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# Rules and Regulations

## Title 5—ADMINISTRATIVE PERSONNEL

### Chapter I—Civil Service Commission

#### PART 213—EXCEPTED SERVICE

##### Federal Home Loan Bank Board

Section 213.3354 is amended to show the addition of six new positions, an Assistant to each of three Board Members (including the Chairman) and a Private Secretary to the Assistant to each of three Board Members (including the Chairman). Effective upon publication in the FEDERAL REGISTER, paragraphs (m) and (n) are added to § 213.3354 as set out below.

##### § 213.3354 Federal Home Loan Bank Board.

(m) One Assistant to each of three Board Members (including the Chairman).

(n) One Private Secretary to the Assistant to each of three Board Members (including the Chairman).

(R.S. 1753, sec. 2, 22 Stat. 403, as amended; 5 U.S.C. 631, 633; E.O. 10577, 19 F.R. 7521, 3 CFR, 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] MARY V. WENZEL,  
*Executive Assistant to the Commissioners.*

[F.R. Doc. 64-4685; Filed, May 8, 1964; 8:48 a.m.]

#### PART 530—PAY RATES AND SYSTEMS (GENERAL)

##### Miscellaneous Amendments

Section 530.304(b) is amended to eliminate the term "entrance rates" and reflect the intent of section 504 of the Federal Salary Reform Act of 1962. The headnote of § 530.305 is amended to make it more descriptive. Section 530.306 is amended to provide general rules for fixing an employee's rate of basic compensation when a special rate range for his position is discontinued. Effective upon publication in the FEDERAL REGISTER, paragraph (b) of § 530.304, the headnote of § 530.305, and § 530.306 are amended as set out below.

##### § 530.304 Establishing special rates.

(b) The department or agency initiating a request for special rates is responsible for submitting complete supporting data including, upon the specific request by the Commission, a survey of prevailing salary rates in private enterprise in the area.

##### § 530.305 Determining employee rates.

##### § 530.306 Discontinuing special rates.

(a) The Commission and each affected department or agency are responsible for initiating action to discontinue or revise special rates when these rates are no longer needed for recruitment and retention. No employee shall have his salary reduced because of that action.

(b) When the special rates for a position are discontinued, the department or agency shall determine the rate of basic compensation for an employee in the position as follows:

(1) If the employee is receiving a rate of basic compensation equal to one of the rates in the regular rate range for his grade or level, the department or agency shall fix his basic compensation at that rate.

(2) If the employee is receiving a rate of basic compensation at a rate between two rates in the regular rate range of his grade or level, the department or agency shall fix his basic compensation at the higher of the two rates.

(3) If the employee is receiving a rate of basic compensation at a rate in excess of the maximum rate for the regular rate range for his grade or level, the department or agency shall fix his basic compensation at his existing rate, and the employee shall be entitled to this rate as long as he remains in the same position or until he becomes entitled to a higher rate.

(Sec. 504, 76 Stat. 842; 5 U.S.C. 1173; E.O. 11056, 27 F.R. 10017, 3 CFR, 1962 Supp.)

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] MARY V. WENZEL,  
*Executive Assistant to the Commissioners.*

[F.R. Doc. 64-4986; Filed, May 8, 1964; 8:49 a.m.]

## Title 7—AGRICULTURE

### Chapter VII—Agricultural Stabilization and Conservation Service, Department of Agriculture

[Farm Marketing Quotas for Upland Cotton (Bulletin); Amdt. 13]

#### PART 722—COTTON

##### Subpart—Regulations Pertaining to Marketing Quotas for Upland Cotton of the 1961 and Succeeding Crops

##### MEASUREMENT OF FARMS AND DISPOSITION DATES

The purpose of this amendment is to establish disposition of acreage dates for determining compliance with farm cotton acreage allotments. Such amendment is

issued pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.). In order that the provisions of the amendment may be used by county committees in early cotton harvest areas in connection with the 1964 crop it is essential that this amendment be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the notice and public procedure requirements and the 30-day effective date requirement of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) is impracticable and contrary to the public interest and this amendment shall be effective upon filing this document with the Director, Office of the Federal Register.

Section 722.6 of the regulations pertaining to marketing quotas for upland cotton of the 1961 and succeeding crops (26 F.R. 3672, as amended) is amended to read as follows:

##### § 722.6 Measurement of farms and disposition dates.

The county committee shall provide for measurement each crop year of the acreage planted to cotton on farms in accordance with Part 718 of this chapter, as amended. Notwithstanding the disposition of acreage dates provided in Part 718 of this chapter, as amended, the following disposition of acreage dates for determining compliance with farm cotton acreage allotments shall govern, subject only to the extensions of time authorized under such Part 718 of this chapter.

