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Agencies in this issue—

Agriculture Department
Air Force Department
Atomic Energy Commission
Civil Aeronautics Board
Civil Service Commission
Coast Guard
Consumer and Marketing Service
Federal Aviation Administration
Federal Communications Commission
Federal Power Commission
Federal Reserve System
Federal Trade Commission
Fish and Wildlife Service
Food and Drug Administration
General Services Administration
Hazardous Materials Regulations Board
Immigration and Naturalization Service
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LIST OF CFR SECTIONS AFFECTED

1949–1963

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

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

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Chapter I—Immigration and Naturalization Service, Department of Justice

[File No. CO 845-P]

PART 214—NONIMMIGRANT CLASSES

Readmission of Certain Nonimmigrants

The following amendment to Chapter I of Title 8 of the Code of Federal Regulations is hereby prescribed:

Paragraph (a) *General* of § 214.1 *Requirements for admission, extension, and maintenance of status* is amended by inserting the following sentence after the existing first sentence: "A nonimmigrant whose visa has been automatically revalidated pursuant to 22 CFR 41.125 (f) shall, if otherwise admissible, be readmitted for a period not to exceed the unexpired period of his initial admission or extension of stay which had been authorized by the Service prior to his departure to foreign contiguous territory or adjacent islands, as endorsed by the Service on the Form I-94 issued in connection with the returning nonimmigrant's prior admission or stay and presented by him, or as endorsed by the issuing school official or program sponsor on Form I-20 or DSP-66 presented by a returning nonimmigrant as defined in paragraph (F) or (J) of section 101 (a)(15) of the Act."

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall be effective on the date of its publication in the FEDERAL REGISTER. Compliance with the provisions of section 553 of title 5 of the United States Code (80 Stat. 383), as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the rule prescribed by the order confers benefits upon persons affected thereby.

Dated: November 6, 1969.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 69-13430; Filed, Nov. 12, 1969; 8:46 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

General Services Administration

Section 213.3337 is amended to show that one position of Director of Congressional Affairs is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (9) is added to paragraph (a) of § 213.3337 as set out below.

§ 213.3337 General Services Administration.

(a) * * *

(9) The Director of Congressional 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. 69-13410; Filed, Nov. 12, 1969; 8:45 a.m.]

PART 591—ALLOWANCES AND DIFFERENTIALS PAYABLE IN NONFOREIGN AREAS

Based on an annual review of the living-cost surveys made in 1968, the Commissioners terminated the allowance for the Virgin Islands effective the first day of the first pay period in July 1969, simultaneous with the implementation of the new General Schedule and PFS Schedule. Section 591.202 is amended by deleting the reference to the Virgin Islands of the United States.

(5 U.S.C. 5941, sec. 202, E.O. 10000; 3 CFR, 1943–1948 Comp., p. 794, E.O. 10636; 3 CFR, 1954–1958 Comp., p. 268)

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

[F.R. Doc. 69-13411; Filed, Nov. 12, 1969; 8:45 a.m.]

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Q]

PART 217—INTEREST ON DEPOSITS

Miscellaneous Amendments

1. Effective November 5, 1969, § 217.3(g) is amended to read as follows:

(g) *Time deposits of foreign governmental entities and international organizations.* Section 217.7 does not apply to the rate of interest that may be paid by a member bank on a time deposit having a maturity of 2 years or less and representing funds deposited and owned by (1) a foreign government, or an agency or instrumentality thereof engaged principally in activities which are ordinarily performed in the United States by governmental entities, (2) an international entity of which the United States is a member, or (3) any other foreign, international, or supranational entity specifically designated by the Board as exempt from § 217.7. All certificates of deposit issued by member banks to such entities on which the contract rate of interest exceeds the maximum prescribed under § 217.7 shall provide that (1) in the event of transfer, the date of transfer, attested to in writing by the transferor, shall appear on the certificate, and (2) the maximum rate limitations of § 217.7 in effect at the date of issuance of the certificate shall apply to the certificate for any period during which it is held by a person other than an entity exempt therefrom under the foregoing sentence.[6] Upon the presentment of such a certificate for payment, the bank may pay the holder the contract rate of interest on the deposit for the time that the certificate was actually owned by an entity so exempt.

2. Section 217.12 of this part is hereby revoked.

3a. The purposes of this amendment are (1) to expand the categories of organizations on whose time deposits member banks may pay rates of interest in excess of those permitted by § 217.7, and (2) to provide an alternative method by which an exempt organization may transfer a certificate of deposit to a nonexempt holder. Formerly, a time deposit of a foreign government, a monetary or financial authority of a foreign government when acting as such, or an international financial institution of which the United States is a member was exempt from the interest rate limitations of § 217.7. A broadening of the categories of exempt organizations is consistent with the purposes of § 217.3 (g)—to encourage the maintenance of foreign governmental time deposits in American banks. An alternative method of transferring to a nonexempt holder a certificate of deposit issued to an exempt organization is included in footnote 6. The alternative method provides the same safeguards as the method heretofore prescribed by § 217.3(g).

b. The procedures of section 553(b) title 5, United States Code, with respect to notice, public participation, and deferred effective date were not followed in connection with this amendment. The alternative method of transfer is procedural in nature and involves no substantive change. The revision of the

[6] A new certificate not maturing prior to the maturity date of the original certificate may be issued by the member bank to the transferee, in which event the original must be retained by the bank. The new certificate may not provide for interest after the date of transfer at a rate in excess of the applicable maximum rate authorized by § 217.7 as of the date of issuance of the original certificate.

categories of exempt organizations is a liberalization resulting in the relaxation of their restrictive nature. In these circumstances, the Board found such procedures to be unnecessary and contrary to the public interest.

By order of the Board of Governors, November 5, 1969.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-13420; Filed, Nov. 12, 1969; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 69-SO-121]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Rockingham, N.C., transition area.

The Rockingham transition area is described in § 71.181 (34 F.R. 4637). An extension to the transition area, predicated on Pinehurst VORTAC 206° radial, has a designated width of 2 miles each side of the radial and extends from the 5-mile radius area to 13 miles southwest of the VORTAC.

The application of Terminal Instrument Procedures (TERPs) and the redefinement of the final approach radial of AL-5578 VOR/DME-1 instrument approach procedure requires redesignating the transition area extension to Pinehurst VORTAC 203° radial; increasing the width to 4 miles each side of this radial, and reducing the length by 5 miles. These actions result in an overall reduction of approximately 15 square miles of controlled airspace.

Since these amendments lessen the burden on the public, notice and public procedure hereon are unnecessary and action is taken herein to alter the transition area description accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 4, 1969, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the Rockingham, N.C., transition area is amended to read:

ROCKINGHAM, N.C.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Rockingham-Hamlet Airport (lat. 34°53'30'' N., long. 79°45'35'' W.); within 4 miles each side of Pinehurst VORTAC 203° radial, extending from the 5-mile radius area to 18 miles southwest of the VORTAC.

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

Issued in East Point, Ga., on November 3, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-13460; Filed, Nov. 12, 1969; 8:48 a.m.]

[Airspace Docket No. 69-SO-136]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Camden, S.C., transition area.

The Camden transition area is described in § 71.181 (34 F.R. 4637). In the description, an extension is predicated on the 040° bearing from the Camden RBN and has a designated width of 2 miles each side of the bearing and a length of 8 miles.

U.S. Standards for Terminal Instrument Procedures (TERPs), issued after extensive consideration and discussion with Government agencies concerned and affected industry groups, are now being applied to update the criteria for instrument approach procedures. The criteria for the designation of controlled airspace protection for these procedures was revised to conform to TERPs and achieve increased and efficient utilization of airspace.

Because of this revised criteria, it is necessary to alter the description by increasing the width of the extension from 2 to 3 miles each side of the 040° bearing from Camden RBN and by increasing the length from 8 to 8.5 miles.

In consideration of the foregoing, notice and public procedure hereon are unnecessary and Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the Camden, S.C., transition area is amended to read:

CAMDEN, S.C.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Woodward Field (lat. 34°17'03'' N., long. 80°33'53'' W.); within 3 miles each side of the 040° bearing from Camden RBN (lat. 34°17'02'' N., long 80°33'42.5'' W.), extending from the 7-mile radius area to 8.5 miles northeast of the RBN.

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

Issued in East Point, Ga., on November 3, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-13461; Filed, Nov. 12, 1969; 8:48 a.m.]

[Airspace Docket No. 69-WE-76]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the description of the Aurora, Oreg., transition area.

On July 1, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 11103) stating that the Federal Aviation Administration was considering designating a transition for Aurora State Airport, Aurora, Oreg. The transition area was to be described in part on the 125° T (104° M) and 305° T (284° M) radials of the Newberg VORTAC. No objections were received to this proposal.

A final rule was issued on August 12, 1969 with an effective date of October 16, 1969, adopting the proposal subject to changing the Newberg VORTAC radials to 123° T (101° M) and 303° T (282° M). This change was made to provide better alignment of the final approach course. Recent updated data has now been received from Coast and Geodetic Survey which again requires changes in the Newberg VORTAC radials. Action is taken herein to reflect this change.

In consideration of the foregoing in §71.181 (34 F.R. 13412) the description of the Aurora, Oreg. transition area is amended by deleting reference to the Newberg VORTAC "* * * 123° * * *" and "* * * 303° * * *" radials and substituting "* * * 126° * * *" and "* * * 306° * * *" therefor.

Since these changes are minor in nature, notice and public procedure hereon are unnecessary.

Effective date: This amendment shall be effective 0901 G.m.t., January 8, 1970.

Issued in Los Angeles, Calif., on November 3, 1969.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 69-13462; Filed, Nov. 12, 1969; 8:48 a.m.]

[Airspace Docket No. 69-SO-133]

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

Revocation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke the Stuart, Fla., transition area.

The Stuart transition area is described in § 71.181 (34 F.R. 4637).

The controlled airspace protection at Witham Airport will no longer be required after December 1, 1969, as the Special ADF Instrument Approach Procedure, utilizing Commercial Broadcast Station WSTU, will be canceled on that date. It is necessary to revoke the transition area which was established to provide required controlled airspace protection for IFR aircraft executing this approach.

Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 1, 1969, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the Stuart, Fla., transition area is revoked.

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

Issued in East Point, Ga., on October 31, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-13463; Filed, Nov. 12, 1969; 8:48 a.m.]

[Airspace Docket No. 69-SO-130]

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

Revocation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke the Louisville, Miss., transition area.

The Louisville transition area, described in § 71.181 (34 F.R. 4637), was designated to provide controlled airspace protection for IFR operations at Louisville-Winston County Airport. Two prescribed instrument approach procedures to this airport, utilizing a proposed (private) nondirectional radio beacon, were developed.

Louisville-Winston County officials advised that the proposal to establish the nondirectional radio beacon had been abandoned. Accordingly, it is necessary to amend Part 71 of the Federal Aviation Regulations by revoking this transition area.

Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the Louisville, Miss., transition area is revoked.

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

Issued in East Point, Ga., on October 29, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-13464; Filed, Nov. 12, 1969; 8:48 a.m.]

[Airspace Docket No. 69-SO-127]

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

Alteration of Control Zone and Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Orlando, Fla. (McCoy AFB), control zone and the Orlando, Fla., transition area.

The Orlando (McCoy AFB) control zone is described in § 71.171 (34 F.R. 4557) and the Orlando transition area is described in § 71.181 (34 F.R. 4637). In the descriptions, references are made to the McCoy AFB LOM. Since the compass locator, which is collocated with the outer marker, will be decommissioned, effective January 29, 1970, it is necessary to alter the descriptions to delete references to the LOM and make reference to the OM.

Since these amendments are editorial in nature, notice and public procedure hereon are unnecessary and action is taken herein to amend the descriptions accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 29, 1970, as hereinafter set forth.

In § 71.171 (34 F.R. 4557), the Orlando, Fla. (McCoy AFB), control zone and in § 71.181 (34 F.R. 4637), the Orlando, Fla., transition area are amended as follows: "* * * LOM * * *" is deleted and "* * * OM * * *" is substituted therefor, wherever it appears.

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

Issued in East Point, Ga., on November 4, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-13473; Filed, Nov. 12, 1969; 8:49 a.m.]

[Airspace Docket No. 69-SO-90]

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

Designation of Transition Area

On September 24, 1969, a notice of proposed rule making was published in the FEDERAL REGISTER (34 F.R. 14737), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Clarksdale, Miss., transition area.

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

Subsequent to publication of the notice, the gegoraphic coordinate (lat. 34°17'45'' N., long. 90°30'50'' W.) for Fletcher Field was obtained from Coast and Geodetic Survey. Also, it was determined that the word "area" was inadvertently omitted from the extensions predicated on the 010° and 163° bearings from Clarksdale RBN. It is necessary to alter the description by inserting the geographic coordinate for the airport and appropriately inserting the word "area."

Since these amendments are editorial in nature, notice and public procedure hereon are unnecessary and action is taken herein to alter the description accordingly.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 5, 1970, as hereinafter set forth.

In § 71.181 (34 F.R. 4637), the following transition area is added:

CLARKSDALE, MISS.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Fletcher Field (lat. 34°17'45'' N., long. 90°30'50'' W.); within 3 miles each side of the 010° and 163° bearings from the Clarksdale RBN (lat. 34°17'33'' N., long. 90°30'57'' W.), extending from the 6.5-mile radius area to 8.5 miles north and south of the RBN.

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

Issued in East Point, Ga., on November 4, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-13474; Filed, Nov. 12, 1969; 8:49 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

SUBCHAPTER E—RULES, REGULATIONS, STATEMENT OF GENERAL POLICY OR INTERPRETATION AND EXEMPTIONS UNDER THE FAIR PACKAGING AND LABELING ACT

PART 500—REGULATIONS UNDER SECTION 4 OF THE FAIR PACKAGING AND LABELING ACT

Confirmation of Effective Date of Order

In the matter of amending § 500.3 (c) and (d) by inserting the words "packaged and labeled" immediately before the words "consumer commodity" where the latter appears in each paragraph, and amending § 500.16 by inserting "thirds" in the listing of common fractions which may be used to express linear measurements in yards and feet:

Pursuant to the provisions of the Fair Packaging and Labeling Act (sections 4, 6, 80 Stat. 1297, 1299, 1300; 15 U.S.C. 1453, 1454, 1455), notice is given that no objections were filed in the above-identified matter published in the FEDERAL REGISTER of September 24, 1969 (34 F.R. 14730). Accordingly, the October 24, 1969 effective date of the amendments to §§ 500.3 (c) and (d) and 500.16 is confirmed.

Issued: November 7, 1969.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 69-13504; Filed, Nov. 12, 1969; 8:51 a.m.]

PART 500—REGULATIONS UNDER SECTION 4 OF THE FAIR PACKAGING AND LABELING ACT

Measurement of Container Type Commodities, How Expressed

In the matter of amending Part 500 by the addition of a new § 500.15a prescribing the manner of expressing the measurement of container type commodities:

Pursuant to the provisions of the Fair Packaging and Labeling Act (sections 4, 6, 80 Stat. 1297, 1299, 1300; 15 U.S.C. 1453, 1454, 1455), notice is given that no objections were filed in the above-identified matter published in the FEDERAL REGISTER of September 24, 1969 (34 F.R. 14731). Accordingly, the February 1, 1970, effective date of the new § 500.15a is confirmed.

Issued: November 7, 1969.

By direction of the Commission.

[SEAL] JOSEPH W. SHEA, *Secretary.*

[F.R. Doc. 69-13503; Filed, Nov. 12, 1969; 8:51 a.m.]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release Nos. 33-5018 and 34-8733]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Sale and Distribution of Whisky Warehouse Receipts

The Securities and Exchange Commission today called attention to the applicability of the Federal securities laws to the sale and distribution of whisky warehouse receipts in areas subject to the jurisdiction of the United States. The Commission pointed out that the promotion and sale of such receipts may involve an offering of a security in the form of an investment contract within the meaning of the Securities Act of 1933 and the Securities Exchange Act of 1934, and that any public offering of any such securities must comply with the registration and prospectus requirements of the Securities Act, unless an exemption therefrom is available, and must comply with the antifraud provisions of the Securities Act and the Securities Exchange Act and the regulations thereunder.

Recently, the public promotion and distribution of whisky warehouse receipts has been increasing in the United States. In most cases the whisky warehouse receipts offered have related to unblended whisky, usually unblended Scotch whisky being aged in a bonded warehouse in Scotland. The production of Scotch whisky involves distilling, aging, and blending. The blenders, who blend many varieties of aged whisky to arrive at their final product, are frequently unable to finance the purchase of all their needs from distillers because of the burden of financing the long aging process and because of the risks associated with changes in the whisky as it mellows. The aging process is a fundamental part of the production process. Freshly distilled Scotch whiskies vary considerably and change as they age, and blenders' needs change as public tastes change; consequently the need for a particular whisky cannot be determined until it is ready for blending. In order to finance the risks involved in the final production of a blended whisky, whisky warehouse receipts are sold to persons and institutions. Generally, the receipt covers casks of whisky which are contained in one or more warehouses, and the arrangement under which the whisky warehouse receipt is sold to the investor-purchaser generally contemplates that the whisky will continue to be stored until it is aged and that it will eventually be sold for him to the blenders who will use it to blend other whiskies to produce the final product.

The purchaser of the whisky warehouse receipt is not being offered or sold such receipts with a view to acquiring and taking possession of the whisky. Rather, the purchaser in these cases is making an investment under an arrangement which contemplates that others will perform services which will increase the value of the whisky and will also eventually sell the whisky under circumstances which are expected to result in a profit to the purchaser-investor.

In S.E.C. v. W. J. Howey Co., 328 U.S. 293, 301 (1946), the Supreme Court stated that the test of whether a security is being offered "is whether the scheme involves an investment of money in a common enterprise with profits to come solely from the efforts of others. If that test be satisfied, it is immaterial whether the enterprise is speculative or non-speculative, or whether there is a sale of property with or without intrinsic value * * *. The statutory policy of affording broad protection to investors is not to be thwarted by unrealistic and irrelevant formulae." In Howey the Supreme Court noted that the Commission has followed the same definition in In re National Resources Corporation, 8 S.E.C. 635 (1941). The Commission there stated that "transactions which, in form, appear to involve nothing more than the sale of real estate, chattels or services, have been held to be investment contracts where, in substance, they involve the laying out of money by the investor on the assumption and expectation that the investment will return a profit without any active effort on his part, but rather as the result of the efforts of someone else." 8 S.E.C. at 637.[1]

The anti-fraud provisions of the Federal securities laws, including section 17(a) of the Securities Act and section 10(b) and Rule 10b-5 [17 CFR 240.10b-5] under the Securities Exchange Act, make it unlawful, in connection with the purchase or sale of a security, to make misstatements or misleading omissions of material facts, and prohibit other fraudulent and deceptive practices. The antifraud provisions apply to advertisements, literature and other statements and representations made in connection with the offer and sale of securities, and particular attention is called to these provisions in view of the exaggerated claims made in some of the advertisements and other material used to promote sales of whisky warehouse receipts.

It should also be noted that persons engaged in the business of buying or selling investment contracts taking the form of whisky warehouse receipts as agents for others, or in the business of buying and selling such securities as principal for their own account, would be brokers or dealers within the meaning of the Securities Exchange Act of 1934, and would generally be required to be registered as such with the Commission under the provisions of section 15 of the Act. Such a broker or dealer would be subject also to other regulatory provisions, including the Commission's Rule 15c3-1 (17 CFR 240.15c3-1), which imposes net capital requirements on brokers and dealers.

Persons engaging in the sale of whisky warehouse receipts who have any questions concerning the applicability of the Federal securities laws to their activities should consult the nearest regional office of the Commission.

By the Commission, November 4, 1969.

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

[F.R. Doc. 69-13455; Filed, Nov. 12, 1969; 8:47 a.m.]

[1] This is not the first time that the Commission has been concerned with the sale of whisky warehouse receipts in the context of investment contracts. In two related cases, Penfield Co. v. S.E.C., 143 F. 2d 746 (9th Cir. 1944), and S.E.C. v. Bourbon Sales Corp., 47 F. Supp. 70 (W.D. Ky., 1942), subpoenas issued by the Commission were enforced by the courts despite respondents' objections that no securities were involved. The respondents sold bourbon whisky warehouse receipts to investors and then, in exchange for the receipts, offered them contracts under which the respondents would bottle and sell the whisky for the investor with the respondents keeping a percentage of the profit. The court in Penfield stated: "These contract provisions and representations, as well as the fact that the contract-holders, being ordinary investors and not liquor dealers, would not have the facilities or the necessary Federal and State liquor licenses to take the whisky out of bond and dispose of it, make it clear that they must look entirely to the efforts of the promoters to make their investment a profitable one, the criterion in our opinion in Atherton v. United States * * * [128 F. 2d 463 (9th Cir. 1942)] at page 465." 143 F. 2d at 751.

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 141c—CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE- (OR TETRACYCLINE-) CONTAINING DRUGS; TESTS AND METHODS OF ASSAY

PART 146c—CERTIFICATION OF CHLORTETRACYCLINE (OR TETRACYCLINE) AND CHLORTETRACYCLINE (OR TETRACYCLINE-) CONTAINING DRUGS

PART 148n—OXYTETRACYCLINE

Certain Tetracycline-Nystatin, Oxytetracycline-Nystatin, and Demethylchlortetracycline-Nystatin Combination Preparations for Oral Use in Humans

In the FEDERAL REGISTER of April 2, 1969 (34 F.R. 6007), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group, on the following preparations:

A. Combination drugs containing tetracycline, tetracycline hydrochloride, or tetracycline phosphate complex with nystatin:

1. Mysteclin-V Capsules; E. R. Squibb & Sons, Inc., Georges Road, New Brunswick, N.J. 08903.

2. Tetrastatin for Oral Suspension; Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, N.Y. 10017.

3. Tetrastatin Capsules; Chas. Pfizer & Co., Inc.

4. Comycin Half-Strength Capsules; The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49002.

5. Comycin Capsules; The Upjohn Co.

6. Achrostatin V for Oral Suspension; Lederle Laboratories, Division of American Cyanamid Co., West Middletown Road, Pearl River, N.Y. 10965.

7. Achrostatin V Capsules; Lederle Laboratories, Division of American Cyanamid Co.

B. Combination drugs containing oxytetracycline and nystatin:

1. Terrastatin for Oral Suspension; Chas. Pfizer & Co., Inc.

2. Terrastatin Capsules; Chas. Pfizer & Co., Inc.

C. Combination Drugs containing demethylchlortetracycline and nystatin:

1. Declostatin for Oral Suspension; Lederle Laboratories, Division of American Cyanamid Co.

2. Declostatin Capsules; Lederle Laboratories, Division of American Cyanamid Co.

The Academy evaluated these drugs as ineffective as fixed combinations for simultaneous antimicrobial therapy and monilial prophylaxis and found that adequate documented evidence is lacking that the fixed combinations are useful during therapy in preventing clinical disease due to monilial superinfection. The Food and Drug Administration concurred with the views expressed by the Academy and concluded that substantial evidence is lacking that each of these combination drugs will have the effect it purports or is represented to have.

All interested persons who might be adversely affected by removal of drugs containing any of the above-listed combinations from the market were invited to submit within 30 days, any pertinent data bearing on the proposal to amend the antibiotic drug regulations to delete from the list of drugs acceptable for certification, those that contain the above-listed antibiotic combinations.

Lederle Laboratories submitted responses to the announcement which have been reviewed and found to contain no new clinical data. The Food and Drug Administration concludes that the material submitted does not provide substantial evidence of effectiveness of such combination drugs.

In addition to the above-listed products, for which the conditions of certification are described in §§ 141c.224, 141c.225, 141c.229, 141c.236, 141c.259, 141c.263, 146c.224, 146c.236, 146c.259, 146c.263, 148n.9 and 148n.10, other sections, §§ 141c.271, 146c.225, 146c.229, and 146c.271, described the conditions for certification of other oral dosage forms of such combinations. Preparations currently marketed under these regulations in addition to those listed above are:

1. Tetrex-F Capsules (tetracycline phosphate complex-nystatin) and Tetrex-F for Oral Suspension (tetracycline-nystatin); Bristol Laboratories, Division of Bristol-Myers Co., Thompson Road, Syracuse, N.Y. 13201.

2. Declostatin 300 Tablets (demethylchlortetracycline-nystatin); Lederle Laboratories, Division of American Cyanamid Co.

The data submitted in support of these preparations, though not evaluated by the National Academy of Sciences—National Research Council, have been reviewed by the Food and Drug Administration and have been found to lack substantial evidence that the fixed combinations will have the effect they purport or are represented to have.

Accordingly, the Commissioner of Food and Drugs concludes (1) that the regulations for the certification of antibiotic drugs should be amended as follows to delete the above-listed antibiotic combinations of oral dosage forms for human use from the list of drugs acceptable for certification and (2) that all outstanding certificates heretofore issued for such combination drugs should be revoked.

Therefore, 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 authority delegated to the Commissioner (21 CFR 2.120), Parts 141c, 146c and 148n are amended by repealing §§ 141c.224, 141c.225, 141c.229, 141c.236, 141c.259, 141c.263, 141c.271, 146c.224, 146c.225, 146c.229, 146c.236, 146c.259, 146c.263, 146c.271, 148n.9, and 148n.10, and all antibiotic certificates issued under those regulations are revoked.

Any person who will be adversely affected by the removal of any such drugs from the market may file, within 30 days after publication hereof in the FEDERAL REGISTER, objections to this order stating reasonable grounds and requesting a hearing on such objections. A statement of reasonable grounds for a hearing (1) should identify the claimed errors in the National Academy of Sciences—National Research Council's evaluation and the Administration's conclusions as to the effectiveness of the combination drug and (2) should identify any adequate and well-controlled investigations on the basis of which it reasonably could be concluded that the drug would have the effectiveness claimed for its intended uses. Objections should be filed (preferably in quintuplicate) with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, and may be accompanied by a memorandum or brief in support thereof.

If objections accompanied by reasonable grounds are received, the Commissioner will promptly announce a hearing. If a hearing is scheduled, it will be held under the provisions of section 507 (f) of the Federal Food, Drug, and Cosmetic Act.

Effective date. This order shall become effective 40 days after its date of publication in the FEDERAL REGISTER unless stayed by the filing of proper objections. The Commissioner will announce in the FEDERAL REGISTER whether or not requests for hearing with reasonable grounds have been received during the 30-day period. At that time the Commissioner will specify how the outstanding stocks of the affected drugs are to be handled.

(Secs. 502, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended; 21 U.S.C. 352, 357)

Dated: November 4, 1969.

HERBERT L. LEY, Jr.,
Commissioner of Food and Drugs.

[F.R. Doc. 69-13425; Filed, Nov. 12, 1969; 8:46 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Departmental Reg. 108.612]

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

Automatic Revalidation of Nonimmigrant Visas in Certain Cases

Part 41, Chapter I, Title 22 of the Code of Federal Regulations is being amended to provide for automatic revalidation of

nonimmigrant visas in certain circumstances for nonimmigrant aliens reentering the United States from contiguous territory or adjacent islands. Section 41.125 is amended to read as follows:

§ 41.125 Revalidation of visas.

* * * * *

(f) *Automatic revalidation of visas in certain cases.*

(1) An expired nonimmigrant visa issued pursuant to the provisions of section 101(a)(15)(F) or (J) of the Act, or an expired or unexpired nonimmigrant visa issued pursuant to the provisions of another paragraph of section 101(a)(15) if the nonimmigrant status has been changed by the Immigration and Naturalization Service to that of a nonimmigrant as defined in paragraph (F) or (J), may be considered to be automatically revalidated to the date of application for readmission to the United States and converted, if necessary, to classification under paragraph (F) or (J), in the case of a nonimmigrant alien who:

(i) Is applying for readmission into the United States after an absence not exceeding 2 weeks solely in contiguous territory or adjacent islands other than Cuba;

(ii) Has maintained and intends to resume his status under paragraph (F) or (J) in the United States;

(iii) Presents, or is the accompanying spouse or child of an alien who presents, a current Form I-20 (in the case of student) or Form DSP-66 (in the case of an exchange visitor) issued by the school the student has been authorized to attend by the Immigration and Naturalization Service, or by the sponsor of the exchange program in which he has been authorized to participate by the Immigration and Naturalization Service, and endorsed by the issuing school official or program sponsor to indicate the period of initial admission or extension of stay authorized by the Immigration and Naturalization Service;

(iv) Is applying for readmission within the authorized period of initial admission or extension of stay;

(v) Is in possession of a valid passport; and

(vi) Does not require the authorization of his temporary admission into the United States under section 212(d)(3) of the Act.

(2) An expired nonimmigrant visa issued pursuant to the provisions of any paragraph of section 101(a)(15) of the Act may be considered to be revalidated to the date of application for readmission to the United States and an expired or unexpired nonimmigrant visa issued pursuant to the provisions of any paragraph of section 101(a)(15) of the Act may, if the original nonimmigrant status has been changed by the Immigration and Naturalization Service to another nonimmigrant status, be considered to be revalidated to the date of application for readmission to the United States and converted to that changed status in the case of a nonimmigrant alien who:

(i) Has maintained nonimmigrant status in the United States and is in possession of an Arrival-Departure Card (Form I-94) endorsed by the Immigration and Naturalization Service to show an unexpired period of initial admission or extension of stay;

(ii) Is applying for readmission into the United States after an absence not exceeding 7 days solely in contiguous territory;

(iii) Intends to resume nonimmigrant status in the United States;

(iv) Is applying for readmission within the authorized period of initial admission or extension of stay;

(v) Is in possession of a valid passport; and

(vi) Does not require the authorization of his temporary admission into the United States under section 212(d)(3) of the Act.

(g) *Fee for revalidation.* The fee for the revalidation of a nonimmigrant visa shall be that prescribed for the issuance of such a visa, if any; provided, however, that

(1) When the visa was issued valid for a lesser number of applications for admission or for a period of validity less than the maximum permitted by reciprocity, it may be revalidated for the remaining number of applications for admission and validity permitted without the payment of an additional fee; and

(2) No fee shall be charged in the case of a visa considered to be automatically revalidated pursuant to the provisions of paragraph (f) of this section.

Effective date. The amendment to the regulations contained in this order shall become effective upon publication in the FEDERAL REGISTER.

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

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

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

OCTOBER 22, 1969.

[F.R. Doc. 69-13431; Filed, Nov. 12, 1969; 8:46 a.m.]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER I—MILITARY PERSONNEL

PART 885—APPOINTMENT OF OFFICERS IN THE REGULAR AIR FORCE

Subchapter I of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

Part 885 is revised to read as follows:

Sec.
885.0 Purpose.
885.2 Policy.
885.4 Requirements.
885.6 Selection procedures for distinguished graduates of the AFROTC program.
885.8 Category of personnel to be considered for regular Air Force appointment and statutory authority.
885.10 Consideration for regular appointment.
885.12 Basic eligibility.
885.14 How to apply.
885.16 Service credit for AFROTC graduate.
885.18 Permanent grade.
885.20 Temporary grade.
885.22 Sample letter to references (physicians and dentists).

AUTHORITY: The provisions of this Part 885 issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012, except as otherwise noted.

SOURCE: AFR 36-5, Oct. 18, 1968 and Change 1, July 10, 1969.

§ 885.0 Purpose.

This part outlines eligibility for consideration for appointment as commissioned officers in the regular Air Force.

§ 885.2 Policy.

(a) The regular Air Force appointment program is established by public law. The law stipulates how many regular officers the Air Force may have, outlines eligibility criteria for appointment, and specifies the procedures to be used in the selection process.

(b) Regular Air Force appointments are made annually to sustain the regular officer structure established by law.

§ 885.4 Requirements.

(a) *Citizenship.* A person must be a U.S. citizen to be eligible for regular Air Force consideration. Anyone selected for regular appointment who is not a citizen by birth is required to furnish documentary evidence of citizenship, if such evidence is not in his Master Personnel Record.

(b) *Physical qualification.* (1) Physical qualification is a prerequisite to appointment. The Surgeon General, USAF, determines this qualification, according to the physical standards for unrestricted worldwide service according to AFM 35-4 (Physical Evaluation for Retention, Retirement, and Separation). (2) An officer found medically disqualified for regular apopintment continues to be eligible for appointment, provided he can reasonably be expected to qualify medically within 1 year of the date of Presidential approval of his appointment.

(c) *Additional requirements.* (1) Each appointee must be of a background, character, and reputation that assures his appointment in the regular Air Force is clearly in the best interests of the Air Force. Before regular appointment can be finalized, favorable National Agency Check (NAC) requirements must be fulfilled. (2) Male selectees with dependents are not restricted. However, a female selectee may not be appointed if she: (i) Is the mother, by birth or adoption, of a child under 18 years old, of whom she has personal or legal custody. (ii) Is the stepmother of a child under 18 years old who is within her household for a period of more than 30 days a year; or (iii) Has, or has assumed, personal custody of any child under 18 years old. (3) An officer who is in a deferred promotion status, due to failure of selection for a permanent grade, or

an officer who failed temporary promotion from within the primary zone of eligibility, is not eligible for consideration for regular Air Force appointment.

(4) Not eligible for consideration for regular Air Force appointment are officers: (i) Ordered to active duty under title 10, U.S.C.: section 265, from Air National Guard; section 8033, from Air Force Reserve; section 8495, from Air National Guard. (ii) Ordered to active duty for training only; (iii) Whose Date of Separation (DOS) is established during the month of, or in the 2-month period after, the month of a board convening date. For example, a Regular Appointment Board convenes in April 1969; officers with established DOS's through June 1969 would be ineligible for consideration. Officers may and should be encouraged to establish eligibility through a Specified Period of Time Contract (SPTC) under AFR 36-94 to obtain additional service retainability, or Career Reserve Status (CRS) under Part 888c of this title. To insure proper consideration, applications for SPTC or CRS must be initiated at least 3 months before the selection board convening date.

§ 885.6 Selection procedures for distinguished graduates of the AFROTC program.

Hq Au convenes boards twice annually in November and May, to align in "order of merit" all prospective DGs who are scheduled to graduate during the periods April through August and September through March, respectively. Such alignments are based on the "best qualified" method of selection.

§ 885.8 Category of personnel to be considered for regular Air Force appointment and statutory authority.

If individual is to be considered for Regular Air Force appointment as—	*Statutory authority for such appointment is contained in—*
Line of the Air Force	Ch. 835, 10 U.S.C.
Physician (including osteopath).	Ch. 835, 10 U.S.C.
Dentist	Ch. 835, 10 U.S.C.
Nurse	Ch. 835, 10 U.S.C.
Biomedical science (except dietitian, physical and occupational therapist).	Ch. 835, 10 U.S.C.
Biomedical science (dietitian, physical and occupational therapist).	Ch. 835, 10 U.S.C.
Medical service officer	Ch. 835, 10 U.S.C.
Veterinarian	Ch. 835, 10 U.S.C.
Judge Advocate	Ch. 835, 10 U.S.C.
Chaplain	Ch. 835, 10 U.S.C.
OTS Distinguished Graduate.	Ch. 835, 10 U.S.C.
AFROTC Distinguished Graduate (graduated before Oct. 13, 1964).	Ch. 835, 10 U.S.C.
AFROTC Distinguished Graduate (graduated on or after Oct. 13, 1964).	Ch. 103, 10 U.S.C.
Cadet or midshipman of the U.S. Military or Naval Academy.	10 U.S.C. 541 and 9353, and Ch. 835, 10 U.S.C.
Regular officer of Army, Navy, or Marine Corps applying for interservice transfer.	10 U.S.C. 716

§ 885.10 Consideration for regular appointment.

(a) If the person is a dentist not on EAD, he must submit AF Form 17, "Application for Appointment in the Regular Air Force" to be considered for appointment.

(b) An AFROTC distinguished cadet will not submit an application for consideration.

§ 885.12 Basic eligibility.

(a) If a person to be considered is an AFROTC or OTS Distinguished Graduate, then he:

(1) At the time of appointment must be at least 21 years old and of an age that would permit the completion of 20 years active commissioned service in the U.S. Armed Forces before his 55th birthday[1]

(2) Must have been designated as a Distinguished Graduate by appropriate authority.

(i) For service credit see § 885.16.

(b) If a person to be considered is a dentist not on EAD applying more than one year after graduation from dental school, then he:

(1) At the time of appointment must be at least 21 years old, and may not exceed age 35 by more than the number of years, months, and days that he has served on active duty as a commissioned officer of the U.S. Armed Forces.[2]

(2) Must be a graduate (or prospective graduate) of a dental school acceptable to the Surgeon General, USAF, and possess a license to practice dentistry in a State or territory of the United States or in the District of Columbia.

(i) For service credit see § 885.14.

(c) If a person to be considered is a dentist not on EAD applying less than 1 year after graduation from dental school and senior dental students within 4 months of graduation—

(1) See paragraph (b)(1) of this section.

(2) And must be a graduate (or prospective graduate) of a dental school acceptable to the Surgeon General, USAF.

(i) For service credit see § 885.14.

§ 885.14 How to apply.

(a) A dentist not on EAD and applying less than 1 year after graduation from dental school must:

(1) Prepare and submit 2 copies of AF Forms 17 and 17a.

(2) Include with AF Form 17 a copy of DD Form 214, for any prior military service; copy of diploma awarding DDS degree; evidence of post graduate work or residency; current head-and-shoulder type photo, 3" x 5" or larger, with name typed or printed on back; one DD Form 398; one FBI Fingerprint Card; and one DD Form 1584.

[1] Distinguished graduates, appointed under the ROTC Vitalization Act of 1964, may be appointed in the Regular Air Force before attaining age 21.

[2] Age requirement may be waived upon recommendation by the Surgeon General, USAF.

(3) Submit AF Form 17 to USAFMPC (AFPMAJC1), Randolph AFB, TX 78148.

(4) In addition requests (in writing) a letter of reference from persons listed in Item 7, AF Form 17a, one of whom must be the Dean of the appropriate medical or dental school. See § 885.22.

(b) A dentist not on EAD and applying more than 1 year after graduation from dental school must:

(1) Prepare and submit two copies of AF Forms 17 and 17a.

(2) Same as items listed in paragraph (a)(2) of this section, plus a copy of State license.

(3) Submit AF Form 17 to USAFMPC (AFPMAJC1), Randolph AFB, TX 78148.

(4) Same as paragraph (a)(4) of this section.

(c) A senior dental student within 4 months of graduation (see footnotes 2 and 3).

(1) Prepares and submits two copies of AF Forms 17 and 17a.

(2) Include with AF Form 17 a copy of DD Form 214, for any prior military service; current head-and-shoulder type photo, 3" x 5" or larger, with name typed or printed on back; one DD Form 398; one FBI Fingerprint Card; one DD Form 1584.

(3) Submits AF Form 17 to USAFMPC (AFPMAJC1), Randolph AFB, TX 78148.

(4) Same as paragraph (a)(4) of this section.

§ 885.16 Service credit for AFROTC graduate.

If an AFROTC graduate is selected for appointment then, upon appointment in the Regular Air Force, he is credited with an amount of service equal to the length of active Federal commissioned service that he performed in the U.S. Armed Forces before Regular appointment and after becoming 21 years old.[1] To determine permanent grade see § 885.18.

[1] Applicants who are not U.S. citizens by birth furnish a certificate accomplished by an officer, notary public, or other person authorized by law to administer oaths, as follows: "I certify that I have this date seen the original Certificate of Citizenship No. ______ (or certified copy of court order establishing citizenship) stating that (full name) was admitted to U.S. citizenship by the ____________ Court of (District or County and State) on (Date)." Facsimiles or copies, photographs or otherwise of naturalization certificates will not be made under any circumstances. (18 U.S.C. 1426(h).)

[2] Persons who are participating in the Senior Dental Student Program must be made available for active duty within 90 days after graduation.

[3] After graduation and receipt of notification of selection, and before finalization of appointment, selectees are required to furnish a copy of a diploma awarding the DDS degree and a statement indicating actual date of graduation, to USAFMPC (AFPMAJC1).

[1] Distinguished graduates of the AFROTC program under the ROTC Vitalization Act of 1964, may be appointed in the regular Air Force before attaining age 21.

§ 885.18 Permanent grade.

If promotion list service credit is—	Then Regular grade upon appointment is—[1]
Less than 3 years	2d lieutenant.
3 years but less than 7	1st lieutenant.
7 years but less than 14	captain.
14 years but less than 21	major.
21 years or more [2]	lieutenant colonel.

[1] All regular Air Force appointed grades and corresponding dates of rank are computed as of the date of Presidential nomination.

[2] When the Surgeon General, USAF, determines that a medical or dental applicant has had outstanding professional training or experience, and recommends that he be awarded more than 28 years promotion list service credit upon regular appointment, the appointment is made in the grade of colonel. Dental appointments in the grade of major and above normally require the person to be certified by an American Specialty Board and/or to have outstanding qualifications for a special position as determined by the Surgeon General.

§ 885.20 Temporary grade.

