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Proclamation 3983

WORLD TRADE WEEK, 1970

By the President of the United States of America

A Proclamation

World trade is a major stimulus to international understanding and to economic growth—in our nation and in other nations of the world. Both the peace and the prosperity of our planet will be considerably enhanced in the 1970s by a continuing expansion of international trade.

The United States can contribute to that expansion in several ways. We must be sure that our industries and businesses are ready and able to compete in international markets. We must continue to develop trade policies which encourage freer exchange—policies such as I outlined in a message to the Congress last fall. And we must also be sure that our entire economy is as strong and as sound as possible.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim the week beginning May 17, 1970, as World Trade Week, and I request that appropriate Federal, State and local officials cooperate in observing that week.

I urge that the people of the United States participate during World Trade Week in activities which will promote continuing awareness of the importance of world trade to our own economy and to our relations with other nations.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of May, in the year of our Lord nineteen hundred and seventy, and of the Independence of the United States of America, the one hundred and ninety-fourth.

Richard Nixon

[F.R. Doc. 70-5651; Filed, May 5, 1970; 11:15 a.m.]

Rules and Regulations

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f), Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

1. In § 76.2, in paragraph (e)(24) relating to the State of Indiana, a new subdivision (iii) relating to Cass County, and a new subdivision (iv) relating to Carroll County are added to read:

(24) *Indiana.* * * *

(iii) That portion of Cass County comprised of Clinton Township.

(iv) That portion of Carroll County comprised of Rock Creek, Liberty, Washington, Deer Creek, Jackson, Carrollton, Monroe, and Madison Townships.

2. In § 76.2, in paragraph (e)(20) relating to the State of Virginia, subdivision (x) relating to Southampton and Isle of Wight Counties, and subdivision (xi) relating to Rockingham County are amended to read:

(20) *Virginia.* * * *

(x) The adjacent portions of Isle of Wight and Southampton Counties bounded by a line beginning at the junction of Secondary Highways 620 and 646; thence, following Secondary Highway 646 in a southeasterly direction to Secondary Highway 644; thence, following Secondary Highway 644 in a southwesterly direction to Secondary Highway 646; thence, following Secondary Highway 646 in a southeasterly direction to Secondary Highway 638; thence, following Secondary Highway 638 in a southwesterly direction to Secondary Highway 603; thence, following Secondary Highway 603 in a generally southwesterly direction to Secondary Highway 635; thence, following Secondary Highway 635 in a generally northeasterly direction to Secondary Highway 620; thence, following Secondary Highway 620 in a generally easterly direction to its junction with Secondary Highway 646.

(xi) That portion of Rockingham County bounded by a line beginning at the junction of Secondary Highways 659 and 689; thence, following Secondary Highway 689 in a southwesterly direction to Secondary Highway 679; thence, following Secondary Highway 679 in a southeasterly direction to Secondary Highway 681; thence, following Secondary Highway 681 in a southwesterly direction to Secondary Highway 682; thence, following Secondary Highway 682 in a northwesterly direction to Primary Highway 257; thence, following Primary Highway 257 in a northwesterly direction to Primary Highway 42; thence, following Primary Highway 42 in a northeasterly direction to the Bridgewater city limits; thence, following the Bridgewater city limits in a northwesterly direction to Secondary Highway 738; thence, following Secondary Highway 738 in a northerly direction to Primary Highway 257; thence, following Primary Highway 257 in a northwesterly direction to Secondary Highway 742; thence, following Secondary Highway 742 in a generally northerly direction to Secondary Highway 613; thence, following Secondary Highway 613 in a northeasterly direction to Secondary Highway 732; thence, following Secondary Highway 732 in a northwesterly direction to U.S. Highway 33; thence, following U.S. Highway 33 in an easterly direction to Secondary Highway 612; thence, following Secondary Highway 612 in a northeasterly direction to Secondary Highway 726; thence, following Secondary Highway 726 in a generally southeasterly direction to Secondary Highway 701; thence, following Secondary Highway 701 in a southerly direction to Primary Highway 42; thence, following Primary Highway 42 in a northeasterly direction to the Harrisonburg city limits; thence, following the Harrisonburg city limits in a generally southeasterly direction to Secondary Highway 726; thence, following Secondary Highway 726 in a southeasterly direction to Secondary Highway 659; thence, following Secondary Highway 659 in a southeasterly direction to its junction with Secondary Highway 689.

3. In § 76.2, in paragraph (e)(19) relating to the State of Texas, subdivision (i) is amended to read:

(19) *Texas.* (i) Dallas and Henderson Counties.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendments shall become effective upon issuance.

The amendments quarantine portions of Cass and Carroll Counties in Indiana, and portions of Rockingham, Southampton, and Isle of Wight Counties in Virginia because of the existence of hog cholera. This action is deemed necessary to prevent further spread of the disease. The restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will apply to such counties.

The amendments also exclude Fayette County, Tex., from the areas heretofore quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded area, but will continue to apply to the quantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement from nonquarantined areas contained in said Part 76 will apply to the area excluded from quarantine.

Insofar as the amendments impose certain further restrictions necessary to prevent the interstate spread of hog cholera they must be made effective immediately to accomplish their purpose in the public interest. Insofar as they relieve restrictions, they should be made effective promptly in order to be of maximum benefit to affected persons.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C. this 30th day of April, 1970.

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

[F.R. Doc. 70–5489; Filed, May 5, 1970; 8:46 a.m.]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, the Act of September 6, 1961, and the Act of July 2, 1962 (21 U.S.C. 111–113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f),

Part 76, Title 9, Code of Federal Regulations, restricting the interstate movement of swine and certain products because of hog cholera and other communicable swine diseases, is hereby amended in the following respects:

In § 76.2, in paragraph (e)(20) relating to the State of Virginia, subdivision (viii) relating to Orange County is deleted.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended, sec. 1, 75 Stat. 481, secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111, 112, 113, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended)

Effective date. The foregoing amendment shall become effective upon issuance.

This amendment excludes a portion of Orange County, Va., from the areas heretofore quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded area, but will continue to apply to the quarantined areas described in § 76.2. Further, the restrictions pertaining to the interstate movement from nonquarantined areas contained in said Part 76 will apply to the excluded area.

The amendment relieves certain restrictions presently imposed and must be made effective immediately to be of maximum benefit to affected persons. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 30th day of April 1970.

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

[F.R. Doc. 70–5540; Filed, May 5, 1970; 8:50 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 9653; Amdts. Nos. 25–24; 91–76; 121–60]

REQUIREMENTS FOR ATTITUDE INSTRUMENT REPLACEMENT OF RATE-OF-TURN INDICATOR

The purpose of these amendments to Parts 25, 91, and 121 of the Federal Aviation Regulations is to require that the third attitude indicating instrument system be capable of providing reliable reference through 360° of pitch and 360° of roll when that instrument replaces the gyroscopic rate-of-turn indicator, as authorized by Amendments 25–22, 91–71, and 121–57 (35 F.R. 304).

In adopting those amendments, the FAA reached the conclusion, and all commentators apparently agreed, that in large transport category airplanes the rate-of-turn indicator is no longer as useful as an instrument which gives both horizontal and vertical information. However, for such a conclusion to be valid, in those cases in which the third attitude indicating system is to be used as a replacement for a gyroscopic rate-of-turn instrument, it must be capable of reliable reference through 360° of pitch and roll so it can be used for recovery from extreme attitudes. While such a requirement is deemed essential for reasons of safety, it is not expressly stated in the rule prescribed in Amendments 25–22, 91–71, and 121–57. This clarifying amendment makes such a requirement explicit.

In addition to the use of full range gyroscopic attitude instruments, it is the intent of this amendment to permit the use of an instrument which uses controlled precession of short duration at about 90° of pitch to achieve the required range, if the instrument provides a horizon display before and after the precession which is sufficiently accurate to enable recovery to be made to approximately level flight.

Since these amendments are clarifying in nature, I find that public procedure is unnecessary and good cause exists for making them effective on less than 30 days notice.

In consideration of the foregoing, Parts 25, 91, and 121 of the Federal Aviation Regulations are amended, effective May 9, 1970, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. Section 25.1303(b)(4) is amended to read:

§ 25.1303 Flight and navigation instruments.

* * * * *

(b) * * *

(4) A gyroscopic rate-of-turn indicator combined with an integral slip-skid indicator (turn-and-bank indicator) except that only a slip-skid indicator is required on large airplanes with a third attitude instrument system useable through flight attitudes of 360° of pitch and roll and installed in accordance with § 121.305(j) of this title.

* * * * *

PART 91—GENERAL OPERATING AND FLIGHT RULES

2. Section 91.33(d)(3) is amended to read:

§ 91.33 Powered civil aircraft with standard category U.S. airworthiness certificates; instrument and equipment requirements.

* * * * *

(d) * * *

(3) Gyroscopic rate-of-turn indicator, except on large aircraft with a third attitude instrument system useable through flight attitudes of 360° of pitch and roll and installed in accordance with § 121.305(j) of this title.

* * * * *

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

3. Section 121.305(f) is amended to read:

§ 121.305 Flight and navigational equipment.

* * * * *

(f) A gyroscopic rate-of-turn indicator combined with an integral slip-skid indicator (turn-and-bank indicator) except that only a slip-skid indicator is required when a third attitude instrument system useable through flight attitudes of 360° of pitch and roll is installed in accordance with paragraph (j) of this section.

* * * * *

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

Issued in Washington, D.C., on April 29, 1970.

J. H. SHAFFER,
Administrator.

[F.R. Doc. 70–5497; Filed, May 5, 1970; 8:46 a.m.]

[Airspace Docket No. 69–SW–79]

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 Jasper, Tex., transition area.

On January 30, 1970, a notice of proposed rulemaking was published in the FEDERAL REGISTER (35 F.R. 1240) stating the Federal Aviation Administration proposed to alter the Jasper, Tex., transition area. A supplemental notice was published on February 28, 1970 (35 F.R. 3922).

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 25, 1970, as hereinafter set forth.

In § 71.181 (35 F.R. 2134), the Jasper, Tex., transition area is amended to read:

JASPER, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Jasper County Airport (lat. 30°53'32" N., long. 94°02'03" W.), within 3.5 miles each side of the 360° bearing from the Jasper RBN

(lat. 30°57'16" N., long. 94°02'00" W.) extending from the 5-mile radius area to 11.5 miles north of the RBN, and within 3.5 miles each side of the 182° bearing from the Pine RBN (lat. 30°52'00" N., long. 94°02'06" W.) extending from the 5-mile radius area to 11.5 miles south of the RBN.

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

Issued in Fort Worth, Tex., on April 24, 1970.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 70-5498; Filed, May 5, 1970; 8:47 a.m.]

[Airspace Docket No. 70-SW-4]

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

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Cherokee Village, Ark., transition area.

On February 12, 1970, a notice of proposed rulemaking was published in the FEDERAL REGISTER (35 F.R. 2890) stating the Federal Aviation Administration proposed to designate a transition area at Cherokee Village, Ark.

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

Subsequent to issuance of the proposal, the U.S. Coast and Geodetic Survey changed the final approach bearing of the ADF instrument approach procedure from the 220° magnetic (226° true) bearing from the Cherokee Village RBN to the 217° magnetic (223° true) bearing. This change will not increase the amount of controlled airspace required; however, it will require a slight rotation of the transition area. Action is taken herein to substitute the 223° bearing for the 226° bearing.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 25, 1970, as hereinfter set forth.

In § 71.181 (35 F.R. 2134), the following transition area is added:

CHEROKEE VILLAGE, ARK.

That airspace extending upward from 700 feet above the surface within an 8-mile radius of Cherokee Village Airport (lat. 36°15'49" N., long. 91°33'55" W.), within 3.5 miles each side of the 223° bearing from the Cherokee Village RBN (lat. 36°15'55" N., long. 91°-33'45" W.) extending from the 8-mile radius area to 11 miles southwest of the RBN; and that airspace extending upward from 1,200 feet above the surface within 4.5 miles northwest and 9.5 miles southeast of the 223° bearing from the Cherokee Village RBN extending from the RBN to 18.5 miles southwest, and that airspace east of Cherokee Village Airport bounded on the north by V-159, on the south by V-240, and on the west by the arc of an 8-mile radius circle centered on the Cherokee Village Airport.

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

Issued at Fort Worth, Tex., on April 24, 1970.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 70-5499; Filed, May 5, 1970; 8:47 a.m.]

[Airspace Docket No. 69-SO-161]

PART 75—ESTABLISHMENT OF JET ROUTES

Designation of Jet Route Segments

On February 26, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 3761) stating that the Federal Aviation Administration was considering amendments to Part 75 of the Federal Aviation Regulations that would designate segments of Jet Routes Nos. 66 and 151.

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

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 25, 1970, as hereinafter set forth.

Section 75.100 (35 F.R. 2359) is amended as follows:

a. Jet Route No. 66 is amended to read:

Jet Route No. 66 (Greater Southwest, Tex., to Rome, Ga.) From Greater Southwest, Tex., via Little Rock, Ark.; Memphis, Tenn.; INT Memphis 096° and Rome, Ga., 286° radials; to Rome.

b. In the caption of Jet Route No. 151 "St. Louis, Mo.," is deleted and "Birmingham, Ala.," is substituted therefor, and in the text "From St. Louis, Mo., via" is deleted and "From Birmingham, Ala., via INT Birmingham 335° and Farmington, Mo., 139° radials; Farmington; St. Louis, Mo.;" is substituted therefor.

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

Issued in Washington, D.C., on April 30, 1970.

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

[F.R. Doc. 70-5500; Filed, May 5, 1970; 8:47 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-611; Amdt. 8]

PART 202—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY; INTERSTATE AND OVERSEAS ROUTE AIR TRANSPORTATION

Change in Title of Postal Official Designated for Service

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of May 1970.

The Post Office Department, by letter dated April 9, 1970, has requested amendment of the Board's regulations which set forth the postal officials authorized to receive service of Board documents on behalf of the Postmaster General. Specifically, as the result of an internal reorganization in the Department, the Bureau of Transportation has been abolished and its functions absorbed into the Bureau of Operations. Several provisions of Part 202, as well as other regulations which will require like amendment, require service of documents to be made on the Assistant Postmaster General, Bureau of Transportation. The Department states that primarily because of this reorganization and to provide for more effective control of documents, amendment of these provisions is requested to change the title of the official designated to receive service on behalf of the Postmaster General. The Board finds that the request should be granted and appropriate amendment will be made to Parts 202, 203, 205, 302, and 376.

In view of the limited and technical nature of this amendment, we find that public rule making proceedings are unnecessary and the rule shall be effective upon less than 30 days' notice.

Accordingly, the Board hereby amends Part 202 (14 CFR Part 202), effective May 15, 1970, as follows:

1. Amend paragraph (c)(1) of § 202.3 to read:

§ 202.3 Airport authorization.

* * * * *

(c) *Service of application.* * * *

(1) The Postmaster General, marked for the attention of the Deputy Assistant Postmaster General for Logistics, Bureau of Operations;

* * * * *

2. Amend paragraph (c)(1) of § 202.4 to read:

§ 202.4 Service pattern change.

* * * * *

(c) *Service of application.* * * *

(1) The Postmaster. General, marked for the attention of the Deputy Assistant Postmaster General for Logistics, Bureau of Operations;

* * * * *

3. Amend the "Certificate of Service" of Appendix A—Recommended Airport Notice Form to read as follows:

CERTIFICATE OF SERVICE

I hereby certify that I have this day served (state manner of service) copies of this airport notice on the Postmaster General, marked for the attention of the Deputy Assistant Postmaster General for Logistics, Bureau of Operations; the Federal Aviation Administration, for the attention of the Director, Airport Services; the Mayor or Chief Executive of the cities of _____ _____ (address), and the Governor of the State of _____ (address), (or the State Commission or agency having jurisdiction of transportation by air within the State of _____ (address)); the following scheduled air carriers _____ _____ (name and address); and the airport managers of the following airports:

---------- (airport name and address).

---------- (Signature)

---------- (Title)

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-5531; Filed, May 5, 1970; 8:49 a.m.]

[Reg. ER-612; Amdt. 9]

PART 203—TERMS, CONDITIONS AND LIMITATIONS OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY; FOREIGN AIR TRANSPORTATION

Change in Title of Postal Official Designated for Service

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of May 1970.

For reasons stated in ER-611, issued concurrently herewith, the title of the postal official designated for service of Board documents is being changed at the request of the Post Office Department.

Accordingly, the Board hereby amends Part 203 (14 CFR Part 203), effective May 15, 1970, as follows:

1. Amend paragraph (a) of § 203.7 to read as follows:

§ 203.7 Persons upon whom notice must be served.

* * * * *

(a) The Postmaster General, marked for the attention of the Deputy Assistant Postmaster General for Logistics, Bureau of Operations, if the holder's certificate authorizes the transportation of mail;

* * * * *

2. Amend the "Certificate of Service" of Appendix A—Recommended Airport Notice—Foreign Air Transportation to read as follows:

CERTIFICATE OF SERVICE

I hereby certify that I have this day served (state manner of service) copies of this airport notice on the Postmaster General, marked for the attention of the Deputy Assistant Postmaster General for Logistics, Bureau of Operations (if the holder's certificate authorizes the transportation of mail); the Secretary of State, marked for the attention of Director, Office of Aviation, Bureau of Economic Affairs; the Federal Aviation Administration, for the attention of the Director, Airport Services; and the following scheduled air carriers: ---------- (name and address).

---------- (Signature)

---------- (Title)

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-5532; Filed, May 5, 1970; 8:49 a.m.]

[Reg. ER-613; Amdt. 2]

PART 205—INAUGURATION AND TEMPORARY SUSPENSION OF SCHEDULED ROUTE SERVICE AUTHORIZED BY CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

Change in Title of Postal Official Designated for Service

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of May 1970.

For reasons stated in ER-611, issued concurrently herewith, the title of the postal official designated for service of Board documents is being changed at the request of the Post Office Department.

Accordingly, the Board hereby amends § 205.5 (14 CFR 205.5), effective May 15, 1970, by revising paragraph (a)(5) to read as follows:

§ 205.5 Service.

(a) * * *

(5) The Postmaster General, marked for the attention of the Assistant General Counsel, Transportation, if the applicant's certificate authorizes the transportation of United States mail to or from such point;

* * * * * *

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-5533; Filed, May 5, 1970; 8:49 a.m.]

[Reg. ER-614; Amdt. 4]

PART 287—EXEMPTION AND APPROVAL OF CERTAIN INTERLOCKING RELATIONSHIPS

Commercial Lending Institutions

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of May 1970.

Section 287.3a (14 CFR Part 287) of the economic regulations exempts direct air carriers with respect to interlocking relationships involving the directors of air carriers who are also directors, officers, or employees of commercial lending institutions which do not lease aircraft to the air carrier. This provision being merely permissive does not grant antitrust immunity, but merely allows such interlocks to exist without first obtaining the approval of the Board under Part 251 of the Board's economic regulations, as otherwise required by section 409(a) of the Federal Aviation Act of 1958, as amended.

In adopting § 287.3a, the Board provided that the exemption shall expire after 3 years (i.e., on Mar. 30, 1969), and subsequently extended the date to April 30, 1970, since the exemption is experimental and involves some risk of potential conflict of interest. Experience under the exemption has not disclosed any basis for termination, and the Board has decided to extend the expiration date of § 287.3a to April 30, 1971.

As this amendment extends the relief provided in the existing regulation, notice and public procedure hereon are unnecessary and the amendment may be made effective upon less than 30 days' notice.

Accordingly, the Civil Aeronautics Board hereby amends § 287.3a effective May 1, 1970, by extending the expiration date from April 30, 1970, to April 30, 1971. As amended, § 287.3a will read as follows:

§ 287.3a Exemption of air carriers with respect to interlocking relationships with commercial lending institutions.

In addition to the exemptions provided in §§ 287.2 and 287.3, and subject to the other provisions of this part, air carriers are hereby relieved from the provisions of section 409(a) of the Act and Part 251 of this chapter with respect to any interlocking relationship between any such air carrier and a commercial lending institution which does not lease aircraft to the air carrier: *Provided, however,* That such exemption shall expire on April 30, 1971, and shall extend only to the relationship involving a director of the air carrier who is not an officer or employee of the air carrier or a stockholder holding a controlling interest in the air carrier (or the representative or nominee of any such person) and who is not a member of the commercial lending institution: *Provided further,* That in order to qualify for an exemption under this section air carriers shall file with the Bureau of Operating Rights annual reports on or before April 1 of each year showing for the previous calendar year (a) the names and addresses of all directors of the air carrier who were also directors, officers, or employees of commercial lending institutions; (b) the names and addresses of such commercial lending institutions; and (c) a description of all transactions between the air carrier (and/or its directors who were also officers or directors of commercial lending institutions) and such commercial lending institutions.

(Secs. 101(3), 204(a), 409, 416; 72 Stat. 737, 743, 768, 771; 49 U.S.C. 1301, 1324, 1379, 1386)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-5536; Filed, May 5, 1970; 8:49 a.m.]

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-111; Amdt. 27]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Change in Title of Postal Official Designated for Service

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of May 1970.

For reasons stated in ER-611, issued concurrently herewith, the title of the postal official designated for service of Board documents is being changed at the request of the Post Office Department.

Accordingly, the Board hereby amends paragraph (c) of § 302.303 (14 CFR 302.303), effective May 15, 1970, to read as follows:

§ 302.303 Institution of proceedings.

* * * * *

(c) All petitions, amended petitions, and documents relating thereto shall be served upon the Postmaster General by sending a copy to the Assistant General Counsel, Transportation, by registered or certified mail, postpaid, prior to the filing thereof with the Board. Proof of service on the Postmaster General shall consist of a statement in the document that the person filing it has served a copy on the Assistant General Counsel, Transportation, as required by this section. The petition need not be accompanied by any further proof of service, but, upon setting any petition down for public hearing, the Board will cause notice of such hearing to be given to such interested persons as it deems appropriate in a particular case.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-5534; Filed, May 5, 1970; 8:49 a.m.]

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-38; Amdt. 2]

PART 376—AMENDMENT OF FLIGHT PATTERNS OF HELICOPTER OPERATORS

Change in Title of Postal Official Designated for Service

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of May 1970.

For reasons stated in ER-611, issued concurrently herewith, the title of the postal official designated for service of Board documents is being changed at the request of the Post Office Department.

Accordingly, the Board hereby amends § 376.4 (14 CFR 376.4) effective May 15, 1970, to read as follows:

§ 376.4 Filing and service.

Applications for flight pattern amendments shall be filed with the Docket Section of the Board not later than 20 days prior to the desired effective date. Prior to or coincident with the filing of an amended flight pattern application which proposes suspension of passenger service to any point, the carrier shall serve a notice of such filing together with a copy of the proposed amended flight pattern upon the chief executive of the city, town, or other unit of local government at each point regularly receiving passenger service, at which suspension of such service is proposed. Such service shall also be made upon any local service air carrier which serves any point at which it is proposed to terminate, suspend or inaugurate passenger service. If proposed flight patterns involve property and mail carriage, such service shall be made upon the Postmaster General, marked for the attention of the Deputy Assistant Postmaster General for Logistics, Bureau of Operations. Any such person may, within 10 days after such service, file with the Board, and serve upon the carrier, a statement of position with respect to the proposed service pattern: *Provided*, That any person entitled to notice under the provisions of this part may, in writing, waive such notice and recommend that the Board approve the amended flight pattern as proposed.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[F.R. Doc. 70-5535; Filed, May 5, 1970; 8:49 a.m.]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Miscellaneous Amendments

This part as filed with the FEDERAL REGISTER on June 29, 1955, was last amended on September 19, 1969 (34 F.R. 14600). The following amendments are made to Part 601:

PARAGRAPH 1. Section 601.102 is amended by revising paragraph (b)(1), and so much of paragraph (b)(2) as precedes subdivision (i) thereof, to read as follows:

§ 601.102 Classification of taxes collected by the Internal Revenue Service.

* * * * *

(b) *Assessed taxes.* * * *

(1) Taxes within the jurisdiction of the U.S. Tax Court. These include:

(i) Income and profits taxes imposed by chapters 1 and 2 of the 1939 Code and taxes imposed by subtitle A of the 1954 Code, relating to income taxes.

(ii) Estate taxes imposed by chapter 3 of the 1939 Code and chapter 11 of the 1954 Code.

(iii) Gift tax imposed by chapter 4 of the 1939 Code and chapter 12 of the 1954 Code.

(iv) Excise tax imposed by chapter 42 of the 1954 Code.

(2) Taxes not within the jurisdiction of the U.S. Tax Court. Taxes not imposed by chapter 1, 2, 3, or 4 of the 1939 Code or subtitle A or chapter 11 or 12 of the 1954 Code are within this class, such as:

* * * * *

PAR. 2. Section 601.103 is amended by revising paragraphs (a) and (c)(2) to read as follows:

§ 601.103 Summary of general tax procedure.

(a) *Collection procedure.* The Federal tax system is basically one of self-assessment. In general each taxpayer (or person required to collect and pay over the tax) is required to file a prescribed form of return which shows the facts upon which tax liability may be determined and assessed. Generally, the taxpayer must compute the tax due on the return and make payment thereof on or before the due date for filing the return. If the taxpayer fails to pay the tax when due, the district director of internal revenue or the director of the regional service center after assessment issues a notice and demands payment within 10 days from the date of the notice. In the case of wage earners and nonresident aliens, the income tax is collected in large part through withholding at the source. Another means of collecting the income tax is through payments of estimated tax which are required by law to be paid by certain individual and corporate taxpayers. Neither withholding nor payments of estimated tax relieves a taxpayer from the duty of filing a return otherwise required. Certain excise taxes are collected by the sale of internal revenue stamps.

* * * * *

(c) *Disputed liability.* * * *

(2) *Petition to the U.S. Tax Court.* In the case of income, profits, estate, and gift taxes, and excise taxes under chapter 42 of the 1954 Code, before a deficiency may be assessed a statutory notice of deficiency (commonly called a "90-day letter") must be sent to the taxpayer by certified mail or registered mail unless the taxpayer waives this restriction on assessment. See, however, §§ 601.105(h) and 601.109 for exceptions. The taxpayer may then file a petition for a redetermination of the proposed deficiency with the U.S. Tax Court within 90 days from the date of the mailing of the statutory notice. If the notice is addressed to a person outside the States of the Union and the District of Columbia, the period within which a petition may be filed in the Tax Court is 150 days in lieu of 90 days. In other words, the taxpayer has the right in respect of these taxes to contest any proposed deficiency before an independent tribunal prior to assessment or payment of the deficiency. Unless the taxpayer waives the restrictions on assessment and collection after the date of the mailing of the statutory notice, no assessment or collection of a deficiency (not including the correction

of a mathematical error) may be made in respect of these taxes until the expiration of the applicable period or, if a petition is filed with the Tax Court, until the decision of the Court has become final. If, however, the taxpayer makes a payment with respect to a deficiency, the amount of such payment may be assessed. See, however, § 601.105(h). If the taxpayer fails to file a petition with the Tax Court within the applicable period, the deficiency will be assessed upon the expiration of such period and notice and demand for payment of the amount thereof will be mailed to the taxpayer. If the taxpayer files a petition with the Tax Court, the entire amount redetermined as the deficiency by a final decision of the Tax Court will be assessed and is payable upon notice and demand. There are no restrictions on the timely assessment and collection of the amount of any deficiency determined by the Tax Court, and a notice of appeal of the Court's decision will not stay the assessment and collection of the deficiency so determined, unless on or before the time the notice of appeal is filed the taxpayer files with the Tax Court a bond in a sum fixed by the Court not exceeding twice the portion of the deficiency in respect of which the notice of appeal is filed. No part of an amount determined as a deficiency but disallowed as such by a decision of the Tax Court which has become final may be assessed or collected by levy or by proceeding in court with or without assessment.

* * * * *

PAR. 3. Section 601.104 is amended by revising paragraphs (a) (1) and (3) and (c)(4) to read as follows:

§ 601.104 Collection functions.

(a) *Collection methods*—(1) *Returns.* Generally, an internal revenue tax assessment is based upon a return required by law or regulations to be filed by the taxpayer upon which he himself computes the tax in the manner indicated by the return. Certain taxpayers who choose to use the Optional Tax Tables may elect to have the Internal Revenue Service compute the tax and mail them a notice stating the amount of tax due. If a taxpayer fails to make a return it may be made for him by a district director or other duly authorized officer or employee. See section 6020 of the Code and the regulations thereunder. Returns must be made on the forms prescribed by the Internal Revenue Service. Forms are obtainable at the principal and branch offices of district directors of internal revenue. Taxpayers overseas may also obtain forms from any U.S. Embassy or consulate. Forms are generally mailed to persons whom the Service has reason to believe may be required to file returns, but failure to receive a form does not excuse failure to comply with the law or regulations requiring a return. Returns, supplementary returns, statements or schedules, and the time for filing them, may sometimes be prescribed by regulations issued under authority of law by the Commissioner with the approval of the Secretary of the Treasury or his delegate. A husband and wife may make a single income tax return jointly. Certain affiliated groups of corporations may file consolidated income tax returns. See section 1501 of the Code and the regulations thereunder.

* * * * *

(3) *Payments of estimated tax.* Any individual who may reasonably expect to receive gross income for the taxable year from wages or from sources other than wages, in excess of amounts specified by law, or who can reasonably expect his estimated tax to be $40 or more, is required to file a declaration of estimated income tax and self-employment tax. Payments of estimated tax are applied in payment of the tax for the taxable year. A husband and wife may make a single declaration jointly, and the amount of the estimated tax paid on the declaration may be applied in payment of the income tax liability of either spouse in any proportion they may specify. For taxable years ending on or after December 31, 1955, the law requires payments of estimated tax by certain corporations. See section 6154 of the Code.

* * * * *

(c) *Enforcement procedure.* * * *

(4) *Penalties.* In the case of failure to file a return within the prescribed time, a certain percentage of the amount of tax is, pursuant to statute, added to the tax unless the failure to file the return within the prescribed time is shown to the satisfaction of the district director or the director of the regional service center to be due to reasonable cause and not neglect. In the case of failure to pay or deposit taxes due within the prescribed time, a certain percentage of the amount of tax due is, pursuant to statute, added to the tax unless the failure to pay or deposit the tax due within the prescribed time is shown to the satisfaction of the district director or the director of the regional service center to be due to reasonable cause and not neglect. Civil penalties are also imposed for fradulent returns; in the case of income and gift taxes, for intentional disregard of rules and regulations or negligence; and additions to the tax are imposed for the failure to comply with the requirements of law with respect to the estimated income tax. See chapter 68 of the Code. A 50 percent penalty, in addition to the personal liability incurred, is imposed upon any person who fails or refuses without reasonable cause to honor a levy. Civil penalties may also be imposed for failure to pay the tax on liquors, cigars, cigarettes, and cigarette papers and tubes within the time prescribed. See chapters 51 and 52 of the Code. Criminal penalties are imposed for willful failure to make returns, keep records, supply information, etc. See chapter 75 of the Code.

* * * * *

PAR. 4. Section 601.105 is amended by revising paragraphs (a), (e) (1) and (2), and (f), and by adding a new paragraph (k), as follows:

§ 601.105 Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.

(a) *Processing of returns.* When the returns are filed in the office of the district director of internal revenue or the office of the director of a regional service center, they are checked first for form, execution, and mathematical accuracy. Mathematical errors are corrected and a correction notice of any such error is sent to the taxpayer. Notice and demand is made for the payment of any additional tax so resulting, or refund is made of any overpayment. Returns are classified for audit at regional service centers. Returns with the highest audit potential are delivered to district Audit Divisions based on workload capacities. Those most in need of examination are selected for office or field audit.

* * * * *

(e) *Claims for refund or credit.* (1) After payment of the tax a taxpayer may (unless he has executed an agreement to the contrary) contest the assessment by filing a claim for refund or credit for all or any part of the amount paid, except as provided in section 6512 of the Code with respect to certain taxes determined by the Tax Court, the decision of which has become final. A claim for refund or credit is made on Form 1040X, where applicable, or Form 843. These forms are obtainable from the district director. Generally, the claim, together with appropriate supporting evidence, must be filed in the office of the district director for the district in which the tax was paid. A claim for refund or credit must be filed within the applicable statutory period of limitation. In the case of individuals a properly executed income tax return may, if the taxpayer elects, operate as a claim for refund or credit of the amount of the overpayment disclosed by such refund.

(2) When claims for refund or credit are examined by the Audit Division, substantially the same procedure is followed (including appeal rights afforded to taxpayers) as when taxpayers' returns are originally examined. But see § 601.108 for procedure for reviewing proposed overpayment exceeding $100,000 of income, estate, and gift taxes.

* * * * *

(f) *Interruption of audit and conference procedure.* The process of field audits and the course of the administrative procedure described in this section and in the following section may be interrupted in some cases by the imminent expiration of the statutory period of limitations for assessment of the tax. To protect the Government's interests in such a case, the district director of internal revenue or other designated officer may be required to dispatch a statutory notice of deficiency (if the case is within jurisdiction of U.S. Tax Court), or take other appropriate action to assess the tax, even though the case may be in examination or conference status. In order to avoid interruption of the established procedure (except in estate tax cases), it is

suggested to the taxpayer that he execute an agreement on Form 872 (or such other form as may be prescribed for this purpose). To be effective this agreement must be entered into by the taxpayer and the district director or other appropriate officer concerned prior to the expiration of the time otherwise provided for assessment. Such a consent extends the period for assessment of any deficiency, or any additional or delinquent tax, and extends the period during which the taxpayer may claim a refund or credit to a date 6 months after the agreed time of extension of the assessment period. When appropriate, a consent may be entered into restricted to certain issues.

* * * * *

(k) *Transfer of returns between districts.* When examination of any return, or closing of a case, can be done more expeditiously and conveniently in another district, the district director having jurisdiction will transfer the case, together with pertinent records, to the district director of such other district. Transfers are usually based on circumstances such as the following:

(1) Change of the taxpayer's domicile, either before or during examination.

(2) Discovery that taxpayer's books and records are kept in another district.

(3) Change of domicile of an executor or administrator to another district before or during examination.

PAR. 5. Section 601.106 is amended by revising paragraph (a), by revising subdivision (ii) of, and adding a new subdivision (iii) to, paragraph (d)(2), by revising paragraph (d)(3)(iii)(*i*), and by revising paragraph (h)(2). These new and revised provisions read as follows:

§ 601.106 Appellate functions.

(a) *General.* (1) There is provided in each region an Appellate Division with office facilities within the region. Unless they otherwise specify, taxpayers residing outside the territorial limits of the regional Appellate Divisions use the facilities of the Washington, D.C., branch office of the Appellate Division of the Mid-Atlantic Region. Subject to the limitations set forth in subparagraphs (2) and (3) of this paragraph, the Commissioner has delegated to certain officers of the Appellate Division of each region authority to represent the regional commissioner in his exclusive and final authority for the determination of Federal income, profits, estate, or gift tax liability (whether before or after the issuance of a statutory notice of deficiency) and for the determination of employment of certain Federal excise tax liability, in any case originating in the office of any district director situated in the region or in any case in which jurisdiction has been transferred to the region, in which the taxpayer submits a written request for Appellate consideration and a written protest, when required, to the determination of liability made by that officer. A written protest is required if the total amount of proposed additional tax, proposed overassessment, or claimed refund (or, in an offer in compromise, the total amount of assessed tax, penalty, and interest) exceeds $2,500 for any taxable period. A written protest is also required if no district conference is held regardless of the amount involved. The Appellate Division has complete jurisdiction of every income, profits, estate, or gift tax case after the issuance of the statutory notice of deficiency, subject to the limitations provided in subparagraph (2) of this paragraph. If the statutory notice of deficiency was issued by a district director or the Director of International Operations, the Appellate Division may waive jurisdiction to the director who issued the statutory notice during the 90-day (or 150-day) period for filing petition with the Tax Court, except where criminal prosecution has been recommended and not finally disposed of or the statutory notice includes the ad valorem fraud penalty. After the filing of a petition in the Tax Court the Appellate Division continues to have exclusive jurisdiction of the case, subject to the provisions of subparagraph (2) of this paragraph. Subject to the exceptions and limitations set forth in subparagraph (2) of this paragraph, there is also vested in the Appellate Division of the region authority to represent the regional commissioner in his exclusive authority to settle (i) all cases docketed in the U.S. Tax Court, and designated for trial at any place within the territory comprising the region and (ii) all docketed cases originating in the office of any district director situated within the region or in which jurisdiction has been transferred to the region, which are designated for trial at Washington, D.C., unless the petitioner resides in and his books and records are located (or can be made available) in the region which includes Washington, D.C.

(2) The authority described in subparagraph (1) of this paragraph does not include the authority to:

(i) Negotiate or make a settlement in any case docketed in the Tax Court on and after the opening date of the session at which the case is calendared for trial, or of any pretrial hearing of or report session thereon, otherwise referred to as "session" cases;

(ii) Make or approve a settlement in presession cases docketed in the Tax Court, except with the concurrence of regional counsel;

(iii) Eliminate the ad valorem fraud penalty in any income, profits, estate, or gift tax case in which the penalty has been determined by the district office in connection with a tax year or period, or which is related to or affects such year or period, for which criminal prosecution against the taxpayer (or a related taxpayer involving the same transaction) has been recommended to the Department of Justice for willful attempt to evade or defeat tax, or for willful failure to file a return, except upon the recommendation or concurrence of the Regional Counsel; nor

(iv) Act in any case in which a recommendation for criminal prosecution is pending, except with the concurrence of regional counsel.

Authority to negotiate and make a settlement or concession in a case docketed in the Tax Court in a session status referred to in subdivision (i) of this subparagraph is delegated to the regional counsel.

(3) The authority vested in the Appellate Division does not extend to the determination of liability for any excise tax imposed by the following chapters of the 1954 Code (and the corresponding provisions of the 1939 Code): chapter 35 (relating to wagering); subchapter A of chapter 39 (relating to narcotic drugs and marihuana); subtitle E (relating to alcohol, tobacco, machine guns and certain other firearms); and subchapter D of chapter 78 (relating to certain import taxes) insofar as it relates to alcohol and tobacco.

* * * * *

(d) *Disposition and settlement of cases before the Appellate Division* * * *

(2) *Cases not docketed in the Tax Court.* * * *

(ii) If after consideration of the case by the Appellate Division of the region it is determined that there is a deficiency in income, profits, estate, or gift tax, or excise taxes under chapter 42 of the Internal Revenue Code of 1954, to which the taxpayer does not agree, a statutory notice of deficiency will be prepared and issued by the Appellate Division after consideration by the regional counsel of such statutory notice and of the memorandum recommending the issuance of such notice. Officers of the Appellate Division having authority for the administrative determination of tax liabilities referred to in paragraph (a) of this section are also authorized to prepare, sign on behalf of the Commissioner, and send to the taxpayer by registered or certified mail any statutory notice of deficiency prescribed in sections 6212 and 6861 of the Code, and in corresponding provisions of the Internal Revenue Code of 1939. Within 90 days, or 150 days if the notice is addressed to a person outside of the States of the Union and the District of Columbia, after such a statutory notice of deficiency is mailed (not counting Saturday, Sunday, or a legal holiday in the District of Columbia as the last day), the taxpayer may file a petition with the U.S. Tax Court for a redetermination of the deficiency. In any other unagreed case, the case and its administrative file will be forwarded to the service center director or returned to the district director with directions to take such action with respect to the tax liability determined in the Appellate Division as may be appropriate, such as the issuance of a statutory notice of disallowance of a claim for refund or credit in whole or in part, the preparation of a notice of adjustment or other appropriate action, or the collection of any additional tax in excise and employment tax cases or of the 100-percent penalty. Administrative appeal procedures will apply to 100-percent penalty cases, except where an assessment is made because of Chief Counsel's request to support a third-party action in a pending refund suit. See Rev. Proc. 69-26.