(a) Fifteen days after notice of measured acreage is mailed to the operator in the following States:

Alabama.	Nevada.
Florida.	North Carolina.
Georgia.	South Carolina.
Kansas.	Tennessee.
Kentucky.	Virginia.
Mississippi.	Puerto Rico.

(b) Established dates in following States and counties:

##### ARIZONA

July 20: Zone 1 counties—Maricopa, Mohave, Pinal, Yuma.

August 15: Zone 2 counties—Cochise, Gila, Graham, Greenlee, Pima, Santa Cruz, Yavapai.

##### ARKANSAS

July 15: All counties.

##### CALIFORNIA

August 15: Zone 1 counties—Fresno, Kern, Kings, Madera, Merced, San Benito, Stanislaus, Tulare.

September 1: Zone 2 counties—Imperial, Los Angeles, Riverside, San Bernardino, San Diego.

##### ILLINOIS

August 1: All counties.

##### LOUISIANA

August 1: All counties.

## MISSOURI

August 1: All counties.

## NEW MEXICO

August 10: Zone 1 counties—Chaves, Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Otero, Sierra.

September 1: Zone 2 counties—Bernalillo, Curry, De Baca, Guadalupe, Harding, Quay, Roosevelt, Socorro, Valencia.

## OKLAHOMA

August 1: All counties.

## TEXAS

June 1: Zone 1 counties: Cameron, Hidalgo, Starr, Willacy.

June 15: Zone 2 counties: Aransas, Atascosa, Bee, Bexar, Brooks, Caldwell, Calhoun, DeWitt, Dimmit, Duval, Frio, Goliad, Gonzales, Guadalupe, Jim Hogg, Jim Wells, Karnes, Kennedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Refugio, San Patricio, Uvalde, Val Verde, Victoria, Webb, Wilson, Zapata, Zavala.

July 1: Zone 3 counties: Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Harris, Jackson, Lavaca, Matagorda, Waller, Wharton.

July 15: Zone 4 counties: Anderson, Angelina, Bandera, Bastrop, Bell, Blanco, Bosque, Bowie, Brazos, Brown, Burleson, Burnet, Camp, Cass, Cherokee, Coke, Coleman, Collin, Comal, Concho, Cooke, Coryell, Crockett, Dallas, Delta, Denton, Edwards, Ellis, Falls, Fannin, Fayette, Franklin, Freestone, Gillespie, Grayson, Gregg, Grimes, Hamilton, Hardin, Harrison, Hays, Henderson, Hill, Hopkins, Houston, Hunt, Jasper, Jefferson, Johnson, Kaufman, Kendall, Kerr, Kimble, Lamar, Lampasas, Lee, Leon, Liberty, Limestone, Llano, McCulloch, McLennan, Madison, Marion, Mason, Menard, Milam, Mills, Montgomery, Morris, Nacogdoches, Navarro, Newton, Orange, Panola, Polk, Rains, Real, Red River, Robertson, Rockwall, Runtels, Rusk, Sabine, San Augustine, San Jacinto, San Saba, Schleicher, Shelby, Smith, Sutton, Tarrant, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Van Zandt, Walker, Washington, Williamson, Wood.

August 15: Zone 5 counties: Andrews, Archer, Bailey, Baylor, Borden, Brewster, Briscoe, Callahan, Childress, Clay, Cochran, Comanche, Cottle, Crane, Crosby, Culberson, Dawson, Dickens, Eastland, Ector, El Paso, Erath, Fisher, Floyd, Foard, Gaines, Garza, Glasscock, Hale, Hall, Hardeman, Haskell, Hockley, Hood, Howard, Hudspeth, Irion, Jack, Jeff Davis, Jones, Kent, King, Knox, Lamb, Loving, Lubbock, Lynn, Martin, Midland, Mitchell, Montague, Motley, Nolan, Palo Pinto, Parker, Pecos, Presidio, Reagan, Reeves, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Taylor, Terrell, Terry, Throckmorton, Upton, Ward, Wichita, Wilbarger, Winkler, Wise, Yoakum, Young.

September 1: Zone 6 counties: Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler.

(Secs. 374, 375; 52 Stat. 65, 66, as amended; 7 U.S.C. 1374, 1375)

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

Signed at Washington, D.C., on May 5, 1964.