(a) If an AFROTC distinguished graduate is:

(1) Serving on EAD in a Reserve of the Air Force grade that is equal to or higher than the Regular grade to which appointed, then he vacates any Reserve appointment, upon acceptance of Regular appointment, and is tendered a temporary appointment in grade equal to the Reserve grade in which he was serving with no change in active duty date of rank.

(2) Serving on EAD in a temporary grade that is equal to or higher than the Regular grade to which appointed, then upon acceptance of Regular appointment, continues to serve in his temporary grade and date of rank, which are not affected by Regular appointment.

(3) Serving on EAD in a lower grade than the Regular grade to which he would be appointed, then he is not eligible for Regular Air Force appointment.

(b) If a dentist is not serving on EAD and is being appointed in the Regular Air Force grade of first lieutenant or captain, then, upon acceptance of Regular appointment, is appointed to the temporary grade of captain with rank from date of graduation from dental school.

§ 885.22 Sample letter to references (physicians and dentists).

DEAR ________________________:

I am applying for a commission in the Regular Air Force. My application must be indorsed by members of our profession who can render a personal evaluation of my suitability for such an appointment, professional capabilities and potential, relative class standing,[1] personal attributes, and any other appropriate comments. I have listed your name for such reference. Please furnish this information to USAFMPC (AFMSMB), Randolph AFB, TX 78148, at your earliest convenience. That office will hold your evaluation and comments in confidence and not disclose them to me.

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[1] Include only in letter to the Dean.

For 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. 69-13419; Filed, Nov. 12, 1969; 8:45 a.m.]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter I—Federal Procurement Regulations

PART 1-15—CONTRACT COST PRINCIPLES AND PROCEDURES

Miscellaneous Amendments

This amendment makes changes in and additions to Subpart 1-15.2. The changes deal with problems that have arisen in connection with the applicability of home office overhead to isolated locations, contracts with conglomerates, greater use of in-house patent counsel and higher patent costs, increased expenditures for rental of automatic data processing equipment (ADPE), and differing contractor treatment of depreciation for contract cost and tax purposes. In addition, several cost principles have been clarified.

The table of contents for Part 1-15 is amended to provide the following new or revised entries:

Sec.
1-15.205-31 Professional and consultant service costs—legal, accounting, engineering, and other.
1-15.205-50 Automatic data processing equipment (ADPE) leasing costs.

Subpart 1-15.2—Principles and Procedures for Use in Cost-Reimbursement Type Supply and Research Contracts With Commercial Organizations

Section 1-15.203 is amended; §§ 1-15.205-9, 1-15.205-23, 1-15.205-25, 1-15.205-26, 1-15.205-31, and 1-15.205-47(a) are revised; and new §§ 1-15.205-1(c) and 1-15.205-50 are added, as follows:

* * * * *

(c) Each grouping shall be distributed to the appropriate cost objectives. This necessitates the selection of a distribution base common to all cost objectives to which the grouping is to be allocated. The base should be selected so as to permit allocation of the grouping on the basis of the benefits accruing to the several cost objectives. This principle for selection is not to be applied so rigidly as to complicate unduly the allocation where substantially the same results are achieved through less precise methods. Once an appropriate base for the distribution of indirect costs has been accepted, such base shall not be fragmented by the removal of individual elements. Consequently, all items properly includable in an indirect cost base should bear a pro rata share of indirect costs irrespective of their acceptance as Government contract costs. For example, when a cost of sales base is deemed appropriate for the distribution of general and administrative (G&A) costs, all items chargeable to cost of sales, whether allowable or unallowable, shall be included in the base and bear their pro rata share of G&A costs.

(d) The method of allocation of indirect costs must be based on the particular circumstances involved. The method shall be in accord with those generally accepted accounting principles which are applicable in the circumstances. The contractor's established practices, if in accord with such accounting principles, shall generally be acceptable. However, the method used by the contractor may require examination or reexamination when:

(1) Any substantial difference occurs between the cost patterns of work under the contract and other work of the contractor;

(2) Any significant change occurs in the nature of the business, the extent of subcontracting, fixed asset improvement programs, the inventories, the volume of sales and production, manufacturing processes, the contractor's products, or other relevant circumstances; or

(3) Indirect cost groupings developed for a contractor's primary location are applied to offsite locations. Separate cost groupings for costs allocable to offsite locations may be necessary to permit equitable distribution of costs on the basis of the benefits accruing to the several cost objectives.

* * * * *

§ 1-15.205-1 Advertising costs.

* * * * *

(c) Advertising costs other than those specified above are not allowable.

§ 1-15.205-9 Depreciation.

(a) Depreciation is a charge to current operations which distributes the cost of a tangible capital asset, less estimated residual value, over the estimated useful life of the asset in a systematic and logical manner. It does not involve a process of valuation. Useful life has reference to the prospective period of economic usefulness in the particular contractor's operations as distinguished from physical life and shall be evidenced by the actual or estimated retirement and replacement practice of the contractor.

(b) Normal depreciation on a contractor's plant, equipment, and other capital facilities is an allowable element of contract cost provided the contractor is able to demonstrate that such costs are reasonable and properly allocable to the contract. Subject to paragraphs (c) through (h) of this § 1-15.205-9:

(1) Depreciation will ordinarily be considered reasonable if the contractor

follows depreciation policies and procedures which:

(i) Are consistent with the policies and procedures he follows in the same cost center in connection with his business other than Government business;

(ii) Are reflected in his books of account and financial statements; and

(iii) Are used by him for Federal income tax purposes, and are acceptable for such purposes.

(2) Where the depreciation reflected on a contractor's books of account and financial statements differs from that used and acceptable for Federal income tax purposes, reimbursement shall be based upon the cost of the asset to the contractor, amortized over the estimated useful life of the property, using depreciation methods (straight line, sum of the years' digits, etc.) acceptable for income tax purposes. Allowable depreciation shall not exceed the amounts used for book and statement purposes and shall be determined in a manner consistent with the depreciation policies and procedures followed in the same cost center in connection with the contractor's business other than Government business.

(3) Depreciation for reimbursement purposes in the case of tax-exempt organizations shall be determined on the basis outlined in paragraph (b)(2) of this § 1-15.205-9.

(c) Special considerations are required for assets acquired prior to the effective date of this principle where, on the effective date of this principle, the undepreciated balance of such assets, resulting from depreciation policies and procedures used previously for Government contracts and subcontracts, is different from the undepreciated balance of such assets on the books and financial statements. Generally, the undepreciated balance for contract cost purposes shall be depreciated over the remaining life using the methods and lives followed for book purposes. The aggregate depreciation on any asset allowable after the effective date of this § 1-15.205-9 shall not exceed the cost basis of the asset less any depreciation allowed or allowable under prior procurement regulations.

(d) Depreciation should usually be allocated to the contract and other work as an indirect cost. The amount of depreciation allowed in any accounting period may, consistent with the basic objectives set forth in paragraph (a) of this § 1-15.205-9, vary with volume of production or use of multishift operations.

(e) No depreciation, rental, or use charge shall be allowed on property acquired at no cost from the Government by the contractor or by any division, subsidiary, or affiliate of the contractor under a common control.

(f) The depreciation on any item which meets the criteria for allowance at a "price" in accordance with § 1-15.205-22(e) may be based on such price, provided the same depreciation policies and procedures are used for costing purposes for all business of the using division, subsidiary, or organization under common control.

(g) No depreciation or rental shall be allowed on property fully depreciated by the contractor or by any division, subsidiary, or affiliate of the contractor under a common control; however, a reasonable charge for the use of fully depreciated property may be agreed upon and allowed (see § 1-15.107). In determining this charge, consideration should be given to cost, total estimated useful life at time of negotiation, effect of any increased maintenance charges or decreased efficiency due to age, and the amount of depreciation, if any, previously charged to Government contracts or subcontracts.

(h) For depreciation on idle facilities and idle capacity, see § 1-15.205-12.

§ 1-15.205-23 Organization costs.

Expenditures in connection with (a) planning or executing the organization or reorganization in the corporate structure of a business, including mergers and acquisitions, or (b) raising capital, are unallowable. Such expenditures include, but are not limited to, incorporation fees and costs of attorneys, accountants, brokers, promoters and organizers, management consultants, and investment counselors, whether or not employees of the contractor (see § 1-15.205-47).

§ 1-15.205-25 Relocation costs.

(a) Relocation costs, for the purpose of this Subpart 1-15.2, are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of no less than 12 months) of an existing employee or upon recruitment of a new employee (see §§ 1-15.107 and 1-15.205-33). These costs may include, but are not limited to:

(1) Cost of travel of the employee and members of his immediate family (see § 1-15.205-46) and transportation of his household and personal effects to the new location;

(2) Cost of finding a new home, such as advance trips by employees and spouses to locate living quarters, and temporary lodging during the transition period;

(3) Closing costs (i.e., brokerage fees, legal fees, appraisal fees, etc.) incident to the disposition of actual residence owned by the employee when notified of transfer;

(4) Other necessary and reasonable expenses normally incident to relocation, such as cost of canceling an unexpired lease, disconnecting and reinstalling household appliances, and purchase of insurance against damage to or loss of personal property;

(5) Loss on sale of home;

(6) Acquisition of a home in a new location and all costs incident thereto;

(7) Continuing costs of ownership of the vacant former actual residence being sold, such as maintenance of building and grounds (exclusive of fixing-up expenses), utilities, taxes, property insurance, etc., after settlement date or lease date of new permanent residence; and

(8) Continuing mortgage principal and interest payments on residence being sold.

(b) Subject to paragraphs (c) and (f) of this § 1-15.205-25, relocation costs of the type covered in paragraph (a) (1), (2), (3), (4), and (7) of this § 1-15.205-25 are allowable, provided:

(1) The move is for the benefit of the employer;

(2) Reimbursement is an accordance with an established policy or practice consistently followed by the employer, and such policy or practice is designed to motivate employees to relocate promptly and economically;

(3) The costs are not otherwise unallowable under the provisions of § 1-15.205-33 or any other provision of this Subpart 1-15.2 (see § 1-15.107 as related to large scale contractor relocation); and

(4) Amounts to be reimbursed shall not exceed the employee's actual (or reasonably estimated) expenses.

(c) Costs otherwise allowable under paragraph (b) of this § 1-15.205-25 are subject to the following additional provisions:

(1) The transition period for incurrence of costs of the type covered in paragraph (a)(2) of this § 1-15.205-25 shall be kept to the minimum number of days necessary under the circumstances, but shall not, in any event, exceed a cumulative total of 30 days including advance trip time;

(2) Allowance for the combined total of costs of the type covered in paragraph (a) (3) and (7) of this § 1-15.205-25 shall not exceed 8 percent of the sales price of the property sold;

(3) Cost of canceling an unexpired lease under paragraph (a)(4) of this § 1-15.205-25 shall not exceed three times the monthly rental; and

(4) Costs of the type covered in paragraph (a) (3), (4), and (7) of this § 1-15.205-25 are allowable only in connection with the relocation of existing employees, and are not allowable for newly recruited employees.

(d) Costs of the type covered in paragraph (a) (5), (6), and (8) of this § 1-15.205-25 are not allowable.

(e) Payments for employee income taxes incident to reimbursed relocation costs are not allowable.

(f) Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost and the newly hired employee resigns for reasons within his control within 12 months after hire, the contractor shall be required to refund or credit such relocation costs to the Government.

§ 1-15.205-26 Patent costs.

(a) Costs of (1) preparing disclosures, reports, and other documents required by the contract and of searching the art to the extent necessary to make such invention disclosures, (2) preparing documents and any other patent costs, in connection with the filing and prosecution of a United States patent application where title or royalty free license is required by Government contract to be conveyed to the Government, and (3) general counseling services relating to patent matters, such as advice on patent laws, regulations, clauses, and employee agreements, are allowable (see § 1-15.205-31).

(b) Costs of preparing documents and any other patent costs, in connection with the filing and prosecution of any foreign patent application, or of a United States patent application where exclusive title is retained by the contractor without the grant of a royalty free license to the Government, are unallowable (see § 1-15.205-36).

§ 1-15.205-31 Professional and consultant service costs—legal, accounting, engineering, and other.

(a) Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill and who are not officers or employees of the contractor are allowable, subject to paragraphs (b), (c), and (d) of this § 1-15.205-31, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government (see §§ 1-15.205-23 and 1-15.205-26).

(b) In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors among others may be relevant:

(1) The nature and scope of the service rendered in relation to the service required;

(2) The necessity of contracting for the service, considering the contractor's capability in the particular area;

(3) The past pattern of such costs, particularly in the years prior to the award of Government contracts;

(4) The impact of Government contracts on the contractor's business (i.e., what new problems have arisen);

(5) Whether the proportion of Government work to the contractor's total business is such as to influence the contractor in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government contracts;

(6) Whether the service can be performed more economically by employment rather than contracting;

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-Government contracts; and

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).

(c) In addition to the factors in paragraph (b) of this § 1-15.205-31, retainer fees to be allowable must be supported by evidence of bona fide services available or rendered.

(d) Cost of legal, accounting, and consulting services, and related costs, incurred in connection with organization and reorganization, defense of antitrust suits, and the prosecution of claims against the Government, are unallowable. Costs of legal, accounting and consulting services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the contract (see § 1-15.205-23).

§ 1-15.205-47 Economic planning costs.

(a) This category includes costs of generalized long-range management planning which is concerned with the future overall development of the contractor's business and which may take into account the eventual possibility of economic dislocations or fundamental alterations in those markets in which the contractor currently does business. Economic planning costs do not include organization or reorganization costs covered by § 1-15.205-23.

* * * * *

§ 1-15.205-50 Automatic data processing equipment (ADPE) leasing costs.

(a) This § 1-15.205-50 is applicable to all leased ADPE except as components of an end item to be delivered to the Government. (Allowability of costs related to contractor-owned ADPE are governed by other provisions of this Subpart 1-15.2.)

(b) (1) If the contractor leased ADPE but cannot demonstrate (on the basis of the facts existent at the time of the decision to lease or to continue leasing and documented in accordance with paragraph (d) of this § 1-15.205-50) that leasing will result in less cost to the Government over the anticipated useful life (as those terms are explained in paragraph (c) of this § 1-15.205-50), then rental costs are allowable only up to the amount that the contractor would be allowed had he purchased the ADPE.

(2) Furthermore, the costs of leasing ADPE are allowable only to the extent that the contractor can annually demonstrate in accordance with paragraph (d) of this § 1-15.205-50 that:

(i) They are reasonable and necessary for the conduct of his business in light of such factors as the contractor's requirements for ADPE, costs of comparable facilities, the various types of leases available, and the provisions of the rental agreement;

(ii) They do not give rise to a material equity in the facilities (such as an option to renew or purchase at a bargain rental or price) other than that normally given to industry at large, but represent charges only for the current use of the equipment, including but not limited to any incidental service costs such as maintenance, insurance, and applicable taxes; and

(iii) If the total cost of leasing the ADPE is to be reimbursed under one or more cost-reimbursement type contracts, or if the total cost of leasing ADPE in a single plant, division, or cost center exceeds $500,000 per year and 50 percent or more of the total leasing cost is to be allocated to cost-reimbursement type contracts, the approval of the contracting officer was obtained for the leasing arrangement (see § 1-15.107).

(3) Rental costs under a sale and leaseback arrangement shall be allowable only up to the amount the contractor would be allowed had he retained title to the ADPE, except that rental costs may be allowed in accordance with (b) (1) and (2) of this § 1-15.205-50, (i) where the sale and leaseback immediately followed purchase of the ADPE, or (ii) where the sale and leaseback is otherwise in the best interest of the Government.

(4) Rental costs of ADPE which is leased from any division, subsidiary, or organization under a common control shall be limited to the cost of ownership (excluding interest or other unallowable costs pursuant to Subpart 1-15.2), except as provided in (b)(5) of this § 1-15.205-50.

(5) Rental costs of ADPE which is leased from any division, subsidiary, or organization under a common control which has an established practice of leasing the same or similar equipment to unaffiliated lessees shall be allowed in accordance with (b) (1) and (2) of this § 1-15.205-50, except the purchase price for the purpose of (b)(1) of this § 1-15.205-50, and costs of ownership for the purpose of (c)(2) of this § 1-15.-205-50, shall be determined in accordance with § 1-15.205-22(e).

(c)(1) An estimate of the anticipated useful life of the property may represent the application life (utility in a given function), technological life (utility before becoming obsolete in whole or in part), or physical life (utility before physically wearing out), depending upon the facts and circumstances and the particular facilities involved. Therefore, each case must be evaluated individually. In estimating anticipated useful life, the contractor may use the application life if he can clearly demonstrate that the facility has utility only in a given function and the duration of the function can be determined. Technological life may be used by the contractor if he can demonstrate that existing facilities must be replaced because of:

(i) Specific program objectives or contract requirements which cannot be accomplished with the existing facilities;

(ii) Cost reductions which will produce identifiable savings in production or overhead costs;

(iii) Increase in workload volume cannot be accomplished efficiently by modifying or augmenting existing facilities; or

(iv) Consistent patterns of capacity operation ($2\frac{1}{2}$-3 shifts) on existing facilities.

However, technological advances (affecting technological life), per se, will not justify replacement of existing facilities before the end of their physical life if such existing facilities will be able to satisfy future requirements or demands.

(2) In estimating the least cost to the Government for such useful life, the cumulative costs that would be allowed if the contractor owned the property should be compared with cumulative costs that would be allowed under any of the various types of leasing arrangements available. For the purposes of this comparison, the costs of ADPE exclude interest or other unallowable costs pursuant to Subpart 1-15.2; they include,

but are not limited to, the costs of operation, maintenance, insurance, depreciation, and rental, and the cost of machine services, as applicable.

(d) The contractor's justification, under paragraph (b) of this § 1-15.205-50, of his leasing decisions shall consist of, but is not limited to, the following supporting data, prepared prior to acquisition:

(1) Analysis of utilization of existing ADPE;

(2) Application of the criteria in paragraph (b) of this § 1-15.205-50;

(3) Specific objectives or requirements, generally in the form of a data system study and data system specification;

(4) Solicitation of proposals from qualified sources based on the data system specification; and

(5) Proposals received in response to the solicitation, and reasons for selection of the equipment chosen and for the decision to lease.

The contractor's annual justification, under paragraph (b) of this §1-15.205-50, of his decision to retain or change his existing ADPE capability and the need to continue leasing that capability, shall consist of, but is not limited to, current data as specified in (1) through (3) of this § 1-15.205-50(d).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective January 5, 1970, but may be observed earlier.

Dated: November 5, 1969.

ROBERT L. KUNZIG,
Administrator of General Services.

[F.R. Doc. 69-13424; Filed, Nov. 12, 1969; 8:46 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter II—Bureau of Land Management, Department of the Interior

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4737]

[New Mexico 0558331]

NEW MEXICO

Partial Revocation of Waterpower Designation No. 1

By virtue of the authority contained in the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 1950 Reorganization Plan No. 3 (64 Stat. 1262; 5 U.S.C. 133z-15, Note), and in section 24 of the Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, and pursuant to the determination of the Federal Power Commission, docketed as DA-76-New Mexico, Powersite Cancellation No. 279, it is ordered as follows:

1. The Departmental Orders creating Waterpower Designation No. 1, New Mexico No. 1, approved August 7, 1916, and Interpretation No. 368 of September 16, 1949, are hereby revoked so far as they affect the following described national forest lands:

SANTA FE NATIONAL FOREST

NEW MEXICO PRINCIPAL MERIDIAN

T. 18 N., R. 12 E.,
Sec. 10, that part of the NE¼ lying between Pecos Canyon Estate and State Highway No. 63, which includes part of lots 1 and 2 and part of SW¼NE¼.
T. 19 N., R. 12 E.,
Sec. 34, S½SE¼NW¼NE¼, E½SW¼NE¼, E½NW¼SE¼, SW¼SE¼.

The areas described aggregate approximately 90.90 acres in San Miguel County, of which 16.25 acres are privately owned.

2. At 10 a.m. on December 12, 1969, the lands shall be open to such forms of disposition as may be made of national forest lands.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 6, 1969.

[F.R. Doc. 69-13449; Filed, Nov. 12, 1969; 8:47 a.m.]

[Public Land Order 4738]

[Wyoming 0308864]

WYOMING

Partial Revocation of Stock Driveway Withdrawal

By virtue of the authority contained in section 10 of the Act of December 29, 1916 (39 Stat. 865; 43 U.S.C. 300), as amended, it is ordered as follows:

1. The departmental order of September 13, 1918, creating Stock Driveway Withdrawal No. 36 (Wyoming No. 17), adjusted on December 8, 1928, is hereby revoked so far as it affects the following described lands:

SIXTH PRINCIPAL MERIDIAN

T. 23 N., R. 112 W.,
Secs. 11 to 15, inclusive;
Sec. 17, S½;
Secs. 18 to 23, inclusive.
T. 21 N., R. 113 W.,
Sec. 6.
T. 22 N., R. 113 W.,
Secs. 5, 6, 7, 18, 19, 29, and 30;
Sec. 31, lots 1 to 4, inclusive, NE¼, E½NW¼, NE¼SW¼, and N½SE¼;
Sec. 32.
T. 23 N., R. 113 W.,
Secs. 3 and 4;
Sec. 8, E½;
Sec. 9;
Sec. 10, W½;
Sec. 13, NE¼ and S½;
Sec. 14, SE¼;
Sec. 16, lots 1 to 4, inclusive, N½ and N½S½;
Sec. 17;
Sec. 20, lots 1 to 9, inclusive, lots 11 and 12, NW¼NE¼, NE¼NW¼, and SE¼SE¼;
Sec. 21, lots 3, 4, 9, 10, 11, and 12, SE¼NE¼, and S½;
Sec. 22, S½;
Sec. 23, lot 1, NE¼, NE¼NW¼, S½NW¼, and S½;
Secs. 24 to 28, inclusive;
Sec. 29, lots 2, 3, and 4, E½W½, and E½;
Secs. 32, 33, 34 and 35.
T. 24 N., R. 113 W.,
Secs. 10, 11, 14, 15, 22, 23, 26, and 27;
Sec. 33, E½;
Sec. 34;
Sec. 35, W½.
T. 21 N., R. 114 W.,
Sec. 1, N½N½;
Sec. 2;
Sec. 10, lot 1, N½, N½SW¼, SE¼SW¼, and SE¼;
Secs. 12 and 14;
Sec. 22, lots 1, 2, and 3, SE¼SE¼, N½, and N½S½;
Sec. 24, lots 1, 2, 3, and 4, N½, and N½S½.
T. 22 N., R. 114 W.,
Sec. 1;
Secs. 12 to 15, inclusive;
Secs. 17 to 25, inclusive.
T. 23 N., R. 114 W.,
Sec. 25, S½NE¼, NW¼NW¼, and S½;
Sec. 26, NE¼NE¼, W½NE¼, NW¼, and S½;
Sec. 35.
T. 21 N., R. 115 W.,
Sec. 6;
Sec. 7, N½.
T. 22 N., R. 115 W.,
Sec. 4, W½;
Sec. 5, E½NE¼ and SE¼;
Sec. 8, E½, NE¼SW¼, and S½SW¼;
Sec. 9, W½;
Secs. 13 and 14;
Sec. 15, N½, SW¼, and N½SE¼;
Sec. 17;
Sec. 19, E½NE¼, NW¼NE¼, and S½SE¼;
Sec. 20, N½, NE¼SW¼, and SE¼;
Sec. 21;
Sec. 22, N½NW¼;
Sec. 24;
Sec. 25, N½NW¼, S½N½, and S½;
Sec. 26, SE¼;
Secs. 28 and 29;
Sec. 30, NE¼, N½SE¼, and SE¼SE¼;
Sec. 31, lots 1, 2, 3, and 4, NE¼NE¼, S½NE¼, SE¼, SE¼NW¼, and E¼SW¼;
Sec. 33, NE¼;
Sec. 34, N½;
Sec. 35, N½.
T. 23 N., R. 115 W.,
Sec. 5, NW¼NW¼, S½NW¼, and SW¼;
Sec. 6, N½NE¼, SE¼NE¼, and E½SE¼;
Sec. 7, E½;
Sec. 8, W½;
Sec. 18, lots 1, 2, 9, 10, 11, 12, 19, 20, and E½;
Sec. 19, lots 1, 2, 9, 10, 11, 12, 19, 20, and E½;
Sec. 30, lots 1, 2, 9, 10, 11, 12, 19, 20, and E½;
Sec. 31, lots 1, 2, 9, 10, and NE¼;
Sec. 32, W½.
T. 24 N., R. 115 W.,
Sec. 5, lots 11 and 12, SW¼;
Sec. 6, lots 1, 2, 13, 14, 15, 16, and SE¼;
Sec. 7, E½;
Sec. 8, W½;
Sec. 18, E½;
Sec. 19, E½;
Sec. 20, W½;
Sec. 29, W½;
Sec. 30, E½;
Sec. 31, E½.
T. 21 N., R. 116 W.,
Sec. 6, W½ and W½E½.
T. 22 N., R. 116 W.,
Secs. 5 and 8;
Sec. 15, lot 2;
Sec. 16, lots 1 to 6, inclusive, W½NW¼ and NW¼SW¼;
Sec. 17, lots 1 and 5, NE¼, N½NW¼, SE¼NW¼, and NE¼SE¼;
Sec. 21, lot 1;
Sec. 22, lots 4 and 5, NE¼, N½NW¼, SE¼NW¼, and N½SE¼;
Sec. 23, lots 2, 3, 4, 5, 9 to 20, inclusive, SW¼NW¼ and W½SW¼;
Sec. 24, lots 3, 4, 7, 8, 9, 10, 12, and SE¼SW¼;
Sec. 29, W½;
Secs. 30 to 33, inclusive;
Sec. 34, lots 1 and 2, W½ and W½SE¼.

T. 23 N., R. 116 W.,
Sec. 4;
Sec. 9, lots 1, 2, and 3, N½, N½S½ and SW¼SW¼;
Sec. 16, lots 1 to 4, inclusive, and W½W½;
Sec. 17, E½;
Sec. 20;
Sec. 21, NW¼;
Secs. 29 and 32.
T. 24 N., R. 116 W.,
Sec. 3, W½;
Sec. 4, N½ and SE¼;
Sec. 5, N½;
Sec. 9, NE¼;
Secs. 10 and 15;
Sec. 21, NE¼ and S½;
Sec. 22, N½ and SW¼;
Secs. 28 and 33.
T. 25 N., R. 116 W.,
Sec. 20;
Sec. 27, SW¼;
Sec. 28, N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 29, NE¼, NE¼NW¼, and N½SE¼;
Sec. 33, N½NE¼ and NE¼NW¼;
Sec. 34.
T. 23 N., R. 117 W.,
Sec. 29, E½.
T. 21 N., R. 118 W.,
Secs. 1, 2, and 3;
Sec. 4, lots 5, 6, and 7, S½NE¼, SE¼NW¼, and N½SE¼;
Sec. 5, N½ and N½S½;
Sec. 6, N½ and N½S½.
T. 23 N., R. 118 W.,
Sec. 5, W½;
Secs. 6 and 7;
Sec. 18, W½;
Sec. 19, W½;
Sec. 30, NW¼.
T. 24 N., R. 118 W.,
Sec. 5;
Sec. 8, N½, E½SW¼, and SE¼;
Secs. 9 to 13, inclusive;
Secs. 17, 20, 24, and 29;
Sec. 31, E½;
Sec. 32.
T. 25 N., R. 118 W.,
Secs. 2, 11, and 14;
Sec. 22, E½;
Sec. 23, N½ and SW¼;
Sec. 26, W½;
Sec. 27, E½;
Sec. 34, E½;
Sec. 35, W½.
T. 21 N., R. 119 W.,
Sec. 1, N½ and N½S½;
Sec. 2, N½ and N½S½.
T. 22 N., R. 119 W.,
Sec. 1, W½;
Sec. 2, E½;
Sec. 11, E½;
Sec. 12, W½;
Sec. 13, W½;
Sec. 14, E½;
Sec. 23;
Sec. 24, W½;
Sec. 25, lots 3 and 4, N½SW¼, and NW¼;
Sec. 26, lot 1, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 27, E½;
Sec. 34, NE¼;
Sec. 35, lots 1, 2, 3, and 4, W½E½, and W½.
T. 23 N., R. 119 W.,
Sec. 12, E½;
Sec. 13, E½;
Sec. 24, lots 10 and 11, E½E½ and NW¼NE¼;
Sec. 25, lots 1, 2, 3, 4, N½ and N½S½;
Sec. 26, lot 5, N½SE¼, and SW¼SE¼;
Sec. 35, lots 14, 15, 16, and 17, and W½E½.
T. 25 N., R. 119 W.,
Sec. 2, lots 8, 9, 10, 11, 12, 13, 20, 21, 22, 23, 24, and W½SW¼;
Sec. 3, lots 5, 6, 11, 12, 13, 14, and SE½;
Sec. 10, lots 9 and 12, NE¼ and N½SE¼;
Sec. 11, lots 4, 5, 6, 7, 14, 15, 16, 17, and 18, and W½W½;
Sec. 14, lots 4, 5, 6, 7, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22, and W½W½;
Sec. 23, E½.
T. 26 N., R. 119 W.,
Sec. 2, W½;
Sec. 3, E½;
Sec. 10, E½;
Sec. 11, W½;
Sec. 14, W½;
Sec. 15, E½;
Sec. 22, E½;
Sec. 23, W½;
Sec. 26, W½;
Sec. 27, E½;
Sec. 34, E½;
Sec. 35, W½.
T. 27 N., R. 119 W.,
Sec. 2, NW¼SW¼, and S½SW¼;
Sec. 3, N½, N½S½, and S½SE¼;
Sec. 10, E½;
Sec. 11, NW¼, N½SW¼, and SW¼SW¼;
Sec. 14, W½;
Sec. 15, E½;
Sec. 22, E½;
Sec. 23, W½;
Sec. 26, W½;
Sec. 27, E½;
Sec. 34, E½;
Sec. 35, W½.
T. 28 N., R. 119 W.,
Sec. 1, W½;
Sec. 11, E½;
Sec. 12, W½;
Sec. 13, NW¼;
Sec. 14, N½, SW¼, and N½SE¼;
Sec. 15, SE¼;
Sec. 22;
Sec. 23, NW¼;
Sec. 27, E½NE¼, W½NW¼, and S½;
Sec. 34.

The areas described, including both public and nonpublic lands, aggregate 122,054.20 acres, of which 121,855.26 acres are public lands.

The following described lands are nonpublic:

T. 21 N., R. 118 W.,
Sec. 4, lot 7, SE¼NW¼.
T. 27 N., R. 119 W.,
Sec. 15, E½SE¼.
T. 28 N., R. 119 W.,
Sec. 13, SE¼NW¼.

Containing 198.94 acres in Lincoln County.

The public lands are situated in the Kemmerer area of Lincoln County. Vegetation is typical of Wyoming grazing lands and consists of aspen, lodgepole pine, big sagebrush, grasses, and shadscale in various associations. Topography of the area ranges from rough and broken to foothills and mountains. About 4,000 acres will remain withdrawn from all forms of appropriation by Executive Order No. 5327 as supplemented by Public Land Order No. 4522 and for reclamation project purposes.

2. At 10 a.m. on February 6, 1970, the lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on February 6, 1970, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The lands have been open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws subject to the regulations in 43 CFR 3400.3, except where such location has been precluded by other existing withdrawals.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Cheyenne, Wyo.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 6, 1969.

[F.R. Doc. 69-13450; Filed, Nov. 12, 1969; 8:47 a.m.]

[Public Land Order 4739]

[Sacramento 506, 1282]

CALIFORNIA

Powersite Cancellation No. 278; Partial Cancellation of Powersite Classification Nos. 183 and 425

By virtue of the authority contained in the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 1950 Reorganization Plan No. 3 (64 Stat. 1262; 5 U.S.C. 133z-15, Note), and in section 24 of the Act of June 10, 1920 (41 Stat. 1075; 16 U.S.C. 818), as amended, and pursuant to the determination of the Federal Power Commission in DA-1074 and DA-1085-California, it is ordered as follows:

1. The Departmental Orders of July 9, 1927, and June 24, 1952, creating Powersite Classification Nos. 183 and 425, are hereby cancelled so far as they affect the following described lands:

MOUNT DIABLO MERIDIAN

(SACRAMENTO 506)

T. 17 N., R. 13 E.,
Sec. 30, NW¼NE¼, N½NE¼NW¼, N½S½NE¼NW¼, SE¼SW¼NE¼NW¼, S½SE¼NE¼NW¼, and E½NE¼ lot 1 (now lot 5).

(SACRAMENTO 1282)

T. 17 N., R. 13 E.,
Sec. 32, NE¼NW¼.

The areas described aggregate approximately 122.50 acres in the Tahoe National Forest, in Nevada and Placer Counties.

2. At 10 a.m. on December 12, 1969, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 6, 1969.

[F.R. Doc. 69-13451; Filed, Nov. 12, 1969; 8:47 a.m.]

[Public Land Order 4740]

[N-3660]

NEVADA

Withdrawal for Reclamation Project

By virtue of the authority contained in section 3 of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), as amended and supplemented, it is ordered as follows:

1. Subject to valid existing rights, the following described public lands, which

are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., ch. 2), but not from leasing under the mineral leasing laws and reserved for Lahontan Reservoir of the Newlands Project:

MOUNT DIABLO MERIDIAN

T. 17 N., R. 25 E.,
 Sec. 25, E½;
 Sec. 36, E½.
T. 18 N., R. 25 E.,
 Sec. 24, N½.
T. 18 N., R. 26 E.,
 Sec. 16, S½;
 Sec. 20, E½.

The areas described aggregate 1,600 acres.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 6, 1969.

[F.R. Doc. 69-13452; Filed, Nov. 12, 1969; 8:47 a.m.]

[Public Land Order 4741]

[Riverside 06978]

CALIFORNIA

Revocation of Executive Orders of November 11, 1901, and April 30, 1902

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. The Executive orders of November 11, 1901, and April 30, 1902, withdrawing the following described public lands for lighthouse purposes, are hereby revoked:

SAN BERNARDINO MERIDIAN

T. 1 S., R. 18 W.,
 Sec. 29, SW¼;
 Sec. 30, SE¼;
 Sec. 32, lot 4, NW¼NW¼.

The areas described aggregate approximately 298.04 acres in Los Angeles County.

2. This order shall not otherwise be effective to change the status of the lands until it is so provided by an authorized officer of the Bureau of Land Management.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 6, 1969.

[F.R. Doc. 69-13453; Filed, Nov. 12, 1969, 8:47 a.m.]

[Public Land Order 4742]

[New Mexico 2501]

NEW MEXICO

Withdrawal for Grulla National Wildlife Refuge

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands which are under the jurisdiction of the Secretary of the Interior, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., ch. 2), but not from leasing under the mineral leasing laws, and reserved for the Grulla National Wildlife Refuge:

NEW MEXICO PRINCIPAL MERIDIAN

T. 3 S., R. 36 E.,
 Sec. 1, NE¼SE¼ and S½SE¼;
 Sec. 12, N½NE¼.
T. 2 S., R. 37 E.,
 Sec. 27, lots 4, 5, and 6;
 Sec. 28, S½;
 Sec. 29, lots 1, 4, and 6;
 Sec. 31, lots 4, 5, 6, and SE¼SE¼;
 Sec. 32, lots 2, 3, NE¼, SE¼NW¼, and S½;
 Sec. 33, lots 2, 3, N½, SW¼, and W½SE¼;
 Sec. 34, lots 1, 2, 4, 5, 8, 9, 10, and 11.
T. 3 S., R. 37 E.,
 Sec. 4, lots 5 to 8, inclusive, and SW¼NW¼;
 Sec. 5, lots 3 to 6, inclusive, and S½N½, N½SW¼;
 Sec. 6, lots 9 to 15, inclusive.

The areas described aggregate 3,230.55 acres of public land in Roosevelt County, New Mexico.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 6, 1969.

[F.R. Doc. 69-13475; Filed, Nov. 12, 1969; 8:49 a.m.]

[Public Land Order 4743]

[Idaho 2969]

IDAHO

Withdrawal for National Forest Recreation Area

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

PAYETTE NATIONAL FOREST

BOISE MERIDIAN

Evergreen Campground Enlargement

T. 18 N., R. 1 E.,
 Sec. 18, lot 4 except the E½SW¼, E½W½SW¼.

The area described aggregates approximately 33.5 acres in Adams County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 6, 1969.

[F.R. Doc. 69-13476; Filed, Nov. 12, 1969; 8:49 a.m.]

[Public Land Order 4744]

[Utah 7566]

UTAH

Withdrawal for National Forest Campground and Recreation Areas

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described national forest lands are hereby withdrawn from appropriation under the mining laws (30 U.S.C., ch. 2), but not from leasing under the mineral leasing laws, in aid of programs of the Department of Agriculture:

UINTA NATIONAL FOREST

SALT LAKE MERIDIAN

Lodgepole Recreation Area

T. 6 S., R. 6 E.,
 Sec. 10, SW¼NE¼NW¼, SE¼NW¼NW¼, W½SE¼NW¼, E½SW¼NW¼, SW¼SW¼NW¼, W½NE¼SW¼, NW¼SW¼, NW¼SW¼SW¼.

Maple Canyon Recreation Area

T. 14 S., R. 2 E.,
 Sec. 34, NW¼NW¼SE¼, SW¼SW¼NE¼.

Mill Hollow Recreation Area

T. 4 S., R. 7 E.,
 Sec. 12, S½NW¼NW¼, N½SW¼NW¼.

Payson Lake Recreation Area

Ts. 10 S., Rs. 2½ and 3 E., unsurveyed.
 When surveyed will probably be in the SE¼SE¼, sec. 13, NE¼, N½SE¼, sec. 24, T. 10 S., R. 2½ E.; and the S½NW¼, SW¼, sec. 19, T. 10 S., R. 3 E., more particularly described as:
 Beginning at a point on the west side of a cattle guard which is the lower entrance to Payson Lake Campground, said point is located N. 26°30′ W., 5,360 feet of Payson Station BM No. 8042; thence by metes and bounds along an existing wire fence: N. 81° W., 109 feet; S. 66° W., 565 feet; S. 35° W., 1,037 feet; S. 51° W., 490 feet; S. 18° W., 569 feet; S. 20° E., 1,013 feet; S. 36° E., 888 feet; N. 79° E., 448 feet; S. 62° E., 409 feet; N. 60° E., 153 feet; N. 44° E., 285 feet; N. 49° E., 236 feet; N. 29° E., 749 feet; N. 24° E., 210 feet; N. 35° E., 104 feet; N. 29° E., 52 feet; N. 40° E., 117 feet; N. 29° E., 658 feet; N. 36° E., 126 feet; N. 21° E., 134 feet; N. 34° W., 163 feet; N. 30° W., 1,215 feet; N. 66° W., 406 feet; N. 68° W., 142 feet; N. 81° W., 269 feet to the west of lower cattle guard, the place of beginning.

Wolf Creek Campground

T. 4 S., R. 8 E.,
 Sec. 9, E½SE¼SE¼;
 Sec. 10, lot 7.

UINTAH MERIDIAN

T. 1 N., R. 10 W.,
 Sec. 16, W½ lot 3.

The areas described aggregate approximately 434 acres in Sanpete, Utah, and Wasatch Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the national forest lands under lease, license, or permit, or governing the disposal of

their mineral or vegetative resources other than under the mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 6, 1969.

[F.R. Doc. 69-13477; Filed, Nov. 12, 1969; 8:49 a.m.]

Title 46—SHIPPING

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER A—PROCEDURES APPLICABLE TO THE PUBLIC

[CGFR 69-112]

PART 2—VESSEL INSPECTION

Subpart 2.50—Assessment, Mitigation or Remission of Penalties

DELEGATION OF AUTHORITY, REPORTS OF VIOLATIONS AND CIVIL PENALTIES

This document contains amendments to §§ 2.50-1, 2.50-10 and 2.50-20 which reflect the transfer of the Coast Guard from the Treasury Department to the Department of Transportation and which expand the authority of District Commanders of Coast Guard Districts to redelegate to appropriate staff officers the authority to assess, mitigate and remit civil penalties under the navigation and vessel inspection statutes.

Present regulations provide that the District Commander may by specific order in writing delegate the authority to assess, mitigate or remit penalties to his Chief of Staff, Chief, Merchant Marine Safety Division, and/or Chief, Operations Division. Since the increase in recreational boating and changes in law enforcement programs have resulted in a reorganization of the district offices, the amendments will permit the District Commander a broadened authority to redelegate within the district offices as presently organized.

Since these amendments involve delegations of authority and relate to the internal management of the Coast Guard, notice and public procedures therein are not required and these amendments can be made effective in less than 30 days.

1. Section 2.50-1 is revised to read as follows:

§ 2.50-1 Delegation of authority.

