BROKER'S TRANSACTIONS UNDER SECTIONS 2(11), 4(1), 4(2) AND 4(4) OF THE ACT

PRELIMINARY NOTE: The following sections in this Article 5 are designed to implement the Act's fundamental aim: "To provide full and fair disclosure of the character of securities sold in interstate and foreign commerce and through the mails, and to prevent fraud in the sale thereof * * *". Pursuant to that objective, the rules operate (1) to inhibit the creation of public markets in securities of issuers which have not disclosed material information about themselves in appropriate filings with the Commission, and (2) to permit the sale in ordinary trading transactions of limited quantities of the securities of issuers which are making such filings where exemption is not otherwise available.

Certain basic principles are essential to an understanding of the requirement of registration in the Act:

1. If any person utilizes the jurisdictional means to sell any nonexempt security to any other person, the security must be registered unless a statutory exemption can be found for the transaction.

2. In addition to the exemptions found in section 3 (of the Act), four exemptions applicable to transactions in securities are contained in section 4 (of the Act). Three of these section 4 exemptions are clearly not available to anyone acting as an "underwriter" of securities. (The fourth, found in section 4(4) (of the Act), is available only to those who act as brokers under certain limited circumstances.) An understanding of the term "underwriter" is therefore important to anyone who wishes to determine whether or not an exemption from registration is available for his sale of securities.

The term "underwriter" is broadly defined in section 2(11). Thus, an investment banking firm which arranges with an issuer for the public sale of its securities is clearly an "underwriter" under that section. Not so well understood is the fact that individual investors who are not professionals in the securities business may be "underwriters" within the meaning of that term as used in the Act if they act as links in a chain of transactions through which securities move from an issuer to the public. The sections in this Article 5 set forth objective tests to determine when such investors are "underwriters" and when they are not.

The keys to such determination are the terms "restricted securities," defined in § 230.161 of this chapter and "distribution," defined in § 230.162. Persons are underwriters when they participate in or are connected with a "distribution" of "restricted securities" (§ 230.160).

Under § 230.162 of this chapter a "distribution" means any public offering of securities excepting only a limited kind of public offering of the securities of a company which regularly provides public disclosure of its affairs by filing reports with the Commission under sections 13 or 15(d) of the Securities Exchange Act of 1934, and meets certain other standards as set forth in § 230.163 of this chapter.

[1] This action is taken pursuant to the authority contained in sections 6, 7, 10, and 19 (a) of the Securities Act of 1933; 48 Stat. 78, 81, and 85, as amended; 15 U.S.C. 77f, 77g, 77j, and 77s(a).

An example of a "restricted security" would be a security sold directly by its issuer to a nonpublic group of investors. Under § 230.161 a "restricted security" of this type ceases to be such 5 years after it was first issued and fully paid for (provided that the issuer has had gross revenues from operations of at least $250,000 during each of the 5 years). Another example of a "restricted security" would be a security sold by an affiliate of the issuer (as defined in § 230.101 of this chapter) to a nonpublic group of investors; a "restricted security" of this type ceases to be such 5 years after it was privately sold by the affiliate provided that the issuer has had gross revenues from operations of at least $250,000 during each of the 5 years. If one of the investors in the examples given in the previous paragraph should resell his "restricted securities" in a transaction not involving a public offering, he would not be making a "distribution." Therefore, he would not be an "underwriter." The securities, however, would remain "restricted securities" until the 5 year period had elapsed, and the purchaser of tohse securities in the nonpublic offering would be an "underwriter" if he should resell them prior to that time in a "distribution."

Restricted securities which ultimately reach the hands of investors as the result of a public offering or other public disposition are no longer classified as restricted securities. For example, assume that a holder of restricted securities sells such securities to the public in a transaction which meets the requirements of section 162 and is therefore not a "distribution." The securities cease to be "restricted securities." Assume, further that a portion of the securities so sold are purchased by a person not an affiliate of the issuer and are later resold by him. His resale transaction may come within the definition of "distribution". However, the securities he is selling are not "restricted securities." Under these circumstances, he is not an underwriter. If he is not a dealer in securities, his transaction is exempt from registration under section 4(1) of the Act; if he is a dealer in securities, his transaction would normally (depending on the circumstances) be exempt from registration under section 4(3) of the Act.

These sections in no way prevent holders of restricted securities from reselling them in bona fide "private placements." Such placements can be made without registration even though the issuer has made no public disclosure of its affairs, provided such character as to convert an original private offering into a public offering. Generally, whether or not an offering is public will depend on the facts and circumstances of the particular transaction. See S.E.C. v. Ralston Purina Co., 346 U.S. 119 (1952) and Securities Act Release No. 4552 (1962) (27 F.R. 11316). Careful precautions by the issuer of the securities will be essential to assure that a public offering does not result through resales of securities initially purchased in transactions meeting the tests set forth in the Ralston Purina case. Although such assurance cannot be obtained merely by the use of an appropriate legend on stock certificates or other instruments evidencing securities originally sold in a "private placement," or by other procedures in common use, such as appropriate instructions to transfer agents, these devices may serve a very useful policing function. When the securities are subsequently transferred in private transactions and therefore remain restricted securities (as defined in § 230.161 of this chapter), the use of the legend on the certificates helps not only to prevent possible violation of the Act but also to alert the buyer to the restricted character of the securities he has acquired. It may thus assist in the prevention of fraud.

Absent a legend on the securities, the issuer may be unable, under applicable State law, to prevent a transfer thereof which would be inconsistent with exemption.

Accordingly, issuers of securities are urged to stamp or print on the fact of certificates or other instruments evidencing restricted securities a conspicuous legend referring to the fact that the securities have not been registered under the Securities Act of 1933 and may be offered or sold only if registered under the provisions of that Act or if an exemption from registration is available. Legends in general use frequently require an opinion of counsel satisfactory to the issuer as a condition precedent to an offer of sale. If the restrictions on transfer of the securities are contained in a written agreement, the appropriate legend may consist of a statement that no transfer will be valid unless made in accordance with such agreement. Issuers are likewise urged to maintain such legend on the securities until they cease to be "restricted securities." The Commission will regard the presence or absence of such legend upon certificates or other instruments evidencing restricted securities as a significant indication of whether the circumstances surrounding an offering are consistent with exemption under section 4(2) of the Act.

§ 230.160 Certain persons deemed to be "underwriters".

(a) The phrase "person who * * * offers or sells for an issuer in connection with the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking" in section 2(11) [of the Act] shall include (but not be limited to) any person who disposes of a restricted security (as defined in § 230.161) in a distribution (as defined in § 230.162).

§ 230.161 Definition of "restricted security".

(a) A "restricted security" means any security acquired directly or indirectly from its issuer, or from an affiliate of its issuer, in a transction or chain of transactions none of which was a public offering or other public disposition.

(b) If a restricted security has been such for any period of 5 consecutive years during each of which its issuer has had annual gross revenues from operations amounting to at least $250,000, it shall cease to be a restricted security; provided that with respect to a restricted security acquired from an affiliate of its issuer no such period shall be deemed to have commenced until the date such security was so acquired.

(c) A restricted security acquired by a person in a transaction or chain of transactions referred to in paragraph (a) of this section shall remain a restricted security notwithstanding the fact that another person makes a public offering of securities acquired in such transaction or chain of transactions.

(d) Shares issued as a result of a stock dividend on, stock split or conversion of, or recapitalization affecting, outstanding restricted securities shall be deemed to be restricted securities acquired at the same time as the previously outstanding restricted securities for the purposes of this section.

§ 230.162 General definition of "distribution" in section 2(11) of the Act.

(a) The term "distribution" in section 2(11) of the Act means any public offering of a security excepting only a transaction which meets all of the following requirements:

(1) *Section 230.163 qualified issuer.* At the time of the transaction, the issuer of the security is a qualified issuer under § 230.163.

(2) *Holding period for restricted securities.* If the security is a restricted security, it has been held by the offeror for the period, and in accordance with the provisions, specified in paragraph (c) of this section.

(3) *Unsolicited brokerage.* The offering is made through a broker acting as agent for the offeror and

(i) The broker does no more than execute an order or orders to sell as broker and receives in the case of a security listed on the New York Stock Exchange or other nonexempt national securities exchange no more than the applicable minimum commission and, in the case of a security not listed on any such exchange, nor more than the minimum commission that would have been applicable had the security been listed on the New York Stock Exchange;

(ii) The offeror makes no payment in connection with the execution of the transaction to any other person;

(iii) The offeror neither solicits nor arranges for the solicitation of orders to buy in anticipation of or in connection with the transaction;

(iv) The broker neither solicits nor arranges for the solicitation of customers' orders to buy in anticipation of or in connection with the transaction. The foregoing shall not preclude inquiries by the broker of other bona fide brokers or dealers as to their interest in the security, nor shall it preclude the publication by the broker of bid and offer quotations for the security in an inter-dealer quotation service, provided (*a*) that such quotations are incident to the maintenance of a bona fide inter-dealer market for the security for the broker's own account, and (*b*) the broker has published bona fide bid and offer quotations for the security in an inter-dealer quotation service on at least seven of the 10 consecutive business days before his receipt of the offeror's order.

(4) *Limitation on amount of securities.* The amount involved in the transaction is not substantial in relation to the number of shares or units of the security outstanding and the aggregate volume of trading in the security. Without limiting the generality of the foregoing, an amount shall not be deemed substantial for purposes of this subparagraph if it involves a sale or series of sales of the security which, together with all other sales of securities of the same class by or on behalf of the same offeror within the preceding 6 months (excepting only sales of the security in nonpublic offerings) will not exceed the following: (i) If the security is traded only otherwise than on a securities exchange, approximately 1 percent of the shares or

units of such security outstanding at the time of receipt by the broker of the order to execute such transactions; or (ii) if the security is admitted to trading on a securities exchange the lessor of (*a*) 1 percent of the shares of units of such security outstanding at the time of receipt by the broker of the order to execute such transactions or (*b*) the largest aggregate reported volume of trading on securities exchanges during any 1 week within the 4 calendar weeks preceding the receipt of such order.

(b) Definition of "offeror": For purposes of this § 230.162, the term "offeror" shall mean the person who offers a security, together with: (1) His spouse and minor children, (2) any relative of such person or of his spouse who has the same home as such person, (3) any trust or estate in which such person, his spouse, any of his or his spouse's minor children, and any relative of such person or his spouse who has the same home as such person, collectively have a substantial beneficial interest or as to which any of the foregoing serves as trustee, executor or in a similar fiduciary capacity, and (4) any corporation or other organization controlled by such person, his spouse, any minor child of such person or of his spouse, or any relative of such person or of his spouse who has the same home as such person.

(c) The required holding period for restricted securities under subparagraph (2) of paragraph (a) of this section shall be determined in accordance with the following principles:

(1) *General rule.* (i) The restricted securities shall have been beneficially owned by the offeror for at least 1 year prior to the transaction. If purchased by the offeror, the full purchase price of such securities shall have been paid at least 1 year prior to the transaction. During a period of 1 year prior to the transaction, the offeror shall not have purchased or agreed to purchase any other restricted securities of the same issuer, whether or not of the same class as the securities offered by him.

(ii) Shares acquired directly from the issuer by reason of a stock dividend, stock split up or other recapitalization shall, for the purposes of this paragraph (c), be deemed to have been held under the same conditions and for the same period of time as the changed or split shares or the shares on which the dividend was paid. Shares acquired on complete or partial liquidation of a partnership shall be deemed to have been purchased on the date of such liquidation.

(iii) Shares acquired by the offeror directly from the issuer as an installment payment of the purchase price of assets sold to the issuer at least 1 year prior to such acquisition shall, for purposes of this paragraph (c), deemed to have been purchased at the time of such sale if, at the time of such sale, the issuer was committed to issue such shares subject only to conditions not involving the payment of any money or property by any person.

(2) *Securities acquired in certain business combinations.* Where the offeror acquired the restricted securities for a consideration consisting primarily of an equity interest in a business which has had gross revenues from operations of at least $250,000 during the immediately preceding 12 calendar months then the holding requirement shall be deemed satisfied if the period during which the offeror owned such interest, combined with the period during which he has owned the restricted securities, totals at least 1 year. For purpose of this subparagraph (2), if the offeror acquired any part or parts of such interest within one year prior to his acquisition of the restricted securities, the holding requirement shall be fixed on the date of the latest acquisition of such part or parts.

(3) *Securities acquired by reason of death, gift or termination of a bona fide trust.* (i) Where the offeror acquired the restricted security from a person other than the issuer by reason of death, or inter-vivos gift, or distribution to beneficiaries on termination of a bona fide trust, the holding requirement shall be deemed satisfied if the period during which the offeror has owned the security, combined with the period which the decedent, donor or trustee owned the security, totals at least 1 year, and if, during a period of 1 year prior to the transaction, the offeror has neither purchased nor agreed to purchase any other restricted securities of the same issuer, whether or not of the same class as the securities offered by him.

(ii) Where the offeror acquired the restricted securities from an affiliate of the issuer of such securities by reason of death, inter-vivos gift, or distribution to beneficiaries on termination of a bona fide trust, the holding requirement shall not apply if the securities were not restricted securities in the hands of such affiliate.

(4) *Pledged securities.* (i) Where the offeror is a bona fide pledgee of the restricted securities, the holding requirement shall be deemed satisfied if the period during which the pledgee has held the securities in pledge subsequent to the loan for which the pledge was received, combined with the period during which the pledgor owned the restricted securities prior to the pledge, totals at least 1 year, and if during a period of 1 year prior to the offer, the pledgee has neither accepted in pledge nor agreed to accept in pledge from the same pledgor, any other restricted securities of the same issuer, whether or not of the same class as the securities offered by him.

(ii) Where the offeror is a bona fide pledgee of the restricted securities and where the pledgor of the securities at the time the pledge was made was an affiliate of the issuer of such securities, the holding requirement shall not apply if the securities were not restricted securities in the hands of the pledgor.

(iii) Where the offeror has acquired the restricted securities in a nonpublic transaction from a pledgee thereof by reason of default on the loan for which the pledge was received, the holding requirement shall be deemed satisfied if the period during which the offeror has owned the securities, combined with the periods during which the pledgee held the securities in pledge and the pledgor owned the securities prior to the pledge totals at least 1 year, and if, during a period of 1 year prior to the transaction, neither the offeror nor the pledgee has purchased or agreed to purchase any other restricted securities of the same issuer, whether or not of the same class as the securities offered by him.

(5) *Securities acquired by conversion of other restricted securities.* Where the offeror acquired the restricted securities directly from the issuer for a consideration consisting solely of other restricted securities of the same issuer surrendered for conversion, the holding requirement shall be deemed satisfied if the period during which the offeror owned the securities so surrendered for conversion, combined with the period during which he has owned the securities issued on conversion, totals at least 1 year, and if during a period of 1 year prior to the transaction the offeror has neither purchased nor agreed to purchase any other restricted securities of the same issuer, whether or not of the same class as the securities offered by him.

§ 230.163 Qualified issuers.

(a) Subject to paragraphs (b), (c), and (d) of this section, qualified issuers shall include (1) all issuers of any security registered on a national securities exchange pursuant to section 12(b) of the Securities Exchange Act, (2) all issuers of any security as to which a registration statement filed with the Commission pursuant to section 12(g) of the Securities Exchange Act has been effective for a period of 6 months, or such shorter period as the Commission may determine as to a particular issuer, and (3) all issuers required to file reports with the Commission pursuant to section 15(d) of the Securities Exchange Act.

(b) Qualified issuers under this section shall include only those issuers referred to in paragraph (a) of this section which are required by the Commission's rules to file annual reports on Form 10–K, 12–K, U5–S or N1–R (§§ 239.310, 239.312, 239.450, 239.330 respectively of this chapter).

(c) No issuer shall be deemed to be a qualified issuer under this section if there is a proceeding pending or order outstanding under sections 3(b), 8(b), or 8(d) of the Act or sections 15(c)(4) or 19(a)(2) of the Securities Exchange Act relating to the issuer or any of its securities, unless the Commission has by order waived the application to such issuer of this paragraph (c).

(d) If the Commission has reason to believe that a report or statement required to be filed by an issuer pursuant to the Securities Exchange Act has not been timely filed, or that any such report or statement or registration statement under this Act filed by such issuer omits to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, or if it believes that such order

is otherwise necessary or appropriate for the protection of investors, the Commission may at any time in its discretion issue an order providing that such issuer is temporarily not a qualified issuer under this rule.

(e) Upon the entry of an order under paragraph (d) of this section, the Commission will promptly give notice to the issuer (1) that such order has been entered, together with a brief statement of the reason for the entry of the order, and (2) that the Commission, upon receipt of a written request within 30 days after the entry of such order, will, within 20 days after receipt of such request, set the matter down for hearing at a place to be designated by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the 30th day after its entry and shall remain in effect unless and until it is modified or vacated by the Commission. Where a hearing is requested or is ordered by the Commission, the Commission will, after notice of opportunity for such hearing, either vacate the order or make the order permanent. If made permanent such order shall remain in effect unless and until it is modified or vacated by the Commission. All notices required by this section shall be given to the issuer by personal service, registered or certified mail, or confirmed telegraphic notice at the office of the issuer set forth in the issuer's filings with the Commission.

§ 230.164 Definition of certain terms used in section 4(4) of the Act.

(a) The term "brokers' transactions" in section 4(4) of the Act shall be deemed to include transactions by a broker acting as agent for the account of:

(1) An affiliate of the issuer of the securities which are the subject of the transaction, or

(2) Any person disposing of a restricted security, as defined in § 230.161 in the transactions,

only if the broker has made reasonable inquiry of his customer and has no grounds for believing and does believe that the transactions constitute a distribution as defined in section 230.162.

(b) Only the broker's part of a "brokers' transaction," as the term is used in section 4(4) of the Act, is exempt under that section (of the Act) from the provisions of section 5 of the Act.

(c) The term "solicitation of such orders" in section 4(4) of the Act shall be deemed to include the solicitation of an order to buy a security, but shall not be deemed to include the solicitation of an order to sell a security.

VIII. The following new § 230.180 would be added immediately following present § 230.174 of this chapter.

§ 230.180 Effect of transactions not constituting "distributions" under § 230.162 on the applicability of the exemption contained in section 4(2) of the Act.

(a) Resales of securities by persons other than the issuer thereof in public offerings which, by reason of the provisions of § 230.162, do not constitute "distributions," shall not be deemed to affect the availability of the exemption contained in section 4(2) of the Act for the previous sale of such securities by the issuer, if such exemption is otherwise available.

§ 230.154 [Rescinded]

IX. Section 230.154 of this chapter would be rescinded.

§ 230.155 [Rescinded]

X. Section 230.155 of this chapter would be rescinded.

All interested persons are invited to submit views and comments on the above proposals, in writing, to the Securities and Exchange Commission, Washington, D.C. 20549 on or before October 30, 1969.

All such comments will be considered available for public inspection.

By the Commission, September 4, 1969.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-10749; Filed, Sept. 9, 1969; 8:46 a.m.]

[17 CFR Part 239]

[Release No. 33-4996]

REGISTRATION OF CERTAIN SECURITIES TO BE OFFERED FOR CASH

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration certain proposed amendments to Form S-7 (17 CFR 239.26) under the Securities Act of 1933. This form is a short form which may be used for registration of securities to be offered to the public for cash by certain companies having established records of earnings and stability of management and business. The proposed amendments are being considered by the Commission in connection with the recommendations contained in the recently published Disclosure Policy Study Report.

One of the conditions to use of Form S-7 is that the registrant has been engaged in business of substantially the same general character since the beginning of its last 5 years. It is proposed to delete this requirement and add an instruction to Item 5 of the form, which calls for information with respect to the business done and intended to be done by the registrant and its subsidiaries. The instruction would provide that if the registrant has not been engaged in business of the same general character since the beginning of its last 5 fiscal years, information shall be furnished as to material changes which have occurred in the general character of the business during that period.

Another condition to use of the form is that a majority of the existing board of directors of the registrant must have been directors of the registrant during each of the last 3 fiscal years. It is proposed to amend this provision to require that a majority of the existing board must have been directors of the registrant or a predecessor during each of the last 3 fiscal years. This will permit use of the form in certain situations where a registrant is presently unable to use the form because it has succeeded to another company and has added directors of the other company to its own board.

A third condition to the use of the form is that a registrant and its consolidated subsidiaries had sales or gross revenues of at least $50,000,000 for the last fiscal year and a net income of at least $2,500,000 for such fiscal year and $1,000,000 for each of the preceding 4 fiscal years. It is proposed to amend this provision to delete the requirement with respect to sales or gross revenues and to provide that the registrant must have had a net income, after taxes but before extraordinary items, of at least $500,000 for each of the last 5 fiscal years. It should be recognized, however, that this broadening of the use of the form may result in such an increase in filings on the form that it may not be possible to give expedited treatment to all such filings.

The adoption of the above amendments to broaden the availability of Form S-7 depends, in part, on the adoption of certain proposed amendments to the Commission's rules and forms relating to disclosure under the Securities Exchange Act of 1934, which the Commission now has under consideration. Under these proposals, a company would be required to disclose in annual and other reports information regarding matters such as significant changes in its business and the contribution made by any material line of its business to its sales and income, and to provide a 5-year summary of its earnings with appropriate reconciliation of previously reported amounts if necessary because of the acquisition of another business. Disclosure of this nature, together with that contained in proxy or information statements, should provide a publicly available reservoir of information concerning companies filing periodic reports with the Commission. With such disclosure, the Commission believes that some relaxation of the requirements for the use of Form S-7 may be justified.

Since the form would no longer require that the registrant must have had sales or gross revenues of at least $50 million for the last fiscal year, the amended form would provide that a registrant not having sales or gross revenues in excess of that amount may use a 15-percent test, rather than a 10-percent test, in determining the lines of business and classes of products for which certain information must be furnished separately. This provision would conform the requirements of Form S-7 with those of Forms S-1 (17 CFR 239.11) and 10 (17 CFR 249.210) in this report.

It is proposed to amend Item 6 of the form to require a source and application of funds statement for each fiscal year or other period for which an income statement is required. This would conform Form S-7 to the proposed revisions of

Forms 10 (17 CFR 249.210) and 10–K (17 CFR 249.310). Instruction 3 to Item 6 would also be amended to require the registrant to furnish as an exhibit a statement setting forth in reasonable detail the computations of per share earnings. This exhibit would facilitate the examination of the financial data furnished in response to the item.

The text of the proposed amendments to Form S–7 (17 CFR 239.26) follows:

I. General Instruction A containing the rule as to the use of the form would be amended to read as follows:

A. *Rule as to use of Form S–7.* Any registrant which meets the following conditions may use this form for registration under the Securities Act of 1933 of any securities which are offered for cash by or on behalf of the registrant or any other person, in a rights offering or otherwise:

(a) The registrant (1) has a class of equity securities registered pursuant to section 12(b) of the Securities Exchange Act of 1934; or (2) is organized under the laws of the United States or any State or Territory or the District of Columbia, has its principal business operations in the United States or its Territories and has a class of equity securities registered pursuant to section 12(g) of the above Act.