E. A. JAENKE,  
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 64-4665; Filed, May 8, 1964; 8:47 a.m.]

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

[Valencia Orange Reg. 83]

#### PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

##### Limitation of Handling

##### § 908.383 Valencia Orange Regulation 83.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908; 27 F.R. 10089), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 7, 1964.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., May 10, 1964, and ending at 12:01 a.m., P.s.t., May 17, 1964, are hereby fixed as follows:

- (i) District 1: 700,000 cartons;
- (ii) District 2: 221,304 cartons;
- (iii) District 3: Unlimited movement.

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

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

Dated: May 8, 1964.

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

[F.R. Doc. 64-4754; Filed, May 8, 1964; 11:22 a.m.]

[Lemon Reg. 110]

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

##### Limitation of Handling

##### § 910.410 Lemon Regulation 110.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 27 F.R. 8346), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were

promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on May 5, 1964.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., May 10, 1964, and ending at 12:01 a.m., P.s.t., May 17, 1964, are hereby fixed as follows:

- (i) District 1: Unlimited movement;
- (ii) District 2: 348,750 cartons;
- (iii) District 3: Unlimited movement.

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

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

Dated: May 7, 1964.

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

[F.R. Doc. 64-4706; Filed, May 8, 1964;  
8:51 a.m.]

## Title 9—ANIMALS AND ANIMAL PRODUCTS

### Chapter I—Agricultural Research Service, Department of Agriculture

#### SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

##### PART 74—SCABIES IN SHEEP

###### Designation of Free, Infected and Eradication Areas

Pursuant to the provisions of sections 4 through 7 of the Act of May 29, 1884, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, and sections 1 through 4 of the Act of March 3, 1905, as amended (21 U.S.C. 111-113, 115, 117, 120, 121, 123-126), §§ 74.2 and 74.3 of Part 74, Subchapter C, Chapter I, Title 9, Code of Federal Regulations, as amended (29 F.R. 5313) are hereby further amended in the following respects:

1. Subparagraph (6) of § 74.2(a) is hereby amended to read:

§ 74.2 Designation of free and infected areas.

(a) \* \* \*

(6) The following Counties in Nebraska: Arthur, Blaine, Brown, Chase, Cherry, Cheyenne, Deuel, Dundy, Gar-

den, Grant, Hooker, Keith, Keya Paha, Kimball, Loup, Perkins, Rock, Scotts Bluff, Sheridan, and Thomas;

2. Subparagraph (6) of § 74.3(a) is hereby amended to read:

§ 74.3 Designation of eradication areas.

(a) \* \* \*

(6) All Counties in Nebraska except Arthur, Blaine, Brown, Chase, Cherry, Cheyenne, Deuel, Dundy, Garden, Grant, Hooker, Keith, Keya Paha, Kimball, Loup, Perkins, Rock, Scotts Bluff, Sheridan, and Thomas;

(Secs. 4-7, 23 Stat. 32, as amended, secs. 1, 2, 32 Stat. 791-792, as amended, secs. 1-4, 33 Stat. 1264, as amended, 1265, as amended; 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126; 19 F.R. 74, as amended)

*Effective date.* The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER.

The amendments add the county of Banner in the State of Nebraska to the list of infected and eradication areas and delete such county from the list of free areas as sheep scabies is known to exist therein. After the effective date of these amendments, the restrictions pertaining to the interstate movement of sheep from or into infected and eradication areas as contained in 9 CFR Part 74, as amended, will apply to such county.

The amendments impose certain restrictions necessary to prevent the spread of scabies, a communicable disease of sheep, and must be made effective immediately in order to accomplish their purpose in the public interest. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and contrary to the public interest, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 6th day of May 1964.

M. R. CLARKSON,  
Acting Administrator,  
Agricultural Research Service.

[F.R. Doc. 64-4687; Filed, May 8, 1964;  
8:49 a.m.]

## Title 14—AERONAUTICS AND SPACE

### Chapter I—Federal Aviation Agency

#### SUBCHAPTER E—AIRSPACE [NEW]

[Airspace Docket No. 63-WE-115]

##### PART 71—DESIGNATION OF FEDERAL AIRWAYS, CONTROLLED AIRSPACE, AND REPORTING POINTS [NEW]

###### Revocation of Federal Airway Segment

###### Correction

In F.R. Doc. 64-4323, appearing at page 5786 of the issue for Friday, May 1, 1964, the reference to "V-163" in the fourth paragraph should read "V-168".

## Title 16—COMMERCIAL PRACTICES

### Chapter I—Federal Trade Commission

[Docket No. 8249 o.]