(a) The Secretary of Transportation by 49 CFR 1.4(a)(2) and 1.4(g), has delegated to the Commandant, U.S. Coast Guard, with the authority to redelegate and authorize successive redelegations of that authority, the functions vested in him under the navigation and vessel inspection statutes.

(b) The Commandant hereby authorizes each District Commander in his assigned district to administer certain statutes in accordance with procedures set forth in this subpart. The District Commander may further delegate that authority as he deems proper to appropriate staff officers of his command.

2. Section 2.50-10(b) is revised to read as follows:

§ 2.50-10 Reports of violations of laws or regulations and instituting civil penalty proceedings generally.

* * * * *

(b)(1) The District Commander may by specific order in writing delegate to appropriate staff officers of his command the authority to determine whether to invoke the statutory civil penalty and, upon receipt from the offender of a petition for relief from a penalty so invoked, whether to mitigate, or to remit the penalty, as he may deem proper. The order shall prescribe the types of cases which the designated officer may initiate and process to the same extent permitted the District Commander by this subpart, and those types of cases which that officer may initiate and process to a lesser extent. With respect to the latter category of cases, the District Commander's order shall set forth in detail the limits of the authority delegated to the designated officer.

(2) The term "District Commander", as hereinafter used in this subpart to designate the officer authorized to assess, mitigate or remit penalties, shall also include appropriate staff officers to whom authority to perform such function has been delegated.

3. Section 2.50-20(d)(2) is revised to read as follows:

§ 2.50-20 Civil penalties.

* * * * *

(d) * * *

(2) In the event that there is an appeal from the decision of a staff officer, acting under delegated authority, the District Commander shall review the case. In the event the District Commander determines that the assessment of the penalty is not warranted, the case shall be closed and notification thereof given to the appellant. Those cases which upon review by the District Commander are determined to be properly instituted and administered in accordance with the regulations in this subpart and for which remission of the penalty is not considered justified shall be forwarded to the Commandant with the District Commander's recommendation.

* * * * *

(R.S. 5294, as amended, sec. 26, 23 Stat. 59, as amended, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 7, 8, 49 U.S.C. 1655 (b)(1); 49 CFR 1.4(a)(2) and (g))

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

Dated: November 7, 1969.

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

[F.R. Doc. 69-13499; Filed, Nov. 12, 1969; 8:50 a.m.]

Chapter II—Maritime Administration, Department of Commerce

SUBCHAPTER C—REGULATIONS AFFECTING SUBSIDIZED VESSELS AND OPERATORS

[General Order 20, 2d Rev., Amdt. 6]

PART 272—POLICY AND PROCEDURE REGARDING CONDUCTING OF SUBSIDY CONDITION SURVEYS AND ACCOMPLISHMENT OF SUBSIDIZED VESSEL MAINTENANCE AND REPAIRS

Miscellaneous Amendment

In F.R. Doc. 69-13323 appearing in the FEDERAL REGISTER issue of November 7, 1969 (34 F.R. 18035), the bracketed portion of the heading should read as written above in lieu of "[General Order 20, Amdt. 6]".

Dated: November 7, 1969.

JOHN M. O'CONNELL,
Assistant Secretary.

[F.R. Doc. 69-13505; Filed, Nov. 12, 1969; 8:51 a.m.]

Title 7—AGRICULTURE

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

[Naval Orange Reg. 182]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

Correction

In F.R. Doc. 69-13322 appearing at page 17949 in the issue for Thursday, November 6, 1969, the figure "768,501" in § 907.482(b)(1)(i) should read "768,502".

[Navel Orange Reg. 183]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.483 Navel Orange Regulation 183.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 33 F.R. 15471), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order and upon other available information, it is hereby found that the limitation of handling of such Navel oranges,

as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 10, 1969.

(b) *Order*. (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period November 14, 1969, through November 20, 1969, are hereby fixed as follows:

(i) District 1: 940,000 cartons.

(ii) District 2: Unlimited movement.

(iii) District 3: 60,000 cartons.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: November 12, 1969.

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

[F.R. Doc. 69-13618; Filed, Nov. 12, 1969; 11:31 a.m.]

[Lemon Reg. 400]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.700 Lemon Regulation 400.

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

(2) The recommendations by the Lemon Administrative Committee reflect its appraisal of the crop and current and prospective market conditions. Lemons are shipped from the production area throughout the year. The size requirement provided herein is necessary to prevent the handling, on and after November 16, 1969, of any lemons of a smaller size than that herein specified, so as to provide consumers with good quality fruit, consistent with (1) the overall quality of the crop, and (2) maximizing returns to the producers pursuant to the declared policy of the act. This proposed size regulation is the same as one currently in effect, which will continue to be effective through November 15, 1969.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the past week, after giving due notice thereof to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified to provide for the continued size regulation of lemons; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on October 28, 1969.

(b) *Order*. (1) During the period November 16, 1969, through November 14, 1970, no handler shall handle any lemons, grown in District 1, District 2, or District 3, which are of a size smaller than 1.82 inches in diameter, which shall be the largest measurement at right angles to a straight line running from the stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of the lemons in any type of container may measure less than 1.82 inches in diameter.

(2) As used in this section, "handle", "handler", "District 1", "District 2", and "District 3", shall have the same meaning as when used in said amended marketing agreement and order.

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

Dated: November 7, 1969.

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

[F.R. Doc. 69-13432; Filed, Nov. 12, 1969; 8:46 a.m.]

[947.328, Amdt. 2]

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES IN CALIFORNIA AND IN ALL COUNTIES IN OREGON EXCEPT MALHEUR COUNTY

Limitation of Shipments

Notice of rule making with respect to a proposed limitation of shipments regulation to be made effective under Marketing Agreement No. 114 and Order No. 947, both as amended (7 CFR Part 947), regulating the handling of Irish potatoes grown in the production area defined therein, was published in the FEDERAL REGISTER October 17, 1969 (34 F.R. 16626). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). Interested persons were afforded

an opportunity to file written data, views, or arguments pertaining thereto not later than 15 days after publication.

Within this time period the Oregon-California Potato Committee, established pursuant to the said amended marketing agreement and order, recommended the provision of § 947.328, Limitation of Shipments, (a)(3), Cleanliness, be removed for the balance of the season. This was done in Amendment 1 to § 947.328, October 23, 1969 (34 F.R. 17161). The committee further recommended that such "cleanliness" requirements not be contained in the limitation of shipments regulations hereinafter set forth. No other written data, views or arguments pertaining thereto were filed.

Statement of consideration. The notice was based on the recommendations and information submitted by the Oregon-California Potato Committee, established pursuant to the said amended marketing agreement and order, and other available information. The recommendations of the committee reflect its appraisal of the composition of the 1969 crop in the production area and of the marketing prospects for this season.

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

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

Findings. After consideration of all relevant matter presented, including that in the aforesaid notice, based upon the recommendations of the Oregon-California Potato Committee, and other available information, it is hereby found that the limitation of shipments regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for making this regulation effective at the time herein provided and for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of 1969 crop potatoes grown in the production area have already begun therein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the effective period, (3) similar regulations are currently in effect and producers and handlers are aware of the provisions of this regulation, and (4) compliance with this regulation will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective date.

The proposal is to amend the introductory text and paragraphs (a), (b), (c), and (h) of § 947.328 (34 F.R. 11136, 16626, 17161) to read as follows:

§ 947.328 Limitation of shipments.

During the period November 15, 1969, through October 14, 1970, no person shall handle any lot of potatoes 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), (f), and (g) of this section.

(a) *Grade and size requirements*—(1) *Grade.* All varieties—U.S. No. 2, or better grade.

(2) *Size.* All varieties—6 ounces minimum weight: *Provided,* That potatoes which are 2 inches minimum diameter or 4 ounces minimum weight may be shipped if U.S. No. 1 grade or better.

(b) *Maturity (skinning) requirements.* (1) All varieties—"Slightly skinned."

(2) Not to exceed a total of 100 hundredweight of any variety of a lot of potatoes may be handled for any producer any 7 consecutive days without regard to the aforesaid maturity requirements. Prior to each shipment of potatoes exempt from the above maturity requirements, the handler thereof shall report to the committee the name and address of the producer of such potatoes, and each such shipment shall be handled as an identifiable entity.

(c) *Special purpose shipments.* The minimum grade, size, and maturity requirements set forth in paragraphs (a) and (b) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(1) Certified seed.

(2) Grading and storing, planting, or livestock feed: *Provided,* That potatoes may not be shipped for such purposes outside of the district where grown except that: (i) potatoes grown in District No. 2 or District No. 4 may be shipped for grading and storing, for planting, or for livestock feed within, or to, such districts for such purposes; (ii) potatoes grown in any one district may be shipped to a receiver in any other district within the production area for grading if such receiver is substantiated and recognized by the committee as a processor of canned, frozen, dehydrated, or prepeeled products, potato chips, or potato sticks.

(3) Charity.

(4) Starch.

(5) Canning or freezing.

(6) Export: *Provided,* That all varieties of potatoes handled pursuant to this subparagraph shall be at least U.S. No. 1 grade and $1\frac{3}{4}$ to $2\frac{1}{4}$ inches in diameter.

(7) Potato chipping: *Provided,* That all potatoes handled for chipping shall be at least "U.S. No. 2 Potatoes for Processing" grade $1\frac{3}{4}$ inches minimum diameter.

(8) Dehydration.

(9) Prepeeling.

(10) Potato sticks (French fried shoestring potatoes): *Provided,* That all varieties of potatoes handled pursuant to subparagraphs (8) through (10) of this paragraph shall be $1\frac{3}{4}$ to $2\frac{1}{4}$ inches in diameter and at least 85 percent U.S. No. 1 grade.

* * * * *

(h) *Definitions.* (1) The terms "U.S. No. 1," "U.S. No. 2," and "slightly skinned" 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.

(2) The term "U.S. No. 2 Potatoes for Processing" shall have the same meaning as when used in the U.S. Standards for Grades of Potatoes for Processing (§§ 51.3410–51.3424 of this title), including the tolerances set forth therein.

(3) The term "prepeeling" means potatoes which are clean, sound, fresh tubers prepared commercially in a prepeeling plant by washing, removing the outer skin or peel, trimming, and sorting preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 U.S. Standards for Grades of Peeled Potatoes (§§ 52.2421–52.2433 of this title).

(4) Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 114, as amended, and this part.

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

Dated November 7, 1969, to become effective November 15, 1969.

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

[F.R. Doc. 69-13502; Filed, Nov. 12, 1969; 8:50 a.m.]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1036]

[Docket No. AO-179-A32]

MILK IN EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed 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)).

The above notice of filing of the decision and opportunity to file exceptions thereto are issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Cleveland, Ohio, on September 9-12 and 15, 1969, pursuant to notice thereof which was issued August 14, 1969 (34 F.R. 13419).

The material issues on the record of the hearing relate to:

1. Class I price;
2. Expansion of the marketing area;
3. Pooling standards for supply plants;
4. Definition of distributing plant;
5. Provisions relating to diverted milk;
6. Definition of producer-handler;
7. Pooling exemption for a handler's own production;
8. Classification of certain milk products;
9. Direct delivery differentials;
10. Price for milk used to produce cottage cheese, yogurt and sour cream;
11. Price for milk used to produce butter;
12. Location adjustments on other source milk;
13. Producer-settlement fund reserve; and
14. Seasonal production incentive plans.

This decision deals only with Issue No. 1. The remaining issues are reserved for a later decision.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on Issue No. 1 are based on evidence presented at the hearing and the record thereof:

1. *Class I price*. The present Class I price should remain in effect beyond December 31, 1969.

Effective July 1, 1968, the area regulated by Order 36 was enlarged to include the marketing areas of the Northeastern Ohio, Youngstown-Warren and Wheeling Federal orders and certain unregulated areas in western Pennsylvania and Ohio. In the decision leading to this expansion, it was concluded that the newly established Class I price should be applicable for only an 18-month period. This was to provide an opportunity to reexamine the Class I price provisions at a public hearing after the accumulation of at least 1 year's data on milk supplies and sales. This price review was one of the issues at the September hearing.

The present Class I price per hundredweight of milk is the basic formula price for the preceding month plus $1.87 for the Cleveland-Erie pricing district and $1.97 for the Pittsburgh district. The basic formula price is the average pay price for manufacturing grade milk in Minnesota and Wisconsin, but limited to not less than $4.33. Class I prices at Cleveland and Pittsburgh during the first year (July 1968-June 1969) under the expanded order averaged $6.20 and $6.30, respectively. For the first 10 months, the $4.33 "floor" was the effective basic formula price.

Major cooperative associations in the market proposed an increase in the Class I price level in amounts ranging from 11 cents to 44 cents per hundredweight. In supporting their position, they contended that a price increase is necessary to have the Order 36 price reasonably aligned with Class I prices in other markets, primarily those to the east. They also pointed to what they considered a relatively short supply situation in the market.

One cooperative proposed that the Class I price for the Pittsburgh district be equal to the Delaware Valley order Class I price less the transportation cost (at 1.5 cents per 10 miles) for the 289-mile distance between Philadelphia and Pittsburgh. In September 1969, this would have resulted in a Class I price of $6.83, 44 cents over the actual Pittsburgh district price of $6.39. The 44-cent change was proposed also for the Cleveland-Erie district.[1]

Another producer group proposed that the Class I price level in the two pricing districts be increased 11 cents. The cooperative indicated that this change would establish for the Order 36 market the same Class I price relationship with the Chicago market that the northeastern markets generally have. A transportation allowance of 2.11 cents per 10 miles was used in arriving at the proposed 11-cent increase.

The position of a third cooperative was that the Class I price under the order should be increased, because of higher milk production costs, to at least the level of the overorder, or premium, price which it claimed handlers are paying for Class I milk. The price proposed by the cooperative was $6.66 for the Cleveland-Erie district and $6.75 for the Pittsburgh district, 36 to 37 cents over the actual September prices in these districts.

To assure the continued application of classified pricing in the Eastern Ohio-Western Pennsylvania market, provision should be made for a Class I price beyond the present December 31 expiration date. The present relationship of producer milk supplies to Class I sales in this market, however, does not warrant Class I differentials that are greater than those now provided in the order.

For the 12-month period of July 1968 through June 1969, 2.280 billion pounds of producer milk were used in Class I in the Eastern Ohio-Western Pennsylvania market. This was 70 percent of the 3.251 billion pounds of milk received from producers during that time. The monthly Class I utilization of producer milk ranged from a high of 82 percent in November 1968 to a low of 56 percent in June 1969.

Although only a limited comparison may be made for the enlarged market, supplies relative to Class I sales in recent months are more ample than a year earlier. For July, August, and September 1969, producer milk used in Class I was 60 percent, 62 percent, and 73 percent, respectively, of monthly receipts. This may be compared with the higher Class I utilization of 63 percent, 69 percent, and 75 percent, respectively, in the same months in 1968. There is no indication

[1] Official notice is taken of the Eastern Ohio-Western Pennsylvania monthly statistical releases of the market administrator for August and September 1969. Official notice is also taken of the Delaware Valley Federal order (Part 1004), which provides that the Class I price shall be $7.17 plus any amount by which the Minnesota-Wisconsin manufacturing milk price for the preceding month exceeds $4.33.

that milk will be in short supply in the near future.

Cooperatives cited the relatively "tight" supply situation in November 1968 (82 percent Class I utilization of producer milk) as a warning that higher Class I prices are necessary in this market to induce more production. This has been the only occasion under the enlarged order, though, when Class I utilization reached this level. Only in October 1968 (79 percent) and January 1969 (77 percent) did the Class I utilization of producer milk exceed 75 percent of receipts. When the lowest monthly Class I utilization of 56 percent is noted, the real significance of the November 1968 supply situation is that it points up the wide seasonal variation in milk production in this market. As will be discussed in a later decision, cooperatives proposed various seasonal production incentive plans for the purpose of leveling production.

As stated earlier, producers indicated a need for an intermarket realignment of Class I prices. No change in the Order 36 Class I price is warranted for this purpose.

Any consideration of price alignment should take into account the cost of obtaining milk, whether for supplemental purposes or on a regular supply basis, from alternative sources. Over the long-run, the Class I price level in the local market cannot exceed by any substantial amount the cost of buying milk in another supply area and transporting it to the consuming market. If a significant price advantage exists long enough, handlers customarily relying on local supplies will recognize the advantages of another supply and will change their buying arrangements.

The Chicago milkshed is a major source of supplemental supplies for markets throughout the United States. Class I prices in these markets gradually increase the more distant the markets are from the Chicago area. This reflects the increasing cost of moving milk from the heavy production areas to the distant markets.

Milk is commonly moved, for instance, from the Madison, Wisconsin, area, which is in the Chicago milkshed, to other States. The basis for pricing milk received from that location is the Class I price at Madison plus the cost of transporting the milk from there to the consuming market.

The Class I price differential under the Chicago Regional order, which uses the same basic formula price contained in Order 36, is $1.12 at Madison.[3] Using a transportation rate of 1.5 cent per 10 miles, which is provided in this and many other orders, the cost of moving milk over the 480-mile distance from Madison to Cleveland would be 72 cents per hundredweight. This alternative supply cost would suggest a Class I differential of $1.84 at Cleveland, which is within 3 cents of the present differential of $1.87.

[3] Official notice is taken of the Chicago Regional Federal order (Part 1030).

Order 36 handlers experience competition for route sales from handlers in the Southern Michigan market and in other Ohio markets. The Order 36 Class I price should be reasonably aligned with prices in these competing markets.

The Southern Michigan and Tri-State orders, for example, which also use the same basic formula price as Order 36, provide for Class I differentials of $1.60 and $1.67 (Athens-Scioto district), respectively. Using the same transportation rate of 1.5 cent per 10 miles, a Detroit handler's cost of milk moved to Cleveland (166 miles) would be increased 25 cents per hundredweight. Similarly, the cost of milk moved from Coshocton, Ohio, where Tri-State order sales in the Order 36 area emanate, to Cleveland (98 miles) would be 15 cents higher. The Order 36 price at Cleveland is in reasonable alignment with the prices in these other markets.

At the time the western Pennsylvania territory was added to the Order 36 marketing area, a Class I price was established for the Pittsburgh district at 10 cents over the Cleveland-Erie district price. Although this price spread was not an issue at the hearing, producers and handlers indicated that the intramarket price structure should be continued.

As noted earlier, one cooperative would use a transportation rate of 2.11 cents per 10 miles in determining the proper intermarket alignment of Class I prices. This rate was derived by first determining the difference between the Chicago Regional order Class I price and the order Class I price in each of six northeastern markets. Using the corresponding mileage between Chicago and the principal pricing point in each northeastern market, a price difference per each 10 miles was computed. The 2.11-cent rate is the average of the price differences as expressed on a per 10-mile basis. The cooperative contended that the prevailing milk prices in the northeastern markets more nearly reflect a buyer's actual cost in obtaining milk from alternative sources than does the commonly-used rate of 1.5 cents per 10 miles since these are the prices that have evolved over the many years of attempting to maintain a realistic intermarket alignment of prices.

The 1.5-cent rate used in the analysis above, however, appropriately reflects the cost of moving milk efficiently under present economic conditions in the market. It is the rate most commonly used in Federal orders throughout the United States and is recognized as an appropriate and representative rate for transporting milk to the market. Because of its wide applicability, it insures a reasonable alignment of prices between this and other markets at the various locations at which handlers under the different orders compete.

Cooperatives complained that Order 36 prices are not satisfactorily aligned with Class I prices in the northeastern markets. The prices in the northeast have had no particular impact on orderly marketing conditions in the Eastern Ohio-Western Pennsylvania area. Although it was contended that such Class I prices, as reflected in the blend prices, were inducing Eastern Ohio-Western Pennsylvania producers to shift to northeastern markets, such shifts have occurred to only a very limited extent. Any significant shift of producers to the northeastern markets does not appear imminent.

A number of handlers expressed substantial concern, either at the hearing or in their briefs, about prices in excess of the order Class I price which they claimed they are having to pay producers, through their cooperatives, for Class I milk. They questioned the propriety of such "premiums" in the Eastern Ohio-Western Pennsylvania market when handlers are subject to a regulatory program that is intended to carry out the purposes of the Act, including the establishment of an appropriate Class I price. Handlers maintained that it is the Secretary's responsibility to fix a Class I price under the order that is fully adequate for the market as determined under the pricing standards of the Act. This price, handlers argued, should then be the only prevailing, or effective, Class I price in the market for milk purchased by all handlers for fluid use.

The prices which the Secretary has responsibility for fixing under an order are minimum prices only. This is clearly established by the language of the Act. The provisions of the Act do not preclude producers from selling their milk at prices above those fixed by the order.

The present Class I price set forth in Order 36, which is proposed herein to be continued, is appropriate for this market under the standards of the Act. Such price, as it functions within the total marketing system existing in the Order 36 area, tends to reflect the supply and demand for milk, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

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

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

In § 1036.51, paragraph (a) is revised to read as follows:

§ 1036.51 Class prices.

* * * * *

(a) *Class I price.* The Class I price shall be the basic formula price for the preceding month plus $1.67 for plants in the Cleveland-Erie district and $1.77 for plants in the Pittsburgh district, plus 20 cents for each district. At a plant outside the marketing area, add to the basic formula price for the preceding month the amount applicable pursuant to this paragraph at the location of the city hall of the following cities that is nearest (by the shortest hard-surfaced highway distance as determined by the market administrator) such plant: Canton and Cleveland, Ohio; Erie, Pittsburgh and Uniontown, Pa.; and Clarksburg, W. Va.

* * * * *

Signed at Washington, D.C., on November 6, 1969.

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[F.R. Doc. 69-13433; Filed, Nov. 12, 1969; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 69-SO-131]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Anderson, S.C., control zone and transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Regional Headquarters, Air Traffic Division, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Regional Headquarters, Room 724, 3400 Whipple Street, East Point, Ga.

The Anderson control zone described in § 71.171 (34 F.R. 4557) would be redesignated as:

Within a 5-mile radius of Anderson County Airport (lat. 34°29'40" N., long. 82°42'30" W.); within 1.5 miles each side of Anderson VORTAC 039° radial, extending from the 5-mile-radius zone to 1.5 miles northeast of the VORTAC.

The Anderson transition area described in § 71.181 (34 F.R. 4637) would be redesignated as:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Anderson County Airport (lat. 34°29'40" N., long. 82°42'30" W.).

The application of Terminal Instrument Procedures (TERPs) and current airspace criteria to Anderson terminal area requires the following actions:

1. Decrease the control zone extension predicated on Anderson VORTAC 039° radial 1 mile in width and 1.5 miles in length.

2. Increase the transition area basic radius circle from 8 to 8.5 miles.

The proposed alteration is required to provide controlled airspace protection for IFR operations in climb to 1,200 feet above the surface and in descent from 1,500 feet above the surface.

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

Issued in East Point, Ga., on October 31, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-13466; Filed, Nov. 12, 1969; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-SO-132]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Elizabeth City, N.C., control zone and transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Regional Headquarters, Air Traffic Division, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Regional Headquarters, Room 724, 3400 Whipple Street, East Point, Ga.

The Elizabeth City control zone described in § 71.171 (34 F.R. 4557 and 8274) would be redesignated as:

Within a 5-mile radius of CGAS Elizabeth City (lat. 36°15'35" N., long. 76°10'20" W.); within 3 miles each side of Elizabeth City VOR 195° radial, extending from the 5-mile radius zone to 8.5 miles south of the VOR; within 2.5 miles each side of Elizabeth City VOR 357° radial, extending from the 5-mile radius zone to 8.5 miles north of the VOR. This control zone is effective from 0700 to 2200 hours, local time, daily.

The Elizabeth City transition area described in § 71.181 (34 F.R. 4637) would be redesignated as:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of CGAS Elizabeth City (lat.

36°15'35" N., long. 76°10'20" W.); within 3 miles each side of the 127° bearing from Weeksville RBN, extending from the 8.5-mile radius area to 8.5 miles southeast of the RBN; within 8 miles east and 5 miles west of Elizabeth City VOR 195° radial, extending from the 8.5-mile radius area to 12 miles south of the VOR; within 3 miles each side of Elizabeth City VOR 357° radial, extending from the 8.5-mile radius area to 8.5 miles north of the VOR; excluding the portion within R-5301B.

The application of Terminal Instrument Procedures (TERPs) and current airspace criteria to Elizabeth City terminal area requires the following actions:

1. Increase the control zone extension predicated on Elizabeth City VOR 195° radial 2 miles in width and 0.5 mile in length.
2. Increase the control zone extension predicated on Elizabeth City VOR 357° radial 1 mile in width and 0.5 mile in length.
3. Increase the transition area basic radius circle from 8 to 8.5 miles.
4. Increase the transition area extension predicated on the 127° bearing from Weeksville RBN 2 miles in width and 0.5 mile in length.
5. Designate a transition area extension predicated on Elizabeth City VOR 357° radial 3 miles each side of the radial and 8.5 miles in length.

The proposed alterations are required to provide controlled airspace protection for IFR operations in climb to 1,200 feet above the surface and in descent from 1,500 feet above the surface.

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

Issued in East Point, Ga., on November 4, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-13467; Filed, Nov. 12, 1969; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-SO-134]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Sarasota, Fla., control zone and transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Area Manager, Miami Area Office, Air Traffic Branch, Post Office Box 2014, AMF Branch, Miami, Fla. 33159. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Sarasota control zone described in § 71.171 (34 F.R. 4557 and 7849) would be redesignated as:

Within a 5-mile radius of Sarasota-Bradenton Airport (lat. 27°23'47" N., long. 82°33'15" W.); within 3 miles each side of the Sarasota 050°, 142°, and 302° radials, extending from the 5-mile radius zone to 8.5 miles northeast, southeast, and northwest of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

The Sarasota transition area described in § 71.181 (34 F.R. 4637 and 7349) would be redesignated as:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Sarasota-Bradenton Airport (lat. 27°23'47" N., long. 82°33'15" W.); within 3 miles each side of Sarasota VOR 050°, 142°, and 302° radials, extending from the 8.5-mile radius area to 8.5 miles northeast, southeast, and northwest of the VOR; excluding that airspace outside the continental limits of the United States.

The application of Terminal Instrument Procedures (TERPs) and current airspace criteria to Sarasota terminal area and the proposed establishment of two additional prescribed instrument approach procedures requires the following actions:

1. Increase the control zone extension predicated on the Sarasota VOR 302° radial 2 miles in width and 0.5 mile in length.
2. Designate control zone extensions predicted on the Sarasota VOR 050° and 142° radials 6 miles in width and 8.5 miles in length.
3. Increase the transition area basic radius circle from 8 to 8.5 miles.
4. Increase the transition area extension predicated on the Sarasota VOR 302° radial 1 mile in width and 0.5 mile in length.
5. Designate transition area extensions predicated on the Sarasota VOR 050° and 142° radials 6 miles in width and 8.5 miles in length.

The proposed alterations are required to provide controlled airspace protection for IFR operations during climb to 1,200 feet above the surface and during descent from 1,500 feet above the surface.

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

Issued in East Point, Ga., on November 4, 1969.

JAMES G. ROGERS,
Director, Southern Region.

[F.R. Doc. 69-13468; Filed, Nov. 12, 1969; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-SO-137]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Fort Stewart, Ga., control zone and transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within thirty days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Fort Stewart control zone described in § 71.171 (34 F.R. 4557) would be redesignated as:

Within a 5-mile radius of Lyle H. Wright AAF (lat. 31°53'20" N., long. 81°33'45" W.); within a 1.5-mile radius of Liberty County Airport (lat. 31°47'22" N., long. 81°38'15" W.); within 3 miles each side of the 230° bearing from Liberty RBN, extending from the 5-mile radius zone to 8.5 miles southwest of the RBN; within 3 miles each side of Liberty TVOR 242° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the TVOR.

The Fort Stewart transition area described in § 71.181 (34 F.R. 4637) would be redesignated as:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Lyle H. Wright AAF (lat. 31°53'20" N., long. 81°33'45" W.).

The application of Terminal Instrument Procedures (TERPs) and current airspace criteria to Fort Stewart terminal area requires the following actions:

1. Redesignate the control zone extension predicated on the 231° bearing from

Liberty RBN to the 230° bearing; increase the width from 2 to 3 miles each side of the bearing, and increase the length from 8 to 8.5 miles.

2. Increase the control zone extension predicated on Liberty TVOR 242° radial from 4 to 6 miles in width and from 8 to 8.5 miles in length.

3. Revoke the control zone extension predicated on the 049° bearing from Allenhurst RBN.

4. Increase the transition area basic radius circle from 6 to 8.5 miles.

The proposed alterations are required to provide controlled airspace protection for IFR operations in climb to 1,200 feet above the surface and in descent from 1,500 feet above the surface.

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

Issued in East Point, Ga., on November 4, 1969.

CHESTER W. WELLS,
Acting Deputy Director,
Southern Region.

[F.R. Doc. 69-13469; Filed, Nov. 12, 1969; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-SO-138]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Raleigh, N.C., control zone and transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, Ga. 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, Ga.

The Raleigh control zone described in § 71.171 (34 F.R. 4557) would be redesignated as:

Within a 5-mile radius of Raleigh-Durham Airport (lat. 35°52'21" N., long. 78°47'02" W.); within 3 miles each side of Raleigh-Durham VORTAC 034° radial, extending from the 5-mile radius zone to 8.5 miles northeast of the VORTAC; within 3 miles each side of Raleigh-Durham VORTAC 231° radial, extending from the 5-mile radius zone to 8.5 miles southwest of the VORTAC.

The Raleigh transition area described in § 71.181 (34 F.R. 4637 and 12595) would be redesignated as:

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Raleigh-Durham Airport (lat. 35°52'21" N., long. 78°47'02" W.); within 9.5 miles northwest and 4.5 miles southeast of Raleigh-Durham ILS localizer southwest course, extending from the LOM to 18.5 miles southwest; within 9.5 miles northwest and 4.5 miles southeast of Raleigh-Durham VORTAC 231° radial, extending from the VORTAC to 18.5 miles southwest of the VORTAC.

The application of Terminal Instrument Procedures (TERPs) and current airspace criteria to Raleigh terminal area requires the following actions:

Control zone. 1. Revoke the extension predicated on the ILS localizer southwest course.

2. Increase the extension predicated on the VORTAC 034° radial 2 miles in width and 0.5 mile in length.

3. Increase the extension predicated on the VORTAC 231° radial 2 miles in width and 0.5 mile in length.

Transition area. 1. Revoke the extension predicated on the 045° bearing from Leaksville RBN.

2. Increase the extension predicated on the ILS localizer southwest course 1 mile in width and 6.5 miles in length.

3. Designate an extension predicated on the VORTAC 231° radial 14 miles in width and 18.5 miles in length.

The proposed alterations are required for the protection of IFR operations in climb to 1,200 feet above the surface and in descent from 1,500 feet above the surface.

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

Issued in East Point, Ga., on November 4, 1969.

CHESTER W. WELLS,
Acting Deputy Director,
Southern Region.

[F.R. Doc. 69-13470; Filed, Nov. 12, 1969; 8:48 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-WE-78]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the description of the Gunnison, Colo., transition area.

Interested persons may participate in the proposed rule-making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Program Standards Branch, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

The instrument approach procedure has been revised in accordance with the U.S. Standard for Terminal Instrument Procedures (TERPS). Therefore, it is necessary to amend the transition area in accordance with the new criteria. These changes are reflected herein.

In consideration of the foregoing the FAA proposes the following airspace action.

In § 71.181 (34 F.R. 4637) the description of the Gunnison, Colo., transition area is amended to read as follows:

GUNNISON, COLO.

That airspace extending upward from 700 feet above the surface within 9.5 miles northwest and 6 miles southeast of the Gunnison VORTAC 045° and 225° radials extending from 12 miles northeast to 19 miles southwest of the VORTAC.

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

Issued in Los Angeles, Calif., on November 3, 1969.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 69-13471; Filed, Nov. 12, 1969; 8:49 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 69-WE-75]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a transition area for Gillette-Campbell County Airport, Wyo.

Interested persons may participate in the proposed rule-making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Program Standards Branch, Federal Aviation Administration, 5651 West Manchester Avenue, Post Office Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Avenue, Los Angeles, Calif. 90045.

The City of Gillette, Campbell County, and the State of Wyoming are establishing a non-Federal VOR on the Gillette-Campbell County Airport. This navaid will be used to support public use instrument flight rule (IFR), approach, departure, and holding procedures.

The 700-foot portion of the transition area is required to provide controlled airspace protection for aircraft executing prescribed instrument procedures while operating above 700 feet above the surface. The 1,200-foot portion is necessary for controlled airspace protection for aircraft transitioning between the Crazy Woman, Wyo. VORTAC and Gillette, Wyo. VOR.

In consideration of the foregoing the FAA proposes the following airspace action.

In § 71.181 (34 F.R. 4637) the following transition area is added.

GILLETTE, WYO.

That airspace extending upward from 700 feet above the surface within 6 miles east and 9.5 miles west of the Gillette VOR (latitude 44°20'52" N., longitude 105°32'34" W.) 176° and 356° radials, extending from 8 miles south to 18.5 miles north of the VOR. That airspace extending upward from 1,200 feet above the surface within 5 miles each side of a direct line between the Crazy Woman VORTAC and the Gillette VOR.

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

Issued in Los Angeles, Calif., on November 3, 1969.

LEE E. WARREN,
Acting Director, Western Region.

[F.R. Doc. 69-13472; Filed, Nov. 12, 1969; 8:49 a.m.]

[14 CFR Parts 71, 75]

[Airspace Docket No. 69-SO-71]

FEDERAL AIRWAY, JET ROUTES, AND ASSOCIATED CONTROL AREA

Proposed Alteration; Supplemental Notice

In a notice of proposed rule making published in the FEDERAL REGISTER on October 2, 1969 (34 F.R. 15364), it was stated in part that the Federal Aviation Administration was considering:

1. Realign VOR Federal airway No. 3 east alternate segment from Biscayne Bay, Fla., to Palm Beach, Fla., via the Biscayne Bay VOR 008°T (008°M) and Palm Beach VORTAC 166°T (166°M) radials.

2. Realign Jet Route No. 77 segment with associated control area from Biscayne Bay to Vero Beach, Fla., via the Biscayne Bay VOR 008°T (008°M) and Vero Beach VORTAC 143°T (143°M) radials.

Subsequent to the issuance of the notice, it was determined that one of the primary arrival fixes should be changed from the north to the northeast. This change would require the following changes to the original notice:

1. Item 1 would be canceled.
2. Item 2 would be amended to read:

Realign Jet Route No. 77 segment with associated control area from Biscayne Bay to Vero Beach, Fla., via the Biscayne Bay VOR 021°T (021°M) and Vero Beach VORTAC 143°T (143°M) radials.

The time within which comments will be received for consideration on the original expires on October 31, 1969. Action is taken herein to extend the comment period on Airspace Docket No. 69-SO-71 to November 20, 1969.

Communications should be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, Ga. 30320.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provision of Executive Order 10854.

These amendments are proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); Executive Order 10854 (24 F.R. 9565); and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 31, 1969.

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

[F.R. Doc. 69-13465; Filed, Nov. 12, 1969; 8:48 a.m.]

ATOMIC ENERGY COMMISSION

[10 CFR Parts 30, 31]

EXEMPT CONCENTRATIONS AND GENERALLY LICENSED ITEMS

Notice of Proposed Rule Making

Section 30.70, Schedule A, of 10 CFR Part 30 lists concentration values for various radionuclides which are exempt from the licensing requirements of the Atomic Energy Act and the Atomic Energy Commission's regulations pursuant to § 30.14. The purpose of the exemption for the scheduled concentrations is to permit the distribution of products such as oil and gasoline containing trace quantities of byproduct materials that may remain in the products following their use in industrial operations for purposes of quality control, tracer studies, and process control.

The exempt concentrations in § 30.70, Schedule A, are equal to the lowest concentration for each byproduct material given in table I of National Bureau of Standards Handbook 69 for continuous occupational exposure (168-hour week).

Section 30.70 does not include a specific listing for strontium-85 which is a gamma emitter with a half-life of 64 days. Strontium-85 has physical and chemical properties which would make it useful in certain types of tracer experiments. It appears, however, that the concentration of 1×10^{-6} uc/ml, presently exempt under the provision for beta and/or gamma emitting byproduct material not specifically listed in § 30.70 with half-life less than 3 years, is inadequate for such uses of strontium-85.

The proposed amendment of § 30.70 set out below would add a specific listing for strontium-85 of 1×10^{-4} uc/ml in liquid and solid concentration. This value is listed in NBS Handbook 69 and is consistent with the criteria used in deriving the concentration values for the 152 radioisotopes presently listed in § 30.70.

The Commission also is proposing an amendment of 10 CFR Part 31. Section 31.3(c) of 10 CFR Part 31 provides a general license for devices designed for use in measuring or determining light intensity which contain as a sealed source byproduct material consisting of a total of not more than 200 microcuries of strontium-90 per device. This general license was issued in 1956. Light meters have never been distributed for use under the general license and the specific license issued to the manufacturer by the Commission has expired. There appears to be no need for retaining a general license for such light meters. Accordingly, the proposed amendment of § 31.3 set out below would revoke the general license for light meters in § 31.3(c).

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Parts 30 and 31 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed

amendments should send them to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch within 30 days after publication of this notice in the FEDERAL REGISTER. Comments received after that period will be considered if it is practicable to do so, but assurance of consideration cannot be given except as to comments filed within the period specified. Copies of comments on the proposed rule may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

1. Section 30.70 Schedule A—Exempt Concentrations, is amended by adding the isotope Sr 85 next to the element Strontium and adding a concentration value of 1×10^{-3} for Sr 85 in Column II, as follows:

Element (atomic number)	Isotope	Column I Gas concentration centration uc/ml [1]	Column II Liquid and solid concentration uc/ml [2]
* * *	* * *	* * *	* * *
Strontium (38)	Sr 85		1×10^{-3}
* * *	* * *	* * *	* * *

2. Paragraph (c) *Light meter* of § 31.3 of 10 CFR Part 31 is revoked.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Washington, D.C., this 23d day of October 1969.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary.

[F.R. Doc. 69-13437; Filed, Nov. 12, 1969; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1048]

[No. MC-C-1 (Sub-No. 6)]

ST. LOUIS, MO.-EAST ST. LOUIS, ILL., COMMERCIAL ZONE

Proposed Redefinition of Limits

NOVEMBER 7, 1969.

Petitioners: The Childrens Shop, Ludwig Music House, Inc., F. W. Woolworth Co., The Singer Co., Worths, Thayer McNeil Shoes, Pope's Cafeterias, Wolff's Clothiers, Inc., Barricini Stores, Inc., Boyd-Richardson Co., B. Dalton, Bookseller, Glaser Drug Co.

Petitioners' representative: B. W. LaTourette, Jr., 611 Olive Street, St. Louis, Mo. 63101.

By petition filed May 9, 1969, the above-named petitioners request the Commission to reopen the above proceeding for the purpose of redefining the limits of the St. Louis, Mo.-East St. Louis, Ill., commercial zone which were most recently defined on October 2, 1969, in MC-C-1 (Sub-No. 7) *St. Louis, Mo.-East St. Louis, Ill., Commercial Zone*, 110 M.C.C. 438 at pages 439-440 (49 CFR 1048.3) so as to include therein an area west of the present western limits of the zone.

As presently defined, the St. Louis, Mo.-East St. Louis, Ill., commercial zone is bounded, in part, by a line beginning at the junction of Treecourt Avenue and Big Bend Road, thence easterly along Big Bend Road to the western boundary of Kirkwood, Mo., thence along the western and northern boundaries of Kirkwood to the western boundary of Huntleigh, Mo. Petitioners request the Commission to include within the zone an area bounded by a line as follows: Beginning at the intersection of Manchester Road and the western boundary of Kirkwood, Mo., said point being at the present commercial zone limits, westerly along Manchester Road to its intersection with Interstate Highway 244, thence southerly along Interstate Highway 244 to its intersection with Dougherty Ferry Road, thence easterly along Dougherty Ferry Road to its intersection with the present limits of said commercial zone, thence northerly along the present zone limits to the point of beginning.

No oral hearing is contemplated at this time, but anyone wishing to make representations in favor of, or against, the above-proposed revision of the limits of the St. Louis, Mo.-East St. Louis, Ill., commercial zone, may do so by the submission of written data, views, or arguments. An original and seven copies of such data, views or arguments shall be filed with the Commission on or before December 22, 1969. Each such statement should include a statement of position with respect to the proposed revision, and a copy thereof should be served upon petitioners' representative.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Division of the Federal Register.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69-13480; Filed, Nov. 12, 1969; 8:49 a.m.]

[49 CFR Part 1048]

[No. MC-C-1 (Sub-No. 9)]

ST. LOUIS, MO.-EAST ST. LOUIS, ILL., COMMERCIAL ZONE

Proposed Redefinition of the Limits

NOVEMBER 7, 1969.