(b) The registrant has been subject to and has complied in all respects, including timeliness, with the requirements of sections 13 and 14 of the Securities Exchange Act of 1934 for a period of at least 5 fiscal years immediately preceding the filing of the registration statement on this form.

(c) A majority of the existing board of directors of the registrant have been directors of the registrant or a predecessor of the registrant during each of the last 3 fiscal years.

(d) The registrant and its subsidiaries have not during the past 10 years defaulted in the payment of any dividend or sinking fund installment on preferred stock, or in the payment of any principal, interest or sinking fund installment on any indebtedness for borrowed money, or in the payment of rentals under long term leases.

(e) The registrant and its consolidated subsidiaries had net income, after taxes but before extraordinary items net of tax effect, of at least $500,000 for each of the last 5 fiscal years.

(f) If the securities to be registered are common stock or securities convertible into common stock, the registrant earned in each of the last 5 fiscal years any dividends paid in each such year on all classes of securities. If the registrant paid a stock dividend in any of such fiscal years, the aggregate amount transferred from surplus to capital in respect of each such dividend was charged only to the earned surplus account and was equal to the aggregate fair market value of the stock issued as such dividend.

II. Item 5 of the form, as amended July 14, 1969, in Securities Act Release 4988 (34 F.R. 12167) would be amended as follows:

(A) The following new instruction would be added to paragraph (a) of the item:

Instruction. If the registrant has not been engaged in business of the same general character since the beginning of its last 5 fiscal years, describe the material changes which have occurred in the general character of the business since the beginning of such period, including any materially important acquisitions or dispositions of assets, any materially important changes in the types of products produced or services rendered by the registrant and its subsidiaries, and any materially important changes in the manner of conducting the business.

(B) Paragraph (b)(1) of the item would be amended by changing the period after clause (C) thereof to a colon and adding after such clause the following:

Provided, That if total sales and revenues did not exceed $50,000,000 during either of the last 2 fiscal years, the percentages specified in (A), (B), and (C) above shall be 15 percent, instead of 10 percent.

(C) Paragraph (b)(2) of the item would be amended to read as follows:

(2) Information as to classes of products or services. State for each fiscal year specified in (1) above the amount or percentage of total sales and revenues contributed by each class of similar products or services which contributed 10 percent or more to total sales and revenues in either of the last 2 fiscal years, or 15 percent or more to total sales and revenues if total sales and revenues did not exceed $50,000,000 during either of the last 2 fiscal years.

III. Item 6 of the form would be amended as follows:

(A) The last sentence of the item would be revised to read as follows:

A source and application of funds statement and an analysis of earned surplus shall be furnished for each fiscal year or other period for which a statement of income is required to be furnished.

(B) Instruction 3 to the item would be amended to read as follows:

3. If common stock is to be registered, the statements shall be prepared to present earnings applicable to common stock. Per share earnings and dividends declared for each period of the statement shall be included and the basis of computation stated. The registrant shall file as an exhibit a statement setting forth in reasonable detail the computation of per share earnings.

All interested persons are invited to submit their views and comments on the proposed amendments, in writing, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before October 30, 1969. All such communications will be considered available for public inspection.

This action is taken pursuant to the authority in sections 6, 7, 10, and 19(a) of the Securities Act of 1933; 48 Stat. 78, 81, and 85, as amended; 15 U.S.C. 77f, 77g, 77j, and 77s(a).

By the Commission, September 4, 1969.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69–10748; Filed, Sept. 9, 1969; 8:46 a.m.]

[17 CFR Part 240]

[Release No. 34–8680]

RULES AND FORMS RELATING TO REGISTRATION AND REPORTING

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission (pursuant to the authority contained in sections 12, 13, 15(d), 23(a) of Securities Exchange Act of 1934; 48 Stat. 892, 894, 895, 901, as amended; 15 U.S.C. 78*l*, 78m, 78o(d), 78w(a)) has under consideration certain proposed amendments to its General Rules and Regulations under the Securities Exchange Act of 1934 and to its registration and reporting forms under that Act. Since these proposals involve the amendment of several different registration and reporting forms, a separate release will be published with respect to each form proposed to be amended. The proposed changes in the General Rules and Regulations under the Act are hereinafter set forth. Attention is also directed to Securities Act Release No. 4997, supra.

These proposals are part of the steps being taken to implement recommendations contained in the recently published report of the Commission's Disclosure Policy Study. They are designed to improve disclosure made under the Act to better contribute to the objective of a fair and informed market for securities in which there is a substantial public investor interest. This is particularly important, as pointed out in the report, by reason of the increased public interest in the securities market in recent years.

The Commission considers improvements in disclosure under the Act to be necessarily related to the implementation of many of the other recommendations contained in the above-mentioned report, including proposals relating to the simplifications of registration requirements and procedures under the Securities Act of 1933 and proposals to make more definite the rules relating to the application of that Act to securities offered by persons in a control relationship with an issuer or by persons who acquire securities from an issuer in private transactions and may therefore be deemed to be underwriters.

A brief description of the changes proposed in the General Rules and Regulations under the Securities Exchange Act is set forth below.

Rule 12b–23 (17 CFR 240.12b–23). This rule as amended would incorporate in a single rule, applicable to both registration statements and reports, the present requirements under sections 12, 13, and 15(d) with respect to incorporation by reference of matter other than exhibits. Incorporation of exhibits by reference is governed by Rule 12b–32 (17 CFR 240.12b–32). In order that the microfiche system for the public dissemination of reports and documents filed with the Commission may work, it is necessary that a copy of any document or financial statement incorporated by reference be filed with the registration statement or

report in which it is so incorporated. The amended rule would require the filing of such copies.

Rule 12b–25 (17 CFR 240.12b–25). Existing Rule 12b–25 provides for an extension of time of not more than 60 days within which to furnish any required information or document. An application for an extension is deemed to be granted unless it is denied within 10 days after its receipt. The amended rule would provide for an extension of 30 days which could be renewed for an additional 30 days in appropriate cases. Thereafter, any further extension would not be deemed to be granted unless the Commission enters an order granting it. The amended rule would also spell out more explicitly the procedures to be followed in applying for extensions of time.

Rule 12b–34 (17 CFR 240.12b–34). Existing Rule 24(b) of the Commission's rules of practice (17 CFR 201.24(b)) provide for the classification of certain documents as basic documents which may be placed in a special file to form a permanent record of the company to which the documents relate. It is proposed to adopt a new Rule 12b–34 which would classify certain documents as basic documents for the purpose of Rule 24(b). In addition, the proposed rule would require companies filing a registration statement under section 12 of the Act to identify the exhibits filed therewith which are classified as basic documents. Companies having securities already so registered would be required to identify in their next annual report all documents previously filed which are classified as basic documents.

Rule 13a–1 (17 CFR 240.13a–1). This rule presently requires the filing of annual reports and provides that such reports shall be filed within 120 days after the end of the fiscal year or such other period as may be specified in the appropriate form. Since the proposed revision of Form 10–K (17 CFR 249.310) provides for different filing periods, this rule is proposed to be amended to provide merely that annual reports shall be filed within the period specified in the appropriate report form.

Rule 13a–3 (17 CFR 240.13a–3). This rule as now in effect provides for the filing of a new registration statement under either the Securities Act or the Securities Exchange Act in lieu of an annual report on the appropriate annual report form. Registration statements under either Act do not contain all of the information required in the proposed revision of Form 10–K (17 CFR 249.310). Moreover, a registration statement may be a rather bulky document which is not appropriate for rapid and economical distribution under the microfiche system. Since most of the information pertinent to an annual report is contained in the prospectus, Rule 12b–23 (17 CFR 240.12b–23), would permit the incorporation by reference in an annual report of any information contained in the prospectus. With respect to the use of registration statements under the 1934 Act in annual reports, additional registration under that Act would be effected on Form 8–A (17 CFR 249.208a) or 8–B (17 CFR 249.208b) which does not include the information required in an annual report. Accordingly, it is proposed that Rule 13a–3 be rescinded.

Rule 13a–4 (17 CFR 240.13a–4). This rule, which permits the incorporation by reference in an annual report of information contained in a 1933 Act prospectus, would be rescinded since provision for such incorporation by reference is made in the proposed revision of Rule 12b–23 (17 CFR 240.12b–23).

Rules 13a–11 (17 CFR 240.13a–11) and 13a–13 (17 CFR 240.13a–13). Rule 13a–11 provides for the filing of current reports on Form 8–K (17 CFR 249.808) and Rule 13a–13 provides for the filing of semiannual reports on Form 9–K (17 CFR 249.309). It is proposed to rescind Rule 13a–13 and to amend Rule 13a–11 to require the filing of reports on the new Form 10–Q (17 CFR 249.308a). Such reports would be filed quarterly except that reports of important acquisitions or dispositions of assets would be made within 10 days after the occurrence of the event reported.

Rule 13a–15 (17 CFR 240.13a–15). This rule requires certain real estate companies to file quarterly reports on Form 7–K (17 CFR 249.307). It is proposed to amend the rule to require such companies to file reports on a new Form 7–Q (17 CFR 249.307a) similar to those required by the new Form 10–Q (17 CFR 249.308a).

Section 15(d) rules. The proposed amendments to the rules under section 15(d) of the Act would conform those rules to the proposed amendments to the rules under section 13(a) of the Act.

The text of the above-mentioned rules as proposed is as follows:

I. Section 240.12b–23 of this chapter would be amended to read as follows:

§ 240.12b–23 Incorporation by reference.

(a) Information contained in any part of a registration statement or report, other than exhibits, may be incorporated by reference in answer or partial answer to any item of the same statement or report. Information contained in an exhibit may be so incorporated to the extent permitted by § 240.12b–24.

(b) Information contained in any of the following documents may be incorporated by reference in answer or partial answer to any item of a statement or report:

(1) A definitive proxy statement filed pursuant to section 14(a) of the Act or a definitive information statement filed pursuant to section 14(c) of the Act;

(2) A report to security holders; or

(3) A prospectus filed pursuant to § 230.424 (b) or (c).

(c) Any financial statement filed with the Commission pursuant to any Act administered by the Commission may be incorporated by reference in a statement or report if such financial statement substantially meets the requirements of the form on which the statement or report is filed.

(d) Copies of any information or financial statement incorporated by reference pursuant to paragraph (b) or (c) of this section shall be submitted with the statement or report. The document containing the matter incorporated by reference shall be inserted in the statement or report immediately preceding the signature thereto.

(e) Matter incorporated by reference shall be clearly identified in the reference by page, paragraph, caption or otherwise and shall be deemed to be filed. An express statement that the specified matter is incorporated by reference shall be made at the particular place in the statement or report where the information is required. Matter shall not be incorporated by reference in any case where such incorporation would render the statement or report incomplete, unclear or confusing.

II. Section 240.12b–25 of this chapter would be amended to read as follows:

§ 240.12b–25 Extension of time for furnishing information.

NOTE: The disclosures required in reports filed with the Commission are essential to the preservation of free, fair and informed securities markets. It is of critical importance that such reports be filed with the Commission prior to their respective due dates under the Commission's rules. Only the most compelling and unexpected circumstances justify a delay in the filing of a report and the dissemination to the public of the factual information called for therein.

(a) If any required information, document or report, other than an initial registration statement under section 12(g) of the Act, cannot be furnished at the time it is required to be filed, the registrant shall prior to such time file with the Commission, as a separate document, an application (1) identifying the information, document, or report in question, (2) stating in detail the specific reasons why the filing thereof at the time required cannot be made, and (3) requesting an extension of time for filing the information, document or report to a specified date not more than 30 days after the date it would otherwise have to be filed.

(b) If the requested extension is necessitated by the inability of any person other than the registrant to furnish any required opinion, information, report or certification (1) the application shall be accompanied by a statement signed by such person stating the specific reasons why such person is unable to furnish the required opinion, information, report or certification within the required time; and (2) the application shall state whether the registrant has published a preliminary release of sales and earnings and mailed an annual report to shareholders containing financial statements certified by independent accountants relating to the registrant's latest fiscal year.

(c) The application shall be deemed granted unless the Commission within 10 days after the receipt thereof shall enter an order denying the application or shall notify the registrant that the application does not meet the requirements of the section.

(d) One additional extension of not more than 30 days may be applied for following the same procedure as for the initial application. An application for any further extension of time shall be deemed granted only if the Commission shall enter an order granting such application.

(e) If the application, or the extension of time granted, relates only to a portion of the required information, document, or report, the registrant shall file the remaining portion, and the portion filed shall prominently indicate the nature of the omitted portion.

III. The following new § 240.12b–34 would be added to this chapter:

§ 240.12b–34 Basic documents.

(a) For the purpose of § 201.24(b) of this chapter, the following documents have been classified as basic documents with respect to all issuers required to file reports pursuant to section 13 or 15(d) of the Act, other than issuers registered under the Investment Company Act of 1940 or the Public Utility Holding Company Act of 1935:

(1) Articles of incorporation, declarations of trust, articles of association or partnership, or any similar instrument which effects (either with or without filing with any governmental agency) the organization or creation of an incorporated or unincorporated person;

(2) Bylaws or instruments corresponding thereto;

(3) Specimen copies of securities registered pursuant to section 12 of the Act;

(4) Trust indentures, contracts, or other documents defining or limiting the rights of the holders of any class of securities so registered;

(5) Voting trust agreements;

(6) Amendments to any of the foregoing; and

(7) Any other documents classified as basic documents by the Commission pursuant to § 201.24(b) of this chapter.

(b) Every registration statement filed pursuant to section 12 of the Act, and every report filed pursuant to section 13 or 15(d) of the Act, after the effective date of this section shall clearly identify the exhibits filed with such statement or report which are classified as basic documents pursuant to paragraph (a) of this section.

(c) Every issuer which on the effective date of this section is subject to the reporting requirements of section 13 or 15(d) of the Act shall in its first annual report filed after such effective date pursuant to either of such sections identify each document previously filed with the Commission pursuant to the Act or the Securities Act of 1933 which is classified as a basic document and shall identify the registration statements and reports in which such documents are contained.

IV. Section 240.13a–1 of this chapter would be amended to read as follows:

§ 240.13a–1 Requirement of annual reports.

(a) Every issuer having securities registered pursuant to section 12 of the Act shall file an annual report for each fiscal year after the last full fiscal year for which financial statements were filed in its registration statement. Registrants on Form 8–B (§ 249.208b of this chapter) shall file an annual report for each fiscal year beginning on or after the date as of which the succession occurred. Annual reports shall be filed within the period specified in the appropriate report form.

§§ 240.13a–3, 240.13a–4 [Rescinded]

V. Section 240.13a–3 and 240.13a–4 of this chapter would be rescinded.

VI. Section 240.13a–11 of this chapter would be amended to read as follows:

§ 240.13a–11 Reports on Form 10–Q (17 CFR 249.308a).

(a) Except as provided in paragraphs (b) and (c) of this section, every registrant subject to § 240.13a–1 shall file reports on Form 10–Q within the time periods specified in General Instruction A to that Form.

(b) This section shall not apply to foreign governments, foreign private issuers required to make reports on Form 6–K (§ 249.306 of this chapter) pursuant to § 240.13a–16, issuers of American Depositary Receipts for securities of any foreign issuer, investment companies required to file quarterly reports pursuant to § 240.13a–12, and real estate companies required to file reports pursuant to § 240.13a–15.

(c) Notwithstanding paragraph (a) of this section, the summarized financial information required by Part II of Form 10–Q need not be filed by (1) any issuer not required to file annual reports on either Form 10–K (§ 249.310 of this chapter), Form 12–K, (§ 249.312 of this chapter) or Form U5S (§ 259.5s of this chapter); (2) companies in the promotional or development stage to which paragraph (b) or (c) of § 210.5a–01 of this chapter is applicable; and (3) life insurance companies.

(d) Public utilities and common carriers which submit financial reports to the Federal Power Commission, Federal Communications Commission, or Interstate commerce Commission may file either the summarized financial information required by Part II of Form 10–Q or may, at their option, in lieu thereof, file duplicate copies of the report submitted by them to such other Commissions for the preceding fiscal quarter year or for each month of such quarter year, as the case may be, together with a copy of the quarterly report for such period (if any) sent to their shareholders.

(e) Notwithstanding the foregoing paragraphs of this section, the summarized financial information required by Part II of Form 10–Q shall not be deemed to be "filed" for the purpose of section 18 of the Act or otherwise subject to the liabilities of that section, but shall be subject to all other provisions of the Act.

§ 240.13a–13 [Rescinded]

VII. Section 240.13a–13 of this chapter would be rescinded.

VIII. Section 240.13a–15 of this chapter would be amended to read as follows:

§ 240.13a–15 Reports of certain real estate companies on Form 7–Q (17 CFR 249.307a).

(a) Except as provided in paragraph (b) of this section, every issuer of a security registered pursuant to section 12 of the Act (1) which is a real estate investment trust, as defined in section 856 of the Internal Revenue Code, or (2) a substantial portion of whose business is that of acquiring and holding for investment real estate or interests in real estate or interests in other issuers a substantial portion of whose business is that of acquiring and holding real estate or interests in real estate for investment and which as a matter of policy or practice makes cash distributions from any source other than current or retained earnings, shall file reports on Form 7–Q within the time periods specified in General Instruction A to that form.

(b) No report need be filed pursuant to this section with respect to any foreign private issuer required to make reports on Form 6–K (§ 249.306 of this chapter) pursuant to § 240.15d–16, any investment company registered under the Investment Company Act of 1940, and the financial information required by Part II of Form 7–Q need not be filed by any partnership all of whose properties are under long-term net lease to other persons.

IX. Section 240.15d–1 would be amended to read as follows:

§ 240.15d–1 Requirement of annual reports.

Every issuer which is subject to section 15(d) of the Act shall file an annual report for each fiscal year after the last full fiscal year for which certified financial statements were contained in its registration statement under the Securities Act of 1933 at the time such statement became effective. Annual reports shall be filed within the period specified in the appropriate report form.

§§ 240.15d–3, 240.15d–4 [Rescinded]

X. Sections 240.15d–3 and 240.15d–4 of this chapter would be rescinded.

XI. Section 240.15d–11 of this chapter would be amended to read as follows:

§ 240.15d–11 Reports on Form 10–Q (17 CFR 249.308a).

(a) Except as provided in paragraphs (b) and (c) of this section, every registrant subject to § 240.15d–1 of this chapter shall file reports on Form 10–Q within the time periods specified in General Instruction A to that form.

(b) This section shall not apply to foreign governments, foreign private issuers required to make reports on Form 6–K (§ 249.306 of this chapter) pursuant to § 240.15d–16, issuers of American Depositary Receipts for securities of any foreign issuer, investment companies required to file quarterly reports pursuant to § 240.15d–12, and real estate companies required to file reports pursuant to § 240.15d–15.

(c) Notwithstanding paragraph (a) of this section, the summarized financial information required by Part II of Form

10–Q need not be filed by (1) any issuer not required to file annual reports on either Form 10–K (§ 249.310 of this chapter), Form 12–K (§ 249.312 of this Chapter) or Form U5S (§ 259.5s of this chapter); (2) companies in the promotional or development stage to which paragraph (b) or (c) of § 210.5a–01 of this chapter is applicable; and (3) life insurance companies.

(d) Public utilities and common carriers which submit financial reports to the Federal Power Commission, Federal Communications Commission, or Interstate Commerce Commission may file either the summarized financial information required by Part II of Form 10–Q or may, at their option, in lieu thereof, file duplicate copies of the reports submitted by them to such other Commissions for the preceding fiscal quarter year or for each month of such quarter year, as the case may be, together with a copy of the quarterly report for such period (if any) sent to their shareholders.

(e) Notwithstanding the foregoing paragraphs of this section, the summarized financial information required by Part II of Form 10–Q shall not be deemed to be "filed" for the purpose of section 18 of the Act or otherwise subject to the liabilities of that section, but shall be subject to all other provisions of the Act.

§ 240.15d–13 [Rescinded]

XII. Section 240.15d–13 of this chapter would be rescinded.

XIII. Section 240.15d–15 of this chapter would be amended to read as follows:

§ 240.15d–15 Reports of certain real estate companies on Form 7–Q (17 CFR 249.307a).

(a) Except as provided in paragraph (b) of this section, every issuer which is subject to section 15(d) of the Act and (1) which is a real estate investment trust, as defined in section 856 of the Internal Revenue Code, or (2) a substantial portion of whose business is that of acquiring and holding for investment real estate or interests in real estate or interests in other issuers a substantial portion of whose business is that of acquiring and holding real estate or interests in real estate for investment and which as a matter of policy or practice makes cash distributions from any source other than current or retained earnings, shall file reports on Form 7–Q within the time periods specified in General Instruction A to that form.

(b) No report need be filed pursuant to this section with respect to any foreign private issuer required to make reports on Form 6–K (§ 249.306 of this chapter) pursuant to § 240.15d–16, any investment company registered under the Investment Company Act of 1940, and the financial information required by Part II of Form 7–Q need not be filed by any partnership all of whose properties are under long term net lease to other persons.

All interested persons are invited to submit their views and comments on the proposed amendments, in writing, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before October 30, 1969. All such communications will be considered to be available for public inspection.

By the Commission, September 4, 1969.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69–10751; Filed, Sept. 9, 1969; 8:47 a.m.]

[17 CFR Part 249]

[Release No. 34–8681]

FORM 10 FOR REGISTRATION OF SECURITIES OF COMMERCIAL AND INDUSTRIAL COMPANIES

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposed revision of its Form 10 (17 CFR 249.210) under the Securities Exchange Act of 1934. That form is a general form for the registration of securities of commercial and industrial companies pursuant to section 12 of the Act. The proposed revision is a part of the program for the revision of the Commission's disclosure requirements recommended by the recent Disclosure Study Report.

To a large extent the revision consists of the amplification of the General Instructions and the instructions to the items of the form to indicate more precisely the information required to be given in the registration statement.

A new item has been added to the form calling for a summary of earnings for the past 5 years. This summary is similar to those required in registration statements under the Securities Act of 1933. Such a summary supplements the description of business and particularly the information with respect to different lines of business required by the recent amendment of the form.

The items relating to management, remuneration and transactions with insiders would be revised to bring them into accord with the corresponding requirements of the Commission's proxy rules (17 CFR 240.14a–1 to 240.14c–101 inclusive). Thus the revised form would include requirements for the disclosure of indebtedness of insiders to the registrant or its subsidiaries and transactions between insiders and pension, retirement, savings or similar plans provided by the registrant or its parents or subsidiaries.

The instructions as to financial statements would be revised to require a statement of source and application of funds for each of the 3 fiscal years for which a profit and loss statement is required.

The instructions as to exhibits would be revised to provide that certain employee benefit plans meeting the requirements of section 401 or sections 422–424 of the Internal Revenue Code need not be filed as exhibits.

Copies of the proposed revision of Form 10 have been filed as part of this document with the Office of the Federal Register and may be obtained from the Securities and Exchange Commission, Washington, D.C. 20549.

All interested persons are invited to submit their views and comments on the proposed revision, in writing, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before October 30, 1969. All such communications will be considered available for public inspection.

This action is taken pursuant to the authority contained in sections 12, 13, 15(d), and 23(a) of the Securities Exchange Act of 1934; 48 Stat. 892, 894, 895, and 901, as amended; 15 U.S.C. 78l, 78m, 78o(d), and 78w(a).