#### PART 13—PROHIBITED TRADE PRACTICES

##### Billy & Ruth Promotion, Inc., et al.

Subpart—Discriminating in price under section 5, Federal Trade Commission Act: § 13.892 *Knowingly inducing or receiving discriminating payments.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Billy & Ruth Promotion, Inc. (Philadelphia, Pa.) et al., Docket 8249, Apr. 3, 1964]

Order requiring a Philadelphia toy wholesaler and its subsidiary which published and distributed to retail outlets at cost an annual toy catalog, to cease inducing and receiving from suppliers payments for advertising in a toy catalog or other publication in connection with the sale of the suppliers' products, when respondents knew, or should have known, that comparable payments were not available to all the suppliers' other customers competing with respondents.

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

*It is ordered,* That Billy & Ruth Promotion, Inc., a corporation, Distributors' Promotions, Inc., as successor in interest to Billy & Ruth Promotion, Inc., and William George Steltz, Jr., J. Wilson Vandegrift, Floyd F. Trader, Roy G. Geppinger, and Lawrence S. Adams, individually and as officers of Billy & Ruth Promotion, Inc., and Supplee-Biddle-Steltz Company, now known as SDM&R, Inc., and their agents, representatives and employees, directly or through any corporate device in connection with any purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Inducing and receiving, or receiving, the payment of anything of value to or for the benefit of any toy wholesaler, as compensation or in consideration for any services or facilities consisting of advertising or other publicity furnished by or through respondents, or any of them, or any toy wholesalers in a toy catalog, handbill, circular, or any other printed publication, serving the purpose of a buying guide, distributed, directly or through any corporate or other device, by said respondents, or any of them, or any toy wholesalers, in connection with the processing, handling, sale or offering for sale, of any toy, game or hobby products manufactured, sold, or offered for sale by the manufacturer or supplier, when said respondents know or should know that such payment or consideration is not made available on proportionally equal terms to all other customers competing with the toy wholesalers to whom or for whose benefit such payments are made in the distribution of such toy, game, or hobby products.

*It is further ordered,* That the complaint be, and it hereby is, dismissed as to Albany Hardware & Iron Co., Inc., a

corporation; Chapman-Harkey Co., a corporation; Cullum & Boren Company, a corporation; Farwell, Ozmun, Kirk & Co., a corporation; Faucette Co., Inc., a corporation; Frankfurth Hdw. Co., a corporation; House Hasson Hardware Co., a corporation; Leon Levin, A. K. Levin, Harry Levin, J. K. Levin, Robert K. Levin, and Samuel Chernin, individuals doing business as Kipp Brothers; Morley Brothers, a corporation; Ohio Valley Hardware Co., Inc., a corporation; Or-gill Brothers & Co., a corporation; The Thomson-Diggs Company, a corporation; J. A. Williams Company, a corporation; Wyeth Company, a corporation; and John J. Getreu and Son, Inc., a corporation.

*It is further ordered,* That respondents Billy & Ruth Promotion, Inc., a corporation, and William George Steltz, Jr., J. Wilson Vandegrift, Floyd F. Trader, Roy G. Geppinger, and Lawrence S. Adams, individually and as officers of Billy & Ruth Promotion, Inc., and Supplee-Biddle-Steltz Company, a corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist set forth herein.

Issued: April 3, 1964.

[SEAL] JOSEPH W. SHEA,  
Secretary.

[F.R. Doc. 64-4672; Filed, May 8, 1964;  
8:47 a.m.]

[Docket No. 7971 o.]

### PART 13—PROHIBITED TRADE PRACTICES

#### Individualized Catalogues, Inc., et al.

Subpart—Discriminating in price under section 5, Federal Trade Commission Act: § 13.894 *Unequal discounts.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Individualized Catalogues, Inc., (New York, N.Y.), et al., Docket 7971, Apr. 3, 1964]

*In the Matter of Individualized Catalogues, Inc., a Corporation, and Rollin Shulberg, Donald Honig, Leo Rose, and Samuel Pensick, Individually and as Officers and Directors of Individualized Catalogues, Inc.; Schranz & Bieber Co., Inc., a Corporation; Schranz & Bieber Midwest Sales Co., Inc., a Corporation; Lachman-Rose Company, Inc., a Corporation; and Pensick & Gordon, Inc., a Corporation*

Order requiring a New York City association composed of three toy wholesale distributors located respectively in New York City, San Antonio, Tex., and Los Angeles, Calif., and engaged in publishing and distributing annually to retail outlets a catalog illustrating toys in which various toy manufacturers advertised, to cease violating the Federal Trade Commission Act by inducing or receiving promotional payments from toy suppliers when they knew, or should have known, that such allowances were not offered by the suppliers on proportion-

ally equal terms to all customers competing with respondents.