Petitioners: Hussman Refrigerator Co., Lianco Container Corp., St. Louis Diecasting Corp., Central Hardware Co., Industrial Construction, Inc., Montgomery Egg & Poultry Co., Gardner-Denver Co., Associated Grocers Co., Majestic Building Material Corp., Trussbilt Homes, Inc., Schnuck Markets, Inc., and F. F. Kirchner, Inc.

Petitioners' representatives: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101, and G. M. Refman, 1230 Boatman's Bank Building, St. Louis, Mo. 63102.

By petition filed July 21, 1969, the above-named petitioners request the Commission to reopen the above proceeding for the purpose of redefining the limits of the St. Louis, Mo.-East St. Louis, Ill., commercial zone which were most recently defined on October 2, 1969, in MC-C-1 (Sub. No. 7) *St. Louis, Mo.-East St. Louis, Ill., Commercial Zone*, 110 M.C.C. 438 at pages 439-440 (49 CFR 1048.3) so as to include therein an area west of the present northwestern limits of the zone.

As presently defined, the St. Louis, Mo.-East St. Louis, Ill., commercial zone is bounded, in part, by a line beginning at the junction of Dorsett Road and U.S. Highway 66, thence in a northerly direction along U.S. Highway 66 to its junction with Natural Bridge Road, thence in an easterly direction along U.S. Highway 66 to the western boundary of St. Ferdinand, Mo. Petitioners request the Commission to include within the zone an area bounded by a line as follows: Beginning at the intersection of Lindbergh Boulevard and St. Charles Rock Road, said point being at the present commercial zone limits, westerly along St. Charles Rock Road to its intersection with the Missouri River, thence northerly along the east shore of the Missouri River to its junction with the Norfolk and Western Railway Co. right-of-way, thence easterly along the southern boundary of the Norfolk and Western Railway right-of-way to Lindbergh Boulevard, thence southerly along Lindbergh Boulevard to the point of beginning.

No oral hearing is contemplated at this time, but anyone wishing to make representations in favor of, or against, the above-proposed revision of the limits of the St. Louis, Mo.-East St. Louis, Ill., commercial zone, may do so by the submission of written data, views, or arguments. An original and seven copies of such data, views, or arguments shall be filed with the Commission on or before December 22, 1969. Each such statement should include a statement of position with respect to the proposed revision, and a copy thereof should be served upon petitioners' representatives.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection, and by filing a copy thereof with the Director, Division of the Federal Register.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 69-13481; Filed, Nov. 12, 1969; 8:49 a.m.]

FEDERAL POWER COMMISSION

[18 CFR Part 157]

[Docket No. R-374]

AREA RATES FOR SMALL PRODUCERS (PERMIAN BASIN AREA)

Proposed Increased Rate Filings

NOVEMBER 4, 1969.

1. Notice is hereby given, pursuant to the Administrative Procedure Act, 5 U.S.C. 553, et seq. (1967) and sections 4, 5, 7, and 16 of the Natural Gas Act[1] that the Commission proposes to amend § 157.40 of the Commission's regulations under the Natural Gas Act, Part 157, Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations (18 CFR 157.40) by adding a new paragraph (g) thereto to permit small producers operating in the Permian Basin Area under small producer certificates, issued pursuant to § 157.40, to file increased rates for the sale of natural gas, if contractually authorized to do so, above the rate ceilings set forth in § 157.40(b).

2. On October 29, 1965, we issued Order No. 308, Docket No. R-279, 34 FPC 1202, amending the regulations under the Natural Gas Act to grant relief from certificate and rate filing requirements in the case of small producer sales in the Permian Basin area. The amendment, inter alia, added a new § 157.40 to the regulations, and in paragraph (b) thereof the Commission set out the applicable rate ceilings for small producer sales in the Permian Basin area. Such rates were in accordance with those found to be the just and reasonable base area rates in the Commission's Opinion No. 468, 34 FPC 159, 239.

3. In Opinion No. 468 the Commission provided that no increase in rate in excess of the applicable area rate would be filed by any producer prior to January 1, 1968. Since January 1, 1968, producers in the Permian Basin area have been permitted, where contractually authorized, to file rates for sales not covered by a small producer certificate in excess of the just and reasonable rates determined in the Permian case and to put them into effect at the end of the suspension period, subject to refund. However, because of the provisions in paragraph (b) of § 157.40 of the regulations, small producers operating under a small producer certificate have been proscribed from filing contractually authorized increased rates for sales included in the small producer certificate above the applicable area base rates.[2] In the event the Commission decides in a later Permian proceeding that the just and reasonable ceilings for old and new gas in Opinion No. 468 should be increased for the period following the expiration of the moratorium, those small producers operating under a small producer certificate in Permian would be adversely affected by the rate limitation in § 157.40(b) because they would not be permitted to collect a higher rate for the period prior to any such Commission determination. However, if small producers were allowed to collect rates in excess of the present just and reasonable ceilings they would be required to refund, with interest, any amounts collected in excess of the just and reasonable rates determined in the later Permian proceeding.

4. The problem involved in the present rate limitation in § 157.40(b) would be alleviated by permitting small producers operating under small producer certificates in the Permian Basin area to file contractually due increases above the area ceilings prescribed in that section, without filing any rate schedule or obtaining new certificate authorization with respect to such sales.[3] We think this is desirable and, therefore, propose to amend § 157.40 so as to permit such filings.

5. In consideration of the foregoing it is proposed that § 157.40 of the Commission's Regulations under the Natural Gas Act, Part 157, Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations (18 CFR 157.40) be amended by adding a new paragraph (g) reading as follows:

§ 157.40 Small producer certificates of public convenience and necessity.

* * * * *

(g) Notwithstanding the provisions of paragraph (b) of this section, a small producer who is operating under a small producer certificate with respect to sales in the Permian Basin area may file under § 154.94(f) of this chapter (18 CFR 154.94 (f)) an increase in rate in excess of the applicable rate set forth in said paragraph (b) where contractually authorized to do so without making the rate schedule and certificate filings required by §§ 154.92 and 157.23 of the Commission's regulations under the Natural Gas Act, Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations (18 CFR 154.91, 154.92 and 157.23).

6. This amendment to the Commission's Regulations under the Natural Gas Act is proposed to be issued under the authority granted by the Natural Gas Act, as amended, particularly sections 4, 5, 7, and 16 thereof (52 Stat. 822, 823, 824, 825 and 830; 56 Stat. 83, 84; 61 Stat. 459; 79 Stat. 72; 15 U.S.C. 717c, 717d, 717f, and 717o).

7. Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426 on or before December 19, 1969, data, views, and comments in writing concerning the amendment proposed herein. An original and fourteen (14) copies of any such submittals shall be filed with the Secretary of the Commission. The Commission will consider all such submittals before acting on the proposed amendment.

By direction of the Commission.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-13439; Filed, Nov. 12, 1969; 8:47 a.m.]

[1] (52 Stat. 822, 823, 824, 825 and 830 (1938); 56 Stat. 83, 84 (1942); 61 Stat. 459 (1947); 76 Stat. 72 (1962); 15 U.S.C. § 717c, d, f, and o.)

[2] At the present time a small producer operating under a small producer certificate cannot collect an above ceiling rate for a particular sale until it has obtained certificate authorization for that sale (or reinstatement of its earlier authorization) and filed a notice of change in rate and a quality statement. See order issued July 10, 1968, in Thornton Oil Company, Docket No. RI69-1.

[3] If a small producer made a filing but did not have a contractual right to do so, it would be incumbent upon the purchaser to so notify the Commission.

Notices

FEDERAL POWER COMMISSION

[Docket No. RI70-350 etc.]

SUN OIL CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

OCTOBER 31, 1969.

The Respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders: (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before December 15, 1969.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in Dockets Nos.
RI70-350..	Sun Oil Co., Post Office Box 2880, Dallas, Tex. 75221.	9	16	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (North Government Wells Field, Jim Wells County, Tex.) (RR. District No. 4).	$13,048	10- 2-69	[2] 11- 2-69	4- 2-70	[4] 15.6569	[3,4] 16.6606	RI68-100.
	......do......	11	9	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Gyp Hill Field, Brooks County, Tex.)(RR. District No. 4).	5,019	10- 2-69	[2] 11- 2-69	4- 2-70	[4] 15.6538	[3,4] 16.6576	RI68-100.
	......do......	15	10	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Edinburg Field, Hidalgo County, Tex.) (RR. District No. 4).	602	10- 2-69	[2] 11- 2-69	4- 2-70	[4] 15.6563	[3,4] 16.6600	RI68-100.
	......do......	67	9	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (San Salvador Field, Hidalgo County, Tex.) (RR. District No. 4).	803	10- 2-69	[2] 11- 2-69	4- 2-70	[4] 15.6585	[3,4] 16.6623	RI68-100.
	......do......	79	7	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (West Sullivan Field, Starr County, Tex.) (RR. District No. 4).	(5)	10- 2-69	[2] 11- 2-69	4- 2-70	[4] 15.6585	[3,4] 16.6623	RI68-100.
	......do......	104	7	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Seeligson Field, Jim Wells County, Tex.) (RR. District No. 4).	50,100	10- 2-69	[2] 11- 2-69	4- 2-70	15.6585	[3,4] 16.6623	RI68-100.
	......do......	125	7	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Seeligson (Deep) Field, Jim Wells County, Tex.) (RR. District No. 4).	24,963	10- 2-69	[2] 11- 2-69	4- 2-70	[4] 18.0675	[3,4] 19.31563	
	......do......	170	12	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (North Sun (K-1 sand) Field, Starr County, Tex.) (RR. District No. 4).	2,710	10- 2-69	[2] 11- 2-69	4- 2-70	[4] 15.6458	[3,4] 16.6495	RI68-100.
	......do......	171	10	......do......	1,355	10- 2-69	[2] 11- 2-69	4- 2-70	[4] 15.6458	[3,4] 16.6495	RI68-100.
	......do......	133	13	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (El Puerto, Peder al and Guerra Fields, Lockhart Field, Starr County, Tex.) (RR. District No. 4).	539	10- 2-69	[2] 11- 2-69	4- 2-70	[4,8] 18.05344	[3,4,8] 20.3018	RI66-312.
					4,856				[4,9] 18.06	[3,4,9] 20.3084	RI66-312.
					2,428				[4,10] 18.05625	[3,4,10] 20.3047	RI66-312.
		133	14	......do......	3,613				[4,11,12] 16.0488	[3,4,11] 17.0525	
		133	15	......do......	5,405				[4,12,13] 16.0488	[3,4,12,13] 18.30067	
RI70-351..	Sohio Petroleum Co., 970 First National Office Bldg., Oklahoma City, Okla. 73102.	3	7	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (La Reforma Pool Field, Starr and Hidalgo Counties, Tex.) (RR. District No. 4).	8,220	10- 6-69	[2] 11- 6-69	4- 6-70	15.6	[3,4] 16.6	RI66-276.
RI70-352..	Sohio Petroleum Co. (Operator) et al.	72	11	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Lopeno Field, Zapata County, Tex.) (RR. District No. 4).	1,611	10- 6-69	[2] 11- 6-69	4- 6-70	[15] 16.0	[4,15] 20.24	
RI70-353..	Rodney DeLange (Operator) et al., D-304 Petroleum Center., San Antonio, Tex. 78209.	3	2	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Alte Hunde Field, Zapata County, Tex.) (RR. District No. 4).	2,309	10- 1-69	[16] 11- 1-69	4- 1-70	[15] 16.0	[3,4] 17.0	

See footnotes at end of table.

APPENDIX A—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf		Rate in effect subject to refund in Dockets Nos.
									Rate in effect	Proposed increased rate	
RI70-354	Phillips Petroleum Co., Bartlesville, Okla. 74003.	428	8	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Sullivan City Field, Starr and Hidalgo Counties, Tex.) (RR. District No. 4).	$23,000	9-30-69	[18] 11-1-69	4-1-70	[29] 15.0	[3][4] 17.5656	
RI70-355	Atlantic Richfield Co., Post Office Box 2819, Dallas, Tex. 75221.	7	6	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Jake Hamon Field, McMullen County, Tex.) (RR. District No. 1).	11,352	10-1-69	[18] 11-1-69	4-1-70	[22] 14.0	[4][17][18] 17.24347	
RI70-356	Getty Oil Co., Post Office Box 1404, Houston, Tex. 77001.	36	11	United Gas Pipe Line Co. (Baxterville Field, Lamar and Marion Counties, Miss.).	822	10-2-69	[18] 11-2-69	4-2-70	15.0	[22][23] 15.5	RI64-762.
	do	68	7	Southern Natural Gas Co. (Gwinville Field, Jefferson Davis and Simpson Counties, Miss.).	13,193	10-2-69	[18] 11-2-69	4-2-70	15.0	[22][24] 15.5	RI64-762.
RI70-357	Shell Oil Co. (Operator) et al., New York, N.Y. 10020.	191	9	Florida Gas Transmission Co. (East White Point Field, San Patricio County, Tex.) (RR. District No. 4).	7,300	10-1-69	[18] 11-1-69	4-1-70	18.0	[4][20] 18.5	RI67-418.
RI70-358	do	192	8	Florida Gas Transmission Co. (Lochridge Field, Brazoria County, Tex.) (RR. District No. 3).	9,125	10-1-69	[18] 11-1-69	4-1-70	19.0	[4][20] 19.5	RI67-419.
	do	137	6	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Lacopita Field, Starr County, Tex.) (RR. District No. 4).	4,332	[25] 9-29-69	[18] 11-1-69	4-1-70	[3][27] 14.6548	[3][4] 15.1817	
	do	188	5	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Seeligson Field, Jim Wells County, Tex.) (RR. District No. 4).	17,062	9-29-69	[18] 11-1-69	4-1-70	[3][27] 14.6548	[3][4] 15.1817	
	do	201	5	Florida Gas Transmission Co. (East Mustang Island Field, Nueces County, Tex.) (RR. District No. 4).	6,688	10-1-69	[18] 11-1-69	4-1-70	[3] 18.0788	[3][4] 18.5809	RI67-429.
	do	264	4	Florida Gas Transmission Co. (Southwest Helen Gohlke Field, Victoria County, Tex.) (RR. District No. 2).	54,986	10-1-69	[18] 11-1-69	4-1-70	[3] 18.0788	[3][4] 19.0831	RI62-509.
	do	261	9	Natural Gas Pipeline Co. of America (Bryans Mill Field, Cass County, Tex.) (RR. District No. 6).	6,524	10-1-69	[18] 11-1-69	4-1-70	[28] 17.0638	[3][4][28] 19.0713	RI67-341.
	do	236	2	Northern Natural Gas Co. (Wilburton Field, Morton County, Kans., and Texas County, Okla.) (Panhandle Area).	7,800 100	10-10-69	[18] 1-1-70	6-1-70	[29][30] 15.0 [30][31] 17.0	[24][29][30] 16.0 [3][4][30][31] 18.0	RI65-475. RI65-475.
	do	317	4	Panhandle Eastern Pipe Line Co. (Northwest Oakdale Field, Woods County, Okla) (Oklahoma "Other" Area).	4,517	10-10-69	[18] 1-1-70	6-1-70	[30] 17.0	[3][4][30] 18.015	RI67-382.
RI70-359	Sun Oil Co., DX Division (Operator) et al., 907 South Detroit Ave., Tulsa, Okla. 74120.	43	[32] 12 [32] 13	United Gas Pipe Line Co. (Slick-Wilcox Field, Goliad and De Witt Counties, Tex.) (RR. District No. 2).	 17,872	10-6-69 10-6-69	[18] 11-6-69 (Accepted) [18] 11-6-69	 4-6-70	 13.2002	 [4][33] 18.34575	
RI70-360	R. L. Lynd, Agent for Robert Burke Trustee, Post Office Box 290, Alice, Tex. 78332.	1 1	[33] 8 9	United Gas Pipe Line Co. (Boyce Field, Goliad County, Tex.) (RR. District No. 2).	 3,570	10-8-69 10-8-69	[18] 11-8-69 (Accepted) [18] 11-8-69	 4-8-70	 13.2002	 [4][33] 18.3	
RI70-361	A. G. Hill, 1401 Elm St., Dallas, Tex. 75202.	8	14	Texas Eastern Transmission Corp. (Agua Dulce Field, Nueces County, Tex.) (RR. District No. 3).	181	9-29-69	[18] 11-1-69	4-1-70	[3] 16.67263	[3][4] 16.87350	RI69-153.
RI70-362	William Herbert Hunt, Trust Estate, 1401 Elm St., Dallas, Tex. 75202.	1	18	Texas Eastern Transmission Corp. (North Cottonwood Field, Liberty County, Tex.) (RR. District No. 3).	301	9-29-69	[18] 11-1-69	4-1-70	[3] 16.67263	[3][4] 16.87350	RI69-155.
RI70-363	Shell Oil Co. (Operator), 50 West 50th St., New York, N.Y. 10020.	13	14	Iroquois Gas Corp. (Sheridan Field, Colorado County, Tex.) (RR. District No. 3).	231,587	9-29-69	[18] 11-1-69	4-1-70	[3][36] 19.0713	[3][4] 20.7737	
RI70-364	Humble Oil & Refining Co., Post Office Box 2180, Houston, Tex. 77001.	244	3	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (North Magnolia City Field, Jim Wells County, Tex.) (RR. District No. 4).	3,211	10-1-69	[18] 11-1-69	4-1-70	[3][37] 15.0563	[3][4] 19.31567	
	do	300	5	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Northeast Loma Novia and South Lundell Fields, Duval County, Tex.) (RR. District No. 4).	75,740	10-1-69	[18] 11-1-69	4-1-70	[3] 18.0675	[3][4] 19.31567	RI65-347.
	do	341	7	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Northeast Kohler et al., Fields, Duval County, Tex.) (RR. District No. 4).	11,055	10-1-69	[18] 11-1-69	4-1-70	[3] 18.0675	[3][4] 19.31567	RI66-194.
	do	349	2	Natural Gas Pipeline Co., of America (Willamar and Willamar Southeast Fields, Willacy County, Tex.) (RR. District No. 4).	56,211	10-1-69	[18] 11-1-69	4-1-70	[3][38] 16.06	[3][4] 17.0638	
	do	395	4	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (San Roman Field, Starr County, Tex.) (RR. District No. 4).	10,583	10-1-69	[18] 11-1-69	4-1-70	[3][38] 16.06	[3][4] 17.0638	
	do	359	3	Kansas-Nebraska Natural Gas Co., Inc. (Frenchie Draw Field, Fremont and Natrona Counties, Wyo.).	29,530	9-29-69	[18] 11-1-69	4-1-70	15.0	[3][4] 16.0	

See footnotes at end of table.

APPENDIX A—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in Dockets Nos.
RI70-365..	Ashland Oil & Refining Co., Post Office Box 18695, Oklahoma City, Okla. 73118.	80	8	Michigan Wisconsin Pipe Line Co. (Southeast Selling Field, Major County, Okla.) (Oklahoma "Other" Area).	$4,398	10-6-69	[18] 11-6-69	4-6-70	[40][42] 19.46	[4][39][40][41] 25.172	RI67-39.
	...do...	137	8	Michigan Wisconsin Pipe Line Co. (Laverne Field, Harper County, Okla.) (Panhandle Area).	10,060	10-6-69	[18] 11-6-69	4-6-70	[40][43] 20.52	[3][4][40][41] 23.035	RI66-371.
	...do...	139	7	El Paso Natural Gas Co. (Clear Lake Field, Beaver County, Okla.) (Panhandle Area).	763	10-6-69	[18] 11-6-69	4-6-70	[43] 19.62	[4][39][44] 23.635	RI67-124.
	...do...	141	4	Panhandle Eastern Pipe Line Co. (North Knowles Field, Beaver County, Okla.) (Panhandle Area).	6,329	10-6-69	[18] 11-6-69	4-6-70	[40][43] 22.328	[3][4][40][41] 25.205	RI64-552.
	...do...	184	4	Michigan Wisconsin Pipe Line Co. (Northeast Selling Field, Major County, Okla.) (Oklahoma "Other" Area).	1,001	10-6-69	[18] 11-6-69	4-6-70	[40][44] 19.255	[3][4][40][41] 24.815	RI68-106.
RI70-366..	Placid Oil Co. (Operator) et al., 2500 First National Bank Bldg., Dallas, Tex. 75202.	30	10	H. L. Hunt,[45] (North Lansing Field, Harrison County, Tex.) (RR. District No. 6).	191	9-22-69	[18] 11-6-69	4-1-70	16.1805	[3][4] 16.3815	RI69-161.
RI70-367..	Edwin L. Cox (Operator) et al., 3800 First National Bank Bldg., Dallas, Tex. 75202.	69	2	Natural Gas Pipeline Co. of America (Harper County, Okla.) (Panhandle Area).	17,201	10-8-69	[18] 1-1-70	6-1-70	[46] 18.7	[3][4][46] 19.8	
RI70-368..	Diamond Shamrock Corp. (Operator), et al., Post Office Box 631, Amarillo, Tex. 79105.	3	[26] 7	Northern Natural Gas Co. (McKee Plants, Moore County, Tex.) (RR. District No. 10).	......	10-6-69	[2] 11-6-69	(Accepted)......			
		3	8		86,128	10-6-69	[2] 11-6-69	4-6-70	[28][31] 10.5742	[3][4][28][31] 14.0190	
RI70-369..	Petroleum Inc. (Operator) et al., 300 West Douglas, Wichita, Kans. 67202.	22	3	Panhandle Eastern Pipe Line Co. (Beaver County, Okla.) (Panhandle Area).	1,414	10-6-69	[2] 11-6-69	4-6-70	17.0	[3][4][32] 18.01	RI65-337.
RI70-370..	E. C. Sidwell (Operator) et al., Post Office Box 2475, Pampa, Tex. 79065.	5	9	El Paso Natural Gas Co. (Mocane-Tonkawa Field, Beaver County, Okla.) (Panhandle Area).	1,253	10-10-69	[18] 11-10-69	4-10-70	[34] 19.5	[4][33][34] 21.5	RI65-632.
RI70-371..	James A. Ford, d.b.a. Cypress Gas Co., Post Office Box 9192, Shreveport, La. 71109.	4	[35] 5	Arkansas Louisiana Gas Co. (Northwest Cartersville Field, Le Flore County, Okla.) (Oklahoma "Other" Area).	7,300	10-8-69	[2] 11-8-69	4-8-70	15.0	[3][4] 16.0	
RI70-372..	Skelly Oil Co., Post Office Box 1650, Tulsa, Okla. 74102.	97	2	Natural Gas Pipeline Co. of America (Southeast Camrick Field, Beaver County, Okla.) (Panhandle Area).	1,381	10-6-69	[18] 11-6-69	4-6-70	[28] 16.0	[4][28][29] 18.0	
	...do...	106	1	Northern Natural Gas Co. (Schafer, Crawford, and Kingsmill Plants, Gray and Carson Counties, Tex.) (RR. District No. 10).	95,403	10-6-69	[18] 11-6-69	4-6-70	[28][30] 15.0	[4][28][37][38] 17.0	
					80,511	......	......	......	[28][29] 16.0	[4][28][37][29] 18.0	
	...do...	188	4	Panhandle Eastern Pipe Line Co., (Mouser Field, Texas County, Okla.) (Panhandle Area).	308	10-6-69	[18] 11-6-69	4-6-70	[79] 18.275	[3][4][79] 19.350	
	...do...	148	3	Natural Gas Pipeline Co. of America (Southeast Camrick Field, Beaver County, Okla.) (Panhandle Area).	119	10-6-69	[18] 11-6-69	4-6-70	[28] 16.6	[4][28][60] 18.0	
	...do...	152	2	...do...	686	10-6-69	[18] 11-6-69	4-6-70	[28] 16.6	[4][28][61] 18.0	
	...do...	180	3	...do...	412	10-6-69	[18] 11-6-69	4-6-70	[28] 17.0	[3][4][28] 18.5	
	...do...	160	2	Panhandle Eastern Pipe Line Co. (Mocane Field, Beaver County, Okla.) (Panhandle Area).	741	10-6-69	[18] 11-6-69	4-6-70	[62] 18.275	[4][61][62] 19.350	
	...do...	169	4	Transwestern Pipe Line Co. (Beaver and Cimarron Counties, Okla.) (Panhandle Area).	707	10-6-69	[18] 11-6-69	4-6-70	[28] 17.0	[4][28][63] 18.0	
	...do...	179	1	Arkansas Louisiana Gas Co. (Cheniere Brake Field, Ouachita Parish, La.) (North Louisiana Area).	112	10-6-69	[18] 11-6-69	4-6-70	[64] 18.33	[3][22][64] 19.33	
	...do...	146	3	Kansas-Nebraska Natural Gas Co., Inc. (Camrick Field, Texas County, Okla.) (Panhandle Area).	1,881	10-6-69	[18] 11-6-69	4-6-70	[28] 16.4	[4][28][65] 18.0	
	...do...	189	2	Michigan Wisconsin Pipe Line Co. (Laverne Field, Harper County, Okla.) (Panhandle Area).	1,006	10-6-69	[18] 11-6-69	4-6-70	[26][67] 18.275	[4][26][66][67] 19.8875	
	...do...	194	3	Colorado Interstate Gas Co. (Mocane Field, Beaver County, Okla.) (Panhandle Area).	487	10-6-69	[18] 11-6-69	4-6-70	[28][68] 18.275	[3][4][28][68] 19.350	
	...do...	1	7	Lone Star Gas Co. (Velma Plant, Stephens County, Okla.) (Panhandle Area).	32,749	10-6-69	[18] 11-7-69	4-7-70	16.8	[4][69] 17.5	RI60-253.
	...do...	196	2	Texas Gas Transmission Corp. (Northwest Cotton Valley Field, Webster Parish, La.) (North Louisiana Area).	176	10-6-69	[18] 11-6-69	4-6-70	[28][70] 18.25	[3][22][28][70] 19.25	
RI70-373..	Hunt Oil Co., 1401 Elm St., Dallas, Tex. 75202.	26	8	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Bethany Field, Panola County, Tex.) (RR. District No. 6).	54	9-29-69	[18] 11-1-69	4-1-70	[28] 14.6936	[3][4][28] 15.7674	RI66-127.
	...do...	11	8	...do...	50	9-26-69	[18] 11-1-69	4-1-70	[28] 14.7501	[3][4][28] 15.7674	RI66-127.
RI70-374..	Skelly Oil Co. (Operator) et al.	185	1	Northern Natural Gas Co. (Beaver County, Okla.) (Panhandle Area).	1,238	10-6-69	[18] 11-6-69	4-6-70	[28] 17.0	[3][4][28] 18.0	
RI70-375..	Edwin L. Cox., 3800 First National Bank Bldg., Dallas, Tex. 75202.	71	2	Natural Gas Pipeline Co. of America (Texas County, Okla.) (Panhandle Area).	689	10-8-69	[18] 1-1-70	6-1-70	[26][72] 18.7	[4][26][71][72] 19.8	

See footnotes at end of table.

Appendix A—Continued

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in Dockets Nos.
RI70-376..	Hassie Hunt Trust (Operator) et al., 1401 Elm St., Dallas, Tex. 75202.	30	[73] 5	El Paso Natural Gas Co. (Hokit-North Ellenburger Field, Pecos County, Tex.) (RR. District No. 8) (Permian Basin Area).	12,208	9-26-69	[16] 11-1-69	4-1-70	18.3105	[3] [4] 19.3278	RI69-552.
RI70-377..	George Jackson, Post Office Box 351, Clarksburg, W. Va. 26301.	10	[73] [71] 6	Equitable Gas Co. (Otter District, Braxton County, W. Va.).	586	10-8-69	[2] 11-8-69	4-8-70	25.0	[34] [74] 27.0	
RI70-402..	Sun Oil Co., DX Division, 907 South Detroit Ave., Tulsa, Okla. 74120.	150	14	Natural Gas Pipeline Co. of America (Wise County Area, Jack, Wise, and Parker Counties, Tex.) (RR. District No. 9).	19,759	10-6-69	[16] 12-30-69	5-30-70	[28] [77] 16.25	[3] [4] [28] [77] 17.31375	RI68-444.

[2] The stated effective date is the first day after expiration of the statutory notice.
[3] Periodic rate increase.
[4] Pressure base is 14.65 p.s.i.a.
[5] Includes the Texas tax increase on which separate action is being taken.
[6] No current production.
[7] Tax change, from 18 cents to 18.0675 cents, will be suspended for 1 day from Oct. 1, 1969.
[8] El Puerto Field gas.
[9] Pedernal Field gas.
[10] Guerra Field gas.
[11] Lockhart Field gas (to 4,000 feet).
[12] Tax change, from 16 cents to 16.0488 cents, will be suspended for 1 day from Oct. 1, 1969.
[13] Lockhart Field gas (4,000 feet to 4,800 feet).
[14] Periodic increase from initial In-Line rate to contractually provided for rate.
[15] Initial In-Line rate per Opinion Nos. 422 and 478.
[16] The stated effective date is the effective date requested by Respondent.
[17] Favored-nation rate increase.
[18] Does not include reimbursement for Oct. 1, 1969, tax increase.
[19] Settlement rate as approved by Commission Order issued Oct. 8, 1964, in Dockets Nos. G-9283 and G-9284 et al.
[20] Settlement rate as approved by Commission Order issued Mar. 7, 1968, in Dockets Nos. CI65-974 et al.
[21] Initial rate.
[22] "Fractured" rate increase. Contractually entitled to base rate of 20 cents per Mcf.
[23] Pressure base is 15.025 p.s.i.a.
[24] "Fractured" rate increase. Contractually entitled to base rate of 22 cents per Mcf.
[25] From fractured rate to contractually provided for periodic.
[26] Corrected by filing submitted Oct. 13, 1969.
[27] Tax increase from 14.6 cents to 14.6548 cents will be suspended for 1 day from Oct. 1, 1969.
[28] Subject to a downward B.t.u. adjustment.
[29] Applicable to formations below the Chase Group of the Wolfcamp Series and above the Top of the Morrowan Series.
[30] Subject to upward and downward B.t.u. adjustment.
[31] Applicable to formations below the Top of the Morrowan Series.
[32] Amendment dated Sept. 22, 1969, which provides for the proposed rate increase.
[33] As corrected by filing submitted Oct. 16, 1969.
[34] Renegotiated rate increase.
[35] Amendment dated July 7, 1969, which provides for the proposed rate increase.
[36] Tax increase from 19 cents to 19.0713 cents will be suspended for 1 day from Oct. 1, 1969.
[37] Tax increase from 14.6 cents to 14.6548 cents will be suspended for 1 day from Oct. 1, 1969.
[38] Tax increase from 16 cents to 16.06 cents will be suspended for 1 day from Oct. 1, 1969.
[39] Filing from fractured rate to first periodic increase.
[40] Base rate subject to upward and downward B.t.u. adjustment.
[41] Includes base rate of 22 cents plus tax reimbursement and upward B.t.u. adjustment.
[42] Includes base rate of 16.89 cents plus tax reimbursement and upward B.t.u. adjustment.
[43] Includes base rate of 19.5 cents plus upward B.t.u. adjustment.
[44] Includes base rate of 23 cents plus tax reimbursement and 0.62 cent paid by buyer for liquids.
[45] Includes base rate of 19 cents plus .62 cents paid by buyer for liquids.
[46] Includes base rate of 17.9 cents plus tax reimbursement and upward B.t.u. adjustment.
[47] Hunt processes the gas and resells it under its FPC Gas Rate Schedule No. 4 to Texas Eastern Transmission Corp. at a rate of 16.67263 cents effective subject to refund in Docket No. RI69-160. Hunt has filed its related increase to 16.87350 cents which has been suspended in Docket No. RI70-334.
[48] Placid, the seller, is a subsidiary of the buyer, H. L. Hunt.
[49] Includes base rate of 17 cents plus 1.7 cents upward B.t.u. adjustment (1,110 B.t.u. gas) before increase and base rate of 18 cents plus 1.8 cents upward B.t.u. adjustment after increase. Base rate subject to upward and downward B.t.u. adjustment.
[50] Contract Amendment dated Sept. 26, 1969, provides for increased rate and increases compression charge paid by buyer to seller from 0.5 cent to 1 cent per Mcf.
[51] Include 0.5-cent compression charge paid by buyer before increase and 1-cent compression charge after increase.
[52] Includes 0.01-cent tax reimbursement.
[53] "Fractured" rate increase. Respondent contractually due 25 cents periodic increased rate.
[54] Subject to a maximum upward B.t.u. adjustment of 0.95 cent per Mcf or a payment for liquid hydrocarbons. Rate shown does not include such adjustments.
[55] Applicable to acreage added by Supplement No. 4.
[56] Ten-step periodic increase.
[57] Two-step periodic increase.
[58] Schafer Plant gas.
[59] Crawford and Kingsmill Plants gas.
[61] "Fractured" rate increase. Respondent contractually due 22 cents per Mcf.
[62] Includes base price of 17 cents plus upward B.t.u. adjustment before increase and base rate of 18 cents plus upward B.t.u. adjustment. Base price subject to upward and downward B.t.u. adjustment.
[63] "Fractured" rate increase. Respondent contractually due 26 cents per Mcf.
[64] Includes 1.333-cent tax reimbursement.
[65] Eight-step periodic increase.
[66] "Fractured" rate increase. Respondent contractually due 19.5 cents per Mcf.
[67] Includes base rate of 17 cents plus upward B.t.u. adjustment before increase and base rate of 18.5 cents plus upward B.t.u. adjustment after increase.
[68] Includes base rate of 17 cents plus upward B.t.u. adjustment before increase and base rate of 18 cents plus upward B.t.u. adjustment after increase.
[69] "Fractured" rate increase. Respondent contractually due periodic increase to 19.5 cents per Mcf.
[70] Includes 1.75 cent tax reimbursement.
[71] Filing from initial certificated rate to initial contract rate.
[72] Includes base rate of 17 cents plus upward B.t.u. adjustment before increase and 18 cents plus upward B.t.u. adjustment after increase.
[73] Tax increase has been filed.
[74] Pressure base is 15.325 p.s.i.a.
[75] Pertains only to new gas delivered after Feb. 1, 1969, from new wells or old wells that have been deepened or worked over.
[76] Includes letter from buyer providing for increased rate.
[77] Includes 0.25-cent dehydration charge paid by buyer.
[78] Includes base rate of 17 cents plus upward B.t.u. adjustment before increase and base price of 18 cents plus upward B.t.u. adjustment after increase. Base price subject to upward and downward B.t.u. adjustment.

Sun Oil Co., Sohio Petroleum Co., and Sohio Petroleum Co. (Operator) et al., request that their proposed rate increases be permitted to become effective on November 1, 1969, the contractually provided effective date. Petroleum, Inc. (Operator) et al., requests an effective date of November 4, 1969. James A. Ford doing business as Cypress Gas Co. requests an effective date of November 6, 1969, and George Jackson requests a retroactive effective date of September 25, 1969, for his proposed rate increase. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for the aforementioned producers' rate filings and such requests are denied.

Placid Oil Co. (Operator) et al. (Placid), proposes a rate increase from 16.1805 cents to 16.3815 cents per Mcf for a sale for resale to H. L. Hunt (Hunt). Hunt processes and resells the gas under its FPC Gas Rate Schedule No. 4 to Texas Eastern Transmission Corp. at a present effective rate of 16.67263 cents which is effective subject to refund in Docket No. RI69-160. Hunt has filed its related increase to 16.87350 cents per Mcf which is suspended for 5 months from November 1, 1969, in Docket No. RI70-334. Placid's proposed rate increase exceeds the area rate ceiling of 14 cents for Texas Railroad District No. 6. Since Hunt's proposed related rate increase has been suspended for 5 months from November 1, 1969, we conclude that Placid's proposed rate increase should be suspended for 5 months from November 1, 1969.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR Chapter I, Part 2, section 2.56), with the exception of the rate increase filed by Hassie Hunt Trust (Operator) et al., in the Permian Basin Area which exceeds the just and reasonable rate established by the Commission in Opinion No. 468, as amended, and should be suspended for 5 months as ordered herein.

Concurrently with the filing of their rate increases, Sun Oil Co., DX Division (Operator) et al. (Sun), R. L. Lynd, Agent for Robert Burke Trustee (Lynd), and Diamond Shamrock Corp. (Operator) et al. (Diamond), each submitted a contract amendment[79] which provides the basis for their proposed rate increases. We believe that it would be in the public interest to accept the aforementioned producers' contract amendments to become effective on the dates shown in the "Effective Date" column listed above, but not the proposed rates contained therein which are suspended as ordered herein.

[F.R. Doc. 69-13333; Filed, Nov. 12, 1969; 8:45 a.m.]

[79] Designated as Supplement No. 12 to Sun's FPC Gas Rate Schedule No. 43.
Designated as Supplement No. 8 to Lynd's FPC Gas Rate Schedule No. 1.
Designated as Supplement No. 7 to Diamond's FPC Gas Rate Schedule No. 3.

LANDS WITHDRAWN IN PROJECT NO. 134

Order Vacating Withdrawals Under Section 24 of the Federal Power Act

NOVEMBER 4, 1969.

Pursuant to the filing on December 23, 1920, and supplements thereto, by the city of Los Angeles, Calif. (City) of an application for license for a then unconstructed transmission line system, designated as Project No. 134, portions (totaling about 3,942 acres) of lands of the United States listed in the attachment hereto were withdrawn under section 24 of the Federal Power Act. Commission notices of the withdrawals were given to the General Land Office (now Bureau of Land Management) by letters dated March 22 and September 29, 1922, respectively.

Project No. 134 was to have consisted of a transmission system extending from the Owens River Gorge to the City, a distance of 270 miles. However, the City withdrew its filings for license, having obtained Congressional authorization to construct under the Act of June 30, 1906 (34 Stat. 801), as amended by the Act of June 5, 1920 (41 Stat. 983). Following such Congressional authorization, the Commission on May 23, 1925 (Fifth Annual Report, p. 142) vacated the withdrawals for Project No. 134 (and other withdrawals in connection with the City's Aqueduct System) to the extent necessary to enable the City to avail itself of the Congressional authorization. The Commission's action was to become effective upon the action of the Department of the Interior as authorized under the Congressional acts. On March 14, 1933 the Department of the Interior approved right-of-way Los Angeles 035753 covering the Owens River Gorge—Los Angeles transmission system.

The limiting language used in the Commission's 1925 order has resulted in problems for the Bureau of Land Management and others as to the effect of the Commission's action. Complete vacation of the withdrawals for Project No. 134 would in no way affect any other power withdrawals pertaining to the subject lands and, further, would serve to clarify the public land records involved.

The Commission finds: The withdrawals for Project No. 134 serve no useful purpose and should be vacated in their entirety.

The Commission orders: The withdrawals of the subject lands pursuant to the filings for Project No. 134 are hereby vacated.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

PROJECT NO. 134—CALIFORNIA

CITY OF LOS ANGELES

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 6 S., R. 31 E.,
Secs. 3, 10, 14, 15, 23, 24, 25.
T. 6 S., R. 32 E.,
Sec. 30.
T. 7 S., R. 32 E.,
Secs. 4, 25.
T. 7 S., R. 33 E.,
Sec. 30.
T. 8 S., R. 33 E.,
Secs. 5, 17, 20, 28, 33.
T. 9 S., R. 33 E.,
Secs. 2, 11, 14, 23, 25, 26, 31, 32, 33, 34, 35, 36.
T. 10 S., R. 33 E.,
Secs. 1, 12, 13, 24, 25.
T. 10 S., R. 34 E.,
Secs. 30, 31.
T. 11 S., R. 34 E.,
Secs. 6, 7, 18, 19, 29, 30, 32.
T. 12 S., R. 34 E.,
Secs. 5, 8, 9, 21, 27, 28, 34.
T. 13 S., R. 34 E.,
Secs. 1, 2, 12, 13.
T. 13 S., R. 35 E.,
Secs. 18, 19, 29, 30, 32.
T. 14 S., R. 35 E.,
Secs. 5, 8, 9, 21, 27, 28, 34.
T. 15 S., R. 35 E.,
Secs. 3, 11, 14, 23, 24, 25, 36.
T. 15 S., R. 36 E.,
Sec. 31.
T. 16 S., R. 36 E.,
Secs. 17, 20, 28, 29, 33.
T. 17 S., R. 36 E.,
Secs. 3, 10, 11, 14, 17, 18, 20, 21, 22, 23, 26, 27, 35, 36.
T. 18 S., R. 36 E.,
Secs. 1, 12, 13, 24, 25, 36.
T. 19 S., R. 36 E.,
Secs. 1, 2, 11, 12, 13, 14, 24, 25.
T. 31 S., R. 36 E.,
Secs. 24, 36.
T. 32 S., R. 36 E.,
Secs. 2, 10, 16, 20, 32.
T. 19 S., R. 37 E.,
Secs. 30, 31.
T. 20 S., R. 37 E.,
Secs. 5, 6, 7, 8, 17, 20, 28, 29, 33.
T. 21 S., R. 37 E.,
Secs. 3, 10, 11, 14, 23, 26, 35.
T. 22 S., R. 37 E.,
Secs. 1, 2, 12, 13, 24, 25, 36.
T. 28 S., R. 37 E.,
Secs. 1, 12, 13, 14, 23, 26, 27, 34.
T. 29 S., R. 37 E.,
Secs. 2, 3, 10, 15, 16, 21, 28, 33.
T. 30 S., R. 37 E.,
Secs. 4, 16, 21, 22, 28, 32.
T. 31 S., R. 37 E.,
Secs. 5, 6, 7, 18.
T. 22 S., R. 38 E.,
Sec. 31.
T. 23 S., R. 38 E.,
Secs. 6, 7, 18, 19, 20, 29, 32.
T. 24 S., R. 38 E.,
Secs. 4, 5, 9, 21, 28, 33.
T. 25 S., R. 38 E.,
Secs. 3, 15, 22, 27, 34.
T. 26 S., R. 38 E.,
Secs. 3, 10, 15, 22, 27, 33, 34.
T. 27 S., R. 38 E.,
Secs. 4, 8, 9, 17, 19, 20, 30, 31.
T. 28 S., R. 38 E.,
Sec. 6.