By the Commission, September 4, 1969.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69–10752; Filed, Sept. 9, 1969; 8:47 a.m.]

[17 CFR Part 249]

[Release No. 34–8682]

FORM 10–K FOR ANNUAL REPORTS BY CERTAIN COMPANIES HAVING REGISTERED SECURITIES

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposed revision of its Form 10–K (17 CFR 249.310) under the Securities Exchange Act of 1934. That form is a general form for annual reports by companies having securities registered pursuant to section 12 of the Act and companies having securities registered under the Securities Act of 1933 which are required to file reports pursuant to section 15(d) of the Securities Exchange Act. The proposed revision is a part of the program for the revision of the Commission's disclosure requirements recommended by the recent Disclosure Study Report.

It is proposed to divide the form into two parts. Companies which file reports pursuant to section 13 of the Act are subject to the Commission's proxy and information rules under section 14 of the Act would file only Part I of the form, together with the required financial statements and exhibits. Companies which file reports pursuant to section 15(d) of the Act would file both Part I and Part II, together with the required financial statements and exhibits.

The proposed revision consists largely of the amplification of the General Instructions and the instructions to the items of the form to indicate more precisely the information required to be given in annual reports. After the filing of the first report on the revised Form 10–K, subsequent reports will consist largely of an updating of the information previously filed.

Item 2 of the existing Form 10–K which calls for information regarding all increases and decreases during the

fiscal year of equity securities of the registrant would be omitted from the revised form. It is proposed to require the reporting of such increases and decreases in the proposed new Form 10–Q (17 CFR 249.308a) reports.

A new item would be added to the form calling for a summary of earnings for the past 5 years. This summary would be similar to the one proposed to be included in the revised Form 10 (17 CFR 249.210).

The items relating to management, remuneration and transactions with insiders contained in Part II of the form, would be revised to bring them into accord with the corresponding requirements of the Commission's proxy rules. Thus the revised form would include requirements for the disclosure of indebtedness of insiders to the registrant and its subsidiaries and transactions between insiders and pension, retirement, savings and similar plans provided by the registrant or its parents or subsidiaries.

The instructions as to financial statements would be revised to require comparative financial statements, including source and application of funds statements, for the last 2 fiscal years. Comparative statements for the last 2 years are now required to be included in annual reports to stockholders by Rule 14a–3 (17 CFR 240.14a–3) and (17 CFR 240.14c–3) of the proxy and information rules under section 14 of the Act.

Copies of proposed Form 10–K have been filed as part of this document with the Office of the Federal Register and may be obtained from the Securities and Exchange Commission, Washington, D.C. 20549.

All interested persons are invited to submit their views and comments on the proposed revision, in writing, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before October 30, 1969. All such communications will be considered available for public inspection.

This action is taken pursuant to the authority contained in sections 12, 13, 15(d), and 23(a) of the Securities Exchange Act of 1934; 48 Stat. 892, 894, 895, and 901, as amended; 15 U.S.C. 78*l*, 78m, 78o(d), and 78w(a).

By the Commission, September 4, 1969.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69-10753; Filed, Sept. 9, 1969; 8:47 a.m.]

[17 CFR Part 249]

[Release No. 34-8683]

FORM 10–Q FOR DISCLOSURE OF FINANCIAL INFORMATION

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to adopt Form 10–Q (17 CFR 249.308a) under the Securities Exchange Act of 1934 ("Act") to replace Forms 8–K (17 CFR 249.308) and 9–K (17 CFR 249.309) under the Act which would be rescinded.

This proposal is part of a program to improve disclosure made under the Act which includes revision of Forms 10 (17 CFR 249.210), the form for registration under section 12 of the Act, and 10–K (17 CFR 249.310), the form for annual reports under the Act in general use. (See Securities Exchange Act Releases Nos. 8681–8682, *supra.*) The proposal was generated by a report to the Commission by a Special Disclosure Policy Study Group drawn from its staff, entitled "Disclosure to Investors—A Reappraisal of Administrative Policies under the '33 and '34 Acts."

It appears to the Commission that Current Reports on Form 8–K are not widely used by investors and their advisors. This may be because these reports are not filed at regular intervals and they are not truly current reports since they need not be filed until 10 days after the end of a month in which a reportable event occured. The Commission considered requiring prompt reporting of an event within a few days of its occurrence. However, this appears difficult to administer and unduly burdensome and duplicative of the timely disclosure policies of the major stock exchanges and otherwise pursued by many companies. As an alternative, the Commission is proposing to adopt a regular quarterly report which will provide detailed information as a back-up to information released pursuant to timely disclosure policies. This report would include quarterly financial information.

Many publicly held companies are releasing condensed quarterly financial information, and the major stock exchange require publication of such information by listed companies. The proposals here go beyond the standards set by the exchanges in some respects. The Commission is proposing to adopt a proposed quarterly financial report to provide uniform standards which would apply to all registrants filing reports under the Act including companies having securities registered under section 12(g) of the Act.

The proposed Form 10–Q would be filed quarterly by registrants required to file reports under section 13 or 15(d) of the Act with exceptions set forth in proposed Rules 13a–11 (17 CFR 240.13a–11) and 15(d)–11 (17 CFR 240.15d–11). (See Securities Exchange Act Release No. 8680, *supra.*) The Form is proposed in four parts. Part I contains the substance of the disclosure items, in present Form 8–K with some revisions noted below. Part II would be required to be filed only for the first three quarters of a registrant's fiscal year, although the Commission is considering whether it should also be required for the fourth quarter. Part II contains summarized financial information in somewhat more detail than the present Semi-Annual Report on Form 9–K. The information need not be certified, and Part II would not be deemed filed for purposes of the liability provisions of section 18 of the Act. Part III is to be filed only in the event of a reportable acquisition and requires the filing of specified financial statements of the acquired business. Part IV is simply the exhibits required to be filed in response to Part I. A detailed analysis of the proposed form has been provided to assist interested persons in considering the proposal.

ANALYSIS OF FORM 10Q

The following analysis is of necessity somewhat simplified, and reference is made to the proposed form itself for a more complete indication of its requirements.

Rules as to use of Form 10–Q. The form would be used for reports pursuant to proposed Rule 13a–11 or 15d–11 under the Act. Parts I, III (financial statements of acquired businesses) and IV (exhibits) of the form would be used by all registrants presently required to file current reports on Form 8–K. Registrants presently exempt from filing reports on that form would be exempt from filing reports on Form 10–Q, viz., foreign governments, foreign private issuers, issuers of American depositary receipts, and investment companies presently required to file quarterly reports pursuant to Rule 13a–12 or 15d–12 under the Act (17 CFR 240.13a–12, 240.15d–12). "Cash-flow real estate companies" now required to file quarterly reports on Form 7–K and current reports on Form 8–K would not be required to file reports on Form 10–Q. Form 7–K would also be rescinded and those companies would file reports on proposed Form 7–Q. (See Securities Exchange Act Release No. 8684, *infra.*)

Certain categories of registrants would not be required to file Part II of Form 10–Q (summarized financial information), viz., all registrants not required to file Annual Reports on Form 10–K, 12–K or U5–S (17 CFR 249.310, 249.312, 259.5s); certain registrants in promotional or developmental stages; and life insurance companies. Certain categories of registrants now exempt from filing Semi-Annual financial Reports on Form 9–K (17 CFR 249.309) would not be exempt from filing Part II or proposed Form 10–Q. For example, the Commission believes the trading markets should have the benefit of quarterly financial information concerning bank holding companies and those banks required to file Annual Reports on Form 10–K. Registrants having material seasonal cycles or material variation in operating results, such as producers of single crop agricultural commodities would not be exempt, but would be permitted to file information for the 12 months ended with the current quarter. Certain registrants which file reports with other federal agencies would be permitted to file quarterly reports filed with those agencies for Part II of Form 10–Q. In addition, the Commission believes that accounting procedures for insurance companies, other than life insurance companies, have developed to the extent that such companies should file quarterly financial information.

Filing date. The proposed Form 10–Q for the first three quarters of a registrant's fiscal year would be filed not later than 45 days after the end of each quarter. Form 8–K is presently required to be filed not later than 10 days after the end of a month in which a reportable event occurs. Form 9–K is now required to be filed not later than 45 days after the end of the first 6 months of a registrant's fiscal year.

The report for the fourth quarter would not contain summarized financial information (because certified financial statements for the entire fiscal year would be included in the Annual Report on Form 10–K) and would be required to be filed not later than 10 days after the end of the fourth quarter. However, as indicated above, the Commission is considering the advisability of requiring summarized financial information for the fourth quarter as well as for the first three quarters.

There is a significant exception to the foregoing. When a significant acquisition or disposition of assets occurs, the information specified in Item 3 of the proposed form should be filed not later than 10 days after the acquisition of dispositions occurs.

Check list of material events to be reported. For convenience of persons not familiar with filing Form 10–Q, a check list of significant events which should be reported is included in the instructions.

Item 1. Changes in Control of Registrant:

This item expands the present Item 1 of Form 8–K to require disclosure of contracts or arrangements which might at a subsequent date result in a change in control of the registrant.

Item 2. Changes in Management of Registrant:

This item is not in Form 8–K. It requires disclosure of the identities of new directors and executive officers of the registrant if not previously reported. It also requires a brief account of the new director's or executive officer's business experience during the preceding 10 years. For an executive officer this information should indicate whether he was convicted of a crime or is a defendant in a criminal proceeding, was an officer of a company subject to bankruptcy or similar proceedings, or is subject to a court order enjoining him from engaging in certain activities. Certain of the information relating to executive officers may be omitted on the grounds that it is not material, if it is furnished as supplemental information together with an explanation of the omission.

The Commission believes that such information as to the backgrounds of executive officers is important to investors.

Item 3. Acquisition and Disposition of Assets:

This item requires substantially the same information as required by Item 2 of present Form 8–K with several exceptions. Acquisition or disposition of assets by 50-percent-owned persons would be required to be reported, since such transactions may have a material effect on the business of the registrant. The material relationship between a person from whom assets were acquired or to whom they were sold and any person owning beneficially more than 10 percent of the outstanding voting securities of the registrant, as well as those persons enumerated in Form 8–K, is required to be disclosed. Finally the standard for measuring the materiality of the transaction in the proposed Form 10–Q is 10 percent of certain accounts of the registrant rather than 15 percent as it is in Form 8–K.

As previously discussed, reports pursuant to Item 3 are required not later than 10 days after the occurrence of the event. The Commission believes that information as to significant acquisitions or dispositons of assets is of such material importance to an understanding of the business of a registrant as to require it to be reported reasonably promptly.

Item 4. Increases in amount of equity securities outstanding.

Item 5. Decreases in amount of equity securities outstanding.

Item 6. Increases in amount of outstanding debt securities of registrant, its majority-owned subsidiaries and 50-percent-owned persons.

Item 7. Decreases in amount of outstanding debt securities of registrant, its majority-owned subsidaries and 50-percent-owned persons.

These four items are substantially the same as Items 7 and 8 of present Form 8–K with some significant exceptions. For convenience separate items are proposed for debt and equity securities.

The most significant change from Form 8–K is that all increases and decreases in equity securities must be reported. Form 8–K now requires a report only when the increase not previously reported exceeds 5 percent of the outstanding securities of a class. The Commission believes that information concerning all increases in equity securities is necessary on a quarterly basis, particularly for understanding the registrant's financial statements. It should not be burdensome for registrants to report this information on a regular quarterly basis. Moreover, the proposed revision of Form 10–K (Securities Exchange Act Release No. 8682) would eliminate Item 2 of Form 10–K which presently requires reporting all increases and decreases in equity securities annually.

The more significant change relating to increases or decreases in outstanding debt securities is the requirement that such changes also be reported for majority-owned subsidiaries and 50-percent-owned persons. This information is necessary for an understanding of the debt structure of the total enterprise.

Item 8. Legal Proceeding:

This item requires substantially the same disclosure as Item 3 of present Form 8–K, except it has been revised to require disclosure of certain administrative proceedings before government agencies.

Item 9. Changes in registered securities:

This item requires disclosure of changes in registered securities affecting the rights of holders of such securities. It is substantially identical with Item 4 of Form 8–K.

Item 10. Changes in security for registered securities.

Item 11. Defaults upon senior securities.

Item 12. Revaluation of assets or restatement of capital share account.

Item 13. Options to purchase securities.

Item 14. Submission of matters to a vote of security holders.

Item 15. Material amendments to registrant's charter or bylaws.

This item is new. It requires a statement as to the general effect of material changes in a registrant's charter or bylaws not reported in response to any other item of the Form.

Item 16. Other materially important events.

Item 17. Financial statements and exhibits.

These items are substantially unchanged from Items 5, 6, 10, 9, 11, 12, and 13, respectively, of Form 8–K.

Part III Financial statements of businesses acquired.

Part IV Exhibits:

Parts III and IV of Form 10–Q are substantially the same as the corresponding parts of Form 8–K.

Part II Summarized financial information:

The requirements of Part II are substantially those recommended to the Commission by the Special Disclosure Policy Study Group. That group had the assistance of a special subcommittee of the Governmental Relations Committee of the American Institute of Certified Public Accountants in preparing the requirements for summarized financial information in Form 10–Q.

General Instruction E refers to Rule 12b–23 which would provide, in effect, that if the registrant sends a quarterly report to its security holders which meets the requirements of Part II of the proposed form the report sent to security holders may be incorporated by reference. It should be noted that a copy of any material incorporated by reference in response to any item or part of the proposed form must be filed with the report.

The information required by Part II need not be certified, but should be prepared in accordance with generally accepted accounting principles on a consistent basis. The summarized financial information required by the report requires profit and loss information in more detail that is now required by Form 9–K, including data on earnings per common share and common stock equivalents of the registrant's stock. In addition certain information is required relating to the registrant's capitalization and stockholders' equity.

Copies of proposed Form 10–Q have been filed as part of this document with the Office of the Federal Register and may be obtained from the Securities and Exchange Commission, Washington, D.C. 20549.

All interested persons are invited to submit their views and comments on the proposed form, in writing, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before October 30, 1969. All such communications will be considered available for public inspection.

This action is taken pursuant to the authority contained in sections 12, 13, 15 (d), and 23(a) of the Securities Exchange Act of 1934; 48 Stat. 892, 894, 895, and 901, as amended; 15 U.S.C. 78*l*, 78m, 78o(d), and 78w(a).

By the Commission, September 4, 1969.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69–10754; Filed, Sept. 9, 1969; 8:47 a.m.]

[17 CFR Part 249]

[Release No. 34–8684]

FORM 7–Q FOR CASH FLOW REAL ESTATE COMPANIES

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to adopt Form 7–Q (17 CFR 249.307a) under the Securities Exchange Act of 1934 ("Act") to replace Forms 7–K (17 CFR 249.307) and 8–K (17 CFR 249.308) under the Act which would be rescinded. The proposed

form would be required to be filed by certain real estate companies pursuant to Rule 13a–15 (17 CFR 240.13a–15) or 15d–15 (17 CFR 240.15d–15) under the Act. The Commission has proposed revisions of those rules which would require the filing of the proposed form. (See Securities Exchange Act Release No. 8680, *supra*.) Generally the proposed form would be filed by registrants which have securities registered under section 12 of the Act and which are either real estate investment trusts, as defined in section 856 of the Internal Revenue Code, or a substantial portion of whose business is acquiring interests in real estate and which as a matter of policy or practice make cash distributions to shareholders from any source other than current or retained earnings. These are so called "cash flow real estate companies" that are now required to file quarterly reports on Form 7–K and Current Reports on Form 8–K.

Real estate companies other than cash flow companies would file quarterly reports on the proposed new Form 10–Q (17 CFR 249.308a). Investment companies registered under the Investment Company Act of 1940 would be exempt from filing quarterly reports on Form 7–Q since they file quarterly reports pursuant to Rules 13a–12 (17 CFR 240.13a–12) and 15d–12 (17 CFR 240.15d–12). Partnerships all of whose properties are held under long term net lease to other persons would file reports on Form 7–Q but would not be required to file the financial information called for by Part II of the form.

This proposal is part of a program to improve disclosure made under the Act which includes revision of Form 10 (17 CFR 249.210), the principal form for registration under section 12 of the Act, and Form 10–K (17 CFR 249.310), the principal form for annual reports under the Act, and the adoption of a new report on Form 10–Q. (See Securities Exchange Act Release Nos. 8680–8683, *supra*.) The proposal was generated by a report to the Commission by a Special Disclosure Policy Study Group drawn from its staff, entitled "Disclosure to Investors—A Reappraisal of Administrative Policies under the 1933 and 1934 Acts."

It appears to the Commission that Current Reports on Form 8–K are not widely used by investors and their advisors. This may be because they are not filed at regular intervals, and they are not truly current reports, since they need not be filed until 10 days after the end of a month in which a reportable event occurred. The Commission considered requiring prompt reporting of an event within a few days of its occurrence. However, this appears difficult to administer and unduly burdensome and duplicative of the timely disclosure policies of the major stock exchanges and otherwise pursued by many companies. As an alternative, the Commission is proposing to adopt regular quarterly report forms which will provide detailed information as a back up to information released pursuant to timely disclosure policies. This report would be combined with a quarterly report which, for cash flow real estate companies would be substantially the same as that presently required by Form 7–K.

Many publicly held companies are releasing condensed quarterly financial information, and the major stock exchanges require publication of such information by listed companies. The standards set by the exchanges, however, are minimal. The proposed new Form 7–Q for cash flow real estate companies would provide for better financial reporting by such companies.

The proposed Form 7–Q is in four parts. Parts I, III, and IV contain the substance of the disclosure items, financial statements and exhibits in present Form 8–K with some revisions noted below. Part II, which contains summarized financial information similar to that required by present Form 7–K, would only be required to be filed for the first three quarters of a registrant's fiscal year, although the Commission is considering whether it should also be required for the fourth quarter. The information need not be certified and Part II would not be deemed filed for the purposes of the liability provisions of section 18 of the Act. A detailed analysis of the proposed form has been provided to assist interested persons in considering the proposal.

Analysis of Form 7–Q

The following analysis is of necessity somewhat simplified, and reference is made to the proposed form itself for a more complete indication of its requirements.

Filing date. The proposed Form 7–Q for the first three quarters of a registrant's fiscal year would be filed not later than 45 days after the end of each quarter. Form 8–K is presently required to be filed not later than 10 days after the end of a month in which a reportable event occurs. Form 7–K is now required to be filed not later than 60 days after the end of the first three quarters and 120 days after the close of a fiscal year. The Commission believes that accounting practices have developed to the extent that it will not be burdensome for a company to provide financial information within 45 rather than 60 days.

The report for the fourth quarter would not contain summarized financial information (Part II) because the annual report on Form 10–K would contain certified financial statements, including a statement of source and application of funds which for cash flow real estate companies would be prepared on the same basis as the cash flow information required by Form 7–Q. The report for the fourth quarter would be required to be filed not later than 10 days after the end of the fourth quarter. However, as indicated above, the Commission is considering the advisability of requiring summarized financial information for the fourth quarter as well as for the first three quarters.

There is a significant exception to the foregoing. When a significant acquisition or disposition of assets occurs, the information specified in Item 3 of the proposed form should be filed not later than 10 days after the acquisition or disposition occurs.

Check list of material events to be reported. For convenience of persons not familiar with filing Form 7–Q, a check list of significant events which should be reported is included in the instructions.

Item 1. Changes in Control of Registrant:

This item expands the present Item 1 of Form 8–K to require disclosure of contracts or arrangements which might at a subsequent date result in a change in control of the registrant.

Item 2. Changes in Management of Registrant:

This item is not in Form 8–K. It requires disclosure of the identities of new directors and executive officers of the registrant if not previously reported. It also requires a brief account of the new director's or executive officer's business experience during the preceding 10 years. For an executive officer this information should indicate whether he was convicted of a crime or is a defendant in a criminal proceeding, was an officer of a company subject to bankruptcy or similar proceedings, or is subject of a court order enjoining him from engaging in certain activities. Certain of the information relating to executive officers may be omitted on the grounds that it is not material, if it is furnished as supplemental information together with an explanation of the omissions.

The Commission believes that such detailed information as to the backgrounds of executive officers is material to an evaluation of their performance in managing the operations of the registrant.

Item 3. Acquisition and Disposition of Assets:

This item requires substantially the same information as required by Item 2 of present Form 8–K with several exceptions. Acquisition or disposition of assets by 50-percent-owned persons would be required to be reported, since such transactions may have a material effect on the business of the registrant. The material relationship between a person from whom assets were acquired or to whom they were sold with any person owning beneficially more than 10 percent of the outstanding voting securities of the registrant is required to be disclosed. Finally the standard for measuring the materiality of the transaction in the proposed Form 7–Q is 10 percent of certain accounts of the registrant rather than 15 percent as it is in Form 8–K.

As previously discussed, reports pursuant to Item 3 are required not later than 10 days after the occurrence of the event. The Commission believes that information of significant acquisitions or dispositions of assets is of such material importance to an understanding of the business of a registrant as to require it to be reported reasonably prompt.

Item 4. Increases in amount of equity securities outstanding.

Item 5. Decreases in amount of equity securities outstanding.

Item 6. Increases in amount of outstanding debt securities of registrant, its majority-owned subsidiaries and 50-percent-owned persons.

Item 7. Decreases in amount of outstanding debt securities of registrant, its majority-owned subsidiaries and 50-percent-owned persons.

These four items are substantially the same as Items 7 and 8 of present Form 8–K with some significant exceptions. For convenience separate items are proposed for debt and equity securities.

The most significant change from Form 8–K is that all increases and decreases in

equity securities must be reported. Form 8–K now requires a report only when the increase not previously reported exceeds 5 percent of the outstanding securities of a class. The Commission believes that information concerning all increases in equity securities is necessary, particularly for understanding the registrant's financial statements. It should not be burdensome for registrants to report this information on a regular quarterly basis. Moreover, the Commission is proposing to eliminate Item 2 of present Form 10–K which requires that this information be reported on an annual basis.

The more significant change relating to increases or decreases in outstanding debt securities is the requirement that such changes also be reported for majority-owned subsidiaries and 50-percent-owned persons. This information is necessary for an understanding of the debt structure of the total enterprise.

Item 17. Financial statements and

This item requires substantially the same disclosure as Item 3 of present Form 8–K, except it has been revised to require disclosure of certain administrative proceedings before government agencies.

Item 9. Changes in registered securities:

This item requires disclosure of changes in registered securities identical with Item 4 of Form 8–K.

Item 10. Changes in security for registered securities.

Item 11. Defaults upon senior securities.

Item 12. Revaluation of assets or restatement of capital share account.

Item 13. Options to purchase securities.

Item 14. Submission of matters to a vote of security holders.

Item 16. Other materially important events.

Item 17. Financial statements and exhibits.

These items are substantially unchanged from Items 5, 6, 10, 9, 11, 12, and 13, respectively, of Form 8–K.

Item 15. Material amendments to registrant's charter or bylaws:

This item is new. It requires a statement as to the general effect of material changes in a registrant's charter or bylaws not reported in response to any other item of the Form.