(iii) Taxpayers desiring to further contest unagreed excise (other than those under chapter 42 of the said Code) and employment tax cases and 100-percent penalty cases must pay the additional tax when assessed, file claim for refund within the applicable statutory period of limitations (ordinarily 3 years from time return was required to be filed or 2 years from payment, whichever expires later), and upon disallowance of claim or after 6 months from date claim was filed, file suit in U.S. District Court or U.S. Court of Claims. Suits for refund of taxes paid are under the jurisdiction of the Department of Justice.

(3) *Cases docketed in the Tax Court.* * * *

(iii) * * *

(*i*) Cases classified as "Small Tax" cases by the Tax Court are given expeditious consideration because such cases are not included on a Trial Status Order. These cases are considered by the Court as ready for placing on a trial calendar as soon as the answer has been filed and are given priority by the Court for trial over other docketed cases. The Tax Reform Act of 1969 provides new rules for small Tax Court cases, effective 1 year after enactment of Act. See Code section 7463.

* * * * *

(h) *Reopening closed cases not docketed in the Tax Court.* * * *

(2) Under certain unusual circumstances favorable to the taxpayer, such as retroactive legislation, a case not docketed in the Tax Court and closed by the Appellate Division on the basis of concessions made by both the Appellate Division and the taxpayer may be reopened upon written application from the taxpayer. Except as provided hereinafter, all requests to reopen such cases will be forwarded, with the recommendation of the Assistant Regional Commissioner (Appellate), to the Director of the Appellate Division for approval or disapproval. The processing of an application for a tentative carryback adjustment or of a claim for refund or credit for an overassessment (for a year involved in the prior closing) attributable to a net operating loss carryback, investment credit carryback, or capital loss carryback, and not included in a previous Appellate Division determination, shall not be considered a reopening requiring the approval of the Director of the Appellate Division. A subsequent assessment of an excessive tentative allowance shall likewise not be considered such a reopening. The Director of the Appellate Division may authorize, in advance, the reopening of similar classes of cases where legislative enactments or compelling administrative reasons require such advance approval.

* * * * *

PAR. 6. Section 601.201 is amended by revising paragraphs (c) (1), (3), and (4), (e) (2) and (7), (h), (j), (l)(7), (m), (o)(3)(vi), and (p). These revised provisions read as follows:

§ 601.201 Rulings and determinations letters.

* * * * *

(c) *Determination letters issued by district directors.* (1) In income and gift tax matters, district directors issue determination letters in response to taxpayers' requests submitted to their offices involving completed transactions which affect returns over which they have audit jurisdiction, but only if the question presented is covered specifically by statute, Treasury decision or regulation, or specifically by a ruling, opinion, or court decision published in the Internal Revenue Bulletin. A determination letter will not usually be issued with respect to a question which involves a return to be filed by the taxpayer if the identical question is involved in a return or returns already filed by the taxpayer. District directors may not issue determination letters as to the tax consequence of prospective or proposed transactions, except as provided in subparagraphs (5) and (6) of this paragrah.

* * * * *

(3) In employment and excise tax matters, district directors issue determination letters in response to requests from taxpayers who have filed or who are required to file returns over which they have audit jurisdiction, but only if the questions presented are covered specifically by statute, Treasurer decision or regulation, or specifically by a ruling, opinion, or court decision published in the Internal Revenue Bulletin. Because of the impact of these taxes upon the business operation of the taxpayer and because of special problems of administration both to the Service and to the taxpaper, district directors may take appropriate action in regard to such requests, whether they relate to completed or prospective transactions or returns previously filed or to be filed.

(4) Notwithstanding the provisions of subparagraphs (1), (2), (3), (5), and (6) of this paragraph, a district director may not issue a determination letter in response to an inquiry, although the inquiry presents a question covered specifically by statute, regulations, rulings, etc., published in the Internal Revenue Bulletin, where (i) it appears that the taxpayer has directed a similar inquiry to the National Office, (ii) the identical issue involving the same taxpayer is pending in a case before the Appellate Division, (iii) the determination letter is requested by an industry, trade association, or similar group, or (iv) the request involves an industrywide problem. Under no circumstances will a district director issue a determination letter unless it is clearly indicated that the inquiry is with regard to a taxpayer or taxpayers who have filed or are required to file returns over which his office has or will have audit jurisdiction. Notwithstanding the provisions of subparagraph (3) of this paragraph, a district director may not issue a determination letter on an employment tax question when the specific question involved has been or is being considered by the national office of the Social Security Administration. Nor may district directors issue determination letters on excise tax questions if a request is for a determination of a constructive sales price under sections 4216(b) and 4218 of the Code. However, the National Office will issue rulings in this area. See paragraph (d)(3) of this section.

* * * * *

(e) *Instructions to taxapayers.* * * *

(2) Each request for a ruling or a determination letter must contain a complete statement of all relevant facts relating to the transaction. Such facts include names, addresses, and taxpayer identifying numbers of all interested parties; the district office or Service Center where each party files or will file its return or report; a full and precise statement of the business reasons for the transaction; and a carefully detailed description of the transaction. In addition, true copies of all contracts, wills, deeds, agreements, instruments, and other documents involved in the transaction must be submitted with the request. However, relevant facts reflected in documents submitted must be included in the taxpayer's statement and not merely incorporated by reference, and must be accompanied by an analysis of their bearing on the issue or issues, specifying the pertinent provisions. (The term "all interested parties" is not to be construed as requiring a list of all shareholders of a widely held corporation requesting a ruling relating to a reorganization, or a list of employees where a large number may be involved in a plan.) The request must contain a statement whether, to the best of the knowledge of the taxpayer or his representative, the identical issue is being considered by any field office of the Service in connection with an active examination or audit of a tax return of the taxpayer already filed. Where the request pertains to only one step of a larger integrated transaction, the facts, circumstances, etc., must be submitted with request to the entire transaction. As documents and exhibits become a part of the Internal Revenue Service file and cannot be returned, the original documents should not be submitted. If the request is with respect to a corporate distribution, reorganization, or other similar or related transaction, the corporate balance sheet nearest the date of the transaction should be submitted. (If the request relates to a prospective transaction, the most recent balance sheet should be submitted.)

* * * * *

(7) A request for a ruling by the National Office should be addressed to the Commissioner of Internal Revenue, Attention: T:PS:T, Washington, D.C. 20224. A request for a determination letter should be addressed to the district director of internal revenue whose office has or will have audit jurisdiction of the taxpayer's return. See also paragraphs (n) through (q) of this section.

* * * * *

(h) *Reference of matters to district offices.* Requests for rulings received in the National Office which, pursuant to the provisions of paragraph (b) of this section, may not be acted upon by the National Office, but which, under the authorities set out in paragraph (c) of this section, may be acted upon by a district office will be forwarded for appropriate action to the district office that has or will have audit jurisdiction of the taxpayer's return. If the request is with respect to an issue or an area of the type discussed in paragraph (d)(2) of this section, the taxpayer will be so advised and the request may be forwarded to the appropriate district office for association with the proper return or report of the taxpayer.

* * * * *

(j) *Withdrawals of requests.* The taxpayer's request for a ruling or a determination letter may be withdrawn at any time prior to the signing of the letter of reply. However, in such a case, the National Office may furnish its views to the district director whose office has or will have audit jurisdiction of the taxpayer's return. The information submitted will be considered by the district director in a subsequent audit or examination of the taxpayer's return. Even though a request is withdrawn, all correspondence and exhibits will be retained in the Service and may not be returned to the taxpayer.

* * * * *

(l) *Effect of rulings.* * * *

(7) If a ruling is issued covering a continuing action or a series of actions and it is determined that the ruling was in error or no longer in accord with the position of the Service, the Assistant Commissioner (Technical) ordinarily will limit the retroactivity of the revocation or modification to a date not earlier than that on which the original ruling was modified or revoked. To illustrate, if a taxpayer rendered service or provided a facility which is subject to the excise tax on services or facilities, and in reliance on a ruling issued to the same taxpayer did not pass the tax on to the user of the service or the facility, the Assistant Commissioner (Technical) ordinarily will restrict the retroactive application of the revocation or modification of the ruling. Likewise, if an employer incurred liability under the Federal Insurance Contributions Act, but in reliance on a ruling made to the same employer neither collected the employee tax nor paid the employee and employer taxes under the Act, the Assistant Commissioner (Technical) ordinarily will restrict the retroactive application of the revocation or modification of the ruling with respect to both the employer tax and the employee tax. In the latter situation, however, the restriction of retroactive application ordinarily will be conditioned on the furnishing by the employer of wage data, or of such corrections of wage data as may be required by § 31.6011(a)-1(c) of the Employment Tax Regulations.

* * * * *

(m) *Effect of determination letters.* A determination letter issued by a district director, in accordance with this section, shall be given the same effect upon examination of the return of the taxpayer to whom the determination letter was issued as is described in paragraph (l) of this section, in the case of a ruling issued to a taxpayer, except that referral to the National Office is not necessary where, upon examination of the return, it is the opinion of the district director that a conclusion contrary to that expressed in the determination letter is indicated. A district director may not limit the modification or revocation of a determination letter but may refer the matter to the National Office for exercise by the Commissioner or his delegate of the authority to limit the modification or revocation.

* * * * *

(o) *Employees' trusts or plans* * * *

(3) *Prohibited transactions.* * * *

(vi) If it is concluded that a prohibited transaction was entered into for the purpose of diverting corpus or income from its exempt purpose and if the transaction involved a substantial part of the corpus or income of the trust, its exemption is revoked, effective as of the beginning of the taxable year during which the prohibited transaction was commenced. In all other prohibited transaction cases, however, its exemption is revoked, effective as of the beginning of the first taxable year after the date of the revocation letter. Under these circumstances, a revocation letter is sent by registered or certified mail to the last known address of the organization.

* * * * *

(p) *Pension plans of self-employed individuals*—(1) *Rulings, determination letters, and opinion letters.* (i) The National Office of the Service, upon request, will furnish a written opinion as to the acceptability (for the purpose of sections 401 and 501(a) of the Code) of the form of any master or prototype plan designed to include groups of self-employed individuals who may adopt the plan, where the plan is submitted by a sponsor that is a trade or professional association, bank, insurance company, or regulated investment company as defined in section 851 of the Code. Each opinion letter will bear an identifying plan serial number. If the trustee or custodian has been designated at the time of approval of a plan as to form, a ruling will be issued as to the exempt status of such trust or custodial account which forms part of the master or prototype plan. As used here, the term "master plan" refers to a standardized form of plan, with a related trust or custodial agreement, where indicated, administered by the sponsoring organization for the purpose of providing plan benefits on a standardized basis. The term "prototype plan" refers to a standardized form of plan, with or without a related form of trust or custodial agreement, that is made available by the sponsoring organization, for use without change by employers who wish to adopt such a plan, and which will not be administered by the sponsoring organization that makes such form available. The degree of relationship among the separate employers adoptiong either a master plan or prototype plan or to the sponsoring organization is immaterial.

(ii) Since a determination as to the qualification of a particular employer's plan can be made only with regard to facts peculiar to that employer, a letter expressing the opinion of the Service as to the acceptability of the form of a master or prototype plan will not constitute a ruling or determination as to the qualification of a plan as adopted by any individual employer or as to the exempt status of a related trust or custodial account. However, where an employer adopts a master or prototype plan and any related prototype trust or custodial account previously approved as to form, and observes the provisions thereof, such plan and trust or custodial account will be deemed to satisfy the requirements of sections 401 and 501(a) of the Code, provided the eligibility requirements and contributions on benefits under the plan for owner-employees are not more favorable than for other employees, including those required to be covered under plans of all businesses controlled by such owner-employees.

(iii) Although district directors no longer make advance determinations on plans of self-employed individuals who have adopted previously approved master or prototype plans, they will continue, upon request, to issue determination letters as to the qualification of individually designed plans (those not utilizing a master or prototype plan) and the exempt status of a related trust or custodial account, if any, in accordance with the procedures set forth in paragraph (o) of this section.

(2) *Determination letters as to qualified bond purchase plans.* A determination as to the qualification of a bond purchase plan will, upon request, be made by the appropriate district director. Form 4578, Application for Approval of Bond Purchase Plan, must be used for this purpose. When properly completed, this form will constitute a bond purchase plan.

(3) *Instructions to sponsoring organizations and employers.* (i) A sponsoring organization of the type referred to in subparagraph (1)(i) of this paragraph, that desires a written opinion as to the acceptability of the form of a master or prototype plan (or as to the exempt status of a related trust or custodial account) should submit its request to the National Office. Copies of all documents, including the plan and trust instruments and all amendments thereto, together with specimen insurance contracts (where applicable) must be submitted with the request. The request must be submitted to the Commissioner of Internal Revenue Service, Washington, D.C. 20224, Attn: T:MS:PT. Form 3672, Application for Approval of Master or Prototype Plan for Self-Employed Individuals, is to be used for this purpose.

(ii) If, subsequent to obtaining approval of the form of a master or prototype plan, an amendment is to be made, the procedure will depend on whether the sponsor is authorized to act on behalf of the subscribers.

(a) If the plan provides that each employer has delegated to the sponsor the power to amend the plan and that each employer shall be deemed to have consented thereto, the plan may be amended by the sponsor. If the plan contains no specific provision permitting the sponsor to amend such plan, but all employers consent in writing to permit such amendment, the sponsor may then amend the plan. However, where a sponsor is unable to secure the consent of each employer, the plan cannot be amended by the sponsor. In such cases, any change will have to be effected by the adoption of a new plan and the submission of a new Form 3672. The new plan will be complete and separate from the old plan and individual employers may, if they desire, substitute the new plan for the old plan.

(b) In the first two instances mentioned above, where the plan has been properly amended, the sponsor must submit Form 3672, a copy of the amendment and, if required, copies of the signed consent of each participating employer.

(c) Upon approval of the amendment by the Service, an opinion letter will be issued to the sponsor containing the serial number of the original plan followed by a suffix: "A–1" for the first amendment, "A–2" for the second amendment, etc. Employers adopting the form of plan subsequent to the date of the amendment will use the revised serial number.

(d) If a new plan is submitted, together with Form 3672 and copies of all documents evidencing the plan, an opinion letter bearing a new serial number will be issued to the sponsor and all employers who adopt the new plan shall use the new serial number. Employers who adopted the old plan will continue to use the original serial number.

(4) *Applicability.* The general procedures of paragraphs (a) through (m) and paragraph (o) of this section, relating to the issuance of rulings and determination letters, are applicable to requests relating to the qualification of plans covering self-employed individuals under sections 401 and 405(a) of the Code and the exempt status of related trusts or custodial accounts under section 501(a), to the extent that the matter is not covered by the specific procedures and instructions contained in this paragraph.

* * * * *

PAR. 7. Section 601.202 is amended by revising paragraph (c) (4) and (5) to read as follows:

§ 601.202 Closing agreements.

* * * * *

(c) *Approval.* * * *

(4) Closing agreements in cases under the jurisdiction of regional commissioners, assistant regional commissioners (appellate), and chiefs, associate chiefs, and assistant chiefs of appellate branch offices and also in cases in which a closing agreement has been recommended for approval by the office of a district director (but excluding cases docketed before the U.S. Tax Court) for a taxable period or periods ended prior to the date of agreement and related specific items affecting other taxable periods may be entered into and approved by such regional commissioners, assistant regional commissioners (appellate), and chiefs, associate chiefs, and assistant chiefs of appellate branch offices.

(5) Closing agreements in cases under the jurisdiction of regional commissioners, assistant regional commissioners (appellate), and chiefs, associate chiefs, and assistant chiefs of appellate branch offices docketed in the U.S. Tax Court but only in respect to related specific items affecting other taxable periods may be entered into and approved by such regional commissioners, assistant regional commissioners (appellate), and chiefs, associate chiefs, and assistant chiefs of appellate branch offices.

* * * * *

PAR. 8. Section 601.203 is amended by revising paragraphs (a)(1) and (c)(2)(i)(*d*) and (3) to read as follows:

§ 601.203 Offers in compromise.

(a) *General.* (1) The Commissioner may compromise, in accordance with the provisions of section 7122 of the Code, any civil or criminal case arising under the internal revenue laws prior to reference to the Department of Justice for prosecution or defense. Certain functions of the Commissioner with respect to compromise of civil cases involving liability under $100,000, and of certain specific penalties involving only the regulatory provisions of the Code and related statutes, have been delegated to district directors, assistant district directors, the Director of International Operations and to the Assistant Director of International Operations. The authority concerning offers in compromise of specific penalties and certain delinquency penalties has also been delegated to service center directors, assistant service center directors and chiefs, accounting and adjustment divisions. In civil cases involving liability of $500 or over and in criminal cases the functions of the General Counsel are performed by the Chief Counsel for the Internal Revenue Service. In certain cases these functions are performed in the National Office and in other cases by Regional Counsel. (See also paragraph (c) of this section.) In cases arising under chapters 51, 52, and 53 of the Code, offers are acted upon by the Alcohol, Tobacco and Firearms Division. (See § 601.327.)

* * * * *

(c) *Consideration of offer.* * * *

(2) (i) * * *

(*d*) A proposal is made to discharge property from the effect of a tax lien or to subordinate the lien or liens;

* * * * *

(3) The district directors, assistant district directors, Director of International Operations, Assistant Director of International Operations, service center directors, assistant service center directors, and chiefs, accounting and adjustment divisions are authorized to reject any offer in compromise referred for their consideration. Unacceptable offers considered by the Chief Counsel, regional counsel, or the Appellate Division are also rejected by the district directors or Director of International Operations, as applicable. If an offer is not acceptable, the taxpayer is promptly notified of the rejection of that offer. If an offer is rejected, the sum submitted with the offer is returned to the proponent, unless the taxpayer authorizes application of the sum offered to the tax liability. A selective post review of offers rejected by a district director involving liabilities totaling $5,000 or more is made by each regional commissioner. A selected post review of offers rejected by the Director of International Operations involving liabilities totaling $5,000 or more is made by the National Office.

* * * * *

PAR. 9. Section 601.324 is revised to read as follows:

§ 601.324 Claims.

The procedures applicable to the filing of claims under chapter 53 of the Code are set forth below:

(a) Claims for refund of the making and transfer taxes, and of occupational taxes, whether paid pursuant to assessment or voluntarily paid, and claims for redemption of "National Firearms Act" stamps, are prepared and filed in accordance with the procedures set forth in Part 179 of this chapter.

(b) Claims for abatement of making and transfer taxes, and claims for abatement of occupational taxes and penalties erroneously assessed, are prepared and filed in accordance with the procedures set forth in § 601.303(b).

(c) Claims may be reopened or amended in accordance with the provisions of § 601.304 (l) and (m).

PAR. 10. Section 601.327 is amended by revising paragraph (a) to read as follows:

§ 601.327 Offers in compromise.

(a) *Liabilities (other than forfeiture) under Internal Revenue Code.* Persons desiring to submit offers in compromise in order to avoid prosecution proceedings, and taxpayers who disclaim liability in whole or in part for taxes or claim inability to pay the taxes in full, may submit offers in compromise to the director of the service center, or to the district director of internal revenue or to an internal revenue officer for forwarding to the director of the service center. If the offer in compromise is based on inability to pay, the proponent should include in the financial statement on Form 433 (see § 601.203(b)) appropriate amounts to reflect his interest, if any, in jointly owned property, the loan value of life insurance, and future income from trusts and similar sources. Each assistant regional commissioner (alcohol, tobacco and firearms) has the authority to accept or reject offers in compromise of (1) tax liabilities arising from (i) the illegal production of untaxpaid distilled spirits, wines, or beer, (ii) the failure to file returns of, or to

pay, occupational taxes with respect to distilled spirits, wines, beer, or firearms, and (iii) the failure to pay firearms making or transfer taxes; (2) criminal liabilities of retail dealers in liquor arising from violations of the internal revenue laws relating to liquor, including the reuse or refilling of liquor bottles; and (3) liabilities arising under chapter 52 of the Code (cigars, cigarettes, and cigarette papers and tubes). The Director, Alcohol, Tobacco and Firearms Division, has the authority to accept or reject offers in compromise of civil liability (of less than $100,000) and criminal liability arising under chapters 51 and 53 of the Code in cases not subject to compromise by assistant regional commissioners (alcohol, tobacco and firearms). The Commissioner accepts or rejects all other offers in compromise except those in compromise of liabilities listed in paragraphs (b) and (c) of this section. In civil cases involving liability of $500 or over and in criminal cases the functions of the General Counsel under section 7122(b) of the Code are performed by the Chief Counsel of the Internal Revenue Service. (For offers in compromise generally, see § 601.203.) Form 656 is used in all cases arising under this paragraph, regardless of whether the amount of the offer is tendered in full at the time the offer is filed or the amount of the offer is to be paid by deferred payment or payments. Offers received by the director of the service center which come within the purview of the assistant regional commissioner (alcohol, tobacco and firearms) or the Director, Alcohol, Tobacco and Firearms Division, are forwarded to such assistant regional commissioner for consideration and appropriate action. When final action has been taken, the director of the service center, the assistant regional commissioner (when applicable), and the proponent are notified of the acceptance or rejection of the offer. If the offer is rejected, the sum submitted with the offer is returned to the proponent, and prosecution or collection proceedings are resumed. If the offer is accepted, the proponent is notified and the case is closed. Acceptance of an offer in compromise of civil liabilities does not remit criminal liabilities, nor does acceptance of an offer in compromise of criminal liabilities remit civil liabilities.

* * * * *

PAR. 11. Section 601.401 is amended by adding a new subdivision (vi) to paragraph (a)(5), as follows:

§ 601.401 Employment taxes.

(a) *General.* * * *

(5) *Use of Federal Reserve banks and authorized commercial banks in connection with payment of Federal employment taxes.* * * *

(vi) *Employers under chapter 23 of the Code.* Every person who is an employer as defined by the Federal Unemployment Tax Act shall deposit the tax imposed under chapter 23 on or before the last day of the first calendar month following the quarterly period in which the amount of such tax exceeds $100. Special rules for calendar years 1970 and 1971 provide that the amount of tax required to be deposited for any calendar quarter or other period shall be reduced (*a*) by 66⅔ percent if such quarter or period is in 1970 and (*b*) by 33⅓ percent if such quarter or period is in 1971.

* * * * *

PAR. 12. Section 601.702 is amended by revising paragraph (b)(3)(iv) to read as follows:

§ 601.702 Publication and public inspection.

* * * * *

(b) *Public inspection and copying.* * * *

(3) *Public reading rooms.* * * *

(iv) *Inability to use public reading rooms.* If a person is unable or unwilling to visit a reading room in person but wishes to inspect identifiable reading room material, he may request permission to inspect such material at any office of the Internal Revenue Service. To the extent that requested material is available for inspection at the reading rooms and is also readily available for inspection at the office where the request is made, such material will promptly be made available for inspection at such office to the person making the request for inspection and, where facilities are available, for copying in accordance with the schedule of fees prescribed by subdivision (iii) of this subparagraph. Copies of the requested material may also be mailed to such person by such office upon request. If the requested reading room material is not readily available for inspection at the office where the request is made, then the request will be referred by such office to one of the reading rooms of the Internal Revenue Service.

* * * * *

(5 U.S.C. 301, 522(a)(1))

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

[F.R. Doc. 70-5555; Filed, May 5, 1970; 8:51 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 4810]

[Oregon 5202]

OREGON

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, as amended, 43 U.S.C. section 300 (1964), it is ordered as follows:

1. The Departmental Order of August 21, 1956, creating Stock Driveway Withdrawal No. 57-1, is hereby revoked so far as it affects the following described lands:

WILLAMETTE MERIDIAN

T. 17 S., R. 13 E.,
Sec. 17, NW¼NE¼.

The area described aggregates 40 acres in Dechutes County.

2. The land shall not be open to disposition under the public land laws generally until appropriate classification and order by an authorized officer of the Bureau of Land Management.

The land has been and continues to be open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws.

HARRISON LOESCH,
Assistant Secretary of the Interior.

APRIL 28, 1970.

[F.R. Doc. 70-5492; Filed, May 5, 1970; 8:46 a.m.]

[Public Land Order 4811]

[Riverside 2230]

CALIFORNIA

Addition to National Forest

By virtue of the authority contained in the Act of July 9, 1962, 76 Stat. 140, 43 U.S.C. section 315g-1 (1964), it is ordered as follows:

Subject to existing valid rights, the following described land, acquired by the United States in exchange made pursuant to section 8 of the Taylor Grazing Act of June 28, 1934, 48 Stat. 1272, as amended, 43 U.S.C. section 315g (1964), is hereby added to and made a part of the San Bernardino National Forest and shall hereafter be subject to all laws and regulations applicable to such national forest:

SAN BERNARDINO MERIDIAN

T. 1 N., R. 2 W.,
Sec. 7, NW¼.

The area described contains 160 acres in San Bernardino County.

HARRISON LOESCH,
Assistant Secretary of the Interior.

APRIL 28, 1970.

[F.R. Doc. 70-5493; Filed, May 5, 1970; 8:46 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 70-455]

PART 1—PRACTICE AND PROCEDURE

Repetitious Applications

Order. 1. The Commission here amends § 1.519(a) of the Commission's rules and regulations to conform the procedure for FM broadcasting with that for television.

2. Section 1.519(a) bars an applicant, whose application for new or modified facilities has been denied or dismissed with prejudice, from reapplying within 12 months of the effective date of the Commission's action. However, exempt

from this bar is an applicant for a television channel denied in a comparative hearing who may immediately reapply for another available television channel.

3. The public interest, convenience, and necessity would be served if an applicant for an FM channel denied in a comparative hearing were similarly exempt. The same considerations are applicable.

4. Authority for the adoption of such amendment is contained in sections 4 (i) and (j) and 303(r) of the Communications Act of 1934, as amended. Since the amendment concerns procedure and practice, the prior notice and effective date provisions of 5 U.S.C. 553 do not apply.

5. *It is ordered,* That effective May 8, 1970, § 1.519(a) is amended as set forth below.

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

Adopted: April 29, 1970.

Released: May 1, 1970.

FEDERAL COMMUNICATIONS COMMISSION [1]

[SEAL] BEN F. WAPLE, *Secretary.*

Section 1.519(a) is amended to read as follows:

§ 1.519 Repetitious applications.

(a) Where the Commission has denied an application for a new station or for any modification of services or facilities, or dismissed such application with prejudice, no like application involving service of the same kind to substantially the same area by substantially the same applicant, or his successor or assignee, or on behalf or for the benefit of the original parties in interest, may be filed within 12 months from the effective date of the Commission's action: *Provided, however,* That applicants whose applications have been denied in a comparative hearing for a particular FM or television facility allocated in the FM or television allocation tables may immediately reapply for another available FM or television channel.

* * * * *

[F.R. Doc. 70-5503; Filed, May 5, 1970; 8:47 a.m.]

[Docket No. 18796; FCC 70-464]

PART 73—RADIO BROADCAST SERVICES

Television Table of Assignments; Marquette, Mich.

In the matter of amendment of § 73.606(b) of the Commission's rules and regulations, Television Table of Assignments (Marquette, Mich.), RM-1296.

Report and order. 1. The Commission here considers the proposal to reserve Channel 13 at Marquette, Mich., for noncommercial educational use in lieu of Channel 19. See the notice of proposed rule making, adopted February 11, 1970 (FCC 70-152) (35 F.R. 3179).

2. The change in reservation was proposed by Northern Michigan University (NMU) and supported by the National Association of Educational Broadcasters (NAEB). NMU is an applicant for an educational station on Channel 13 at Marquette; two competing applications, seeking commercial use, were voluntarily dismissed during 1969. NMU and NAEB were the only parties filing comments. In essence, the arguments of these parties are the same as those advanced in support of the petition. Briefly, these are that a VHF facility would be able to provide wide-area coverage at the lowest cost, which is deemed to be an essential ingredient of an effective and viable ETV facility in Michigan's Upper Peninsula with its scattered population. In this respect, NMU states that a facility on Channel 13 would provide service to 190 of the 250 schools in that area (76 percent) with 74.3 percent of the pupils (59,393 of 79,924).

3. In part, NMU filed the petition to be able to obtain matching funds from the Department of Health, Education, and Welfare (HEW). HEW's regulations have been amended so that one may obtain funds even on a nonreserved channel. However, NMU states that that agency urges fund applicants to seek reservation of their channels. Additionally, as concerns funding, the Governor of Michigan has proposed an appropriation of funds for construction of a station on Channel 13 at Marquette; that budget is now under consideration by the Joint Capital Outlay Committee of the Michigan legislature. NMU states that it intends to proceed vigorously with plans for a station on Channel 13, and that its State funding efforts will be more effective if there is some assurance that the channel will ultimately be available. In the circumstances, it appears that the public interest, convenience, and necessity would be served by changing the educational reservation at Marquette from Channel *19 to Channel *13.

4. Accordingly, pursuant to authority contained in sections 4(i), 303(g) and 307(b) of the Communications Act of 1934, as amended: *It is ordered,* That, effective June 12, 1970, § 73.606(b) of the Commission's rules is amended by changing the entry under Michigan to read as follows:

City	*Channel No.*
Marquette, Mich	6—, *13, 19

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

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

Adopted: April 29, 1970.

Released: May 1, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[F.R. Doc. 70-5505; Filed, May 5, 1970; 8:47 a.m.]

[1] Commissioner Bartley absent.

[1] Commissioner Bartley absent.

[Docket No. 18781; FCC 70-456]

PART 73—RADIO BROADCAST SERVICES

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

Seven-Day Rule

In the matter of amending the Seven-Day Rule, §§ 73.120(e), 73.290(e), 73.590(e), 73.657(e), and 74.1113(d).

Report and order. 1. The Commission's notice of proposed rule making (35 F.R. 544) in this matter was released on January 12, 1970. Comments were requested on or before February 20, 1970, and reply comments were requested on or before March 3, 1970.

2. Six comments and no reply comments have been received in response to the Commission's notice.[1] Five of the six comments unreservedly endorse the language of the proposed rule. The sixth comment, filed by the Columbia Broadcasting System, endorses the proposed initial operative clause, but, as discussed below, suggests that the proviso be eliminated. In view of these comments, and in view of the Commission's own experience with and research into this matter, we report as follows:

3. As indicated in the January 12, 1970, notice, with the increasing use of radio and television in political campaigns, the Commission long ago recognized the necessity on the part of a licensee to be aware of its obligations to other opposing candidates arising from the use of the station's facilities by one candidate for the same public office. By reason thereof the Commission on August 7, 1959, adopted what has become known as the "Seven-Day Rule" in implementation of section 315 of the Communications Act of 1934, as amended. This rule reads as follows:

A request for equal opportunities must be submitted to the licensee within 1 week of the day on which the prior use occurred. §§ 73.120(e), 73.290(e), 73.590(e), 73.657(e), and 74.1113(d).

As the Commission has stated, the rule was adopted

* * * in order to permit orderly planning of station activities in political broadcast situations (e.g., candidate A might use many hours of time over an extensive period, with his rival, B, waiting until the last week to claim his "equal time" and thus taking up a very considerable part of the station's hours of operation in that last week).[2]

[1] A list of those filing comments is included in Appendix A which is filed as part of the original document of this report and order. The comments of Palmer Broadcasting Co. were not filed until Mar. 4, 1970, 12 days after the due date for such comments. The comments were not accompanied by a request for a waiver of the due date. While the Commission has not considered the Palmer Broadcasting Co. comments for these reasons, we note that they are substantially similar in nature to the comments of the Columbia Broadcasting System.

[2] Letter to William S. Green, Oct. 23, 1968, 15 FCC 2d 96.

Having been made aware, by the filing of a request within 7 days of a specific section 315 use, of his obligations to accord equal time to opposing candidates on some date in the future, the licensee would have reasonable opportunity to and would be on notice that he had to make adequate provision in his program schedule for compliance with such section 315 obligations. The Commission has recognized that, if licensees are not able to make orderly programing projections,

> • • • some licensees might have a tendency to avoid, to some degree, the presentation of political broadcasts—a tendency which would not serve the public interest.[3]

4. In a case arising in the latter part of 1968, in connection with the U.S. senatorial campaign in the State of New York, the Commission for the first time had occasion to address itself directly to one specific aspect of this rule under the language adopted in 1959.[4] This case involved a "Section 315 use" by one candidate on September 23, 1968. Within 1 week thereafter an opposing candidate made a request for equal opportunities and subsequently appeared on the station's facilities on October 13, 1968. This appearance having been previously announced, a third candidate filed a request for equal opportunities with the station on October 10 or 11th. In these circumstances we held that the request by the third candidate was timely filed within the language of the Seven-Day Rule. As we then stated:

> The rule reads in terms of a request being submitted to the licensee within 1 week of the day on which the prior use occurred; to have the restrictive effect urged by [the licensee],[5] the rule would have to be explicitly worded in terms of the prior first (or initiating) use. We therefore can and do decide this matter based on the proper construction of our rule.[6]

We remain of the view that the present wording of § 73.657(e) compels this construction.

5. However, our further consideration of this problem leads us to the view that the rule as presently written may well have an adverse effect upon the orderly planning of station activities in political broadcast situations. If a licensee is to be afforded a reasonable opportunity to establish future program schedules in the light of his section 315 obligations, he must have some specific knowledge as to the extent of those obligations within a reasonable time after opposing candidates have acquired the right to "equal opportunities." While placing no limitation on when a candidate must actually use his "equal time" (but not permitting unreasonable accumulation of such "equal time" rights), we believe that the licensee should know of his section 315 obligations not later than 7 days after they first arise. This result may be defeated, under the present language of the rule, in a significant number of instances where a licensee permits a second candidate to use equal time rights considerably after the first candidate has appeared. The problem is becoming an increasingly significant one in view of the large number of multicandidate races. Further, in any instance where a licensee's obligation to accord equal time is in dispute, the time expended in seeking a Commission ruling, or judicial review thereof, may well produce a multitude of additional equal time requests by other candidates in the event it is determined that the complaining candidate was entitled to equal time. Indeed, where the "equal opportunities" appearance of a second candidate takes place shortly before an election the licensee may be unable to accord "equal opportunity" on a comparable basis to all candidates in the time remaining before the election.[7]

6. To avoid this clearly undesirable situation, we propose to amend the Seven-Day Rule to read as follows:

> A request for equal opportunities must be submitted to the licensee within 1 week of the day on which the first prior use, giving rise to the right to equal opportunities, occurred: *Provided however,* That where the person was not a candidate at the time of such first prior use, he shall submit his request within 1 week of the first subsequent use after he has become a legally qualified candidate for the office in question.

As revised, this rule would operate not to defeat or eliminate a candidate's section 315 rights but merely to place them in a reasonable time frame with reference to the date upon which his rights first arose. Any candidate requesting equal opportunities could do so within 7 days after he first acquired such rights by reason of the appearance of an opposing candidate. However, he could not sit on these rights for an extended period and decide to assert them only when still another candidate, having made his timely request, was accorded equal opportunities at a much later date. In this vein, the American Broadcasting Cos., Inc., has asked whether licensees would be permitted to voluntarily waive the proposed rule in order to equitably give each candidate a like amount of time without thereby being required to start a "second round" of uses. In response we note that, since the Seven-Day Rule provides solely a minimum requirement for licensees, there would appear to be no objection to a licensee's voluntary honoring of an untimely equal opportunities request, and without thereby initiating any second round of uses; of course, in so acting, the licensee would have to treat equitably all the candidates for the office, and could not discriminate against some. In short, in our view, the proposed revision of the rule would permit licensees to be able to determine the extent of their future section 315 obligations within a reasonable time after such obligations could arise and at the same time considerable flexibility on the part of candidates for public office, having made timely requests for equal opportunities, to schedule their appearances at a reasonably later date consonant with their particular campaign policies.[8]

7. The proviso to the proposed rule serves the obvious purpose if implementing the "equal opportunities" purposes of section 315 as to new candidates and still permitting as much reasonable planning as feasible on the part of licensees. The Columbia Broadcasting System urges that the proviso be eliminated so that a licensee's obligations would be fixed within 7 days of the first prior use in all situations. In this regard, it should be noted that, while the Commission has authority to adopt rules for the implementation of section 315 (see section 315(c)), its actions in this area must be designed to implement fairly and effectively the broad remedial purpose of the provision. See letter to William S. Green, supra. With that in mind, we believe that the proviso to the rule is called for since it appropriately takes into account both the essential purpose of the provision and the desirability of allowing for licensee planning.

8. In conclusion, the Commission believes that the public interest would be served by adopting the proposed Seven-Day Rule language. The required amendments are set forth below. Authority for the adoption of these rules is contained in sections 4(i) and 315(c) of the Communications Act of 1934, as amended. The amendments are to be effective 30 days from the date this report and order is published in the FEDERAL REGISTER.

9. *Accordingly, it is ordered,* That the rules set forth below are adopted, effective June 8, 1970.

(Secs. 4, 315, 48 Stat., as amended, 1066, 1088; 47 U.S.C. 154, 315)

Adopted: April 29, 1970.

Released: May 1, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[9]

[SEAL] BEN F. WAPLE,
Secretary.

[3] Ibid.

[4] A prior ruling by the staff in 1962 which reached a different result was not appealed to the Commission. See In re Herbert Steiner, 40 FCC 1087.

[5] (I.e., to construe the 7-day period as expiring on Sept. 30, 1968.)

[6] See footnote 2, supra.

[7] See, for example, Taft Broadcasting Company v. Federal Communications Commission and United States of America, D.C. Cir. Case No. 22445, Oct. 31, 1968. In that case Taft sought both Commission, and thereafter, judicial review of a section 315 ruling concerning a program broadcast in September 1968. The court's decision, although expedited, was handed down just 5 days before the election and if all the other presidential candidates had requested "equal time" in connection with the complaining candidate's belated appearance, the licensee probably could not have complied with such requests on the comparable basis required by the Commission and section 315.

[8] The National Association of Broadcasters has posed two questions concerning the application of the proposed rule to a hypothetical situation wherein a licensee allows a subsequent use to be twice as long as the first prior use. These questions do not stem solely from the proposed change in the language of the Seven-Day Rule and are therefore more appropriately considered as they come before the Commission on a case by case basis.

[9] Commissioner Bartley absent; Commissioner Cox concurring in the result.

1. In §§ 73.120, 73.290, 73.590, and 73.657, paragraph (e) is revised to read as follows:

§ 73.120 Broadcasts by candidates for public office.

* * * * *

(e) *Time of request.* A request for equal opportunities must be submitted to the licensee within 1 week of the day on which the first prior use, giving rise to the right to equal opportunities, occurred: *Provided, however,* That where a person was not a candidate at the time of such first prior use, he shall submit his request within 1 week of the first subsequent use after he has become a legally qualified candidate for the office in question.