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 11 N., R. 12 W.,
Secs. 8, 18.
T. 12 N., R. 12 W.,
Sec. 32.
T. 10 N., R. 13 W.,
Sec. 16.
T. 11 N., R. 13 W.,
Sec. 36.
T. 6 N., R. 14 W.,
Secs. 5, 7.
T. 7 N., R. 14 W.,
Secs. 28, 33.
T. 9 N., R. 14 W.,
Sec. 36.
T. 4 N., R. 15 W.,
Sec. 30.
T. 5 N., R. 15 W.,
Secs. 5, 6, 7.
T. 6 N., R. 15 W.,
Secs. 11, 12, 14, 15, 22, 23, 27, 33, 34.
T. 5 N., R. 16 W.,
Secs. 11, 12, 13, 14, 24.

[F.R. Doc. 69-13440; Filed, Nov. 12, 1969; 8:47 a.m.]

[Docket No. G-2712 etc.]

CITIES SERVICE CO., ET AL.

Findings and Order After Statutory Hearing

OCTOBER 23, 1969.

Cities Service Company (Operator), et al., and other Applicants listed herein, Docket No. G-2712, et al.; Sun Oil Company (DX Division) (successor to Viersen & Chochran) Docket No. CI70-10 (G-10690) Docket No. RI65-339.

In the findings and order after statutory hearing issuing certificates of public convenience and necessity, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, substituting respondents, making successors co-respondents, redesignating proceedings, making rate change effective accepting agreements and undertakings for filing, accepting surety bond for filing, requiring filing of agreements and undertakings, and accepting related rate schedules and supplements for filing, issued October 9, 1969, and published in the FEDERAL REGISTER October 21, 1969 (34 F.R. 17080), on page 17081, 1st column, 15th line: Change Docket No. "RI65-539" to read Docket No. "RI65-339". On page 17081, paragraph (16), 4th line: Change Docket No. "RI65-539" to read Docket No. "RI65-339". On page 17083, paragraph (U), 3d line: Change Docket No. "RI65-539" to read Docket No. "RI65-339".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-13441; Filed, Nov. 12, 1969; 8:47 a.m.]

[Docket No. RI70-226 etc.]

DIXILYN CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

SEPTEMBER 23, 1969.

The Respondents named herein have filed proposed changes in rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

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[1] Does not consolidate for hearing or dispose of the several matters herein.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however*, That the supplements to the rate schedules filed by Respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order Respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless Respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before November 14, 1969.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary*.

[2] If an acceptable general undertaking, as provided in order No. 377, has previously been filed by a producer, then it will not be necessary for that producer to file an agreement and undertaking as provided herein. In such circumstances the producer's proposed increased rate will become effective as of the expiration of the suspension period without any further action by the producer.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI70-226..	Dixilyn Corp., Post Office Box 3427, Odessa, Tex. 79760.	[3] 1	2	Sep Robin Pipeline Co. (Block 15 Field, South Marsh Island Area, Offshore Louisiana).	$10,800	8-26-69	[4] 9-26-69	[5] 9-27-69	[6 8 10] 18.5	[6 7 8] 20.0	
	......do......	[11] 2	2	Sep Robin Pipeline Co. (Block 16 Field, South Marsh Island Area, Offshore Louisiana).	43,200	8-26-69	[4] 9-26-69	[5] 9-27-69	[6 8 12] 18.5	[6 7 8] 20.0	
RI70-227..	TransOcean Oil, Inc., 1700 Houston Natural Gas Bldg., Houston Tex. 77002.	[16] 20	1	Trunkline Gas Co. (South Timbalier Blocks 179 and 187, Offshore Louisiana).	5,220	8-26-69	[4] 9-26-69	[5] 9-27-69	[6 8 13] 18.5	[6 7 8] 20.0	
RI70-228..	Skelly Oil Co., Post Office Box 1650, Tulsa, Okla. 74102.	[17] 242	1	Texas Eastern Transmission Corp. (Block 6 Field, Main Pass Area, Offshore Louisiana).	40,500	8-27-69	[4] 9-27-69	[5] 9-28-69	[6 8 14] 18.5	[6 7 8] 20.0	
RI70-229..	Union Carbide Petroleum Corp., 270 Park Ave., New York, N.Y. 10017.	[18] 2	1	Trunkline Gas Co. (South Timbalier Blocks 179 and 187, Offshore Louisiana).	15,000	8-27-69	[4] 9-27-69	[5] 9-28-69	[6 8 15] 18.5	[6 7 8] 20.0	

[3] Contract dated Nov. 4, 1969.
[4] The stated effective date is the first day after expiration of the statutory notice, or date of initial delivery, whichever is later.
[5] The suspension period is limited to 1 day.
[6] Rate increase filed pursuant to paragraph (A) of Opinion No. 546-A issued March 20, 1969.
[7] Pressure base is 15.025 p.s.i.a.
[8] Subject to quality adjustments.
[9] Area base rate for gas well gas sold under contracts dated after Oct. 1, 1968, as established in Opinion No. 546.
[10] Initial rate as conditioned by temporary certificate issued Aug. 1, 1969, in Docket No. CI69-912.
[11] Contract dated Nov. 4, 1969.
[12] Initial rate as conditioned by temporary certificate issued Aug. 1, 1969, in Docket No. CI69-913.
[13] Initial rate as conditioned by temporary certificate issued July 7, 1969, in Docket No. CI69-825.
[14] Initial rate as conditioned by temporary certificate issued Aug. 1, 1969, in Docket No. CI69-1240.
[15] Initial rate as conditioned by temporary certificate issued July 7, 1969, in Docket No. CI69-858.
[16] Contract dated Nov. 27, 1968.
[17] Contract dated June 16, 1969.
[18] Contract dated Nov. 27, 1968.

Dixilyn Corp. and TransOcean Oil, Inc., request waiver of the statutory notice to permit their proposed rate increases to become effective as of August 26, 1969. Union Carbide Petroleum Corp. requests that its proposed rate increase be permitted to become effective as of September 25, 1969. Good cause has not been shown for waiving the 30-day notice requirement provided in section 4(d) of the Natural Gas Act to permit earlier effective dates for the aforementioned producers' rate filings and such requests are denied.

These five proposed rate increases, from 18.5 cents to 20 cents per Mcf, involve sales of third vintage gas well gas in Offshore Louisiana and were filed pursuant to ordering paragraph (A) of Opinion No. 546-A which lifted the indefinite moratorium imposed in Opinion No. 546 as to sales of offshore gas well gas under contracts entitled to a third vintage price (18.5 cents as adjusted for quality) and permitted such producers to file for contractually authorized increases up to the 20 cents base rate established in Opinion No. 546 for onshore gas well gas. The producers involved herein were issued conditioned temporary certificates authorizing the collection of the third vintage prices established in Opinion No. 546 (18.5 cents for offshore gas well gas and 17 cents for casinghead gas subject to quality adjustments). Deliveries of gas have not as yet commenced thereunder.

Consistent with previous Commission action on similar rate filings, we conclude that the producers' proposed rate increases should be suspended for 1 day from the date of expiration of the statutory notice, or for 1 day from the date of initial delivery, whichever is later. Thereafter, the producers' proposed increased rates may be placed in effect subject to refund under the provisions of section 4(e) of the Natural Gas Act pending the outcome of the Area Rate Proceeding instituted in Docket No. AR69-1.

[F.R. Doc. 69-13479; Filed, Nov. 12, 1969; 8:49 a.m.]

[Docket No. CP70-110]

HUMBLE GAS TRANSMISSION CO.

Notice of Application

NOVEMBER 5, 1969.

Take notice that on October 27, 1969, Humble Gas Transmission Co. (Applicant), 1700 Commerce Building, New Orleans, La. 70112, filed in Docket No. CP70-110 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder for a certificate of public convenience and necessity authorizing the construction during the calendar year 1970 and the operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system additional supplies of natural gas in areas generally coextensive with said system.

The application states that the total cost of all facilities will not exceed $200,000, and that the total cost of facilities for any single project will not exceed $50,000. The proposed facilities will be financed with working funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 1, 1969, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-13442; Filed, Nov. 12, 1969; 8:47 a.m.]

[Docket No. G-3072 etc.]

HUMBLE OIL & REFINING CO. ET AL.

Findings and Order After Statutory Hearing

OCTOBER 23, 1969.

In the findings and order after statutory hearing issuing certificates of public convenience and necessity, dismissing applications, amending orders issuing certificates, permitting and approving abandonment of service, terminating certificates, terminating proceedings, making successors co-respondents, substituting respondents, redesignating proceedings, making rate changes, effective, accepting surety bonds for filing, requiring filing of agreement and undertaking, and accepting related rate schedules and supplements for filing, issued September 4, 1969, and published in the FEDERAL REGISTER September 17, 1969 (34 F.R. 14489), on page 14494, 3d column: Change field and location to read "Acreage in Woods County, Oklahoma" in lieu of "South Peek Field, Roger Mills County, Oklahoma".

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-13443; Filed, Nov. 12, 1969; 8:47 a.m.]

[Docket No. CP70-108]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

NOVEMBER 5, 1969.

Take notice that on October 27, 1969, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP70-108 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder for a certificate of public convenience and necessity authorizing the construction during the calendar year 1970 and the operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system additional supplies of natural gas in areas generally coextensive with said system.

The application states that the total cost of all facilities will not exceed $3 million. Applicant requests that the cost limitation set forth in section 2.58(a) of the Commission's general policy and interpretations be waived to permit the expenditure of up to $750,000 for facilities for any single project. The proposed facilities will be financed with funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 1, 1969, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the meeting.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-13444; Filed, Nov. 12, 1969; 8:47 a.m.]

[Docket No. CP70-109]

UNITED GAS PIPE LINE CO.

Notice of Application

NOVEMBER 5, 1969.

Take notice that on October 27, 1969, United Gas Pipe Line Co. (Applicant), 1500 Southwest Tower, Houston, Tex. 77002, filed in Docket No. CP70-109 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the delivery of increased quantities of natural gas to Gulf Power Co. (Gulf Power) near Pensacola, Fla., and the construction and operation of certain facilities required therefor, all as more fully set forth in the application

which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 2.7 miles of 10-inch pipeline from the Escambia Chemical Corp. Line to Gulf Power Delivery Station No. 2 to augment its ability to supply the additional fuel requirements of Gulf Power necessitated by the installation of additional electric generating capacity. Applicant requests authorization to deliver an additional 84,000 Mcf of natural gas from March through October to Gulf Power for this purpose.

The total estimated cost for the proposed facilities is $386,688.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 1, 1969, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-13445; Filed, Nov. 12, 1969; 8:47 a.m.]

[Project No. 2550]

WISCONSIN MICHIGAN POWER CO.

Notice of Application for Approval of Exhibit R (Recreational Use Plan) For Project

NOVEMBER 4, 1969.

Public notice is hereby given that application has been filed under the regulations under the Federal Power Act (16 U.S.C. 791a–825r) by Wisconsin Michigan Power Co. (correspondence to: J. K. Babbitt, Vice President and General Manager, Wisconsin Michigan Power Co., 807 South Oneida Street, Appleton, Wis. 54911) for approval of an Exhibit R for the Weyauwega Project No. 2550, located on Waupaca River in Waupaca County, Wis., adjacent to the city of Weyauwega.

Exhibit R lists the following recreational development at the project: (1) A city-owned swimming beach and picnic area; (2) a city-owned boat landing area that also has playground equipment; (3) a second boat landing; and (4) a privately owned park open to the public. The exhibit states that Wisconsin Michigan Power Co. owns no land on the reservoir except the area occupied by the dam and powerhouse. No additional recreational development is planned.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 24, 1969, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 69-13446; Filed, Nov. 12, 1969; 8:47 a.m.]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

WILLIAM A. MORGAN

Notice of Granting of Relief

Notice is hereby given that William A. Morgan, 1703 East Chester Drive, High Point, N.C., has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on December 3, 1935, in the U.S. District Court, Greensboro, N.C., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for William A. Morgan, because of such conviction to ship, transport, or receive in interstate or foreign commerce any firearm or ammunition, and he would be prevented under chapter 44, title 18, United States Code, from obtaining a license under that chapter as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition under title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 236; 18 U.S.C., Appendix) because of such conviction it would be unlawful for Mr. Morgan, to receive, possess, or transport in commerce a firearm. Notice is hereby further given that I have considered William A. Morgan's application and have found:

(1) The conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the requested relief to William A. Morgan from disabilities incurred by reason of his conviction, would not be contrary to the public interest.

It is ordered, Pursuant to the authority vested in the Secretary of the Treasury by section 925(c), of title 18, United States Code and delegated to me by the regulations in Title 26, Part 178, Code of Federal Regulations, that William A. Morgan be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms, incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 5th day of November 1969.

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

[F.R. Doc. 69-13492; Filed, Nov. 12, 1969; 8:50 a.m.]

DEPARTMENT OF JUSTICE

Criminal Division

[Directive 19]

SENIOR DEPUTY ASSISTANT ATTORNEY GENERAL

Redelegation of Authority With Respect to Approval of Certain Applications by U.S. Attorneys to Federal Courts for Orders Compelling Testimony or the Production of Evidence by Witnesses

Delegation of Authority to the senior Deputy Assistant Attorney General. By virtue of the authority vested in me by § 0.59(b) of Title 28 of the Code of Federal Regulations, as amended, the authority delegated to me by § 0.59(a) of that title to approve the application by a U.S. Attorney to a Federal Court for an order compelling testimony or the production of evidence by a witness is hereby redelegated to the senior Deputy Assistant Attorney General in the Criminal Division to be exercised solely during my absence from the city of Washington.

This directive shall become effective upon the date of its publication in the FEDERAL REGISTER.

Dated: November 5, 1969.

WILL R. WILSON,
Assistant Attorney General.

[F.R. Doc. 69-13454; Filed, Nov. 12, 1969; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. A-511]

DENNIS OLIVER

Notice of Loan Application

NOVEMBER 5, 1969.

Dennis Oliver, 2617 Fourth Avenue, Ketchikan, Alaska 99901, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 47.6-foot registered length wood vessel to engage in the fishery for salmon and tuna.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (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. 69-13427; Filed, Nov. 12, 1969; 8:46 a.m.]

[Docket No. G-456]

WAYNE VIZIER AND DEMPSEY BORNE

Notice of Loan Application

NOVEMBER 5, 1969.

Wayne Vizier and Dempsey Borne, 126 Camley Lane, Golden Meadow, La. 70357, have applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used 47-foot length overall wood vessel to engage in the fishery for shrimp.

Notice is hereby given pursuant to the provisions of Public Law 89-85 and Fisheries Loan Fund Procedures (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. 69-13428; Filed, Nov. 12, 1969; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Office of the Secretary

ARKANSAS AND FLORIDA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the States of Arkansas and Florida, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

ARKANSAS

Boone. Little River.
Lafayette.

FLORIDA

Jackson.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1970, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 5th day of November 1969.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 69-13434; Filed, Nov. 12, 1969; 8:46 a.m.]

LOUISIANA

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named parishes in the State of Louisiana, a natural disaster has caused a need for agricultural credit to oyster planters not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

LOUISIANA

Plaquemines. St. Bernard.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named parishes after June 30, 1969, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 5th day of November 1969.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 69-13435; Filed, Nov. 12, 1969; 8:46 a.m.]

TEXAS

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961), it has been determined that in the hereinafter-named counties in the State of Texas, natural disasters have caused a need for agricultural credit not readily available from commercial banks, cooperative lending agencies, or other responsible sources.

TEXAS

Calhoun. Refugio.
Cameron. Victoria.
Jackson. Willacy.

Pursuant to the authority set forth above, emergency loans will not be made in the above-named counties after June 30, 1970, except to applicants who previously received emergency or special livestock loan assistance and who can qualify under established policies and procedures.

Done at Washington, D.C., this 5th day of November 1969.

CLIFFORD M. HARDIN,
Secretary of Agriculture.

[F.R. Doc. 69-13436; Filed, Nov. 12, 1969; 8:46 a.m.]

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Order 134-7]

OFFICE OF PUBLICATIONS

Organization and Functions

This material supersedes the material appearing at 32 FR 10384 of July 14, 1967.

SECTION 1. *Purpose.* This order delegates authority to the Director, Office of Publications, and prescribes the organization and functions of the Office of Publications.

SEC. 2. *General.* The Office of Publications shall be headed by a Director, who

shall report and be responsible to the Assistant Secretary for Administration. The Director shall be assisted by a Deputy Director, who shall perform the functions of the Director during the latter's absence.

SEC. 3. *Delegation of authority.* .01 Pursuant to the authority vested in the Assistant Secretary of Commerce for Administration by Department Order 134 and subject to the applicable provisions of law, regulation, and such policies and directives as the Assistant Secretary for Administration may prescribe, the Director, Office of Publications, is delegated the authority vested in the Assistant Secretary for Administration in the fields of publications, printing, and allied activities, including the approval of prices for publications sold to the public.

.02 The Director, Office of Publications, may redelegate his authority to appropriate officials of the Office of Publications and operating units of the Department subject to such conditions in the exercise of such authority as he may prescribe.

SEC. 4. *Organization and functions.* .01 The Office of Publications shall comprise:

Office of the Director.
Financial Management Division.
Publications Policy and Development Division.
Design and Graphics Division.
Printing Division.
Microreprographic Division.

.02 The Director shall be an advisor to, and serve as the representative of, the Assistant Secretary for Administration in matters relating to publications, printing, and allied activities, and serve as adviser to all other Departmental officials with respect to these matters; formulate, direct, and coordinate the development of publications and printing policies and activities; procure or approve for procurement all printing, binding, and allied reproduction and publications distribution equipment; develop standards for essentiality, utility, content, format, and style for all publications; direct the activities of the Department's central printing plant and related graphics and photographic activities; manage the Working Capital Fund for printing and related activities; and conduct sole liaison (a) between the Department of Commerce and Joint Committee on Printing and Binding and between the Department of Commerce and the Government Printing Office on printing matters, and (b) between the Department of Commerce and the Superintendent of Documents on publications pricing, sales, distribution, promotion, and mailing list activities. He shall represent the Assistant Secretary for Administration on boards and committees and before other branches of the Government concerned with the activities described herein. The Deputy Director who shall be the chief operating aide to the Director, shall provide general direction of the operations of the Office, and perform other duties as assigned.

.03 The Financial Management Division shall plan and direct the financial control operations related to the Department's printing plants; develop guidelines for cost controls for all printing, binding, and related activities; review and evaluate costs of printing, binding, and related activities and develop uniform price schedules; and prepare required reports relating to the activities of the Office of Publications.

.04 The Publications Policy and Development Division shall review requests for new Commerce publications against policies and standards of the Department; advise organizations concerning publication possibilities; analyze the desirability of consolidation or elimination of existing publications; provide specialized guidance to organizations of the Department on publications projects; provide writing and editing assistance in the preparation of publications; review all publications material for conformance to publications policies and standards; and direct the Department's publications mailing and sales promotion programs.

.05 The Design and Graphics Division shall provide central design, illustration, photographic, and graphics services and prepare or procure the necessary design, illustration, and art work for all publications.

.06 The Printing Division shall procure or approve for procurement all printing and binding and related services for organizations of the Department, control and schedule all printing operations; operate the Department's central printing plant including addressing and mailing services; and investigate and analyze new printing methods.

.07 The Microreprographic Division shall operate the Department's central microphoto and related reproduction services facility.

SEC. 5. *Commerce Publications Committee.* There shall be a Commerce Publications Committee, which shall consist of the Director as Chairman, and representatives from the operating units. The Committee will meet on call from the Chairman for the purpose of advising and assisting on publications, graphics and printing policies and procedures and to consult on problems of common interest.

Effective date: November 3, 1969.

LARRY A. JOBE,
Assistant Secretary for Administration.

[F.R. Doc. 69-13497; Filed, Nov. 12, 1969; 8:50 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 21472]

INTERLUDE INTERNATIONAL CORP.

Notice of Proposed Approval for Exemption

Application of Interlude International Corporation for an exemption pursuant to section 408(a)(5) of the Act, and Sheldon G. Adelson for approval of interlocking relationships, Docket 21472.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded a period of 15 days from the date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., November 6, 1969.

[SEAL] A. M. ANDREWS,
Director,
Bureau of Operating Rights.

ORDER APPROVING CONTROL AND INTERLOCKING RELATIONSHIPS

Issued under delegated authority:

By application filed September 29, 1969, Interlude International Corp. (Interlude) requests an exemption under section 408(a)(5) of the Act with respect to its acquisition of those assets of Continental Travel, Ltd., which are used by Continental in its activities as an inclusive tour operator under Part 378 of the Board's regulations.[1] Contemporaneously, Sheldon G. Adelson requests approval under section 409 of the Act of interlocking relationships which will result from his being a director of both Interlude and Cutlass Aviation, Inc. (Cutlass), an air taxi operator pursuant to Part 298 of the Board's regulations.

Interlude operates as a travel agent, a ground tour operator, and a wholesaler of affinity group charter tours. Continental is, inter alia, an inclusive tour operator and presently has tour prospectus IT 69-47 on file with the Board pursuant to which it operates a weekly pattern of inclusive tours to Hawaii with Universal Airlines.

The applicants state that in the last 6 months, inclusive tour traffic to Hawaii has declined substantially and Continental has been losing some $100,000 per month on its ITC operations. Instead of terminating its tour program, Continental has elected to sell its ITC "division" to Interlude.[2] Interlude will utilize the resources and personnel thus acquired to continue Continental's programs and develop new programs as marketing conditions permit. Grant of the requested exemption, the applicants assert, will permit continued employment of some twenty (20) Continental employees who would have their employment terminated if Continental ceased

[1] The assets include, inter alia, operation materials, promotional materials, mailing lists reservations, insurance, trade names and trademarks, Continental personnel, and ground package contracts. The transaction also includes the transfer of Continental's ATC, IATA, and similar licenses and appointments to Interlude.

[2] In consideration, Interlude will issue and deliver to Continental 35,000 shares of Interlude's presently authorized common stock subject to the restriction that said shares are taken and held for investment only. Continental in turn has further agreed to sell to Interlude at the price of $0.01 each a total of 17,500, 5-year, nontransferable warrants, each of which will evidence the right to purchase one share of the common stock of Continental at varying prices during the 5-year term subject to the restriction that the warrants and the shares purchased upon the exercise of said warrants are taken and held for investment only.

its losing operations. The applicants summarily state that the proposed transaction will not result in creating a monopoly and that it will not restrain competition, particularly in view of the fact that Interlude has not heretofore been engaged in the inclusive tour business and does not control any other person engaged in such operations.

With respect to the interlocking relationships involving Mr. Adelson, Interlude, and Cutlass, the applicants state that no conflicts of interest will result therefrom because inclusive tour charters must, by definition, be operated by supplemental carriers which Cutlass clearly is not. They state that Cutlass is a Part 298 air taxi operator utilizing small aircraft and does not, and cannot under its present authority, perform the type of air transportation which Interlude will utilize. Thus, the applicants conclude that by nature of their operations, Cutlass and Interlude do not compete or do business with each other.

No comments relative to the application have been received.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER and a copy of such notice has been furnished by the Board to the Attorney General not later than 1 day following such publication, both in accordance with section 408(b) of the Act.

We turn first to the applicant's request for an exemption under section 408(a)(5) of the Act. Upon consideration of that issue, we have concluded that the proposed transaction will not result in the acquisition of control of Continental by Interlude within the meaning of that section. The transaction is essentially an acquisition by Interlude of a substantial portion of the properties of Continental and as such does not literally fall within the ambit of the amended section 408(a)(5).

The proposed transaction falls rather within the meaning of section 408(a)(2) of the Act. However, it is concluded that such acquisition does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not result in creating a monopoly and does not tend to restrain competition. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing and it is concluded that the public interest does not require a hearing. The proposed acquisition will enable Interlude to engage in the promotion of air transportation through the preparation and marketing of inclusive tours, and will bring to Interlude experienced personnel and existing facilities used for that purpose. It therefore appears that the proposed transaction will not be inconsistent with the public interest. Consequently, it has been decided to approve the transaction under the third proviso of section 408(b).

The interlocking relationships involving Mr. Adelson, Interlude and Cutlass are not adverse to the public interest and will be approved. As the applicants indicated, inclusive tour operators under Part 378 of the Board's regulations, must avail themselves only of the services of supplemental air carriers and thus it does not appear that any regulatory problems are presented by the fact that Mr. Adelson will serve on the Board of both Interlude and Cutlass.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13, it is found that the acquisition by Interlude of those assets of Continental relating to the latter's inclusive tour charter operations is not adverse to the public interest and should be approved. It is further found that the interlocking relationships involving Mr. Adelson, Interlude and Cutlass are not adverse to the public interest and should be approved.

Accordingly, it is ordered, That:

1. The acquisition by Interlude of those assets of Continental relating to its inclusive tour charter operations as described herein, be and it hereby is approved;

2. Subject to the provisions of Part 251 of the Board's economic regulations as now in effect or hereinafter amended, the interlocking relationships described herein be and they hereby are approved; and

3. To the extent not granted herein, the application contained in Docket 21472 be and it hereby is denied.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 5 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed, or the Board gives notice that it will review this order on its own motion.

[SEAL] MABEL MCCART,
Acting Secretary.

[F.R. Doc. 69-13501; Filed, Nov. 12, 1969; 8:50 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 50-345]

WESTINGHOUSE ELECTRIC INTERNATIONAL CO., DIVISION OF WESTINGHOUSE ELECTRIC CORP.

Notice of Issuance of Facility Export License

Please take notice that no request for a formal hearing having been filed following publication of notice of proposed action in the FEDERAL REGISTER on October 7, 1969 (34 F.R. 15576), the Atomic Energy Commission has issued License No. XR-70 to Westinghouse Electric International Co., Division of Westinghouse Electric Corp., authorizing the export of components of a 350-megawatt electric nuclear power reactor to Nordostschweizerische Kraftwerke, A.G., Baden, Switzerland. The export of these components to Switzerland is within the purview of the present Agreement for Cooperation Between the Governments of the United States and Switzerland.

Dated at Bethesda, Md., this 29th day of October 1969.

For the Atomic Energy Commission.

EBER R. PRICE,
Director, Division of State and Licensee Relations.

[F.R. Doc. 69-13438; Filed, Nov. 12, 1969; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

FMC CORP.

Notice of Filing of Petition Regarding Pesticide Chemicals

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 0F0898) has been filed by FMC Corp., Niagara Chemical Division, Middleport, N.Y. 14105, proposing the establishment of tolerances for residues of the insecticide carbofuran including its cholinesterase-inhibiting metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl *N*-methylcarbamate in or on the raw agricultural commodities alfalfa hay at 20 parts per million; alfalfa (fresh) at 5 parts per million; and in milk at 0.02 part per million (negligible residue).

The analytical method proposed in the petition for determining residues of the insecticide and its metabolite is a gas chromatographic technique using a nitrogen-specific microcoulometric detection system.

Dated: September 4, 1969.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 69-13426; Filed, Nov. 12, 1969; 8:46 a.m.]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

SPECIAL PERMITS ISSUED

NOVEMBER 6, 1969.

Pursuant to Docket No. HM-1, Rule-making Procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 F.R. 8277) 49 CFR 170, following is a list of new DOT special permits upon which Board action was completed during October 1969:

Special permit No.	Issued to—Subject	Mode or modes of transportation
5961	Ethyl Corp. for the shipment of methyl phosphonothioic dichloride in a DOT-4BA240 cylinder or a DOT-5 lined steel drum.	Water, highway, and rail.
6037	International Carriers Ltd., for the shipment of alcohols, n.o.s. in 14.9 p.s.i.g. design pressure, MC-306 type portable tanks.	Water and highway.
6043	Shippers upon specific registration with this Board, for the shipment of nitro-carbo-nitrate slurries in a 5-gallon capacity DOT-12P/2U packaging.	Highway and rail.
6069	Shippers upon specific registration with this Board, for the shipment of liquefied petroleum gases in Australian DOT-4B or 4BA type steel cylinders.	Highway.
6070	Shippers upon specific registration with this Board, for the shipment of sulfur trioxide (without additive) in a DOT-105A300W tank car.	Rail.

Special permit No.	Issued to—Subject	Mode or modes of transportation
6073	Oxirane Chemical Co. for the shipment of t-butyl hydroperoxide in at least 50 percent by weight of water, in a DOT-MC 307 cargo tank, or in a DOT-103W, 103AW, 111A60F1, 111A60W1, 111A100F2, or 111A100W2 tank car.	Highway and rail.
6078	Shippers upon specific registration with this Board, for the shipment of fissile radioactive materials in Applied Design Co.'s Model No. 927A packaging.	Highway.
6079	Shippers upon specific registration with this Board, for the shipment of radioactive materials in the Union Miniere Model No. UM24.27.8 packaging.	Water and highway.
6082	Department of Defense, for the shipment of palletized incendiary cluster bombs having an M4 wood shipping guard.	Highway and rail.
6084	Woodward Wight Big Three, Inc., for the shipment of oxygen, nitrogen, argon, hydrogen, helium, neon, krypton, xenon, compressed air, and mixtures thereof, in DOT-3A and 3AA cylinders having a 10-year hydrostatic retest period.	Do.
6085	Willard C. Starcher, Inc., for the shipment of oxygen in DOT-3A and 3AA cylinders having a 10-year hydrostatic retest period.	Do.
6086	Suburban Propane-Jaeger Welding Supply Co., for the shipment of oxygen and nitrogen in DOT-3A and 3AA cylinders having a 10-year hydrostatic retest period.	Do.
6088	Shippers upon specific registration with this Board, for the shipment of fissile and large quantities of radioactive materials in the Carden Carrier No. 2 Shipping Cask.	Do.
6090	Shippers upon specific registration with this Board, for the shipment of large quantities of radioactive materials in the ORNL Fast Neutron Shipping Cask.	Water, highway, and rail.
6091	Alabama Oxygen Co., Inc., for the shipment of pressurized liquefied oxygen in a specially designed and insulated cargo tank.	Highway.
6093	Lep Transport, Inc., for one shipment of fissile radioactive materials in the British Model GB:0013Q/GB:TCC1 packaging.	Passenger-carrying aircraft, cargo-only aircraft, and highway.
6094	General Electric Co., for one shipment of fissile radioactive material in two Naval Reactor D1G Core 2 Cell Containers (DOT SP 5782) with one Model 814A Container (DOT SP 5149).	Highway.
6095	Shippers upon specific registration with this Board, for the shipment of fissile and large quantities of radioactive materials in the General Electric Co. Model RML-29 Shipping Cask.	Do.
6096	Silver City Welding Supply, for the shipment of oxygen, nitrogen, and hydrogen in DOT-3A and 3AA cylinders having a 10-year hydrostatic retest period.	Highway and rail.
6097	Andrus Equipment Corp., for the shipment of argon, oxygen, and nitrogen in DOT-3A and 3AA cylinders having a 10-year hydrostatic retest period.	Do.
6098	Indianapolis Welding Supply, Inc., for the shipment of oxygen in DOT-3A and 3AA cylinders having a 10-year hydrostatic retest period.	Do.
6099	Department of Defense, for the shipment of a Class B, liquid propellant explosive, in a DOT-34 Polyethylene drum, overpacked in a DOT-5B, 6A, 6B, 6C, 17C, or 17H steel drum.	Do.
6100	Shippers upon specific registration with this Board, for the shipment of monochlorodifluoromethane and dichlorodifluoromethane in a nonrefillable inside steel cylinder having a maximum capacity of 750 cubic inches.	Do.
6101	Matheson Gas Products, for the shipment of oxygen, nitrogen, argon, hydrogen, helium, neon, krypton, xenon, compressed air, and mixtures thereof, in DOT-3A and 3AA cylinders having a 10-year hydrostatic retest period.	Do.
6102	Connecticut Oxygen Corp., for the shipment of oxgyen, argon, and compressed air in DOT-3A and 3AA cylinders having a 10-year hydrostatic retest period.	Do.
6103	Dominion Oxygen & Supply Co., Inc., for the shipment of oxygen in DOT-3A and 3AA cylinders having a 10-year hydrostatic retest period.	Do.
6104	Shippers upon specific registration with this Board, for the shipment of fissile and large quantities of radioactive materials in the Argonne National Laboratory EBR-II Fuel Shipping Cask.	Do.
6105	Shippers upon specific registration with this Board, for the shipment of Class B poison solids (which have been specifically identified to the Board), in a DOT-17C steel drum having a heavier than specification steel removable head sheet.	Do.
6106	Diamond Shamrock Chemical Co., for one shipment of 98,000 pounds of chlorine in a 55-ton capacity DOT-105A500W tank car.	Rail.
6107	Beaumont Oxygen Co. for the shipment of oxygen, nitrogen, hydrogen, helium, and argon in DOT 3A and 3AA cylinders having a 10-year hydrostatic retest period.	Highway and rail.
6109	Shippers upon specific registration with this Board, for the shipment of anhydrous phosphorus trichloride in a lined DOT MC-310, MC-311, or MC-312 cargo tank.	Highway.
6112	U.S. Atomic Energy Commission and Westinghouse Electric Corp. for one series of shipments of fissile radioactive materials in 55-gallon, drum-type "birdcage" metal containers.	Do.
6113	Gas Inc., Lowell Gas Co., and Indianhead Truck Line, Inc., for the transportation of liquefied methane in a specially designed and insulated cargo tank.	Do.

WILLIAM C. JENNINGS,
Chairman, Hazardous Materials Regulations Board.

[F.R. Doc. 69-13500; Filed, Nov. 12, 1969; 8:50 a.m.]

CIVIL SERVICE COMMISSION

DEPARTMENT OF AGRICULTURE

Notice of Revocation of Authority To Make Noncareer Executive Assignments

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Administrator, Rural Community Development Service.

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

[F.R. Doc. 69-13412; Filed, Nov. 12, 1969; 8:45 a.m.]

DEPARTMENT OF COMMERCE

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Deputy Regional Economic Coordinator, Office of the Special Assistant for Regional Economic Coordination.

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

[F.R. Doc. 69-13413; Filed, Nov. 12, 1969; 8:45 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Director, Operation Breakthrough, Assistant Secretary for Research and Technology.

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

[F.R. Doc. 69-13414; Filed, Nov. 12, 1969; 8:45 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the accepted service the position of General Assistant to the Deputy Under Secretary.

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

[F.R. Doc. 69-13415; Filed, Nov. 12, 1969; 8:45 a.m.]

DEPARTMENT OF TRANSPORTATION

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil

Service Commission authorizes the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Director, Office of Industry and Labor Relations, Office of Assistant Secretary for Public Affairs.

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

[F.R. Doc. 69-13416; Filed, Nov. 12, 1969; 8:45 a.m.]

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the U.S. Arms Control and Disarmament Agency to fill by noncareer executive assignment in the excepted service the position of Deputy Public Affairs Advisor, Office of the Public Affairs Advisor.

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

[F.R. Doc. 69-13417; Filed, Nov. 12, 1969; 8:45 a.m.]

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the U.S. Arms Control and Disarmament Agency to fill by noncareer executive assignment in the excepted service the position of Disarmament Advisor, Office of the Director.

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

[F.R. Doc. 69-13418; Filed, Nov. 12, 1969; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 18719-18729; FCC 69-1199]

COMMUNICATIONS SATELLITE CORP., ET AL.

Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Communications Satellite Corp., Docket No. 18719, File Nos. 6406 through 6408-C1-P-69; for construction permits for three new stations in the Domestic Public Point-to-Point Microwave Radio Service at Talkeetna, Scotty Lake, and Twelvemile, Alaska; Matanuska Telephone Association, Inc., Docket No. 18720, File Nos. 102 through 104-C1-P-70; for construction permits for three new stations in the Domestic Public Point-to-Point Microwave Radio Service at Talkeetna, Scotty Lake, and Twelvemile, Alaska; RCA Alaska Communications, Inc., Docket No. 18721, File Nos. 553 through 556-C1-P-70; for construction permits for four new stations in the Domestic Public Point-to-Point Microwave Radio Service at Anchorage, Twelvemile, Scotty Lake and Talkeetna, Alaska; Western Union International, Inc., Docket No. 18722, File Nos. 1174 through 1176-C1-P-70; for construction permits for three new stations in the Domestic Public Point-to-Point Microwave Radio Service at Talkeetna, Scotty Lake, and Twelvemile, Alaska; Communications Satellite Corp., Docket No. 18723, File No. P-C-7590; Western Union International, Inc., Docket No. 18724, File No. PC-7589; for authorization pursuant to section 214 of the Communications Act of 1934, as amended, to construct and operate channelizing equipment in connection with the proposed microwave system between Talkeetna and Anchorage, Alaska; RCA Alaska Communications, Inc., Docket No. 18725, File No. P-C-7585; for authorization pursuant to section 214 of the Communications Act of 1934, as amended, to construct and operate channelizing equipment in connection with the proposed microwave system between Talkeetna and Anchorage, Alaska, and to provide service between points in Alaska and points in the 48 continental States via satellite, and petitions of Communications Satellite Corp., Docket No. 18726; Matanuska Telephone Association, Inc., Docket No. 18727; Western Union International, Inc., Docket No. 18728; pursuant to section 201(a) of the Communications Act of 1934, as amended, for establishment of physical connections between its proposed facility at Twelvemile, Alaska, and the existing toll center at Anchorage, Alaska, and RCA Alaska Communications, Inc., Docket No. 18729; pursuant to section 201(a) of the Communications Act of 1934, as amended, for establishment of physical connections between the terminus of the proposed microwave facilities at Anchorage, Alaska, and the facilities of the Anchorage Telephone Utility.

1. The Commission has before it: (a) The captioned mutually exclusive applications proposing construction of a microwave system to link the recently authorized satellite earth station at Talkeetna, Alaska, with Anchorage, Alaska; (b) the captioned applications pursuant to section 214 of the Communications Act for authorization to install and operate multiplex equipment in connection with the microwave system; (c) the captioned petitions pursuant to section 210(a) of the Act for the necessary interconnection of the microwave system with the existing toll facilities in Anchorage, Alaska; and (d) the pleadings listed in the appendix hereto.[1]

2. Communications Satellite Corp. (Comsat), Matanuska Telephone Association, Inc. (Matanuska), and Western Union International, Inc. (WUI), each have filed applications for microwave stations at Talkeetna, Scotty Lake, and Twelve-mile, respectively. RCA Alaska Communications, Inc. (RCA),[2] filed four applications for stations at the above sites plus Anchorage thus making its proposal the only complete system between Anchorage and Talkeetna. However, Comsat, Matanuska, and WUI each have filed section 201 petitions requesting the Commission to order a mid-air interconnection between its Twelvemile station and the Anchorage toll center. RCA has also filed a section 201 petition requesting the Commission to order an interconnection between its proposed microwave system and the facilities of the Anchorage Telephone Utility (Anchorage Telephone).

3. The positions of the various applicants and petitioners may be briefly sumarized as follows: (a) RCA, as the successful bidder for the facilities of the Alaska Communications System (ASC)[3] contends that it should be the sole long lines carrier in Alaska inasmuch as its commitment to reduce rates and improve service throughout the State was predicated on such basis; (b) Matanuska contends that it should provide the earth station microwave link since it represents expansion into Matanuska's presently franchised telephone service area; (c) Comsat stated that it filed only to insure an appropriate link with the earth station; it proposes to construct and operate the facilities only until the Commission authorizes permanent operation by another qualified carrier; (d) WUI, which has filed a section 214 application (file No. T-C-2274) to provide telegraph service to Alaska, contends that RCA fails to offer authorized carriers equitable and nondiscriminatory access to the earth station via the microwave system but that it (WUI) would offer authorized carriers participation by outright ownership, indefeasible right of use (IRU) or lease; (e) ACS opposes the applications of Matanuska and WUI, contending that the facilities should be provided by RCA as its successor in interest; (f) Western Union Telegraph Co. (Western Union) states that it opposes the applications of

[1] Due to the urgency of this proceeding action is being taken prior to the expiration of the prescribed time for filing all responsive pleadings.