Part III Financial statements of businesses acquired.

Part IV Instructions as to exhibits.

Parts III and IV of Form 7–Q are substantially the same as the corresponding parts of Form 8–K.

Part II Summarized financial information:

The requirements of Part II are substantially similar to those in Form 7–K. General Instruction E refers to Rule 12b–23 which would provide, in effect, that if the registrant sends a quarterly report to its security holders which meets the requirements of Part II of the proposed form the report sent to security holders may be incorporated by reference. It should be noted that a copy of any material incorporated by reference in response to any item or part of the proposed form must be filed with the report.

The information required by Part II need not be certified, but should be prepared in accordance with generally accepted accounting principles on a consistent basis. The summarized finanical information required by the report is substantially the same as that now required by Form 7–K except for the addition of capitalization and stockholders equity information. The format has been revised to correspond to the format of proposed Form 10–Q more closely, and certain instructions have been revised to make them more specific. In addition information must be provided concerning certain 50-percent-owned persons whose operations may materially affect the entire enterprise.

Copies of proposed Form 7–Q have been filed as part of this document with the Office of the Federal Register and may be obtained from the Securities and Exchange Commission, Washington, D.C. 20549.

All interested persons are invited to submit views and comments on the proposed form. Written statements of views and comments should be submitted to the Securities and Exchange Commission, Washington, D.C. 20549, on or before October 30, 1969. All such communications will be available for public inspection.

This action is taken pursuant to the authority contained in sections 12, 13, 15(d), and 23(a) of the Securities Exchange Act of 1934; 48 Stat. 892, 894, 895, and 901, as amended; 15 U.S.C. 78*l*, 78m, 78*o*(d), and 78w(a).

By the Commission, September 4, 1969.

[SEAL] ORVAL L. DUBOIS, *Secretary.*

[F.R. Doc. 69–10755; Filed, Sept. 9, 1969; 8:47 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1300, 1307]

[Ex Parte No. 261; Special Permission 70–275]

TARIFFS CONTAINING JOINT RATES AND THROUGH ROUTES FOR TRANSPORTATION OF PROPERTY BETWEEN POINTS IN THE U.S. AND FOREIGN COUNTRIES

Extension of Time

SEPTEMBER 2, 1969.

At the request of The National Motor Freight Traffic Association, Inc., and other interested parties, the time for filing written representations in the above-entitled proceeding (49 CFR 1300.67, 1307.22) has been extended from September 15, 1969 to October 15, 1969.

[SEAL] ANDREW ANTHONY, Jr., *Acting Secretary.*

[F.R. Doc. 69–10779; Filed, Sept. 9, 1969; 8:48 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

FROZEN COD FILLETS FROM EASTERN CANADIAN PROVINCES

Determination of Sales at Not Less Than Fair Value

AUGUST 27, 1969.

On June 6, 1969, there was published in the FEDERAL REGISTER a "Notice of Tentative Negative Determination" that frozen cod fillets from Eastern Canadian provinces are not being sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as the "Act").

The statement of reasons for the tentative determination was published in the above-mentioned notice and interested parties were afforded until July 6, 1969, to make written submissions, or requests for an opportunity to present views in connection with the tentative determination.

An opportunity was afforded to the complainant to present oral views and all interested parties of record were notified. All written submissions and oral arguments received careful consideration.

I hereby determine that for the reasons stated in the tentative determination frozen cod fillets from Eastern Canadian provinces are not being, nor likely to be, sold at less than fair value (section 201(a) of the Act; 19 U.S.C. 160(a)).

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)) and § 53.33(c), Customs Regulations (19 CFR 53.33(c)).

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

AUGUST 27, 1969.

[F.R. Doc. 69-10767; Filed, Sept. 9, 1969; 8:48 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

Notice of Filing of State Protraction Diagram

SEPTEMBER 3, 1969.

Notice is hereby given that effective November 5, 1969, the following protraction diagram, approved June 10, 1969, is officially filed and of record in the Riverside District and Land Office. In accordance with Title 43, Code of Federal Regulations, this protraction will become the basic record for describing the land for all authorized purposes at and after 10 a.m. on the above effective date. Until this date and time, the diagram has been placed in the open files and is available to the public for information only.

CALIFORNIA PROTRACTION DIAGRAM NO. 16

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 18 N., R. 11 E.,
Sec. 1, NE¼, NE¼;
Sec. 4, SW¼;
Sec. 5, SE¼;
Sec. 8, E½;
Sec. 9, W½;
Sec. 17, NE¼, S½;
Sec. 18, SE¼;
Sec. 19, NE¼;
Sec. 20, N½;
Sec. 29, SW¼;
Sec. 30, NW¼, S½;
Sec. 31;
Sec. 32, NW¼, S½;
Sec. 33, SW¼.
T. 18 N., R. 12 E.,
Secs. 1 to 5, inclusive;
Sec. 6, N½, SE¼;
Sec. 9, N½, SE¼;
Secs. 10 to 15, inclusive;
Sec. 21, E½;
Secs. 22 to 27, inclusive;
Sec. 28, E½;
Sec. 33, NE¼;
Sec. 34, N½;
Sec. 35, N½.
T. 18 N., R. 12½ E.,
Secs. 1, 12, 13, 24, and 25.
T. 18½ N., R. 12 E.,
Secs. 19 to 35, inclusive.
T. 19 N., R. 11 E.,
Secs. 1 to 5, inclusive;
Sec. 6, less Mineral Survey 6276 B;
Secs. 7 to 15, inclusive;
Secs. 17 to 35, inclusive.
T. 20 N., R. 11 E.,
Secs. 1 to 15, inclusive and 17 to 29, inclusive;
Sec. 30, less Mineral Survey 6027;
Sec. 31, less Mineral Survey 6276;
Secs. 32 to 35, inclusive.
T. 20½ N., R. 11 E.,
Secs. 31 to 35, inclusive.

Copies of this diagram are for sale at two dollars ($2.00) each by the Cadastral Engineering Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2800, Sacramento, Calif. 95825, and the District and Land Office, Bureau of Land Management, 1414 University Avenue, Post Office Box 723, Riverside, Calif. 92502.

WALTER F. HOLMES,
Assistant Manager,
Riverside Land Office.

[F.R. Doc. 69-10799; Filed, Sept. 9, 1969; 8:50 a.m.]

CALIFORNIA

Notice of Filing of State Protraction Diagram

SEPTEMBER 3, 1969.

Notice is hereby given that effective November 5, 1969, the following protraction diagram, approved June 10, 1969, is officially filed and of record in the Riverside District and Land Office. In accordance with Title 43, Code of Federal Regulations, this protraction will become the basic record for describing the land for all authorized purposes at and after 10 a.m. on the above effective date. Until this date and time, the diagram has been placed in the open files and is available to the public for information only.

CALIFORNIA PROTRACTION DIAGRAM NO. 19

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 18 N., R. 9 E.,
Secs. 1 to 4, inclusive;
Sec. 5, N½, SE¼;
Sec. 6, N½;
Sec. 11, NE¼;
Sec. 12, N½, SE¼;
Sec. 24, E½;
Sec. 25, E½.
T. 18 N., R. 10 E.,
Sec. 1, N½;
Sec. 2, N½, SW¼;
Secs. 3 to 6, inclusive;
Sec. 7, N½, SW¼;
Sec. 8, N½;
Sec. 9, N½;
Sec. 10, N½;
Sec. 11, NW¼;
Secs. 19 and 20, inclusive;
Sec. 21, NW¼, S½;
Sec. 22, S½;
Sec. 23, S½;
Sec. 24, S½;
Secs. 25 to 28, inclusive;
Sec. 29, less Mineral Survey 6002;
Sec. 30, less Mineral Survey 6002;
Secs. 31 to 35, inclusive.
T. 19 N., R. 9 E.,
Secs. 1 to 15, inclusive and 17 to 35, inclusive;
Sec. 36, E½.
T. 19 N., R. 10 E.,
Secs. 1 to 15, inclusive and 17 to 35, inclusive.
T. 20 N., R. 9 E.,
Secs. 1 to 15, inclusive and 17 to 24, inclusive;
Sec. 25, less Mineral Survey 6173, 6174, 6237, 4723;
Sec. 26, less Mineral Survey 6171, and 6172;
Secs. 27 to 32, inclusive;
Sec. 33, less Mineral Survey 6280;
Sec. 34, less Mineral Survey 5497, and 6280;
Sec. 35, less Mineral Survey 6172.
T. 20 N., R. 10 E.,
Secs. 1 to 15, inclusive and 17 to 29, inclusive;
Sec. 30, less Mineral Survey 6173, 6174, 6236, 6237, 4723;
Sec. 32, less Mineral Survey 6173, 6174, 6237, 4723;
Secs. 33 to 35, inclusive.
T. 20½ N., R. 9 E.,
Secs. 31 to 35, inclusive.
T. 20½ N., R. 10 E.,
Secs. 31 to 35, inclusive.

Copies of this diagram are for sale at two dollars ($2.00) each by the Cadastral Engineering Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2800, Sacramento, Calif. 95825, and the District and Land Office, Bureau of Land Management, 1414 University Avenue, Post Office Box 723, Riverside, Calif. 92502.

WALTER F. HOLMES,
Assistant Manager,
Riverside Land Office.

[F.R. Doc. 69-10800; Filed, Sept. 9, 1969; 8:50 a.m.]

CALIFORNIA

Notice of Filing of State Protraction Diagram

SEPTEMBER 3, 1969.

Notice is hereby given that effective November 5, 1969, the following protraction diagram, approved June 10, 1969, is officially filed and of record in the Riverside District and Land Office. In accordance with Title 43, Code of Federal Regulations, this protraction will become the basic record for describing the land for all authorized purposes at and after 10 a.m. on the above effective date. Until this date and time, the diagram has been placed in the open files and is available to the public for information only.

CALIFORNIA PROTRACTION DIAGRAM NO. 31

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 22 N., R. 8 E.,
Secs. 1 to 3, inclusive and 10 to 15, inclusive.

Copies of this diagram are for sale at two dollars ($2.00) each by the Cadastral Engineering Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2800, Sacramento, Calif. 95825, and the District and Land Office, Bureau of Land Management, 1414 University Avenue, Post Office Box 723, Riverside, Calif. 92502.

WALTER F. HOLMES,
Assistant Manager,
Riverside Land Office.

[F.R. Doc. 69–10801; Filed, Sept. 9, 1969; 8:50 a.m.]

CALIFORNIA

Notice of Filing of State Protraction Diagram

SEPTEMBER 3, 1969.

Notice is hereby given that effective November 5, 1969, the following protraction diagram, approved June 10, 1969, is officially filed and of record in the Riverside District and Land Office. In accordance with Title 43, Code of Federal Regulations, this protraction will become the basic record for describing the land for all authorized purposes at and after 10 a.m. on the above effective date. Until this date and time, the diagram has been placed in the open files and is available to the public for information only.

CALIFORNIA PROTRACTION DIAGRAM NO. 61

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 13 S., R. 36E.,
Secs. 1 to 4, inclusive, 9 to 12, inclusive, 13 to 16, inclusive and 21 to 27, inclusive;
Sec. 28, N½, SE¼;
Secs. 34 to 36, inclusive.
T. 14 S., R. 36 E.,
Secs. 1 and 2, inclusive;
Sec. 3, less Mineral Survey 1065, 1921, 1922, 5474 A and B, 5475;
Sec. 10, N½ less Mineral Survey 1065, 1921, 1922, 5474 A and B, 5475, SE¼;
Secs. 11 to 14, inclusive;
Sec. 23, N½, SE¼;
Secs. 24 and 25, inclusive;
Sec. 26, E½;
Sec. 35, E½;
Sec. 36.
T. 13 S., R. 37 E.,
Secs. 2 to 11, inclusive and 14 to 23, inclusive;
Sec. 25, NW¼, S½;
Secs. 26 to 36, inclusive.
T. 14 S., R. 37 E.,
Secs. 1 to 36, inclusive.
T. 14½ S., R. 37 E.,
Secs. 31 to 36, inclusive.
T. 15 S., R. 37 E.,
Secs. 1 to 15, inclusive;
Sec. 16, less Mineral Survey 5511;
Sec. 17;
Sec. 18, N½, SE¼;
Sec. 19, E½;
Sec. 20;
Sec. 21, less Mineral Survey 5511;
Secs. 22 to 28, inclusive;
Sec. 29, N½, SE¼;
Sec. 30, NE¼NE¼;
Sec. 32, NE¼, N½SE¼;
Sec. 33, N½, N½SW¼, SE¼SW¼, SE¼;
Secs. 34 to 36, inclusive.

Copies of this diagram are for sale at two dollars ($2.00) each by the Cadastral Engineering Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2800, Sacramento, Calif. 95825, and the District and Land Office, Bureau of Land Management, 1414 University Avenue, Post Office Box 723, Riverside, Calif. 92502.

WALTER F. HOLMES,
Assistant Manager,
Riverside Land Office.

[F.R. Doc. 69–10802; Filed, Sept. 9, 1969; 8:50 a.m.]

CALIFORNIA

Notice of Filing of State Protraction Diagram

SEPTEMBER 3, 1969.

Notice is hereby given that effective November 5, 1969, the following protraction diagram, approved June 10, 1969, is officially filed and of record in the Riverside District and Land Office. In accordance with Title 43, Code of Federal Regulations, this protraction will become the basic record for describing the land for all authorized purposes at and after 10 a.m. on the above effective date. Until this date and time, the diagram has been placed in the open files and is available to the public for information only.

CALIFORNIA PROTRACTION DIAGRAM NO. 34

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 9 N., R. 12 E.,
Sec. 5, W½;
Sec. 6;
Sec. 8;
Sec. 9, S½NW¼, S½;
Sec. 13, SW¼;
Sec. 14, S½NW¼, S½;
Secs. 15, 16, 22, 23, 24.
T. 9 N., R. 13 E.,
Secs. 1 to 3, inclusive;
Sec. 4, E½;
Sec. 9, NE¼;
Sec. 10, N½, SE¼;
Secs. 11, 12, 14, and 15;
Sec. 21, E½;
Sec. 22.
T. 11 N., R. 13 E.,
Sec. 1, E½;
Sec. 11, E½;
Secs. 12 and 13, inclusive;
Sec. 14, NE¼, S½;
Secs. 23 to 26, inclusive;
Sec. 34, SE¼;
Sec. 35.

Copies of this diagram are for sale at two dollars ($2.00) each by the Cadastral Engineering Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2800, Sacramento, Calif. 95825, and the District and Land Office, Bureau of Land Management, 1414 University Avenue, Post Office Box 723, Riverside, Calif. 92502.

WALTER F. HOLMES,
Assistant Manager,
Riverside Land Office.

[F.R. Doc. 69–10796; Filed, Sept. 9, 1969; 8:50 a.m.]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

SEPTEMBER 3, 1969.

The Bureau of Land Management, U.S. Department of the Interior, has filed an application, Serial No. Sacramento 2816, for the withdrawal of the lands described below, subject to valid existing rights, from prospecting, location, entry, and patenting under the U.S. mining laws only (Title 30 U.S.C., ch. 2).

The applicant desires the land for a recreational development in cooperative agreement with the Pacific Power and Light Co. The development proposed would consist of access by the general public to the surface and shoreline of Copco Lake; Copco Reservoir, a private power development. A recreation site adjacent to the lake has been developed. Additionally, the Bureau of Land Management proposes to develop campgrounds, picnicking areas, and hiking trails for nature studies on the upper slopes of Lennox Mountain within the land.

For a period of 30 days from the date of publication of this notice all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, Room E–2807, Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

The Department's regulations (43 CFR 2311.1–3(c)) provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to

eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

MOUNT DIABLO MERIDIAN

T. 48 N., R. 4 W.,
Sec. 34, SW¼NE¼, SE¼NW¼, W½SE¼, and SE¼SE¼.

The areas described aggregate approximately 200 acres in Siskiyou County.

JESSE H. JOHNSON,
Acting Chief,
Lands Adjudication Section.

[F.R. Doc. 69-10794; Filed, Sept. 9, 1969; 8:49 a.m.]

[Serial No. I-3184]

IDAHO

Notice of Public Sale

SEPTEMBER 3, 1969.

Under the provisions of the Public Land Sale Act of September 19, 1964 (78 Stat. 988; 43 U.S.C. 1421-1427), 43 CFR Subpart 2243, a tract of land will be offered for sale to the highest bidder at a sale to be held at 2 p.m., m.d.t., on Wednesday, October 22, 1969, at the Idaho Land Office, Room 380 Federal Building, 550 West Fort Street, Boise, Idaho 83702. The land is described as follows:

BOISE MERIDIAN, IDAHO

T. 4 S., R. 31 E.,
Sec. 15, N½.

The area described contains 320 acres.

The appraised value of the tract is $6,400 and the publication cost to be assessed is $10.

The land will be sold subject to all valid existing rights and rights-of-way for ditches and canals under the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945). All minerals will be reserved to the United States and withdrawn from appropriation under the public land laws, including the mining and mineral leasing laws.

Bids may be made by the principal or his agent, either at the sale, or by mail. An agent must be prepared to establish the eligibility of his principal.

Bids must be for all the land in the parcel. A bid for less than the appraised value of the land is unacceptable. Bids sent by mail will be considered only if received at the Idaho Land Office, Bureau of Land Management, Room 334, Federal Building, 550 West Fort Street, Boise, Idaho 83702, prior to 1:30 p.m., m.d.t, on Wednesday, October 22, 1969. Bids made prior to the public auction must be in sealed envelopes and accompanied by certified checks, postal money orders, bank drafts, or cashier's checks, payable to the Bureau of Land Management, for the full amount of the bid plus publication costs. The envelopes must be marked in the lower left-hand corner "Public Sale Bid, I-3184, sale of October 22, 1969."

The authorized officer shall publicly declare the highest qualifying sealed bid received. Oral bids shall then be invited in specified increments. After oral bids, if any, are received, the authorized officer shall declare the high bid. A successful oral bidder must submit a guaranteed remittance, in full payment for the tract and cost of publication, before 3:30 p.m. of the second day following the sale.

If no bids are received for the sale tract on Wednesday, October 22, the tract will be reoffered on the first Wednesday of subsequent months at 1:30 p.m., beginning November 5, 1969.

Any adverse claimants to the above described lands should file their claims or objections, with the undersigned, before the time designated for the sale.

The land described in this notice has been segregated from all forms of appropriation, including locations under the general mining laws, except for sale under this Act, from the date of notation of the proposed classification decision. Inquiries concerning this sale should be addressed to the Land Office, Bureau of Land Management, Room 334, Federal Building, 550 West Fort Street, Boise, Idaho 83702.

ORVAL G. HADLEY,
Manager, Land Office.

[F.R. Doc. 69-10793; Filed, Sept. 9, 1969; 8:49 a.m.]

[Oregon 03588]

OREGON

Notice of Termination of Proposed Withdrawal

SEPTEMBER 3, 1969.

Notice of a proposed withdrawal of national forest lands was published as F.R. Doc. 55-5057 on pages 4454-4455 of the issue for June 24, 1955. The proposed withdrawal has been canceled insofar as it involved the land described below. Therefore, pursuant to the regulations contained in 43 CFR 2311.1-2, such land will be at 10 a.m. on October 9, 1969, relieved of the segregative effect of the above-mentioned proposed withdrawal.

The land involved in this notice of termination is:

WILLAMETTE MERIDIAN

T. 32 S., R. 7½ E.,
Sec. 1, lots 2 and 4;
Sec. 12, SE¼NW¼SE¼;
Sec. 13, NW¼SE¼NW¼;
Sec. 14, SW¼SE¼;
Sec. 22, SE¼NE¼NE¼ and SE¼SW¼NE¼;
Sec. 23, NW¼SW¼NW¼.

VIRGIL O. SEISER,
Chief, Branch of Lands.

[F.R. Doc. 69-10761; Filed, Sept. 9, 1969; 8:47 a.m.]

Fish and Wildlife Service

[Docket No. B-471]

RICHARD GEORGE GOODWIN

Notice of Loan Application

Richard George Goodwin, Edgewood Farm Road, Wakefield, R.I. 02879, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new 65.5-foot length overall steel vessel to engage in the fishery for flounder, whiting, lobster, and industrial fish.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Precedures (50 CFR Part 250, as revised) that the above entitled application is being considered by the Bureau of Commercial Fisheries, Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, Bureau of Commercial Fisheries, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operations of the vessel will or will not cause such economic hardship or injury.

C. E. PETERSON,
Chief,
Division of Financial Assistance.

[F.R. Doc. 69-10797; Filed, Sept. 9, 1969; 8:50 a.m.]

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

[Notice 46]

ORANGES IN CALIFORNIA

Extension of Closing Date for Filing of Applications for 1969 Crop Year

Pursuant to the authority contained in § 406.3 of Title 7 of the Code of Federal Regulations, the time for filing applications for orange crop insurance for the 1969 crop year in all counties in California where such insurance is otherwise authorized to be offered is hereby extended until the close of business on October 31, 1969. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

FRANK W. NAYLOR, JR.,
Acting Manager, Federal
Crop Insurance Corporation.

[F.R. Doc. 69-10743; Filed, Sept. 9, 1969; 8:46 a.m.]

Packers and Stockyards Administration

HOPE LIVESTOCK COMMISSION CO. ET AL.

Proposed Posting of Stockyards

The Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards

Administration, U.S. Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 202), and should be made subject to the provisions of the Act.

Hope Livestock Commission Co., Hope, Ark.
Beaumont Horse Market, Beaumont, Calif.
Belleville Livestock Comm. Co., Inc., Belleville, Kans.
Interstate Producers Livestock Association, Marshall, Mo.
Beehive Horse Sale Corporation, Salt Lake City, Utah.

Notice is hereby given, therefore, that the said Chief, pursuant to authority delegated under the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), proposes to issue a rule designating the stockyards named above as posted stockyards subject to the provisions of the Act as provided in section 302 thereof.

Any person who wishes to submit written data, views, or arguments concerning the proposed rule, may do so by filing them with the Chief, Registrations, Bonds, and Reports Branch, Packers and Stockyards Administration, U.S. Department of Agriculture, Washington, D.C. 20250, within 15 days after publication in the FEDERAL REGISTER.

All written submissions made pursuant to this notice shall be made available for public inspection at such times and places in a manner convenient to the public business (7 U.S.C. 1.27(b)).

Done at Washington, D.C., this 3d day of September 1969.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[F.R. Doc. 69-10744; Filed, Sept. 9, 1969; 8:46 a.m.]

Rural Electrification Administration

POWER SUPPLY SURVEYS

Approval of Loans for Generation or Transmission Facilities; Wholesale Contracts for Purchase and Sale of Electric Energy

Purpose. This notice sets forth REA policy with regard to power supply surveys and certifications thereto by the Administrator in relation to the approval of loans for generation or transmission facilities.

General. The terms and conditions of power supply arrangements are major factors in the ability of REA borrowers to carry forward the rural electrification program. REA has the responsibility to assist borrowers in achieving the most advantageous power supply arrangements to accomplish the objectives of the Rural Electrification Act and to conserve REA loan funds. REA will undertake power supply surveys to assure adequate review of existing and proposed power supply alternatives and to encourage closer cooperation between REA borrowers and other electric power suppliers.