* * * * *

§ 73.290 Broadcasts by candidates for public office.

* * * * *

(e) *Time of request.* A request for equal opportunities must be submitted to the licensee within 1 week of the day on which the first prior use, giving rise to the right to equal opportunities, occurred: *Provided, however,* That where a person was not a candidate at the time of such first prior use, he shall submit his request within 1 week of the first subsequent use after he has become a legally qualified candidate for the office in question.

* * * * *

§ 73.590 Broadcasts by candidates for public office.

* * * * *

(e) *Time of request.* A request for equal opportunities must be submitted to the licensee within 1 week of the day on which the first prior use, giving rise to the right to equal opportunities, occurred: *Provided, however,* That where a person was not a candidate at the time of such first prior use, he shall submit his request within 1 week of the first subsequent use after he has become a legally qualified candidate for the office in question.

* * * * *

§ 73.657 Broadcasts by candidates for public office.

* * * * *

(e) *Time of request.* A request for equal opportunities must be submitted to the licensee within 1 week of the day on which the first prior use, giving rise to the right to equal opportunities, occurred: *Provided, however,* That where a person was not a candidate at the time of such first prior use, he shall submit his request within 1 week of the first subsequent use after he has become a legally qualified candidate for the office in question.

* * * * *

2. In § 74.1113, paragraph (d) is revised to read as follows:

§ 74.1113 Cablecasts by candidates for public office.

* * * * *

(d) *Time of request.* A request for equal opportunities must be submitted to the CATV system within 1 week of the day on which the first prior use, giving rise to the right to equal opportunities, occurred: *Provided, however,* That where a person was not a candidate at the time of such first prior use, he shall submit his request within 1 week of the first subsequent use after he has become a legally qualified candidate for the office in question.

* * * * *

[F.R. Doc. 70-5504; Filed, May 5, 1970; 8:47 a.m.]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM-39; Amdt. 173-25]

PART 173—SHIPPERS

Extension of Retest Interval for Nonpressure Tank Cars

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to extend the initial retest period for certain nonpressure tank-car tanks from 10 to 20 years.

On December 16, 1969, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket No. HM-39; Notice No. 69-32 (34 F.R. 19722) which proposed the removal of tanks built in compliance with specification DOT 103W, 104W, 111A60W1, 111A100W1, or 111A100W3 from the requirement that they be retested once during their first 10-year period and instead be required to be retested once during their first 20-year period of operation. The proposal was supported by the results of an industry survey of tank-car owners which indicated that extension of the initial retest period was feasible.

Interested persons were afforded an opportunity to participate in this rule making. Of the comments received, there was unanimous support for the amendment of § 173.31(c) as proposed.

In consideration of the foregoing, 49 CFR Part 173 is amended as follows:

In § 173.31 paragraph (c) Retest Table 1 is amended; footnote p is added as follows:

§ 173.31 Qualification, maintenance, and use of tank cars.

* * * * *

(c) * * *

RETEST TABLE 1

Specification	Retest interval—years				Retest pressure—p.s.i.		
	Tank and interior heater systems			Safety relief valve	Tank	Safety relief valve	
	Up to 10 years	Over 10 to 22 years	Over 22 years			Start to discharge	Vapor tight
(*Change*)							
DOT-103W		▷ 20	10	10	60	• 35	28
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
DOT-104W		▷ 20	10	10	60	• 35	28
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
DOT-111A60W1		▷ 20	10	10	60	35	28
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
DOT-111A100W1		▷ 20	10	10	100	75	60
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
DOT-111A100W3		▷ 20	10	10	100	75	60
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *

* * * * * * *

▷ Retest period for interior heater systems on cars so equipped is 10 years.

* * * * *

This amendment is effective September 1, 1970. However, compliance with the regulations as amended herein is authorized immediately.

(Sec. 831-835, title 18, U.S.C.; sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on May 1, 1970.

R. N. WHITMAN,
Administrator,
Federal Railroad Administration.

[F.R. Doc. 70-5560; Filed, May 5, 1970; 8:51 a.m.]

[Docket No. HM-30; Amdt. 173-22]

PART 173—SHIPPERS

Specification 1K Carboy for Certain Chlorides

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to authorize the transportation of certain chlorides in specification 1K glass carboy cushioned with expandable polystyrene in a wooden wirebound box.

On August 20, 1969, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket

No. HM-30; Notice No. 69-22 (34 F.R. 13426) which proposed the use of specification 1K glass carboys for certain chlorides subject to the packaging requirements of 49 CFR 173.247.

Interested persons were afforded an opportunity to participate in this rule making. Of the comments received no objection was taken to the provisions of the basic proposal except that one commenter believes that the package should not be authorized for air transportation. This was based on the premise that the International Air Transport Association Regulations require more restrictive packaging for the corrosive liquids involved here.

Aware that air carriers' tariffs preclude the acceptance of certain corrosive liquids in glass carboys, it is the Board's opinion that specification 1K glass carboy is an adequate package for the service proposed and has strength and efficiency equivalent to the glass carboys presently prescribed in § 173.247. Normally, glass carboys containing corrosive liquids do not enter air transportation channels because of capacity restrictions imposed by 14 CFR Part 103.

In consideration of the foregoing, 49 CFR 173 is amended as follows:

In § 173.247 paragraph (a)(3) is amended to read as follows:

§ 173.247 Acetyl chloride, antimony pentachloride, benzoyl chloride, chromyl chloride, pyro sulfuryl chloride, silicon chloride, sulfur chloride (mono and di), sulfuryl chloride, thionyl chloride, tin tetrachloride (anhydrous), and titanium tetrachloride.

(a) * * *

(3) Specification 1A, 1C, 1D, 1E or 1K (§§ 178.1, 178.3, 178.4, 178.7, 178.14 of this chapter). Glass carboys in boxes, kegs or plywood drums (not permitted for antimony pentachloride or tin tetrachloride, anhydrous).

* * * * *

This amendment is effective September 1, 1970. However, compliance with the regulations as amended herein is authorized immediately.

(Secs. 831-835, Title 18, U.S.C.; sec. 9, Department of Transportation Act, 49 U.S.C. 1657; title VI and sec. 902(h), Federal Aviation Act of 1958, 49 U.S.C. 1421-1430 and 1472(h))

Issued in Washington, D.C., on May 1, 1970.

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

R. N. WHITMAN,
Administrator,
Federal Railroad Administration.

F. C. TURNER,
Federal Highway Administrator.

SAM SCHNEIDER,
Board Member, for the
Federal Aviation Administration.

[F.R. Doc. 70-5557; Filed, May 5, 1970; 8:51 a.m.]

[Docket No. HM-37; Amdt. 173-24]

PART 173—SHIPPERS

Aniline Oil

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to authorize specifications MC 304 and MC 307 cargo tanks, and specification 104W tank cars for the transportation of aniline oil.

On December 10, 1969, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket No. HM-37; Notice No. 69-30 (34 F.R. 19511), which proposed the amendment of § 173.347(a) (2) and (3) to prescribe the use of additional type cargo tanks and tank cars for aniline oil.

Interested persons were afforded an opportunity to participate in this rule making. Of the comments received no objection was taken to the proposal.

Accordingly, 49 CFR Part 173 is amended as follows:

In § 173.347 paragraph (a) (2) and (3) is amended; Footnote 1 is canceled as follows:

§ 173.347 Aniline oil.

(a) * * *

(2) Specification 103, 103W, 103A, 103AW, 104W, 111A60F1, 111A60W1, 111A100F2, or 111A100W2 (§§ 179.200, 179.201 of this chapter) tank cars.

(3) Specification MC 300, MC 301, MC 302, MC 303, MC 304, MC 305, MC 306, or MC 307 (§§ 178.340, 178.341, 178.342 of this chapter) tank motor vehicles. Bottom outlets on Specification MC 304 cargo tanks must be equipped with valves conforming with § 178.342-5(a) of this chapter.

* * * * *

This amendment is effective September 1, 1970. However, compliance with the regulations as amended herein is authorized immediately.

(Secs. 831-835, title 18, U.S.C.; sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on May 1, 1970.

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

R. N. WHITMAN,
Administrator,
Federal Railroad Administration.

F. C. TURNER,
Federal Highway Administrator.

[F.R. Doc. 70-5559; Filed, May 5, 1970; 8:51 a.m.]

[Docket No. HM-33; Amdt. 173-23]

PART 173—SHIPPERS

Cyanides or Cyanide Mixtures

The purpose of this amendment to the Hazardous Materials Regulations of the Department of Transportation is to authorize shipments of cyanides or cyanide mixtures in specification 17H metal drums.

On August 20, 1969, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket No. HM-33; Notice No. 69-25 (34 F.R. 13427) which proposed the addition of paragraph (a)(7) to § 173.370 prescribing the use of specification 17H metal drums with gross weight not over 450 pounds.

Interested persons were afforded an opportunity to participate in this rule making. Of the comments received no objection was taken to the proposal.

Accordingly, 49 CFR Part 173 is amended as follows:

In § 173.370 paragraph (a)(7) is added to read as follows:

§ 173.370 Cyanides, or cyanide mixtures, except cyanide of calcium and mixtures thereof.

(a) * * *

(7) Specification 17H (§ 178.118 of this chapter) metal drums. Gross weight not over 450 pounds.

* * * * *

This amendment is effective September 1, 1970. However, compliance with the regulations as amended herein is authorized immediately.

(Secs. 831-835, Title 18, U.S.C.; sec. 9, Department of Transportation Act, 49 U.S.C. 1657; title VI and sec. 902(h), Federal Aviation Act of 1958, 49 U.S.C. 1421-1430 and 1472(h))

Issued in Washington, D.C., on May 1, 1970.

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

R. N. WHITMAN,
Administrator,
Federal Railroad Administration.

F. C. TURNER,
Federal Highway Administrator.

SAM SCHNEIDER,
Board Member, for the
Federal Aviation Administration.

[F.R. Doc. 70-5558; Filed, May 5, 1970; 8:51 a.m.]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 252 (Sub-No. 1)]

PART 1036—INCENTIVE PER DIEM CHARGES ON BOXCARS

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 28th day of April 1970.

Investigation of the matters and things involved in this proceeding having been made, and the Commission, on the date hereof, having made and filed a report containing its findings of fact and conclusions thereon, which report, and the interim report herein, are made a part hereof.

It is ordered, That Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by adding a new Part 1036, Incentive Per Diem Charges on Boxcars, reading as set forth below.

It is further ordered, That the railroad respondents herein be, and they are hereby, notified and required to observe, enforce, and obey the rules and regulations concerning incentive per diem charges on boxcars, as set forth below.

It is further ordered, That the railroad respondents herein be, and they are hereby, notified and required (1) to observe, enforce, and obey any annual or special reporting requirement which shall be issued hereafter in or pursuant to this proceeding, and (2) to retain all incentive per diem reports made and received, including reclaims, and all incentive per diem discrepancy and adjustment reports.

It is further ordered, That the rules and regulations prescribed below shall be published in the FEDERAL REGISTER.

It is further ordered, That this order shall take effect on June 1, 1970.

And it is further ordered, That this order shall continue in full force and effect until the further order of the Commission.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

Sec.

AUTHORITY: The provisions of this Part 1036 issued under secs. 1 and 12 of the Interstate Commerce Act, 24 Stat. 379, 383, as amended; 49 U.S.C. 1, 12.

§ 1036.1 Application.

Each common carrier by railroad subject to the Interstate Commerce Act shall pay to the owning railroads or the U.S. Class I railroad which is designated by the owning railroads of Canada the additional per diem charges set forth in § 1036.2 on all boxcars shown below,

Mechanical designation	*Code number*
XM	B100–109, B200–209, B300–309.
XMI	B110–119, B210–219, B310–319.
XMIH	B120–129, B220–229, B320–329.
VA	B040.
VM	B050.
XC	B060.
XCI	B070.
XU	B080.

while in the possession of nonowning railroads and subject to per diem rules. These charges are in addition to all other per diem charges currently in effect or prescribed. Mexican-owned cars are exempt from the operation of these rules. The rules of this part shall apply regardless of whether the foregoing boxcars are in intrastate, interstate, or foreign commerce.

§ 1036.2 Amount of incentive charge.

The incentive charges applicable in each cost bracket by age group are set forth below:

AMOUNT OF INCENTIVE PER DIEM ON BOXCARS (COLLECTIBLE IN 6 MONTHS IN EACH YEAR)

Line No.	Cost bracket	Group A 0–5 years	Group B 6–10 years	Group C 11–15 years	Group D 16–20 years	Group E 21–25 years	Group F 26–30 years	Group G over 30 years
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	0–$1,000	$0.32	$0.27	$0.22	$0.17	$0.11	$0.06	$0.04
2	$1,000–$3,000	.65	.54	.44	.33	.23	.12	.07
3	$3,000–$5,000	1.30	1.09	.88	.67	.46	.25	.14
4	$5,000–$7,000	1.95	1.63	1.32	1.00	.68	.37	.21
5	$7,000–$9,000	2.60	2.18	1.75	1.33	.91	.49	.28
6	$9,000–$11,000	3.25	2.72	2.19	1.67	1.14	.61	.35
7	$11,000–$13,000	3.90	3.26	2.63	2.00	1.37	.74	.42
8	$13,000–$15,000	4.54	3.81	3.07	2.33	1.60	.86	.49
9	$15,000–$17,000	5.19	4.35	3.51	2.67	1.82	.98	.56
10	$17,000–$19,000	5.84	4.89	3.95	3.00	2.05	1.11	.63
11	$19,000–$21,000	6.49	5.44	4.39	3.33	2.28	1.23	.70
12	$21,000–$23,000	7.14	5.98	4.82	3.67	2.51	1.35	.77
13	$23,000–$25,000	7.79	6.53	5.26	4.00	2.74	1.47	.84
14	$25,000–$27,000	8.44	7.07	5.70	4.33	2.96	1.60	.91
15	$27,000–$29,000	9.09	7.61	6.14	4.67	3.19	1.72	.98
16	$29,000–$31,000	9.74	8.16	6.58	5.00	3.42	1.84	1.05
17	$31,000–$33,000	10.39	8.70	7.02	5.33	3.65	1.96	1.12
18	$33,000–$35,000	11.04	9.24	7.46	5.67	3.88	2.09	1.19
19	$35,000–$37,000	11.69	9.79	7.89	6.00	4.10	2.21	1.26
20	$37,000–$39,000	12.33	10.33	8.33	6.33	4.33	2.33	1.33
21	$39,000–$41,000	12.98	10.88	8.77	6.67	4.56	2.46	1.40

§ 1036.3 Earmarking.

Each common carrier by railroad shall segregate in Account 716, Capital and Other Reserve Funds, and shall transfer from Account 798, Retained Income, Unappropriated, to Account 797, Retained Income, Appropriated, an amount equal to the net credit balance resulting from any incentive per diem settlement involving boxcars subject to this part, and shall maintain separate accounts for funds received on Canadian owned boxcars. During any calendar year in which the carrier pays income taxes subject to a tax ruling governing incentive balances, the amount required to be earmarked by the carrier hereunder (or transferred by the Canadian carrier to its designee) shall be reduced by the applicable statutory percent, or by the percentage derived from dividing the income taxes in fact paid by the carrier by its net income, whichever percentage is less. The funds in such account shall be used to purchase or build new unequipped boxcars for general service or to rebuild general service, unequipped boxcars with code numbers and mechanical designations set forth in § 1036.1 for addition to such carrier's fleet in accordance with this part. The unexpended funds remaining in the accounts of the carriers may be invested in government bonds or other interest-bearing, temporary securities. The interest earned thereafter will become part of the earmarked fund.

§ 1036.4 Use of funds.

The net credit balances resulting from incentive per diem settlements, which are earmarked in accordance with § 1036.3, may be drawn down in whole or in part at any time by the carrier to build or purchase, in whole or in part, new unequipped boxcars for general service described in § 1036.1: *Provided*, The carrier has in the same calendar year built or purchased its 1964–68 average number of such boxcars and made up any arrearage in having failed to maintain such average each year this order is in effect. Similarly, earmarked funds may be used in whole or in part to rebuild any number or portion of general service unequipped boxcars described in § 1036.1: *Provided*, The carrier has in the same calendar year rebuilt its 1964–68 average number of such boxcars and made up any arrearage in having failed to maintain such average each year this order is in effect. Net balances on Canadian owned cars may be drawn down once the designated carrier has built, rebuilt, or purchased its 1964–68 averages as set forth above; but such drawdowns shall not affect the carrier's accumulation of arrearages resulting from prior failure to build, rebuild, or purchase its 1964–68 averages. As used in this section, "build," "rebuild," or "purchase" refer to a commitment to build, rebuild, or purchase which results in the acquisition of a car on line ready for use within 10 months from the date of commitment.

§ 1036.5 Effective date.

The rules set forth in §§ 1036.1 and 1036.2 shall be effective from September 1 of each year through February of the following year.

§ 1036.6 Rules and regulations suspended.

The operation of all rules and regulations, insofar as they conflict with the provisions of this part, is hereby suspended. The charges herein provided shall be paid for each day cars are held, but nothing in this part shall prevent the operation of per diem reclaim agreements customarily employed by and between particular railroads to provide for special situations, or with the use of customary methods of settling balances of per diem accounts.

[F.R. Doc. 70-5518; Filed, May 5, 1970; 8:48 a.m.]

[Ex Parte No. MC–19 (Sub-No. 5)]

PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

Practices of Motor Common Carriers of Household Goods; Determination of Weights

Order. At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 28th day of April 1970.

It appearing, that by report and recommended order, served September 12, 1969, in the above-entitled proceeding, the examiner found that § 1056.3 of Part 1056 of the Code of Federal Regulations should be revised and amended as set forth in the recommended order;

It further appearing, that no exceptions were filed to the recommended order, that the effective date thereof was not stayed or postponed by the Commission, and that on October 13, 1969, the recommended order became the order of the Commission;

It further appearing, that by the Commission's order entered on February 26, 1970, served March 5, 1970, in Ex Parte No. MC–19 (Sub-No. 8), Practices of Motor Common Carriers of Household Goods, Part 1056 of the Code of Federal Regulations was substantially revised and such revisions included, among other things, the renumbering of those regulations;

It further appearing, that in a petition for reconsideration filed in Ex Parte No. MC–19 (Sub-No. 8) it was pointed out that through inadvertence the order dated February 26, 1970, in that proceeding, failed to incorporate the revision and amendment of § 1056.3 of Part 1056 of the Code of Federal Regulations as recommended by the examiner in Ex Parte No. MC–19 (Sub-No. 5);

It further appearing, that this proceeding should be reopened on our own motion for the purpose of modifying the order of October 13, 1969, which has not yet been incorporated into the Code of Federal Regulations;

It further appearing, that in light of the revisions of § 1056.3, now renumbered § 1056.6, of Part 1056, made in the order of February 26, 1970, in Ex Parte No. MC–19 (Sub-No. 8), and to harmonize the revision and amendment recommended by the examiner with the newly adopted regulations, the recommended order herein which became effective by operation of law should be modified.

Wherefore, and good cause appearing therefor:

It is ordered, That this proceeding be, and it is hereby, reopened.

It is further ordered, That the order entered herein on October 13, 1969, be, and it is hereby, modified in the following manner:

By adding to § 1056.6 the following new paragraph (e):

§ 1056.6 Determination of weights.

* * * * *

(e) *Exception.* The provisions of paragraphs (a), (b), (c), and (d) of this section shall not apply to shipments consisting solely of machinery (including auxiliary and component parts thereof) which are being transported by household goods carriers pursuant to the definition of household goods in paragraph (a)(3) of § 1056.1; *Provided,* The weight of each shipment is certified by the shipper thereof on the bill of lading covering such shipment; *And provided further,* That nothing contained herein shall relieve the carrier of the obligation to enter in part B of the vehicle-load manifest the gross and tare weights of the vehicle on which such shipment is transported and the net weight of the shipment.

It is further ordered, That the foregoing rule be, and it is hereby, prescribed to become effective on June 1, 1970, and will apply only on household goods removed from the shipper's premises on and after the said effective date.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

(49 Stat. 546, 558, 560, 563, 565, all as amended; 49 U.S.C. 304, 316, 317, 319, 320, 323)

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 70–5519; Filed, May 5, 1970; 8:48 a.m.]

Title 50—WILDLIFE AND FISHERIES

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

PART 33—SPORT FISHING

Delta National Wildlife Refuge, La.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER.

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

LOUISIANA

DELTA NATIONAL WILDLIFE REFUGE

Sport fishing on the Delta National Wildlife Refuge, Venice, La., is permitted only on the areas designated by signs as open to fishing. These open areas, comprising approximately 48,000 acres, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, Atlanta, Ga. 30323. Sport fishing shall be in accordance with all applicable State regulations except the following special conditions:

(1) The sport fishing season on the refuge shall be closed during the waterfowl hunting season.

(2) Fishing permitted during daylight hours only.

(3) Air-thrust boats are prohibited.

The provisions of this special regulation supplement the regulations which government fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through May 1, 1971.

W. L. TOWNS,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

APRIL 27, 1970.

[F.R. Doc. 70–5494; Filed, May 5, 1970; 8:46 a.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Office of Economic Opportunity

Section 213.3373 is amended to show that the position of Associate Director for Public Affairs is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (15) is added to paragraph (a) of § 213.3373 as set out below.

§ 213.3373 Office of Economic Opportunity.

(a) *Office of the Director.* * * *

(15) Associate Director for Public Affairs.

* * * * *

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

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[F.R. Doc. 70–5528; Filed, May 5, 1970; 8:49 a.m.]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3384 is amended to show that one additional position of Special Assistant to the Under Secretary is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (9) of paragraph (a) of § 213.3384 is amended as set out below.

§ 213.3384 Department of Housing and Urban Development.

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

(9) Four Special Assistants to the Under Secretary.

* * * * *

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

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

[F.R. Doc. 70–5527; Filed, May 5, 1970; 8:49 a.m.]

PART 213—EXCEPTED SERVICE

Department of the Navy

Section 213.3308 is amended to show that one position of Special Assistant to the Military Assistant to the President is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (9) is added to paragraph (a) of § 213.3308 as set out below.

§ 213.3308 Department of the Navy.

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

(9) One Special Assistant to the Military Assistant to the President.

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

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

[F.R. Doc. 70–5653; Filed, May 5, 1970; 11:43 a.m.]

PART 213—EXCEPTED SERVICE

Department of the Interior

Section 213.3312 is amended to show that one position of Executive Assistant to the Commissioner, Federal Water Pollution Control Administration, is excepted under Schedule C. Effective on publication in the FEDERAL REGISTER, subparagraph (2) is added to paragraph (n) of § 213.3312 as set out below.

§ 213.3312 Department of the Interior.

* * * * *

(n) *Federal Water Pollution Control Administration.* * * *

(2) One Executive Assistant to the Commissioner.

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

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

[F.R. Doc. 70–5654; Filed, May 5, 1970; 11:43 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 31]

EMPLOYMENT TAXES

Alternative Methods of Computing Amount To Be Withheld Upon Wages as Income Tax Collected at Source

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 15 days from the date of publication of this notice in the FEDERAL REGISTER. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 15-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] WILLIAM H. SMITH,
Acting Commissioner of Internal Revenue.

In order to conform the Employment Tax Regulations (26 CFR Part 31) under sections 3402 and 6001 of the Internal Revenue Code of 1954 to section 805(d) of the Tax Reform Act of 1969 (83 Stat. 705), such regulations are amended as follows:

PARAGRAPH 1. Subpart E is amended by striking out §§ 31.3402(h) and 31.3402(h)-1 and by adding after section 3402(g)-3 the following new sections:

§ 31.3402(h)(1) Statutory provisions; income tax collected at source; alternative methods of computing amount to be withheld; withholding on basis of average wages.

SEC. 3402. *Income tax collected at source.* • • •

(h) *Alternative methods of computing amount to be withheld.* The Secretary or his delegate may, under regulations prescribed by him, authorize—

(1) *Withholding on basis of average wages.* An employer—

(A) To estimate the wages which will be paid to any employee in any quarter of the calendar year,

(B) To determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid, and

(C) To deduct and withhold upon any payment of wages to such employee during such quarter (and, in the case of tips referred to in subsection (k), within 30 days thereafter) such amount as may be necessary to adjust the amount actually deducted and withheld upon the wages of such employee during such quarter to the amount required to be deducted and withheld during such quarter without regard to this subsection.

[Sec. 3402(h)(1) as amended by sec. 313(d)(4), Social Security Amendments 1965 (79 Stat. 384); sec. 805(d), Tax Reform Act 1969 (83 Stat. 705)]

§ 31.3402(h)(1)-1 Withholding on basis of average wages.

(a) *In general.* An employer may determine the amount of tax to be deducted and withheld upon a payment of wages to an employee on the basis of the employee's average estimated wages, with necessary adjustments, for any quarter. This paragraph applies only where the method desired to be used includes wages other than tips (whether or not tips are also included).

(b) *Withholding on the basis of average estimated tips*—(1) *In general.* Subject to certain limitations and conditions, an employer may, at his discretion, withhold the tax under section 3402 in respect of tips reported by an employee to the employer on an estimated basis. An employer who elects to make withholding of the tax on an estimated basis shall:

(i) In respect of each employee, make an estimate of the amount of tips that will be reported, pursuant to section 6053, by the employee to the employer in a calendar quarter.

(ii) Determine the amount which must be deducted and withheld upon each payment of wages (exclusive of tips) which are under the control of the employer to be made during the quarter by the employer to the employee. The total amount which must be deducted and withheld shall be determined by assuming that the estimated tips for the quarter represent the amount of wages to be paid to the employee in the form of tips in the quarter and that such tips will be ratably (in terms of pay periods) paid during the quarter.

(iii) Deduct and withhold from any payment of wages (exclusive of tips) which are under the control of the employer, or from funds referred to in section 3402(k) (see §§ 31.3402(k) and 31.3402(k)-1), such amount as may be necessary to adjust the amount of tax withheld on the estimated basis to conform to the amount required to be withheld in respect of tips reported by the employee to the employer during the calendar quarter in written statements furnished to the employer pursuant to section 6053(a). If an adjustment is required, the additional tax required to be withheld may be deducted upon any payment of wages (exclusive of tips) which are under the control of the employer during the quarter and within the first 30 days following the quarter or from funds turned over by the employee to the employer for such purpose within such period. For provisions relating to the repayment to an employee, or other disposition, of amounts deducted from an employee's remuneration in excess of the correct amount of tax, see § 31.6413(a)-1.

(2) *Estimating tips employee will report*—(i) *Initial estimate.* The initial estimate of the amount of tips that will be reported by a particular employee in a calendar quarter shall be made on the basis of the facts and circumstances surrounding the employment of that employee. However, if a number of employees are employed under substantially the same circumstances and working conditions, the initial estimate established for one such employee may be used as the initial estimate for other employees in that group.

(ii) *Adjusting estimate.* If the quarterly estimate of tips in respect of a particular employee continues to differ substantially from the amount of tips reported by the employee and there are no unusual factors involved (for example, an extended absence from work due to illness) the employer shall make an appropriate adjustment of his estimate of the amount of tips that will be reported by the employee.

(iii) *Reasonableness of estimate.* The employer must be prepared, upon request of the district director, to disclose the factors upon which he relied in making the estimate, and his reasons for believing that the estimate is reasonable.

§ 31.3402(h)(2) Statutory provisions; income tax collected at source; alternative methods of computing amount to be withheld; withholding on basis of annualized wages.

SEC. 3402. *Income tax collected at source.* • • •

(h) *Alternative methods of computing amount to be withheld.* The Secretary or his delegate may, under regulations prescribed by him, authorize—

* * * * *

(2) *Withholding on basis of annualized wages.* An employer to determine the amount of tax to be deducted and withheld upon a payment of wages to an employee for a payroll period by—

(A) Multiplying the amount of an employee's wages for a payroll period by the

number of such payroll periods in the calendar year,

(B) Determining the amount of tax which would be required to be deducted and withheld upon the amount determined under subparagraph (A) if such amount constituted the actual wages for the calendar year and the payroll period of the employee were an annual payroll period, and

(C) Dividing the amount of tax determined under subparagraph (B) by the number of payroll periods (described in subparagraph (A)) in the calendar year.

[Sec. 3402(h)(2) as amended by sec. 805(d), Tax Reform Act 1969 (83 Stat. 705)]

§ 31.3402(h)(2)–1 Withholding on basis of annualized wages.

An employer may determine the amount of tax to be deducted and withheld upon a payment of wages to an employee by taking the following steps:

Step 1. Multiply the amount of the employee's wages for the payroll period by the number of such periods in the calendar year.

Step 2. Determine the amount of tax which would be required to be deducted and withheld upon the amount determined in Step 1 if that amount constituted the actual wages for the calendar year and the payroll period of the employee were an annual payroll period.

Step 3. Divide the amount of tax determined in Step 2 by the number of periods by which the employee's wages were multiplied in Step 1.

Example. On July 1, 1970, A, a single person who is on a weekly payroll period and claims one exemption, receives wages of $100 from X Co., his employer. X Co. multiplies the weekly wage of $100 by 52 weeks to determine an annual wage of $5,200. It then subtracts $650 for A's withholding exemption and arrives at a balance of $4,550. The applicable table in section 3402(a) for annual payroll periods indicates that the amount of tax to be withheld thereon is $376 plus $314.50 (17 percent of excess over $2,700), or a total of $690.50. The annual tax of $690.50, when divided by 52 to arrive at the portion thereof attributable to the weekly payroll period, equals $13.28. X Co. may, if it chooses, withhold $13.28 rather than the amount specified in section 3402 (a) or (c) for a weekly payroll period.

§ 31.3402(h)(3) Statutory provisions; income tax collected at source; alternative methods of computing amount to be withheld; withholding on basis of cumulative wages.

SEC. 3402. *Income tax collected at source.* * * *

(h) *Alternative methods of computing amount to be withheld.* The Secretary or his delegate may, under regulations prescribed by him, authorize—

* * * * *

(3) *Withholding on basis of cumulative wages.* An employer, in the case of any employee who requests to have the amount of tax to be withheld from his wages computed on the basis of his cumulative wages, to—

(A) Add the amount of the wages to be paid to the employee for the payroll period to the total amount of wages paid by the employer to the employee during the calendar year,

(B) Divide the aggregate amount of wages computed under subparagraph (A) by the number of payroll periods to which such aggregate amount of wages relates,

(C) Compute the total amount of tax that would have been required to be deducted and withheld under subsection (a) if the average amount of wages (as computed under subparagraph (B)) had been paid to the employee for the number of payroll periods to which the aggregate amount of wages (computed under subparagraph (A)) relates,

(D) Determine the excess, if any, of the amount of tax computed under subparagraph (C) over the total amount of tax deducted and withheld by the employer from wages paid to the employee during the calendar year, and

(E) Deduct and withhold upon the payment of wages (referred to in subparagraph (A)) to the employee an amount equal to the excess (if any) computed under subparagraph (D).

[Sec. 3402(h)(3) as amended by sec. 805(d), Tax Reform Act 1969 (83 Stat. 705)]

§ 31.3402(h)(3)–1 Withholding on basis of cumulative wages.

(a) *In general.* In the case of an employee who has in effect a request that the amount of tax to be withheld from his wages be computed on the basis of his cumulative wages, the employer may determine the amount of tax to be deducted and withheld upon a payment of wages made to the employee after December 31, 1969, by taking the following steps:

Step 1. Add the amount of the wages to be paid the employee for the payroll period to the total amount of wages paid by the employer to the employee during the calendar year.

Step 2. Divide the aggregate amount of wages computed in Step 1 by the number of payroll periods to which that amount relates.

Step 3. Compute the total amount of tax that would have been required to be deducted and withheld under section 3402(a) if the average amount of wages (as computed in Step 2) had been paid to the employee for the number of payroll periods to which the aggregate amount of wages (computed in Step 1) relates.

Step 4. Determine the excess, if any, of the amount of tax computed in Step 3 over the total amount of tax already deducted and withheld by the employer from wages paid to the employee during the calendar year.

Example. On July 1, 1970, Y Co. employs B, a single person claiming one exemption. Y Co. pays B the following amounts of wages on the basis of a biweekly payroll period on the following pay days:

July 20	$1,000
August 3	300
August 17	300
August 31	300
September 14	300
September 28	300

On October 5, B requests that Y Co. withhold on the basis of his cumulative wages with respect to his wages to be paid on October 12 and thereafter. Y Co. adds the $300 in wages to be paid to B on October 12 to the payments of wages already made to B during the calendar year, and determines that the aggregate amount of wages is $2,800. The average amount of wages for the 7 biweekly payroll periods is $400. The total amount of tax required to be deducted and withheld for payments of $400 for each of 7 biweekly payroll periods is $485.87 under section 3402(a). Since the total amount of tax which has been deducted and withheld by Y Co. through September 28 is $484.86, Y Co. may, if it chooses, deduct and withhold $1.01 (the amount by which $485.87 exceeds the total amount already withheld by Y Co.) from the payment of wages to B on October 12 rather than the amount specified in section 3402 (a) or (c).

(b) *Employee's request and revocation of request.* An employee's request that his employer withhold on the basis of his cumulative wages and a notice of revocation of such request shall be in writing and in such form as the employer may prescribe. An employee's request furnished to his employer pursuant to this section shall be effective, and may be acted upon by his employer, after the furnishing of such request and before a revocation thereof is effective. A revocation of such request may be made at any time by the employee furnishing his employer with a notice of revocation. The employer may give immediate effect to a revocation, but, in any event, a revocation shall be effective with respect to payments of wages made on or after the first "status determination date" (see section 3402(f)(3)(B)) which occurs at least 30 days after the date on which such notice is furnished.

§ 31.3402(h)(4) Statutory provisions; income tax collected at source; alternative methods of computing amount to be withheld; other methods.

SEC. 3402. *Income tax collected at source.* * * *

(h) *Alternative methods of computing amount to be withheld.* The Secretary or his delegate may, under regulations prescribed by him, authorize—

* * * * *

(4) *Other methods.* An employer to determine the amount of tax to be deducted and withheld upon the wages paid to an employee by any other method which will require the employer to deduct and withhold upon such wages substantially the same amount as would be required to be deducted and withheld by applying subsection (a) or (c), either with respect to a payroll period or with respect to the entire taxable year.

[Sec. 3402(h)(4) as amended by sec. 805(d), Tax Reform Act 1969 (83 Stat. 705)]

§ 31.3402(h)(4)–1 Other methods.

(a) An employer may use any other method of withholding under which the employer will deduct and withhold upon wages paid to an employee after December 31, 1969, for a payroll period substantially the same amount as would be required to be deducted and withheld by applying section 3402(a) with respect to the payroll period. For purposes of section 3402(h)(4) and this section, an amount is substantially the same as the amount required to be deducted and withheld under section 3402(a) if its deviation from the latter amount is not greater than the maximum permissible deviation prescribed in this paragraph. The maximum permissible deviation under this paragraph is determined by annualizing wages as provided in Step 1 of § 31.3402(h)(2)–1 and applying the following table to the amount of tax required to be deducted and withheld under section 3402(a) with respect to such annualized wages, as determined under Step 2 of § 31.3402(h)(2)–1:

If the tax required to be withheld under the annual percentage rate schedule is—	The maximum permissible annual deviation is—
$10 to $100	$10, plus 10 percent of excess over $10.
$100 to $1,000	$19, plus 3 percent of excess over $100.
$1,000 or over	$46, plus 1 percent of excess over $1,000.

In any case, an amount which is less than $10 more or less per year than the amount required to be deducted and withheld under section 3402(a) is substantially the same as the latter amount. If any method produces results which are not greater than the prescribed maximum deviations only with respect to some of his employees, the employer may use such method only with respect to such employees. An employer should thoroughly test any method which he contemplates using to ascertain whether it meets the tolerances prescribed by this paragraph. An employer may not use any method, one of the principal purposes of which is to consistently produce amounts to be deducted and withheld which are less (though substantially the same) than the amount required to be deducted and withheld by applying section 3402(a).

(b) In addition to the methods authorized by paragraph (a) of this section, an employer may determine the amount of tax to be deducted and withheld under section 3402 upon a payment of wages to an employee by using tables prescribed by the Commissioner which combine the amounts of tax to be deducted under sections 3102 and 3402. Such tables shall provide for the deduction of the sum of such amounts, computed on the basis of the midpoints of the wage brackets in the tables prescribed under section 3402(c). The portion of such sum which is to be treated as the tax deducted and withheld under section 3402 shall be the amount obtained by subtracting from such sum the amount of tax required to be deducted by section 3102. Such tables may be used only with respect to payments which are wages under both sections 3121(a) and 3401(a).

PAR. 2. Paragraph (c)(1)(iii) of § 31.3402(k)–1 is amended to read as follows:

§ 31.3402(k)–1 Special rule for tips.

* * * * *

(c) *Priority of tax collection*—(1) *In general.* * * *

(iii) Any tax under section 3402 which, at the time of the payment of the wages, the employer is required to collect—

(*a*) In respect of tips reported by the employee to the employer in a written statement furnished to the employer pursuant to section 6053(a), or

(*b*) By reason of the employer's election to make collection of the tax under section 3402 in respect of tips on an estimated basis,

but which has not been collected by the employer and which cannot be deducted from funds turned over by the employee to the employer for such purpose. For provisions relating to the withholding of tax on the basis of average estimated tips, see paragraph (b) of § 31.3402(h)(1)–1.

PAR. 3. Section 31.6001–5(a) is amended by adding new subparagraph (17) immediately after subparagraph (16):

§ 31.6001–5 Additional records in connection with collection of income tax at source on wages.

(a) * * *

(17) Any request of an employee under section 3402(h)(3) and § 31.3402(h)(3)–1 to have the amount of tax to be withheld from his wages computed on the basis of his cumulative wages, and any notice of revocation thereof.

* * * * *

[F.R. Doc. 70–5554; Filed, May 5, 1970; 8:51 a.m.]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

[49 CFR Part 173]

[Docket No. HM–47; Notice 70–8]

TRANSPORTATION OF HAZARDOUS MATERIALS

Ethylene Imine, Inhibited in Tank Cars

The Hazardous Materials Regulations Board is considering amending the Department's Hazardous Materials Regulations to authorize shipment of ethylene imine, inhibited in specification 111A60W1 tank cars.

This proposal is based on the satisfactory performance of this type tank car in the service of ethylene imine, inhibited under special permit provisions during the past 2 years. No reports of adverse experience on shipments made in accordance with special permit conditions have been received by the Department.

It is the Board's opinion that specification 111A60W1 insulated tank cars are equivalent to specification 104W tank cars currently prescribed in § 173.139 of the regulations.

In consideration of the foregoing, it is proposed to amend 49 CFR 173.139 paragraph (a)(4) to read as follows:

§ 173.139 Ethylene imine, inhibited, and propylene imine, inhibited.

(a) * * *

(4) Specification 104W or 111A60W1 (§§ 179.200 and 179.201 of this chapter). Tank cars, for ethylene imine, inhibited only. Specification 111A60W1 tank cars must be insulated in accordance with § 179.200–4 of this chapter.

* * * * *

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590. Communications received on or before June 9, 1970, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

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

Issued in Washington, D.C., on May 1, 1970.