[2] The applications were originally filed by RCA Global Communications, Inc., but were subsequently adopted by RCA Alaska Communications which is a wholly owned subsidiary of the former formed to operate the Alaska facilities purchased from the Alaska Communications System (ACS).

[3] The sale of ACS to RCA was approved in accordance with Public Law 90-135 (40 U.S.C. 771-792) by President Nixon on June 25, 1969, subject to RCA receiving appropriate authorization from the FCC and the Alaska Public Service Commission.

WUI, RCA, and Comsat because it has long been settled by statute (section 222 of the Communications Act) and Commission ruling that the public interest requires a separation of the area of operations of international and domestic telegraphic carriers.

BACKGROUND

4. Before proceeding further, it may be helpful to summarize the preceding events. Comsat filed its microwave applications on April 29, 1969, in connection with its application for the Alaska earth station which was granted on May 14, 1969 (17 FCC 2d 640). Competing applications were filed by Matanuska on July 10, by RCA on July 18 and by WUI on September 2.[4] In view of the importance of the matter, meetings were held between representatives of the applicants and members of the Common Carrier Bureau staff on August 14,[5] September 11, September 16, and September 19, 1969, in an attempt to effect a reasonable overall compromise between the parties or, failing that, a compromise on the varied technical proposals which would enable the Commission to authorize, on a joint and mutually agreeable basis, construction pending resolution of ownership and other issues in a hearing.

REQUEST FOR INTERIM AUTHORITY

5. While no agreement was reached in these meetings, each of the applicants has subsequently requested that it be issued an interim authorization to construct the facilities subject to a final determination by the Commission in a hearing concerning ownership and other issues. Moreover, both Matanuska and WUI indicate they would not oppose the grant of interim authorization to Comsat. However, RCA opposes an interim grant to any carrier other than itself.

6. Since the earth station is scheduled to be completed on about July 1, 1970, it is obvious, especially in light of the substantial lead time necessary for ordering electronic equipment, that the issuance of construction authorization cannot await the resolution of the substantive comparative issues even in an expedited hearing. Under these circumstances, unless the Commission undertakes to authorize construction on an interim basis, service to a large segment of the public will be substantially delayed, perhaps up to a year. The onus for any delay clearly belongs to the competing applicants whose desire for private competitive advantage necessarily conflicts with their obligations to insure the availability of service to the public, particularly when compromise on the technical proposals would not have substantially prejudiced their comparative standing with respect to the ultimate issues. It would be easier, and certainly more conventional, for the Commission to resolve all issues in a comparative hearing. However, we believe that the public interest factor is too great in this instance to excuse the Commission from initiating unusual measures designed to resolve the difficult problem of interim authorization. Although we are reluctant to have to make a selection of competing technical proposals on the basis of necessarily tentative conclusions, § 21.27(g) of the rules specifically authorizes the conditional grant, pending a hearing, of one or more mutually exclusive applications under circumstances of extraordinary public need.

7. The principal problem before us is to determine which of the four technical proposals would be best suited for interim authorization. All applicants propose similar frequency use (with one exception) and essentially the same route (with stations similarly located). Matanuska would construct what is generally termed a "short haul" system with remodulating transmitters while WUI, RCA and Comsat would use heterodyne transmitters, a type normally used for longer routes. Although the Comsat proposal is very similar to RCA's and WUI's, there are some differences. For instance, RCA would use horn type antennas throughout while WUI and Comsat would use parabolic antennas, except on one path (Scotty Lake to Twelvemile) where Comsat would use a horn type. Aside from the disagreement on frequency usage on one path, which is discussed in the following paragraph, the differences between the technical proposals of RCA, Comsat, and WUI do not appear substantial.

8. Due to possible harmful interference with the earth station, all of the applicants originally requested waiver of the frequency allocation rules to permit them to use frequencies in the 6575–6875 MHz Operational Fixed-International band in both directions on the Scotty Lake-Twelvemile path. However, on October 7, 1969, Comsat amended its applications to use 4 and 6 GHz common carrier frequencies on that path, stating that it has concluded that it is possible to operate on common carrier frequencies "without an undue risk of harmful interference." Shortly thereafter, the three other applicants amended their applications to propose essentially the same common carrier frequencies on the Scotty Lake to Twelvemile path.[6] However, RCA continues to assert the need for the use of noncommon carrier frequencies in the opposite direction (WUI and Matanuska would use 4 GHz frequencies but different from Comsat). Apparently, everyone agrees that absent shielding by terrain on the Twelvemile to Scotty Lake path harmful interference would be caused by operations on either the 4 or 6 GHz band. The disagreement appears to lie on the degree of actual shielding available, which to a substantial extent is a matter of judgment. RCA states that Comsat may be correct and practice would prove the shielding to be adequate. However, it contends that the risk isn't worth it. If in operation harmful interference is caused to the earth station, not only will the cost of converting equipment to new frequencies be substantial (RCA estimates it at some $60,000), but satellite communications to Alaska will be impaired, if not terminated, during the time required to obtain equipment and make the physical conversion. While we would find it much more desirable for these, or any other facilities, to operate with the frequencies prescribed by the rules, it appears under these circumstances more reasonable to grant a waiver than accept the risk of harmful interference.[7] Furthermore, inasmuch as all of the applicants' originally proposed frequencies in the 6575–6875 MHz band, there would appear to be no prejudicial factor in such use. However, the ultimate system operator will be expected to reevaluate the necessity for continued use of noncommon carrier frequencies at the 1976 license renewal period.

9. In considering the various proposals we have to give substantial weight to RCA's statement that it intends to use these facilities as part of a Fairbanks to Anchorage and south major route which it will propose as a result of its commitments with respect to the ACS purchase. In view of the location of the facilities being considered in this proceeding, such integration and expansion would seem to be efficient and logical. While it appears that the Matanuska proposal would be satisfactory to serve the earth station, we believe that the remodulating type equipment it proposes would not be as satisfactory as heterodyne equipment if, as expected, the system is later expanded to become a trunk route between major population centers in Alaska.[8] Therefore,

[4] The cutoff date for filing mutually exclusive applications was extended by the Common Carrier Bureau from the normal 60 days (pursuant to rule section 21.26(b)) to September 2 because of the incomplete nature of the Comsat filings and the uncertainties introduced by the sale of the ACS facilities.

[5] WUI was not represented at the August 14 meeting inasmuch it was not an applicant at that time.

[6] Inasmuch as 30 days has not elapsed since public notice of such major amendments (which have been determined to be consistent with Rule § 21.26(b)), any person that may be adversely affected by the use of such frequencies should file a petition to intervene in this proceeding in lieu of a petition to deny.

[7] One other alternative to the use of Operational Fixed-International frequencies would be the use of the 11 GHz (10,700–11,700 MHz) common carrier band. However, RCA has convinced us that due to the propagation characteristics of those frequencies, an additional relay station would be required, adding substantially to system cost with possible adverse impact on system reliability.

[8] In a remodulating system, at each relay station the microwave signal received is demodulated down to the base band of transmitted intelligence, amplified and then remodulated to a microwave frequency for retransmission to the next station. In a heterodyne system there is no demodulation to the base band, but only to an intermediate frequency for amplification. Since full demodulation at each repeater introduces a substantial cumulative noise factor, the use of a heterodyne system is generally considered highly desirable for longer routes, especially where circuit density is heavy. (For a more thorough discussion see, among others, the Lenkurt Demodulator, Vol. 13, No. 8.)

under these circumstances, it would appear that the technical proposals of WUI, RCA, and Comsat are superior. As between these, we believe that Comsat should be the chosen agent since it is not a contender for authorization as the permanent carrier. Matanuska and WUI have made a substantial concession in agreeing to interim construction by Comsat. We have not been convinced by RCA that construction by Comsat would substantially prejudice its position in this or any other proceeding. Accordingly, we will authorize Comsat to construct, on an interim basis pending a final Commission decision, the facilities it proposes at Talkeetna, Scotty Lake and Twelvemile, but using noncommon carrier frequencies as discussed in paragraph 8. In addition, we will likewise authorize RCA to construct the station at Anchorage since it is the only carrier that has applied for the necessary facilities at that location.

10. In constructing these facilities we will expect Comsat and RCA to coordinate in good faith with each other and the other applicants. We realize that some technical modification may be desired or necessary in order to accommodate appropriate interconnection or for other reasons. To the extent that such modifications are agreeable to each applicant, we will delegate to the Common Carrier Bureau authority to act on such requests, consistent with normal procedures, so that construction can go forward without undue delay.

Other Issues

11. To resolve ownership and other issues, we will designate the matter for hearing with normal comparative issues. It would serve no purpose to recite the various arguments made pro and con by each applicant since these generally relate to standard comparative consideration. However, RCA has made several allegations against Matanuska that are worthy of comment. In essence they are:

(a) That Matanuska is not financially qualified to construct and operate the proposed facilities;

(b) That Matanuska has no State franchise authority to provide the intrastate service it also proposes to provide over the microwave facilities;

(c) That the operation of the proposed facilities would be beyond the corporate powers of Matanuska as a cooperative association; and

(d) That Matanuska does not propose to be a carrier fully subject to title II of the Communications Act.

12. As to (a), (b), and (c), they appear to pose reasonable questions of fact, and we will designate appropriate issues for resolution. In reference to (b), if Matanuska cannot show that it has the necessary authorization to provide the local or intrastate service contemplated, the Commission can give little, if any, weight to such use for comparative purposes in this proceeding. As to (d), we consider any carrier proposing to provide a critical link in what is essentially an interstate and international communication line to be fully subject to title II of the Act insofar as that interstate link is concerned. (All America Cables and Radio, Inc., 15 FCC 2d 1.) The fact that a section 214 application was not filed does not derogate the applicability of title II. Where an application is made for radio authorization which covers the entire service proposed, and all particulars thereof, no separate section 214 application is necessary. (TransAmerican Microwave, Inc., 9 FCC 2d 159.)

Petitions for Interconnection

13. The petitions for interconnection filed by Matanuska, WUI, and Comsat request the Commission to order RCA, or other appropriate carrier, to build facilities at Anchorage to connect the toll center in that city with the southern terminus of their proposed facilities at Twelvemile. Involved would be the construction of a microwave station, including related multiplex equipment, in Anchorage which would transmit toward the Twelvemile station and in turn, receive transmission from that station. Since we are granting an interim construction authorization for that link to Comsat and RCA, such interconnection is not likely to be a problem. However, we will frame an issue which will enable the Commission to order such interconnection as may be necessary upon the resolution of comparative issues.

14. The petition filed by RCA requesting the Commission to order an interconnection between its proposed facilities and those of Anchorage Telephone presents a different question. We understand that there has been a controversy for some time between Anchorage Telephone and ACS over the operation of the Anchorage toll center and, in particular, the operation of direct distance dialing (DDD) equipment. ACS now operates the toll center and, of course, makes all interconnections for long distance calls. Anchorage Telephone, which is owned by the city, states that it is committed to the purchase of DDD equipment which it intends to install and operate. RCA, as the appointed successor to ACS, contends that the interconnection should be at the present Anchorage toll center.

15. In essence, the Anchorage controversy involves the point and terms of interconnection for all long distance facilities, of which the proposed earth station microwave link would be only a small portion. In view of this and the need for expeditious action on the proposals before us, it does not appear desirable to attempt to resolve the whole dispute in context with this proceeding. However, we wil include an issue to determine if there is any impediment to the interconnection of the proposed facilities and, if so, to order the interconnection including the terms thereof. Nevertheless, we wish to make it clear that the scope of such issue be restricted to include only those determinations that are absolutely necessary to this proceeding.[9]

Conclusions

16. In view of the foregoing, we are granting authority to Comsat to immediately proceed with interim construction of the proposed facilities at Talkeetna, Scotty Lake, and Twelvemile and to RCA to construct the Anchorage facility with questions of ownership, interconnection, etc. to be determined in an expedited hearing. In view of Comsat's limited objective in this proceeding, Comsat will not be considered an applicant for permanent authorization. However, it will be named a party, primarily for the purpose of retaining complete Commission control over the interim construction and subsequent transfer of facilities to the carrier or carriers finally selected to be the permanent operator. Since RCA's place in this proceeding is largely dependent upon its position as successor to ACS, which has yet to be considered by this Commission or the Alaska Public Service Commission, any permanent authorization to RCA that may result from this proceeding will be conditioned upon and subject to RCA being approved as the successor to ACS, unless it is shown that the public interest demands otherwise.[10] Likewise, it appears that WUI's position is largely dependent upon favorable Commission consideration of its recent section 214 application to provide service to Alaska (file No. T-C-2274), and, therefore, any permanent authorization to WUI that may result from this proceeding will be conditioned upon and subject to its certification in that proceeding, unless it is shown that the public interest demands otherwise.

17. *Accordingly, it is hereby ordered,* That Communications Satellite Corp. is authorized to construct (and conduct equipment tests) but not operate, facilities at Talkeetna, Scotty Lake, and Twelvemile, Alaska, as proposed in applications 6406 through 6408-C1-P-69 and P-C-7590, subject to the exception of the following paragraph, and RCA Alaska Communications, Inc., is authorized to construct (including equipment tests) but not operate, facilities at Anchorage, Alaska, as proposed in applications 553-C1-P-70 and P-C-7585, pursuant to § 21.27(g) of the Commission's rules, upon condition that said authorizations are subject to being withdrawn if, at a hearing, it is shown that the public interest will be better served by a grant of one of the other applications. For the purposes of this authorization, Communications Satellite Corp. and RCA Alaska Communications, Inc., are considered trustees and are directed to maintain separate detailed accounts and records of all expenditures incurred in such construction and to furnish copies thereof to the Commission or other applicants in this proceeding upon reasonable request.

18. *It is further ordered,* That §§ 2.106 and 21.701(a) of the Commission's rules

[9] If the principal controversy is not subsequently settled between the parties or at the State level, the Commission may more appropriately consider the matter in connection with the recently filed applications of RCA to acquire the ACS facilities.

[10] Also, since RCA's section 214 application requests, in part, authorization to provide service via satellite between Alaska and the lower 48 States, we will defer any action on that portion of the application until we have considered the ACS acquisition.

are waived and Communications Satellite Corp. is directed to utilize the frequencies proposed by RCA Alaska Communications in its application File No. 554-C1-P-70 on the Twelvemile to Scotty Lake path, using appropriate type accepted transmitters.

19. *It is further ordered*, That the Chief, Common Carrier Bureau is delegated authority to act on any request for authority to modify the technical proposal involved in the construction authorized above if such request is not opposed by any other applicant.

20. *It is further ordered*, Pursuant to section 309(e) of the Communications Act of 1934, as amended, That the captioned matters are designated for hearing in a consolidated proceeding at the Commission's offices in Washington, D.C., before an examiner and on a date to be hereafter specified by separate order, upon the following issues:

(a) To determine, on a comparative basis, whether and to what extent, the proposals of Matanuska Telephone Association, Inc., RCA Alaska Communications, Inc., or Western Union International, Inc., would better serve the public interest, convenience and necessity including the following:

(1) The rates, charges, practices, classifications, regulations, personnel, and services;

(2) The proposed or required degree of operational reliability and whether such reliability is likely to be achieved;

(3) The cost of the proposed system including estimated maintenance and operating costs;

(4) The manner by which the facilities and services of the proposed system shall be made available to authorized carriers;

(5) The public policies and other considerations that may favor one carrier over another;

(b) To determine whether it is necessary and desirable to establish physical connections between facilities at Twelvemile and facilities at Anchorage within the meaning of section 201(a) of the Communications Act of 1934, as amended, and, if so, what connections, charges, facilities and regulations should be established;

(c) To determine whether any impediment exists to the interconnection of the proposed facilities with the existing facilities of the Anchorage Telephone Utility and, if so, to determine, within the meaning of section 201(a) of the Communications Act what connections, routes, charges, facilities, and regulations should be established;

(d) To determine whether Matanuska Telephone Association, Inc., has authority under its corporate charter as a cooperative association to own and operate the proposed facilities;

(e) To determine whether Matanuska Telephone Association, Inc., is financially qualified to own and operate the proposed facilities;

(f) To determine whether Matanuska Telephone Association, Inc., has all necessary State authority to provide intrastate communications circuits as proposed;

(g) To determine whether it is necessary and desirable to establish conditions in order to insure that all present and future authorized carriers shall have nondiscriminatory use of, and equitable access to, the communications satellite system and, if so, the terms thereof;

(h) To determine, in light of the evidence adduced on the foregoing issues, whether and under what conditions the public interest, convenience, and necessity will be served by grant of any of the captioned applications, and/or by the establishment of an interconnected system, and which applicant or applicants should be authorized, under what terms and conditions, to acquire and operate the facilities which are to be constructed on an interim basis.

21. *It is further ordered*, That the hearing shall be held on an expedited basis, and the record shall be certified to the Commission by the examiner without an initial decision.

22. *It is further ordered*, That the parties are allowed 30 days after the record is closed to file proposed findings and conclusions, including briefs, and 10 days thereafter to file replies.

23. *It is further ordered*, That oral argument be held before the Commission en banc, commencing at a date and time to be hereafter announced on the matters placed in issue herein.

24. *It is further ordered*, That Communications Satellite Corp., RCA Alaska Communications, Inc., Matanuska Telephone Association, Inc., Western Union International, Inc., Alaska Communications System, Western Union Telegraph Co., Anchorage Telephone Utility, and the Chief, Common Carrier Bureau are made parties to the proceeding.

25. *It is further ordered*, That the parties desiring to participate herein shall file their appearances in accordance with section 1.221 of the Commission's rules.

26. *It is further ordered*, That all petitions and motions, to the extent they are not granted herein, are otherwise denied.

Adopted: October 29, 1969.

Released: November 6, 1969.

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

APPENDIX

Pleadings received by the Commission as of October 29, 1969:

Petition to deny applications of Matanuska Telephone Association, Inc., filed by Alaska Communications System and responsive pleadings thereto.

Petition to deny applications of Western Union International, Inc., filed by Alaska Communications System and opposition thereto by Western Union International.

Petition for grant or for conditional grant and designation for expedited hearing filed by RCA Alaska Communications, Inc., and oppositions thereto filed by Matanuska Telephone Association and Western Union International.

Opposition of RCA Alaska Communications, Inc., to petitions for interconnection filed by Western Union International, Matanuska Telephone Association, and Communications Satellite Corp.

Petition to deny applications of Western Union International, RCA Alaska Communications, and Communications Satellite Corp. filed by Western Union Telegraph Co., motion to dismiss filed in response thereto by RCA Alaska Communications, and opposition by Western Union International.

Petition to deny applications of RCA Alaska Communications filed by Matanuska Telephone Association, responsive pleadings thereto.

Petition to deny applications of RCA Alaska Communications filed by Western Union International.

Petition to deny section 214 application of Western Union International by Alaska Communications System.

Opposition of Alaska Communications System to petitions for interconnection filed by Western Union International and Communications Satellite Corp.

Petition to deny section 214 application of Communications Satellite Corp. filed by Alaska Communications System.

Conditional petition to deny section 214 and microwave applications of RCA Alaska Communications filed by Anchorage Telephone Utility.

[F.R. Doc. 69-13493; Filed, Nov. 12, 1969; 8:50 a.m.]

[1] Commissioner Robert E. Lee absent.

[Docket No. 18714; FCC 69-1184]

MARVIN C. HANZ

Designating Application for Hearing on Stated Issues

In re application of Marvin C. Hanz, Las Cruces, N. Mex., Docket No. 18714, File No. BP-17044; requests: 1280 kc., 1 kw., DA-Day, for construction permit.

1. The Commission has before it for consideration (a) the above-captioned application; (b) a petition to deny filed October 27, 1966, by Radio Alamogordo, Inc., licensee of Station KINN, Alamogordo, N. Mex.; (c) an opposition by the applicant; (d) a Petition to Deny, as supplemented, filed December 4, 1967, by Las Cruces Broadcasting Co. (N.S.L.), licensee of Station KOBE, Las Cruces, N. Mex.;[1] (e) pleadings in opposition and reply thereto; (f) a Motion to Strike KOBE's pleading, filed May 7, 1968, by the applicant; (g) Opposition to Motion to Strike; (h) a second petition to deny filed January 27, 1969 by KOBE; and (i) pleadings in opposition and reply thereto.

2. The first two petitions alleged that the proposed operation would involve prohibited overlap of 0.5 millivolt per meter contours with Station KINN in violation of § 73.37(a) of the Commission's rules. Field intensity measurement data were submitted in support of the allegation. However, the applicant amended his application October 28, 1968

[1] KOBE also purports to speak for the licensee of Station KGRT, Las Cruces. However, since the pleading is not signed by KGRT, we have considered licensee of KOBE as sole petitioner—an assumption which in no way affects the merits of this case. On the Commission's own motion, the licensee of KGRT, Chaparal Broadcasting Services, Inc., will be made a party to the hearing ordered herein.

to specify a directional antenna system from a new site and removed any question of prohibited overlap of contours with Station KINN. Thus, the aforementioned pleadings filed prior to October 28, 1968 have been rendered moot and will be dismissed.

3. In its subsequent petition to deny of January 27, 1969, the licensee of KOBE, hereinafter called petitioner, alleged that the applicant's amendment of October 28, 1968, changing to directional operation, was in patent violation of section 1.522(a) of the rules since a copy of the amendment was not served on petitioner. Further, KOBE stated that it in no way concedes that the amendment resolved the engineering problems, and that petitioner was in the process of conducting a complete engineering study to determine if suspected violations of the Commission's engineering requirements did in fact exist. Petitioner also alleged that the applicant had not indicated in any way that the proposed site is available and that, while the applicant's amendment to a two tower directional antenna system anticipates greatly increased construction and operating costs, applicant made no showing either as to an estimate or increased expenses or as to the availability of additional liquid assets that will be required to construct and operate for 1 year.

4. An additional alleged infirmity by petitioner is the applicant's failure to adequately ascertain the community needs and interests; that although the applicant claims to have interviewed a cross-section of the business community and representatives of various local groups, none of the persons is specifically identified by name, position and organization. In sum, petitioner contends, "the applicant's so-called ascertainment of community needs and interests and his proposed programing, intended to fulfill these needs, amounts to no more than a few paragraphs, so indefinitely stated, that they place a question whether a survey was in fact taken at all". Petitioner also contends that the applicant proposes to allocate an inordinate amount of time (75 percent) to commercial advertising, far in excess of the limits of commercial matter normally felt by the Commission to be in the public interest.

5. The applicant, in its response of February 24, 1969, to the KOBE petition to deny refers to the provisions of § 1.580(i) and states that the KOBE pleading is not timely filed since the "cut-off" date assigned under the provisions of § 1.571(c) of the Commission's rules was October 28, 1966; that, petitioner's brief hint of economic injury [2] did not provide the Commission with the very basic ingredients necessary to determine if such injury did in fact exist and that the pleading was filed in excess of 1 year past the "cut-off" date of the application. Applicant further states that it was not required to advise petitioner of any amendment since petitioner was not and is not now legally before the Commission in this matter; that Commission acceptance of its amendment to a directional antenna system in no way entitled petitioner to become a party to this application. Also applicant states that it most certainly has control of the acreage in the tract of land which includes the new proposed transmitter site.

6. With regard to petitioner's allegation concerning financing, applicant refers to an attached letter dated February 20, 1969, to the applicant from Mr. Don Renault, a "Broadcast Consultant" at Del Rio, Tex., who states that, "Your total cost will be $27,000 for a turnkey job and our firm will arrange for a lease for at least $23,000 of this amount with lease payments to be made at the rate of approximately $755 per month". The applicant further asserts that he has recently provided the Commission with a firm letter of credit for $50,000 with complete details for repayment. In referring to petitioner's contention concerning the proposal to allow a maximum of 75 percent of commercial matter during a typical week, the applicant states that the 75 percent was a typographical error and the normal maximum will not exceed 30 percent. In commenting on petitioner's allegation concerning his ascertainment of community needs and interests, the applicant claims that he has conducted a thorough investigation.

7. In its reply of March 12, 1969, petitioner states that while the applicant's amendment to a directional antenna system would result in additional construction and operating costs, no revision of the original cost estimates have been submitted. Petitioner also points out that the bank letter mentioned in the applicant's answer and exceptions is silent as to terms of repayment or security. In addition the petitioner draws attention to applications filed on February 27, 1969, in which the applicant is committed to furnish funds for the construction and operation of two other standard broadcast stations. Regarding the applicant's claim to have made a thorough investigation of the needs and interests of the community, petitioner states that the applicant has yet to furnish the necessary specifics required by the application form and case precedent. With further reference to the applications previously mentioned which were filed on February 27, 1969, petitioner points out that one of the applications requests authority to construct still another standard broadcast station at Las Cruces, the applicant being Don Renault, Annie Emmons, Douglas A. Williams, and J. E. Shahan doing business as Desert Radio, File No. BP-18506. Petitioner notes that Don Renault is a partner with the applicant in an application for a construction permit for a new standard broadcast station at Bossier City, La., and Annie Emmons is a partner with the applicant in an application for a new standard broadcast station at Ozona, Tex. Petitioner questions whether the Desert Radio principals with close business relations with the applicant in other, simultaneous broadcast ventures, would propose a facility that would be directly and adversely competitive with Hanz' proposed Las Cruces station. Petitioner suggests the strong likelihood that some form of understanding exists between the two Las Cruces applicants raising both undisclosed principal problems and potential violations of the duopoly prohibition (§ 73.35(a) of the Commission's rules).

8. We first consider the applicant's contention that KOBE's petitions were untimely. As previously noted, the KOBE petition filed December 4, 1967, has been rendered moot by the applicant's amendment of October 28, 1968, and therefore, the timeliness of the earlier petition need be of no concern. It is true, as the applicant points out, that § 1.580(i) of the Commission's rules includes the proviso that petitions to deny an application which has been listed in a public notice fixing a "cutoff" date will not be accepted after the date specified. However, the proviso must be read with the entire paragraph. The basic provision contemplates the acceptance of petitions to deny an application within thirty days of a public notice of the acceptance of a significant amendment to an application. The public notice of the acceptance of Hanz's amendment referred to the KOBE's petition of January 27, 1969, was released on December 26, 1968. The 30-day period provided in § 1.580(i) expired on Saturday, January 25, 1969, and the petition received on Monday, January 27 was, pursuant to section 1.4(i) of the rules, timely. Thus, it was proper for petitioner to express its reservation on the question of whether the amendment resolved the previous overlap question and to comment on the availability of the site and the probable increased cost of the directional antenna system over the previously proposed omnidirectional system. Although the matters of the applicant's proposed commercial practices and the ascertainment of the needs and interests of the prospective listeners could have been raised earlier, these matters concern questions which would have been raised on the Commission's own motion. Therefore, it would not be appropriate to dispose of petitioner's contentions on procedural grounds alone. Accordingly, the Commission will consider the petition on the merits.

9. With regard to the applicant's comment on the inadequacy of the petitioner's "brief hint at economic injury," it appears that the applicant misconstrues the thrust of the petitioner's reference to the economic impact of another station in the community. It seems clear that the petitioner was referring to the well settled principal that an existing station is a party in interest with standing to oppose the application of a prospective competitor. Federal Communications Commission *v.* Sanders Brothers Radio Station, 309 U.S. 470, 9 R.R. 2008 (1940). Accordingly, the Commission finds that KOBE has standing to oppose the Hanz application.

10. As previously noted, KOBE has stated that it did not concede that Hanz had resolved the engineering problem by

[2] Referring to KOBE's original petition to deny of Dec. 4, 1967.

amending to specify the use of a directional antenna. However, the petitioner has not pursued the matter further. Also as previously noted, the Commission has examined the directional proposal and finds that the problem of any possible overlap with KINN has been resolved.

11. With reference to KOBE's allegation concerning the availability of the transmitter site and proposed commercial practices, an amendment to the application filed April 10, 1969, appears to resolve these questions. The applicant points out that the proposal to allow 75 percent commercial matter was a typographical error and now proposes to allow a normal maximum of 30 percent commercial matter. The applicant submitted a lease agreement which appears to establish the availability of the transmitter site.

12. Regarding the applicant's financial proposal, in addition to the matters raised by KOBE, there are other aspects of the financial material which require clarification. The balance sheet filed with the application is dated November 1, 1965, and is not sufficiently current to provide a proper basis for a determination of the applicant's present financial position. The applicant has apparently abandoned his plan to acquire equipment from Gates Radio Co., at a cost of approximately $32,000. Instead, the applicant incorporates a letter from a radio consultant offering a "turnkey job" at a total cost of $27,000, but there is no indication of whether the quoted cost is for equipment only or whether it includes the construction of a building at the proposed site on which it appears, from an examination of the applicant's site photograph, there is no building at present. There is no explanation of how it is possible to construct a station with a two-tower directional antenna array for less than the original estimate for a single antenna tower. The applicant's payments under this arrangement are said to be approximately $755 per month, presumably after a $4,000 down payment. Assuming the $27,000 covers the cost of equipment alone, this appears to be unusually low for an installation of the type proposed. Moreover, there is no indication of who the lessor might be or whether the lessor has the financial ability to accomplish whatever is to be done. The applicant has submitted a letter from the San Angelo National Bank offering what appears to be a line of credit of up to $50,000 and stating that the current interest rate is 8 percent per annum, but no terms of repayment or security is indicated. Thus, it cannot be determined what the applicant's obligation to the bank during the first year of operation will be nor can it be determined whether any security required will affect other resources the applicant may have. Furthermore, other applications on file indicate the applicant has other financial commitments which are substantial. It is apparent that the applicant must seek leave to file a completely revised financial amendment and to establish on the hearing record whether he has the resources to meet all current commitments including those in connection with proposed new stations in Bossier City, La., and Ozona, Tex.

13. In Suburban Broadcasters, 30 FCC 1021, 20 R.R. 951 (1961); Public Notice of August 22, 1968, FCC 68-847, 13 R.R. 2d 1906 and City of Camden, 18 FCC 2d 412, 16 R.R. 2d 555 (1969), the Commission has indicated that applicants are expected to provide full information on their awareness of and responsiveness to local community needs and interests. Although the applicant claims to have conducted a thorough investigation into the needs and interests of the community, his contacts appear to have been confined to the business community, Chamber of Commerce and service clubs, to the exclusion of other members of the listening public and community leaders. None of the contacts were identified by name. The applicant claims to have found an interest in a "Country and Western" program format, but gives nothing in the way of community needs having been ascertained. The applicant does not include any comments of the persons interviewed and, with the exception of brief descriptions of a few program features, he does not provide a listing of specific programs responsive to specific community needs as evaluated. Therefore, a Suburban issue will be specified.

14. Three applications for standard broadcast stations mentioned by KOBE which were filed on February 27, 1969, are the following:

BP-18505 Marvin C. Hanz, Annie Emmons and Joel E. Wharton doing business as Ozona Broadcasting Co., Ozona, Tex. Requests: 1090 kc., 1 kw., Day.

BP-18506 Don Renault, Annie Emmons, Douglas A. Williams, and J. E. Shahan doing business as Desert Radio, Las Cruces, N. Mex. Requests: 1090 kc., 50 kw. (5 kw.-CH), Day.

BP-18507 Don Renault, Joel E. Wharton, and Marvin C. Hanz doing business as Bossier Broadcast Co., Bossier City, La. Requests: 1300 kc., 1 kw., Day.

As may be observed, of all the members of the three partnerships, four of those individuals, Marvin C. Hanz, Annie Emmons, Joel E. Wharton, and Don Renault, have interests in two of the partnerships, but none has an interest in all three. In addition to the relationships indicated above, Renault and Wharton presently serve Hanz as an individual applicant as consulting engineers and, apparently, Renault will have a substantial part in financing Hanz's Las Cruces station. In the light of these relationships, it seems reasonable to infer that there is some understanding, as yet undisclosed, concerning the operation of the proposed Las Cruces stations. These relationships also give rise to the inference that, in practice, the Las Cruces stations may be operated under what, in effect, is common control. However, a consideration of possible contravention of § 73.35(a) of the rules would be premature at this time. The Desert Radio application is now under study by the Commission's staff, but it may be anticipated that it will not be reached for action by the Commission for a period of several months. When the Commission does reach the Desert Radio application for action, appropriate consideration will be given to this matter in the light of whatever develops in the meantime.

15. Since the filing of the Bossier City and Ozona applications, Hanz has failed to amend his Las Cruces application to reflect the pendency of those applications. Moreover, the Las Cruces application was not amended to show the filing of an application for Commission consent to the assignment of the license of KABH, Midland, Tex., to a corporation in which Hanz had an interest. That application was filed in December 1968 but dismissed in July 1969. Furthermore, the application was not amended to reflect the acquisition by Hanz in 1968 of an interest in KWFR, San Angelo, Tex. Therefore, it appears that the applicant has, during the pendency of the application failed to comply with section 1.65 of the Commission's rules in that he has failed to inform the Commission of changes material to his application. An issue inquiring into this matter will be specified.

16. From the information before the Commission, it appears that, except as indicated by the issues below, the applicant is qualified to construct and operate as proposed. However, in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the application will serve the public interest, convenience and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

17. *It is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether the applicant is financially qualified to construct and operate his proposed station.

2. To determine the efforts made by the applicant to ascertain the community needs and interests of the area to be served and the means by which he proposes to meet those needs.

3. To determine whether the applicant has kept the Commission advised of "substantial and significant changes" as required by § 1.65 of the Commission's rules; and, if not, whether the applicant possesses the requisite qualifications to be a Commission licensee.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

18. *It is further ordered*, That the Las Cruces Broadcasting Co. (N.S.L.) and Chaparral Broadcasting Services, Inc., licensees of Stations KOBE and KGRT, respectively, are made parties to the proceeding.

19. *It is further ordered*, That the petition to deny filed October 27, 1966, by Radio Alamogordo, Inc., the petition to deny filed December 4, 1967, by the Las Cruces Broadcasting Co. (N.S.L.) and supplements thereto and the applicant's

motion to strike all KOBE pleadings filed prior to May 7, 1968, are dismissed as moot.

20. *It is further ordered*, That the petition to deny filed January 27, 1969, by KOBE is granted to the extent indicated above and is denied in all other respects.

21. *It is further ordered*, That the burden of proceeding with the introduction of the evidence and burden of proof with respect to all issues herein shall be upon the applicant.

22. *It is further ordered*, That, to avail themselves of the opportunity to be heard, the applicant and parties respondent, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in the order.

23. *It is further ordered*, That the applicant shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: October 29, 1969.

Released: November 7, 1969.

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

[F.R. Doc. 69-13494; Filed, Nov. 12, 1969; 8:50 a.m.]

[1] Commissioner Robert E. Lee absent; Commissioner Johnson concurring in the result.

[Docket Nos. 18716, 18717; FCC 69-1188]

TELEGRAPH-HERALD, INC. AND ANSWER-IOWA, INC.

Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Telegraph-Herald, Inc., Docket No. 18716, File No. 3637-C2-P-67; for a construction permit to establish new facilities in the Domestic Public Land Mobile Radio Service at Kieler, Wis. Answer-Iowa, Inc. Docket No. 18717, File No. 3982-C2-P-67; for a construction permit to establish new facilities in the Domestic Public Land Mobile Radio Service at Dubuque, Iowa.

1. The Commission has before it for consideration: (a) an application filed February 14, 1967, by Telegraph-Herald, Inc. (Telegraph) for a construction permit to establish new two-way facilities in the Domestic Public Land Mobile Radio Service at Kieler, Wis., on frequency 152.15 Mc/s (base) and 158.61 Mc/s (mobile); and, (b) an application filed March 20, 1967, by Answer-Iowa, Inc. (Answer) for a construction permit to establish new two-way and one-way facilities in the Domestic Public Land Mobile Radio Service at Dubuque, Iowa, utilizing the frequency 152.15 Mc/s (base), 158.61 Mc/s (mobile) and additional mobile frequencies.[1]

2. Telegraph and Answer are each seeking to provide communications service on the same frequency in the same general area and it appears that these applications are mutually exclusive by reason of potential harmful electrical interference. Therefore, a comparative hearing is required to determine whether a grant to either of the applicants would serve the public interest, convenience and necessity.

3. Section 21.504(a) of the rules and regulations of this Commission describes a field strength contour of 37 decibels above one microvolt per meter as the limit of reliable service area for base stations engaged in two-way communications service in the 150-162 Mc/s band; and propagation data set forth in section 21.504(b) are a proper basis for establishing the location of service contour (F50,50) for facilities involved in this proceeding. The procedures for determining the latter are set forth in the Commission's Report No. R-6406 entitled "Technical Factors Affecting the Assignment of Facilities in the Domestic Public Land Mobile Radio Service."

4. Section 21.205(o) of the Commission's rules concerns the personnel requirements for common carriers. It requires that a licensee have available on call at all times (either as an employee or through appropriate contractual arrangement with a person holding the requisite class of radio operator license) a licensed first—or second-class commercial radio operator (either radiotelephone or radiotelegraph, as may be appropriate for the type of emission being used) to perform necessary, and expeditious servicing and maintenance of the radio facilities. Telegraph proposes to utilize the operations manager, chief engineer, transmitter engineers and nontechnical personnel of its radio broadcast stations, KFMD and KDTH, in servicing and maintaining its proposed facility in the Domestic Public Land Mobile Radio Service. The extent of personnel sharing raises the issue of whether Telegraph's proposed common carrier facility will be accorded the priorities which the Commission's rules require.

5. It appears that except for the matters placed in issue herein, both applicants are financially, technically, legally and otherwise qualified to render the services they have proposed.

6. Accordingly, in view of our conclusions above: *It is ordered*, Pursuant to the provisions of section 309(e) of the Communications Act of 1934, as amended, that the captioned applications are designated for hearing, in a consolidated proceeding, at the Commission's offices in Washington, D.C. on a date to be hereafter specified, upon the following issues:

[1] The additional frequencies are 158.49, 158.52, 158.55, 158.58, 158.64, and 158.67.

(a) To determine, on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations and facilities pertaining thereto.

(b) To determine whether Telegraph would, under its present proposal, accord to the common carrier facility the priorities required by § 21.205(o) of the Commission's rules.

(c) To determine whether any harmful interference (within 37 dbu contours of the proposed base stations) would result from simultaneous operations on the frequency 152.15 Mc/s by Telegraph and Answer; and, if so, whether such interference would be intolerable or undesirable.

(d) To determine, on a comparative basis, the areas and populations that Telegraph and Answer propose to serve within their respective 37 dbu contours, based upon the standards set forth in paragraph 3 above; and to determine the need for the proposed services in said areas.

(e) To determine, in light of all the evidence adduced on all the foregoing issues, whether or not the public interest, convenience or necessity will be served by a grant of any or all of the captioned applications, and the terms or conditions which should be attached thereto, if any.

7. *It is further ordered*, That the burden of proof on the issues (a), (c), (d), and (e) is placed on the respective applicants herein, and the burden on issue (b) is placed on Telegraph.

8. *It is further ordered*, That the parties desiring to participate herein shall file their notice of appearance in accordance with the provisions of § 1.221 of the Commission's rules.

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

[F.R. Doc. 69-13495; Filed, Nov. 12, 1969; 8:50 a.m.]

[Dockets Nos. 18559-18563; FCC 69R-435]

UNITED TELEVISION CO., INC. (WFAN-TV) ET AL.

Memorandum Opinion and Order Enlarging Issues

In re applications of United Television Co., Inc. (WFAN-TV), Washington, D.C., Docket No. 18559, File No. BRCT-585; for renewal of license; Washington Community Broadcasting Co., Washington, D.C., Docket No. 18560, File No. BPCT-3849; for construction permit for new television broadcast station; United Television Co., Inc. (WFAN-TV), Washington, D.C., Docket No. 18561, File No. BPCT-3917; for construction permit; United Broadcasting Co., Inc. (WOOK), Washington, D.C., Docket No. 18562, File No. BP-1104; for renewal of license; Washington Community Broadcasting Co., Washington, D.C., Docket No. 18563,

[1] Commissioner Robert E. Lee absent.

File No. BP-17416; for construction permit for new standard broadcast station.

1. This proceeding involves, in part, the applications for renewal of licenses of television broadcast station WFAN-TV (formerly WOOK-TV) and standard broadcast station WOOK, Washington, D.C., licensed to United Television Co., Inc., and United Broadcasting Co., Inc., respectively (collectively referred to as "United"); and the applications of Washington Community Broadcasting Co. (Community), for the frequencies now occupied by stations WFAN-TV and WOOK. By Memorandum Opinion and Order, 18 FCC 2d 363, 16 R.R. 2d 621, released June 13, 1969, the Commission designated these applications for hearing on Suburban and deceptive advertising issues against United and standard comparative issues. Presently before the Review Board is a petition to enlarge issues, filed June 23, 1969, by Community [1] which seeks, in general, the addition of issues to determine whether station WOOK "has been carrying programs that, in the guise of religion, actively promote the illegal lottery known as the 'numbers' game" and whether carriage of such programs reflect adversley on United's qualifications to be a Commission licensee.[2]

[1] Also under Board consideration are: (a) Comments, filed June 26, 1969, by the Broadcast Bureau; (b) opposition, filed July 22, 1969, by United; (c) supplement and request to file supplement to opposition, filed July 30, 1969, by United; (d) letter of counsel for Community, dated Aug. 4, 1969; (e) further supplement and request to file further supplement to opposition, filed Aug. 20, 1969, by United; and (f) reply, filed Aug. 22, 1969, by Community.