Policy.—A. *Requests for power supply surveys.* Any REA borrower or potential borrower may request REA to make a survey of any specific power supply problem or its power supply needs. Such request shall provide a full description of existing power supply contracts and arrangements, a statement of any special problems and a general summary of power supply needs, copies of any proposals made by existing or other suppliers, and a summary of negotiations pertaining to current or anticipated problems and needs. Requests should be submitted to the appropriate area office.

B. *Conduct of survey.* If the Administrator determines to undertake the requested power supply survey, the survey shall be so conducted as to provide an adequate review of the applicant's power supply problems and needs, existing or proposed power supply arrangements, if any, and such other potential power supply arrangements which, in the judgment of the Administrator, may contribute to the solution of these problems and needs. Where the Administrator finds that existing or proposed contracts with power suppliers are unreasonable for purposes of the Rural Electrification Act, the supplier under such contracts or proposals will be advised wherein they are unreasonable, and REA will endeavor to have the contracts or proposals made reasonable. The REA borrower or potential borrower shall be made a party to any negotiations between REA and such power supplier. When necessary to avoid dilatory tactics or protracted delays, the Administrator shall advise the parties in such cases of a definite time limit for negotiations under the survey and a final cutoff date for all proposals which are to be considered in evaluation of loan applications related to the problems and needs covered by the survey.

C. *Requirement for consideration of loan application.* Loans for generation facilities; for transmission facilities to a power-type borrower; and for transmission, or transmission and generation, facilities in excess of $2 million to a distribution borrower will be made only after completion of a power supply survey by REA. No application for financing of generation or transmission facilities requiring a loan for either or both in an amount of more than $2 million will be accepted for consideration by REA unless (a) a power supply survey has been completed, or (b) it is determined by the Administrator that completion of the survey requires full review of proposed REA-financed generation or transmission facilities.

D. *Certification of loans for generation or transmission.* No loan for generation or transmission facilities will be made except in compliance with REA Bulletin 20-6, "Loans for Generation and Transmission," dated May 7, 1969 (attached hereto, together with REA Bulletin 111-1 dated April 24, 1969 referred to therein) and, if a power supply survey is required by Paragraph C, upon certification by the Administrator to the Secretary of Agriculture that the loan has been approved after the completion of a power supply survey which shows that the loan is (a) needed to construct facilities to implement an existing or a proposed contract with the existing power supplier; or (b) needed to provide facilities or service for which there is no existing or proposed contract from any other power supplier; or (c) needed because existing and proposed contracts to provide the facilities or service to be financed were found to be unreasonable, each supplier involved was advised of the provisions that made its contract unreasonable, REA attempted to have such contracts made reasonable, and the existing or other proposed suppliers had failed or refused to do so within the time set by the Administrator. Loans for generation or transmission facilities of more than $2 million shall be similarly certified to the Comptroller General. They shall also be certified to the Senate and the House of Representatives of the United States, as directed by the respective bodies. Certification of each generation or transmission loan in excess of $2 million shall be accompanied by the following information:

1. The name and address of the applicant borrower and the date of the application.

2. Description and estimated cost of the proposed generation facilities. Indicate if the proposed facilities are the initial or additional unit or units of a plant comprised of one or more units.

3. Description and estimated cost of proposed transmission facilities, including any immediate or future plans to interconnect with other transmission systems.

4. Description of any long-range plans the applicant may have for construction of additional generation and transmission facilities and the estimated cost of the planned facilities.

5. Comparison of the estimated costs of generation by the applicant borrower with the cost of power available from existing suppliers, including the final offer by the private supplier including terms and conditions he offered to meet applicant's long-term energy needs.

6. Summary of the efforts made by the applicant and by REA to obtain the applicant's power and energy requirements from existing power suppliers and the reasons why such efforts have not been successful.

7. Explanation of the applicant's reasons for seeking an REA loan.

8. The amount of electric energy which the applicant will cease to purchase from present power suppliers upon construction of the generating plant for which REA financing is being sought.

9. Explanation of the extent to which the feasibility of the requested loan for generation and transmission facilities depends upon the use of a portion of the facilities by others (including Federal power marketing agencies).

10. Details of the applicant's plans to sell or otherwise make available any of the power and energy from the proposed generation facilities to others (including Federal power marketing agencies).

11. Names of State agencies and commissions having jurisdiction over the applicant borrowers.

E. *Requirements for loan modifications and information reporting.* No substantial modification in the terms or conditions relating to advances under, or use of proceeds of, a generating or transmission loan in excess of $2 million will be approved except after completion of a new power survey and upon compliance with the other requirements of paragraph D, if (1) the modification involves displacement of an existing power supply, not theretofore involved in the loan, or (2) there has been a significant change in the facts underlying the prior loan certification. Even though no new power survey is required, the modifications in the facts theretofore furnished to the Secretary, the Comptroller General and the Congress, resulting from any such substantial modification in the loan, shall similarly be promptly furnished.

This notice supersedes the notices on Power Supply Surveys published in 29 F.R. 2765–2766 and 14415.

Issued this third day of September 1969.

DAVID A. HAMIL,
Administrator.

REA BULLETIN 20–6

LOANS FOR GENERATION AND TRANSMISSION

MAY 7, 1969.

I. *Purpose.* The purpose of this Bulletin is to set forth Rural Electrification Administration loan policy concerning generation and transmission facilities.

II. *Policy.* A. The Rural Electrification Administration will make loans to finance the initial construction of generation facilities by distribution or power supply borrowers, and of transmission facilities by power supply borrowers, only under the following conditions:

1. Where no adequate and dependable source of power is available to meet the consumers' needs; or

2. Where the rates offered by existing power sources would result in a higher cost of power to the consumers than the cost from facilities financed by REA, and the amount of the power cost savings that would result from the REA-financed facilities bears a significant relationship to the amount of the proposed REA loan.

B. Applications for supplemental loans for these purposes, and for the construction of transmission facilities by distribution borrowers, will be considered and evaluated in terms of whether the proposed additional facilities constitute the most effective and economical arrangement for meeting the increasing power requirements of the consumer.

The policy stated in REA Bulletin 111–1, "Wholesale Contracts for Purchase and Sale of Electric Energy," will be considered in evaluating all power supply proposals.

DAVID A. HAMIL,
Administrator.

REA BULLETIN 111–1

WHOLESALE CONTRACTS FOR THE PURCHASE AND SALE OF ELECTRIC ENERGY

APRIL 24, 1969.

I. *Purpose.* To set forth REA policy concerning wholesale power contracts.

II. *Policy.* A. Loan and security documents with respect to each loan shall contain appropriate provisions requiring that the effectiveness of any contract entered into by a borrower for the sale or the purchase of electric energy with which to operate its system shall be conditioned upon the approval of the Administrator.

B. Wholesale power purchase contracts of distribution borrowers entered into with suppliers not owned or controlled by REA-financed borrowers should:

1. Provide for an adequate present and future supply of high quality service, including new points of delivery.

2. Provide for termination of the contract upon due notice in the event of a rate increase or other change in the contract not in the interest of the borrower, but with adequate assurance of continued supply until an alternate source can be secured.

3. Be free of restrictive provisions with respect to the availability or use of the power or of other provisions which would be deemed harmful to the borrower or to the REA program.

4. Be for terms appropriate to the borrowers' anticipated needs and afford reasonable protection to consumer rates and interests.

5. Be otherwise consistent with loan security requirements.

C. Generally, wholesale power purchase contracts entered into by power supply borrowers, and by distribution borrowers with suppliers owned or controlled by REA-financed borrowers should:

1. Be consistent with the purchased power needs of the borrowers.

2. Be free of restrictive provisions with respect to the availablity or use of the power or of other provisions which would be deemed harmful to the borrower or to the REA program.

3. Provide for the security requirements of REA loans.

DAVID A. HAMIL,
Administrator.

[F.R. Doc. 69–10795; Filed, Sept. 9, 1969; 8:50 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 8729]

CERTAIN OPHTHALMIC ANESTHETICS: BENOXINATE HYDROCHLORIDE AND PROPARACAINE HYDROCHLORIDE

Drugs for Human Use; Drug Efficacy Study Implementation

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

1. Benoxinate hydrochloride 0.4 percent, marketed as Dorsacaine Solution, by Dorsey Laboratories, Division The Wander Co., NE., U.S. 6 and Interstate 80, Lincoln, Nebr. 68501 (NDA 8–729).

2. Proparacaine hydrochloride 0.5 percent, marketed as Ophthetic Ophthalmic Solution, by Allergan Pharmaceuticals, 1000 South Grand Avenue, Santa Ana, Calif. 92705 (NDA 12–583).

3. Proparacaine hydrochloride 0.5 percent, marketed as Ophthaine Solution, by E. R. Squibb & Sons, Inc., Georges Road, New Brunswick, N.J. 08903 (NDA 8–883).

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

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

BENOXINATE HYDROCHLORIDE; PROPARACAINE HYDROCHLORIDE

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes that these drugs are rapidly acting topical anesthetics of short duration which are effective in procedures where a topical ophthalmic anesthetic is indicated.

B. *Form of drug.* These topical ophthalmic anesthetic preparations are in sterile solution form suitable for ophthalmic administration and contain per dosage unit amounts appropriate for administration in the dosage range described in the labeling conditions in this announcement.

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

2. The drug is labeled to comply with all requirements of the Act and regulations and those parts of its labeling indicated below are substantially as follows: (Optional additional information, applicable to the drug, may be proposed under other appropriate paragraph headings and should follow the information set forth below.)

DESCRIPTION

(Descriptive information to be included by the manufacturer or distributor should be confined to an appropriate description of the physical and chemical properties of the drug and the formulation.)

ACTIONS

(To be supplied by the manufacturer: This is to be confined to an appropriate statement of the demonstrated pharmacological/physiological actions of the active ingredients of the drug. When such actions are based on animal studies alone, this should be clearly stated. When the mode of action has not been determined, this should be clearly indicated.)

INDICATIONS

For procedures in which a topical ophthalmic anesthetic is indicated: corneal anesthesia of short duration, e.g., tonometry, gonioscopy, removal of corneal foreign bodies, and for short corneal and conjunctival procedures.

CONTRAINDICATIONS

Known hypersensitivity to this preparation.

WARNING

Prolonged use of a topical ocular anesthetic is not recommended. It may produce

permanent corneal opacification with accompanying visual loss.

ADVERSE REACTIONS

Side effects: Occasional temporary stinging, burning, conjunctival redness.

Rare, severe, immediate-type, apparently hyperallergic corneal reaction, with acute, intense and diffuse epithelial keratitis, a gray, ground-glass appearance, sloughing of large areas of necrotic epithelium, corneal filaments and sometimes, iritis with descemetitis.

For proparacaine add:

Allergic contact dermatitis from proparacaine with drying and fissuring of the fingertips has been reported.

DOSAGE AND ADMINISTRATION

Usual dosage:

Removal of foreign bodies and sutures, and for tonometry:

1 to 2 drops (in single instillations) in each eye before operating.

Deep ophthalmic anesthesia:

Benoxinate hydrochloride 0.4 percent solution; 2 drops in each eye at second intervals for three instillations.

Proparacaine hydrochloride 0.5 percent solution; 1 drop in each eye every 5 to 10 minutes for 5–7 doses.

(NOTE: Because the "blink" reflex is temporarily eliminated, it is suggested that the eye be covered with a patch following this procedure.)

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

a. Revised labeling as needed to conform to the labeling conditions described for the drug.

b. Updating information as needed to make the application current in regard to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of the new drug application form FD–356H to the extent described in the proposal for abbreviated new drug applications, § 130.4(f), published in the FEDERAL REGISTER February 27, 1969. (One supplement may contain all the information described in this paragraph.)

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

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

b. 60 days for updating information.

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

E. *New applications.* 1. Any other person who distributes or intends to distribute such drug which is intended for the conditions of use for which it has been shown to be effective, as described under A above, should submit an abbreviated new drug application meeting the conditions specified in the proposed regulation, § 130.4(f) (1) and (2), published in the FEDERAL REGISTER February 27, 1969. Such applications should include proposed labeling which is in accord with the labeling conditions described herein.

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

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

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

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

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

F. *Exemption from periodic reporting.* The periodic reporting requirements of §§ 130.35(e) and 130.13(b)(4) are waived in regard to applications approved for this drug solely for the conditions of used for which the drug is regarded as effective as described herein.

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

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

Representatives of the Administration are willing to meet with any interested person who desires to have a conference concerning proposed changes in the labeling set forth in this notice. A request for such meeting should be made to the Office of Marketed Drugs (MD–300), at the address given below, within 30 days after the publication of this notice in the FEDERAL REGISTER.

A copy of the NAS-NRC report has been furnished to each firm referred to above. Any other manufacturer, packer, or distributor of a drug of similar composition and labeling to the drugs listed in this announcement or any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number, DESI 8729, and be directed to the attention of the following appropriate office and addressed to the Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204:

Requests for NAS-NRC Reports: Press Relations Office (CE–300).

Supplements (Identify with new drug application number): Office of Marketed Drugs (MD–300), Bureau of Medicine.

Original abbreviated new drug applications: Office of Marketed Drugs (MD–300), Bureau of Medicine.

All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (MD–16), Bureau of Medicine.

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

Dated: September 2, 1969.

HERBERT L. LEY, JR.,
Commissioner of Food and Drugs.

[F.R. Doc. 69–10725; Filed, Sept. 9, 1969; 8:45 a.m.]

[DESI 5963]

CERTAIN SULFONAMIDE OPHTHALMIC OINTMENTS AND OPHTHALMIC AND NASAL SOLUTIONS

Drugs for Human Use; Drug Efficacy Study Implementation

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

1. Sulfamethizole, previously marketed as Thiosulfil Solution, 40 mg. per cc., for ophthalmic and nasal instillation, by Ayerst Laboratories, Inc., 685 Third Avenue, New York, N.Y. 10017 (NDA 9–496).

2. Sodium sulfacetamide ointment, 300 mg. per gram; Strong Cobb Arner, Inc., 11700 Shaker Boulevard, Cleveland, Ohio 44120 (NDA 8–724).

3. Sodium sulfacetamide, marketed by Schering Corp., 60 Orange Street, Bloomfield, N.J. 07003, as:

a. Sodium Sulamyd Ophthalmic Ointment, 100 mg. per gram (NDA 5–963).

b. Sodium Sulamyd Ophthalmic Solution, 100 mg. per ml. and 300 mg. per ml. (NDA 5–963).

c. Sodium Sulfacetamide Ophthalmic Ointment High Potency, 300 mg. per gram (NDA 8–605).

4a. Sulfisoxazole diolamine, marketed as Gantrisin Ophthalmic Solution, 40 mg. of base per cc (NDA 7–757), and

b. Sulfisoxazole diolamine, marketed as Gantrisin Ophthalmic Ointment, 40 mg. of base per gram (NDA 8–414), by Hoffmann-La Roche, Inc., 340 Kingsland Avenue, Nutley, N.J. 07110.

5. Sulfanilamide 0.40 percent with Chloramine-T 0.13 percent marketed as Actilamide Ophthalmic Solution by Broemmel Pharmaceuticals, 1235 Sutter Street, San Francisco, Calif. 94109 (NDA 7-877).

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

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

SULFAMETHIZOLE, SODIUM SULFACETAMIDE, SULFISOXAZOLE DIOLAMINE, AND SULFACETAMIDE WITH CHLORAMINE T

A. *Effectiveness classification.* 1. The Food and Drug Administration has considered the Academy reports, as well as other available evidence, and concludes that these sulfonamides in ophthalmic ointments and solutions are effective for the treatment of conjunctivitis, corneal ulcer, and other superficial ocular infections due to susceptible micro-organisms, and as an adjunct in systemic sulfonamide therapy of trachoma.

2. These ophthalmic drugs are regarded as possibly effective for the treatment of infections of the eye socket, blepharitis, blepharo-conjunctivitis, dacryocystitis, styes and other common eye and eyelid infections; for prophylactic use following corneal abrasions, lacerations, burns or removal of foreign bodies, and before and after surgery; and for treatment of superficial punctate keratitis; staphylococcal conjunctivitis; chronic catarrhal conjunctivitis; acid streptococcus hemolyticus infections; and staphylococcal and sebaceous blepharitis.

3. As nasal solutions, these drugs lack substantial evidence of effectiveness for the treatment of infections of the nasal cavity and accessory sinuses; for the prevention of secondary infections in the upper respiratory tract; and for prophylaxis before and after surgery of the upper respiratory tract.

B. *Form of drug.* Sulfonamide ophthalmic preparations are in solution or ointment form suitable for ophthalmic administration and contain an amount of active ingredient appropriate for administration as described in the labeling conditions in this announcement.

C. *Labeling conditions.* 1. The label bears the statement "Caution: Federal law prohibits dispensing without prescription" and a statement that the product is or is not sterile.

2. The drug is labeled to comply with all requirements of the Act and regulations and those parts of its labeling indicated below are substantially as follows: (Optional additional information, applicable to the drug, may be proposed under other appropriate paragraph headings and should follow the information set forth below.)

DESCRIPTION

(Descriptive information to be included by the manufacturer or distributor should be confined to an appropriate description of the physical and chemical properties of the drug and the formulation. Include statement that the preparation is or is not sterile.)

ACTION

Sulfonamides exert a bacteriostatic effect against a wide range of gram-positive and gram-negative microorganisms, by restricting through competition with aminobenzoic acid, the synthesis of folic acid which bacteria require for growth.

INDICATIONS

For the treatment of conjunctivitis, corneal ulcer, and other superficial ocular infections to susceptible microorganisms, and as adjunctive in systemic sulfonamide therapy of trachoma.

CONTRAINDICATIONS

Hypersensitivity to sulfonamide preparations.

PRECAUTIONS

The solutions are incompatible with silver preparations.

Ophthalmic ointments may retard corneal healing.

Nonsusceptible organisms, including fungi, may proliferate with the use of this preparation.

Sulfonamides are inactivated by the aminobenzoic acid present in purulent exudates.

DOSAGE AND ADMINISTRATION

Sulfamethizole Solution 40 percent: For ophthalmic instillation: three drops instilled in the conjunctival sac two or three times daily.

Sulfanilamide (0.40 percent and Chloramine T (0.13 percent) Solution: For ophthalmic instillation: two to four drops in each eye every one-half to 1 hour for the first six to eight applications; then one drop in each eye every 3 to 4 hours.

Sulfisoxazole Diolamine Ophthalmic Ointment 4 percent (as base): Instill small amount in the lower conjunctival sac one to three times daily and at bedtime.

Sulfisoxazole Diolamine Ophthalmic Solution 4 percent (as base): Instill 2-3 drops into lower conjunctival sac three or more times daily.

Sodium Sulfacetamide Ophthalmic Solution 30 percent: For conjunctivitis or corneal ulcer: Instill 1 drop into lower conjunctival sac every 2 hours or less frequently according to severity of infection.

For Trachoma: 2 drops every 2 hours; concomitant systemic sulfonamide therapy is indicated.

Sodium Sulfacetamide Ophthalmic Solution 10 percent. 1-2 drops into lower conjunctival sac every 2-3 hours during the day, less often at night.

Sodium Sulfacetamide Ophthalmic Ointment 30 percent. Instill small amount into lower conjunctival sac every 3-4 hours and at bedtime, or less frequently according to severity of infection. It may be used as adjunct to solution.

Sodium Sulfacetamide Ointment 10 percent. Apply a small amount 4 times daily and at bedtime.

D. *Claims permitted during extended period for obtaining substantial evidence.* Those claims for which the drug is described in paragraph A2 above as possibly effective (not included in the labeling conditions in paragraph C) may continue to be used for 6 months following the date of this publication to allow additional time within which holders of previously approved applications or persons marketing the drug without approval may obtain and submit to the Food and Drug Administration, data to provide substantial evidence of effectiveness.

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

a. Revised labeling as needed to conform to the labeling conditions described herein for the drug.

b. Updating information as needed to make the application current in regard to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of the new drug application form FD-356H to the extent described in the proposal for abbreviated new drug applications, § 130.4(f), published in the FEDERAL REGISTER February 27, 1969. (One supplement may contain all the information described in this paragraph.)

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

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

b. 60 days for updating information.

3. Marketing of the drug may continue until the supplemental applications submitted in accord with the preceding subparagraphs 1 and 2 are acted upon, provided that within 60 days after the date of this publication, the labeling of the preparation shipped within the jurisdiction of the Act is in accord with the labeling conditions described in this announcement. (It may continue to include the indications referenced in paragraph D for the period stated.)

F. *New applications.* 1. Any other person who distributes or intends to distribute such drug which is intended for the conditions of use for which it has been shown to be effective, as described under A above, should submit an abbreviated new drug application meeting the conditions specified in the proposed regulation, § 130.4(f) (1) and (2), published in the FEDERAL REGISTER February 27, 1969. Such applications should include proposed labeling which is in accord with the labeling conditions described herein.

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

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

referenced in paragraph D for the period stated.)

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

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

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

G. *Opportunity for a hearing.* 1. An applicant or any person who would be adversely affected by an order requiring deletion of the claims for which the drug lacks substantial evidence of effectiveness, as described in paragraph A3 above, may request a hearing within 30 days after publication of this announcement.

2. If no request for a hearing is received, the approval of all previously approved applications providing for such claims will be regarded as withdrawn and the applications will be approved as supplemented in accordance with this announcement. If such request is filed, an announcement will be published in the FEDERAL REGISTER setting forth the provisions of section 505(e) of the Act on the basis of which the Commissioner proposes to withdraw approval of such new drug applications and all amendments and supplements thereto and staying those parts of this announcement which state that labeling deleting such claims shall be in use within 60 days after publication hereof.

H. *Exemption from periodic reporting.* The periodic reporting requirements of §§ 130.35(e) and 130.13(b) (4) are waived in regard to applications approved for these drugs solely for the conditions of use for which they are regarded as effective as described herein.

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

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

Representatives of the Administration are willing to meet with any interested person who desires to have a conference concerning proposed changes in the labeling set forth herein. Requests for such meetings should be made to the Office of Marketed Drugs (MD-300), at the address given below, within 30 days after the publication of this notice in the FEDERAL REGISTER.

A copy of the NAS-NRC report has been furnished to each firm referred to above. Any other manufacturer, packer, or distributor of a drug of similar composition and labeling to the drug listed in this announcement or any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number, DESI 5963, and be directed to the attention of the following appropriate office and addressed to the Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204:

Requests for NAS-NRC report: Press Relations Office (CE-300).
Supplements (Identify with new drug application number): Office of Marketed Drugs (MD-300), Bureau of Medicine.
Original abbreviated new drug applications: Office of Marketed Drugs (MD-300), Bureau of Medicine.
All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (MD-16), Bureau of Medicine.

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

Dated: September 2, 1969.

HERBERT L. LEY, JR.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-10726; Filed, Sept. 9, 1969; 8:45 a.m.]

[DESI 10279]

CYCLOSERINE

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:

Seromycin capsules containing 250 mg. of cycloserine, marketed by Eli Lilly and Co., Post Office Box 618, Indianapolis, Ind. 46206.