J. B. MCCARTY, Jr.,
Captain, U.S. Coast Guard, by direction of Commandant, U.S. Coast Guard.

R. N. WHITMAN,
Administrator, Federal Railroad Administration.

[F.R. Doc. 70–5556; Filed, May 5, 1970; 8:51 a.m.]

Office of Pipeline Safety

[49 CFR Part 192]

[Notice 70–8; Docket No. OPS–5]

MINIMUM FEDERAL SAFETY STANDARDS FOR GAS PIPELINES

Requirements for Corrosion Control

The Department of Transportation is developing proposals for comprehensive minimum Federal safety standards for gas pipeline facilities and for the transportation of gas, as required by section 3(b) of the Natural Gas Pipeline Safety Act of 1968.

Interested persons are invited to participate in the making of the proposed rules by submitting written data, views, or arguments. Communications should identify the regulatory docket and notice number and be submitted in duplicate to the Office of Pipeline Safety, Department of Transportation, 400 Sixth Street SW., Washington, D.C. 20590. Communications received before June 29, 1970, will be considered before taking final action on the notice. All comments will be available for examination by interested persons at the Office of Pipeline Safety before and after the closing date for comments. The proposals contained in this notice may be changed in light of comments received.

This notice differs from the previous series of notices issued over the last 6 months, which were based largely on the USAS B31.8 Code, 1968 edition. Since the treatment of corrosion control in the Code was deemed inadequate, this notice would propose new minimum requirements for the protection of gas pipe and piping facilities from external and internal corrosion. Use has been made of

the 1969 issue of the National Association of Corrosion Engineers' Standard RP-01-69, "Recommended Practice—Control of External Corrosion on Underground or Submerged Metallic Piping Systems."

The proposed regulations will become effective 30 days after the date of issue, except for certain specific provisions which have different effective dates to allow appropriate lead time for compliance. This is true of the provisions relating to cathodic protection of existing pipelines (§§ 192.467, 192.469, 192.471, and 192.473), internal corrosion control (§ 192.487), atmospheric corrosion control (§ 192.489), control of interference currents (§ 192.491), and corrosion control records (§ 192.493). Comment is invited on the adequacy of the proposed effective dates, both as to whether earlier dates would be in the interest of increased safety and whether later dates are indicated by factors of cost or feasibility.

While the Department's Corrosion regulations applicable to pipelines carrying hazardous liquids (49 CFR Part 195), apply only to steel pipe, these proposed regulations apply to steel, cast iron, ductile iron, aluminum, and copper pipe. Although more detailed, the proposed regulations for corrosion control of gas pipeline facilities are consistent with those for liquid pipelines, for the most part.

The proposed regulations apply to new construction and to existing pipelines and facilities, and to both coated and bare pipe. Subjects covered include cathodic protection, monitoring, remedial measures, installation of test stations and test leads, electrical insulation, atmospheric corrosion control, control of interference currents, and corrosion records.

Aluminum piping has been treated in essentially the same way as iron and steel except for certain special provisions which apply to amphoteric metal. Copper piping has received different treatment because it is more passive to most environments.

It should be noted that § 192.455 would require that all pipe used in new construction be externally coated to minimize corrosion. In addition, paragraph (a) of § 192.483 and paragraph (a) of § 192.485 would require that where corroded pipe in an existing pipeline, main or service line is replaced by metal pipe, the replacement pipe must be coated. Are there circumstances under which it is inappropriate to require that the pipe used in new construction or pipe used to replace corroded pipe in existing pipelines, must be coated? Comments and discussion are invited on this question.

Even under present-day construction methods, pipeline coating is sometimes damaged during construction, or subsequently by cold flow of the coating due to piercing by rocks or hard clods of soil. Supplemental cathodic protection is therefore required for coated pipe as well as bare pipe.

Paragraph (d) of § 192.457 would require that the negative (cathodic) voltage between all structure surfaces must be at least as negative as that required to protect the most anodic metal in the structure. Since similar metals may have different cathodic potentials under certain circumstances, as for example, where old steel is used with new steel, we have eliminated use of the term "dissimilar metals." Does elimination of this term create any problems of ambiguity or uncertainty?

In consideration of the foregoing, the Department proposes to amend Title 49 of the Code of Federal Regulations by adding a new Part 192 to contain Subpart I as set forth below.

This notice is issued under the authority of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. sec. 1671 et seq.), Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1), and the delegation of authority to the Director, Office of Pipeline Safety dated November 6, 1968 (33 F.R. 16468).

Issued in Washington, D.C., on April 30, 1970.

WILLIAM C. JENNINGS,
Acting Director,
Office of Pipeline Safety.

Subpart I—Requirements for Corrosion Control

Sec.

Subpart I—Requirements for Corrosion Control

§ 192.451 Scope.

This subpart prescribes minimum requirements for the protection of gas pipeline facilities from external and internal corrosion. It applies to new construction and to existing pipelines, mains, service lines, and related facilities.

§ 192.453 New construction: External corrosion control of buried or submerged piping.

(a) Except as provided in paragraph (c) of this section each buried or submerged metallic pipe or pipeline component must be protected against external corrosion.

(b) Aluminum may not be used in a pipeline system in a highly alkaline environment unless tests or experience indicate its suitability in the particular environment involved.

(c) Each buried or submerged copper pipe or pipeline facility must be protected against corrosion unless the operator can demonstrate by test, investigation, or experience in the area of application, and in environmental conditions comparable to the intended service, that a corrosive condition does not exist.

§ 192.455 New construction: External coating.

(a) Except as provided in paragraph (c) of § 192.453, no metallic pipe or pipeline component may be buried unless that pipe or component has a properly prepared surface and has an external protective coating, either conductive or insulating, that—

(1) Is designed to minimize corrosion on the buried pipe or component;

(2) Has sufficient adhesion to the metal surface to prevent underfilm migration of moisture;

(3) Is sufficiently ductile to resist cracking;

(4) Has enough strength to resist damage due to handling and soil stress; and

(5) Is capable of supporting any supplemental cathodic protection.

(b) Electrically insulating coatings, in addition to the requirements of paragraph (a) of this section, must have—

(1) Low moisture absorption;

(2) Low moisture vapor transmission; and

(3) High electrical resistance.

(c) All coating on metallic pipe and pipeline components must be inspected just prior to lowering the pipe and components into the ditch, and any damage must be repaired.

(d) All coating on metallic pipe and pipeline components must be protected from damage resulting from adverse ditch conditions or damage from supporting blocks.

§ 192.457 New construction: Cathodic protection.

(a) Except as provided in paragraph (c) of § 192.453, each buried pipe or pipeline component must be cathodically protected not later than 1 year after completion of construction.

(b) Each cathodic protection system must be designed and installed by, or under the direction of, a person qualified by experience and training in corrosion control methods.

(c) The level of cathodic protection must be at least equal to that achieved by complying with one or more of the criteria contained in paragraph 6.3 of the 1969 edition of NACE Standard RP-01-69.

(d) The negative (cathodic) voltage between metals of different anodic potentials must be at least as negative as that required to protect the most anodic metal in the structure.

(e) In addition to the requirements of paragraph (d) of this section, if amphoteric metals are included in a buried pipeline system containing metal of different anodic potentials—

(1) The amphoteric metals must be electrically isolated from the remainder of the system and cathodically protected; or

(2) The entire buried system must be cathodically protected at a cathodic potential deemed safe for the amphoteric metal, consistent with paragraph 6.3 of the 1969 edition of NACE Standard RP-01-69.

(f) The cathodic potential of a buried pipeline system may not exceed (be more negative than) a value which assures proper performance of the protective coating system.

§ 192.459 New construction: Installation of test stations.

Test stations must be provided at intervals frequent enough to obtain electrical measurements indicating the adequacy of the cathodic protection.

§ 192.461 New construction: Installation of test leads.

(a) Each connection of a test lead wire to pipe must be installed so as to remain mechanically secure and electrically conductive.

(b) Each lead wire must be attached to the pipe so as to minimize stress concentration on the pipe.

(c) Each bared test lead wire and bared metallic area at point of connection to the pipe must be coated with an electrical insulating material compatible with the pipe coating and wire insulation.

§ 192.463 New construction: Electrical insulation.

(a) An insulating device must be installed where electrical isolation of a portion of the piping system is necessary to facilitate the application of corrosion control, or to prevent galvanic action between metals of different anodic potentials. Inspection and electrical measurements must be made to assure that electrical isolation is adequate.

(b) An insulating device may not be installed in an area where a combustible atmosphere is likely to be present.

(c) Whenever lightning and fault currents are likely to be present, protective measures must be taken at insulating devices.

(d) Except for unprotected copper inserted in piping, each pipe or pipeline component must be electrically isolated from metallic casings when such casings are a part of the underground system.

(e) Where electrical contact would adversely affect cathodic protection, the piping system must be electrically isolated from supporting pipe stanchions, bridge structures, tunnel enclosures, piling, or reinforced concrete foundations. However, except for aluminum and copper, piping may be attached directly to a bridge without insulation, if insulating devices are installed at each side of the bridge to electrically isolate the bridge piping from adjacent underground piping.

§ 192.465 New construction: Clearance between pipe and underground structures.

(a) Each pipe installed underground must be provided with permanent electrical isolation from other underground structures.

(b) Where a pipe is located in close proximity to transmission tower footings, ground cables or counterpoise, special provisions must be made to prevent damage due to lightning and fault currents.

§ 192.467 Existing pipelines: Cathodic protection; steel and aluminum pipelines, mains, or service lines operating at 20 percent or more of specified minimum yield strength.

(a) *Externally coated pipe.* Except for buried station piping, before _____ (3 years after effective date), each steel or aluminum pipeline, main or service line operating at 20 percent or more of specified minimum yield strength that has an external coating, must be cathodically protected in its entirety.

(b) *Bare pipe.* Before _____ (5 years after effective date), each bare steel or aluminum pipeline, main, or service line operating at 20 precent or more of specified minimum yield strength must be cathodically protected in areas in which corrosion exists. The operator shall determine by electrical survey, or other means where cathodic protection is needed.

(c) *Buried station piping.* Before _____ (3 years after effective date), all buried steel or aluminum station piping operating at 20 percent or more of specified minimum yield strength, whether bare or coated, including piping in compressor stations, regulator stations and measuring stations, must be cathodically protected in areas in which corrosion exists. The operator shall determine by electrical survey, or other means, where cathodic protection is needed.

§ 192.469 Existing pipelines: Cathodic protection; steel and aluminum pipelines, mains, or service lines operating at less than 20 percent of specified minimum yield strength.

Before _____ (5 years after effective date), each steel or aluminum pipeline, main, or service line operating at less than 20 percent of specified minimum yield strength must be cathodically protected in areas in which corrosion exists. The operator shall determine by electrical survey, or other means, where cathodic protection is needed.

§ 192.471 Existing pipelines: Cathodic protection; cast iron and ductile iron.

(a) Before _____ (3 years after effective date), each cast iron or ductile iron pipeline, main or service line that has an external coating must be cathodically protected in its entirety.

(b) Before _____ (5 years after effective date) each bare cast iron or ductile iron pipeline, service line, or main, must be cathodically protected in areas in which corrosion exists. The operator shall determine by electrical survey or other means, where cathodic protection is needed.

§ 192.473 Existing pipelines: Cathodic protection; copper piping.

(a) Before _____ (5 years after effective date), all copper piping must be cathodically protected in areas in which corrosion exists. The operator shall determine by electrical survey, or other means, where cathodic protection is needed.

§ 192.475 Existing pipelines: Cathodic protection; monitoring.

(a) At intervals not exceeding 12 months, each operator shall conduct tests on underground facilities in its pipeline system that are under catholic protection, to determine whether the protection is adequate. However, where annual tests of separately protected services or short electrically isolated sections of protected mains not in excess of 100 feet are impractical, surveys may be made on a sampling basis. At least 10 percent of these protected structures, distributed over the entire system, must be surveyed each year, with a different 10 percent checked each subsequent year, so that the entire system is tested in each 10-year period.

(b) At intervals not exceeding 3 years, each operator shall reevaluate its unprotected bare pipe and cathodically protect it in areas in which corrosion exists.

(c) At intervals not exceeding 2 months, each operator shall inspect each of its cathodic protection rectifiers or other impressed current power sources.

(d) At intervals not exceeding 2 months, each operator shall electrically check for proper performance each reverse current switch, diode, and interference bond.

§ 192.477 Existing pipelines: Installation of test stations and test leads.

Whenever the installation of test stations and test leads is required to ascertain the adequacy of cathodic protection of existing pipelines, the provisions of §§ 192.459 and 192.461 apply.

§ 192.479 Existing pipelines: Electrical insulation.

Whenever electrical insulation of a portion of an existing piping system is required to facilitate the application of corrosion control, the provisions of § 192.463 apply.

§ 192.481 Existing pipelines: General remedial measures.

(a) Whenever any buried piping is exposed for any reason, it must be examined for evidence of external corrosion. Except as provided in paragraph (c) of this section, all corroded pipe must be replaced or repaired and cathodic protection applied in accordance with the requirements of this part.

(b) Each cathodic protection survey and installation must be made by or under the direction of a person qualified by experience and training in corrosion control methods.

(c) Generally corroded pipe, whether the corrosion is external or internal, need not be replaced or repaired if the operating pressure is reduced so as to be commensurate with the limits on operating pressure specified in this part based on the actual remaining wall thickness.

§ 192.483 Existing pipelines: Remedial measures; pipelines, mains, or service lines operating at 20 percent or more of specified minimum yield strength.

(a) Each pipeline, main, or service line operating at 20 percent or more of specified minimum yield strength found to be so generally corroded that the remaining wall thickness is less than the minimum thickness required by the pipe specification tolerances of Subpart C of this part, must be replaced with coated pipe or, if the area is small, must be repaired.

(b) If isolated corrosion pitting is found on a pipeline, main, or service line operating at 20 percent or more of specified minimum yield strength, the pipe must be repaired or replaced unless the diameter of the pits, as measured at the surface of the pipe, is less than the nominal wall thickness of the pipe, and the remaining wall thickness at the bottom of the pits is at least 70 percent of the nominal wall thickness.

§ 192.485 Existing pipelines: Remedial measure; pipelines, mains, or service lines operating at less than 20 percent of specified minimum yield strength.

(a) Each pipeline, main, or service line operating at less than 20 percent of specified minimum yield strength found to be so generally corroded that the remaining wall thickness is less than 50 percent of the nominal wall thickness, must be replaced with coated pipe or plastic pipe, or, if the area is small, must be repaired.

(b) If isolated corrosion pitting is found on a pipeline, main, or service line operating at less than 20 percent of specified minimum yield strength, the pipe must be repaired or replaced, unless the diameter of the corrosion pits, as measured at the surface of the pipe, is less than three times the nominal wall thickness, and the remaining wall thickness at the bottom of the pits is at least 30 percent of the nominal wall thickness.

(c) Each cast iron or ductile iron pipe operating at less than 20 percent of specified minimum yield strength, on which general graphitization is found to a degree where fracture or any leakage might result, must be replaced.

§ 192.487 Internal corrosion control.

(a) After _____ (12 months after effective date), no operator may transport gas that would corrode the pipe or other components of the pipeline system, unless it has investigated the corrosive effect of the gas on the system and has taken adequate steps to minimize corrosion.

(b) Each operator shall use coupons or other monitoring equipment to determine the effectiveness of steps taken to minimize internal corrosion.

(c) At intervals not exceeding six months commencing on _____ (12 months after effective date), the operator shall examine each coupon or other type of monitoring equipment to determine the effectiveness of the steps taken to minimize internal corrosion or the extent of any corrosion.

(d) Whenever any pipe is removed from the pipeline for any reason, the internal surface must be inspected for evidence of corrosion, the adjacent pipe must be investigated to determine the extent of corrosion and—

(1) Where the pipe is so generally corroded that the remaining wall thickness is less than the minimum thickness permitted by §§ 192.483 and 192.485 the corroded pipe must be replaced.

(2) Where cast iron or ductile iron pipe is internally corroded and the pipe is generally graphitized or pitted to the extent that fracture or leakage might result, the pipe must be replaced.

§ 192.489 Atmospheric corrosion control.

Before _____ (12 months after effective date), each operator shall clean and coat, or jacket, steel, cast iron or ductile iron pipe and component with material suitable for the prevention of atmospheric corrosion, and thereafter maintain this protection for each pipe and component in its pipeline system that is exposed to the atmosphere. This requirement also applies to aluminum and copper pipe and components when exposed to an atmospheric environment that is corrosive to these metals.

§ 192.491 Control of interference currents.

(a) Before _____ (12 months after effective date), each operator shall minimize the detrimental effects of stray currents.

(b) If an impressed current type cathodic protection system is used, it must be installed with its associated ground bed located so as to minimize any adverse effects on existing adjacent underground metallic structures.

§ 192.493 Corrosion control records.

Before _____ (12 months after effective date)—

(a) Construction drawings and records must be made of the cathodically protected piping, the cathodic protection facilities, and neighboring structure affected by the cathodic protection system; and

(b) Each record of a test, survey, or inspection required by this subpart must be retained for the useful life of the part of the pipeline system to which it relates.

[F.R. Doc. 70-5487; Filed, May 5, 1970; 8:46 a.m.]

FEDERAL HOME LOAN BANK BOARD

[12 CFR Part 545]

[No. 24,051]

FEDERAL SAVINGS AND LOAN SYSTEM

Sale of Loans and Participation Interests in Loans

APRIL 30, 1970.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend Part 545 of the rules and regulations for the Federal Savings and Loan System (12 CFR Part 545) for the purpose of permitting Federal savings and loan associations to sell packages of loans, or participation interests in loans, in amounts not less than $100,000, on a "with recourse" basis. Accordingly, it proposes to amend said Part 545 as follows:

1. By revising paragraph (a) of § 545.6-4 to read as follows:

§ 545.6-4 Participation loans.

(a) *General.* Any Federal association may participate with other lenders in making loans of any type that such an association may otherwise make: *Provided,* That:

(1) The real estate security is located within such association's regular lending area;

(2) Each of the lenders, except as otherwise permitted by prior written approval of the Board with respect to a particular loan, is either an instrumentality of the U.S. Government or is insured by the Federal Savings and Loan Insurance Corporation or by the Federal Deposit Insurance Corporation; any loan in which a Federal association participates pursuant to such approval may be repayable on such basis and within such period as the Board may authorize in such approval, without regard to any other provision of this part. Any Federal association may, to the extent that it has under statute and its charter legal authority to do so, sell to or purchase from any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, without regard to the provisions of § 545.11, a participating interest in any loan, and such sale shall not be regarded as a sale of a loan within the meaning of § 545.11. Any sale by a Federal association of a participating interest in any loan shall be without recourse, except as is otherwise provided in § 545.11-1.

* * * * *

2. By revising § 545.11 to read as follows:

§ 545.11 Restrictions.

A Federal association may not engage in the mortgage brokerage business. A Federal association may sell any loan at any time if the total dollar amount of loans sold, including such sale, within the calendar year beginning January 1 immediately preceding the date of such sale, does not exceed a sum equivalent to 20 percent of the dollar amount of all loans held by such Federal association at the beginning of such calendar year. The limitation upon the sale of loans may be adjusted in the case of any Federal association upon application to and approval by the Board. All loans, or interests therein, sold shall be sold without recourse, except as is otherwise provided in § 545.11–1.

3. By adding a new § 545.11–1, immediately after § 545.11, to read as follows:

§ 545.11–1 Sale of loans or participations with recourse.

A Federal association may, after it has obtained the prior written approval of the Board, sell a package of loans, or participating interests in loans, in an amount not less than $100,000, without regard to the provisions of §§ 545.6–4 (a)(2) and 545.11 which require such sales to be without recourse. Any request for such Board approval shall describe the proposed sale transaction, setting forth the name of the purchaser, the amounts, original dates, and contractual status of the loans or participation interests to be sold in the transaction and the type of real estate security therefor, and the provisions in the sale agreement relating to the purchaser's right of recourse against the seller. Such request shall be transmitted to the association's Supervisory Agent, and shall be supplemented by such additional information as he may deem necessary or desirable. As used in this section, the term "Supervisory Agent" means the President of the Federal Home Loan Bank of the district in which the association is located or any other officer or employee of such bank designated by the Board as its agent as provided in § 501.11 of this chapter.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, D.C. 20552, by June 5, 1970, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[F.R. Doc. 70–5543; Filed, May 5, 1970; 8:50 a.m.]

[12 CFR Part 563]

[No. 24,052]

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Sale of Loans and Participation Interests in Loans

APRIL 30, 1970.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend Part 563 of the rules and regulations for Insurance of Accounts (12 CFR Part 563) for the purpose of permitting insured institutions to sell packages of loans, or participation interests in loans, in amounts of not less than $100,000, on a "with recourse" basis. Accordingly, it hereby proposes to amend said Part 563 as follows:

1. By revising paragraph (e) of § 563.9–1 to read as follows:

§ 563.9–1 Participation loans.

* * * * *

(e) *Applicability of other provisions.* The participation by an insured institution in the making of a loan pursuant to the approval granted by this section, or the purchase by an insured institution of a participation in a loan pursuant to such approval, shall not be subject to the provisions of § 563.10. A sale by an insured institution to another insured institution of a participation in a loan shall not be regarded as a sale of a loan or of a mortgage within the meaning of § 563.23 and shall not be subject to the provisions of § 563.23. Any purchase or sale by an insured institution of a participation in any loan pursuant to the approval granted by this section shall be without recourse, except as is otherwise provided in § 563.23–4.

* * * * *

2. By revising § 563.9–2 to read as follows:

§ 563.9–2 Sale of participating interests otherwise than to insured institutions.

Any insured institution may, to the extent it has legal power to do so, sell to any lender other than an insured institution a participating interest in any loan upon the security of real estate which is located more than 50 miles from the insured institution's principal office and outside the territory in which the insured institution was operating on June 27, 1934. Any such sale shall be without recourse, except as is otherwise provided in § 563.23–4.

3. By revising § 563.23 to read as follows:

§ 563.23 Brokerage business and sale of loans.

No insured institution shall engage in the mortgage brokerage business: *Provided, however,* That any insured institution may sell any loan at any time if the total dollar amount of loans sold, including such sale, within the calendar year beginning January 1 immediately preceding the date of such sale, does not exceed a sum equivalent to 20 percent of the dollar amount of all loans held by such insured institution at the beginning of such calendar year. The limitation upon the sale of loans may be adjusted in case of any insured institution upon application to and approval by the Corporation. All loans, or interests therein, sold shall be sold without recourse, except as is otherwise provided in § 563.23–4.

4. By adding a new § 563.23–4, immediately after § 563.23–3, to read as follows:

§ 563.23–4 Sale of loans or participations with recourse.

(a) *Corporation approval.* An insured institution may, after it has obtained the prior written approval of the Corporation, sell a package of loans, or participating interests in loans, in an amount not less than $100,000, without regard to the provisions of §§ 563.9–1(e), 563.9–2, and 563.23 which require such sales to be without recourse. Any request for such Corporation approval shall describe the proposed sale transaction, setting forth the name of the purchaser, the amounts, original dates, and contractual status of the loans or participation interests to be sold in the transaction and the type of real estate security therefor, and the provisions in the sale agreement relating to the purchaser's right of recourse against the seller. Such request shall be transmitted to the institution's Supervisory Agent, as defined in § 563.9–1(f)(3), and shall be supplemented by such additional information as he may deem necessary or desirable.

(b) *Accounting treatment.* An insured institution which sells any loans or participation interests in loans on a "with recourse" basis shall disclose, by an appropriate footnote in its financial statements, its contingent liability on such loans or participations.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, D.C. 20552, by June 5, 1970, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or

the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER, *Secretary.*

[F.R. Doc. 70-5542; Filed, May 5, 1970; 8:50 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 270]

[Release No. IC-6038]

CERTAIN STOCK OPTION AND STOCK PURCHASE PLANS AND PROFIT-SHARING PLANS OF CONTROLLED PORTFOLIO COMPANIES

Notice of Proposed Rule Making

Notice of proposal to amend Rule 17d-1 under the Investment Company Act of 1940 to exempt certain stock option and stock purchase plans of controlled portfolio companies from the rule and to require that participants in profit-sharing plans of such controlled companies not be affiliated with certain other companies.

Notice is hereby given that the Securities and Exchange Commission has under consideration the amendment of Rule 17d-1 (17 CFR 270.17d-1) under the Investment Company Act of 1940 ("Act"). The proposed revision would enable operating companies controlled by registered investment companies to adopt stock option or stock purchase plans for their officers and employees who are not affiliated with any investment company which is an affiliated person of such controlled company, or with the investment adviser or principal underwriter of such an investment company without the prior approval of the Commission. It would also add to the exemption now provided by paragraph (d)(1) of Rule 17d-1 the requirement that participants (1) must not be affiliated with the investment adviser and principal underwriter of such an investment company; and (2) must not have been affiliated with them and with the investment company for 6 months prior to the purchase of stock or granting of any options pursuant to such a plan and must remain unaffiliated during the life of the plan. The proposed amendment of the Rule would be adopted pursuant to the authority granted to the Commission in sections 17(d), 6(c), and 38(a) of the Act.

Section 17(d) of the Act makes it unlawful for any "affiliated person of or principal underwriter for a registered investment company * * * or any affiliated person of such a person or principal underwriter, acting as principal to effect any transaction in which such registered company, or a company controlled by such registered company, is a joint or a joint and several participant with such person, principal underwriter, or affiliated person, in contravention of such rules and regulations as the Commission may prescribe for the purpose of limiting or preventing participation by such registered or controlled company on a basis different from or less advantageous than that of such other participant."

Rule 17d-1 prohibits all such affiliated persons, acting as principal, from participating in or effecting any "transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which any such registered company, or a company controlled by such registered company, is a participant * * * unless an application regarding such joint enterprise, arrangement or profit-sharing plan has been filed with the Commission and has been granted * * *".

Section 6(c) of the Act provides that the Commission, by rule, regulation or order, may exempt any person or transaction, or any class of persons or transactions, from any provision of the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 38(a) of the Act authorizes the Commission to issue and amend such rules as are necessary or appropriate to the exercise of the powers conferred upon the Commission in the Act.

Section 17(d) and Rule 17d-1 taken together, are designed to enable the Commission to pass upon transactions in which a conflict of interest may result in investment and controlled companies participating on a basis different from or less advantageous than other participants. Officers, directors and employees of operating companies controlled by registered investment companies are, by virtue of their office or employment, affiliated persons of affiliated persons within the scope of sections 2(a)(3) and 17(d) of the Act. Section 17(d) and Rule 17d-1 have been interpreted to prevent such persons from participating in stock option and stock purchase plans of companies controlled by investment companies without Commission approval.

Operating companies controlled by investment companies compete for management personnel with other operating companies which are permitted to utilize stock option and stock purchase plans as forms of compensation. Profit-sharing plans of controlled companies already enjoy an exemption under paragraph (d)(1) of Rule 17d-1 from the requirement of filing an application. Pension and profit-sharing plans which are qualified under section 401 of the Internal Revenue Code of 1954 are exempted by the present paragraph (d)(2) of the rule. The proposed amendment extends such exemptive status to stock option and stock purchase plans. The amendment also requires that participants not be affiliated persons of any investment company which is an affiliated person of such controlled company, or of the investment adviser and principal underwriter of such an investment company, during the life of the plan and for 6 months prior to the transaction. Transactions in which affiliates of such an investment company, its investment adviser or principal underwriter participate would be subject to Commission approval under Rule 17d-1.

If adopted, the proposed amendment would clarify the applicability generally of section 17(d) of the Act and Rule 17d-1 to profit-sharing, stock option and stock purchase plans. The Commission believes that the exclusion from the exemption of persons affiliated with any investment company which is an affiliated person of such controlled company, or of the investment adviser and principal underwriter of such investment company, affords a sufficient alternate safeguard to the present rule. The lack of relationship between the employee and the investment company would have to be absolute. If an employee of such an investment company, its investment adviser or principal underwriter was nominally transferred to the controlled company but continued to perform services for the investment company, its investment adviser or principal underwriter, he would be viewed as an employee of the investment company, its investment adviser or principal underwriter and an application would be required under the rule. The amendment would promote consistency and would facilitate the administration of the Act to the ultimate benefit of the affected companies and their shareholders.

The proposed rule would read as follows:

§ 270.17d-1 Applications regarding joint enterprises or arrangements and certain profit-sharing plans.

* * * * *

(c) "Joint enterprise or other joint arrangement or profit-sharing plan" as used in this section shall mean any written or oral plan, contract, authorization, or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company or a controlled company thereof and any affiliated person of or a principal underwriter for such registered investment company, or any affiliated person of such a person or principal underwriter, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking, including, but not limited to, any stock option or stock purchase plan, but shall not include an investment advisory contract subject to section 15 of the Act.

(d) Notwithstanding the requirements of paragraph (a) of this section, no application need be filed pursuant to this section with respect to any of the following:

(1) Any profit-sharing, stock option or stock purchase plan provided by any controlled company which is not an investment company for its officers or employees, or the purchase of stock or the granting, modification or exercise of options pursuant to such a plan, provided:

(i) No individual participates therein who is either: (*a*) An affiliated person of any investment company which is an affiliated person of such controlled company; or (*b*) an affiliated person of the investment adviser or principal underwriter of such investment company; and

(ii) No participant has been an affiliated person of such investment company, its investment adviser or principal underwriter during the life of the plan and for 6 months prior to, as the case may be: (*a*) Institution of the profit-sharing plan; (*b*) the purchase of stock pursuant to a stock purchase plan; or (*c*) the granting of any options pursuant to a stock option plan.

All interested persons are invited to submit views and comments on proposed revised Rule 17d–1. Written statements of views and comments in respect of the proposed revised Rule should be submitted to the Securities and Exchange Commission, Washington, D.C. 20549, on or before June 1, 1970. All such communications will be available for public inspection.

(Secs. 6(c), 17(d), 38(a), 54 Stat. 800, 815, 841, 15 U.S.C. 80a–6(c), 80a–17(d), 80a–38(e))

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

APRIL 30, 1970.

[F.R. Doc. 70–5513; Filed, May 5, 1970; 8:48 a.m.]

Notices

DEPARTMENT OF THE TREASURY

Office of the Secretary

PIG IRON FROM WEST GERMANY

Notice of Tentative Negative Determination

APRIL 28, 1970.

Information was received on February 3, 1969, that pig iron from West Germany is being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as the "Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of September 6, 1969, page 14137.

I hereby make a tentative determination that pig iron from West Germany is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of reasons on which this tentative determination is based. Information gathered during the course of the investigation indicated that there were no sales of such or similar merchandise in the home market. Sales to third countries were sufficient to afford a proper basis for comparison.

None of the parties involved in these sales were related within the meaning of section 207 of the Act.

Purchase price was compared to price to third countries for fair value purposes.

Purchase price was based on the f.o.b. price for export to the United States.

Third country price was based on the f.o.b. price for export to third countries.

Comparison between purchase price and third country price revealed that purchase price was not lower than third country price.

In accordance with § 53.33(b), Customs Regulations (19 CFR 53.33(b)), interested parties may present written views or arguments, or request in writing, that the Secretary of the Treasury afford an opportunity to present oral views.

Any such written views, arguments, or requests should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, D.C. 20226, in time to be received by his office not later than 14 days from the date of publication of this notice in the FEDERAL REGISTER.

This tentative determination and the statement of reasons therefor are published pursuant to § 53.33 of the Customs Regulations (19 CFR 53.33).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[F.R. Doc. 70-5501; Filed, May 5, 1970; 8:47 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Termination of Proposed Withdrawal and Reservation of Lands

APRIL 29, 1970.

Notice of an application, Fairbanks Serial No. F-033657, for withdrawal and reservation of lands as a boat landing area was published as F.R. Doc. 65-2422 on page 3227 of the issue for March 8, 1965. The applicant agency has canceled its application in its entirety, involving the lands described below. Therefore, pursuant to the regulations contained in 43 CFR Part 2311, such lands will be at 10 a.m. on May 15, 1970, relieved of the segregative effect of the above-identified application.

The lands concerned in this notice of termination are:

BIG DELTA AREA, ALASKA

TANANA RIVER BOAT LANDING SITE

U.S. Survey No. 1483, Alaska, situated on the south bank of the Tanana River in sec. 8, T. 9 S., R. 10 E., Fairbanks Meridian.

The area described contains 3.39 acres.

BURTON W. SILCOCK,
State Director.

[F.R. Doc. 70-5509; Filed, May 5, 1970; 8:47 a.m.]

[Serial No. A 4721]

ARIZONA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for Multiple-Use Management the public lands described below. Publication of this notice has the effect of segregating all the described lands from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9, 25 U.S.C. 334), and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171). All of the described lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing laws. As used in this order, the term "public lands" means any lands (1) withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or (2) within a grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for a Federal use or purpose.

2. The public lands proposed for classification in this notice are shown on maps on file and available for inspection in the Safford District Office, Bureau of Land Management, 1707 West Thatcher Boulevard, Post Office Box 786, Safford, Ariz. 85546, and Land Office, Bureau of Land Management, 3204 Federal Building, Phoenix, Ariz. 85025.

3. The lands involved are in the Baker Canyon area of Cochise County and are described as follows:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 23 S., R. 32 E.,
Secs. 14, 15, 22, 23, 26, 27, 34, and 35.

The land aggregates 4,814.20 acres of public land. The major public values to be preserved and/or enhanced by this proposed classification are livestock grazing, wildlife habitat, wilderness preservation, and public recreation.

4. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, 1707 West Thatcher Boulevard, Post Office Box 786, Safford, Ariz. 85546.

FRED J. WEILER,
State Director.

APRIL 22, 1970.

[F.R. Doc. 70-5473; Filed, May 5, 1970; 8:45 a.m.]

[Serial No. N-2345]

NEVADA

Notice of Proposed Classification of Public Lands for Multiple-Use Management

APRIL 30, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411-18) and to the regulations in 43 CFR Parts 2410 and 2411, it is proposed to classify for multiple-use management the public lands within the area described below. Publication of this notice has the effect of segregating the described lands from appropriation only under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171) and the lands shall remain open to all other applicable forms of appropriation, including the mining and mineral leasing or material sale laws, with the exception contained in paragraph 3. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended, or within a

grazing district established pursuant to the Act of June 28, 1934 (48 Stat. 1269), as amended, which are not otherwise withdrawn or reserved for Federal use or purpose.

2. The public lands located within the following described area are shown on map designated N–2345 on file in the Carson City District Office, Bureau of Land Management, 801 North Plaza Street, Carson City, Nev. 89701, and the Nevada Land Office, Bureau of Land Management, Room 3104, Federal Building, 300 Booth Street, Reno, Nev. 89502.

The overall description of the area is as follows:

MOUNT DIABLO MERIDIAN, NEVADA

LYON COUNTY

The public lands proposed to be classified are wholly located within Lyon County, Nev.

The area described aggregates approximately 585,713 acres of public land.

3. The public lands listed below are further segregated from all forms of appropriation under the public land laws, including the general mining laws, but not the Recreation and Public Purposes Act (44 Stat. 741, 68 Stat. 173; 43 U.S.C. 869) or the mineral leasing and material sale laws:

MOUNT DIABLO MERIDIAN, NEVADA

T. 11 N., R. 25 E.,
Sec. 8, SE¼SE¼;
Sec. 17, NE¼NE¼, S½NE¼, NW¼SE¼, SW¼;
Sec. 18, S½S½;
Sec. 19, N½N½.

Wilson Canyon.

The area described above aggregates approximately 680 acres of public land.

4. For a period of 60 days from the date of publication of this notice in the FEDERAL REGISTER, all persons who wish to submit comments, suggestions, or objections in connection with the proposed classification may present their views in writing to the District Manager, Bureau of Land Management, 801 North Plaza Street, Carson City, Nev. 89701.

5. A public hearing on the proposed classification will be held on Tuesday, June 2, 1970, at 7:30 p.m. in the Lyon County Courthouse, Yerington, Nev.

For the State Director.

ROLLA E. CHANDLER,
Manager, Nevada Land Office.

[F.R. Doc. 70–5474; Filed, May 5, 1970; 8:45 a.m.]

[Wyoming 17781]

WYOMING

Notice of Classification of Public Lands for Multiple-Use Management

APRIL 28, 1970.

1. Pursuant to the Act of September 19, 1964 (43 U.S.C. 1411–18) and to the regulations in 43 CFR Parts 2410 and 2411, the public lands within the area described below are hereby classified for multiple-use management. Publication of this notice has the effect of segregating the described lands from all forms of appropriation under the public land laws including the mining laws but not the mineral leasing laws. Grazing will continue insofar as it does not conflict with recreational development. As used herein, "public lands" means any lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, as amended.

2. Notice of Proposed Classification issued to interested parties February 24, 1969. During the period allowed for comment, this Bureau received seven petitions containing a total of 158 names, and individual comments indicating the opinions of 133 persons, all in favor of the proposed classification. Only four adverse comments were received. No public hearing was held. The record showing the comments received and other information is on file and can be examined in the Casper District Office, 127 East A Street, Casper, Wyo. or in the Wyoming Land Office, Bureau of Land Management, 2120 Capitol Avenue, Cheyenne, Wyo.

3. Public lands affected by this publication are:

A. Lands in which the United States owns both the surface and mineral estate:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 31 N., R. 78 W.,
Sec. 6, SE¼SW¼;
Sec. 7, lots 1, 2, and 3, SW¼NE¼, E½NW¼, and NE¼SW¼.
T. 31 N., R. 79 W.,
Sec. 1, SW¼SW¼ and SW¼SE¼;
Sec. 11, E½E½, SW¼NE¼, and W½SE¼;
Sec. 12, W½NE¼, NW¼NW¼, S½NW¼, W½SW¼, and SE¼SW¼;
Sec. 14, NW¼NE¼.

Containing approximately 1,025.28 acres.

B. Lands in which the United States does not own the mineral estate:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 31 N., R. 78 W.,
Sec. 6, lot 7.
T. 31 N., R. 79 W.,
Sec. 1, SE¼SW¼ and SE¼SE¼;
Sec. 12, NE¼NW¼ and E½NE¼.

Containing approximately 234.94 acres.

The public lands in the areas described aggregate approximately 1,260.22 acres.

4. For a period of 30 days from date of publication in the FEDERAL REGISTER, this classification shall be subject to the exercise of administrative review and modification by the Secretary of the Interior as provided for in 43 CFR Section 2411.2c. For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 320, Washington, D.C. 20240.

DANIEL P. BAKER,
State Director.

[F.R. Doc. 70–5475; Filed, May 5, 1970; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

ECONOMIC POISONS CONTAINING CERTAIN PESTICIDE CHEMICALS FOR CERTAIN USES

Cancellation of Registration

Upon recommendation of the President's Science Advisory Committee and based on difficulties arising from zero tolerance and no residue registrations, the Agricultural Research Service of the U.S. Department of Agriculture and the Food and Drug Administration of the Department of Health, Education, and Welfare requested that a committee be appointed by the National Academy of Sciences, National Research Council, to evaluate the practice of registering economic poisons for use on food crops on a zero tolerance or no residue basis. The committee completed its study in June 1965, and submitted a report which included the following recommendation:

The concepts of "no residue" and "zero tolerance" as employed in the registration and regulation of pesticides are scientifically and administratively untenable and should be abandoned.