[2] The addition of the following specific issues is requested by Community:

(a) To determine whether WOOK has been carrying programs that, in the guise of religion, actively promote the illegal lottery known as the "numbers" game and seek money from listeners by promising supposedly "inside" or "sure" tips on winning numbers in such lottery;

(b) To determine what revenues WOOK derives from said programs;

(c) To determine whether said broadcasts reflect adversely on the qualifications [of] United Broadcasting Co., Inc., and United Television Co., Inc. (herein both called "United"), to operate stations in the public interest in that:

(1) Carrying such programs violates the provisions of 18 U.S.C. sec. 1304 and § 73.122 of the Commission's rules, proscribing the "advertisements of or information concerning" a lottery;

(2) Carrying such programs violates the Commission's "long established concern that broadcast stations not be used to aid illegal gambling" (See Report and Order on Broadcast of Horse Race Information, 2 R.R. 2d 1609, at 1612);

(3) Carrying such programs, by encouraging poor "ghetto" listeners to spend money not only to bet on the lottery known as the "numbers" game but also to pay for supposed tips on winning numbers, aggravates the already severe plight of such listeners.

(4) Carrying such programs helps fill the coffers of organized crime as well as inuring to the financial profit of United.

(5) Carrying such programs constitutes false, misleading and deceptive advertising.

2. In support of the requested issues, Community alleges that, every Sunday, station WOOK carries many hours of spurious "religious" programs which are, in reality, simply devices for obtaining moneys by promising "inside tips" on the numbers lottery in the Washington, D.C., area.[3] While these programs do not usually include the words "numbers" or "bet",[4] Community avers that three-digit scripture references are used as a verbal subterfuge for lottery number "tips". Thus, a reference to the "74th Psalm and the 7th verse" allegedly refers to the lottery number "747". Such programing, Community argues, violates 18 U.S.C. section 1304 and section 73.122 of the Commission's rules,[5] constitutes an aid to illegal gambling, and is contrary to the public interest. Community submits excerpts from eight broadcasts which, it argues, are typical of the "religious" programs being offered on the station and which allegedly establish a prima facie showing in support of its instant request.[6] According to petitioner, the program speakers: (a) Usually promise help to the listener by offering to give or mail three-digit scripture numbers which the recipient is to use for a "financial blessing"; and (b) claim to have brought "financial blessings" to others by previously giving them such scripture references.

3. In petitioner's view, the most blatant promotion of the "numbers" lottery occurred on a program of one Reverend John W. Dow, broadcast on June 15, 1969. During this broadcast, Reverend Dow allegedly read testimonials from persons who had visited him 2 weeks before (on June 2, 1969, and who had received "straight hits" or "straight blessings"[7] on June 3, 1969), by "using" the "37th Psalm and Sixth Verse." According to petitioner, the winning number in the numbers lottery on June 3, 1969, was 376. Petitioner avers that Reverend Dow urged his listeners to visit him on June 16th because, while driving into the city, "he had seen in the heavens 'a number' and then 'another number' and that he would give them out, one for 'Tuesday' and the other for 'Thursday' ". Community cites numerous other examples of three-digit scripture references offered by station WOOK speakers which allegedly correspond to daily winning numbers.[8] Petitioner estimates that the mathematical odds against guessing a three-digit number are 1,000 to 1, against guessing two such three-digit numbers are 1 million to 1, and against guessing three such numbers are 1 billion to 1, and that, therefore, a question is also raised as to whether the "preachers" in their factual claims are guilty of false, misleading and deceptive advertising. Community argues, however, that the Commission need not concern itself with this question of guilt, for, in any event, the programs are clearly contrary to the public interest in that they "prey on the gullibility of the poor ghetto dwellers to whom the programs are directed, all to the financial benefit of organized crime, the 'preachers' and

[3] According to a letter of John B. Layton, former Chief of Police of the District of Columbia, attached to the petition:

The "numbers game" is a form of gambling in which a player attempts to pick a number or combination of numbers up to three and wagers an amount of money with the person or persons operating the lottery. The winning numbers in question are derived from taking the total parimutuel payoff on the win, place and show horses in certain races (usually the 5th, 7th, and 9th) at a given race track each day. The payoffs on a two dollar wager on win, place and show are totaled for the horses who finish in the money. The winning number is the first number to the left of the decimal point for each race. For example with the total parimutuels for the 5th race, $41.40, the 7th race $35.60 and the 9th race $28.40; it would establish the number of the day as 158. By taking the numbers from three races, the operator of the lottery derives a lead number, 2nd and 3rd number. The player may play any one of the three numbers singly, in parlay with another number, or attempt to pick all three numbers for the day.

[4] Community submits that, on occasion, the actual word "numbers" and other gambling terminology are based on the broadcasts.

[5] 18 U.S.C. section 1304 reads:

Whoever broadcasts by means of any radio station for which a license is required by any law of the United States, or whoever, operating such station, knowingly permits the broadcasting of, any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes, shall be fined not more than $1,000 or imprisoned not more than one year, or both. Each day's broadcasting shall constitute a separate offense.

Section 73.122(a) of the Commission's rules reads:

An application for construction permit, license, renewal of license, or any other authorization for the operation of a broadcast station, will not be granted where the applicant proposes to follow or continue to follow a policy or practice of broadcasting or permitting "the broadcasting of any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes. (See 18 U.S.C. 1304.)

[6] In an affidavit attached to the petition to enlarge issues, Community's counsel, on the basis of his own monitoring of station WOOK, affirms the accuracy of the quotations from, and the description of, the broadcasts in question.

[7] Petitioner submits that, in gambling parlance, the term "hit" is the numbers term for a winning bet whether on one, two, or three numbers; a "straight hit" is a winning bet on a three-digit number.

[8] In various instances, the speaker urges the listener to send in "love offerings" for which he promises help in the form of a "Bible scripture."

United itself." [9] The Broadcast Bureau is of the view that Community has set forth facts sufficient to warrant an enlargement of the issues. However, the Bureau disagrees with the issues as framed by Community in that they are argumentative and are not designed to elicit pertinent facts relevant to the ultimate determination to be made herein in regard to United's renewal applications and suggests alternatives.[10]

4. Without conceding Community's allegations to be true,[11] United suggests that the Board assume, for the purpose of disposing of the instant petition, that the broadcasts in question mentioned past winning numbers and invited listeners to contact the preachers to secure future winning predictions. United submits, however, that Community has not alleged sufficient facts to warrant an inquiry into a violation of 18 U.S.C. section 1304. United offers an affidavit of Saul J. Mindel, former assistant general counsel in the Post Office Department, who avers that the lottery provisions of 18 U.S.C. section 1304 are almost identical with the provisions of the postal lottery statute, 18 U.S.C. section 1302; that the courts have interpreted the broadcasting statute through previous administrative and judicial constructions of the postal law; and that, if reduced to writing, the subject broadcasts would be mailable under the postal statute. In addition, United notes that the lottery statute prohibits a station operator from knowingly permitting the broadcasting of lottery information and argues that the station personnel who were directly responsible for the presentation of these programs were not aware of any connection between these broadcasts and the numbers game. Affidavits to this effect are submitted by United's general manager and by its marketing and promotion manager. Furthermore, United argues that, based on general administrative practice followed by the Commission, something more than the announcement of past results of a lottery or of predictions of future winners is required in order to render section 1304 applicable; that such results and predictions are contained in various "tip sheets" and newspapers which are freely sold in the Washington area; and that the information contained in the programs did not relate to the operation of a "specific lottery",[12] but rather to the numbers game in general. Finally, United contends that it has not been Commission policy to pass judgment on the merits of individual broadcasts, but rather to consider types of programing in connection with the overall performance of a station; and that, therefore, the instant questions, including whether the programs, in fact, were an aid to illegal gambling, whether they were portions of bona fide religious programs and whether the licensee exercised adequate supervision and care in their presentation, may be explored under the standard comparative issue in this proceeding.

5. United's supplement to opposition [13] contains a letter from Jerry Wilson, acting Chief of Police for the District of Columbia, which states that, although a letter from the former Chief of Police was submitted with the Community petition (see footnote 3, supra), it was not the intent of the Police Department or the Chief of Police to endorse the allegations contained in Community's petition. According to the statement, the correspondence was merely designed to describe the operation of the numbers game in the Washington, D.C., area.

6. In its reply, Community argues that, contrary to United's claim that the broadcasts related to "the numbers game in general", the programs dealt with a very specific lottery, i.e., the one currently played in the Washington, D.C., area; that specific three-digit "tips" were discussed for particular days; that, for obvious reasons, the names and addresses of the individuals with whom bets may be placed are not announced; and that the numbers game in the Washington, D.C., area generally follows the same pattern, with the same winning number and odds. Community also avers that section 1304 is broader in scope than the postal statute and prohibits (in addition to any "advertisement" of a lottery) "any information concerning" a lottery; and that the Commission has previously held that a licensee had "permitted the facilities of the station to be used to broadcast information pertaining to a lottery" where announcements of the names of the winners of a lottery already concluded were broadcast. (Metropolitan Broadcasting Corp. (WMBO), 5 FCC 501 (1938).) With respect to United's claim that it did not "knowingly" broadcast programs involving numbers tips, Community notes the difficulty of ascertaining whether an act was knowingly committed, but, in any event, avers that United was put on notice as early as January 1967 (when Community filed its petition to deny), that at least one of United's religious broadcasts was openly encouraging gambling. In addition, Community argues that the broadcasts violated 18 U.S.C. section 1952 since the programs plainly utilized a "facility of interstate commerce" to promote an "unlawful activity." [14] Furthermore, while the sale of "tip sheets" may not constitute a violation of District of Columbia law, petitioner asserts that this has no bearing on the question of whether interstate shipment of tip sheets or interstate broadcast of promises of tips violates Federal law or Commission policy. Finally, inasmuch as United allegedly failed to dispute Community's charge that the predictions of the preachers were prima facie fraudulent due to the mathematical odds against selecting winning numbers, Community urges that addition of an issue to determine whether United took adequate safeguards against the airing of such fraudulent claims.[15]

7. Initially, the Board recognizes that, in considering the questions raised by the instant pleadings, matters relating to first amendment privileges and religious censorship cannot be overlooked. However, as stated in American Broadcasting Company, Inc. v. United States, 110 F. Supp. 374 [8 RR 2055] (S.D. N.Y. 1953), affirmed sub nom. FCC v. American Broadcasting Company, Inc., 347 U.S. 284 [10 RR 2030] (1954), the first amendment guarantee "does not shield either the individual or the press, or any media for the communication of thought, from the application of criminal laws designed for the protection of

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[9] Community attaches to its petition a newspaper transcript of President Nixon's Apr. 23, 1969, message to Congress concerning organized crime. Therein, the President estimates that the "take" from illegal gambling in the United States ranges from 20 to 50 billion dollars. Petitioner also contends that United is a beneficiary of the proceeds of this illegal conduct through the moneys it receives for carrying these programs; it is estimated that United's income from this source runs into "many thousands of dollars a year."

[10] The Bureau recommends the addition of the following issues:

To determine whether Station WOOK permitted the carriage of programs which promoted and gave information concerning lotteries and whether the carriage of such programs constituted a violation of 18 U.S.C., section 1304. (Footnote omitted.)

To determine whether Station WOOK permitted the carriage of programs in which listeners were promised advice in making bets in lotteries and whether the carriage of such programs fulfilled the licensee's obligation to operate Station WOOK in the public interest.

[11] United does not dispute that the subject broadcasts were aired and does not challenge the authenticity of the program excerpts offered by Community in support of its petition.

[12] United contends that the statutes under consideration are penal and, therefore, have been strictly construed. According to Mindel, the broadcasts cannot be considered "advertisements of a lottery", for there is an absence of information concerning any specific numbers game operation, i.e., where or with whom a person may bet; how much he may bet; what prizes may be awarded. Mindel cites various cases in support of his proposition that more than the announcement of past winning numbers and prediction of future numbers is required for a criminal violation: Halseth v. United States, 342 U.S. 277 (1952); France v. United States, 164 U.S. 676 (1897); United States v. Azar, 243 F. Supp. 345 (D.E.D. Mich. 1964). In addition, United has filed a copy of the recent decision in The New York State Broadcasters Association, Inc. v. United States, Case Nos. 633 and 634 (C.A. 2d Cir. 1969) [16 RR 2d 2179] in support of its position. Due to relevancy of this recent opinion, the Board finds good cause for the filing of a copy of this decision as a further supplement to United's opposition.

[13] The Board finds good cause to grant United's request to file this supplementary pleading and has considered its contents. A letter from Community's counsel, dated Aug. 4, 1969, to the Chief of Police of the District of Columbia, stating that there was no intention to imply Police Department endorsement of the petition to enlarge issues, has also been considered.

[14] Petitioner also notes that in United States v. Azar, supra, cited by United, the court found the defendants guilty of violating 18 U.S.C. section 1952.

[15] In the Board's view, matters relating to alleged false, misleading or deceptive advertisements may be properly considered at hearing through modification of existing issues. The inquiry specified by existing Issue 1, therefore, will be modified as indicated herein to include a determination of whether the broadcasts in question constituted false, misleading, or deceptive advertising.

the general public." Section 1304 neither improperly restricts broadcasters to an official government view nor inhibits the free expression of ideas by reason of overbreadth. See The New York State Broadcasters Association, Inc. v. United States, supra. Thus, to the extent that a substantial question is raised concerning Station WOOK's alleged violation of section 1304,[16] an inquiry into such matters at an administrative hearing is not foreclosed by claims of constitutional right, and we reject United's claim that such an inquiry here would involve religious censorship.

8. In the New York State Broadcasters Association, Inc. v. United States, supra, the Court of Appeals for the Second Circuit held that section 1304 proscribes "the broadcasting of advertisements and information that directly promotes a particular lottery." [17] In the instant case, petitioner alleges that broadcasts aired by Station WOOK contained announcements and information of previous winning numbers (employing a subterfuge of three-digit scripture references) and invitations to listeners to secure future winning numbers by contacting the particular speaker. If these allegations are determined ultimately to be true,[18] and the scripture references indeed are found to be a means of promoting the operation of the Washington, D.C., area numbers game, then it could be concluded in this proceeding that United has violated both the subject criminal statute and the relevant provisions of the Commission's rules. Thus, assuming the truth of the allegations, as United would have us do in order to test the legal sufficiency of Community's factual showing, it would appear that: (1) The announcements of past winning numbers served as "testimonials" to the previous accuracy of the preachers and were designed to engender confidence in future predictions; and (2) the predictions ultimately secured by the listener would be of no value except as utilized by the recipient thereof in a specific lottery or numbers game. Such allegations do raise a substantial question of whether United has, in fact, knowingly engaged in proscribed activity and whether its broadcasts contained announcements or information that directly promoted a particular lottery.[19] United's disclaimer of knowledge of the nature of the broadcasts in question is insufficient to resolve the question of section 1304 violation, for the very texts of the broadcasts, themselves, and the apparent subterfuge employed therein (assuming the truth of the allegations), the asserted notice of the subterfuge in Community's petition to deny of January 1967, and the Commission's recitation of that specific example in its designation order,[20] persuasively argue for the conclusion that the licensee did have knowledge of the nature and purpose of the broadcasts in question. If the licensee persists in its disclaimer of knowledge in order to refute the strict application of the statutory provisions, and if it is ultimately determined that the broadcasts in question were, in fact, a subterfuge, then a serious question would arise concerning the proper exercise of the licensee's responsibility in the management and operation of Station WOOK. However, we need not reach that question here since, at present, there is some conflict on the question of the licensee's knowledge and since the issue to be added will permit inquiry into this area.

9. Also unpersuasive is United's claim that the sale of tip sheets in the District of Columbia effectively disposes of the question of whether there has been a violation of section 1304. The mere fact that such sheets may be sold freely in a local jurisdiction is irrelevant to the question posed here, i.e., whether interstate broadcasts of similar information violates a Federal statute. In this regard, we note that, under judicial and administrative interpretation of section 1304, the legality of a lottery under local law is irrelevant to the question of statutory violation. See The New York State Broadcasters Association, Inc. v. United States, supra; and the Commission's Declaratory Ruling on the Broadcasting of Lottery Information, 14 FCC 2d 707, 14 RR 2d 1901 (1968). In regard to United's further claim that material similar to the contents of the broadcasts in question, if reduced to writing, would be mailable, the obvious defect in that rationale is the implicit assumption that section 1302 of title 18 is analogous in all respects to section 1304 and that, therefore, judicial and administrative interpretation of the former is binding on the latter. However, we note that the analogous provision of section 1302, the newspaper provison (analogous by virtue of its concern with media of mass communication), relates only to "any advertisement of any lottery" and does not address itself to "any information concerning any lottery" as does section 1304. Since the applicability of this portion of section 1304 could be the ultimate determination here, we cannot accept the opinion of United's postal expert that the mailability of the material at issue here necessarily is dispositive of Community's request. In the final analysis, then, we must conclude, on the basis of the showing before us and with recognition of available judicial and administrative precedent, that a serious question has been raised concerning the possible violations of section 1304 of title 18 and § 73.122 of the Commission's rules and that appropriate issues should be specified to inquire into these matters and to determine the effect thereof on the requisite and/or comparative qualifications of United.[21] We will reject petitioner's requested specification of the issues, however, since, as the Bureau correctly notes, they are basically argumentative in nature and do not necessarily facilitate the ultimate determination to be made in this proceeding, i.e., whether United's renewal applications should be granted or denied. Since the requested issues are essentially founded on alleged violations of section 1304 of title 18 and § 73.122 of the rules, we will refrain from specifying any issues other than those that pertain to possible violations of those applicable statutory and administrative provisions.[22] In the event it is concluded that United has engaged in proscribed activity, the Examiner is not hereby precluded from receiving evidence in mitigation or extenuation of such conduct.

10. *Accordingly, it is ordered*, That the request to file supplement to opposition, filed July 30, 1969, and the request to file further supplement to opposition, filed August 20, 1969, by United Broadcasting Co., Inc., and United Television Co., Inc., are granted, and the supplements contained therein are accepted; and

11. *It is further ordered*, That the petition to enlarge issues, filed June 23, 1969, by Washington Community Broadcasting Co., is granted to the extent indicated below and is denied in all other respects; and

12. *It is further ordered*, That existing Issue 1 is modified to read as follows:

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[16] Matters which raise substantial questions as to the violation of section 1304 would present similar questions as to the violation of section 73.122 of the rules, which was designed to implement the penal statute.

[17] While noting the absence of previous judicial interpretation of the statutory phrase "information concerning any lottery", the Court defined said phrase as prohibiting the broadcasting of "information that directly promotes a particular existing lottery."

[18] Community's allegations are addressed not only to the factual circumstances of this case, but also to the legal interpretation of the subject statute and rule.

[19] Inasmuch as United adopts an "assuming arguendo" approach to Community's allegations in its opposition pleading, United has not conceded that the scripture references were designed to provide "illegal", as opposed to "spiritual", guidance.

[20] According to Community, its petition to deny, served on United's counsel on Jan. 3, 1967, quoted "Bishop Bonner's" offer of "conquer roots" to bring "success in the game." This allegation was recited by the Commission in footnote 6 of the designation order, which also acknowledged Community's further claim that some broadcasts on Station WOOK are not in the public interest since they encourage gambling and prevarication. It should be noted that a deceptive advertising issue was specified by the Commission in its order and that Community now points to similar broadcasts, including one after the adoption of the order, to support its petition.

[21] In its opposition, United concedes that all of the circumstances relating to the broadcasts in question may be explored under the standard comparative issues already specified herein since such matters would relate to the quality of performance of the licensee. On this basis, therefore, the Examiner may permit inquiry into the merits of this type of programing, irrespective of its relation to applicable statutory and administrative regulations on the broadcasting of lottery information, under the standard comparative issues.

[22] It should also be noted that Community, in its reply pleading, for the first time raises the claim of United's alleged violation of 18 U.S.C. section 1952. Consistent with our prior practice, we will reject this attempt to plead new matters in a reply pleading.

1. To determine whether the broadcast by Station WOOK of announcements which advertised articles such as "Conquer Roots", "Money-Drawing Roots", and "Spiritual Baths", or which offered to give three-digit scripture references to be used for "financing blessing", constituted false, misleading or deceptive advertisements.

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

3. To determine whether Station WOOK has broadcast announcements or information concerning a lottery in contravention of section 1304 of title 18 of the United States Code, and of § 73.122 of the Commission's rules.

4. To determine, in light of the evidence adduced under Issue 3 above, whether United Broadcasting Co., Inc., and United Television Co., Inc. possess the requisite and/or comparative qualifications to be Commission licensees.

and existing Issues 3 through 7 are redesignated as Issues 5 through 9; and

14. *It is further ordered*, That the burden of proceeding with the introduction of evidence on Issue 3 added herein will be on Washington Community Broadcasting Co., and the burden of proof on said issue will be on United Broadcasting Co., Inc., and United Television Co., Inc.

Adopted: October 24, 1969.

Released: October 27, 1969.

FEDERAL COMMUNICATIONS COMMISSION,[11]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 69-13495; Filed, Nov. 12, 1969; 8:50 a.m.]

[11] Board Member Slone absent, Board Member Pincock not participating.

FEDERAL RESERVE SYSTEM

COMMERCE BANCSHARES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Commerce Bancshares, Inc., Kansas City, Mo., for approval of acquisition of more than 80 percent of the voting shares of Columbia National Bank, Columbia, Mo.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Commerce Bancshares, Inc., Kansas City, Mo., a registered bank holding company, for the Board's prior approval of the acquisition of more than 80 percent of the voting shares of Columbia National Bank, Columbia, Mo.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 9, 1969 (34 F.R. 14189), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is approved, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such time shall be extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

Dated at Washington, D.C., this 6th day of November 1969.

By order of the Board of Governors.[2]

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-13422; Filed, Nov. 12, 1969; 8:45 a.m.]

[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Kansas City.

[2] Voting for this action: Chairman Martin and Governors Robertson, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Governor Mitchell.

FIRST NATIONAL CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by First National Corp., which is a bank holding company located in Appleton, Wis., for prior approval by the Board of Governors of the acquisition by Applicant of 80 percent or more of the voting shares of Freedom State Bank, Freedom, Wis.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Dated at Washington, D.C., this 5th day of November 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-13421; Filed, Nov. 12, 1969; 8:45 a.m.]

FIRST FINANCIAL CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)), by First Financial Corp., which is a bank holding company located in Tampa, Fla., for prior approval by the Board of Governors of the acquisition of not less than 51 percent of the voting shares of the First National Bank in Plant City, Plant City, Fla.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Atlanta.

Dated at Washington, D.C., this 6th day of November 1969.

By order of the Board of Governors.

[SEAL] ROBERT P. FORRESTAL,
Assistant Secretary.

[F.R. Doc. 69-13423; Filed, Nov. 12, 1969; 8:45 a.m.]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 69-2]

EXTRATERRESTRIAL EXPOSURE

Establishment of Quarantine Period

Pursuant to authority vested in me, and in accordance with 14 CFR 1211.104 (a) (1), I hereby determine that with respect to the Apollo 12 space mission:

a. The beginning of the quarantine period for extraterrestrial exposure is November 20, 1969.

b. The termination of the quarantine period for extraterrestrially exposed persons shall be on December 11, 1969, unless modified prior to that date.

c. The duration of the quarantine period for extraterrestrially exposed property, animals, other form of life (other than persons) or matter whatever, shall continue until successful completion of safety tests, decontamination or both.

J. W. HUMPHREYS, Jr.
Major General, U.S. Air Force, M.C., Director, Space Medicine, Office of Manned Space Flight.

[F.R. Doc. 69-13491; Filed, Nov. 12, 1969; 8:50 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[70-4805]

ARKANSAS POWER & LIGHT CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

NOVEMBER 6, 1969.

Notice is hereby given that Arkansas Power & Light Co. ("Arkansas") Ninth and Louisiana Streets, Little Rock, Ark. 72203, an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"). The filing designates section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Arkansas proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $25 million principal amount of its First Mortgage Bonds, ____ percent Series due December 1, 1999. The interest rate of such bonds (which will be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to Arkansas (which will be not less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under Arkansas' Mortgage and Deed of Trust, dated as of October 1, 1944, to Morgan Guaranty Trust Company of New York and Grainger S. Greene, as Trustees, as heretofore supplemented and as to be further supplemented by an 18th Supplemental Indenture to be dated as of December 1, 1969 and which includes a 5-year prohibition against refunding the issue with the proceeds of funds borrowed at lower interest costs.

The net proceeds from the sale of the bonds are to be used by Arkansas for the payment of bank notes and commercial paper notes of approximately $21,500,000 issued or to be issued to finance its construction program and for other corporate purposes. Any remaining balance will be used for Arkansas' construction program and for other corporate purposes. Arkansas' construction expenditures are estimated to amount to $65,900,000 in 1969 and $86,200,000 in 1970.

It is stated that the fees and expenses incident to the proposed issue and sale of the bonds are estimated at $80,000, including auditors' fees of $4,750 and counsel fees of $23,500. The fee of counsel for the underwriters, estimated at $9,000, will be paid by the successful bidders.

The proposed transaction is subject to the jurisdiction of the Arkansas Public Service Commission, the State commission of the State in which Arkansas is organized and doing business. The filing states that the Tennessee Public Service Commission, the commission of a State in which Arkansas also does business, asserts jurisdiction over the proposed transaction and that the order of said commission is to be filed by amendment. It is further stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 1, 1969, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgate under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 69-13456; Filed, Nov. 12, 1969; 8:48 a.m.]

COMMERCIAL FINANCE CORPORATION OF NEW JERSEY

Order Suspending Trading

NOVEMBER 6, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Commercial Finance Corporation of New Jersey and all other securities of Commercial Finance Corporation of New Jersey being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period November 7, 1969 through November 16, 1969, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 69-13458; Filed, Nov. 12, 1968; 8:48 a.m.]

[70-4794]

GENERAL PUBLIC UTILITIES CORP.

Notice of Proposed Issue and Sale of Debentures, of Notes to Banks and to Dealers in Commercial Paper and of Request for Exception From Competitive Bidding

NOVEMBER 5, 1969.

Notice is hereby given that General Public Utilities Corp. ("GPU"), 80 Pine Street, New York, N.Y. 10005, a registered holding company, has filed a declaration

with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

GPU proposes to issue and sell, subject to the competitive bidding requirements of Rule 50(b) under the Act, $50 million principal amount of debentures, ______ percent series due 1974. The interest rate of the debentures (which will be multiple of one-eighth of 1 percent and the price, exclusive of accrued interest, to be paid to GPU (which will be not less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The debentures will be issued under an indenture dated December 1, 1969, between GPU and Marine Midland Grace Trust Company of New York, trustee.

GPU also proposes to issue and sell, from time to time, but not later than December 31, 1972, commercial paper notes having a principal amount outstanding at any time not in excess of $100 million. Such sales shall be made through two dealers in commercial paper.

The dealers will each reoffer the commercial paper purchased by them to not more than 100 of their customers. It is expected that GPU's commercial paper will be held to maturity by the purchaser, but, if any such purchaser should wish to resell prior thereto, each dealer, pursuant to a verbal repurchase agreement, will repurchase the commercial paper from the customer and reoffer the same to others in its group of customers.

The commercial paper issued and sold by GPU will be in the form of promissory notes in denominations of not less than $100,000 and not more than $5 million with maturities not to exceed 270 days, the actual maturities to be determined by the market conditions, the effective interest cost to GPU, and GPU's anticipated cash requirements at the time of issuance. The commercial paper will be sold at the discount rate per annum prevailing at the date of issuance for prime commercial paper of comparable quality and of the particular maturity sold at the same time by other issuers to commercial paper dealers. The commercial paper may be reoffered by the dealers at a discount rate not to exceed one-eighth of 1 percent per annum less than the discount rate to GPU. The commercial paper will be sold by GPU at an effective interest cost that will not exceed the effective interest cost (after taking into account compensating balance requirements) of bank loans made at the same time at the prime rate then generally prevailing in New York City.

In addition, GPU proposes to enter into a credit agreement with a group of banks, to be named by amendment, pursuant to which GPU may, from time to time, but not later than December 31, 1972, issue and sell its promissory notes maturing not later than December 31, 1972, to evidence borrowings from the banks for the purpose of meeting maturities of promissory notes issued by GPU as commercial paper if it shall not be feasible for GPU to issue further notes as commercial paper in order to meet said maturities, provided that (a) the aggregate principal amount of the notes so issued to banks outstanding at any one time, shall not exceed $85 million, and (b) the aggregate principal amount of notes issued as commercial paper plus the aggregate principal amount of notes issued to banks outstanding at any one time, shall not exceed $100 million. The credit agreement will require GPU to (i) pay a commitment fee, at the rate of one-half of 1 percent per annum, on the unutilized portion of the commitment, with GPU having the right at any time to reduce or terminate the bank's commitment to it; (ii) maintain a compensating balance with each participating bank averaging, on a monthtly basis, at least 10 percent of that bank's obligation to make loans to the extent that such obligation has not been utilized, or, at least 20 percent of any amounts borrowed from such bank under the credit agreement, whichever is higher; and (iii) pay interest quarterly on amounts borrowed at a rate per annum which is one-half of 1 percent above that bank's prime rate for short-term loans to commercial and responsible borrowers.

GPU further proposes to issue and sell, from time to time, but not later than December 31, 1972, its unsecured promissory notes, maturing not more than 9 months from the date of issue, to evidence borrowings from banks, to be named by amendment, having an aggregate principal amount outstanding at any one time not in excess of $50 million.

GPU requests that the issue and sale of its commercial paper notes be excepted from the competitive bidding requirements of Rule 50, pursuant to subparagraph (a)(5) thereof, in view of the fact that the proposed commercial paper notes will have a maturity of not more than 9 months, the interest cost thereon generally will not exceed the effective interest cost (after taking into account compensating balance requirements) of bank loans made at the prime rate then generally prevailing in New York City, and because the current rates for commercial paper are readily ascertainable by reference to the daily financial publications and, therefore, do not require competitive bidding to determine the reasonableness thereof.

The net proceeds of the debentures and promissory notes proposed to be issued and sold pursuant to this declaration will be used for additional investments by GPU in its public utility subsidiary companies or to reimburse its treasury for such investments theretofore made, or to pay notes the proceeds of which were previously used for such purposes.

GPU's subsidiary companies are engaged in major construction programs involving an estimated expenditure of approximately $260 million for facilities in 1969, and approximately $650 million in 1970 and 1971, or a total of approximately $900 million in the 1969-71 period. Of this total, almost one-half represents the cost of new generating capacity, the great bulk of which is base load nuclear and mine mouth coal-fired capacity.

The fees and expenses (other than dealers' fees) to be incurred by GPU will be supplied by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than noon on November 28, 1969, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

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

[F.R. Doc. 69-13457; Filed, Nov. 12, 1969; 8:48 a.m.]

LIQUID OPTICS CORP.

Order Suspending Trading

NOVEMBER 6, 1969.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Liquid Optics Corp. and all other securities of Liquid Optics Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, That trading in such securities otherwise than on a national securities exchange be summarily suspended, this

order to be effective for the period November 7, 1969, through November 16, 1969, both dates inclusive.

By the Commission.

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

[F.R. Doc. 69-13459; Filed, Nov. 12, 1969; 8:48 a.m.]

SMALL BUSINESS ADMINISTRATION

ALABAMA CAPITAL, INC.

Notice of Intention To Surrender Small Business Investment Company License

On October 17, 1969, Alabama Capital, Inc., Room 445, State National Bank Building, 230 West Court Square, Huntsville, Ala. 35801, License No. 05/05-0094, a Federal Licensee under the Small Business Investment Act of 1958; as amended, requested approval of the Small Business Administration (SBA), pursuant to section 107.105 of the regulations (33 F.R. 326, 13 CFR Part 107), to surrender its license.

Matters involved in SBA's consideration include the fact that the licensee is not indebted to SBA and, in granting its approval, SBA may impose such terms and conditions as it may determine appropriate.

Prior to final action on this matter, consideration will be given to any comments pertaining thereto which are received in writing to the Associate Administrator for Investment, Small Business Administration, Washington, D.C. 20416, within a period of fifteen (15) days of the date of publication of this notice.

For SBA.

Date: October 29, 1969.

A. H. SINGER,
Associate Administrator for Investment.

[F.R. Doc. 69-13646; Filed, Nov. 12, 1969; 8:46 a.m.]

TARIFF COMMISSION

[332-61]

ASSEMBLED AND PROCESSED ARTICLES

Postponement of Hearing

In response to a request dated August 18, 1969, by the President of the United States, the Tariff Commission, instituted an investigation of the economic factors affecting the use of items 806.30 and 807.00 of the Tariff Schedules of the United States and ordered a hearing in connection therewith to begin on November 18, 1969 (34 F.R. 14043).

Notice is hereby given of the postponement of the hearing in this investigation until further notice by the Commission.

Issued: November 7, 1969.

By order of the Commission:

[SEAL] WILLARD W. KANE, *Acting Secretary.*

[F.R. Doc. 69-13498; Filed, Nov. 12, 1969; 8:50 a.m.]

INTERSTATE COMMERCE COMMISSION

[No. 34896[1]]

TEXAS INTRASTATE PASSENGER COACH FARES

OCTOBER 7, 1969.

Notice is hereby given that the common carriers by railroad shown below have, through their attorneys, filed a petition with the Interstate Commerce Commission for modification of the outstanding orders of the Commission in these proceedings.

The petitioners point out that effective June 15, 1969, the basic interstate one-way and round-trip first-class fares were increased by 5 percent; that the maximum intrastate passenger fares are fixed by statute of the Legislature of the State of Texas, fares in excess thereof not being subject to the jurisdiction of the regulatory body of that State (Railroad Commission); and that interstate and intrastate passengers are transported on the same trains, the transportation conditions of the one being no more favorable than those in respect to the other. Wherefore, the petitioners pray that this Commission modify the outstanding orders in these proceedings to the extent necessary to enable them to establish and maintain the sought 5 percent increase in first-class passenger fares applicable on intrastate movements within the State of Texas.

The petitioners are: The Atchison, Topeka, and Santa Fe Railway Co.; The Kansas City Southern Railway Co.; Missouri Pacific Railroad Co.; Southern Pacific Co.; and The Texas and Pacific Railway Co.

Any persons interested in any of the matters in the petition may, on or before 30 days from the publication of this notice in the FEDERAL REGISTER, file replies to the petition supporting or opposing the determination sought. An original and 15 copies of such replies must be filed with the Commission and must show service of two copies upon either J. D. Feeney or James W. Nisbet, 280 Union Station Building, Chicago, Ill. 60606. Thereafter, the Commission will proceed to dispose of the instant petition.

Notice of the filing of this petition will be given by publication in the FEDERAL REGISTER.

[SEAL] ANDREW ANTHONY, Jr., *Acting Secretary.*

[F.R. Doc. 69-13482; Filed, Nov. 12, 1969; 8:49 a.m.]

[1] Embraces also: No. 28846, Increases in Texas Rates, Fares, and Charges, and No. 33683, Texas Intrastate Passenger Coach Fares.

Not to be confused with the unopposed petition relating to a similar increase in coach fares filed by the same parties on May 14, 1969, which was assigned the same docket number and titles and subsequently embraced in and granted by order of Sept. 9, 1969, headed Docket No. 11761, Iowa Passenger Fares and Charges.

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 7, 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. 41796—*Alloys or metals from Johnstown, Pa., and Kingwood, W. Va.* Filed by Southwestern Freight Bureau, agent (No. B-95), for interested rail carriers. Rates on alloys or metals, in carloads, as described in the application, from Kingwood, W. Va., to Cypress, Tex., also from Johnstown, Pa., and Kingwood, W. Va., to Bayport, East Baytown, and Houston, Tex.

Grounds for relief—Market competition.

Tariffs—Supplements 222 and 29 to Southwestern Freight Bureau, agent, tariffs ICC 4645 and 4847, respectively.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-13483; Filed, Nov. 12, 1969; 8:49 a.m.]

[Notice 575]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

NOVEMBER 7, 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 42487 (Deviation No. 79), CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From San Jose, Calif., over Interstate Highway 680 to junction Interstate Highway 80 at or near Vallejo, Calif., and (2) from San Jose, Calif., over Interstate Highway 680 to junction California Highway 21 at or near Benecia, Calif., thence over California Highway 21 to junction Interstate Highway 80 at or near Cordelia, Calif., and return over the same routes, 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 Los Angeles, Calif., over U.S. Highway 101 to San Francisco, Calif., (2) from Los Angeles, over U.S. Highway 99 to junction California Highway 152, thence over California Highway 152 to Gilroy, Calif., thence over U.S. Highway 101 to San Jose, Calif., thence over California Highway 17 to Oakland, Calif., thence over U.S. Highway 40 to San Francisco, Calif., (3) from San Francisco, Calif., over U.S. Highway 40 to Wells, Nev., thence over U.S. Highway 93 to Twin Falls, Idaho, (4) from San Francisco, Calif., over U.S. Highway 101 to junction California Highway 37, thence over California Highway 37 to junction California Highway 12, thence over California Highway 12 to Cordelia, Calif., (5) from San Francisco, Calif., over U.S. Highway 101 to Crescent City, Calif., (6) from San Francisco, Calif., over U.S. Highway 40 to junction U.S. Highway 99W near Daves, Calif., thence over U.S. Highway 99W to Red Bluff, Calif. (also from junction U.S. Highway 40 and U.S. Highway 99W over U.S. Highway 40 to Sacramento, Calif., thence over U.S. Highway 99E to Red Bluff), thence over U.S. Highway 99 to Weed, Calif., thence over U.S. Highway 97 to Klamath Falls, Oreg., and (7) from San Francisco, Calif., to Weed, Calif., as specified above, thence over U.S. Highway 99 to Medford, Oreg., and return over the same routes.

No. MC 59583 (Deviation No. 36), THE MASON & DIXON LINES, INCORPORATED, Post Office Box 969, Kingsport, Tenn. 37662, filed October 31, 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 New Market, Va., and Gainesville, Va., over U.S. Highway 211, 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 New Market, Va., over U.S. Highway 11 to Strasburg, Va., thence over Virginia Highway 55 to Gainesville, Va., and return over the same route.

No. MC 61616 (Deviation No. 35) (Cancels Deviation Nos. 33 and 34), MID-WEST BUSLINES, INC., 433 West Washington Ave., North Little Rock, Ark. 72214, filed October 27, 1969. Carrier's representative: Nathaniel Davis, Post Office Box 1188, Little Rock, Ark. 72203. 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: From junction U.S. Highway 64 and Interstate Highway 40, 1.7 miles west of the west city limits of Clarksville, Ark., over Interstate Highway 40 to North Little Rock, Ark., with the following access routes: (1) From junction Interstate Highway 40 and Arkansas Highway 103 over Arkansas Highway 103 to junction U.S. Highway 64, (2) from junction Interstate Highway 40 and Arkansas Highway 315 over Arkansas Highway 315 to junction U.S. Highway 64, (3) from junction Interstate Highway 40 and Arkansas Highway 333 over Arkansas Highway 333 to junction U.S. Highway 64, (4) from junction Interstate Highway 40 and Arkansas Highway 7 over Arkansas Highway 7 to junction U.S. Highway 64, (5) from junction Interstate Highway 40 and Arkansas Highway 331 over Arkansas Highway 331 to junction U.S. Highway 64, (6) from junction Interstate Highway 40 and Arkansas Highway 105 over Arkansas Highway 105 to junction U.S. Highway 64, (7) from junction Interstate Highway 40 and unnumbered access road over unnumbered road to junction U.S. Highway 64 at Blackwell, Ark., (8) from junction Interstate Highway 40 and Arkansas Highway 95 over Arkansas Highway 95 to junction U.S. Highway 64;

(9) From junction Interstate Highway 40 and Arkansas Highway 9 over Arkansas Highway 9 to junction U.S. Highway 64, (10) from junction Interstate Highway 40 and Arkansas Highway 92 over Arkansas Highway 92 to junction U.S. Highway 64, (11) from junction Interstate Highway 40 and unnumbered access road over unnumbered access road to junction U.S. Highway 64 at Menifee, Ark., (12) from junction Interstate Highway 40 and U.S. Highway 64 east of Conway, Ark., over U.S. Highway 64 to junction Arkansas Highway 365 (formerly U.S. Highway 65), (13) from junction Interstate Highway 40 and U.S. Highway 65-B over U.S. Highway 65-B to junction Arkansas Highway 365 (formerly U.S. Highway 65), and (14) from junction Interstate Highway 40 and Arkansas Highway 89 over Arkansas Highway 89 to junction Arkansas Highway 365 (formerly U.S. Highway 65), 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 Fort Smith, Ark., over U.S. Highway 64 to junction U.S. Highway 65, thence over U.S. Highway 65 to junction U.S. Highway 70, thence over US. Highway 70 to Memphis, Tenn., and return over the same route.