The Food and Drug Administration concludes that:

1. Cycloserine is an effective agent against Mycobacterium tuberculosis and, when used with other effective antituberculous drugs is suitable for the treatment of active tuberculosis in an adult after failure of treatment with primary drugs.

2. The drug is effective in acute urinary tract infections caused by susceptible strains of gram-positive and gram-negative bacteria, especially Aerobacter and E. Coli, although when used for the therapy of urinary tract infections caused by bacteria other than mycobacteria it should be used only if other more conventional therapy has failed and if the organisms in question have been demonstrated to be susceptible to the drug.

Preparations containing cycloserine are subject to the antibiotic certification procedures pursuant to section 507 of the Federal Food, Drug, and Cosmetic Act. Batches of the drug in capsule form intended for oral use for which certification is requested should provide for labeling information in accord with labeling guidelines developed on the basis of this reevaluation of the drug and 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 after publication of this announcement in the FEDERAL REGISTER, supplements to their antibiotic drug applications to provide for revised labeling. Those parts of the labeling indicated below should be substantially as follows (Optional additional information applicable to the drug may be included under other appropriate paragraph headings and should follow the information given below):

CYCLOSERINE

DESCRIPTION

Cycloserine (D-4-amino-3-isoxazolidinone) is a broad spectrum antibiotic produced by a species of *Streptomyces* and later synthesized. It is a white powder, soluble in water and stable in alkaline solution. It is rapidly destroyed when exposed to neutral or acidic pH. (Other descriptive information to be included by the manufacturer or distributor should be confined to an appropriate description of the physical and chemical properties of the drug and the formulation.)

ACTIONS

Cycloserine inhibits cell-wall synthesis in susceptible strains of gram-positive and gram-negative bacteria and in *Mycobacterium tuberculosis*.

INDICATIONS

Any form of active tuberculosis in an adult (including renal disease) after failure of adequate treatment with the primary drugs, e.g., isoniazid, streptomycin and aminosalicylic acid preparations. Cycloserine should be used in such secondary therapy together with one or more effective antituberculosis agents.

Acute urinary tract infections caused by susceptible strains of gram-positive and gram-negative bacteria, especially *Aerobacter* and *Escherichia coli*. Cycloserine is generally no more and usually less effective than other antimicrobial agents for the therapy of urinary tract infections caused by bacteria other than mycobacteria and should be used only if other more conventional therapy has failed and if the organisms in question have been demonstrated to be susceptible to the drug.

CONTRAINDICATIONS

Epilepsy.
Depression, severe anxiety, or psychosis.
Excessive current use of ethyl alcohol.
Hypersensitivity to cycloserine.
Severe renal insufficiency.

WARNINGS

Cycloserine should be discontinued or reduced in dosage in patients who develop allergic dermatitis or CNS toxic symptoms, such as convulsions, psychosis, somnolence, depression, confusion, hyperreflexia, headache, tremor, vertigo, paresis, and dysarthria.

The toxicity of cycloserine is closely related to dosage and excessive blood levels.

The ratio of toxic dose to effective dose in tuberculosis is small. Daily doses of more than 1,000 mg. should be used only with great caution.

The risk of convulsions is increased in chronic alcoholics.

Patients should be monitored by hematologic, renal excretion, blood level, and liver function studies.

USAGE IN PREGNANCY: Safety for use in pregnancy has not been established.

USAGE IN CHILDREN: Dosage and/or safety for use in children has not been established.

PRECAUTIONS

Before treatment is started, cultures of *Mycobacterium tuberculosis* should be tested in vitro for susceptibility to cycloserine and the other antituberculous agents in the proposed combined drug regimen.

Particularly in patients with reduced renal function, daily dosage above 500 mg. or symptoms or signs of toxicity, blood levels of cycloserine should be measured at least weekly in order to avoid excessive blood levels. Blood levels above 30 mcg./ml. require a reduction in dosage.

Simultaneous administration of anticonvulsant drugs or sedatives may reduce the risk of convulsions, anxiety, and tremor, especially in patients receiving the higher daily dosages. The value of pyridoxine in preventing CNS toxicity from cycloserine has not been proved.

ADVERSE REACTIONS

The following side effects have been observed in patients receiving cycloserine, particularly when daily dosage exceeds 500 mg.:

Allergic rash.
Convulsions.
Psychoses (suicide during therapy):
  Changes in character.
  Hyperirritability.
  Aggression.
Somnolence.
Drowsiness.
Headache.
Tremor.
Dysarthria.
Vertigo.
Confusion.
Disorientation:
  Loss of memory.
Paresis.
Hyperreflexia.
Paresthesias.
Elevated serum transaminase, especially in patients with preexisting liver disease.
Major and minor (localized) clonic seizures, coma.

DOSAGE AND ADMINISTRATION

0.5 to 1 Gm./day in divided doses monitored by blood levels.

Although the drug is regarded as probably effective in the treatment of leprosy, any recommendation for use of the drug in this condition should be deleted from the labeling. Because of the potentially serious nature of the adverse effects associated with cycloserine and the availability of effective, less toxic drugs, preparations containing cycloserine and having labeling suggesting or recommending it for the treatment of leprosy will no longer be acceptable for certification or release after the publication date of this announcement.

Representatives of the Administration are willing to meet with any interested person who desires to have a conference concerning proposed changes in the labeling set forth in this announcement. Request for such meetings should be made to the Division of Anti-Infective Drugs (MD–140) at the address given below, within 30 days after the publication of this notice in the FEDERAL REGISTER.

A copy of the NAS-NRC report has been furnished to the firm referred to above. Any other interested person may obtain a copy by request to the appropriate office named below.

Communications forwarded in response to this announcement should be identified with the reference number, DESI 10279, and be directed to the attention of the following appropriate office and addressed to the Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204:

Requests for NAS-NRC report: Press Relations Office (CE–300).
Supplements (Identify with NDA number, if known): Division of Anti-Infective Drugs (MD–140), Office of New Drugs, Bureau of Medicine.
All other communications regarding this announcement: Special Assistant for Drug Efficacy Study Implementation (MD–16), Bureau of Medicine.

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: September 2, 1969.

HERBERT L. LEY, Jr.,
Commissioner of Food and Drugs.

[F.R. Doc. 69–10724; Filed, Sept. 9, 1969; 8:45 a.m.]

AMERICAN CYANAMID CO.

Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP OF0867) has been filed by American Cyanamid Co., Agricultural Division, Post Office Box 400, Princeton, N.J. 08540, proposing the establishment of tolerances for residues of the insecticide dimethoate (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorodithioate including its oxygen analog (*O,O*-dimethyl *S*-(*N*-methylcarbamoylmethyl) phosphorothioate in or on the raw agricultural commodities wheat (green fodder and straw) at 2 parts per million and wheat grain at 0.04 part per million (negligible residue) and in meat, fat, and meat byproducts of goats, hogs, horses, and sheep at 0.02 part per million (negligible residue).

The analytical method proposed in the petition for determining residues of the insecticide and its oxygen analog is a gas chromatographic procedure using a flame photometric detector equipped with a phosphorus filter.

Dated: September 3, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69–10727; Filed, Sept. 9, 1969; 8:45 a.m.]

PILLSBURY CO.

Enriched Flour Deviating From Identity Standard; Temporary Permit for Market Testing

Pursuant to § 10.5 (21 CFR 10.5) concerning temporary permits for market testing foods deviating from the requirements of standards of identity promulgated pursuant to section 401 (21 U.S.C. 341) of the Federal Food, Drug, and Cosmetic Act, notice is given that a temporary permit has been issued to The Pillsbury Co., 608 Second Avenue South, Minneapolis, Minn. 55402. This permit covers interstate marketing tests of an enriched flour deviating from the standard of identity for enriched flour (21 CFR 15.10). The marketing is to take place in an area of Chicago, Ill., pursuant to a study being conducted by the sponsor on behalf of the Office of Economic Opportunity.

The product will contain added L-lysine monohydrochloride in a quantity not less than 0.30 percent, an ingredient not presently provided for in the standards. Nutrients will be added as specified in § 15.10(a) except that (1) the specified quantities of thiamine, riboflavin, niacin, and iron (Fe) will be increased approximately twofold and (2) the labels of the product will declare by common name the ingredients used as well as the percentage of the minimum daily requirement for the vitamins and minerals present in the enriched flour.

This permit expires February 9, 1970.

Dated: September 3, 1969.

J. K. KIRK,
Associate Commissioner for Compliance.

[F.R. Doc. 69–10728; Filed, Sept. 9, 1969; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board

[Docket No. SS–R–7]

RAILWAY ACCIDENT NEAR DARIEN, CONN.

Notice of Hearing

In the matter of investigation of the accident involving the head-on collision of Penn Central Passenger Trains N–48 and N–49 on the New Canaan Branch near Darien, Conn., on August 20, 1969, resulting in fatalities and injuries to some passengers and employees on the train.

Notice is hereby given that an Accident Investigation Hearing on the above matter will be held commencing at 9 a.m., e.d.t., on Tuesday, October 7, 1969, in the meeting room of the Holiday Inn Motel located at 30 Whalley Avenue, New Haven, Conn.

Dated this 2d day of September 1969.

[SEAL] LOUIS M. THAYER,
Chairman, Board of Inquiry.

[F.R. Doc. 69–10730; Filed, Sept. 9, 1969; 8:45 a.m.]

BUREAU OF THE BUDGET

COST OF HOSPITAL AND MEDICAL CARE AND TREATMENT FURNISHED BY THE UNITED STATES

Certain Rates Regarding Recovery From Tortiously Liable Third Persons

By virtue of the authority vested in the President by section 2(a) of the Act of September 25, 1962 (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Bureau of the Budget by section 1 of Executive Order No. 11060 of November 7, 1962 (27 F.R. 10925), the following rates are established for use in connection with the recovery, as authorized by such Act, from tortiously liable third persons of the cost of hospital and medical care and treatment furnished by the United States (Part 43 of Chapter I of Title 28 of the Code of Federal Regulations), and have been determined to represent the reasonable value of hospital, nursing home, medical, surgical or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished:

(a) For such care and treatment furnished by the United States in Federal hospitals and nursing homes, with the exception of Freedmen's Hospital, Washington, D.C., and Canal Zone Government hospitals—

	Effective September 1, 1969 and thereafter
Hospital care per inpatient day:	
Federal general and tuberculosis hospitals	$53.00
Federal mental hospitals	24.00
Veterans Administration nursing home units	18.00
Outpatient medical and dental treatment: Per facility visit	11.00

(b) For such care and treatment furnished at Government expense in a facility not operated by the United States, the rates shall be the amounts expended by the United States for such care and treatment;

(c) For such care and treatment at Freedmen's Hospital, Washington, D.C., the rates shall be those charged full-pay private patients by the hospital at the time the care and treatment is furnished by the United States; and

(d) For such care and treatment at Canal Zone Government hospitals, the rates shall be those established, and in effect at the time the care and treatment is furnished, by the Canal Zone Government for such care and treatment furnished to beneficiaries of other U.S. Government agencies.

For the period beginning September 1, 1969, the rates prescribed herein supersede those established by the Director of the Bureau of the Budget on May 8, 1968 (33 F.R. 6943), and corrected on May 10, 1969 (33 F.R. 7048).

PHILLIP S. HUGHES,
Acting Director,
Bureau of the Budget.

AUGUST 22, 1969.

[F.R. Doc. 69-10798; Filed, Sept. 9, 1969; 8:50 a.m.]

CIVIL AERONAUTICS BOARD

[Docket Nos. 18650, 20291; Order 69-9-27]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Rates of Exchange

Issued under delegated authority, September 4, 1969.

In the matter of agreement adopted by Traffic Conferences 1, 2, and 3 of the International Air Transport Association relating to rates of exchange; Docket 18650, Docket 20291, Agreement CAB 21237.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conferences 1, 2, and 3 of the International Air Transport Association (IATA), and adopted by mail votes. The agreement has been assigned the above-designated CAB Agreement number.

The agreement amends the existing resolution governing rates of exchange to reflect the recently modified rate of exchange for the Hungarian forint.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that the following resolutions which are incorporated in the agreement indicated, are adverse to the public interest or in violation of the Act:

Agreement CAB	*IATA Resolutions*
21237	100(Mail 803)021b. 200(Mail 921)021b. 300(Mail 302)021b.

Accordingly, it is ordered, That:

Action on Agreement CAB 21237 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 69-10770; Filed, Sept. 9, 1969; 8:48 a.m.]

[Docket No. 18650; Order 69-9-26]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority September 4, 1969.

In the matter of agreement adopted by the Joint Conferences of the International Air Transport Association relating to specific commodity rates; Docket 18650, Agreement CAB 20745, R-94 and R-95.

By Order 69-8-103, dated August 19, 1969, action was deferred, with a view toward eventual approval, on certain resolutions adopted by the International Air Transport Association (IATA), relating to specific commodity rates. In deferring action on the agreement 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 69-8-103 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 20745, R-94 and R-95, be, and it hereby is, approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 69-10771; Filed, Sept. 9, 1969; 8:48 a.m.]

[Docket No. 20781; Order 69-8-160]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Transatlantic Fares

Issued under delegated authority August 29, 1969.

Agreement adopted by Joint Conference 1-2 of the International Air Transport Association relating to transatlantic fare matters; Docket 20781, Agreement CAB 21261.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conference 1-2 of the International Air Transport Association (IATA), and adopted by mail vote. The agreement has been assigned the above-designated CAB Agreement number.

The agreement amends an existing resolution governing North Atlantic bulk affinity and incentive group fares to/from Spain and Portugal by incorporating into this resolution by reference the use of application forms related to affinity and incentive group travel in other North Atlantic markets.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that Resolution JT12(Mail 705)076m, which is incorporated in Agreement CAB 21261, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Action on Agreement CAB 21261 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service

of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 69-10772; Filed, Sept. 9, 1969; 8:48 a.m.]

[Docket No. 20472]

MOHAWK AIRLINES, INC.

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on September 30, 1969, at 10 a.m., e.d.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Requests for evidence, statements of position, proposed issues, stipulations, and procedural dates shall be filed with the Examiner and all parties on or before September 23, 1969.

Dated at Washington, D.C., September 4, 1969.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 69-10768; Filed, Sept. 9, 1969; 8:48 a.m.]

[Docket No. 20462]

SEAGREEN AIR TRANSPORT, LTD.

Notice of Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled proceeding will be held on September 16, 1969, at 10 a.m., e.d.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Ross I. Newmann.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report served on December 27, 1968, the Prehearing Conference Report served on July 9, 1969, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 4, 1969.

[SEAL] ROSS I. NEWMAN,
Hearing Examiner.

[F.R. Doc. 69-10769; Filed, Sept. 9, 1969; 8:48 a.m.]

FEDERAL MARITIME COMMISSION

GRACE LINE, INC., AND MOORE McCORMACK LINES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, 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. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed by:

Mr. J. A. Hoyt, Executive Vice President, Grace Line Inc., 3 Hanover Square, New York, N.Y. 10004.

Agreement No. 9753-1 amends the basic agreement which provides that Moore McCormack Lines, Inc., shall be the freight agent of Grace Line, Inc., in Philadelphia, Pa., by modifying Article 3 entitled "Compensation" to increase the agency fee for each vessel call from $150 to $400 in accordance with the terms and conditions set forth in the agreement.

Dated: September 5, 1969.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Assistant Secretary.

[F.R. Doc. 69-10773; Filed, Sept. 9, 1969; 8:48 a.m.]

ORIENT/ATLANTIC AND GULF RATE AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, 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. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed by:

Mr. Bernard Katz, Traffic Manager, Thor Eckert & Co., Inc., General Agents, 19 Rector Street, New York, N.Y. 10006.

Agreement No. 9818 between China Merchants Steam Navigation Co., China Union Lines, Korea Shipping Corp., Orient Overseas Lines, and Pacific Star Lines covers the establishment of a rate making agreement styled as the "Orient/Atlantic and Gulf Rate Agreement" which will operate in the trade from Japan, Okinawa, Korea, Taiwan, Hong Kong, and the Philippine Islands to Atlantic and gulf ports of the United States. Under this arrangement, the parties would be authorized to discuss and agree upon "rates, charges, classifications, practices, and tariff matters" subject to the right of each to act independently with respect to any matter previously agreed upon provided 48 hours notice is furnished the other signatories.

Dated: September 5, 1969.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Assistant Secretary.

[F.R. Doc. 69-10774; Filed, Sept. 9, 1969; 8:48 a.m.]

PHILIPPINES NORTH AMERICA CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, 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. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of Agreement filed pursuant to Commission decision by:

Edward D. Ransom, Esq., Lillick, McHose, Wheat, Adams and Charles, 311 California Street, San Francisco, Calif. 94104.

Agreement No. 5600-29 has been filed by the member lines of the Philippines North America Conference which modifies their basic agreement, as amended. The modification would clearly authorize the Conference to establish Overland Common Point Territory (OCP) rates separate and distinct from "local" rates; and would permit the Conference to enter into agreements with domestic connecting carriers with respect to the interchange of cargo between them. This modification was filed pursuant to the Commission's decision arising out of the

proceedings in Docket 65–31, Investigation of Overland/OCP Rates and Absorptions (served Feb. 24, 1969) wherein the Commission directed respondents to "update their basic agreements to reflect the full structure of its rate-making and the absorptions practice pursuant thereto".

Dated: September 5, 1969.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Assistant Secretary.

[F.R. Doc. 69–10775; Filed, Sept. 9, 1969; 8:48 a.m.]

SCANDINAVIA BALTIC U.S. NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect agreements at the office of the District Managers, New York, N.Y., New Orelans, La., and San Francisco, Calif. Comments with reference to an agreement including a request for hearing, if desired, 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. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the comments should indicate that this has been done.

Notice of agreement filed by:

Mr. M. J. Kelly, Vice President, Moore-McCormack Lines Inc., 2 Broadway, New York, N.Y. 10004.

Agreement No. 9364–3 between the member lines of the Scandinavia Baltic U.S. North Atlantic Westbound Freight Conference amends the preamble of the basic agreement to describe the parties thereto as "vessel-operating" common carriers, and to include, cargo transported on vessels covered by the agreement rather than on vessels of the parties to the agreement. Article (1) is amended to provide that the agreement has application to the transportation of all cargo by the members in the trade covered thereby in lieu of vessels, owned, controlled, or chartered from others, and operated by the members in the trade covered by the agreement, and amends the first paragraph of Article 6 containing the requirements for admission to conference membership to read, as follows:

Any vessel-operating common carrier by water as defined in Section 1 of the Shipping Act, 1916, as amended, who has been regularly engaged as such common carrier in the trade covered by this agreement, either by direct sailing, transshipment or transfer (movement of cargo by a carrier from one of its vessels to another of its vessels) with the proviso that transshipment or transfer via ports outside the scope of the agreement be accomplished by vessels, committed to the service of the ocean carrier, and who evidences an ability and intention in good faith to abide by all the terms and conditions of this agreement may hereafter become a party to this agreement by affixing his, their or its signature thereto, provided, however, that no admission to membership shall become effective until advice thereof has been furnished to the governmental agency charged with the administration of section 15 of the Shipping Act, 1916, as amended.

Dated: September 5, 1969.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Assistant Secretary.

[F.R. Doc. 69–10776; Filed, Sept. 9, 1969; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 18645, 18646; FCC 69–932]

EXEC-AIR, INC., AND BUTLER AVIATION-WILLOW RUN, INC.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Exec-Air, Inc., Ypsilanti, Mich., Docket No. 18645, File No. 27–A–L–59; Butler Aviation-Willow Run, Inc., Ypsilanti, Mich., Docket No. 18646, File No. 4–A–L–29; for aeronautical advisory station to serve the Willow Run Airport, Ypsilanti, Mich.

1. The Commission's rules (§ 87.251(a)) provide that only one aeronautical advisory station may be authorized to operate at a landing area. The above-captioned applications both seek Commission authority to operate an aeronautical advisory station at the Willow Run Airport, Ypsilanti, Mich., and therefore, are mutually exclusive. Accordingly, it is necessary to designate the applications for hearing. Except for the issues specified herein each applicant is otherwise qualified.

2. In view of the foregoing: *It is ordered*, That pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, that the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order on the following issues:

(a) To determine which applicant would provide the public with better aeronautical advisory service based on the following conditions:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications;

(5) Ability to provide information pertaining to primary and secondary communications as specified in § 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators.

(b) To determine in light of the evidence adduced on the foregoing issues which, if either, of the applications should be granted.

3. *It is further ordered*, That to avail themselves of an opportunity to be heard Exec-Air, Inc., and Butler Aviation-Willow Run, Inc., pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this order file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this order.

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

[F.R. Doc. 69–10760; Filed, Sept. 9, 1969; 8:47 a.m.]

FEDERAL RESERVE SYSTEM

[Reg. Z]

MAINE

Application for Exemption From Truth in Lending Act

Pursuant to 12 CFR 226.12 (Supplement II to Regulation Z) the State of Maine has applied to the Board of Governors for an exemption from the Truth in Lending Act (Title I of the Consumer Credit Protection Act, 12 U.S.C. 1601ff) on the grounds that under the laws of the State of Maine credit transactions within that State are subject to requirements substantially similar to those imposed under chapter 2 of the Truth in Lending Act and that there is adequate provision for enforcement of such requirements.

The application is available for inspection at the Federal Reserve Building in Washington and at the Federal Reserve Bank of Boston.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 15, 1969. Under the Board's rules regarding availability of information (12 CFR 261), such materials will be available for inspection and copying unless

[1] Commissioners Bartley, Cox and Wadsworth absent.

the person submitting the material requests that it be considered confidential.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

SEPTEMBER 3, 1969.

[F.R. Doc. 69-10723; Filed, Sept. 9, 1969; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-4310]

FEDERATED PURCHASER, INC.

Order Suspending Trading

SEPTEMBER 4, 1969.

The common stock, 10 cents par value, of Federated Purchaser, Inc., being listed and registered on the American Stock Exchange pursuant to the provisions of the Securities Exchange Act of 1934 and all other securities of Federated Purchaser, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges 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 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the American Stock Exchange, and trading otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 5, 1969, through September 14, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 69-10745; Filed, Sept. 9, 1969; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 5, 1969.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 41736—*Grain and grain products within the western district.* Filed by Southwestern Freight Bureau, agent (No. B-87), for interested rail carriers. Rates on grain, grain products, related articles and seeds, in carloads, as described in the application, from, to and between points in Colorado-Utah-Wyoming Committee, Illinois Freight Association, Southwestern Freight Bureau, Texas-Louisiana Freight Bureau, and Western Trunk Line Committee territories.

Grounds for relief—Revision in carload minimum weights.

FSA No. 41737—*Cereal food preparations within the western district.* Filed by Southwestern Freight Bureau, agent (No. B-88), for interested rail carriers. Rates on cereal food preparations and related articles, in carloads, as described in the application, from, to and between points in Colorado-Utah-Wyoming Committee, Illinois Freight Association, Southwestern Freight Bureau, Texas-Louisiana Freight Bureau, and Western Trunk Line Committee territories.

Grounds for relief—Revision of rate structure.