After extensive consideration of the report, the Agricultural Research Service of the U.S. Department of Agriculture and the Food and Drug Administration of the Department of Health, Education, and Welfare agreed on a procedure to implement the Committee's recommendations.

A joint USDA–HEW Statement for Implementation of the NRC Pesticide Residues Committee's "Report on 'No Residue' and 'Zero Tolerance' " was published in the FEDERAL REGISTER on April 13, 1966 (31 F.R. 5723). It was agreed that registrations of all products specifying uses involving reasonable expectation of small residues on food or feed at harvest in the absence of a finite tolerance or exemption should be discontinued as of December 31, 1967, unless evidence was presented to support a finite tolerance or to show that enough progress had been made in the investigation to warrant the conclusion that the registration could be continued without undue hazard to the public health.

In accordance with the provisions of section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135b) registrants were notified that registration of products containing certain pesticide chemicals bearing directions for use as specified were canceled effective 30 days following receipt of the notice, unless directions for such uses were immediately deleted from labeling of such products or other procedure invoked as provided in section 4 of the Act.

Registrations have been canceled for economic poisons containing the chemicals listed below which had labeling recommending the pesticide uses as follows.

These cancellations are in addition to those listed in the FEDERAL REGISTER of May 11, 1968 as corrected May 21, 1968 (33 F.R. 7091, 7499) and May 15, 1969 (34 F.R. 7712):

NOTE: Page references below relate to pages in the "USDA Summary of Registered Agricultural Pesticide Chemical Uses (3d Edition)."

Aldrin: Bananas and safflower on pages III–A–2.1 and III–A–2.6.

Benzene: Beef cattle, dairy cattle, goats, sheep, and swine on page III–B–3.

Butoxypolypropylene glycol: Growing plants, elevators, grain bins, and poultry houses on pages III–B–11.1 and III–B–11.2.

Camphor: Cattle, goats, and sheep.

2-Carbomethoxy-1-methylvinyl dimethyl phosphate, alpha isomer: Mint on page III–C–5.2.

Castor oil: Cattle, goats, and sheep.

6-Chlorothymol: Beef cattle, dairy cattle, goats, sheep, and swine on page III–C–18.

Coal tar neutral oils and coal tar acid combination: Dairy barns on page III–C–22.

Copper arsenate: Apricots, beans (dried), beans (green or snap), cucumbers, and potatoes (foliage) on pages II–C–12 and III–C–23.

Creosote: Animal sleeping quarters, barns, hog pens, and sheep foids on page III–C–25.

Cresylic acid: Dairy barns.

Cryolite: Almonds, artichokes (including Jerusalem), asparagus, cashews, celery, chestnuts, chicory, chive, endive, filberts, garlic, horseradish, hazelnuts, hickory nuts, leeks, mint, onions, parsley, parsnips, pecans, potatoes, rhubarb, salsify, shallots, soybeans, spinach, sugarcane, sweet potatoes, Swiss chard, walnuts, and watercress on pages III–C–26.1 through III–C–26.6.

Cyclohexanone: Beef cattle, goats, hogs, and sheep on page III–C–27.

Daiapon: Beets, oats, and wheat on pages I–D–1.2, I–D–1.4, and I–D–1.6.

Dichloro diphenyl trichloroethane: Alfalfa (seed crop), bananas, barley, buckwheat, clover (seed crop), corn (field and pop), corn (seed), dates, figs, flax, horseradish, Jerusalem artichokes, lespedeza (seed crop), milo, oats, olives, parsley, passion fruit, persimmons, pomegranate, rice, rye, safflower, salsify, sorghum, sugar beets, sugarcane, sweet potatoes (pre-harvest), vetch (seed crop), and wheat on pages III–D–9.1 through III–D–9.14.

Dichlorophene: Cattle.

Q-2,4-Dichlorophenyl O,O-diethyl phosphorothioate: Cabbage and onions on page III–D–11.

2,4-Dichlorophenyl ester of benzenesulfonic acid: Almonds, apples, cherries, peaches, pears, plums, and prunes on page III–D–12.

Dieldrin: Cotton (foliar and soil applications) on page III–D–17.3.

p-Dimethylamino benzenediazo sodium sulfonate: Cotton (soil treatment) and pineapples (soil and foliar applications) on page II–D–12.1.

4-(Dimethylamino)-m-tolyl methylcarbamate: Cotton on page III–D–26.

Dimethyl phosphate of 3-hydroxy-N,N-dimethyl-cis-crotonamide: Alfalfa, clover potatoes, rice, and vetch on page III–D–33.

Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate: Kale, rutabagas, turnips, goats, sheep, and swine on pages III–D–36.2 through III–D–36.4.

4,6-Dinitro-o-cresol: Alfalfa, apricots, barley, birdsfoot trefoil, cherries, clover (alsike, crimson, ladino, red, white), corn, flax, garlic, oats, onions, peaches, pears, peas, plums, prunes, raspberries, rice, rye, sweetclover, walnuts, and wheat on pages I–D–17.1, I–D–17.2, II–D–15, and III–D–38.

4,6-Dinitro-o-cresol (sodium salt): Almonds, apricots, asparagus, peaches, pears, plums, prunes, raspberries, walnuts, pruning cuts and tools on pages I–D–18 and II–D–16.

Dioxathion: Beans and cotton on page III–D–41.1.

Dodine: Peanuts on page II–D–17.

Endothall: Flax and lespedeza on page I–E–1.1.

Endrin: Vetch on page III–E–2.3.

Ethion: Alfalfa grown for seed.

Ethylene dibromide: As a soil fumigant on beans (string), beets, cabbage, celery, corn (field), spinach, turnips and seed beds on pages II–E–3.1 through II–E–3.4 and III–E–6.1 through III–E–6.3; as a commodity fumigant on beans (dry) and peas (dry) on pages III–E–6.4 and III–E–6.5.

S-[2-(Ethylsulfinyl)ethyl] O,O-dimethyl phosphorothioate: safflower on page III–E–12.2.

Ferbam: Potatoes on page II–F–1.2.

Formaldehyde: Swine on page III–F–2.

Heptachlor: Chestnuts and cranberries on page III–H–1.2.

Lead arsenate: Walnuts on page III–L–1.3.

Menthol: Cattle, goats, and sheep.

Methoxychlor: Celery on page III–M–5.2.

Methyl bromide: Other leguminous hay on page III–M–6.2.

Methylene chloride: Strawberries on page II–M–7.

2-(1-Methylheptyl)-4,6-dinitrophenyl crotonate: Almonds on page III–M–10.

Methylmercury 8-quinolinolate: Safflower on page II–M–11. (This use was also suspended in PR Notice 70–7 dated Mar. 9, 1970.)

Naphthalene: Goats and sheep on page III–N–2.

N-1-Naphthylphthalamic acid: Cantaloupes, caster beans, cranberries, cucumbers, muskmelons, pumpkins, squash, and watermelons on pages I–N–4.1 and I–N–4.2.

n-Octyl sulfoxide of isosafrole: Almonds, apples, apricots, asparagus, beans, beets, blackberries, blackeyed peas, blueberries, boysenberries, broccoli, brussels sprouts, cabbage, cantaloupes, carrots, cashews, cauliflower, celery, cherries, chestnuts, collards, corn, cowpeas, cranberries, cucumbers, currants, dates, dewberries, eggplants, endive, figs, filberts, garlic, gooseberries, grapes, hazelnuts, hickory nuts, horseradish, huckleberries, kale, kohlrabi, leeks, lettuce, loganberries, melons, mustard greens, nectarines, okra, olives, onions, parsnips, peaches, pears, peas, pecans, peppers, persimmons, pimentos, plums, pomegranate, potatoes, prunes, pumpkins quinces, radishes, raspberries, rutabagas, salsify, shallots, spinach, squash (summer and winter), strawberries, sweet potatoes, Swiss chard, tomatoes, turnips, walnuts, watermelons, youngberries, beef cattle, dairy cattle, goats, sheep, swine, animal pens, barns, dairy barns, grain bins, milk rooms, and poultry houses on pages III–O–3.1 through III–O–3.3.

Parathion: Watercress (greenhouse) on page III–P–2.9.

Pentachlorophenol: Pineapples and sugarcane on pages I–P–2.1 and I–P–2.2.

Peroxyacetic acid: Bananas, berries, citrus, cucumbers, eggs, fruits and vegetables, grapes, and tomatoes on page II–P–5.

Phenylmercuric acetate (or phenylmercuric ammonium acetate); millet and rye on page II–P–7.2.

Pine Oil: Alfalfa, apples, apricots, asparagus, avocados, barley, beans, beets, birdsfoot trefoil, blackberries, blackeyed peas, blueberries, boysenberries, broccoli, brussels sprouts, buckwheat, cabbage, cantaloupes, carrots, cauliflower, celery, cherries, clover, collards, corn, cotton, cowpeas, cranberries, cucumbers, currants, dates, dewberries, eggplants, endive, figs, flax, garlic, gooseberries, grapefruit, grapes, grasses, guavas, hops, horseradish, huckleberries, kale, kohlrabi, kumquats, leeks, lemons, lespedeza, lettuce, limes, loganberries, mangoes, melons, millet, milo, mustard greens, nectarines, oats, okra, olives, onions, oranges, papayas, parsnips, passion fruit, pasture grass, peaches, peanuts, pears, peas, peppers, persimmons, pimentos, plums, pomegranate, popcorn, potatoes, prunes, pumpkins, quinces, radishes, raspberries, rice, rutabagas, rye, safflower, salsify, shallots, sorghum, soybeans, spinach, squash (summer), squash (winter), sugar beets, sugarcane, sweet potatoes, Swiss chard, tangelos, tangerines, tomatoes, turnips, vetch, watermelons, wheat, youngberries, poultry, poultry houses, and brooders on pages III–P–11.1 through III–P–11.4.

Potassium cyanate: Garlic and onions on page I–P–4.

Rotenone: Goats sheep, poultry, and poultry houses on pages III–R–2.4 and III–R–2.5.

Sodium arsenite: Potatoes on page I–S–3.

Sodium pentachlorophenate: Pineapples and sugarcane on page I–S–7.

Sulfacetamide: Cattle.

Thymol: Cattle, goats and sheep.

Toxaphene: Birdsfoot trefoil, clover, clover (seed crop), lespedeza, sugar beets, and vetch on pages III–T–5.3 through III–T–5.12.

1,1,1-Trichloroethane: Strawberries, barns, corrals, dairy barns, fences, grain bins, grain elevators, hog pens, poultry houses, and miscellaneous farm buildings on pages II–T–8 and III–T–6.

Trichloroethylene: Barley, corn (shelled), grains (barley, corn, oats, rice, rye, grain sorghum, wheat), grain sorghum, oats, and wheat on page III–T–7.

Turpentine: Beef cattle dairy cattle, goats, sheep, and swine on page III–T–9.

Done at Washington, D.C., this 30th day of April 1970.

HARRY W. HAYS,
Director,
Pesticides Regulation Division.

[F.R. Doc. 70–5488; Filed, May 5, 1970; 8:46 a.m.]

Commodity Credit Corporation

[Amdt. 8]

SALES OF CERTAIN COMMODITIES

Annual Sales List (Fiscal Year Ending June 30, 1970)

The CCC Annual Sales List for the fiscal year ending June 30, 1970, published in 35 F.R. 2602, is amended as follows:

1. The provisions of section 18 entitled "Barley, export sales (bulk)" are deleted.

2. The provisions of section 36 entitled "Cottonseed oil, refined (bulk)—export sales" are deleted.

3. The provisions of section 37 entitled "Cottonseed oil, refined (bulk)—unrestricted use sales" are deleted.

4. Section 6 entitled "Credit eligibility list" is revised to read as follows:

Commodities eligible for financing under the CCC Export Sales Program include barley, bulgur, cattle (beef and dairy breeding), corn, cornmeal, cotton (upland and extra long staple), cottonseed meal, cottonseed oil, dairy products, flaxseed, grain sorghum, lard, linseed oil, oats, raisins, rice (milled and brown), rye, soybean oil, tallow, tobacco, wheat, wheat flour and selected planting seeds for limited financing to meet special program requirements. These commodities are subject to certain area limitations. Financing for additional sales of

soybean oil and cottonseed oil is currently limited to export deliveries to be made after June 30. Commodities purchased from CCC may be financed for export as private stocks under the GSM-4 Regulations.

5. Section 9 entitled "Barter eligibility list" is revised to read as follows:

The following commodities are currently available for new and existing barter contracts: Upland cotton and tobacco. In addition, private stocks of corn, grain sorghum, barley, oats, wheat and wheat flour and milled and brown rice, under Announcement PS-1, Revision 1, as amended; cottonseed oil and soybean oil for export deliveries to be made after June 30 under Announcement PS-2, Revision 1; tobacco under Announcement PS-3, Revision 2; upland and extra long staple cotton under Announcement PS-4; and inedible tallow and grease under Announcement PS-5 are eligible for programing in connection with barter contracts covering procurement for Federal agencies that will reimburse CCC. (However, Hard Red Winter wheat in excess of 11.75 percent protein, Hard Red Spring wheat, Durum wheats, and flour produced from these wheats may not be exported under the barter program through west coast ports.)

6. Section 23 "Rice, rough—unrestricted use sales—f.o.b. warehouse" is revised to read as follows:

Market price but not less than the 1969 loan rate plus 5 percent plus the markup for each month as follows:

May 1970, 48 cents per hundredweight.
June 1970, 48 cents per hundredweight.

Sales basis will be f.o.b. warehouse as is or, at buyers' option, basis out turn weights and grades with privilege of rejecting individual cars which are more than one grade below the listed grade or contain more than 1 percent smut in excess of the listed percentage.

Available from the Kansas City ASCS Commodity Office.

7. Section 33 entitled "Cotton extra long staple—unrestricted use sales" is revised to read as follows:

Competitive offers under the terms and conditions of Announcement NO-C-6 (Revision 2). Extra long staple cotton may be acquired at the highest price offered, but not less than the higher of (1) the market price as determined by CCC, or (2) 115 percent of the current loan rate for such cotton plus reasonable carrying charges for the month in which the sale is made. Carrying charges per pound are as follows:

May 1970, 105 points per pound.
June 1970, 120 points per pound.

Signed at Washington, D.C., on May 1, 1970.

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

[F.R. Doc. 70-5541; Filed, May 5, 1970; 8:50 a.m.]

DEPARTMENT OF COMMERCE

Business and Defense Services Administration

SCRIPPS CLINIC AND RESEARCH FOUNDATION

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00308-01-10100. Applicant: Scripps Clinic and Research Foundation, 476 Prospect Street, La Jolla, Calif. 92037. Article: Temperature jump apparatus. Manufacturer: Messanlagen Studiengeselischaft M.B.H., West Germany.

Intended use of article: The article will be used to study very fast macromolecular reactions, occurring in the microsecond range.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a one-microsecond heating pulse time. The most closely comparable domestic instrument is the Model 260 which is manufactured by Beckman Instruments, Inc. (Beckman). The Beckman Model 260 provides a 10-microsecond heating pulse time. We are advised by the National Bureau of Standards (NBS) in its memorandum of February 12, 1970, that a number of experiments to be conducted with the foreign article involve macromolecular reactions having a duration from one microsecond to less than 10 microseconds.

Therefore, NBS considers the 1-microsecond heating pulse time to be a pertinent characteristic. For the foregoing reasons, we find that the Beckman Model 260 is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

CHARLEY M. DENTON,
Assistant Administrator for Industry Operations, Business and Defense Services Administration.

[F.R. Doc. 70-5491; Filed, May 5, 1970; 8:46 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

OLIN MATHIESON CHEMICAL CORP.

Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408 (d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 120.8 *Withdrawal of petitions without prejudice* of the procedural pesticide regulations (21 CFR 120.8), Olin Mathieson Chemical Corp., 120 Long Ridge Road, Stamford, Conn. 06904, has withdrawn its petition (PP 0F0874), notice of which was published in the FEDERAL REGISTER of September 20, 1969 (34 F.R. 14665), proposing the establishment of a tolerance of 0.05 part per million for negligible residues of the plant regulator β-hydroxyethylhydrazine in or on the raw agricultural commodity pineapples.

Dated: April 28, 1970.

R. E. DUGGAN,
Acting Associate Commissioner for Compliance.

[F.R. Doc. 70-5508; Filed, May 5, 1970; 8:47 a.m.]

Social Security Administration

LESOTHO

Notice of Finding Regarding Foreign Social Insurance or Pension System

Section 202(t)(1) of the Social Security Act (42 U.S.C. 402(t)(1)) prohibits payment of monthly benefits to aliens, subject to the exceptions described in sections 202(t)(2) through 202(t)(5) of the Social Security Act (42 U.S.C. 402(t)(2) through 402(t)(5)), for any month after they have been outside the United States for 6 consecutive calendar months.

Section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)) provides that section 202(t)(1) shall not apply to any individual who is a citizen of a foreign country which the Secretary of Health, Education, and Welfare finds has in effect a social insurance or pension system which is of general application in such country and under which (A) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death, and (B) individuals who are citizens of the United States but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Pursuant to authority vested in the Commissioner of Social Security by the Secretary of Health, Education, and Welfare, and redelegated to him, the Director of the Bureau of Retirement and Survivors Insurance has approved a finding that Lesotho does not have a social insurance or pension system which is of general application in such country.

Accordingly, it is hereby determined and found that Lesotho does not have in effect a social insurance or pension system which meets the requirements of section 202(t)(2) of the Social Security Act (42 U.S.C. 402(t)(2)).

The provisions of subparagraphs (A) and (B) of section 202(t)(4) of the Social Security Act (42 U.S.C. 402(t)(4)(A) and (B)) provide that section 202(t)(1) shall not be applicable to benefits payable on the earnings record of an individual who has 40 quarters of coverage under social security or who has resided in the United States for a period or periods aggregating 10 years or more. However, the provisions of subparagraphs (A) and (B) of section 202(t)(4) shall not apply to an individual who is a citizen of a foreign country that has in effect a social insurance or pension system which is of general application in such country and which satisfies the provisions of subparagraph (A) of section 202(t)(2) but not the provisions of subparagraph (B) of section 202(t)(2).

By virtue of the finding herein, the limitation on payment of monthly benefits to aliens included in section 202(t)(1) does not apply to citizens of Lesotho receiving benefits on the earnings records of individuals who have 40 quarters of coverage under social security or who have resided in the United States for a period or periods aggregating 10 years or more.

Dated: April 22, 1970.

HUGH F. MCKENNA,
Director, Bureau of Retirement and Survivors Insurance.

[F.R. Doc. 70-5507; Filed, May 5, 1970; 8:47 a.m.]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

CONTRACT COMPLIANCE OFFICER AND GENERAL DEPUTY CONTRACT COMPLIANCE OFFICER

Designation, Assignment of Functions, and Delegation of Authority

SECTION A. *Contract Compliance Officer—1. Designation and assignment of functions.* The Assistant Secretary for Equal Opportunity is hereby designated the Contract Compliance Officer for the Department of Housing and Urban Development pursuant to the regulations of the Secretary of Labor codified under 41 CFR 60-1.6(b) and is assigned the functions prescribed under such regulations to be carried out by the Contract Compliance Officer, by the "agency," and by the "head of the agency."

2. *Delegation of authority.* The Contract Compliance Officer is authorized to:

a. Designate HUD officials as Deputy Contract Compliance Officers and assign functions and duties and redelegate authority to such Officers.

b. Exercise the authority of the Contract Compliance Officer, of the "agency," and of the "head of the agency" under the regulations codified under 41 CFR Ch. 60, except the authority to issue regulations pursuant to 41 CFR 60-1.6(c).

SEC. B. *General Deputy Contract Compliance Officer—1. Designation and assignment of functions.* The Deputy Assistant Secretary for Equal Opportunity is hereby designated the General Deputy Contract Compliance Officer for the Department of Housing and Urban Development and is assigned the functions prescribed to be carried out by the Contract Compliance Officer.

2. *Delegation of authority.* The General Deputy Contract Compliance Officer is authorized to exercise the authority delegated to the Contract Compliance Officer.

SEC. C. *Supersedure.* Section A of this document supersedes the designation of Contracts Compliance Officer, assignment of functions, and delegation of authority under paragraph 1 of the document published at 33 F.R. 3654, March 1, 1968.

(Parts II and III of E.O. 11246 of Sept. 24, 1965, 30 F.R. 12319, as amended by E.O. 11375 of Oct. 13, 1967, 32 F.R. 14303; regs. of Secretary of Labor codified under 41 CFR Ch. 60; and sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d))

Effective date. This document is effective as of May 6, 1970.

RICHARD C. VAN DUSEN,
Under Secretary of Housing and Urban Development.

[F.R. Doc. 70-5524; Filed, May 5, 1970; 8:49 a.m.]

DEPUTY CONTRACT COMPLIANCE OFFICERS

Designation and Assignment of Functions

SECTION A. *Designation and assignment of functions.* Each Assistant Regional Administrator for Equal Opportunity, as well as the Deputy Regional Administrator, Region VII (San Juan, P.R.), is hereby designated a Deputy Contract Compliance Officer for the Department of Housing and Urban Development pursuant to the regulations of the Secretary of Labor codified under 41 CFR 60-1.6(b) and is assigned the functions and duties prescribed in such regulations to be carried out by a Deputy Contract Compliance Officer.

SEC. B. *Supersedure.* This document supersedes all existing designations of Deputy Contract Compliance Officers.

(Secretary's delegation of authority effective May 6, 1970, 35 F.R. 7138, May 6, 1970)

Effective date. This document is effective as of May 6, 1970.

SAMUEL J. SIMMONS,
Contract Compliance Officer.

[F.R. Doc. 70-5525; Filed, May 5, 1970; 8:49 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 21535]

FRONTIER AIRLINES, INC.

Enforcement Proceeding; Notice of Reassignment of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that public hearing in the above-entitled matter now assigned to be held on May 12, 1970, in Washington, D.C., will be held on May 13, 1970, at 10 a.m., c.d.s.t., in Room 279, Federal Building, 412 South Main Street, Wichita, Kans., before the undersigned Examiner.

[SEAL] JOHN E. FAULK,
Hearing Examiner.

[F.R. Doc. 70-5529; Filed, May 5, 1970; 8:49 a.m.]

[Docket No. 21866; Order 70-5-3]

TRANS WORLD AIRLINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of May 1970.

By tariff revisions [1] marked to become effective May 2, 1970, Trans World Airlines, Inc. (TWA), proposes to establish surcharges for its B-747 aircraft and a peak season surcharge of 5 percent in markets of 1,000 miles or more, to be applicable from June 1 through September 30, inclusive. Other carriers have filed tariffs for effect June 1, 1970, which make similar proposals.

These proposals raise complex questions which the Board presently has under consideration. In view of the imminence of the effective date of TWA's proposal, we are herein suspending that carrier's tariffs to afford the Board a more adequate period of time within which to evaluate those proposals in conjunction with the proposals which have been made by other carriers for effect on June 1. The Board contemplates reaching its decision on these matters at an early date.

Upon consideration of all relevant matters, the Board has determined that the proposed peak summer fares, and the B-747 surcharges may be unjust, or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be suspended. These tariff proposals are

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariffs CAB Nos. 90, 98, and 101.

already under investigation in the various phases of the Domestic Passenger-Fare Investigation. Docket 21866.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204, 403, 404, and 1002 thereof:

It is ordered, That:

1. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto[1] are suspended and their use deferred to and including July 30, 1970, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board; and

2. A copy of this order will be filed with the aforesaid tariffs and be served on American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Trans World Airlines, Inc. and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-5538; Filed, May 5, 1970; 8:50 a.m.]

[Docket No. 22144]

TRANSPORTES AEREOS DEL LITORAL, S. A.

Notice of Prehearing Conference

Application for a foreign air carrier permit authorizing scheduled and nonscheduled foreign air transportation of property and mail between points in Ecuador, Panama, and Miami, Fla., via the intermediate point, Panama City, Panama. Also off-route charter authority.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on May 15, 1970, at 10 a.m., e.d.s.t., in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner Joseph L. Fitzmaurice.

Dated at Washington, D.C., May 1, 1970.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[F.R. Doc. 70-5530; Filed, May 5, 1970; 8:49 a.m.]

[Docket No. 22157; Order 70-5-2]

UNITED AIR LINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of May 1970.

By tariff revisions filed April 15, 1970, and marked to become effective May 18, 1970, United Air Lines, Inc. (United), proposes to increase freight rates as follows: (1) Under-100-pound general commodity rates from 1 to 2 cents per pound, (2) general and most specific commodity rates for shipments of 100 pounds and over from $1 to $1.50 per 100 pounds, with the largest increases to be in effect for the shortest distances, and (3) many minimum charges (equivalent to the charges for 50 pounds) from 50 cents to $1 per shipment. The carrier proposes lesser increases on specific commodity rates on fish and cut flowers in a number of markets and no increases on periodicals and strawberries between certain points. No increases are proposed in the rates between Hawaii and the Mainland.

In support of its proposal, United refers, among other things, to the unsatisfactory economic results of its all-cargo services and continuing and substantial cost increases, and asserts that compensatory operations are essential to the expansion of its cargo services. The carrier estimates that its proposals would increase its domestic freight revenues by 9.2 percent, or $10.6 million based on the traffic forecast for 1970.

Complaints requesting investigation and suspension were received from several forwarders, Airborne Freight Corp., Domestic Air Express, Inc., Emery Air Freight Corp., and WTC Air Freight, and from National Fisheries Institute, Inc., Society of American Florists and Ornamental Horticulturists, and Time, Inc. These complaints assert, among other things, that the proposed rates are not in accordance with United's costs because only all-cargo operations are considered and combination aircraft operations ignored, and because of the deficiencies of the reported cost data.

The forwarders declare, inter alia, that, based upon United's cost data, there should be wider volume spreads and several weight breaks between the rates for 100-pound and 1,000-pound shipments and the increases for large shipments are not jutsified. The complaints by shippers declare, among other things: (1) That their shipments have already incurred significant rate increases to which the proposed increases would be added, (2) that the proposal would divert shipments to surface transport, and (3) that floral and fish products are of low value and increased freight rates would have a significant impact on their movement.

Upon consideration of all relevant facts, the Board finds that the proposed increases for general commodity rates may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and should be suspended pending investigation.

United's proposals would result in raising general commodity rates up to 28 percent above currently effective rates. The increases at the upper range of the scale would apparently have a significant impact upon shippers. Furthermore, many of the increases for shipments of 1,000 pounds or over would not be in accordance with costs of service shown by United.

We are, however, convinced that United is entitled to some increases in addition to those which it, together with other carriers, filed about 9 months ago. The latter increases amounted to 7.5 percent for both general and specific commodity rates, with a minimum increase of $1 per hundred pounds in specific commodity rates. United and other carriers have continued to incur losses in all-cargo services, which account for over half of total trunkline freight revenues, and are thus a fair indication of the economics of cargo operations. United reported an operating loss of $6.3 million from its mainland scheduled all-cargo services in the calendar year 1969, as compared with a loss of $1.7 million for the 12 months ended June 30, 1969. All U.S. carriers reported from such services a loss of $28 million for the entire year 1969 as compared with a loss of $21 million for the 12 months ended June 30, 1969.

The data submitted by United, corroborated by other cost statistics available to the Board, indicate that, on a fully allocated cost basis, including return, current freight rates are unduly low for shipments below 1,000 pounds, especially at the shorter hauls.

In the foregoing circumstances, the Board would be willing to consider the refiling by United of the general commodity rates proposed for shipments below 1,000 pounds to the extent that they involve increases not exceeding 10 percent above current levels. If later circumstances continue to so warrant, the Board would consider the filing, in not sooner than 6 months, of additional increases not exceeding 10 percent, provided that the resulting rates do not exceed the rates proposed in the current filing.

The current general commodity rates for shipments with minimum weights of 1,000 and 2,000 pounds are approximately equal to or above fully allocated costs reported by United, except in markets involving hauls between 300 and 750 miles. In the latter markets, the rates are below costs and we would be willing to consider the refiling by the carrier of the rates proposed to the extent that they involve increases not exceeding 10 percent.

The increased general commodity rates proposed for shipments of 3,000 pounds and over that we are suspending are generally above fully allocated costs. In fact, in a number of instances, United's current rates are above its reported costs. We shall permit, however, the carrier to refile rates for shipments of 5,000 and 10,000 pounds equal to the current levels in effect for 3,000-pound rates. The cancellation of weight breaks for shipments of 5,000 and 10,000 pounds would involve moderate rate increases and would be consistent with similar filings by other carriers (Order 68-10-111, Oct. 21, 1968, and Order 70-1-92, Jan. 19, 1970).

Current specific commodity rates are typically below fully allocated costs and are warranted only by the traffic stimulation that they might provide. Except for periodicals, floral products and sea food, the Board has received no indication that the proposals would have an adverse

[1] Filed as part of the original document.

shipper impact. Consequently, we shall permit all specific commodity rate increases to become effective,[1] except for the foregoing articles.

In view of all relevant facts, the Board finds that the proposed increases in specific commodity rates on periodicals, floral products and sea food may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be suspended pending investigation. The proceeding will give shippers and the carrier a full opportunity to present data and arguments on the lawfulness of the rates proposed.

The carrier may also wish to consider elimination of the differences between eastbound and westbound general commodity rates. At present eastbound rates are significantly below rates in the reverse direction. These differences have long raised the question of unjust discrimination or undue preference and prejudice. Lower eastbound rates have been thought necessary to stimulate increased volumes of traffic and achieve a reasonable directional balance in traffic movements. It appears, however, that such stimulation is confined to certain commodities and that the traffic volume of other commodities may not be affected materially by the lower level of rates in effect. Those commodities, now moving under the eastbound rates, which would be materially affected by higher general commodity rates, could be accorded specific commodity rates. Any such rate structure adjustment, however, should be accomplished in several steps involving increases of not exceeding 10 percent at one time, with the increases approximately 6 months apart.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation is instituted to determine whether the rates, minimum charges, and provisions described in Appendix A and Appendix B attached hereto,[2] and rules, regulations, and practices affecting such rates, minimum charges, and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates, minimum charges, and provisions, and rules, regulations, or practices affecting such rates, minimum charges, and provisions;

2. Pending hearing and decision by the Board, the rates, minimum charges, and provisions described in Appendix A and Appendix B attached hereto[3] (except rates, minimum charges, and provisions applying to or from Canadian points) are suspended and their use deferred to and including August 15, 1970, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaints by Airborne Freight Corp., in Docket 22023; Domestic Air Express, Inc., in Docket 22038; Emery Air Freight Corp., in Docket 22040; National Fisheries Institute, Inc., in Docket 22064; Society of American Florists and Ornamental Horticulturists, in Docket 22054; Time Inc., in Docket 21996; and WTC Air Freight, in Docket 21999, are dismissed;

4. The proceeding herein be assigned to hearing before an examiner of the Board at a time and place hereafter to be designated; and

5. Copies of this order shall be filed with the tariffs and served upon United Air Lines, Inc., Airborne Freight Corp., Domestic Air Express, Inc., Emery Air Freight Corp., National Fisheries Institute, Inc., Society of American Florists and Ornamental Horticulturists, Time Inc., and WTC Air Freight, which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-5537; Filed, May 5, 1970; 8:50 a.m.]

[Docket No. 22098; Order 70-5-4]

UNIVERSAL AIRLINES, INC.

Order of Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of May 1970.

By tariff revision filed April 3, 1970, and marked to become effective May 3, 1970, Universal Airlines, Inc. (Universal), a supplemental air carrier, proposes to establish a round-trip cargo charter rate on automobile parts from Detroit to Oakland/Ontario, Calif., and return. The proposed charge, $12,605, is applicable on either DC-8-61F or DC-8-55F aircraft.

Complaints requesting suspension and investigation were submitted by American Airlines, Inc. (American), and The Flying Tiger Line Inc. (Tiger). Both complaints were untimely as requests for suspension[1] and will be considered as requests for investigation only.

The complaints assert, inter alia, that Universal's proposed rate is below reasonably attainable costs and is economically destructive, that the rate would result in diversion of the principal air cargo traffic available in the markets now transported by scheduled common carriers, that the yields resulting from Universal's proposal would be less than the yields that would accrue from rates suspended by the Board when proposed by other carriers, that the costs claimed by Universal are understated and are less than those indicated by Universal on other occasions, and that the daily utilization of aircraft indicated by Universal is unduly high.

In its answer to Tiger's complaint, Universal states, among other things, (1) that the proposed rate will be limited in its diversionary impact because shippers will have difficulty in generating sufficient eastbound volume of automobile parts, and (2) that its experience with the charter operations for General Motors has indicated that its forecast of utilization, costs, and revenues would be accurate, showing that the rate would yield almost 12 percent on investment.

By Order 70-4-51, April 10, 1970, the Board permitted Universal, effective March 7, 1970, to establish a charter rate of $9,630 for the transportation of automobile parts from Detroit to Oakland/Ontario, Calif., and a rate of $2,975 for fresh fruits and vegetables in the reverse direction. The latter rate, however, was ordered investigated on the grounds that it is considerably below Universal's own general charter rate and significantly below the air freight rate for scheduled transportation on fruits and vegetables.

The round-trip rate of $12,605 currently proposed on automobile parts in the foregoing markets is precisely the sum of the above rates for automobile parts westbound and fruits and vegetables eastbound. The average yield from a round trip would be $3.04 per aircraft mile for flights between Detroit and Oakland and $3.25 betweeen Detroit and Ontario. Tiger, however, claims that the actual mileage flown on each roundtrip will involve a circle of all three points and that the actual yield will be $2.88 per mile. The average yield per aircraft mile, whether on a round-trip basis between the same pair of points or that indicated by Tiger, is considerably below Universal's general cargo charter rate of $4 per mile.

Furthermore, the charter rate proposed would result in an average rate per 100 pounds of only $7.15 in DC-8-61F aircraft. The scheduled service rate for auto parts in 10,000-pound shipments is $16.35 per 100 pounds from Detroit to Oakland and $13.50 per 100 pounds in the reverse direction.

Consequently, upon consideration of all relevant matters, the Board finds that the proposed round-trip rate may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. We shall, however, not suspend the rate, but permit it

[1] The increases permitted for specific commodity rates might, in certain instances, result in rates higher than the comparable general commodity rates in effect. We shall expect United to limit the increases in specific commodity rates to prevent such a result.

[2] Filed as part of the original document.

[1] According to the Board's regulations, 14 CFR 302.505, a complaint requesting suspension will not ordinarily be considered unless made at least 18 days before the effective date of the tariff when the latter is filed under statutory notice. In an emergency satisfactorily shown by the complainant, a telegraphic complaint may be sent to the Board within the foregoing time period, and such a telegraphic complaint must be immediately confirmed by a formal complaint. In view of the effective date of May 3, complaints were due not later than April 15. Tiger submitted a telegraphic complaint on April 15 and a formal complaint on April 20. The carrier does not, however, claim that an emergency prevented the timely filing of a formal complaint. American's complaint was submitted on April 23.

to become effective pending investigation. The investigation will be consolidated with the investigation of Universal's eastbound charter rate on fruits and vegetables, Docket 22098.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation is instituted to determine whether the charge in Table 2 of section 6 on First Revised Page 9 of Universal Airlines, Inc.'s CAB No. 3, including subsequent revisions and reissues thereof, and rules, regulations, and practices affecting such charge, is or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful charge and rules, regulations, or practices affecting such charge;

2. The complaints of American Airlines, Inc., and The Flying Tiger Line Inc., in Docket 22115 are hereby dismissed, except to the extent granted herein;

3. The investigation ordered herein be consolidated with that instituted in Docket 22098; and

4. A copy of this order shall be served upon Universal Airlines, Inc., American Airlines, Inc., and The Flying Tiger Line Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[F.R. Doc. 70-5539; Filed, May 5, 1970; 8:50 a.m.]

FEDERAL MARITIME COMMISSION

ALASKA STEAMSHIP CO. AND MITSUI-O.S.K. LINES, LTD.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. A. J. Iamundo, Administrative Assistant, Mitsui-O.S.K. Lines, Ltd., 17 Battery Place, New York, N.Y. 10004.

Agreement No. 9860, between the Alaska Steamship Co., and Mitsui-O.S.K. Lines, Ltd., provides for a through billing arrangement in the trade from Alaska ports served by Alaska Steamship Co. to Japanese ports served by Mitsui-O.S.K. Lines, Ltd., with transshipment in Seattle in accordance with the terms and conditions of the agreement.

Dated: May 1, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-5550; Filed, May 5, 1970; 8:50 a.m.]

AMERICAN MAIL LINE, LTD., AND EVERETT ORIENT LINE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. W. R. Purnell, District Manager, American Mail Line, Ltd., 601 California Street, Suite 610, San Francisco, Calif. 94108.

Agreement No. 9839-1, between American Mail Line, Ltd., and Everett Orient Line, provides for the apportionment of through rates and transfer expenses on the basis of one-third to the initial carrier Everett Orient and two-thirds to the delivering carrier American Mail on cargoes moving from the Philippines to the Pacific Northwest with transshipment in Japan. The present approved divisions are 40 percent to the initial carrier and 60 percent to the delivering carrier.

Dated: May 1, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-5549; Filed, May 5, 1970; 8:50 a.m.]

AMERICAN MAIL LINE, LTD., AND EVERETT ORIENT LINE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. W. R. Purnell, District Manager, American Mail Line, Ltd., 601 California Street, Suite 610, San Francisco, Calif. 94108.

Agreement No. 9841-1, between American Mail Line, Ltd., and Everett Orient Line, provides for the apportionment of through rates and transfer expenses on

the basis of two-thirds to initial carrier (American Mail) and one-third to the delivering carrier (Everett Orient) on cargoes moving from the Pacific Northwest to the Philippines with transshipment in Japan. The present approved divisions are 40 percent to the delivering carrier and 60 percent to the initial carrier.

Dated: May 1, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-5551; Filed, May 5, 1970; 8:50 a.m.]

CITY OF LOS ANGELES AND METROPOLITAN STEVEDORE CO.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. Edward C. Farrell, Assistant City Attorney, City of Los Angeles, Post Office Box 151, San Pedro, Calif. 90733.

Agreement No. T-2287-1 between the City of Los Angeles (City) and Metropolitan Stevedore Company (Metropolitan) amends the basic agreement which grants Metropolitan the right to use certain berths in the Los Angeles Harbor District in its capacity as agent, stevedore or terminal operator. The purpose of the amendment is to reduce the licensed area by approximately 6,000 square feet.

Dated: April 30, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-5548; Filed, May 5, 1970; 8:50 a.m.]

NEW YORK SHIPPING ASSOCIATION, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif.

By order served November 28, 1969, in Docket No. 69-57 the Commission instituted an investigation to determine whether Agreement No. T-2336, a temporary assessment formula between the members of the New York Shipping Association, should be approved, modified, or disapproved pursuant to section 15, Shipping Act, 1916. Subsequently, Agreements Nos. T-2364 and T-2390 were filed and included in Docket No. 69-57 since the Commission order stated that in the event any modification of Agreement No. T-2336 or further agreement establishing a temporary or permanent assessment formula was filed with the Commission, such agreement would be made subject to the investigation. Agreement No. T-2390-1, the subject agreement, will also be included in Docket 69-57. Persons who desire to become parties to this proceeding and to participate herein, shall promptly file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573.