No. MC 69833 (Deviation No. 20), ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502, filed October 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 Louisville, Ky., and Cincinnati, Ohio, over Interstate Highway 71, 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 Shelbyville, Ind., over Indiana Highway 9 to junction Indiana Highway 46, thence over Indiana Highway 46, to Columbus, Ind., thence over Alternate U.S. Highway 31 to Seymour, Ind., thence over U.S. Highway 50 to junction U.S. Highway 31, thence over U.S. Highway 31 to Sellersburg, Ind., thence over U.S. Highway 31-W to Louisville, Ky., (2) from Indianapolis, Ind., over U.S. Highway 421 (formerly Indiana Highway 29) to junction Indiana Highway 46, thence over Indiana Highway 46 to Penntown, Ind., thence over Indiana Highway 101 to junction Indiana Highway 48, thence over Indiana Highway 48 to junction U.S. Highway 50, thence over U.S. Highway 50 to Cincinnati, Ohio, and (3) from Penntown, Ind., over Indiana Highway 46 to junction U.S. Highway 52, thence over U.S. Highway 52 to Cincinnati, Ohio, and return over the same route.

No. MC 107109 (Deviation No. 14), INDIANAPOLIS AND SOUTHEASTERN TRAILWAYS, INC., 205 North Senate Ave., Indianapolis, Ind. 46202, filed October 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: From junction Interstate Highway 75 and U.S. Highway 25 at or near Mount Vernon, Ky., over Interstate Highway 75 to junction access road approximately 4 miles north of Corbin, Ky., with the following access route: from London, Ky., over Kentucky Highway 80 to junction Interstate Highway 75, 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 Mount Vernon, Ky., over U.S. Highway 25 to junction access road approximately 4 miles north of Corbin, Ky., a distance of 36 miles, and return over the same route.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 69-13484; Filed, Nov. 12, 1969; 8:49 a.m.]

[Notice 1346]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 7, 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 107715 (Sub-No. 4) (Republication), filed July 24, 1968, published in the FEDERAL REGISTER issue of August 15, 1968, and republished this issue. Applicant: VERNON LIVESTOCK TRUCKING COMPANY, INC., 3308 Bandini Boulevard, Los Angeles, Calif. 90023. Applicant's representatives: Richard Minne and Bob Barker, 609 Luhrs Building, Phoenix, Ariz. 85003. By report and order in the above-entitled proceeding, the Joint Board No. 47 recommended the granting to applicant a certificate of public convenience and necessity, authorizing operation in interstate or foreign commerce as a common carrier by motor vehicle, over irregular routes, of the commodities, to and from points substantially as indicated below. An order of the Commission, Division 1, served September 26, 1969, and effective October 27, 1969, finds that the present and future public convenience and necessity require operation by applicant as a *common carrier* by motor vehicle, in interstate or foreign commerce, of *feeds and fertilizer*, except liquids in bulk, from points in Los Angeles, Orange, Kern, San Bernardino, and Riverside Counties, Calif., except Blythe, Calif., to points in Arizona; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that to the extent that the authority granted herein duplicates authority now held by applicant, it will be construed as conferring but a single grant of authority. Because it is possible that other persons who have relied upon the notice of the publication as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 111401 (Sub-No. 265) (Republication), filed August 29, 1968, published in the FEDERAL REGISTER issue of September 19, 1968, and republished this issue. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, Post Office Box 632, Enid, Okla. 73701. Applicant's representative: Alvin L. Hamilton (same address as applicant). By report and order entered in the above-entitled proceeding, the examiner recommended the granting to applicant a certificate of public convenience and necessity, authorizing operation in interstate or foreign commerce as a common carrier by motor vehicle, over irregular routes, of, the commodities, to, and from points substantially as indicated below. An order of the Commission, Division 1, served September 26, 1969, and effective October 27, 1969, finds that the present and future public convenience and necessity require operation by applicant as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, of *material handling devices*, from the plantsite and storage facilities of Tradewind Industries, Inc., at or near Liberal, Kans., to points in the United States (except Alaska and Hawaii), restricted to shipments originating at said plantsite or storage facilities; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other persons who have relied upon the notice of the application as published would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICES OF FILING OF PETITIONS

No. MC 30657 (Sub-No. 23) (Notice of Filing of Petition for modification of permit), filed October 24, 1969. Petitioner: DIXIE HAULING COMPANY, a corporation, Atlanta, Ga. Petitioner's representative: Monty Schumacher, Suite 310, 2045 Peachtree Road NE., Atlanta, Ga. 30309. Petitioner is authorized in No. MC 30657 Sub-No. 23 to conduct operations as a motor contract carrier, over irregular routes, transporting: Culvert pipe and tanks, from the plantsite of Armco Steel Corp., in Rockdale County, Ga., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee, with no transportation for compensation on return except as otherwise authorized, under a continuing contract, or contracts, with Armco Steel Corp., of Middletown, Ohio. By the instant petition, petitioner requests that said permit be modified authorizing the transportation of pipe and accessories, connections, couplings, and fittings therefor, over irregular routes, from the plantsite of Armco Steel Corp., in Rockdale County, Ga., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee, with no transportation for compensation on return except as otherwise authorized, subject to the following restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts, with Armco Steel Corp., of Middletown, Ohio, and further restricted against the transportation of pipe used in connection with the construction, operation, maintenance, servicing, or dismantling of pipelines as related to the oilfield industry. 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 87720, Subs 26, 27, 29, 36, 37, 42, 56, 61, and 85 (Notice of Filing of Petition Requesting Amendment of Permits To Modify Commodity Description), filed October 6, 1969. Petitioner: BASS TRANSPORTATION CO., INC., Flemington, N.J. Petitioner's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Petitioner serves and has contracts with American Biltrite Rubber Co., Inc. It is authorized to transport hard surface floor coverings and materials and supplies used in the installation thereof when moving in the same vehicle with hard surface floor coverings (Sub 26). Petitioner states that in the other permits, the related materials and supplies authority is not exactly the same, but the intent thereof, is the same. The purpose of this petition is to change the authority which describes "hard surface floor coverings" and remove the words "hard" and "floor", leaving the authority as "surface coverings". 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 93003 (Sub-No. 15) (Notice of Filing of Petition for Waiver of Rule 101(e) for Reopening and Reconsideration), filed September 8, 1969. Petitioner: CARROLL TRUCKING COMPANY, a corporation, 4901 U.S. Route 60, Post Office Box 5455, Huntington, W. Va. Petitioner is authorized, in No. MC 93003 Sub-No. 15, the part here pertinent, to transport mine cars, shovels, scrapers, and scoops and parts thereof, between Huntington, W. Va., on the one hand, and, on the other, points in Tennessee on and east of U.S. Highway 27, those in Virginia on and west of U.S. Highway 219, and those in Pennsylvania on and west of U.S. Highway 219, and those in Ohio on and north of U.S. Highway 40. By the instant petition, petitioner seeks waiver of Rule 101(e), and requests the Commission to issue an appropriate order permitting it to transport separate shipments of parts. 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.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 59120 (Sub-No. 34), filed October 6, 1969. Applicant: EAZOR EXPRESS, INC., Eazor Square, Pittsburgh, Pa. 15201. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, tobacco, liquor, commodities in bulk, those requiring special equipment, and those injurious or contaminating to other lading), between Atlanta, Ga., and Chattanooga, Tenn., over U.S. Highway 41 to Chattanooga and return over the same route, serving (a) the junction of U.S. Highways 41 and 411 at Cartersville, Ga., and (b) Chattanooga, Tenn., for purposes of joinder only; (2) between points in that part of Georgia and Tennessee within 15 miles of Chattanooga, Tenn., including Chattanooga. NOTE: This application is a matter directly related to Docket No. MC-F-10617, published FEDERAL REGISTER issue of October 3, 1969. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D. C.

No. MC 75651 (Sub-No. 68), filed October 16, 1969. Applicant: R. C. MOTOR LINES, INC., 2500 Laura Street, Post Office Box 2501, Jacksonville, Fla. 32203. Applicant's representative: Thomas F. Kilroy, 2111 Jefferson Davis Highway, Arlington, Va. 22202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in Rhode Island. NOTE: Applicant states it intends to tack at points in northern Rhode Island with its presently held authority wherein it is authorized to conduct operations in the States of Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, and the District of Columbia. This application is directly related to MC-F 10641 which was published in the FEDERAL REGISTER issue of October 29, 1969. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 120307 (Sub-No. 4), filed June 19, 1969. Applicant: MORVEN FREIGHT LINES, INC., Post Office Box 718, County Road 1627, Wadesboro, N.C. 28170. Applicant's representatives: Charles B. Ratliff (same address as applicant) and H. P. Taylor, Jr., Anson Professional Building, Wadesboro, N.C. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum, petroleum products, and liquified petroleum gas* in bulk, in tank vehicles, from Wilmington, Morehead City, Beaufort, River Terminal, Thrift, Friendship, and Salisbury, N.C., to points in Anson, Richmond, Scotland, Montgomery, and Union Counties, N.C.; (2) *petroleum, petroleum products, and liquified petroleum gas*, from terminals in Wadesboro, N.C., to points in Anson, Richmond, Scotland, Montgomery, and Union Counties, N.C.; (3) *general commodities* (except those requiring special equipment), between points in Henderson, McDowell, Rutherford, Cleveland, Caldwell, Wilkes, Catawba, Gaston, Iredell, Mecklenburg, Rowan, Cabarrus, Union, Forsyth, Davidson, Stanly, Anson, Rockingham, Guilford, Montgomery, Richmond, Alamance, Durham, Wake, Vance, Johnston, Lee, Cumberland, and New Hanover Counties, N.C.; (4) *prefabricated steel, reinforcing bars, steel pipe, steel windows, finished lumber and construction machinery*, between points in North Carolina; (5) *cotton* in bales, *fertilizer materials and such commodities* as are usually transported in dump trucks, between points in North Carolina; (6) *household goods*, as defined by the Commission, between points in Anson County, N.C., and points in North Carolina; and (7) *sand, gravel and dirt* in containers, from points in Anson County, N.C., to points in North Carolina. NOTE: Applicant states the authority sought will be joined with its existing authority in MC 120307 (Sub-No. 1), wherein it is authorized to operate throughout the State of North Carolina. This is a matter directly related to MC-F-10519, published in the FEDERAL REGISTER issue of July 2, 1969. If a hearing is deemed necessary, applicant requests it be held at Raleigh or Charlotte, N.C.

No. MC 123685 (Sub-No. 4), filed October 15, 1969. Applicant: PEOPLES CARTAGE, INC., 8045 Navarre Road SW., Massillon, Ohio. Applicant's representative: James Muldoon, 88 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, classes A and B explosives, commodities requiring special equipment, those injurious or contaminating to other lading), (a) between points in Franklin County, Ohio, on the one hand, and, on the other, points in Ohio, and (b) between points in Stark County, Ohio, points in Brown Township, Carroll County, Ohio, points in that part of Smith Township, Mahoning County, Ohio, on and west of Bandy Road, and points in that part of Green Township, Summit County, Ohio, on and south of Greensburg Road and on and east of U.S. Highway 241, on the one hand, and, on the other, points in Ohio; (2) *building materials, clay products, and commodities in bulk*, in dump trucks, between points in Wayne County, Ohio, except Wooster, Ohio, on the one hand, and, on the other, points in Ohio; (3) *Commodities*, in bulk, in dump trucks, between points in Cuyahoga County, Ohio, on the one hand, and, on the other, points in Ohio; (4) *Commodities*, in bulk, in dump trucks, except lime and sand, between Mansfield, Ohio, and Springfield Township, Monroe Township, and Sharon Township, Richland County, Ohio, on the one hand, and, on the other, points in Ohio. NOTE: Applicant states that joinder with authority sought for purchase in related section 5(2) application could occur at points in Ohio within 10 miles of Wheeling, W. Va., to permit service between applicant's Ohio points and specified points in Pennsylvania and West Virginia. Applicant further states that it presently holds the entire authority set forth above under MC 123685 Subs 2 and 3 in accordance with the provisions of section 206(a)(7) and is seeking conversion of the same to certificates of public convenience and necessity. This application is a matter directly related to Docket No. MC-F-10637, published FEDERAL REGISTER issue of October 22, 1969. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

TRANSFER APPLICATIONS TO BE ASSIGNED FOR ORAL HEARING

MC-FC-71498. Authority sought by transferee, NYPENN DISTRIBUTION LINES, INC., 1285 William Street, Buffalo, N.Y. 14206, for purchase of a portion of the operating rights of transferor, PETER P. DECASPER, JR., AND HERMAN DECASPER, a partnership, doing business as DECASPER DELIVERY, Post Office Box 230, Bradford, Pa. 16701. Applicants' representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Operating rights in certificate No. MC-120449 (Sub-No. 5) sought to be transferred: General commodities, usual expections, between Honeoye, N.Y., points in Livingston County, N.Y. (except Retsof), and points in Wyoming County, N.Y. (except Silver Springs), on the one hand, and, on the other, points in McKean County, Pa., and points in that part of Pennsylvania on and south and west of a line beginning at the Ohio-Pennsylvania State line and extending eastward along U.S. Highway 422 to junction U.S. Highway 219 at or near Ebensburg, Pa., and thence south along U.S. Highway 219 from Ebensburg, Pa., to the Maryland-Pennsylvania State line.

MC-FC-71499. Authority sought by transferee, NYPENN DISTRIBUTION LINES, INC., 1285 William Street, Buffalo, N.Y. 14206, for purchase of the operating rights of transferor, ANTHONY H. SANTIAGO, doing business as BISON CITY CARTAGE CO., 1285 William Street, Buffalo, N.Y. 14206. Applicants' representative: Raymond A. Richards, registered practitioner, 23 West Main Street, Webster, N.Y. 14580. Operating rights in certificate No. MC-119449 sought to be transferred: Meats, meat products and byproducts, dairy products, packinghouse products, frozen foods, canned goods, live lobsters, candy, confections, and confectionary products, from Buffalo, N.Y., to points in Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Cortland, Erie, Genesee, Livingston, Monroe, Niagara, Onondaga, Ontario, Orleans, Oswego, Schuyler, Seneca, Stueben, Tioga, Tompkins, Wayne, Wyoming, and Yates Counties, N.Y., varying with the commodity involved, and to points in Bradford, Cameron,

Crawford, Erie, Elk, Forest, McKean, Mercer, Potter, Susquehanna, Tioga, Venango, and Warren Counties, Pa., varying with the commodity involved.

MC-FC-71500. Authority sought by transferee, DeCASPER BROS. FREIGHT LINES, INC., 5 River Street, Bradford, Pa. 16701, for purchase of a portion of the operating rights of transferor, PETER P. DeCASPER, JR., AND HERMAN DeCASPER, a partnership, doing business as DeCASPER DELIVERY, Post Office Box 230, Bradford, Pa. 16701. Applicants' representative: Raymond A. Richards, 23 West Main Street, Webster, N.Y. 14580. Operating rights in Certificates Nos. 120449 (Sub-No. 2) and MC-120449 (Sub-No. 3) sought to be transferred: General commodities, with usual exceptions and except brick, tile, and clay products, between Bradford, Farmers Valley, and Kane, Pa., and between Bradford, Farmers Valley, and Kane, Pa., on the one hand, and, on the other, points in McKean County, Pa., and points in that part of Warren County, Pa., located north and east of a line beginning at the New York-Pennsylvania State line and extending south along U.S. Highway 62 to junction U.S. Highway 6, and thence southeast along U.S. Highway 6 through Sheffield, Pa., to Warren County-McKean County line, including points on the highways named; general commodities, with usual exceptions, between Jamestown, N.Y., and Bradford, Pa., serving no intermediate points, but serving the off-route points of Farmers Valley and Kane, Pa., and composition cans and closures for composition cans, from the plantsite of R. C. Can Co., at Bradford, Pa., to Dundee, N.Y.

The above-entitled transfer applications filed under section 212(b) of the Interstate Commerce Act are to be assigned for hearing at a time and place to be fixed for the purpose of determining, among other things, whether common control of transferors and/or C. H. Bromley Motor Lines, Inc., may have been effectuated in violation of section 5(4) of the Act; whether the proposed transfers are within the exemption of section 5(10) of the Act, and, if so, whether the applications satisfy the Rules and Regulations Governing Transfers of Rights to Operate as a Motor Carrier in Interstate or Foreign Commerce, 49 CFR Part 1132. Interested persons have 30 days from the date of this publication in which to file petitions for leave to intervene. Such petitions should state the reason or reasons for the intervention, where the petitioner wishes the hearing to be held, the number of witnesses it expects to present, and the estimated time required for presentation of its evidence.

Applications Under Sections 5 and 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR Part 240).

Motor Carriers of Property

No. MC-F-10648. Authority sought for control and merger by BURNHAM VAN SERVICE, INC., 1636 Second Avenue, Columbus, Ga. 31902, of the operating rights and property of B & B SERVICES, INC., 821 Joy Road, Columbus, Ga. 31906, and for acquisition by B. LeROY BURNHAM, and B. E. REESE, both also of 1636 Second Avenue, Columbus, Ga. 31902, of control of such rights and property through the transaction. Applicants' attorney: Wade H. Tomlinson, Post Office Drawer 160, Columbus, Ga. 31902. Operating rights sought to be controlled and merged: (The issuance of a certificate is being withheld until Commission approval of common control under section 5(2) of the Act is obtained.) In pending Docket No. MC-126811 Sub-1, covering the transportation of used household goods, as a common carrier, over irregular routes, between Columbus, Ga., on the one hand, and, on the other, points in Muscogee and Chattahoochee Counties, Ga., and Chambers, Lee, and Russell Counties, Ala., with restrictions. BURNHAM VAN SERVICE, INC., is authorized to operate as a *common carrier* in all States in the United States (except Alaska), and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10649. Authority sought for purchase by WESTERN GILLETTE, INC., 2550 East 28th Street, Los Angeles, Calif. 90058, of the operating rights of JOHN W. SNAPE, INC., 701 May Street, Geneva, Ill., and for acquisition by DONALD E. CANTLAY, as VOTING TRUSTEE, also of Los Angeles, Calif., of control of such rights through the purchase. Applicants' attorneys: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603, and Theodore W. Russell, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-98808 Sub-1, covering the transportation of general freight and paper, as a common carrier, in intrastate commerce within the State of Illinois. Vendee is authorized to operate as a *common carrier* in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Indiana, Illinois, Kansas, Michigan, Louisiana, Maryland, Iowa, Missouri, Montana, New Mexico, New York, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, and Wyoming. Application has been filed for temporary authority under section 210a(b). Note: Docket No. MC-8948 Sub-90 is a matter directly related.

No. MC-F-10650. Authority sought for purchase by EE-JAY MOTOR TRANSPORTS, INC., 15th and Lincoln, East St. Louis, Ill. 62206, of a portion of the operating rights of L. A. TUCKER TRUCK LINES, INC., Post Office Box 538, Cape Girardeau, Mo. 63701, and for acquisition by EDWARD J. DOUGHERTY, also of East St. Louis, Ill., of control of such rights through the purchase. Applicants' attorney and representative: Mr. Ernest Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101 and G. M. Redman, 314 North Broadway, St. Louis, Mo. 63102. Operating rights sought to be transferred: *Calcium, carbonate of lime, and limestone*, in bulk, in hopper type equipment, as a *common carrier* over irregular routes, from Sainte Genevieve, Mo., to points in Illinois (except those in Madison County, Ill.). Vendee is authorized to operate as a *common carrier* in Illinois, Indiana, Arkansas, Iowa, Kansas, Kentucky, Missouri, Nebraska, Tennessee, Minnesota, Oklahoma, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10651. Authority sought for purchase by CARTWRIGHT VAN LINES, INC., 4411 East 119th Street, Grandview, Mo. 64030, of the operating rights of JUDITH L. McKEEVER, doing business as WEBSTER VAN LINES, 4411 East 119th Street, Grandview, Mo. 64030, and for acquisition by WILLIAM F. CARTWRIGHT, JESSIE MAY CARTWRIGHT, WILLIAM F. CARTWRIGHT, Jr., THOMAS W. CARTWRIGHT, and MICHAEL CARTWRIGHT, all also of Grandview, Mo., of control of such rights through the purchase. Applicants' attorney: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, as a *common carrier*, over irregular routes, between points in Weber County, Utah, on the one hand, and, on the other, certain specified points in Idaho and Wyoming. Vendee is authorized to operate as a *common carrier* in all points in the United States (except Nevada, New Mexico, Alaska, and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-10652. Authority sought for purchase by CARTWRIGHT VAN LINES, INC., 4411 East 119th Street, Grandview, Mo. 64030, of (1) the operating rights of R. H. OZMER, doing business as ATLANTIC TRANSFER COMPANY, 236 West 25th Street, Norfolk, Va. 23501, and (2) a portion of the operating rights of C. R. BOWLBY & SON, INC., Buena Vista Road, Somerville, Mass., and for acquisition by WILLIAM F. CARTWRIGHT, JESSIE MAY CARTWRIGHT, WILLIAM F. CARTWRIGHT, Jr., THOMAS W. CARTWRIGHT, and MICHAEL CARTWRIGHT, all also of Grandview, Mo., of control of such rights through the purchases. Applicants' attorney: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Operating rights sought to be transferred: (1) *Household goods* as defined by the Commission as a *common carrier*, over irregular routes, between Wallace, N.C., and points in North Carolina within 100 miles thereof, and those in Virginia and South Carolina; and (2) *household goods*, as defined by the Commission, as a *common carrier*, over irregular routes,

between points in Missouri, Illinois, Indiana, Ohio, Pennsylvania, New York, and the District of Columbia, and those in Maryland and Virginia within 10 miles of the District of Columbia. Vendee is authorized to operate as a *common carrier* in all points in the United States (except Nevada, New Mexico, Alaska, and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10653. Authority sought for purchase by IML FREIGHT, INC., 2175 South 3270 West, Post Office Box 2277, Salt Lake City, Utah 84110, of a portion of the operating rights of GRATALE BROTHERS, INC., 461 River Road, Clifton, N.J. 07011, and for acquisition by GATES CORPORATION, and, in turn by THE GATES RUBBER COMPANY, both of 999 South Broadway, Denver, Colo., of control of such rights through the purchase. Applicants' attorneys: Axelrod, Goodman and Steiner, 39 South LaSalle Street, Chicago, Ill. 60603. Operating rights sought to be transferred: *General commodities*, except those of unusual value and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier*, over irregular routes, between New York, N.Y., and points in Essex, Union, Hudson, Bergen, Passaic, Morris, and Middlesex Counties, N.J., on the one hand, and, on the other, points in that part of New York east of a line beginning at Port Jervis, N.Y., and extending along U.S. Highway 209 to Kingston, thence along U.S. Highway 9W to Albany, thence along U.S. Highway 9 to junction New York Highway 67, and south of a line extending along New York Highway 67 to the New York-Vermont State line, and those in New Jersey. Vendee is authorized to operate as a *common carrier* in Utah, Colorado, Wyoming, Nevada, Nebraska, California, Illinois, Iowa, Arizona, Idaho, Kansas, Missouri, Oregon, Ohio, Kentucky, Indiana, Washington, Pennsylvania, New York, Connecticut, New Jersey, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-10654. Authority sought for purchase by GEM CITY TRANSFER LINE, INC., 1811 North 30th Street, Quincy, Ill. 62301, of a portion of the operating rights and certain property of WARSAW TRUCKING CO., INC., 1102 West Winona, Warsaw, Ind. 46580. Applicants' attorney: Robert A. Sullivan, 1800 Buhl Building, Detroit, Mich. 48226. Operating rights sought to be transferred: *Such commodities* as are sold by retail mail order houses, as a *common carrier*, over irregular routes, from Quincy, Ill., to points in Illinois, Missouri, Iowa, and Wisconsin. Vendee is authorized to operate as a *common carrier* in Illinois, Missouri, and Iowa; and as a *contract carrier* in Illinois and Missouri. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 69-13485; Filed, Nov. 12, 1969; 8:49 a.m.]

[Notice 1348]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

NOVEMBER 7, 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

The applications immediately following are assigned for hearing at the time and place designated in the notice of filing as here published in each proceeding. All of the proceedings are subject to the special rules of procedure for hearing outlined below:

Special rules of procedure for hearing. (1) All of the testimony to be adduced by applicant's company witnesses shall be in the form of written statements which shall be submitted at the hearing at the time and place indicated.

(2) All of the written statements by applicant's company witnesses shall be offered in evidence at the hearing in the same manner as any other type of evidence. The witnesses submitting the written statements shall be made available at the hearing for cross-examination, if such becomes necessary.

(3) The written statements by applicant's company witnesses, if received in evidence, will be accepted as exhibits. To the extent the written statements refer to attached documents such as copies of operating authority, etc., they should be referred to in written statement as numbered appendices thereto.

(4) The admissibility of the evidence contained in the written statements and the appendices thereto, will be at the time of offer, subject to the same rules as if the evidence were produced in the usual manner.

(5) Supplemental testimony by a witness to correct errors or to supply inadvertent omissions in his written statement is permissible.

No. MC 82492 (Sub-No. 30), filed November 3, 1969. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 693 Plymouth Avenue NE., Grand Rapids, Mich. 49505. Applicant's representative: William C. Harris (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 and articles*, distributed by meat packinghouses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except commodities in bulk in tank vehicles and except hides, from points in the Omaha, Nebraska-Council Bluffs, Iowa, commercial zone, to points in Indiana, Michigan, and Ohio, restricted to traffic originating at points in the Omaha, Nebraska-Council Bluffs, Iowa, commercial zone. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. *HEARING*: December 1, 1969, at the Sheraton-Fontenelle Hotel, 1806 Douglas Street, Omaha, Nebr., before Examiner James O'D Moran.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 69-13486; Filed, Nov. 12, 1969; 8:49 a.m.]

[Notice 938]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 7, 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 Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 29919 (Sub-No. 19 TA), filed October 23, 1969. Applicant: KOWALSKY'S EXPRESS SERVICE, 2235 West Main Street, Millville, N.J. 08332. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, and closures therefor*, from Lakewood, Ocean County, N.J., to Suffern,

N.Y.; Pearl River, N.Y., points in Nassau and Suffolk Counties, N.Y., point in Connecticut, points in Pennsylvania, Maryland, and Delaware, bounded by a line beginning at Easton, Pa., thence over U.S. Highway 22 to Allentown, Pa., thence over U.S. Highway 222 to Lancaster, Pa., thence over U.S. Highway 30 to the east bank of the Susquehanna River, thence along U.S. Highway 1 to Baltimore, Md., thence southeast across Chesapeake Bay to Centerville, Md., Carville, Md., and Ingleside, Md., to the Delaware State line at or near Marydel, Md., thence over Delaware Highway 8 to Dover, Del., thence along the Delaware River to Easton, Pa., and the point of beginning, including all points on the described line; *pallets and containers*, used in the transportation of and returned shipments of the commodities specified above, from points in the above-described territory to Lakewood, N.J., for 180 days. NOTE: Applicant will accept no tacking restriction. Supporting shipper: Wheaton Plastics Co., Mays Landing, N.J. 08330. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 410 Post Office Building, Trenton, N.J. 08608.

No. MC 71452 (Sub-No. 7 TA), filed November 3, 1969. Applicant: INDIANA TRANSIT SERVICE, INC., 4300 West Morris Street, Indianapolis, Ind. 46241. Applicant's representative: H. J. Noel (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), restricted to shipments having a prior or subsequent movement by aircraft, between the Weir-Cook Municipal Airport (near Indianapolis, Ind.), on the one hand, and, on the other, points in Allen, Whitley, Huntington, Kosciusko, Wells, Jefferson, Adams, and Ripley Counties, Ind., for 180 days. Supporting shippers: There are approximately 29 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, Ind. 46204.

No. MC 110525 (Sub-No. 939 TA), filed November 3, 1969. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Edwin H. van Deusen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adipic acid*, dry, in bulk, from Belle, W. Va., to Perth Amboy, N.J., for 150 days. Supporting shipper: E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 900 U.S. Customhouse, Second and Chestnut Streets, Philadelphia, Pa. 19106.

No. MC 114115 (Sub-No. 21 TA), filed November 3, 1969. Applicant: TRUCK-WAY SERVICE, INC., 1099 Oakwood Boulevard, Detroit, Mich. 48217. Applicant's representative: James R. Stiverson, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from Manistee, Mich., to points in Illinois and Indiana, for 180 days. Supporting shipper: Hardy Salt Co., 800 South Vandeventer Avenue, St. Louis, Mo. 63166. Send protests to: Gerald J. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell Street, Detroit, Mich. 48226.

No. MC 117686 (Sub-No. 108 TA), filed October 31, 1969. Applicant: HIRSCHBACH MOTOR LINES, INC., 3324 Highway 75 North, Sioux City, Iowa 51103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and/or packaged animal feed*, when moving in the same vehicle and at the same time with shipments of canned goods (presently authorized), from the plantsite and/or warehouse facilities of Mavar Shrimp & Oyster Co., Ltd., at or near Biloxi, Miss., to points in Kansas, Nebraska, Missouri (except St. Louis, Mo., and points in its commercial zone), Iowa, and Arkansas, for 180 days. Supporting shipper: Mavar Shrimp & Oyster Co., Ltd., Biloxi, Miss. 39533. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 304 Post Office Building, Sioux City, Iowa 51101.

No. MC 125770 (Sub-No. 5 TA), filed November 3, 1969. Applicant: SPIEGEL TRUCKING, INC., 504 Essex Street, Harrison, N.J. 07029. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel office furniture and equipment* for the account of Hillside Metal Products, Inc., from Newark, N.J., to Savannah, Ga., for 180 days. Supporting shipper: Hillside Metal Products, Inc., 300 Passaic Street, Newark, N.J. 07104. Send protests to: District Supervisor Walter J. Grossmann, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, N.J. 07102.

No. MC 127274 (Sub-No. 18 TA), filed October 31, 1969. Applicant: SHERWOOD TRUCKING, INC., 1517 Hoyt Avenue, Muncie, Ind. 47302. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and closures therefor*, from Dunkirk, Ind., to points in Arkansas, Georgia, Mississippi, North Carolina, and South Carolina, for 180 days. Supporting shipper: Kerr Glass Manufacturing Corp., Packaging Products Division, Lancaster, Pa. 17604. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, Ind. 46802.

No. MC 127349 (Sub-No. 3 TA) (Correction), filed October 6, 1969, and published in the FEDERAL REGISTER issue of October 16, 1969, and October 28, 1969, and republished as corrected, this issue. Applicant: GLENN DAVIS AND DON R. DAVIS, a partnership, doing business as DAVIS BROS., Post Office Box 962, Missoula, Mont. 59801. Applicant's representative: John P. Thompson, 450 Capitol Life Building, East 16th Avenue, at Grant, Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Stone, refractories, brick, and tile, and related masonry* items when moving in mixed shipments with brick and tile, from points in Colorado to points in Montana; (b) *stone, brick, tile, lime, and manufactured concrete building products*, from points in Utah to points in Montana; and (c) *stone and sand*, from points in Idaho to points in Montana; all under a continuing contract with Forzley Sales, Inc., Great Falls, Mont., for 180 days. NOTE: The purpose of this republication is to change (a) above. Supporting shipper: Forzley Sales Co., Post Office Box 2870, 930 Riverdrive South, Great Falls, Mont. 59401. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 251 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 133741 (Sub-No. 4 TA), filed October 31, 1969. Applicant: OSBORNE TRUCKING CO., INC., 1008 Sierra Drive, Riverton, Wyo. 82501. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in or in connection with the manufacturing of concrete products, between Riverton, Wyo., on the one hand, and on the other hand, Butte, Glasgow, Great Falls, Helena, and Billings, Mont.; Minot, Williston, Bismarck, and Jamestown, N. Dak.; Watertown, Rapid City, and Mitchell, S. Dak.; Windom, Austin, Crookston, Chester, Olivia, Elk River, Duluth, and Fergus Falls, Minn.; Hampton, Cedar Rapids, and Des Moines, Iowa, for 180 days. Supporting shipper: Riverton Concrete Products, Division of The Cretex Companies Inc., Post Office Box 452, Riverton, Wyo. 82501. Send protests to: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Bureau of Operations, 259 South Center Street, Casper, Wyo. 82601.

No. MC 134135 TA, filed November 3, 1969. Applicant: WOODROW W. GLIDEWELL, doing business as ACTION VAN & STORAGE, Post Office Box 135, Santa Maria, Calif. 93454. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, Calif.

90027. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in San Luis Obispo and Santa Barbara Counties, Calif., for 180 days. Supporting shipper: Lyon Van & Storage Co., 1950 South Vermont Avenue, Los Angeles, Calif. 90007. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90006.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 69-13487; Filed, Nov. 12, 1969; 8:50 a.m.]

[Notice 443]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 7, 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.

F.D. No. 25493. By order of October 31, 1969, Division 3, acting as an Appellate Division, on reconsideration, approved the transfer to Brusco Towboat Co., a corporation, Cathlamet, Wash., of the water carrier operating rights in the second amended certificate and order in No. W-71 issued May 22, 1958, to Roland Brusco, doing business as Brusco Towboat Co., Cathlamet, Wash., authorizing the performance of general towage, as a common carrier by towing vessels, in interstate commerce, between ports and points along the Willamette River and tributaries below and including Portland, Oreg., and the Columbia River and Tributaries from Vancouver, Wash., to Wauna, Oreg., inclusive. Alex L. Parks, Parks, Teiser and Norrell, 710 Morgan Building, Portland, Oreg. 97205, attorney for applicants.

No. MC-FC-71667. By order of October 30, 1969, the Motor Carrier Board approved the transfer to E. R. Jarrell, Pittsburgh, Pa.; of permit in No. MC-19917, issued October 12, 1949, to Arthur B. Jarrell, Pittsburgh, Pa.; authorizing the transportation of: Oysters, fish, prepared food products, and advertising matter and stationery used or useful in the sale of such products, and packinghouse products, from, to, or between, specified points in Maryland, Pennsylvania, Massachusetts, and Washington, D.C. Frank R. Bolte, 302 Frick Building, Pittsburgh, Pa. 15219, attorney for applicants.

No. MC-FC-71691. By order of October 30, 1969, the Motor Carrier Board approved the transfer to Rosa Mae Keys, Arlington, Va., of the operating rights in permits Nos. MC-126966 (Sub-No. 1) and MC-126966 (Sub-No. 3) issued April 26, 1966, and October 18, 1968, respectively, to Grady A. Lanning, Arlington, Va., authorizing the transportation, over irregular routes, of sand and gravel from the plantsite of the Davis Sand & Gravel Co., near Clinton, Md., to Arlington and Franconia, Va., restricted to service performed under contracts with a named shipper. L. Agnew Myers, Jr., 1122 Warner Building, Washington, D.C. 20004, attorney for applicants.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 69-13488; Filed, Nov. 12, 1969; 8:50 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

NOVEMBER 7, 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. M-1062, filed October 11, 1969. Applicant: JAMES R. CLARK, Crosby, N. Dak. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, excluding liquids and cement in bulk as follows: U.S. Highway 52 Northwest of Minot, N. Dak., to junction of State Highway 8, thence north to Northgate, N. Dak., thence west to Montana and North Dakota border, thence south to Westby, N. Dak., thence east on State Highway 5 to junction U.S. Highway 85, thence south to junction State Highway 50, thence east on State Highway 50 and county road to junction U.S. Highway 52, serving all intermediate points on said highways and the points of Kenaston, located on Ward County Road W-2; Niobe, located on Ward County Road W-2a; Ambrose, located on North Dakota State Highway 42; Colgan, located on Divide County Road 2; Lignite, located on Burke County Road 11; Wildrose, located on Williams County Road 17; and Coteau, located on a township road off from North Dakota Highway 8. 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 North Dakota Service Commission, Bismarck, N. Dak. 58501, and should not be directed to the Interstate Commerce Commission.

State Docket No. 2395, filed September 11, 1969. Applicant: CURRY MOTOR FREIGHT LINES, INC., 700 Northeast Third Street, Amarillo, Tex. 79105. Applicant's representative: Richard Craig, 900 Perry-Brooks Building, Austin, Tex. 78701. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, (1) to, from, and between Midland, Tex., and San Angelo, Tex., via Texas Highway 158 and U.S. Highway 87, serving all intermediate points, and serving all Government installations and industrial plants whose main access is from the described highways, and coordinating this authority with all other existing authority; and (2) to, from, and between Robert Lee, Tex., and San Angelo, Tex., via Texas Highway 158 from Robert Lee to Ballinger, Tex., U.S. Highway 83 from Ballinger to Menard, Tex., and U.S. Highway 87 from Eden to San Angelo, Tex., serving all intermediate points, and serving all Government installations and industrial plants whose main access is from the described highways, and coordinating this authority with all other existing authority. 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 Railroad Commission of Texas, Transportation Division, Capitol Station, Post Office Drawer EE, Austin, Tex. 78711, and should not be directed to the Interstate Commerce Commission.

State Docket No. A 51435, filed October 17, 1969. Applicant: SMITH TRANSPORTATION CO., a corporation, 731 South Lincoln Street, Santa Maria, Calif. 93454. Applicant's representative: Donald Murchison, 211 South Beverly Drive, Beverly Hills, Calif. 90212. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of general commodities, with the usual exceptions: (A) between all points and places in the Los Angeles Region (as described in paragraph (C) below), on the one hand; and Paso Robles and Cambria and all points and places on and along U.S. Highways Nos. 101 (Interstate No. 5) and 101A (Interstate No. 405), State Highways Nos. 1, 118, 126, 150, and 246, including service to all points and places within 10 miles laterally of said named highways, on the other hand; (B) to, from, and between all intermediate points and places between the said Los Angeles Region, on

the one hand, and Paso Robles and Cambria, on and along U.S. Highways Nos. 101 (Interstate No. 5) and 101A (Interstate No. 405), State Highways Nos. 1, 23, 118, 126, 150, and 246, and all points within 10 miles laterally of said highways, on the other hand; (C) Los Angeles Region includes that area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and U.S. Highway No. 101 Alternate; northeasterly on Sunset Boulevard to State Highway No. 7 northerly along State Highway No. 7 to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Los Angeles National Forest Boundary; southeasterly and easterly along the Los Angeles National Forest to the Los Angeles County line; southerly along the Los Angeles County line to its intersection with State Highway No. 71; southerly along State Highway No. 71 to State Highway No. 91; westerly along State Highway No. 91 to State Highway 55; southerly on State Highway 55 to the Pacific Ocean; thence northwesterly along the shoreline of the Pacific Ocean to point of beginning. 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.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 69-13489; Filed, Nov. 12, 1969; 8:50 a.m.]

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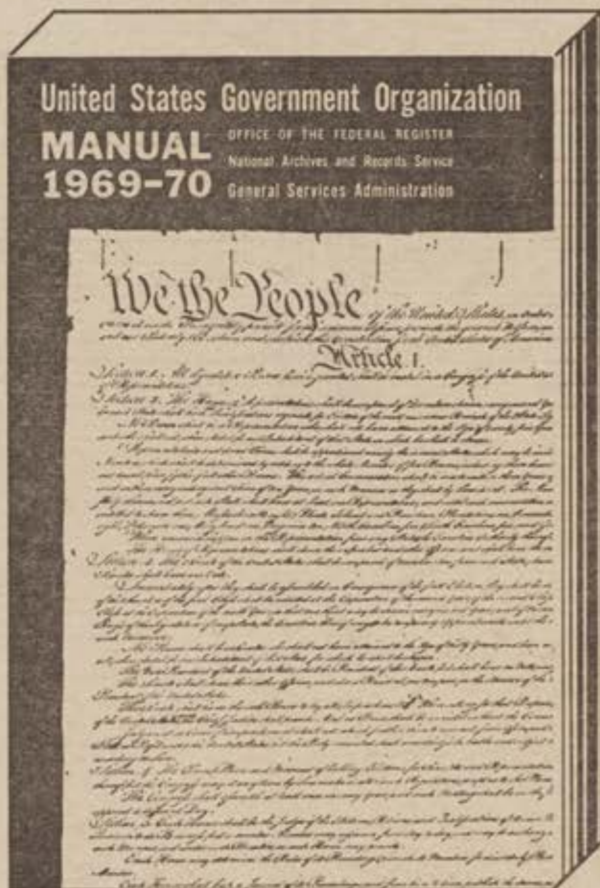

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