FSA No. 41738—*Aluminum Sulphate from Joliet, Ill.* Filed by Southwestern Freight Bureau, agent (No. B-69), for interested rail carriers. Rates on aluminum sulphate, dry or paper makers' alum, dry, in carloads, as described in the application, from Joliet, Ill., to points in southwestern territory.

Grounds for relief—Market competition.

Tariff—Supplement 139 to Southwestern Freight Bureau, agent, tariff ICC 4690.

By the Commission.

[SEAL] ANDREW ANTHONY, Jr.,
Acting Secretary.

[F.R. Doc. 69-10780; Filed, Sept. 9, 1969; 8:48 a.m.]

[Notice 567]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

SEPTEMBER 5, 1969.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's Deviation Rules Revised, 1957 (49 CFR 1042.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Deviation Rules Revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 89723 (Deviation No. 11), MISSOURI PACIFIC TRUCK LINES, INC., 210 North 13th Street, St. Louis, Mo. 63103, filed August 25, 1969. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Interstate Highway 45 and Texas Highway 30 (1 mile west of Huntsville, Tex.), over Interstate Highway 45 to junction Texas Highway 105 at or near Conroe, Tex., thence over Texas Highway 105 to Plantersville, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Huntsville, Tex., over Texas Highway 30 to Roans Prairie, Tex., thence over Texas Highway 90 to Navasota, Tex., thence over Texas Highway 105 to Plantersville, Tex., and return over the same route.

No. MC 108859 (Deviation No. 6), CLAIRMONT TRANSFER CO., 1803 Seventh Avenue North, Escanaba, Mich. 49829, filed August 28, 1969. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Indianapolis, Ind., and Spencer, Ind., over Indiana Highway 67, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Huntingburg, Ind., over Indiana Highway 45 to Haysville, Ind., thence over Indiana Highway 56 to Paoli, Ind., thence over Indiana Highway 37 via Bedford and Bloomington to Indianapolis, Ind., and (2) from Huntingburg, Ind., over the route described in (1) above to Bloomington, Ind., thence over Indiana Highway 46 to Spencer, Ind., and return over the same routes.

MOTOR CARRIERS OF PASSENGERS

No. MC 109780 (Deviation No. 24), CONTINENTAL TRAILWAYS, INC., Post Office Box 730, Wichita, Kans. 67201, filed August 25, 1969. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: Between junction U.S. Highway 65 and Interstate Highway 40, approximately 3 miles north of Little Rock, Ark., and Conway, Ark., over Interstate Highway 40, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: Between Conway, Ark., and Little Rock, Ark., over U.S. Highway 65.

No. MC 109780 (Deviation No. 25), CONTINENTAL TRAILWAYS, INC., Post Office Box 730, Wichita, Kans. 67201, filed August 27, 1969. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in

the same vehicle with passengers, over a deviation route as follows: Between Kansas City, Mo., and Cameron, Mo., over Interstate Highway 35, with the following access routes: (1) From junction Interstate Highway 35 and U.S. Highway 36 over U.S. Highway 36 to Cameron, Mo., and (2) from junction Interstate Highway 35 and U.S. Highway 69 over U.S. Highway 69 to Cameron, Mo., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: From Kansas City, Mo., over Alternate U.S. Highway 169 to junction U.S. Highway 69, thence over U.S. Highway 69 to Cameron, Mo., and return over the same route.

By the Commission.

[SEAL] ANDREW ANTHONY, JR.,
Acting Secretary.

[F.R. Doc. 69-10781; Filed, Sept. 9, 1969; 8:49 a.m.]

[Notice 1328]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

SEPTEMBER 5, 1969.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 115841 (Sub-No. 344) (Clarification), filed March 3, 1969, published in the FEDERAL REGISTER issue of April 4, 1969, clarified, and republished as clarified this issue. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 West Bankhead Highway, Post Office Box 2169, Birmingham, Ala. 35201. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Chicago and Deerfield, Ill., to points in Alabama, Georgia, Tennessee, Mississippi, Louisiana, Arkansas, Kentucky, and the Lower Peninsula of Michigan. Restriction: The authority sought herein is restricted to the transportation of traffic originating at the plantsite and storage facilities utilized by the Kitchens of Sara Lee at Deerfield and Chicago, Ill. NOTE: Applicant states it intends to tack at points in Alabama and Tennessee to provide service to North Carolina, South Carolina, and Florida. The purpose of this republication is to clarify the tacking information. The hearing now scheduled for September 18, 1969, at Nashville, Tenn., will proceed as scheduled.

NOTICE OF FILING OF PETITIONS

No. MC 8989 and MC 8989 (Sub-No. 148) (Notice of filing of petition for modification of certificates), filed June 26, 1969. Petitioner: HOWARD SOBER, INC., Lansing, Mich. Petitioner's representative: Albert F. Beasley, 1019 Investment Building, Washington, D.C. 20005. Petitioner holds authority in No. MC 8989, the part here pertinent, to transport, over irregular routes, new automobiles, new trucks, new tractors, and new chassis, in initial movements, in truckaway service, and new bodies, and parts of the commodities specified immediately above, from places of manufacture and assembly in Wayne County, Mich., and Warren Township, Macomb County, Mich., to points in Michigan, Ohio, Pennsylvania, New York, and that part of West Virginia north of U.S. Highway 60 and west of a line beginning at Charleston, W. Va., and extending along U.S. Highway 119 to junction West Virginia Highway 16, and thence along West Virginia Highway 16 to Highway 16, and thence along West Virginia Highway 16 to the Ohio River, including points on the indicated portions of the highways specified, with no transportation for compensation on return, except as otherwise authorized. New automobiles, new trucks, new tractors, and new chassis, in initial movements, in driveaway service, and new bodies and parts of the commodities specified immediately above, from places of manufacture and assembly in Wayne County, Mich., and Warren Township, Macomb County, Mich., to Hartford, Conn., Newark, N.J. and points in Michigan, Ohio, Pennsylvania, New York, Rhode Island, Maryland, and the District of Columbia, with no transportation for compensation on return, except as otherwise authorized. Petitioner holds authority in No. MC 8989 (Sub-No. 148), to transport trucks, in initial movements, in truckaway service, from the plant of Divco Corp. in Warren Township, Macomb County, Mich., to points in Florida, Missouri, Texas, Kentucky, North Carolina, Illinois, Oklahoma, South Carolina, Indiana, Tennessee, Iowa, Nebraska, Minnesota, Wisconsin, South Dakota, and Louisiana, and damaged or rejected vehicles, on return.

Applicant also holds authority in No. MC 8989, the part pertinent in this petition, to transport automobiles, trucks, buses, tractors, and chassis, new, used, unfinished, or wrecked, in secondary movements, in driveaway service, and bodies, new, used, unfinished, or wrecked, and parts of the commodities specified immediately above, between San Francisco and Los Angeles, Calif., Boise, Idaho, and points in that part of the United States extending along U.S. Highway 87 to Denver, Colo., thence along U.S. Highway 287 (formerly combined U.S. Highways 87 and 287) to Fort Collins, Colo., thence along Colorado Highway 1 (formerly portion U.S. Highway 87) to Wellington, Colo., thence along U.S. Highway 87 to Great Falls, Mont., and thence along U.S. Highway 91 to the United States-Canada boundary line, including points on the indicated portions of the highways specified (except Duluth, Minn.). By the instant petition, petitioner states, among other things, I. That Warren Township no longer exists as a political subdivision, but has been replaced by the cities of Warren and of Center Line, Mich. Petitioner states that it does not seek any extension of authority but merely the appropriate current description for what was formerly Warren Township, Macomb County, Mich. and II. Petitioner also requests that the restriction "(except Duluth, Minn.)" be removed from its base certificate as set forth above. An order of the Commission, Division 1, dated July 18, 1969, orders that notice of the petition of applicant insofar as it seeks modification of portions of certificates Nos. MC 8989 and MC 8989 Sub 148 be published in the FEDERAL REGISTER. Any interested person desiring to participate, may file an original and six copies of his written representations, views or argument in support of, or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 78175 and MC 78175 (Sub-No. 3) (Correction) (Notice of Filing of Petition for Waiver of Rule 101(e) for Reconsideration and Modification of Certificates), filed July 14, 1969, published in the FEDERAL REGISTER issue of August 20, 1969, and republished as corrected, in parts this issue. Petitioner: PELLETIER TRUCKING COMPANY, INC., Pawtucket, R.I. Petitioner's representative: Frederick T. O'Sullivan, Adams Building, 372 Granite Avenue, Milton, Mass. 02186. NOTE: The purpose of this partial republication is solely to reflect the correct address of Petitioner's representative as being located in Milton, Mass., in lieu of Milton, R.I., as shown in the previous publication of August 20, 1969. The rest of the publication remains the same.

No. MC 115523 (Sub-No. 19), (Notice of Filing of Petition for Modification of Certificate), filed June 11, 1969. Petitioner: CLARK TANK LINES COMPANY, 1450 Beck Street, Salt Lake City, Utah 84116. Petitioner holds authority in No. MC 115523 (Sub-No. 19), the part here pertinent, to transport, over irregular routes, petroleum products, in bulk, in tank vehicles, from Umatilla, Oreg., to points in Malheur County, Oreg., and points in Fremont, Madison, Bonneville, Bingham, Bannook, Power, Minidoka, Cassia, Twin Falls, Lincoln, Blaine, Camas, Ada, Canyon, Owyhee, and Valley Counties, Idaho, with no transportation for compensation on return except as otherwise authorized. By order of this Commission, Operating Rights Board, dated August 22, 1969, finds that because other parties may have an interest in the petition in No. MC 115523 (Sub-No. 19) a notice of which was not published in

the FEDERAL REGISTER, a notice of the authority actually modified will be published in the FEDERAL REGISTER and issuance of a certificate will be withheld for a period 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading. Modification authorized: (a) Delete first line of first descriptive paragraph, Sheet No. 1 ("From Umatilla * * *. Malheur County,"), and instead insert: From the site of storage facilities of Tidewater Terminal Co., near Umatilla, Oreg., and Umatilla, Oreg., to points in Malheur County, * * *.

TRANSFER APPLICATIONS UNDER SECTION 212(b) WHICH HAVE BEEN DESIGNATED FOR ORAL HEARING

No. MC-FC-35429. Authority sought by lessee, Manchester Moving & Storage Co., Inc., 20 Purnell Place, Manchester, Conn., for lease of the operating rights of lessor, Geo. E. Dewey & Co., Inc., 11 Donald Street, Hartford, Conn. Lessee's and lessor's representative, Reubin Kaminsky, 410 Asylum Street, Hartford, Conn. Operating rights in certificate No. MC-60024 sought to be leased authorizes operations as a *common carrier*, by motor vehicle, over irregular routes, of household goods, pianos, and other named commodities from, to and between points and areas in the States of Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, and Ohio.

The above-entitled lease application under section 212(b) of the Interstate Commerce Act is to be assigned for hearing at a time and place to be fixed for the purpose of determining, among other things, whether lessee, under § 1132.3 or the Rules and Regulations Governing Transfer of Operating Rights, is fit to acquire the rights proposed for lease.

The Bureau of Enforcement has been directed to participate in this proceeding.

APPLICATIONS UNDER SECTIONS 5(a) AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-10596. Authority sought for purchase by BEVERAGE TRANSPORT, INC., Post Office Box 88, East Bloomfield, N.Y. 14443, of the operating rights of LANGDON TRUCK LINES, INC. (THOMAS FOLEY, JR., Trustee in Bankruptcy), Cornell Building, Scranton, Pa. 18503, and for acquistion by JAMES L. FITZGERALD, 25 Church Street, East Bloomfield, N.Y. 14443, of control of such rights through the purchase. Applicants' attorneys: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580, and Thomas J. Foley, Jr., Cornell Building, Scranton, Pa. 18503. Operating rights sought to be transferred: *Fresh and canned fruits and vegetables, gelatin, pectin, applesauce, insecticides, fungicides, and fertilizer*, as a *common carrier*, over irregular routes, from certain specified points in New York, to certain specified points in New Jersey, Bridgeport and Hartford, Conn., certain specified points in Massachusetts, Pennsylvania, Baltimore and Hagerstown, Md., certain specified points in Ohio, and the District of Columbia; *cider and vinegar*, in containers, from points in the above New York territory to Pittsburgh, Pa., and Cleveland, Ohio; *sugar*, from Newark, N.J., and Jersey City, N.J., Philadelphia, Pa., and New York, N.Y., to points in the above New York territory; *insecticides, fungicides, fertilizers, and ingredients thereof*, from certain specified points in New Jersey, to points in the above New York territory; *lubricating oil*, in containers, from certain specified points in New Jersey, to points in the above New York territory;

New metal cans, from Baltimore, Md., to points in the above New York territory; *petroleum products*, in containers, from Bayonne, N.J., to certain specified points in New York; *spray materials and spray machinery*, from Middleport, N.Y., to points in Connecticut, Maryland, Massachusetts, certain specified points in Pennsylvania, and those in that part of New Jersey on and east of U.S. Highway 1 and south of the Raritan River; *insecticides and fungicides*, from Middleport, N.Y., to points in Connecticut (except Bridgeport and Hartford), those in Maryland (except Baltimore and Hagerstown), those in Massachusetts (except Boston, Springfield, and Worcester), certain specified points in Pennsylvania, and those in that part of New Jersey on and east of U.S. Highway 1 and south of the Raritan River; *antifreezing compound*, in containers, from Bayonne, N.J., to certain specified points in New York; *cereal preparations*, dry, from certain specified points in New York, to certain specified points in New Jersey, Bridgeport and Hartford, Conn., certain specified points in Massachusetts, Pennsylvania, Baltimore and Hagerstown, Md., and Washington, D.C.; *dichloro-diphenyl-trichloroethane (DDT)*, from Lebanon, Pa., to Middleport, N.Y.; *frozen fruits, frozen berries, and frozen vegetables*, from certain specified points in New York, to New York, N.Y.; *frozen fruits and frozen vegetables*, from certain specified points in New York, to certain specified points in New Jersey; *frozen vegetables*, from certain specified points in New York, to Philadelphia, Pa.; Baltimore, Md.; East Hartford and Hartford, Conn.; and points in Massachusetts; *foodstuffs* (except frozen foods and except commodities in bulk, in tank vehicles), from the plantsites of Duffy Mott Co., Inc., at Hamlin and Holley, N.Y., to certain specified points in New Jersey, Bridgeport and Hartford, Conn., certain specified points in Massachusetts, Pennsylvania, Baltimore and Hagerstown, Md., certain specified points in Ohio, and points in the District of Columbia, with restriction;

Used empty metal drums, for reconditioning purposes, from certain specified points in New York, to Newark, N.J.; *empty containers* (including empty paperboard cartons, knocked down, and empty metal pails and drums), in mixed loads with petroleum products in containers, from Bayonne, N.J., to certain specified points in New York; *foodstuffs*, except frozen foods and commodities in bulk, from certain specified points in New York, to certain specified points in New York, with restriction; (1) *fertilizer and fertilizer materials;* and (2) *pesticides, and related advertising materials*, when moving in mixed loads with fertilizer and fertilizer materials, from the facilities of Armour Agricultural Chemical Co. at or near Windsor, N.J., to certain specified points in New York, with restriction; and *agricultural commodities* (not including manufactured products thereof) as defined in section 203(b)(6) of the Interstate Commerce Act, when moving in the same vehicle and at the same time with commodities subject to full economic regulation by the Commission (presently authorized), from Middleport, N.Y., to points in New Jersey and Pennsylvania. Vendee is authorized to operate as a *common carrier* in New Jersey, New York, and Ohio. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10597. Authority sought for control by TRANSPORT MOTOR EXPRESS, INC., Post Office Box 958, Fort Wayne, Ind. 46801, of A & B TRANSFER, INC., 2120 Marshall Avenue, Mattoon, Ill. 61938. Applicants' attorneys: Axelrod, Goodman & Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be controlled: Under a certificate of registration, in Docket No. MC-48474 Sub-4, covering the transportation of property, as a common carrier, in intrastate commerce within the State of Illinois. TRANSPORT MOTOR EXPRESS, INC., is authorized to operate as a *common carrier* in Pennsylvania, Illinois, Ohio, West Virginia, Indiana, Delaware, Rhode Island, New Jersey, New York, Wisconsin, Missouri, Kentucky, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10598. Authority sought for control by TERMINAL FACILITIES, INC., 319 South Third, Renton, Wash. 98055, of DEJONG TRUCKING CO., INC., 4300 Lois Drive, Spenard, Alaska 99503, and for acquisition by T. R. THOMAS and W. W. WATKINS, both also of Renton, Wash., of control of DEJONG TRUCKING CO., INC., through the acquisition by TERMINAL FACILITIES, INC. Applicants' attorney: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Operating rights sought to be controlled: *General commodities*, excepting among others, household goods, and commodities in bulk, as a *common carrier* over irregular routes, between Seward, Anchorage, and Valdez, Alaska, on the one hand, and, on the other, points in Alaska except those in southeastern Alaska (The

Alaska Panhandle). TERMINAL FACILITIES, INC. holds no authority from this Commission. However, it's controlling stockholders controls TRANSPORT STORAGE AND DISTRIBUTING COMPANY, which is authorized to operate as a *common carrier* in Washington and Oregon. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10599. Authority sought for purchase by ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301, of the operating rights of T. F. McARDLE, INC., Shullsburg, Wis., and for acquisition by HAROLD E. ANDERSON, 1020 14th Avenue South, St. Cloud, Minn. 56301, ANNETTE ELLIASON AND KENNETH ELLIASON, both also of Isle, Minn. 56342, of controlled of such rights through the purchase. Applicants' attorney: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Operating rights sought to be transferred: *Farm machinery and parts thereof*, as a *common carrier* over irregular routes, from Rockford and Chicago, Ill., to Darlington and South Wayne, Wis.; *twine, feed, and fertilizer*, from Chicago, Ill., to Darlington, Wis.; *fertilizer*, between Scales Mound, Ill., and Shullsburg, Wis., from Streator, Ill., to points in Grant and Lafayette Counties, Wis., from Dubuque, Iowa, to Scales Mound, Ill.; *livestock*, between Darlington, Wis., and Chicago, Ill., from certain specified points in Wisconsin, to Dubuque, Iowa; *ordinary livestock*, from certain specified points in Wisconsin to Chicago, Ill.; *livestock for breeding purposes*, between certain specified points in Wisconsin, on the one hand, and, on the other, points in that part of Illinois within 100 miles of Shullsburg; *feed, fertilizer, salt, fencing wire, binder twine, farm machinery and parts, and bale ties*, from points in that part of Illinois on and north of U.S. Highway 6, to Hazel Green, Grant County, Wis., the city of Cuba City, Grant County, Wis., and points in Lafayette County, Wis., and *building materials*, from points in that part of Illinois on and north of U.S. Highway 6 (except points in Jo Daviess County, Ill.), to Hazel Green, Grant County, Wis., the city of Cuba City, Grant County, Wis., and points in Lafayette County, Wis. Vendee is authorized to operate as a *common carrier* in all States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10600. Authority sought for control by McLEANS INDUSTRIES, INC., Corbin and Fleet Streets, Elizabeth, N.J. 07207, of SEA-LAND FREIGHT SERVICE, INC., Post Office Box 1050, Elizabeth, N.J. 07208, and for acquisition by R. J. REYNOLDS TOBACCO COMPANY, 401 North Main Street, Winston-Salem, N.C. 27102, of control of SEA-LAND FREIGHT SERVICE, INC., through the acquisition by McLEAN INDUSTRIES, INC. Applicants' attorney: David G. Macdonald, Suite 502, Solar Building, 1000 16th Street NW., Washington, D.C. 20036. Operating rights sought to be controlled: *General commodities*, except those of unusual value, household goods as defined by the Commission, and commodities in bulk other than animal feed and flour, as a *common carrier* over irregular routes, between points in Alaska (except those in the Alaska Panhandle); *fruits and vegetables*, fresh and frozen, *meats, lard and lard substitutes, rendered pork fats, and dairy products*, as classified in (B) of the appendix to the report in *Modification of Permits—Packinghouse Products*, 48 M.C.C. 628, from the U.S. Army depot at or near Auburn, Wash., to Seattle and Tacoma, Wash.; *general commodities*, excepting among others, household goods and commodities in bulk, between Seattle and Tacoma, Wash., on the one hand, and, on the other, the Mount Rainier Ordnance Depot (Mobase), Wash., restricted to traffic destined to or originating at points in Alaska; between Tacoma, Wash., on the one hand, and, on the other, Seattle and McChord Air Force Base, Wash., between points in the Tacoma, Wash., commercial zone, as defined by the Commission, between points in Seattle, Wash., commercial zone, as defined by the Commission, from Auburn, Wash., to Tacoma and Seattle, Wash.; *ammunition*, from Bangor, Wash., to Tacoma, Wash.; and engine assembly and tank parts, from Tacoma, Wash., to Mount Rainier Ordnance Depot, Wash.; with restriction. McLEAN INDUSTRIES, INC., holds no authority from this Commission. However, it is controlled by R. J. REYNOLDS TOBACCO COMPANY, who also controls SEA-LAND SERVICE, INC., Post Office Box 1050, Corbin and Fleet Streets, Elizabeth, N.J. 07207, which is authorized to operate as a common carrier by water in Massachusetts, New York, Pennsylvania, Maryland, South Carolina, Florida, Louisiana, Texas, California, Oregon, Washington, Virginia, and Georgia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10601. Authority sought for purchase by DON WARD, INC., 241 West 56th Avenue, Denver, Colo. 80216, of the operating rights and property of LESLEY ESTES, doing business as ESTES TRUCKING CO., Post Office Box 551, Rifle, Colo. 81650, and for acquisition by DON WARD, 241 West 56th Avenue, Denver, Colo. 80216 and BOYD E. RICHNER, Post Office Box 1488, Durango, Colo. 81302, of control of such rights and property through the purchase. Applicants' attorneys: Peter J. Crouse, 1700 Western Federal Building, Denver, Colo. 80202, and John P. Thompson, 450 Capitol Life Center, Denver, Colo. 80203. Operating rights sought to be transferred: *General commodities*, except household goods as defined by the Commission, as a *common carrier* over irregular routes, between points in Garfield and Pitkin Counties, Colo., on the one hand, and, on the other, points in Colorado, with restrictions; *general commodities*, excepting among others, household goods, and commodities in bulk, between Rifle, Colo., on the one hand, and, on the other, points within 20 miles of Rifle except those on U.S. Highways 6 and 24; and *oil shale*, in bulk, from points in Garfield and Rio Blanco Counties, Colo., to points in Albany County, Wyo. Vendee is authorized to operate as a *common carrier* in Utah, Colorado, New Mexico, Wyoming, Nebraska, South Dakota, Montana, Iowa, Texas, and Kansas. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10602. Authority sought for purchase by MID-AMERICAN LINES, INC., 900 North Indiana Avenue, Kansas City, Mo. 64120, of a portion of the operating rights of A.C.E.-FREIGHT INC., 210 Twinsburg Road, Post Office Box 123, Northfield, Ohio 44067, and for acquisition by LEROY WOLFE AND HELEN D. WOLFE, both also of 4303 Homestead Drive, Prairie Village, Kans., of control of such rights through the purchase. Applicants' attorneys: Carl Steiner, 39 South La Salle Street., Chicago, Ill. 60603 and Walter Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, Mich. 48226. Operating rights sought to be transferred: *General commodities*, excepting among others, household goods and commodities in bulk, as a *common carrier* over regular routes, between Youngstown, Ohio, and Peoria, Ill., serving to and from certain intermediate points in Ohio, Indiana, and Bloomington and East Peoria, Ill., restricted only as to Ohio points as indicated below; all other intermediate points restricted to delivery only except that service is not authorized to or from intermediate points on Ohio Highway 18 or Ohio Highway 14 or on Indiana Highway 32 between Noblesville and Anderson, or on Indiana Highway 32 between Noblesville and Crawfordsville, return over these routes to Youngstown, between Cleveland, Ohio, and Davenport, Iowa, service is not authorized between points in Ohio, other than from Cleveland to Akron; and from Akron and Lima to other points, return over these routes to Cleveland, between Fort Wayne, Ind., and Huntington, Ind., between Indianapolis, Ind., and Chicago, Ill., between Cleveland, Ohio, and Medina, Ohio, between junction U.S. Highways 250 and 224 (near Ruggles, Ohio), and Canton, Ohio, between Tiffin, Ohio, and Marion, Ohio, serving no intermediate points, between points in Ohio, between junction U.S. Highway 6 and Indiana Highway 130 (near Hobart, Ind.), and Cleveland, Ohio,

Between junction U.S. Highway 20 and Ohio Highway 113 (near Bellevue, Ohio), and Elyria, Ohio, between Medina, Ohio, and Norwalk, Ohio between Fostoria, Ohio, and junction U.S. Highways 23 and 6, between Tiffin, Ohio, and Bellevue, Ohio, between Cleveland, Ohio, and Warren, Ohio, between Mansfield, Ohio, and junction U.S. Highways 250 and 21 (near Strasburg, Ohio), return over these routes, for operating convenience only; serving no intermediate points; between Chicago, Ill., and junction U.S. Highways 41 and 6 and Indiana Highway 152, serving all intermediate points on the Calumet-Tri-State Expressway; serving the site of the Euclid Division Plant of the

General Motors Corp., located on Ohio Highway 91, near Darrowville, Summit County, Ohio, as an off-route point in connection with carrier's regular route operations to and from Akron, Ohio, and Cleveland, Ohio; serving the site of the B. F. Goodrich Co. plant, approximately 13 miles east of Fort Wayne, Ind., in Milan Township, Allen County, Ind., as an off-route point in connection with carrier's regular route operations to and from Fort Wayne, Ind.; *general commodities*, with exceptions as above, in truckload lots only over irregular routes, from points on the regular routes to Terre Haute, Ind., certain specified points in Illinois, Iowa, and Nebraska, from points in the Chicago, Ill., commercial zone, supra, to Mason City, Iowa, certain specified points in Ohio, from Davenport, Iowa, and certain specified points in Illinois, to Columbus and Springfield, Ohio, from Peoria, and Pekin, Ill., to Toledo, and Columbus, Ohio, from Indianapolis and Speedway, Ind., to certain specified points in Ohio; and *washing machines, ironers*, including *accessories and parts* therefor, and *skids*, from Newton, Iowa, to certain specified points in Ohio. Vendee is authorized to operate as a *common carrier* in Missouri, Illinois, Kansas, Michigan, and Indiana. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ANDREW ANTHONY, Jr.,
Acting Secretary.