Notice of agreement filed for approval by:

Mr. Alfred Giardino, Lorenz, Finn & Giardino, 21 West Street, New York, N.Y. 10006.

Agreement No. T-2390-1 between the members of the New York Shipping Association, Inc. (NYSA) modifies the basic agreement which provides for a permanent assessment formula adopted by NYSA to meet its obligation provided for in collective bargaining agreements with the International Longshoremen's Association. The purpose of the modification is to extend the termination date of Agreement No. T-2390 pending further consideration of the agreement by the Commission. By its terms Agreement No. T-2390 was to terminate on April 30, 1970 if permanent approval had not been granted by the Commission. Agreement No. T-2390-1 extends the termination date until May 29, 1970 subject to both or either of the following conditions:

(a) The NYSA staff shall fail to implement on or before May 15, 1970, the procedures outlined in NYSA Report No. 2803, from and after October 1, 1969, and

(b) Any Court or Administrative agency issues an order staying or modifying the conditional approval by the Commission of Agreement No. T-2390, or otherwise affecting the implementation of the agreement.

Dated: April 30, 1970.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc. 70-5547; Filed, May 5, 1970; 8:50 a.m.]

[Commission Order No. 1 (Revised); Amdt. 1]

ORGANIZATION AND FUNCTIONS

The basic order is hereby amended as follows:

In section 5.032.a strike the word passenger in the phrase "passenger interchange agreements" and substitute therefor the word container.

HELEN DELICH BENTLEY,
Chairman.

MAY 1, 1970.

[F.R. Doc. 70-5552; Filed, May 5, 1970; 8:51 a.m.]

[Commission Order No. 201.1 (Revised); Amdt. 1]

REDELEGATION OF AUTHORITIES

Section 5.024 of the basic order is amended to read as follows:

4. Approve, pursuant to section 15 (Shipping Act, 1916, as amended) unprotested container interchange agreements between ocean common carriers.

A new section 6.11 is added to read as follows:

6.11 Authority to approve, pursuant to section 15 (Shipping Act, 1916) unprotested passenger agency agreements between ocean common carriers.

Corrections of typographical errors are made as follows:

In section 3.01 strike the third word (of) preceding the colon and substitute the word or.

In section 5.023 strike the next to the last word (of) and substitute the word or.

AARON W. REESE,
Managing Director.

MAY 1, 1970.

[F.R. Doc. 70-5553; Filed, May 5, 1970; 8:51 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP70-242]

ARKANSAS LOUISIANA GAS CO.

Notice of Application; Correction

APRIL 23, 1970.

In the notice of application, issued April 17, 1970 and published in the FEDERAL REGISTER April 25, 1970 (35 F.R. 6677), second paragraph, change "estimated third year peak day and annual

natural gas requirements are 370,800 and 1,236,000 Mcf, respectively," to read "estimated third year peak day and annual natural gas requirements are 10,000 and 1,236,000 Mcf, respectively."

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5480; Filed, May 5, 1970; 8:45 a.m.]

[Docket No. CP70-251]

COLORADO INTERSTATE GAS CO.

Notice of Application

APRIL 28, 1970.

Take notice that on April 22, 1970, Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (Applicant), Post Office Box 1087, Colorado Springs, Colo. 80901, filed in Docket No. CP70-251 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to install three 840-horsepower compressor units at a proposed Sturgis Station. Applicant states that the proposed facilities are required to offset declining wellhead pressures in its Keyes Field gas supply.

The estimated total cost of the proposed facilities is $545,408, which will be financed by current working funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 19, 1970, 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. 70-5481; Filed, May 5, 1970; 8:45 a.m.]

[Docket No. CP70-253]

COLUMBIA GULF TRANSMISSION CO.

Notice of Application

APRIL 29, 1970.

Take notice that on April 23, 1970, Columbia Gulf Transmission Co. (Applicant), 3805 West Alabama Avenue, Houston, Tex. 77027, filed in Docket No. CP70-253 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a gas turbine compressor unit for the transportation of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to install a 20,000-horsepower unit at its new Centerville, La., compressor station for operation as a stand-by unit. Applicant proposes to have the unit available for service after installation until November 1, 1971, and utilize it only in periods during which it is necessary to take a previously authorized 20,000-horsepower unit out of service for repairs and maintenance.

The total estimated cost of the proposed facilities is $254,800, which will be financed from current funds available to Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 25, 1970, 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. 70-5482; Filed, May 5, 1970; 8:45 a.m.]

[Docket No. E-7513]

DUKE POWER CO.

Order Regarding Rate Schedules

APRIL 21, 1970.

Order permitting change of rate schedule and supplements during suspension period, accepting for filing superseding rate schedule and supplements thereto, suspending superseding rate schedule supplement, and permitting the superseding rate schedule and its supplements to become effective as hereinafter ordered.

By order issued November 20, 1969, in the above-entitled proceeding, the Commission, among other things, suspended and ordered a hearing on Supplement No. 3 to Duke's Rate Schedule FPC No. 156, which sought to incorporate a fuel cost adjustment clause into the contract for the sale of electric power by Duke Power Co. (Duke) to the city of Concord, N.C. Rate Schedule FPC No. 156 was continued in effect by that order until this proceeding has been terminated or until the period of suspension has expired, i.e., April 22, 1970.

Duke, on March 9, 1970, tendered for filing a new service contract with Concord together with three supplements to supersede its Rate Schedule FPC No. 156.[1] The new agreement increases the delivery voltage from 12,470 volts to 44,000 volts, and changes the format of its rate schedule to conform to its standard form of contract. No changes in rates or charges are provided by the tender.

Duke has requested that its tender be made effective April 21, 1970. We shall grant Duke's request insofar as it seeks an effective date for Rate Schedule FPC No. 245 and Supplements Nos. 1 and 2 thereto. However, Supplement No. 3 to that rate schedule is the same fuel cost adjustment clause that had been suspended in this proceeding by order issued November 20, 1969. As hereinafter provided, we will suspend Supplement No. 3

[1] The tender is designated as follows: The service contract is Duke's Rate Schedule FPC No. 245; the amendment setting forth the delivery point information is Supplement No. 1 to that rate schedule; the amendment embodying the applicable rate is Supplement No. 2; and the fuel cost adjustment clause is Supplement No. 3 thereto.

until April 23, 1970, to conform the effective date to that of the supplement as it was previously designated.

The Commission finds:

(1) Good cause exists for permitting Duke to change its existing Rate Schedule FPC No. 156 and Supplements Nos. 1, 2, and 3 thereto during the suspension period and to accept for filing the tendered rate schedule and supplements thereto.

(2) It is necessary and appropriate for purposes of the Federal Power Act to allow Duke's Rate Schedule FPC No. 245 and Supplements Nos. 1 and 2 thereto to become effective and to suspend Supplement No. 3 to Duke's Rate Schedule FPC No. 245, all as hereinafter ordered.

The Commission orders:

(A) Duke is hereby permitted to change its Rate Schedule FPC No. 156 and Supplements Nos. 1, 2, and 3 thereto during the period of suspension.

(B) Duke's tender of its Rate Schedule FPC No. 245 and Supplements Nos. 1, 2, and 3 thereto is hereby accepted for filing.

(C) Duke's Rate Schedule FPC No. 245 and Supplements Nos. 1 and 2 thereto are hereby permitted to become effective April 21, 1970.

(D) Supplement No. 3 to Duke's Rate Schedule FPC No. 245 is hereby suspended and the use thereof deferred until April 23, 1970. On that date, Supplement No. 3 shall take effect in the manner prescribed by the Federal Power Act, subject to further order of the Commission in Docket No. E-7513, subject to Duke's keeping an accurate account in detail of all amounts received by reason of such change in rates and charges, and subject to such refund as the Commission may order with interest at 8 percent per annum, all in accordance with section 205(e) of the Federal Power Act.

(E) Unless otherwise ordered by the Commission, Duke shall not change the terms or provisions of Supplement No. 3 or its Rate Schedule FPC No. 245 until this proceeding has been terminated or until the period of suspension has expired.

By the Commission.

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

[F.R. Doc. 70-5476; Filed, May 5, 1970; 8:45 a.m.]

[Docket No. RP70-25]

FLORIDA GAS TRANSMISSION CO.

Order Suspending Proposed Changes in Rates and Providing for Hearing

APRIL 29, 1970.

Florida Gas Transmission Co. (Florida Gas) tendered for filing on March 16, 1970, changes in its FPC Gas Tariff, Original Volumes Nos. 1 and 2 [1] to become effective on May 1, 1970. By this filing, Florida Gas proposes to increase all of its jurisdictional rates as follows: The T-1 and T-3 rates from 16.83 cents per MMBTU to 19.48 cents per MMBTU, the T-2 rate from 20.83 cents per MMBTU to 23.48 cents per MMBTU and the G and I rates from 57.3 cents and 33.6 cents per MMBTU to 66.5 cents and 35 cents per MMBTU, respectively. Based upon sales and transportation deliveries for the 12-month period ending December 31, 1969, as adjusted, the proposed increase would amount to approximately $6 million annually.

Florida Gas states that the reasons for the proposed rate increases are major increases in costs, including cost of capital, which it says gives rise to the need for an 8.5 percent rate of return, and increases in its cost of purchased gas.

There have been filed in this proceeding petitions to intervene by various customers of Florida Gas and other parties claiming an interest in the outcome of this proceeding. Included with these petitions are two protests to the proposed rate increase and several requests for suspension of the increase.

Review of the filing indicates that certain issues are raised which require development in evidentiary proceedings. The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The data which Florida Gas has submitted in support of its proposed increase include additional claimed costs but do not appear to present any changes in the ratemaking principles or methods employed by the company in the Florida Gas rate proceedings which are now before us for decision in Docket No. RP68-1 et al. Under these circumstances we do not believe it is appropriate at this time to fix a date or prescribe procedures for the hearing which we are ordering herein on the rate changes proposed by Florida Gas.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Florida Gas' FPC Gas Tariff, as proposed to be amended herein, and that the proposed tariff sheets listed in footnote 1 above be suspended, and the use thereof be deferred as herein provided.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held on a date to be fixed by notice of the Secretary concerning the lawfulness of the rates, charges, classifications, and services contained in Florida Gas' FPC Gas Tariff, as proposed to be amended herein.

(B) Pending such hearing and decision thereon, Florida Gas' revised tariff sheets listed in footnote 1 above are hereby suspended and the use thereof is deferred until October 1, 1970, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

By the Commission.

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

[F.R. Doc. 70-5477; Filed, May 5, 1970; 8:45 a.m.]

[1] Fourth Revised Sheet No. 4 and Second Revised Sheet No. 8 of Original Volume No. 1 and Sixth Revised Sheet Nos. 27 and 63, and Fourth Revised Sheet No. 128 of Original Volume No. 2.

[Docket No. CP70-254]

GAS TRANSPORT, INC.

Notice of Application

APRIL 29, 1970.

Take notice that on April 23, 1970, Gas Transport, Inc. (applicant), 109 North Broad Street, Lancaster, Ohio 43130, filed in Docket No. CP70-254 an application pursuant to section 7(b) of the Natural Gas Act for an order of the Commission granting permission and approval to abandon certain natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon approximately 11.5 miles of 6-inch pipeline and appurtenant facilities it states are of no further use for the delivery of natural gas to United Fuel Gas Co. near Sandyville, W. Va., in that a new point of delivery has been authorized and established.

Applicant states that the proposed abandonment will result in a total estimated net debit to retirement of $121,414.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 25, 1970, 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 permission and approval for the proposed abandonment 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. 70-5483; Filed, May 5, 1970; 8:45 a.m.]

[Docket No. CP70-228]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Notice of Extension of Time

APRIL 27, 1970.

On April 20, 1970, Central Kansas Power Co., Inc. filed a motion requesting an extension of time within which to file a petition to intervene in the above-designated matter.

Upon consideration, notice is hereby given that the time is extended to and including May 5, 1970, within which petitions to intervene may be filed in the above-desigated matter.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5484; Filed, May 5, 1970; 8:45 a.m.]

[Dockets Nos. RP70-6, RP70-26]

LAWRENCEBURG GAS TRANSMISSION CORP.

Order Permitting Tracking of Purchased Gas Increase, Suspending Proposed Revised Tariff Sheets Pending Effectiveness of Supplier Rate Increase and Consolidating Proceedings

APRIL 29, 1970.

Lawrenceburg Gas Transmission Corp. (Lawrenceburg), on March 25, 1970, tendered for filing in Docket No. RP70-26 proposed changes in its FPC Gas Tariff, Original Volume No. 1,[1] designed solely to track the rate increase filed by its sole supplier, Texas Gas Transmission Corp. (Texas Gas), on November 7, 1969, in Docket No. RP70-14. Lawrenceburg proposes that its increase become effective on May 1, 1970, and, in the alternative, requests that if the filing is suspended such suspension not extend beyond May 16, 1970, the date to which the proposed rate increase of Texas Gas was suspended in Docket No. RP70-14. Lawrenceburg's proposed rate changes would increase charges under its two jurisdictional rate schedules, CDS-1 and EX-1, by approximately $60,300 annually, based on volumes for the 12-month period ended June 30, 1969.

In support of its filing, Lawrenceburg submitted cost of service and other data and incorporated by reference various statements which it submitted in support of its rate increase filing in Docket No. RP70-6. In its filing, Lawrenceburg requests permission to track future supplier rate increases. Consistent with our policy regarding tracking increases Lawrenceburg will not be precluded from requesting permission to track supplier rate increases in the future.

As the increased rates proposed herein are directly and entirely based upon the proposed rate increase of Texas Gas in Docket No. RP70-14, which was suspended to May 16, 1970, by order issued December 15, 1969, Lawrenceburg's proposed rate filing should be suspended to that same date. The proposed rate increases have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

The fact that the cost and related data relied upon by Lawrenceburg in support of its filings in Dockets Nos. RP70-26 and RP70-6 are substantially the same raises issues of law and fact common to both proceedings. Under these circumstances it is appropriate that the two proceedings be consolidated for purposes of hearing and decision.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the proposed tariff sheets listed in footnote 1 above be suspended and the use thereof be deferred as herein provided.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that Docket No. RP70-26 be consolidated with Docket No. RP70-6 for purposes of hearing and decision.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held concerning the lawfulness of the rates, charges, classifications, and services contained in Lawrenceburg's FPC Gas Tariff, as proposed to be amended herein.

(B) Pending such hearing and decision thereon Lawrenceburg's revised tariff sheets, listed in footnote 1 above, are suspended and the use thereof is deferred until May 16, 1970, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act: *Provided, however,* That Lawrenceburg shall not make the increase proposed herein effective prior to the date that the increased rates proposed by Texas Gas in Docket No. RP70-14 are made effective.

(C) The proceedings in Dockets Nos. RP70-26 and RP70-6 are hereby consolidated.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5478; Filed, May 5, 1970; 8:45 a.m.]

[1] The proposed revised tariff sheets are Third Revised Sheet No. 4 and Third Revised Sheet No. 12.

[Docket No. CP65-181]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Petition To Amend

APRIL 27, 1970.

Take notice that on April 17, 1970, Transcontinental Gas Pipe Line Corp. (applicant), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP65-181 a petition to amend the order of the Commission issued on January 24, 1967, to conform the authorization to the actual facilities constructed and placed in operation, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Applicant was authorized to install an additional 10,000 horsepower at each of its Compressor Stations Nos. 70 and 100. However, a 6,800-horsepower centrifugal gas turbine was installed at each because as applicant states, these more desirable units became available before the actual installation of the reciprocating units. Applicant further states that it was unable to locate two existing available 2,000-horsepower units as authorized for its Compressor Station No. 130, and was required to turbocharge the nine existing units. Applicant was also authorized to construct and operate approximately 3.54 miles of 6-inch pipeline loop, which it feels has become unnecessary since anticipated additional reserves were never developed.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 18, 1970, 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 petitions to intervene in accordance with the Commission's rules.

GORDON M. GRANT,
Secretary.

[F.R. Doc. 70-5485; Filed, May 5, 1970; 8:45 a.m.]

[Docket No. RI70-1556, etc.]

WALLEN PRODUCTION CO. ET AL.

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

APRIL 29, 1970.

The respondents named herein have filed proposed increased rates and charges of currently effective rate sched-

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

ules [2] 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 June 15, 1970.

By the Commission.

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

[2] Producers operating under small producer certificates are permitted to file above-ceiling rate increases in the Permian Basin Area without submitting rate schedules as a result of Order No. 394 issued Jan. 6, 1970. Where the words "supplement" or "rate schedule" appear in this order they refer to the notices of change in rate filed by the small producer 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.
RI70-1556	Wallen Production Co., 308 North Colorado St., Suite 4, Midland, Tex. 79701.	(3)	(3)	Northern Natural Gas Co. (Ozona (Canyon) Field, Crockett County, Tex.) (RR. District 7-C) (Permian Basin Area).	$3,191	4-10-70	[4] 5-22-70	10-22-70	16.0	[5] [6] 17.06375	
RI70-1557	Robert J. Zonne, Post Office Box 964, Midland, Tex. 79701.	(7)	(7)	Natural Gas Pipeline Co. of America (Todd Area, Eddy County, N. Mex.) (Permian Basin Area).	2,351	[4] 4-6-70	[8] 5-7-70	10-7-70	16.4793	[8] [16] 17.8675	
RI70-1558	J. Hiram Moore (Operator) et al., Post Office Box 1733, Midland, Tex. 79701.	(11)	(11)	El Paso Natural Gas Co. (Penrose Skelly and Eumont Queen Gas, Lea County, N. Mex.) (Permian Basin Area).	2,074 3,322	4-13-70 4-13-70	[8] 5-14-70 [8] 5-14-70	10-14-70 10-14-70	[13] 14.4156 [14] 9.0533	[8] [13] 17.5722 [8] [13] 17.5722	
RI70-1467	Husky Oil Co. of Delaware, Post Office Box 380, Cody, Wyo. 82414.	(14)	(14)	El Paso Natural Gas Co. (Langlie-Mattix Field, Lea County, N. Mex.), (Permian Basin Area).	3,889	3-30-70	[10] 9-9-70	Accepted—subject to refund in RI70-1467).	14.4457	[8] [17] [18] 17.9023	

[3] No rate schedule on file—Respondent issued small producer certificate in Docket No. CS67-104.
[4] The stated effective date is the effective date requested by respondent.
[5] Increase to contractually due rate under contract dated Sept. 18, 1964.
[6] Pressure base is 14.65 p.s.i.a.
[7] No rate schedule on file—Respondent issued small producer certificate in Docket No. CS69-35.
[8] Corrected notice of change filed Apr. 14, 1970.
[9] The stated effective date is the first day after expiration of the statutory notice.
[10] Increase to contractually due rate under contract dated Dec. 15, 1969.
[11] No rate schedule on file—Respondent issued small producer certificate in Docket No. CS66-110.
[12] Increase to contractually due rate under contract dated Jan. 23, 1958.
[13] Pertains to Penrose Skelly gas.
[14] Pertains to Eumont Queen gas.
[15] No rate schedule on file—Respondent issued small producer certificate in Docket No. CS66-33.
[16] Termination date of present suspension period, or such later date as motion is filed to place rate in effect.
[17] Reflects correction in amount of tax reimbursement. Original increase to 18.7259 cents per Mcf is suspended in Docket No. RI70-1467 until Sept. 9, 1970.
[18] Includes reimbursement for full 2.55 percent New Mexico Emergency School Tax

Robert J. Zonne (Zonne) requests waiver of the statutory notice period to permit an April 6, 1970, effective date for his rate filing. 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 an earlier effective date for Zonne's rate filing and such request is denied.

The proposed rate increases, filed by holders of small producer certificates, are for sales in the Permian Basin Area. The proposed increases exceed the rate ceilings set forth in § 157.40(b) of the Commission's regulations for sales made under small producer certificates and should be suspended for 5 months from the date shown in the "Effective Date" column of Appendix "A" hereof.

The proposed rate increase filed by Husky Oil Company of Delaware (Husky) reflects a correction to an increase which was suspended in Docket No. RI70-1467 until September 9, 1970. Since Husky's amended filing includes tax reimbursement, we believe that it would be in the public interest to accept Husky's rate filing subject to the existing suspension proceeding in Docket No. RI67-1467 to be effective as of September 9, 1970, or such later date as a motion is filed to place such rate in effect.

Husky's proposed rate increase reflects partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax. The buyer, El Paso Natural Gas Co. (El Paso), in accordance with its policy of protesting tax filings proposing reimbursement for the New Mexico Emergency School Tax in excess of 0.55 percent, is expected to file a protest to this rate increase. El Paso questions the right of the producer under the tax reimbursement clause to file a rate increase reflecting tax reimbursement computed on the basis of an increase in tax rate by the New Mexico Legislature in excess of 0.55 percent. While El Paso concedes that the New Mexico Legislature effected a higher rate of at least 0.55 percent, they claim there is controversy as to whether or not the new legislation effected an increased rate in excess of 0.55 percent. In view of the contractual problem presented, the hearing provided for herein with respect to Husky's rate filing shall concern itself with the contractual basis for such rate filing, as well as the statutory lawfulness of the proposed increased rate and charge.

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 2.56).

[F.R. Doc. 70-5479; Filed, May 5, 1970; 8:45 a.m.]

[Docket No. CP70-252]

WESTRANS INDUSTRIES, INC.

Notice of Application

APRIL 29, 1970.

Take notice that on April 23, 1970, Westrans Industries, Inc. (Applicant), 250 Park Avenue, New York, N.Y. 10017, filed in Docket No. CP70-252 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7 of the regulations thereunder for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing on the date of

issuance of the authorization, and 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 stated 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.

Applicant requests a waiver of the cost limitations imposed by § 157.7(b)(1)(i) and (ii) so that the aggregate and single-project amounts authorized will not unduly restrict Applicant's operating flexibility.

The application states that the total cost of all facilities will not exceed $175,000, and that the total cost of facilities for any single project will not exceed $43,000. The proposed facilities will be financed by funds generated through operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 22, 1970, 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. 70-5486; Filed, May 5, 1970; 8:45 a.m.]

[Docket No. E-7534]

MAINE ELECTRIC POWER CO., INC.

Notice of Application

MAY 4, 1970.

Take notice that on April 20, 1970, Maine Electric Power Co., Inc. (Applicant), incorporated under the laws of the State of Maine, with its principal place of business at Augusta, Maine, filed an application in Docket No. E-7534 for an order, pursuant to section 202(e) of the Federal Power Act, authorizing the transmission of electric energy from the United States to Canada. The energy proposed to be exported will be sold to The New Brunswick Electric Power Commission (New Brunswick Commission), Fredericton, Province of New Brunswick, Canada, in accordance with the provisions of certain contracts filed as exhibits to the application. The sources of the energy which Applicant proposes to export will be various generating plants of several electric utilities operating in New England for whom Applicant will be acting as agent in transmitting energy and billing New Brunswick Commission. The total amount of power to be exported will be limited by the capacity of Applicant's proposed interconnection with New Brunswick Commission, which is presently estimated to be 500 megawatts. The energy proposed to be exported will be delivered to New Brunswick Commission by means of Applicant's 345,000 volt transmission facilities which are now under construction and which will interconnect with New Brunswick Commission's electric facilities at a point on the Maine-New Brunswick border in the town of Orient, Aroostook County, Maine. Those electric transmission facilities of Applicant located at the international border between the United States and Canada are covered by the permit issued to applicant and signed by the Chairman of the Federal Power Commission on July 25, 1969, in Docket No. E-7486 pursuant to Executive Order No. 10485 dated September 3, 1953.

New Brunswick Commission will utilize the energy purchased under the contracts referred to above for emergency and economy flow purposes in Canada.

According to the application, sales of energy will be made to New Brunswick Commission only when surplus energy is available after meeting the energy requirements of the above-mentioned New England electric utilities and their commitments to other utilities within the United States.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 15, 1970, 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. 70-5629; Filed, May 5, 1970; 10:02 a.m.]

FEDERAL RESERVE SYSTEM

DACOTAH BANK HOLDING CO.

Order Making Determinations Under Bank Holding Company Act

In the matter of the applications of Dacotah Bank Holding Co., Aberdeen, S. Dak., pursuant to section 4(c)(8) of the Bank Holding Company Act of 1956 for determinations as to Citizens Agricultural Credit Corp., F & M Agricultural Credit Corp., Citizens Insurance Agency, Inc., Roslyn Insurance Agency, Inc., and Security Insurance Agency, Inc., nonbank companies. (Dockets Nos. BHC-92, BHC-93, BHC-94, BHC-95, and BHC-96.)

Dacotah Bank Holding Co., Aberdeen, S. Dak., a bank holding company within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. sec. 1841(a)), has filed requests for determinations by the Board of Governors of the Federal Reserve System that the activities of five nonbank companies, Citizens Agricultural Credit Corp., F & M Agricultural Credit Corp., Citizens Insurance Agency, Inc., Roslyn Insurance Agency, Inc., and Security Insurance Agency, Inc., are of the kind described in section 4(c)(8) of the Act (12 U.S.C. sec. 1843(c)(8)) and § 222.4(a) of Federal Reserve Regulation Y (12 CFR 222.4(a)) so as to make it unnecessary for the prohibitions of section 4(a) of the Act, respecting the ownership or control of voting shares of nonbanking companies, to apply in order to carry out the purposes of the Act.

Pursuant to the requirements of section 4(c)(8) of the Act, and in accordance with the provisions of §§ 222.4(a) and 222.5(a) of Regulation Y (12 CFR 222.4(a) and 222.5(a)), a hearing was held on these matters on August 12, 1969. On April 3, 1970, the hearing examiner filed his report and recommended decision,[1] a copy of which is appended hereto, wherein he recommended that the Board make the requested determinations. The time for filing exceptions to the report and recommended decision has expired, and none has been filed. The findings of fact, conclusions of law, and

[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 Minneapolis.

recommendations of the hearing examiner are adopted, and on the basis of the entire record,

It is hereby ordered, That the activities of each of the nonbanking companies named hereinabove are determined to be so closely related to the business of banking and of managing or controlling banks as to be a proper incident thereto and as to make it unnecessary for the prohibitions of section 4(a) of the Bank Holding Company Act of 1956 to apply in order to carry out the purposes of that Act; *Provided, however*, That the determination, with respect to each such company, is subject to revocation by the Board if the facts upon which it is based change in any material respect.

By order of the General Counsel of the Board of Governors, April 29, 1970, acting on behalf of the Board pursuant to delegated authority (12 CFR 265.2(b)(2)).

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[F.R. Doc. 70-5510; Filed, May 5, 1970; 8:47 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-16685]

REDEMPTION OF PREFERRED STOCK

Request for Comments

Request for comments on whether the Commission should relax its policy respecting the redemption provisions of preferred stock issued and sold under the Public Utility Holding Company Act of 1935.

Introduction. On November 20, 1968, the Commission published an invitation for comments (Holding Company Act Release No. 35-16211) on the question of whether it should modify those provisions of its Statement of Policy Regarding First Mortgage Bonds Subject to the Public Utility Holding Company Act of 1935 (Holding Company Act Release No. 35-13105) which theretofore had required that such bonds be redeemable at the option of the issuer "at any time upon reasonable notice and with reasonable redemption premiums, if any." On May 8, 1969, following receipt of comments from interested persons, the Commission permitted issuers of all long-term debt securities subject to the Act to include 5-year refunding limitations, subject to certain restrictions, in the terms and provisions of new issues of such securities (Holding Company Act Release No. 35-16369).

Certain of the persons commenting on this matter recommended that the Commission's policy respecting redemption of preferred stock be similarly relaxed, but submitted no statistical or other studies pertaining specifically to this type of security, and prior to this time no one had questioned the effectiveness of the Commission's policy regarding preferred stocks. Recently, several interested persons have requested that the preferred stock redemption policy be modified so as to permit the issuers of such securities to include, in their discretion, provisions giving the holders of preferred stock protection against refunding for such period (at least up to 5 years) and in such manner as the issuer shall deem desirable. Other interested persons appear to be of the view that the preferred redemption policy should not be modified, at least at this time. The Commission has been weighing the considerations involved and would appreciate receiving the comments of interested persons.

Background of present redemption policy. The Commission's policy respecting the redemption provisions of preferred stocks issued and sold under the Act is set forth in its Statement of Policy Regarding Preferred Stock Subject to the Public Utility Holding Company Act of 1935 ("Preferred Stock Policy") (Holding Company Act Release No. 35-13106), which was adopted February 16, 1956 and provides in pertinent part that such stock be redeemable by the issuer "at any time upon reasonable notice and with reasonable redemption premiums, if any." The Preferred Stock Policy does not define the term "reasonable redemption premiums," but it has been construed by the Commission to mean general redemption prices which do not exceed the sum of the initial public offering price plus (1) 100 percent of the annual dividend rate during the first 5 years, (2) 75 percent of the dividend rate in the second 5 years, (3) 50 percent of the divided rate in the third 5 years, and (4) 25 percent of the annual dividend rate for the remainder of the life of the stock.

The statutory considerations which underlie the redemption provisions of the Preferred Stock Policy are essentially the same as those which led to adoption of the Commission's Statement of Policy Regarding First Mortgage Bonds, and such considerations are set forth at pages 1-4 of the aforesaid invitation for comments issued on November 20, 1968 (Holding Company Act Release No. 35-16211). In the only case in which the Commission considered call restrictions in preferred stocks prior to adoption of the Preferred Stock Policy, it took exception to a call restriction of only 3 years in a proposed issue of preferred stock.[1] The Preferred Stock Policy states that deviations therefrom will be permitted in appropriate cases. However, the Commission has not had occasion to consider any formal requests for deviations from the preferred stock redemption provisions of this Policy.

Views of those desiring relaxation of present redemption policy. In support of their request that the Commission modify its preferred stock redemption policy, these persons assert that investors demand an offering yield 15 to 20 basis points higher on a new utility preferred stock without call protection than the yield on a stock of comparable quality which is not refundable for 5 or more years. It is further stated that the gross underwriting spreads required by underwriters in purchasing new preferred stocks without call protection are generally greater than the spreads on stocks providing call protection, and that investment bankers have been increasingly apprehensive about bidding for new preferred stocks without call protection.

It is pointed out that, while long-term debt remains the principal source of new funds for electric utilities and the volume of new capital raised by this means increased 240 percent from 1963 to 1968, the amount of new money financing by such utilities via preferred stock increased at the much greater rate of 470 percent in the same period. It is asserted that the increasing use of preferred stock as a source of new money is a natural consequence of the high rate of construction and financing over the last several years coupled with extremely high interest rates. This, it is stated, has caused interest costs to increase more rapidly than earnings available for interest, thus forcing utilities to sell preferred and common stocks earlier than otherwise in order to maintain bond interest coverage and protect bond ratings. Despite this increasing resort to preferred stock, the demand for such securities by institutional buyers is said to have declined, for the asserted reasons that the funds which such investors have available for purchase of new preferred stocks have been shrinking, and such investors are offered ample supplies of other investment media providing attractive call protection. It is also stated that, if an issuer is unable to offer prospective investors sufficient call protection, the company must go elsewhere to a diminishing group of individual and small institutional buyers who are willing to forego call protection in exchange for a higher dividend rate. It is further contended that new issues of preferred stock which do not include call protection are limited to those subject to the Act, which places registered holding-company systems at a serious disadvantage in competing for new preferred stock money. Thus, it is stated that, when a utility is compelled to issue new preferred without call protection and therefore pays 20 basis points in higher dividend costs, the financial burden upon the issuer is equivalent to a burden of 40 basis points, because preferred dividends are not tax-deductible.

The following contentions have also been advanced: That, not only is the rate of new electric utility construction increasing in terms of physical plant capacity, but the rapidly rising price level has resulted in even greater increases in new money requirements; that a typical generating plant which could have been built at a cost of $125 per kw. 5 years ago now may cost $250 per kw.; that in meeting their obligations to the communities they serve, utilities cannot put off construction to avoid high costs and financing difficulties; that construction must proceed and money to finance

[1] Indiana & Michigan Electric Company, 35 S.E.C. 321, 326 (1963).

it must be obtained without delay; and that utility consumers would benefit from the reduction in capital costs which would result from use of nonrefunding provisions in new preferred stock issues.

Lastly, it is stated that there have been relatively few refundings of preferred stocks during the past 10 years, because refunding actions, where permitted by charter provisions, are limited by the redemption costs of substantial call premiums (which premiums are not deductible for Federal income tax purposes), and because utilities require large amounts of new capital at frequent intervals and therefore must place new money needs first.

Views of those desiring retention of present redemption policy. Others have expressed the view that the preferred redemption policy has been effective in implementing the provisions of the Act throughout the entire period since the policy was adopted in 1956 and that the policy should not be changed at this juncture when signs are beginning to appear that preferred dividend rates may be receding from the highest levels reached in many years. These persons have urged that, while the Commission does not have rate regulatory authority, it has statutory duty under the Act to protect the interest of consumers and the national public interest, in addition to the interest of investors. As a consequence, the demands of senior security holders, who understandably seek to protect the very high dividend yields now obtainable in the market place, must be weighed along with the equally important interests of consumers and common stockholders.

It is also contended that if, as asserted by those favoring relaxation of the present preferred redemption policy, most institutional investors insist upon call protection in today's market, such investors must be anticipating a significant decline in preferred dividend rates in the foreseeable future. Otherwise there would appear to be no advantage in an investor paying a penalty, asserted to be as great as 15 to 20 basis points, for 5-year refunding protection. These persons urge that such preferred dividend cost penalty as an issuer is compelled to pay to preserve the privilege of unrestricted refundability is influenced not as much by the level of preferred dividend rates, as by investors' expectations of future declines in such rates.

It is further asserted that, as preferred dividend rates rise, the Commission's policy of requiring that the initial general redemption price be the sum of the preferred dividend rate and the initial public offering price provides the investor with a significant degree of built-in escalation in the redemption premium he would receive over investment cost in the event his holdings were refunded. Further, it is stated that this built-in call protection is greater in the case of preferred stocks than is available to the investor in long-term debt securities for the reason that the general redemption prices of preferred stocks are permitted to remain unchanged for periods of 5 years, whereas the general redemption prices of long-term debt securities decline each year following issuance and sale.

Those favoring relaxation of the present preferred redemption policy assert that the existence of a high call premium on preferred stock which is not deductible for Federal income tax purposes operates as a deterrent to refunding at lower dividend rates. However, during the period from July 1, 1961 to June 30, 1966 when the dividend rates on new offerings of electric and gas utility company preferred stocks ranged from 4.50 percent to 5.48 percent, 29 outstanding preferred issues were refunded with new issues at lower dividend costs. While it is acknowledged that only four of these refundings were accomplished by utilities associated with registered holding companies, it is asserted that this does not mean that companies in registered systems failed to take advantage of refunding opportunities. At the end of 1960, the last year preceding the above-stated period of relatively low preferred dividend rates, 39 of the electric utility companies in registered holding company systems had outstanding securities held by the public. Of these, 34 companies had preferred stocks outstanding, and only eight of such companies had preferred issues with dividend rates above 5 percent.

Those desiring retention of the present preferred redemption policy also point out that preferred stocks of public utility companies, unlike long-term debt securities, offer attractive Federal tax advantages to corporate investors, such as the non-life insurance companies. The corporate purchaser of a "new money" preferred stock is permitted by law to exclude 85 percent of the dividend income received from such stock from its income subject to Federal income tax. A corporate investor buying an "old money" preferred may take a dividend exclusion of 62.46 percent from Federal taxable income.

Persons desiring retention of the present redemption policy also urge that the market for utility preferred stocks (including the fully refundable issues) continues to be adequate. In support of this assertion, these persons point out that during the period from January 1, 1969, through April 7, 1970, 13 electric utility companies offered preferred stocks and long-term debt securities simultaneously and that in nearly all of such cases, the dividend costs and yields on the preferred issues were unusually close to the interest costs and yields on the debt securities, considering the greater investment safety of the latter. They further state that, among these simultaneous offerings were four such offerings where the preferred stocks were offered at money costs and yields equal to or lower than the interest costs and yields on the bonds, despite the fact that the debt securities provided 5 years refunding protection whereas the preferred issues were fully refundable. In only two of the other simultaneous offerings did the offering yield on the preferred exceed that of the bonds by as much as 15 basis points; one of such preferred stocks being fully refundable and the other nonrefundable for 10 years. In the most recent simultaneous offering, an electric utility subject to the 1935 Act sold $60 million of first mortgage 30-year bonds, with 5-year refunding protection, and $10 million of preferred stock, with no refunding protection, on April 6, 1970. The bonds were offered to yield investors 8.58 percent and less than one third of the issue was reported sold the first day. The preferred stock was offered to yield 8.60 percent and from 57–60 percent of the issue was reported sold the first day. As a further indication that the market for fully refundable preferred stocks is satisfactory, it is also pointed out that offerings of such issues at competitive bidding during the past few years of tight money supply have continued to attract ample numbers of bids from competing investment bankers. In fact, the $10 million preferred issue sold on April 6, 1970, received four bids.

It is acknowledged by the proponents of the present policy that the demands of the utility industry for additional capital in the foreseeable future are likely to continue at the present high level and may even increase in subsequent years. However, it is asserted that the refunding of high dividend rate preferred stock in periods of more favorable markets and the refunding of approaching maturities of the substantial amounts of bonds issued in the 1930's and 1940's should not have more than a temporary impact upon the ability of the industry to obtain such new capital. Such refundings would not add significantly to the total supply of securities outstanding but merely effect substitutions of certain investment securities for others, except for brief periods of time when both the new and refunded issues remain outstanding simultaneously and except for the small amounts of additional funds required for premiums.

All interested persons are invited to submit their views and comments, in writing, to the Securities and Exchange Commission, Washington, D.C. 20549, on or before May 11, 1970. Such communications will be considered available for public inspection unless confidential treatment is specifically requested.

By the Commission, April 20, 1970.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70–5514; Filed, May 5, 1970; 8:48 a.m.]

[811–1729]

DISCOVERY FUND, INC.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

APRIL 30, 1970.

Notice is hereby given that Discovery Fund, Inc. ("Applicant"), 1610 Adams

Avenue, Scranton, Pa., a management open-end diversified investment company registered under the Investment Company Act of 1940 ("Act"), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of applicant's representations, which are summarized below.

Applicant represents that subsequent to registering under the Act on September 16, 1968, it has issued no securities and it has no assets at the present time. A proposed public offering of applicant's securities has now been abandoned and it does not intend to proceed with the filing of a registration statement under the Securities Act of 1933 because of market conditions in general. Applicant also requests an order of the Commission declaring that it has ceased to be an investment company as defined in the Act.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than May 18, 1970, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70–5511; Filed, May 5, 1970; 8:47 a.m.]

[70–4874]

WESTERN MASSACHUSETTS ELECTRIC CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds and Preferred Stock at Competitive Bidding and Proposed Charter Amendment

APRIL 30, 1970.

Notice is hereby given that Western Massachusetts Electric Co. ("WMECO"), 174 Brush Hill Avenue, West Springfield, Mass. 01089, an electric utility subsidiary company of Northeast Utilities, a registered holding company, has filed an application-declaration with this Commission, pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 6(b), and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

WMECO proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 promulgated under the Act, $30 million principal amount of First Mortgage Bonds, Series I, ------ percent, due June 1, 2000. The interest rate of the bonds (which shall be a multiple of one-eighth of 1 percent) and the price, exclusive of accrued interest, to be paid to WMECO (which shall be not less than 100 percent nor more than 102.75 percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under the First Mortgage Indenture dated as of August 1, 1954, between the company and Old Colony Trust Co., as Trustee, as heretofore supplemented and amended and as to be further supplemented by the 30th Supplemental Indenture to be dated as of June 1, 1970, and includes a prohibition until June 1, 1975, against refunding any of the bonds, directly or indirectly, with funds borrowed at a lower interest cost.

WMECO also proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 150,000 shares of its ------ percent Preferred Stock, Series A, par value $100 per share. The dividend rate of the preferred stock (which will be a multiple of 0.04 percent) and the price, exclusive of accrued dividends, to be paid to WMECO (which will be not less than $100 nor more than $102.75 per share) will be determined by the competitive bidding.

WMECO presently has no preferred stock authorized or outstanding. Prior to the issuance and sale of the proposed preferred stock, WMECO proposes to amend its bylaws to set forth therein provisions relating to the issuance and the general terms, limitations, and rights and preferences of the preferred stock. Under applicable law, the proposed amendment of the bylaws will require the affirmative vote of the holders of at least two-thirds of the outstanding shares of common stock, the only presently existing class of WMECO's capital stock. WMECO proposes to submit the proposed amendment of the bylaws to a special meeting of its stockholder and Board of Directors to be held on June 3, 1970. Northeast Utilities, as the sole stockholder of WMECO, has indicated that it will vote in favor of the amendment, thereby assuring the required affirmative two-thirds vote.

The net proceeds from the issue and sale of the bonds and preferred stock will be used to finance the company's construction program, to supply funds for its investments in regional nuclear generating companies, and to repay short-term borrowings incurred for these purposes and which are expected to aggregate $38 million at the time of the proposed sales. WMECO's construction program for 1970 is estimated to total approximately $45,800,000.

The fees and expenses incident to the proposed transactions will be filed by amendment. The filing states that the issue and sale of the bonds and preferred stock are subject to the jurisdiction of the Department of Public Utilities of the Commonwealth of Massachusetts, the State commission of the State in which WMECO is organized and doing business. The approval of the Connecticut Public Utilities Commission is also required. 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 May 20, 1970, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, be certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission (pursuant to delegated authority).

ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 70–5512; Filed, May 5, 1970; 8:47 a.m.]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30-E (Region III)]

REGIONAL DIVISION CHIEFS ET AL.

Delegation of Authority To Conduct Program Activities in Region III

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30-E, 35 F.R. 6033 published in the FEDERAL REGISTER on April 11, 1970, the following authority is hereby redelegated to the positions as indicated herein:

I. *Regional Division Chiefs, Regional Counsel, and Staffs*—A. *Chief and Assistant Chief, Financing Division.* 1. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. a. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (1) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (2) $350,000 on disaster business loans (excluding displaced business loans), except to the extent of refinancing of a previous SBA disaster loan; and to approve disaster guaranteed loans up to $500,000 and to decline them in any amount.

b. To approve displaced business loans up to $350,000 (SBA share) and to decline them in any amount.

3. To enter into business, economic opportunity, disaster, and displaced business loan participation agreements with banks.

4. To execute loan authorizations for Central Office and regional approved loans and loans approved under delegated authority, said execution to read as follows:

(Name), Administrator
By ----------
(Name)
Title of person signing.

5. To cancel, reinstate, modify, and amend authorizations for fully undisbursed business, economic opportunity, disaster, and displaced business loans.

6. To extend the disbursement period on all loan authorizations or fully undisbursed loans.

7. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

**8. To establish disaster field offices upon receipt of advice of the designation of a disaster area; to advise on the making of disaster loans; to appoint as a processing representative any bank in the disaster area; and to close disaster field offices when no longer advisable to maintain such offices.

9. Size determinations for financing only: To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans, and further to make product classification decisions for financing purposes only. Product classification decisions for procurement purposes are made by contracting officers.

10. Eligibility determinations for financing only: To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and community economic development programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

B. *Supervisory Loan Officers (Financing Division).* 1. To approve or decline business, disaster, and displaced business loans not exceeding $50,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. To enter into business, economic opportunity, disaster, and displaced business loan participation agreements with banks.

3. To execute loan authorizations for Central Office and regional approved loans and loans approved under delegated authority, said execution to read as follows:

(Name), Administrator
By ----------
(Name)
Title of person signing.

4. To cancel, reinstate, modify, and amend authorizations for fully undisbursed business, economic opportunity, disaster, and displaced business loans.

5. To extend the disbursement period on all loan authorizations or fully undisbursed loans.

6. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding balance on construction loans and loans involving accounts receivable and inventory financing.

C. *Loan Officer (Financing Division).* 1. To approve minor modifications in the authorization.

2. To extend the disbursement period.

D. *Chief, Community Economic Development Division.* 1. To approve or decline section 501 State development company loans and section 502 local development company loans up to $350,000 (SBA share) when project cost does not exceed $1 million, provided the chief concurs in at least one prior recommendation.

2. To extend the disbursement period on sections 501 and 502 loan authorizations or fully undisbursed sections 501 and 502 loans.

3. To execute sections 501 and 502 loan authorizations for Central Office and regional approved loans and loans approved under delegated authority, said execution to read as follows:

(Name), Administrator
By ----------
(Name)
Chief, Community Economic Development Division.

4. To cancel, reinstate, modify, and amend authorizations for fully undisbursed sections 501 and 502 loans.

5. To enter into section 502 loan participation agreements with banks.

6. To approve or decline applications for the direct guarantee of the payment of rent not to exceed $500,000.

7. To issue and modify commitment letters, said issuance to read as follows:

(Name), Administrator
By ----------
(Name)
Chief, Community Economic Development Division.

8. To disburse approved EDA loans, as authorized.

9. *Eligibility determinations for financing only:* To determine eligibility of applicants for assistance under the sections 501 and 502 programs of the Agency in accordance with Small Business Administration standards and policies.

10. Size determinations for financing only: To make initial size determinations in all sections 501 and 502 loans within the meaning of the Small Business Size Standards Regulations, as amended, and further, to make product classification decisions for sections 501 and 502 loans only. Product classification decisions for procurement purposes are made by contracting officers.

E. *Economic Development Specialists (Community Economic Development).* 1. To extend the disbursement period on fully undisbursed sections 501 and 502 loans.

2. To cancel, reinstate, modify, and amend authorizations for fully undisbursed sections 501 and 502 loans.

3. To enter into section 502 loan participation agreements with banks.

4. To disburse approved EDA loans, as authorized.

F. *Chief and Assistant Chief, Loan Administration Division.* 1. To take all necessary actions in connection with the administration, servicing, collection, and liquidation of all loans, exclusive of litigated matters, and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease,

quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. To advertise regarding the public sale of (1) collateral in connection with the liquidation of loans, and (2) acquired property.

e. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

2. To take all necessary action in liquidating Economic Development Administration (EDA) loans, exclusive of litigated matters, and acquired collateral, when and as authorized by EDA.

3. To service claims arising under all lease insurance policies issued in the region, approving the payment, or recommending denial of such claims.

4. To take all actions necessary to mitigate losses from lease guarantees.

G. *Supervisory Loan Officer (Loan Administration Division).* 1. To take all necessary actions in connection with the administration, servicing, collection, and liquidation of all loans, exclusive of litigated matters, and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. To advertise regarding the public sale of (1) collateral in connection with the liquidation of loans, and (2) acquired property.

e. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; (3) to authorize the liquidation of a loan; and (4) the cancellation of authority to liquidate.

2. To take all necessary action in liquidating Economic Development Administration (EDA) loans, exclusive of litigated matters, and acquired collateral, when and as authorized by EDA.

3. To service claims arising under all lease insurance policies issued in the region, approving the payment, or recommending denial of such claims.

4. To take all actions necessary to mitigate losses from lease guarantees.

H. *Loan Officer (Loan Administration Division).* 1. To approve the following actions concerning all current direct and participation loans and First Mortgage Plan 502 loans.

a. Use of such portions of the cash surrender value of assigned life insurance as are required to pay premiums due on the policy.

b. Release of dividends on assigned life insurance or consent to application of dividends against premiums due or to become due.

c. Minor modifications in the authorizations.

d. Extension of disbursement period.

e. Extension of initial principal payments.

f. Adjustment of interest payment dates.

g. Release of hazard insurance checks not in excess of $500 and endorsement of such checks on behalf of the Agency where SBA is named as joint loss payee.

h. Release of equipment with or without consideration where the value of equipment being released does not exceed $500.

I. *Region Claims Review Committee.* To consist of the Chief, Loan Administration Division, acting as chairman; Regional Counsel; and Chief, Financing Division, who will meet and consider reasonable and properly supported compromise proposals of indebtedness owed to the Agency and to take final action on such proposals provided such action represents the majority recommendation of the committee on claims not in excess of $5,000 (including CPC advances but excluding interest), or represents the unanimous recommendations of said committee on claims in excess of $5,000 but not exceeding $100,000 (including CPC advances but excluding interest).

J. *Chief, Procurement and Management Assistance Division.* [Reserved]

K. *Regional Counsel.* 1. To close and disburse approved SBA loans and rehabilitation loans for Department of Housing and Urban Development.

2. To close approved EDA loans, as authorized.

3. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

4. To conduct all litigation activities, including SBIC matters, as assigned, and to take all action necessary in connection with litigated matters; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator, as to all litigated matters.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing, as to all litigated matters.

c. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

5. To take all necessary action in liquidating Economic Development Administration (EDA) loans having litigative aspects when and as authorized by EDA.

L. *Regional Attorneys.* 1. To close and disburse approved SBA loans and rehabilitation loans for Department of Housing and Urban Development.

2. To close approved EDA loans, as authorized.

3. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

4. To conduct all litigation activities, including SBIC matters, as assigned, and to take all action necessary in connection with litigated matters; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, with the exception of the following, which are reserved to the regional counsel:

a. The assignment, endorsement, transfer and delivery of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator, as to all litigated matters.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instuments in writing as may be appropriate and necessary to effectuate the foregoing, as to all litigated matters.

5. To take all necessary action in liquidating Economic Development Administration (EDA) loans having litigative aspects, when and as authorized by EDA.

M. *Chief, Administrative Division.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and; (d) issue Government bills of lading.

3. In connection with the establishment of disaster loan offices, to obligate Small Business Administration to reimburse General Services Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

N. *Office Services Manager or Office Services Assistant.* 1. To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits; and (d) issue Government bills of lading.

2. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

II. *District Directors.*—A. *Financing program.* 1. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. a. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (1) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (2) $350,000 on disaster business loans (excluding displaced business loans), except to the extent of refinancing of a previous SBA disaster loan; and to approve disaster guaranteed loans up to $500,000 and to decline them in any amount.

b. To approve or decline displaced business loans up to $350,000 (SBA share).

3. To enter into business, economic opportunity, disaster, and displaced business loan participation agreements with banks.

4. To execute loan authorizations for Central Office and regional approved loans and for loans approved under delegated authority, said execution to read as follows:

(Name), Administrator
By ----------
(Name)
District Director.
(City)

5. To cancel, reinstate, modify, and amend authorizations for business, economic opportunity, disaster, and displaced business loans.

6. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

7. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

**8. To establish disaster field offices upon receipt of advice of the designation of a disaster area; to advise on the making of disaster loans; to appoint as a processing representative any bank in the disaster area; and to close disaster field offices when no longer advisable to maintain such offices.

9. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

B. *Community economic development program.* **1. To approve or decline section 501 State development company loans and section 502 local development company loans up to $350,000 (SBA share) when project cost does not exceed $700,000, provided the district director concurs in at least one prior recommendation.

2. To extend the disbursement period on sections 501 and 502 loan authorizations or undisbursed portions of sections 501 and 502 loans.

3. To execute sections 501 and 502 loan authorizations for Central Office and regional approved loans and for loans approved under delegated authority, said execution to read, as follows:

(Name), Administrator
By ----------
(Name)
District Director.
(City)

4. To cancel, reinstate, modify, and amend authorizations for sections 501 and 502 loans.

5. To enter into section 502 loan participation agreements with banks.

6. To approve or decline applications for the direct guarantee of the payment of rent not to exceed $500,000.

7. To issue and modify commitment letters, said issuance to read as follows:

(Name), Administrator
By ----------
(Name)
District Director.
(City)

8. To disburse approved EDA loans, as authorized.

C. *Loan administration program.* 1. To take all necessary actions in connection with the administration, servicing, collection, and liquidation of all loans, exclusive of litigated matters, and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignment, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. To advertise regarding the public sale of (1) collateral in connection with the liquidation of loans, and (2) acquired property.

e. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

2. To take all necessary action in liquidating Economic Development Administration (EDA) loans, exclusive of litigated matters, and acquired collateral, when and as authorized by EDA.

3. To service claims arising under all lease insurance policies issued in the district approving the payment, or recommending denial of such claims.

quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. To advertise regarding the public sale of (1) collateral in connection with the liquidation of loans, and (2) acquired property.

e. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

2. To take all necessary action in liquidating Economic Development Administration (EDA) loans, exclusive of litigated matters, and acquired collateral, when and as authorized by EDA.

3. To service claims arising under all lease insurance policies issued in the region, approving the payment, or recommending denial of such claims.

4. To take all actions necessary to mitigate losses from lease guarantees.

G. *Supervisory Loan Officer (Loan Administration Division).* 1. To take all necessary actions in connection with the administration, servicing, collection, and liquidation of all loans, exclusive of litigated matters, and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. To advertise regarding the public sale of (1) collateral in connection with the liquidation of loans, and (2) acquired property.

e. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; (3) to authorize the liquidation of a loan; and (4) the cancellation of authority to liquidate.

2. To take all necessary action in liquidating Economic Development Administration (EDA) loans, exclusive of litigated matters, and acquired collateral, when and as authorized by EDA.

3. To service claims arising under all lease insurance policies issued in the region, approving the payment, or recommending denial of such claims.

4. To take all actions necessary to mitigate losses from lease guarantees.

H. *Loan Officer (Loan Administration Division).* 1. To approve the following actions concerning all current direct and participation loans and First Mortgage Plan 502 loans.

a. Use of such portions of the cash surrender value of assigned life insurance as are required to pay premiums due on the policy.

b. Release of dividends on assigned life insurance or consent to application of dividends against premiums due or to become due.

c. Minor modifications in the authorizations.

d. Extension of disbursement period.

e. Extension of initial principal payments.

f. Adjustment of interest payment dates.

g. Release of hazard insurance checks not in excess of $500 and endorsement of such checks on behalf of the Agency where SBA is named as joint loss payee.

h. Release of equipment with or without consideration where the value of equipment being released does not exceed $500.

I. *Region Claims Review Committee.* To consist of the Chief, Loan Administration Division, acting as chairman; Regional Counsel; and Chief, Financing Division, who will meet and consider reasonable and properly supported compromise proposals of indebtedness owed to the Agency and to take final action on such proposals provided such action represents the majority recommendation of the committee on claims not in excess of $5,000 (including CPC advances but excluding interest), or represents the unanimous recommendations of said committee on claims in excess of $5,000 but not exceeding $100,000 (including CPC advances but excluding interest).

J. *Chief, Procurement and Management Assistance Division.* [Reserved]

K. *Regional Counsel.* 1. To close and disburse approved SBA loans and rehabilitation loans for Department of Housing and Urban Development.

2. To close approved EDA loans, as authorized.

3. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

4. To conduct all litigation activities, including SBIC matters, as assigned, and to take all action necessary in connection with litigated matters; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator, as to all litigated matters.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing, as to all litigated matters.

c. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

5. To take all necessary action in liquidating Economic Development Administration (EDA) loans having litigative aspects when and as authorized by EDA.

L. *Regional Attorneys.* 1. To close and disburse approved SBA loans and rehabilitation loans for Department of Housing and Urban Development.

2. To close approved EDA loans, as authorized.

3. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

4. To conduct all litigation activities, including SBIC matters, as assigned, and to take all action necessary in connection with litigated matters; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, with the exception of the following, which are reserved to the regional counsel:

a. The assignment, endorsement, transfer and delivery of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator, as to all litigated matters.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instuments in writing as may be appropriate and necessary to effectuate the foregoing, as to all litigated matters.

5. To take all necessary action in liquidating Economic Development Administration (EDA) loans having litigative aspects, when and as authorized by EDA.

M. *Chief, Administrative Division.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and; (d) issue Government bills of lading.

3. In connection with the establishment of disaster loan offices, to obligate Small Business Administration to reimburse General Services Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

N. *Office Services Manager or Office Services Assistant.* 1. To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits; and (d) issue Government bills of lading.

2. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

II. *District Directors.*—A. *Financing program.* 1. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. a. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (1) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (2) $350,000 on disaster business loans (excluding displaced business loans), except to the extent of refinancing of a previous SBA disaster loan; and to approve disaster guaranteed loans up to $500,000 and to decline them in any amount.

b. To approve or decline displaced business loans up to $350,000 (SBA share).

3. To enter into business, economic opportunity, disaster, and displaced business loan participation agreements with banks.

4. To execute loan authorizations for Central Office and regional approved loans and for loans approved under delegated authority, said execution to read as follows:

(Name), Administrator
By ----------
(Name)
District Director.
(City)

5. To cancel, reinstate, modify, and amend authorizations for business, economic opportunity, disaster, and displaced business loans.

6. To extend the disbursement period on all loan authorizations or undisbursed portions of loans.

7. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

**8. To establish disaster field offices upon receipt of advice of the designation of a disaster area; to advise on the making of disaster loans; to appoint as a processing representative any bank in the disaster area; and to close disaster field offices when no longer advisable to maintain such offices.

9. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

B. *Community economic development program.* **1. To approve or decline section 501 State development company loans and section 502 local development company loans up to $350,000 (SBA share) when project cost does not exceed $700,000, provided the district director concurs in at least one prior recommendation.

2. To extend the disbursement period on sections 501 and 502 loan authorizations or undisbursed portions of sections 501 and 502 loans.

3. To execute sections 501 and 502 loan authorizations for Central Office and regional approved loans and for loans approved under delegated authority, said execution to read, as follows:

(Name), Administrator
By ----------
(Name)
District Director.
(City)

4. To cancel, reinstate, modify, and amend authorizations for sections 501 and 502 loans.

5. To enter into section 502 loan participation agreements with banks.

6. To approve or decline applications for the direct guarantee of the payment of rent not to exceed $500,000.

7. To issue and modify commitment letters, said issuance to read as follows:

(Name), Administrator
By ----------
(Name)
District Director.
(City)

8. To disburse approved EDA loans, as authorized.

C. *Loan administration program.* 1. To take all necessary actions in connection with the administration, servicing, collection, and liquidation of all loans, exclusive of litigated matters, and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignment, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. To advertise regarding the public sale of (1) collateral in connection with the liquidation of loans, and (2) acquired property.

e. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

2. To take all necessary action in liquidating Economic Development Administration (EDA) loans, exclusive of litigated matters, and acquired collateral, when and as authorized by EDA.

3. To service claims arising under all lease insurance policies issued in the district approving the payment, or recommending denial of such claims.

4. To take all actions necessary to mitigate losses from lease guarantees.

D. *Procurement and management assistance program.* [Reserved]

E. *Administrative.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and; (d) issue Government bills of lading.

3. In connection with the establishment of disaster loan offices, to obligate Small Business Administration to reimburse General Services Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

F. *Eligibility determinations.* To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC program, in accordance with Small Business Administration standards and policies.

G. *Size determinations.* To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, and further, to make product classification decisions for financing purposes only. Product classification decisions for procurement purposes are made by contracting officers.

H. *Legal services.* 1. To close and disburse approved SBA loans and rehabilitation loans for Department of Housing and Urban Development.

2. To close approved EDA loans, as authorized.

3. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

4. To conduct all litigation activities, including SBIC matters, as assigned, and to take all action necessary in connection with litigated matters; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator, as to all litigated matters.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing, as to all litigated matters.

c. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; and (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement.

5. To take all necessary action in liquidating Economic Development Administration (EDA) loans having litigative aspects, when and as authorized by EDA.

III. *District Division Chiefs, District Counsel and Staffs*—A. *Chief, Financing Division.* 1. To approve or decline business loans not exceeding $350,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

2. a. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (1) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (2) $350,000 on disaster business loans (excluding displaced business loans), except to the extent of refinancing of a previous SBA disaster loan; and to approve disaster guaranteed loans up to $350,000 and to decline them in any amount.

b. To approve or decline displaced business loans up to $350,000 (SBA share).

3. To enter into business, economic opportunity, disaster, and displaced business loan participation agreements with banks.

4. To execute loan authorizations for Central Office, regional, and district approved loans and for loans approved under delegated authority, said execution to read as follows:

(*Name*), *Administrator*
By ----------
(Name)
(Title of person signing)

5. To cancel, reinstate, modify, and amend authorizations for fully undisbursed business, economic opportunity, disaster, and displaced business loans.

6. To extend the disbursement period on all loan authorizations or fully undisbursed loans.

7. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

8. Size determinations for financing only: To make initial size determinations in all cases within the meaning of the Small Business Size Standards Regulations, as amended, except sections 501 and 502 loans, and further to make product classification decisions for financing purposes only. Product classification decisions for procurement purposes are made by contracting officers.

9. Eligibility determination for financing only: To determine eligibility of applicants for assistance under any program of the Agency, except the SBIC and community economic development programs, in accordance with Small Business Administration standards and policies. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

B. *Supervisory Loan Officer (Financing Division), if assigned.* 1. To enter into business, economic opportunity, disaster, and displaced business loan participation agreements with banks.

2. To execute loan authorizations for Central Office, regional, and district approved loans, said execution to read as follows:

(*Name*), *Administrator*
By ----------
(*Name*)
Title of person signing.

3. To cancel, reinstate, modify, and amend authorizations for fully undisbursed business, economic opportunity, disaster, and displaced business loans.

4. To extend the disbursement period on all loan authorizations or fully undisbursed loans.

5. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding balance on construction loans and loans involving accounts receivable and inventory financing.

C. *Loan Officer (Financing Division).* 1. To approve minor modifications in the authorization.

2. To extend the disbursement period.

D. *Chief, Community Economic Development Division.* 1. To extend the disbursement period on sections 501 and 502 loan authorizations or fully undisbursed sections 501 and 502 loans.

2. To execute sections 501 and 502 loan authorizations for Central Office, regional, and district approved loans, said execution to read, as follows:

(*Name*), *Administrator*
By ----------
(Name)
Chief, Community Economic Development Division.

3. To cancel, reinstate, modify, and amend authorizations for fully undisbursed sections 501 and 502 loans.

4. To enter into section 502 loan participation agreements with banks.

5. To issue and modify commitment letters, said issuance to read, as follows:

(*Name*), *Administrator*
By ----------
(Name)
Chief, Community Economic Development Division.

6. To disburse approved EDA loans, as authorized.

E. *Economic Development Specialist (Community Economic Development).* 1. To extend the disbursement period on fully undisbursed sections 501 and 502 loans.

2. To cancel, reinstate, modify and amend authorizations for fully undisbursed sections 501 and 502 loans.

3. To enter into section 502 loan participation agreement with banks.

4. To disburse approved EDA loans, as authorized.

F. *Chief, Loan Administration Division.* 1. To take all necessary actions in connection with the administration, servicing, collection, and liquidation of all loans, exclusive of litigated matters; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. To advertise regarding the public sale of (1) collateral in connection with the liquidation of loans, and (2) acquired property.

e. Except: (1) to compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; (3) to authorize the liquidation of a loan; and (4) the cancellation of authority to liquidate.

2. To take all necessary action in liquidating Economic Development Administration (EDA) loans, exclusive of litigated matters, and acquired collateral, when and as authorized by EDA.

3. To service claims arising under all lease insurance policies issued in the district approving the payment, or recommending denial of such claims.

4. To take all actions necessary to mitigate losses from lease guarantees.

G. *Supervisory Loan Officer (Loan Administration Division), if assigned.* 1. To take all necessary actions in connection with the administration, servicing, collection and liquidation of all loans, exclusive of litigated matters, and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaims, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or in part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. To advertise regarding the public sale of (1) collateral in connection with the liquidation of loans, and (2) acquired property.

e. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; (3) to authorize the liquidation of a loan; and (4) the cancellation of authority to liquidate.

2. To take all necessary action in liquidating Economic Development Administration (EDA) loans, exclusive of litigated matters, and acquired collateral, when and as authorized by EDA.

3. To service claims arising under all lease insurance policies issued in the district, approving the payment, or recommending denial of such claims.

4. To take all actions necessary to mitigate losses from lease guarantees.

H. *Loan Officer (Loan Administration Division).* 1. To approve the following actions concerning all current direct and participation loans and First Mortgage Plan 502 loans:

a. Use of such portions of the cash surrender value of assigned life insurance as are required to pay premiums due on the policy.

b. Release of dividends on assigned life insurance or consent to application of dividends against premiums due or to become due.

c. Minor modifications in the authorization.

d. Extension of disbursement period.

e. Extension of initial principal payments.

f. Adjustment of interest payment dates.

g. Release of hazard insurance checks not in excess of $500 and endorsement of such checks on behalf of the Agency where SBA is named as joint loss payee.

h. Release of equipment with or without consideration where the value of equipment being released does not exceed $500.

I. *Chief, Procurement and Management Assistance Division.* [Reserved]

J. *District Counsel.* 1. To close and disburse approved SBA loans and rehabilitation loans for Department of Housing and Urban Development.

2. To close approved EDA loans, as authorized.

3. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

4. To conduct all litigation activities, including SBIC matters, as assigned, and to take all action necessary in connection with litigated matters, loans classified as in litigation; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer and delivery (but in all cases without representation, recourse or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator as to all litigated matters.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing, as to all litigated matters.

c. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; (3) to authorize the liquidation of a loan; and (4) the cancellation of authority to liquidate.

5. To take all necessary action in liquidating Economic Development Administration (EDA) loans having litigative aspects when and as authorized by EDA.

K. *District Attorneys.* 1. To close and disburse approved SBA loans and rehabilitation loans for Department of Housing and Urban Development.

2. To close approved EDA loans, as authorized.

3. To approve, when requested, in advance of disbursement, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization.

4. To conduct all litigation activities, including SBIC matters, as assigned, and to take all action necessary in connection with litigated matters; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, with the exception of the following, which are reserved to the district counsel:

a. The assignment, endorsement, transfer and delivery of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator, as to all litigated matters.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, proofs of claim in bankruptcy or other estates, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing, as to all litigated matters.

5. To take all necessary action in liquidating Economic Development Administration (EDA) loans having litigative aspects when and as authorized by EDA.

L. *Chief, Administrative Division.* 1. To purchase reproductions of loan documents, chargeable to the revolving fund, requested by U.S. attorneys in foreclosure cases.

2. To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits and; (d) issue Government bills of lading.

3. In connection with the establishment of disaster loan offices, to obligate Small Business Administration to reimburse General Services Administration for the rental of office space.

4. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

M. *Office Services Manager or Office Services Assistant.* 1. To (a) purchase office supplies and equipment, including office machines and rent regular office equipment and furnishings; (b) contract for repair and maintenance of equipment and furnishings; (c) contract for services required in setting up and dismantling and moving SBA exhibits; and (d) issue Government bills of lading.

2. To rent motor vehicles from the General Services Administration and to rent garage space for the storage of such vehicles when not furnished by this Administration.

IV. *Branch Manager.* [Reserved]

V. The specific authority delegated herein, indicated by double asterisk (**), cannot be redelegated.

VI. The authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: April 13, 1970.

RUSSELL HAMILTON,
Regional Director, Region III.

[F.R. Doc. 70-5496; Filed, May 5, 1970; 8:46 a.m.]

TARIFF COMMISSION

[AA1921-63]

WHOLE DRIED EGGS FROM HOLLAND

Notice of Investigation and Hearing

Having received advice from the Treasury Department on May 1, 1970, that whole dried eggs from Holland are being, and are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160), the U.S. Tariff Commission has instituted an investigation under section 201(a) of the Act to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, D.C., beginning at 10 a.m., e.d.s.t., on June 9, 1970. All parties will be given opportunity to be present, to produce evidence, and to be heard at such hearing. Interested parties desiring to appear at the public hearing should notify the Secretary of the Tariff Commission, in writing, at its offices in Washington, D.C., at least 5 days in advance of the date set for the hearing.

Issued: May 1, 1970.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[F.R. Doc. 70-5515; Filed, May 5, 1970; 8:48 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

ADVISORY COUNCIL ON EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

Recommendations for Appointment

Section 14 of the Welfare and Pension Plans Disclosure Act Amendments of 1962 (76 Stat. 40, 41, 29 U.S.C. 308e) provides for the establishment of an "Advisory Council on Employee Welfare and Pension Benefit Plans" which is to consist of 13 members to be appointed as follows: One from the insurance field, one from the corporate trust field, two from management, four from labor, and two from other interested groups, all of whom are to be appointed by the Secretary from among persons recommended by organizations in the respective groups. The additional three representatives are to be appointed from the general public by the Secretary. The prescribed duties of the Council are to advise the Secretary with respect to the carrying out of his functions under the Welfare and Pension Plans Disclosure Act, as amended, and to submit to the Secretary recommendations with respect thereto. The Council is required to meet at least twice each year and at such other times as the Secretary requests.

To assure continuity in the handling of the business of the Council, a rotation system is provided whereby the 2-year terms of approximately half the members expire each year. The groups represented by the members whose terms expire on June 30, 1970, are as follows: Labor (2), the corporate trust field (1), management (1), the public (2), and other interested groups (2). Appointments of new members will be for terms, beginning July 1, 1970.

Accordingly, notice is hereby given that any organization desiring to recommend persons for appointment to the "Advisory Council on Employee Welfare and Pension Benefit Plans" may submit recommendations to the Secretary of Labor, 14th and Constitution Avenue NW., Washington, D.C. 20210, on or before May 28, 1970. The recommendation may be in the form of a letter, resolution, or petition, signed by an authorized official of the organization. Each recommendation shall identify the candidate by name, occupation, or position, and address. It shall specify the field or group which he would represent for purposes of section 14 of the Act, and whether he is available and would accept.

Signed at Washington, D.C., this 28th day of April 1970.

W. J. USERY, Jr.,
Assistant Secretary for Labor-Management Relations.

[F.R. Doc. 70-5495; Filed, May 5, 1970; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC–19 (Sub-No. 8)]

PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 28th day of April 1970.

Upon consideration of the record in the above-entitled proceeding, and of:

(1) Joint petition of American Movers Conference, Household Goods Carriers' Bureau, and Movers' & Warehousemen's Association of America, Inc., filed April 1, 1970, for modification of the order of February 26, 1970, (a) by rescinding the present effective date of May 1, 1970, until after consideration by the Commission of their joint petition for reconsideration, and (b) by deferring the effective date of the order until at least December 1, 1970;

(2) Petition (letter) of National Furniture Warehousemen's Association, filed April 6, 1970, in support of the joint petition in (1) above;

(3) Separate petitions (telegrams) of Santini Bros., Inc., and Southwest Moving and Storage Co., filed April 13, 1970, and Toledo Van & Storage Co., Hilldrups Transfer and Storage, Atlas Moving and Storage Co., Clarence K. Mowe, and Stevens Van Lines, Inc., filed April 14, 1970, and Fidelity Storage Moving & Packing Co., filed April 15, 1970, and (letters) Rosebank Storage Warehouse, Inc., Johnson Storage & Van Co., and Nilson Van & Storage, filed April 15, 1970, by extending the effective date beyond the 1970 peak moving season;

(4) Joint petition of American Movers Conference, Household Goods Carriers' Bureau, and Movers' & Warehousemen's Association of America, Inc., filed April 6, 1970, for reconsideration, embracing a request for oral hearing;

(5) Petition (letter) of the Secretary of the Army and the Department of Defense, filed April 17, 1970, to postpone the effective date of May 1, 1970;

(6) Petition (letter) of I–Go Van and Storage, dated April 23, 1970, to postpone the effective date of May 1, 1970;

(7) Reply by Bureau of Enforcement, Interstate Commerce Commission, filed April 10, 1970, to petitions in (1) and (2) above;

(8) Reply by the Association of California Consumers, filed April 22, 1970, to petitions in (1), (2), and (4) above;

(9) Reply by North American Van Lines, Inc., filed April 23, 1970, to petition in (4) above;

(10) Reply by Bureau of Enforcement, Interstate Commerce Commission, filed April 27, 1970, to petition in (4) above;

(11) Reply by Wheaton Van Lines, Inc., filed April 24, 1970, to petition in (4) above;

(12) Reply by Allied Van Lines, Inc., filed April 24, 1970, to petition in (4) above, embracing a motion for clarification of the Commission's report and order of February 26, 1970;

(13) Reply by Robert L. Kunzig, Administrator of General Services, filed April 27, 1970, to petition in (4) above;

It appearing, that in an appendix to the joint petition in (4) above, petitioners, among other things, raise numerous questions as to the intent and general applicability of the new regulations;

It further appearing, that the questions submitted with the joint petition in (4) above, involve matters of general interest to the parties to this proceeding and to the shipping public; and that in view of such general interest, the questions with appropriate answers thereto are set forth in the appendix to this order,[1] and good cause appearing therefor:

It is ordered, That the petitions in (1), (2), (3), (5), and (6) above be, and they are hereby, denied, for the reasons that no sufficient or proper cause appears for modifying the order of February 26, 1970, by postponing the effective date of the report and order entered in this proceeding on February 26, 1970, and served March 5, 1970, as corrected by notice served March 27, 1970.

It is further ordered, That the joint petition in (4) above be, and it is hereby, denied, for the reasons that no sufficient or proper cause appears for reopening the proceeding for reconsideration or oral hearing.

It is further ordered, That the motion for clarification of the said report and order of February 26, 1970, embraced in the reply in (12) above, be, and it is hereby, denied.

It is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70–5517; Filed, May 5, 1970; 8:48 a.m.]

[1] Filed as part of the original document.

[Notice 15]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

MAY 1, 1970.

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 Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

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 1042.4(d)(12)) 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 Revised Deviation Rules-Motor Carriers of Property, 1969, 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–263 (Deviation No. 8), GARRETT FREIGHTLINES, INC., Post Office Box 4048, Pocatello, Idaho 83201, filed April 22, 1970. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Salt Lake City, Utah, over U.S. Highway 40 to junction U.S. Highway 6 near Empire, Colo., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Salt Lake City, Utah, over U.S. Highway 91 via Springville, Utah, to Spanish Fork, Utah, thence over U.S. Highway 6 to Crescent Junction, Utah (also from Springville over U.S. Highway 50, portion formerly Alternate U.S. Highway 50, to Crescent Junction), thence over U.S. Highway 6 to Grand Junction, Colo., (2) from Denver, Colo., over U.S. Highway 40 (formerly U.S. Highway 6) to junction U.S. Highway 6 near Idaho Springs, Colo., thence over U.S. Highway 6 to Dowd, Colo., thence over U.S. Highway 24 to Grand Junction, Colo., and (3) from Grand Junction, Colo., over U.S. Highway 6 to junction U.S. Highway 40 near Idaho Springs, Colo., and return over the same routes.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary.*

[F.R. Doc. 70–5521; Filed, May 5, 1970; 8:48 a.m.]

[Notice 41]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

MAY 1, 1970.

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.

MOTOR CARRIERS OF PROPERTY

No. MC 65781 (Sub-No. 3) (Republication), filed October 13, 1968, published in the FEDERAL REGISTER issue of October 31, 1968, and republished this issue. Applicant: DAWN MOVING & STORAGE COMPANY, INC., 6009 Wayzata Boulevard, Minneapolis, Minn. 55416. Applicant's representative: Clay R. Moore, 1000 First National Bank Building, Minneapolis, Minn. 55402. A report and order of the Commission, Review Board No. 1, decided April 15, 1970, and served April 21, 1970, upon further consideration, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *used household goods*, restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, (1) between points in the Minneapolis-St. Paul, Minn., commercial zone, restricted to the transportation of shipments moving on through bills of lading of forwarders, operating under the exemption of section 402(b)(2) of the Interstate Commerce Act; and (2) between points in Minneapolis and St. Paul, Minn., on the one hand, and, on the other, points in Pine, Kanabec, Mille Lacs, Isanti, Chisago, Anoka, Washington, Hennepin, Ramsey, Dakota, Scott, Goodhue, Rice, Le Sueur, Wabasha, Dodge, Steele, Waseca, Blue Earth, Brown, Nicollet, Sibley, Renville, McLeod, Carver, Kandiyohi, Meeker, Wright, Stearns, Benton, and Sherburne Counties, Minn.; 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, 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 120872 (Sub-No. 5) (Republication), filed August 15, 1969, published in the FEDERAL REGISTER issue of October 22, 1969, under State Docket No. 23958, and republished this issue. Applicant: COLORADO CARTAGE CO., INC., 5725 Quebec Street, Denver, Colo. Applicant's representative: John H. Lewis, The 1650 Grant Street Building, Denver, Colo. Applicant has made timely application for a certificate of registration as evidence of the right to conduct operations, in interstate or foreign commerce, within limits which do not exceed the scope of the intrastate operations for which applicant holds a State certificate as a common carrier by motor vehicle, solely within the single State of Colorado. An order of the Commission, Operating Rights Board, dated April 15, 1970, and served April 21, 1970, finds; that upon full compliance with the requirements of the Act and the rules and regulations of the Commission thereunder, a certificate of registration shall be issued to applicant, unless otherwise ordered, which certificate of registration shall (1) correspond in scope to the rights in certificates PUC Nos. 692 and 2693, as clarified, as extended by orders dated November 28, 1969, and January 7, 1970, as further supplemented March 23, 1970, issued by the Public Utilities Commission of the State of Colorado and (2) supersede the certificate of registration issued in No. MC 120872 (Sub-No. 2), insofar as it is supported by certificates PUC Nos. 692 and 2693 of prior date, as evidence of a right to engage in operations in interstate or foreign commerce, as a common carrier by motor vehicle, transporting the commodities from, to, or between the points, over the routes, or within the territory, and in the manner described and subject to such additional and further conditions as may be necessary to give effect to the provisions of section 206(a)(6) of the Interstate Commerce Act, as amended. Description of the transportation service authorized is as follows:

Certificate No. 692. Transportation—on schedule—of (1) General commodities, between Windsor, Colo., and that portion of a 5-mile radius thereof lying east of Interstate Highway No. 25, Longmont and a 6-mile radius thereof, Greeley, Colo., Fort Collins, Colo., Loveland, Colo., Timnath, Colo., Wellington, Colo., Bracewell, Colo. Johnstown, Colo., Severance, Colo., Berthoud, Colo., and Farmer's Spur and a 2-mile radius of each, utilizing the following named highways or any combination thereof serving all intermediate points: (a) U.S. Highway 287 and Colorado Highway 1 between Longmont and Wellington; (b) Colorado Highway 16 (U.S. 34) and Colorado Highway 257, or Colorado Highway 392 and U.S. Highway 85 between Greeley and Windsor; (c) Colorado Highway 60 and Colorado Highway 257 between Johnstown, Milliken, and Windsor; (d) Colorado Highway 14 and Colorado Highway 257 between Windsor and Wellington or Windsor and Fort Collins, or I–25 between Wellington and Fort Collins; (e) U.S. Highway 85, Colorado Highway 14 and Colorado Highway 1 and I–25 between Wellington and Greeley; (f) Colorado Highway 119 and I–25 and Colorado Highway 392, or U.S. Highway 34, Colorado Highway 257 and Colorado Highway 60 between Longmont and Windsor; (g) Colorado Highway 257 and Colorado Highway 392 and unnumbered county highways between Severance, Timnath and Windsor; (h) U.S. Highway 34 between Loveland and Greeley. Restriction: Item No. 1 shall be restricted as follows: (a) Restricted against rendering service between Fort Collins, Colo., and Loveland, Colo., and between Longmont, Colo., and Berthoud, Colo., and points intermediate thereto; (b) restricted against rendering point to point service within Longmont and a 6-mile radius thereof; (2) general commodities between Denver, Colo. and a 5-mile radius thereof on the one hand, and Windsor, Colo., and points within that portion of a 5-mile radius thereof lying east of Interstate Highway No. 25, Timnath, Colo., Severance, Colo., and Wellington, Colo., and a 2-mile radius of each on the other hand, utilizing the following named highways: (a) I–25, Colorado Highway 392, or I–25, U.S. Highway 34 and Colorado Highway 257 between Denver and Windsor; (b) Colorado Highway 392 and Colorado Highway 257 and unnumbered county roads serving Severance and Timnath; (c) via Colorado Highway 257, Colorado Highway 14, Colorado Highway 1 and I–25 between Windsor and Wellington, serving all intermediate points between Windsor, Colo., and Wellington, Colo. Restriction: (a) Item No. 2 of this certificate restricted against the movement of traffic between Denver, Colo., on the one hand, and Fort Collins, Colo., on the other hand.