[F.R. Doc. 69-10782; Filed, Sept. 9, 1969; 8:49 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

SEPTEMBER 5, 1969.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 245 (49 CFR 1100.245) of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. 2840-S-1607, filed June 24, 1969. Applicant: ABC MOVING & STORAGE, INC., 2102 South Third Drive, Phoenix, Ariz. 85012. Applicant's representative: A. Michael Bernstein, 1327 United Bank Building, Phoenix, Ariz. 85012. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *Household goods* as defined by the ICC in Ex Parte MC-19, between all points and places in Arizona. Both intrastate and interstate authority sought.

HEARING: Wednesday, October 1, 1969, at 2 p.m. at Phoenix, Ariz. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Arizona Corporation Commission, Motor Carrier Division, 1688 West Adams, Phoenix, Ariz. 85007, and should not be directed to the Interstate Commerce Commission.

State Docket No. A51082 filed May 15, 1969, and August 12, 1969. Applicant: LADS FURNITURE FREIGHT, INC., 3540 East 26th Street, Los Angeles, Calif. 90023. Applicant's representative: Arthur J. Piken, 160-16 Jamaica Avenue, Jamaica, N.Y. 11432. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation as a highway common carrier of *new household office and store furniture and fixtures, and new household, office and store appliances*, between the points and places and over the routes specified, including intermediate points, as well as all off-route points hereinafter named as follows: A. Between all points in the Los Angeles Basin Area described as follows (see restrictions in paragraph D hereof): Beginning at the intersection of the westerly boundary of the city of Los Angeles and the Pacific Ocean, thence along the westerly and northerly boundary of said city to its point of first intersection with the southerly boundary of Angeles National Forest, thence along the southerly boundary of Angeles and San Bernardino National Forests to the point of intersection of the southerly boundary of the San Bernardino National Forest and the Bernardino-Riverside County line, thence in a southerly and westerly direction along said county boundary to a point thereon distant 5 miles east of the intersection of said county line and State Highway 18, thence generally southerly, southwesterly, and southeasterly, along a line generally paralleling and distant 5 miles from State Highway 18, State Highway 55, and U.S. Highway 101 to its intersection with an imaginary prolongation of the southerly city limits of San Clemente, thence westerly along said imaginary line to the Pacific Ocean, thence northerly and westerly along the coastline of said Pacific Ocean to the point of beginning.

B. Between all points in the Los Angeles Basin Area and the following described cities and territory, with service to, from, and between said termini, intermediate and off-route points (see restrictions in paragraph D hereof): (1) The city of Barstow, serving all intermediate and off-route points within a lateral of 15 miles of U.S. Highway 66 between the Los Angeles Basin Area and Barstow, and the additional off-route points of Lancaster and Palmdale; (2) the city of El Centro, serving all intermediate and off-route points within a lateral of 20 miles of U.S. Highways 60 and 99 between the Los Angeles Basin Area and El Centro; (3) the San Diego Territory as described in paragraph B4 hereof, serving all intermediate and off-route points within a lateral of 15 miles of U.S. Highway 101 between said areas; (4) the San Diego Territory includes that area as embraced by the following imaginary lines starting at the northerly junction of U.S. Highways 101E and 101W (4 miles north of La Jolla); thence easterly to Miramar on U.S. Highway 395; thence southeasterly to Lakeside on the El Cajon-Ramona Highway; thence southerly to Bostonia on U.S. Highway 80; thence southeasterly to Jamul on State Highway 94; thence due south to the international boundary line, west to the Pacific Ocean and north along the coast to the point of beginning. C. Between all points in the Los Angeles Basin Area as described in paragraph A hereof on the one hand, and, on the other, the following points. (See restrictions in paragraph D hereof); (1) The city of Santa Rosa, serving all intermediate and off-route points within a lateral of 15 miles of U.S. Highways 101, 101 Alternate, and 101 Bypass, between the Los Angeles Basin Area and Santa Rosa; (2) the city of Redding, serving all intermediate and off-route points within a lateral of 15 miles of U.S. Highways 99, 99E, and 99W, between the Los Angeles Basin Area and Redding;

(3) Intermediate and off-route points within a lateral of 15 miles of U.S. Highways 40 and 50, and State Highway 24, between U.S. Highways 101 and 99. D. Restriction against local service: (1) Applicant shall not provide any local service between points located west of the western boundary of Los Angeles County or north of the northern boundaries of Los Angeles and San Bernardino Counties; (2) local service is defined as service between any two points, both of which are located in the area to the west of Los Angeles County, or the north of Los Angeles and San Bernardino Counties; (3) applicant may establish through routes and rates between all points and territories except as restricted herein. The purpose of this application is to eliminate the restriction against the transportation of the aforementioned commodities in boxes, crates, or cartons, permitting the transportation of the said commodities in crated, cartoned, boxed, or paper-wrapped form, as well as uncrated or loose. Both intrastate and interstate authority sought.

HEARING: Not yet assigned. Requests for procedural information including the time for filing protests concerning this application should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

State Docket No. 69359-CCT filed August 13, 1969. Applicant: THE SENTINEL STAR EXPRESS COMPANY, 64 East Concord Street, Orlando, Fla. Applicant's representative: James E. Wharton, Suite 506, Post Office Box 231, Orlando, Fla. Certificate of public convenience and necessity sought to operate

a freight service as follows: Transportation of *express* consisting of shipments not exceeding 500 pounds from one consignor to one consignee on any one schedule consisting of items not exceeding 125 pounds per item in interstate and intrastate authority and seeks intrastate authority to transport *newspapers* without weight limitation over the following routes and throughout the following described territory. (I) (1) Between Clearwater, Fla., and Lake City, Fla., over the following route: From Clearwater, Fla., over U.S. Highways 19 and 98 to Oldtown, Fla., thence over State Road 349 to Branford, Fla., thence over U.S. Highway 129 to Live Oak, Fla., thence over U.S. Highway 90 to Lake City, Fla., and return over the same route serving all intermediate points; (2) between Lake City, Fla., and Jacksonville, Fla., over the following route: From Lake City, Fla., over U.S. Highway 90 to Jacksonville, Fla., and return over the same route serving all intermediate points; (3) between Tampa, Fla., and Jacksonville, Fla., over the following route: From Tampa, Fla., over U.S. Highway 41 to Williston, Fla., thence over State Road 121 to Gainesville, Fla., thence over State Road 24 to Waldo, Fla., thence over U.S. Highway 301 to Maxville, Fla., thence over State Road 228 to Jacksonville, Fla., and return over the same route serving all intermediate points.

(4) Between Tampa, Fla., and Wildwood, Fla., over the following route: From Tampa, Fla., over State Road 60 to points of intersection with U.S. Highway 301, thence over U.S. Highway 301 to Wildwood, Fla., and return over the same route serving all intermediate points; (5) between Ocala, Fla., and Waldo, Fla., over the following route: From Ocala, Fla., over U.S. Highway 301 to Waldo, Fla., and return over the same route serving all intermediate points; (6) between De Land, Fla., and Jacksonville, Fla., over the following route: From De Land, Fla., over U.S. Highway 17 to Jacksonville, Fla., and return over the same route serving all intermediate points; (7) between Daytona Beach, Fla., and Jacksonville, Fla., over the following route: From Daytona Beach, Fla., over U.S. Highway 1 to Jacksonville, Fla., and return over the same route serving all intermediate points; (8) between Bunnell, Fla., and Jacksonville, Fla., over the following route: From Bunnell, Fla., over U.S. Highway 1 to point of intersection with State Road 20, thence over State Road 20 to San Mateo, Fla., thence over U.S. Highway 17 to East Palatka, Fla., thence over State Road 207 to Hastings, Fla., thence over State Road 207 to Spuds, Fla., thence over State Road 13 to Jacksonville, Fla., and return over the same route serving all intermediate points; (9) between Tampa, Fla., and Miami, Fla., over the following route: From Tampa, Fla., over State Road 60 to Lake Wales, Fla., thence over U.S. Highway 27 to Miami, Fla., and return over the same route serving all intermediate points.

(10) Between Kissimmee, Fla., and Miami, Fla., over the following route. From Kissimmee, Fla., over U.S. Highway 441 to West Palm Beach, Fla., thence over U.S. Highway 1 to Miami, Fla., and return over the same route serving all intermediate points; (11) between Vero Beach, Fla., and West Palm Beach, Fla., over the following route: From Vero Beach, Fla., over U.S. Highway 1 to West Palm Beach, Fla., and return over the same route serving all intermediate points; (12) between Maxville, Fla., and Baldwin, Fla., over the following route. From Maxville, Fla., over U.S. Highway 301 to Baldwin, Fla., and return over the same route serving all intermediate points; (13) between West Palm Beach, Fla., and Miami, Fla., over the following route: From West Palm Beach, Fla., over State Road 80 to point of intersection with U.S. Highway 441, thence over U.S. Highway 441 to Miami, Fla., and return over the same route serving all intermediate points; (14) between Lakeland, Fla., and Groveland, Fla., over the following route. From Lakeland, Fla., to Groveland, Fla., over State Road 33 and return over the same route serving all intermediate points; (15) between Haines City, Fla., and Clermont, Fla., over the following route: From Haines City, Fla., over U.S. Highway 27 to Clermont, Fla., and return over the same route serving all intermediate points; (16) between South Bay, Fla., and Belle Glade, Fla., over the following route: From South Bay, Fla., over State Road 80 to Belle Glade, Fla., and return over the same route serving all intermediate points.

(II) Applicant seeks authority over the following routes for operating convenience only: (1) Between Jacksonville, Fla., and Daytona Beach, Fla. over Interstate Highway 95; (2) between Jacksonville, Fla., and Live Oak, Fla., over Interstate Highway 10; (3) between Gainesville, Fla., and Lake City, Fla., over Interstate Highway 75; (4) between Orlando, Fla., and Miami, Fla., over Interstate Highway 4 and the Sunshine State Parkway; (5) between Vero Beach, Fla., and Miami, Fla., over Interstate Highway 95; (6) between Deland, Fla., and Bunnell, Fla., over State Road 11. Applicant seeks authority over all roads of ingress and egress to the aforesaid routes connecting with applicant's presently authorized service routes and the service routes sought herein. (III) Applicant seeks authority to serve all other points as off-route points within a geographic territory described as follows: A territory bordered on the east by the Atlantic Ocean; on the south by a line commencing at the Atlantic Ocean; thence along the southern and western boundary of Dade County, thence along the western boundary of Broward County to intersection with the southern boundary of Hendry County, thence along the southern and western boundary of Hendry County, thence along the western boundary of Glades County, thence along the southern boundary of De Soto County and Sarasota County to the Gulf of Mexico; on the west by the Gulf of Mexico; and on the northwest and north by a line commencing at the Suwanee River, thence along State Road 349 to Branford, Fla., thence along U.S. Highway 129 to the Georgia-Florida border, thence along the Georgia-Florida border to the Atlantic Ocean. Applicant proposes to establish terminals or commission agency facilities at all principal cities within the above described territory where applicant does not at the present time maintain such facilities. NOTE: Applicant intends to tack the authority sought herein with its existing intrastate routes under Certificate No. 673 issued by the Florida Public Service Commission with its interstate authority presently held in Docket No. MC 125674 and subs thereunder.

HEARING: Not yet assigned. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Florida Public Service Commission, 700 South Adams Street, Tallahassee, Fla. 32304 and should not be directed to the Interstate Commerce Commission.

State Docket No. 69375–CCT, filed August 27, 1969. Applicant: ALLIED PARCEL DELIVERY, INC., 401 Northeast 62d Street, Miami, Fla. 33138. Applicant's representative: Schwartz, Proctor, Bolinger & Cain, 1729 Gulf Life Tower, Jacksonville, Fla. 32207. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *packaged and unpackaged merchandise* in a parcel delivery service, over irregular routes on irregular and/or regular schedules restricted to packages weighing up to and including 125 pounds and shipments up to and including 500 pounds moving from one shipper to one consignee on the same day, (1) between points in Broward, Dade, and Palm Beach Counties, Fla., and (2) between points in Broward, Dade, and Palm Beach Counties, Fla., on the one hand, and, on the other, points in Florida restricted to traffic moving in interline service. NOTE: No duplicating authority sought. Both intrastate and interstate authority sought.

HEARING: Not yet assigned. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Florida Public Service Commission, Tallahassee, Fla. 32304, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ANDREW ANTHONY, JR.,
Acting Secretary.

[F.R. Doc. 69-10785; Filed, Sept. 9, 1969; 8:49 a.m.]

[Notice 901]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 5, 1969.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49

CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2860 (Sub-No. 62 TA), filed August 26, 1969. Applicant: NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, N.J. 08360. Applicant's representative: Irving Abrams, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, canned, prepared or preserved; *cooking or edible oils, matches, oleomargarine, shortening, cleaning kits and cleaning compounds* (except commodities in bulk or frozen foodstuffs), from the facilities of Hunt-Wesson Foods, Inc., at Camp Hill, Pa., to points in Delaware, Maryland, Pennsylvania, Virginia, and those parts of New York and New Jersey outside the New York, N.Y., commercial zone, as defined by the Commission, and the District of Columbia, for 180 days. Supporting shipper: Hunt-Wesson Foods, Inc., 1645 West Valencia Drive, Fullerton, Calif. 92634. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, Trenton, N.J. 08608.

No. MC 96098 (Sub-No. 30 TA), filed August 28, 1969. Applicant: MILTON TRANSPORTATION, INC., Rural Delivery No. 2, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printing paper* other than newsprint, not printed, from Lock Haven, Pa., to points in Ohio, Massachusetts, Rhode Island, Vermont, New Hampshire, and Maine, for 150 days. Supporting shipper: Hammermill Paper Co., Lock Haven Division, Lock Haven, Pa. 17745. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, Post Office Box 869, Harrisburg, Pa. 17108.

No. MC 15371 (Sub-No. 7 TA), filed August 28, 1969. Applicant: CITY TRANSFER, INC., 458 Washington Street, St. Marys, Pa. 15857. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon products*, from Niagara Falls, N.Y., to St. Marys, Pa., for 150 days. Supporting shipper: Airco Speer Carbon Products, Airco Speer Electrodes and Anodes, Divisions of Air Reduction Co., Inc., St. Marys, Pa. 15857. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2109 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 107107 (Sub-No. 401 TA), filed August 28, 1969. Applicant: ALTERMAN TRANSPORT LINES, INC., 2424 Northwest 46th Street, Miami, Fla. 33142. Applicant's representative: Ford W. Sewell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts*, as defined by the Commission, from Amarillo, Tex., to points in North Carolina, South Carolina, Georgia, and Florida, for 180 days. Supporting shipper: Glover Packing Co., 100 Grand Street, Post Office Box 92, Amarillo, Tex. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, Room 1226, 51 Southwest First Avenue, Miami, Fla. 33130.

No. MC 114989 (Sub-No. 11 TA), filed August 29, 1969. Applicant: BRACEY & MARTIN, INC., Post Office Box 623, Hopkinsville, Ky. 42240. Applicant's representative: Richard D. Gleaves, 833 Stahlman Building, Nashville, Tenn. 37201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Longview, Tex., to Hopkinsville, Ky., and Clarksville, Tenn., for 150 days. Supporting shippers: Case Distributing Co., Post Office Box 1003, Clarksville, Tenn. 37040; Hopkinsville Beverage Co., Post Office Box 149, Hopkinsville, Ky. 42240. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 116077 (Sub-No. 275 TA), filed August 28, 1969. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 1505, Houston, Tex. 77001. Applicant's representative: J. C. Browder (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid ethylene*, in bulk, in tank vehicles, from Baton Rouge, La., to points in Arkansas, South Carolina, and Texas, for 180 days. NOTE: Applicant does not intend to tack authority with presently authorized routes. Supporting shipper: Enjay Chemical Co., 60 West 49th Street, New York, N.Y. 10020. Send protests to: District Supervisor John C. Redus, Bureau of Operations, Interstate Commerce Commission, Post Office Box 61212, Houston, Tex. 77061.

No. MC 123669 (Sub-No. 4 TA), filed August 29, 1969. Applicant: SILVER TRUCK, INC., Post Office Box 41, Austin, Minn. 55912. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, Minn. 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated sheets, corrugated shipping containers and parts thereof*, from Cloquet, Minn. to Chippewa Falls, Wis., for 150 days. Supporting shipper: Weyerhaeuser Co., 100 South Wacker Drive, Chicago, Ill. 60606. 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, Minn. 55401.

No. MC 126222 (Sub-No. 8 TA) (Correction), filed August 11, 1969, and published in the FEDERAL REGISTER, issue of August 20, 1969, and republished in part, this issue. Applicant: JOSEPH A. SIEFERT AND JOSEPH J. SIEFERT, a partnership, doing business as SIEFERT BROS. TRUCKING CO., Post Office Box 310, DuQuoin, Ill. 62832. Applicant's representative: Ernest A. Brooks II, 1301–02 Ambassador Building, St. Louis, Mo. 63101. NOTE: The purpose of this partial republication is solely to reflect a correction in the spelling of applicant's name. The rest of the application remains as previously published.

By the Commission.

[SEAL] ANDREW ANTHONY, JR.,
Acting Secretary.

[F.R. Doc. 69-10783; Filed, Sept. 9, 1969; 8:49 a.m.]

[Notice 407]

MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 5, 1969.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-71537. By order of August 22, 1969, the Motor Carrier Board approved the transfer to E. E. Carroll, doing business as Carroll Trucking Co., Montgomery, Ala., of the operating rights in certificates Nos. MC-115162 (Sub-No. 13), MC-115162 (Sub-No. 64), and MC-115162 (Sub-No. 73) issued December 16, 1957, June 12, 1961, and October 5, 1962, to Walter Poole, doing business as Poole Truck Line, acquired by Poole Truck Line, Inc., pursuant to approval and consummation in No. MC-FC-71243, authorizing the transportation of brick and clay products, from Selma and Montgomery, Ala., to points in Florida west of the Apalachicola River; brick and tile,

except floor tile, from Montgomery, Ala., to points in Georgia and Mississippi, and specified points in Tennessee and Florida; brick, from Coosada, Ala., to points in Georgia and Mississippi and specified points in Tennessee and Florida, and brick, from the plantsite of the Henry Brick Co. at Selma, Ala., to points in Georgia, Mississippi, and Tennessee. Robert E. Tate, registered practitioner, Post Office Box 310, Evergreen, Ala. 36401, representative for applicants.

No. MC–FC–71580. By order of August 27, 1969, the Motor Carrier Board approved the transfer to Herbert L. Scherer and Louis F. Scherer, a partnership, doing business as Scherer Transfer, Monroe, Wis., of the certificate in No. MC–128362, issued April 26, 1967 to Lee O. Jacobs, doing business as Jacobs Transfer, Monroe, Wis., authorizing the transportation of household goods between points in Green County, Wis., on the one hand, and, on the other, points in Illinois within 45 miles of Juda, Wis. John L. Bruemmer, 121 West Doty Street, Madison, Wis. 53703, attorney for applicants.

No. MC–FC–71588. By order of August 27, 1969, the Motor Carrier Board approved the transfer to Larry Jacobsen and Darrell Clayton, a partnership, doing business as Walnut Transfer, Box 636, Walnut, Iowa 51577, of the operating rights in certificate No. MC–47814 issued September 26, 1966, to Harvey B. Jensen, Route 4, Harlan, Iowa 51537, authorizing the transportation of livestock, grain, hay, feed, agricultural implements, lumber, concrete blocks, and petroleum products in containers, between Harlan, Iowa, and points in Iowa within 25 miles of Harlan, on the one hand, and, on the other, Omaha, Nebr.

[SEAL] ANDREW ANTHONY, Jr.,
Acting Secretary.

[F.R. Doc. 69–10784; Filed, Sept. 9, 1969; 8:49 a.m.]

CUMULATIVE LIST OF PARTS AFFECTED—SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September