Certificate No. 2693. Transportation—on call and demand—of (1) general commodities, between all points within the following described area; commencing at the junction of the city and county of Denver north boundary to I–25, thence north on I–25 to its intersection with 56th Avenue, thence east on 56th Avenue to its intersection with York Street; thence north on York Street, extended, to its intersection with Colorado Highway 52, thence east on Colorado Highway 52 to its intersection with U.S. Highway 85, thence north on U.S. Highway 85 to its junction with unnumbered highway approximately 5 miles north of Fort Lupton, thence east on said unnumbered highway to its junction (if extended) to U.S. Highway 6, thence east on U.S. Highway 6 to Roggen, thence south on unnumbered highway to Colorado Highway 52, thence on Colorado Highway 52 to its junction with Colorado Highway 79, thence south on Colorado Highway 79 to I–70, thence west on I–70 to its junction with the city and county of Denver boundary, thence along the north boundary of the city and county of Denver, Colo., to the point of beginning. Restriction: Item No. 1 restricted against serving the following points: (a) Thornton, Colo., and Northglenn, Colo; (b) points located on Interstate Highway 70 or points within 5 miles of Interstate Highway 70 which lie beyond a 5-mile radius of the city and county of Denver, Colo.; (2) general commodities between all points within the city and county of Denver, Colo., and a 5-mile radius thereof, on the one hand, and the area described in Item No. 1, on the other hand; (3) farm supplies, from points within Golden, Colo., to points located within the area described in Item No. 1; (4) general commodities between points within the city and county of Denver, Colo., and a 5-mile radius thereof.

Restriction: Item No. 4 restricted as follows: (a) Restricted against transporting commodities in bulk; (b) restricted against rendering transportation service within that portion of said 5-mile radius lying west of Youngfield Avenue; (c) restricted against serving Thornton, Colo., and Northglenn, Colo. Because it is possible that interested parties who have relied upon the notice of the application as published in the FEDERAL REGISTER, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings, a notice of the additional authority granted by this order will be published in the FEDERAL REGISTER issuance of a certificate of registration 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 an appropriate pleading with this Commission to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 29658 (Sub-No. 1) (Notice of Filing of Petition for Waiver of Rule 101(e) of the Rules of Practice, To Permit the Filing of Reconsideration Petition, and for Reconsideration of Application and Reformation of Commodity Description in Certificate), filed April 8, 1970. Petitioner: WALTER D. MURRAY, doing business as DOWNS BROS., Philadelphia, Pa. Petitioner's representative: Alan Kahn, Suite 1920, 2 Penn Center Plaza, Philadelphia, Pa. 19102. Petitioner holds authority in No. MC 29658 Sub 1 to conduct operations as a motor common carrier, in interstate or foreign commerce, transporting: Baggage and express, between Philadelphia, Pa., and points in that part of New Jersey south of a line beginning at Trenton, N.J., and extending along Mercer County, N.J., thence along Mercer County Highway 539 to junction New Jersey Highway 33, thence along New Jersey Highway 33 to junction Monmouth County Highway 537 near Freehold, N.J., and thence along Monmouth County Highway 537 through Freehold, Colts Neck, Eatontown, and Long Branch, N.J., to the Atlantic Ocean, including points on the indicated portions of the highways specified. By the instant petition, petitioner seeks waiver of Rule 101(e) of the rules of practice, to permit the filing of this petition for reconsideration, and modification of its authority to grant authority in MC 29658 (Sub-No. 1) to read as follows: General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those injurious or contaminating to other lading, in lieu of the commodity description baggage and express, between the points described therein. 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 129806 (Notice of Filing of Petition Requesting Modification of Certificate Through Elimination of One Origin and Substitution of Another), filed April 13, 1970. Petitioner: J. MITCHKO TRUCKING, INC., Lafayette, N.J. Petitioner's representative: Bert Collins, 140 Cedar Street, New York, N.Y. 10006. Petitioner holds authority in No. MC 129806 to transport dry salt, in bulk, over irregular routes, from railroad sidings in Passaic, Bergen, Warren, Morris, Essex, Hudson, Hunterdon, and Union Counties, N.J., those in that part of Middlesex County, N.J., north of the Raritan River, and points in Sussex County, N.J. (except Newton, N.J., and points within 5 miles thereof), to points in New Jersey, Connecticut, Massachusetts, Rhode Island, New York, Delaware, Maryland, and the District of Columbia, with no transportation for compensation on return except as otherwise authorized, restricted to the transportation of shipments having had a prior movement by rail. From stockpiles and other facilities of the Morton Salt Co. in the New Jersey counties named above, to points in the destination States named above, except New Jersey, with no transportation for compensation on return except as otherwise authorized. From the plantsite and other facilities of Morton Salt Co. at Port Newark, N.J., to points in Pennsylvania, with not transportation for compensation on return except as otherwise authorized. Salt and salt products, in packages, and pepper and animal and poultry feed supplements, in packages, when transported in mixed shipments with salt and salt products, in packages, from Port Newark, N.J., to points in Connecticut, Massachusetts, Rhode Island, New York, Pennsylvania, Delaware, Maryland, and the District of Columbia; and damaged or otherwise rejected shipments of such commodities previously delivered by carrier, from points of delivery in the above-named destination States and the District of Columbia, to Port Newark, N.J. By the instant petition, petitioner seeks to substitute Carteret, N.J., for Port Newark, N.J. 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 18259 (Republication of Petition To Remove Restriction in Permit), filed December 22, 1969, published FEDERAL REGISTER, issue of January 21, 1970, and republished this issue. Petitioner: JACKSON DISTRIBUTING CORP., Post Office Box 204, Salina Station, Syracuse, N.Y. Petitioner's representatives: Norman M. Pinsky and Herbert M. Canter, 345 South Warren Street, Syracuse, N.Y. 13202. Petitioner holds authority in No. MC 18259 to conduct operations as a motor contract carrier, transporting: Such merchandise as is dealt in by wholesale retail, and chain grocery and food business houses, and, in connection therewith, equipment, materials, and supplies used in the conduct of such business, between points within the territory bounded by a line beginning at Louisville Landing, N.Y., and extending in a southeasterly direction to Messena, N.Y., thence south through Newton Falls, Old Forge, Newport, Herkimer, and Mohawk to Richfield Springs, N.Y., thence in a southwest direction to Greene, N.Y., thence west to Beaver Dams, N.Y., thence in a northwesterly direction to Hammondsport, N.Y., thence north through Rushville, Canandaigua, and Webster, N.Y., to Lake Ontario at a point 5 miles directly north of Webster, and thence along the shore of the lake and the bank of the St. Lawrence River to Louisville Landing, including the points named. Between the points in the above-specified territory, on the one hand, and, on the other, points within the territory bounded by a line beginning on the shore of Lake Ontario at a point 5 miles directly north of Webster, N.Y., and extending south through Webster, Canandaigua, and Rushville to Hammondsport, N.Y., thence in a southeasterly direction to Beaver Dams, N.Y., thence west through Cuba to South Dayton, N.Y., thence through Buffalo to Wilson, N.Y., and thence east along the shore of Lake Ontario to a point on the lake 5 miles north of Webster, including the points named.

"Restriction: The operations described herein are limited to a transportation service to be performed under special and individual contracts or agreements with persons (as defined in section 203 (a) of the Interstate Commerce Act), who operate retail stores, the business of which is the sale of food, of the commodities indicated and in the manner specified above." By the instant petition, petitioner seeks removal of the subject restriction in its entirety so that it may continue to render a needed service to the shipping public and conform its operations with the changing and more modern food marketing patterns of the food distribution industry. The purpose of this republication is to set forth the territory served by petitioner. 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.

Application for certificate or permit which is to be processed concurrently with application under section 5 governed by special rule 240 to the extent applicable.

No. MC 127608 (Sub-No. 3), filed October 13, 1969. Applicant: B-BROTHERS CARTAGE, INC., Post Office Box 21, Blue Island, Ill. 60406. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities general*, except livestock, bulk grain, coal, high explosives and articles of great value, within a 50-mile radius of a point 3 miles north of Manteno, Ill., and to transport such property to or

from any point outside of such authorized area of operation for a shipper or shippers within such area; and *household goods, pianos, safes and machinery* to or from any point or points within the State of Illinois. NOTE: This application is directly related to the purchase application of B-Brothers Cartage, Inc., to purchase Taylor Transfer Co., Inc., Docket No. MC-F-10549, published in the FEDERAL REGISTER issue of July 24, 1969. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

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 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-10814. Authority sought for purchase by KRONINGER SERVICE, INC., Mount Bethel, Pa. 18343, of a portion of the operating rights of CARL R. BIEBER, INC., Vine and Baldy Street, Kutztown, Pa. 19530, and for acquisition by JESSE A. KRONINGER, Rural Delivery No. 2, Mertztown, Pa. 19539, of control of such rights through the purchase. Applicants' attorney: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Operating rights sought to be transferred: *Foundry products, supplies, and materials,* as a *common carrier,* over irregular routes, between Kutztown, Pa., on the one hand, and, on the other, Philadelphia, Pa., New York, N.Y., Wilmington, Del., Toledo, Ohio, Baltimore and Carderock, Md., and points in New Jersey and the District of Columbia; *brick, cement, rubber, resin, and asphalt coatings, and brick* or *rubber-lined iron* or *steel tanks,* between Mertztown, Pa., on the one hand, and, on the other, points in New Jersey, New York, Delaware, Maryland, Ohio, Connecticut, Rhode Island, Massachusetts, and the District of Columbia; *household goods* as defined by the Commission, between Kutztown, Pa., and points within 10 miles of Kutztown, on the one hand, and, on the other, points in New Jersey, New York, Delaware, Maryland, Ohio, and the District of Columbia; *grain and manufactured animal and poultry feed,* from West Leesport, Pa., to points in New Jersey, New York, and Maryland, except incorporated communities; *animal and poultry feed,* from West Leesport, Pa., to points in Delaware; *grain* and the *ingredients of prepared animal and poultry feed,* from points in New Jersey, New York, Maryland, and Delaware, to West Leesport, Pa.; and *cement clinker,* from Northampton, Pa., to Martinsburg, W. Va., from Martinsburg, W. Va., to Northampton, Pa. Vendee is authorized to operate as a *common carrier* in Pennsylvania, New Jersey, and New York. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10815. Authority sought for purchase by BAKER HI-WAY EXPRESS, INC., Box 484, Dover, Ohio 44622, of a portion of the operating rights of B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055, and for acquisition by HAROLD BAKER, Stone Creek, Ohio 43840, of control of such rights through the purchase. Applicant's attorney: Richard H. Brandon, 79 East State Street, Columbus, Ohio 43215. Operating rights sought to be transferred: (This authority was granted pursuant to an order by Review Board No. 5 in No. MC-F-10221, dated December 24, 1968 and a supplemental order dated September 19, 1969 and consummated June 14, 1969 and certificate not yet issued). *Clay and firebrick,* as a *common carrier* over irregular routes, from Louisville, Ky., and St. Louis, Mo., to Dunkirk, Ind.; *brick, sewer pipe and clay products,* from points in Carroll, Stark, Summit, and Tuscarawas Counties, Ohio, to points in Illinois and Indiana; *clay,* from East Liverpool, Ohio, to Kokomo, Ind.; *clay products,* from Uhrichsville and Dennison, Ohio, to points in the Lower Peninsula of Michigan, from Mecca and Montezuma, Ind., to Uhrichsville, Ohio; *earthenware and stoneware,* from Louisville, Ky., to Indianapolis, Ind.; *brick and clay products,* from points in Perry County, Ohio, and Upper Sandusky, Ohio, to points in Indiana, Illinois, Lower Peninsula of Michigan, and to Louisville, Ky., from Taylor Junction in Franklin County, Ohio, to the above-specified destination points except those in the area defined in Chicago, Ill., commercial zone 1 MCC-673. Vendee is authorized to operate as a *common carrier* in Illinois, Kentucky, Michigan, New York, Indiana, West Virginia, Ohio, Pennsylvania, Iowa, Minnesota, Missouri, Wisconsin, New Jersey, Connecticut, Massachusetts, Rhode Island, New Hampshire, Maine, Vermont, Delaware, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-10816. Authority sought for control and merger by SUPERIOR MOTOR EXPRESS, INC., Post Office Box 98, Gold Hill, N.C. 28071, of the operating rights and property of WILLIAM EARNHARDT, doing business as EARNHARDT TRANSPORT, Post Office Box 77, Gold Hill, N.C. 28071, and for acquisition by HAYDEN E. EARNHARDT, Route 5, Box 1, Salisbury, N.C. 28144, of control of such rights and property through the transaction. Applicants' attorney: Francis J. Ortman, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006. Operating rights sought to be controlled and merged: *Lumber,* rough or dressed, except plywood and veneer, as a *common carrier* over irregular routes, from Statesville, N.C., and points within 10 miles thereof, to Pikesville and Ashland, Ky., certain specified points in Ohio and West Virginia; *prefabricated metal and wooden form, and related components, materials, and supplies,* uncrated, used in the construction of miniature golf courses, from Fayetteville, N.C., to points in the United States (except those in Alaska and Hawaii); *lumber,* except plywood and veneer, from points in Darlington and Florence Counties, S.C., to points in Delaware, Georgia, Kentucky, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, and the District of Columbia, from certain specified points in North Carolina, to points in Tennessee, Kentucky, Ohio, West Virginia, certain specified points in Virginia, and points in that part of Pennsylvania on and west of U.S. Highway 219, from certain specified points in North Carolina, to points in Tennessee, Kentucky, Ohio, and certain specified points in Virginia, from certain specified points in South Carolina, to points in Tennessee, Kentucky, Ohio, West Virginia, certain specified points in Virginia, and points in that part of Pennsylvania on and west of U.S. Highway 219;

Lumber (excluding plywood and veneer), from Gold Hill, N.C., to points in Georgia, South Carolina, Tennessee, and West Virginia, with restriction; *wooden pallets,* from Ansonville, N.C., to points in Kentucky, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia; *hardboard sheets and boards,* from Catawba, S.C., and points within 5 miles thereof, to Dover, Del., Fairmont, W. Va., and points in Arkansas, Kentucky (except points in the Cincinnati, Ohio, commercial zone, as defined by the Commission), Louisiana, Maryland (except points in the Baltimore, Md., commercial zone, as defined by the Commission), Mississippi, Missouri, New Jersey (except points in the Trenton, N.J., Philadelphia, Pa., and New York, N.Y., commercial zones, as defined by the Commission), New York (except points in the New York, N.Y., commercial zone, as defined by the Commission), Pennsylvania (except points in the Philadelphia, Pa., commercial zone, as defined by the Commission), Virginia (with exceptions), and that part of Tennessee on and east of U.S. Highway 27, and on and north of U.S. Highway 70; *cast iron pipe and fittings,* except those which because of their size or weight require the use of special equipment, from Charlotte, N.C., to points in Pennsylvania on and west of U.S. Highway 219;

Cold finished steel bars, steel pipe, and steel tubing, from the plantsites of the Columbia Steel and Shafting Co., Inc., and Summerill Tubing Co., in Carnegie, Pa., to points in North Carolina and South Carolina, with restriction; *plywood and lumber panels, beams, and plate roofs, and incidental steel connectors* when moving therewith (except the described commodities which by reason of size or weight require the use of special equipment), from Hartford, Conn., to points in Delaware, Tennessee, that part of New York on and west of Interstate Highway 81, that part of New Jersey on and east of the New Jersey Turnpike, that part of Pennsylvania on and west of U.S. Highway 15, that part

of Maryland east of U.S. Highway 15, that part of Virginia east of U.S. Highway 15, and the District of Columbia; *steel racks and accessories and fittings* when moving therewith (except commodities which because of size or weight require the use of special equipment), from East Hartford, Conn., to points in Alabama, Arizona, Arkansas, California, Colorado, Delaware, Idaho, Iowa, Louisiana, Maryland, Mississippi, Missouri, Nevada, New Mexico, North Carolina, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, West Virginia, Wyoming, that part of Pennsylvania west of U.S. Highway 15, and the District of Columbia; *plywood*, from the plantsite of U.S. Plywood-Champion Papers, Inc., at or near Catawba, S.C., to Dover, Del., Fairmont, W. Va., and points in Arkansas, Kentucky (except points in the Cincinnati, Ohio, commercial zone as defined by the Commission), Louisiana, Maryland (except points in the Baltimore, Md., commercial zone as defined by the Commission), Mississippi, Missouri, New Jersey (except points in the Trenton, N.J., Philadelphia, Pa., and New York, N.Y., commercial zones as defined by the Commission), New York (except points in the New York, N.Y., commercial zone as defined by the Commission), Pennsylvania (except points in the Philadelphia, Pa., commercial zone as defined by the Commission), Virginia (with exceptions), and points in that part of Tennessee on and east of U.S. Highway 27 and on and north of U.S. Highway 70; and *metal deck*, from Wilmington, N.C., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, Tennessee, and Virginia. SUPERIOR MOTOR EXPRESS, INC., is authorized to operate under a certificate of registration, as a common carrier, in the State of North Carolina. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10817. Authority sought for merger into SCHNEIDER TRANSPORT & STORAGE, INC. (Wis. Corp.), Post Office Box 2298, Green Bay, Wis. 54306, of the operating rights and property of SCHNEIDER TRANSPORT & STORAGE, INC. (Ind. Corp.) (formerly GARRISON TRANSPORT, Inc.), Post Office Box 109, Fowler, Ind. 47944, and for acquisition by AL J. SCHNEIDER, AGNES SCHNEIDER, both of 812 Stuart Street, Green Bay, Wis., and DONALD J. SCHNEIDER, 836 Neufield Street, Green Bay, Wis., of control of such rights and property through the transaction. Applicants' attorney: Charles W. Singer, 33 North Dearborn Street, Chicago, Ill. 60602. Operating rights sought to be merged: *Beverages*, as a *common carrier*, over irregular routes, from Waukesha, Wis., to Chicago, Ill., from Waukesha, Wis., to points in Lake County, Ind., moving through Chicago, Ill.; *feed*, from St. Louis, Mo., to certain specified points in Illinois, from St. Louis, Mo., to points in Wisconsin, moving through Chicago, Ill.; *fertilizer, feed, and glue*, from Chicago, Ill., to points in Wisconsin, from points in Lake County, Ind., to points in Wisconsin, moving through Chicago, Ill.; *glass containers, glass container caps, corrugated cardboard, fiberboard sheets, and containers, and wooden boxes, used by glass manufacturing plants*, from Streator, Ill., to Kansas City, Kans., Omaha, Nebr., points in Wisconsin (with exceptions), those in Missouri on and north of U.S. Highway 50, except St. Louis and Hannibal, and those in Iowa on and west of U.S. Highway 69, from Alton, Ill., to Kansas City, Kans., Kansas City and St. Joseph, Mo., Omaha, Nebr., points in that part of Wisconsin as above, and those in Iowa, from Gas City, Ind., to Kansas City, Kans., Omaha, Nebr., and points in Missouri except St. Louis and Hannibal;

Cullet, from Kansas City, Kans., Omaha, Nebr., points in that part of Wisconsin as above, those in Missouri on and north of U.S. Highway 50, except St. Louis and Hannibal, and those in Iowa on and west of U.S. Highway 69, to Streator and Alton, Ill., and Gas City, Ind.; *glass containers, and glass container caps*, from Muncie, Ind., to Kansas City, Kans., Omaha, Nebr., points in Wisconsin (with exceptions), those in Missouri on and north of U.S. Highway 50, from Hillsboro, Ill., to points in Lake County, Ind., moving through Cook or Will Counties, Ill.; *glass and glassware*, from Streator and Alton, Ill., to Milwaukee and Waukesha, Wis.; *glass products*, and incidental thereto, *materials, machinery, equipment, and supplies*, used by a glass manufacturing plant, from Streator, Ill., to Hannibal and Cape Girardeau, Mo., and certain specified points in Illinois (with exceptions), and points in Indiana (with exceptions), from certain specified points in Indiana, to certain specified points in Missouri, points in Illinois and Indiana, those in Kentucky along the Ohio River, and those in that part of Iowa on and east of U.S. Highway 69, from Streator, Ill., to points in Kentucky along the Ohio River, and those in that part of Iowa on and east of U.S. Highway 69, except Fort Madison and Keokuk, Iowa, between Streator, Ill., on the one hand, and, on the other, certain specified points in Indiana, between Gas City, Ind., on the one hand, and, on the other, Terre Haute and Evansville, Ind., between Milwaukee, Wis., and Rock Island, Ill.; *plastic containers*, with or without caps or stoppers, when moving in mixed loads with glass containers (already authorized), from Gas City, Ind., to points in Illinois, Missouri, points in that part of Iowa on and east of U.S. Highway 69, points in that part of Kentucky along the Ohio River, and points in Wisconsin (with exceptions), with restriction;

Glass containers, caps, covers, and tops therefor, and paper cartons, knocked down, when transported at the same time and in the same vehicle with glass containers, caps, covers, and tops therefor, from the plantsite of Foster-Forbes Glass Co., located at or near Burlington, Wis., to points in that part of Illinois on and north of U.S. Highway 36; *ammonium nitrate fertilizer*, dry, in bags, from the plantsite of Central Nitrogen, Inc., approximately 4.5 miles north of the city limits of Terre Haute, Ind., to points in Illinois (with exceptions), Michigan (except Detroit), Kentucky, Missouri, Iowa, Wisconsin, and Minnesota; *glassware, glass containers, caps, covers, tops, stoppers, paper cartons, and accessories for glassware and glass containers*, from the plantsite and warehouse facilities of Anchor Hocking Glass Corp., at or near Gurnee, Ill., to points in Iowa; *glass container caps*, from Marion, Ind., to Milwaukee and Burlington, Wis.; *glass containers, and closures, caps, and covers* for glass containers, and *packing cartons* therefor, when moving in mixed loads with glass containers, from Winchester, Ind., to points in Illinois, Wisconsin, and those in Kentucky along the Ohio River; *glassware, glass containers, and caps, covers, and stoppers therefor*, from Burlington, Wis., to points in Iowa, Nebraska, and Minnesota, with restriction, from Mundelein, Ill., to Terre Haute, Ind.; and

Glass containers with closures therefor, and *fiberboard cartons* when moving in mixed shipments with glass containers, from Burlington, Wis., to St. Louis, Mo., points in Indiana, the Lower Peninsula of Michigan, Ohio, Kentucky, and points in that part of Illinois south of U.S. Highway 36. SCHNEIDER TRANSPORT & STORAGE, INC. (Wis. Corp.), is authorized to operate as a *common carrier* in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jesery, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. Application has been filed for temporary authority under section 210a(b). NOTE: SCHNEIDER TRANSPORT & STORAGE, INC. (Wis. Corp.), controls GARRISON TRANSPORT, INC., through ownership of capital stock pursuant to authority granted in Docket No. MC–F–10348, July 22, 1969, and consummated December 1, 1969.

No. MC–F–10818. Authority sought for purchase by FOSS LAUNCH & TUG CO., 660 West Ewing Street, Seattle, Wash. 98119, of the operating rights and certain property of ALASKA STEAMSHIP COMPANY, 711 Skinner Building, Seattle, Wash. 98101, and for acquisition by DILLINGHAM CORPORATION, 1441 Kapiolani Boulevard, Honolulu, Hawaii 96814, of control of such rights and certain property through the purchase. Applicants' attorney: Edward G. Lowry, III, 14th Floor Norton Building, Seattle, Wash. 98104. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk as a *common carrier* over irregular routes, between Ketchikan, Alaska, on the one hand, and, on the other, Wrangell and Petersburg, Alaska, between points in that part of Alaska lying south and east of the United States-Canada boundary line, located at or near Haines, Alaska, except Skagway,

Alaska, between points in Juneau, Alaska, between points in Ketchikan, Alaska; and *groceries*, from the Port of Seattle, Wash., to points in Alaska located south and east of the United States-Canada boundary line north of Haines, Alaska. Vendee is authorized to operate as a *water common carrier* in Washington, Illinois, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10819. Authority sought for purchase by (1) BUILDERS TRANSPORT, INC., Post Office Box 7057, Savannah, Ga. 31408, and (2) GAY TRUCKING COMPANY, INC., Post Office Box 7057, Savannah, Ga. 31408, of portions of the operating rights and certain property of M & M TANK LINES, INC., Post Office Box 612, Winston-Salem, N.C. 27102, and for acquisition by CHARLES C. GAY, also of Savannah, Ga., of control of such rights and property through the purchases. Applicants' attorneys: William P. Sullivan, 1819 H Street NW., Washington, D.C. 20006, and A. W. Flynn, Jr., Box 127, Greensboro, N.C. 27402. Operating rights sought to be transferred, (1) *Gypsum, gypsum products, and materials and asbestos form board* used in the construction of roof decks, as a *common carrier*, over irregular routes, from Brunswick, Ga., to points in Alabama, North Carolina, South Carolina, and Tennessee; *roof slabs and materials* used in the installation of roof slabs, from the plantsite of Concrete Products, Inc., in Brunswick, Ga., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Nebraska, Ohio, Oklahoma, South Dakota, Texas, Virginia, West Virginia, and Wisconsin; *wooden excelsior*, from points in the next above-specified States, to the plantsite of Concrete Products, Inc., in Brunswick, Ga.; *wallboard, insulating materials, and roofing materials, and supplies and accessories* used in their installation, from points in Chatham County, Ga., to points in North Carolina and Virginia, from points in Chatham County, Ga., to points in Tennessee;

Gypsum products and commodities used in connection with the erection and installation of gypsum products when moving in the same vehicle and at the same time as gypsum products, from Savannah, Ga., to points in Alabama; *gypsum, and gypsum products, and building materials*, from points in Chatham County, Ga., to points in North Carolina, South Carolina, and Tennessee, with restriction; *building materials* (except cement), from Savannah, Ga., to points in Alabama; in pending Docket No. MC–123067 S–97, covering the transportation of lumber and flooring, as a common carrier, over irregular routes, from the plantsite of Birmingham Forest Products, Inc., at Cordova, Ala., to points in Florida, Georgia, North Carolina, and South Carolina; and in pending Docket No. MC–123067 S–100, covering the transportation of wallboard, insulating materials, and roofing materials, and supplies and accessories used in the installation of wallboard, insulating materials and roofing, as a common carrier, over irregular routes, from points in Chatham County, Ga., to points in Kentucky and West Virginia; and (2) *Iron and steel articles*, as a *common carrier*, over irregular routes, from points in Chatham County, Ga., to points in Alabama, Georgia, and Tennessee. BUILDERS TRANSPORT, INC., is authorized to operate as a *contract carrier* in Alabama, Florida, Georgia, Louisiana, Mississippi, Tennessee, Texas, North Carolina, South Carolina, and Virginia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–10820. Authority sought for control by BRADLEY'S EXPRESS, INCORPORATED, 441 Ninth Avenue, New York, N.Y. 10001, of R. B. COLBY CO., INC., Pine Street, Stoneham, Mass. 02180, and for acquisition by NELSON RESOURCE CORP., and in turn by WM. A. NELSON, JR., both also of New York, N.Y., of control of R. B. COLBY CO., INC., through the acquisition by BRADLEY'S EXPRESS, INCORPORATED. Applicants' attorney and representative: A. David Millner, 744 Broad Street, Newark, N.J. 07102, and Robert L. Caporale, 1 State Street, Boston, Mass. 02109. Operating rights sought to be controlled: Under a certificate of registration, in Docket No. MC–99121 S–2, covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Massachusetts. BRADLEY'S EXPRESS, INCORPORATED, is authorized to operate as a *common carrier* in New York, Connecticut, New Jersey, Rhode Island, and Massachusetts. Application has been filed for temporary authority under section 210a(b).

No. MC–F–10821. Authority sought for purchase by CARGO-IMPERIAL FREIGHT LINES, INC., 23 South Essex Avenue, Orange, N.J. 07051, of the operating rights and property of SHAPIRO'S EXPRESS, INC., Nashua, N.H., and for acquisition by COOPER-JARRETT, INC., and in turn by R. E. COOPER, JR., both also of Orange, N.J., of control of such rights and property through the purchase. Applicants' attorney: Irving Klein, 280 Broadway, New York, N.Y. 10007. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Boston, Mass., and Manchester, N.H., serving all intermediate points and certain off-route points; *shoes, leather, shoe findings, and shoe manufacturing supplies and machinery*, between Boston, Mass., and Manchester, N.H., between Lawrence, Manchester, N.H., serving all intermediate points; *soaps and solvents*, from Providence, R.I., to Boston, Mass., serving no intermediate points; *general commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, over irregular routes, between Boston, Mass., on the one hand, and, on the other, points in Massachusetts within 10 miles of Boston; and *chemicals and solvents*, from Boston, Mass., to Holyoke, Mass. Vendee is authorized to operate as a *common carrier* in Rhode Island, Connecticut, New York, and Massachusetts. Application has not been filed for temproary authority under section 210a(b).

No. MC–F–10822. Authority sought for purchase by PARAMOUNT MOVERS, INC., 316 Rio Grande National Building, Post Office Box 24499, Dallas, Tex. 75224, of the operating rights of J. B. BRASHEARS, doing business as J. B. BRASHEARS TRANSFER CO., 515 West Seventh Street, Okmulgee, Okla. 74447, and for acquisition by CARL DAVIDSON, 1601 Hidden Mesa Road, El Cajon, Calif., of control of such rights through the purchase. Applicant's attorney: Eldon M. Johnson, 140 Montgomery Street, San Francisco, Calif. 94104. Operating rights sought to be transferred: *Household goods*, as a *common carrier* over irregular routes, between points in Okmulgee County, Okla., on the one hand, and, on the other, points in Arkansas, Oklahoma, Missouri, Texas, and Kansas. Vendee is authorized to operate as a *common carrier* in Missouri, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Oklahoma, Nebraska, Georgia, New York, Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, Vermont, Florida, Kentucky, Minnesota, North Carolina, Alabama, Michigan, Maryland, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, Texas, Louisiana, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–1082. Authority sought for control and merger by TUCKER FREIGHT LINES, INC., 1415 South Olive Street, South Bend, Ind. 46621, of the operating rights and property of CLEMANS TRUCK LINE, INC., 815 West Sample Street, South Bend, Ind. 46621, and for acquisition by SAMUAL RAITZIN and SHIRLEY RAITZIN, both also of 1415 South Olive Street, South Bend, Ind., of control of such rights and property through the transaction. Applicants' attorneys: Axelrod, Goodman, Steiner and Bazelon, 39 South La Salle Street, Chicago, Ill. 60603, and Ferdinand Born, 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Operating rights sought to be controlled and merged: *General commodities*, excepting among others, dangerous explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Indianapolis, Ind., and Louisville, Ky., serving certain intermediate points and the off-route points of Clarksville, Ind., between La Porte, Ind., and junction Indiana Highways 2 and 43, serving all intermediate points, between Michigan City, Ind., and South Bend, Ind., serving all intermediate points and certain off-route points, between Nashville, Tenn., and Lancaster, Tenn., serving all intermediate points except Lebanon, Tenn., and points between Lebanon and Nashville, Tenn., with restriction; over numerous alternate routes for operating convenience only;

general commodities, except livestock, and except perishables, and commodities in bulk, between Grand Rapids, Mich., and Indianapolis, Ind., serving certain intermediate points, between Battle Creek, Mich., and South Bend, Ind., between Teapot Dome, Mich., and Niles, Mich., serving certain intermediate points, between Schoolcraft, Mich., and Kalamazoo, Mich., serving the intermediate point of Vicksburg, and the site of The Upjohn Co. plant located approximately 4½ miles southeast of Kalamazoo, as an off-route point, between Plainwell, Mich., and Otsego, Mich., between junction U.S. Highways 131 and 112 and White Pigeon, Mich., between Logansport, Ind., and Peru, Ind., between Burlington, Ind., and Kokomo, Ind., between Indianapolis, Ind., and Speedway, Ind., between Indianapolis, Ind., and Beech Grove, Ind., between Indianapolis, Ind., and Mars Hill, Ind., between Indianapolis, Ind., and Fort Benjamin Harrison, Ind., serving no intermediate points, between junction U.S. Highways 6 and 31 and South Bend, Ind., serving all intermediate points and the off-route points of the Ordnance Plant near Union Center, Ind., with exceptions, between Rochester, Ind., and Indianapolis, Ind., serving all intermediate;

General commodities, except classes A and B explosives, between Nashville, Tenn., and Lafayette, Tenn., serving the intermediate points within 5 miles of Lafayette, between Nashville, Tenn., and Westmoreland, Tenn., serving no intermediate points; *foodstuffs* (except in bulk), and *advertising matter, display racks, and premiums* when moving over irregular routes, at the same time and in the same vehicle with foodstuffs, from the facilities of American Home Foods Division of American Home Products Corp. at LaPorte, Ind., to points in Ohio and the Lower Peninsula of Michigan, with restriction; and *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 hides and commodities in bulk, from the plantsite and storage facilities utilized by Wilson & Co., Inc., at or near Logansport, Ind., to points in Michigan and Ohio, with restriction; *general commodities*, excepting among others classes A and B explosives, household goods and commodities in bulk, over regular and irregular routes, between Louisville, Ky., and Lebanon, Tenn., serving all intermediate points in Tennessee, and the off-route point of Laguardo, Tenn., with connecting service, over irregular routes, between certain specified points, on the one hand, and, on the other, points on the above boundary route. TUCKER FREIGHT LINES, INC., is authorized to operate as a *common carrier* in all States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b). NOTE: By the agreement, TUCKER FREIGHT LINES, INC., assigns to its affiliate RAITT CORPORATION (Noncarrier), its rights to purchase the stock of CLEMANS REALTY, INC. (Noncarrier).

PASSENGER

No. MC-F-10823. Authority sought for merger into BLUE BIRD COACH LINES, INC., 502-504 North Barry Street, Olean, N.Y. 14760, of the operating rights and property of PAM MANAGEMENT, INC., (a noncarrier), 502-504 North Barry Street, Olean, N.Y. 14760, and CHAUTAUQUA TRANSIT, INC., 401 Prendergast Avenue, Jamestown, N.Y. 14701, and for acquisition by LOUIS A. MAGNANO, also of Olean, N.Y., of control of such rights and property through the transaction. Applicants' attorney: Ronald W. Malin, Bank of Jamestown Building, Jamestown, N.Y. 14701. Operating rights sought to be merged: Passengers and their baggage, and express, newspapers, and mail, in the same vehicle with passengers, as a *common carrier*, over regular routes, between Westfield, N.Y., and Jamestown, N.Y., serving all intermediate points; passengers and their baggage, and express and newspapers in the same vehicle with passengers, between junction New York Highway 17J and Chautauqua County Highway 302 approximately 2 miles north of Stow, N.Y., and Erie, Pa., serving all intermediate points; and passengers and their baggage, on round-trip sightseeing or pleasure tours, over irregular routes, beginning and ending at points in Chautauqua County, N.Y., and extending to points in New York, Pennsylvania, Rhode Island, Connecticut, Massachusetts, Vermont, New Hampshire, Maine, New Jersey, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Kentucky, Tennessee, Ohio, Indiana, Illinois, Michigan, and the District of Columbia, including points on the United States-Canada boundary line in Michigan, New York, and Vermont. BLUE BIRD COACH LINES, INC., is authorized to operate as a *common carrier* in all points in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 70-5522; Filed, May 5, 1970; 8:48 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

MAY 1, 1970.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. M-5534, filed April 15, 1970. Applicant: GENERAL DELIVERY SERVICE, INC., 1220 East Eighth Street, Little Rock, Ark. Applicant's representative: Charles J. Lincoln, 1550 Tower Building, Little Rock, Ark. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *machines, such as computers, duplicators, tabulators, electronic equipment, office bookkeeping machines*, except voting machines and except commodities of size and weight which require the use of special equipment, between all points in Pulaski County, Ark.; between Little Rock, Ark., and Arkadelphia, Atkins, Bald Knob, Batesville, Bauxite, Bearden, Beebe, Benton, Brinkley, Cabot, Camden, Carlisle, Clarendon, Clarksville, Clinton, Conway, Crossett, Danville, Dardanelle, Dermott, De Witt, Des Arc, De Valls Bluff, Dumas, El Dorado, England, Fordyce, Forrest City, Gurdon, Hamburg, Hampton, Hazen, Heber Springs, Hope, Hot Springs, Lake Village, Lonoke, Malvern, Marshall, McGhee, Mena, Monticello, Morrilton, Mount Ida, Mountain View, Murfreesboro, Newport, Perryville, Pine Bluff, Prescott, Rison, Russellville, Searcy, Sheridan, Smackover, Star City, Stuttgart, and Warren, Ark., and return; *dresses, coats, suits, sportswear, wearing apparel* open and on hangers, between Little Rock, Ark., on the one hand, and, on the other, points in Pulaski, Saline and Jefferson Counties; and *toiletries, beauty aids, cosmetics and all items packaged and handled by Avon Products, Inc.*, for delivery to residences, between Little Rock, Ark., on the one hand, and, on the other, points in Pulaski County, Ark. Both intrastate and interstate authority sought.

HEARING: Wednesday, May 20, 1970, at 10 a.m., at the Justice Building, Arkansas Commerce Commission, Little Rock, Ark. Requests for procedural information, including the time for filing protests, concerning this application should be addressed to the Arkansas Commerce Commission, Justice Building, Little Rock, Ark 72201, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] H. NEIL GARSON, *Secretary*.

[F.R. Doc. 70-5520; Filed, May 5, 1970; 8:48 a.m.]

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