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

*It is ordered,* That corporate respondents Individualized Catalogues, Inc., Schranz & Bieber Co., Inc., Lachman-Rose Company, Inc., Pensick & Gordon, Inc., their officers and directors; and individual respondents Rollin Shulberg, Leo Rose and Samuel Pensick; and the respective representatives, agents and employees of these corporate and individual respondents, directly or through any corporate or other device in or in connection with any purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Inducing and receiving, or receiving, the payment of anything of value to or for the benefit of the respondents, or any of them, as compensation or in consideration for any services or facilities consisting of advertising or other publicity furnished by or through respondents, or any of them, in a toy catalog, handbill, circular, or any other printed publication, serving the purpose of a buying guide, distributed, directly or through any corporate or other device, by said respondents, or any of them, in connection with the processing, handling, sale, or offering for sale, of any toy, game or hobby products manufactured, sold, or offered for sale by the manufacturer or supplier, when the said respondents know or should know that such payment or consideration is not made available on proportionally equal terms to all other customers competing with said respondents in the distribution of such toy, game or hobby products.

*It is further ordered,* That the complaint, as to respondents Donald Honig, an individual, and as to Schranz & Bieber Midwest Sales Co., Inc., a corporation, be, and it hereby is, dismissed.

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

Issued: April 3, 1964.

[SEAL] JOSEPH W. SHEA,  
Secretary.

[F.R. Doc. 64-4673; Filed, May 8, 1964;  
8:47 a.m.]

[Docket No. 8231]

### PART 13—PROHIBITED TRADE PRACTICES

#### Santa's Official Toy Prevue, Inc., et al.

Subpart—Discriminating in price under section 5, Federal Trade Commission Act: § 13.892 *Knowingly inducing or receiving discriminating payments.*

(Secs. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Santa's Official Toy Prevue, Inc. (Philadelphia, Pa.) et al., Docket 8231, Apr.-3, 1964]

Consent agreement requiring a Philadelphia association of toy jobbers engaged in publishing and distributing annually to retail outlets throughout the United States catalogs illustrating toys, to cease violating section 5 of the Federal Trade Commission Act by inducing or receiving from toy suppliers payments for advertising in such catalogs furnished by them in connection with the sale of the suppliers' products when they knew or should have known that comparable payments were not made available to all the suppliers' customers competing with them.

The order to cease and desist is as follows:

*It is ordered,* That respondents Santa's Official Toy Prevue, Inc., Ring Brothers, Inc., Beacon Sales Co., Funtime Distributors, Inc., Halco Sales Co., Inc., Long-Lewis Hardware Company, Maines Candy and Paper Company, Inc., Onondaga Hobby & Toy Co., Inc., M. D. Orum Company, Public Service Paper Company, Inc., Louis M. Saunders Co., Inc., S. E. Sanders Company, Incorporated, Shepher Distr's and Sales Corp., Standard Paper & Merchandise Company Incorporated, Tak-A-Toy Corp. of Washington, Toy Novelty Co., corporations, their officers and directors; individual respondents David W. Ring, Maurice W. Ring, Mrs. Howard Armstrong, Albert Baldwin, Sr., D.B.S. Baldwin, Vincent D. Botto, Edward Feldman, Louis Feldman, Philip Feldman, Frank Marescalco, Joseph F. Crans, Samuel Link, James M. Kidd, M. Maurice Kind, Max Pikely, Leo Pikely, Seymour Pikely, Mary Milner, Ari Newman, Meyer Burg, Morris Belausky, Myer Mont, Janet Mont, Irving I. Bimstein, Sr., Mrs. Irving I. Bimstein, Sr., E. D. Westerman, R. H. Westerman, Seymour Lieberman, and L. D. Friedland; and their respective representatives, agents and employees directly or through any corporate or other device in or in connection with any purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Inducing, receiving or contracting for the receipt of anything of value as payment for or in consideration for advertising or other services or facilities furnished by or through respondents in connection with the processing, handling, sale, or offering for sale of toy, game, and hobby products manufactured, sold, or offered for sale by the supplier, when the respective respondents know or should know that such payment or consideration is not made available by such supplier on proportionally equal terms to all its other customers competing with the respective respondents in the distribution of such products.

*It is further ordered,* That the complaint be dismissed with respect to ABC Toy Company, Morton Spolter, Arnold Spolter, and E. Winick & Co., Inc.

By "Decision of the Commission", etc., further order requiring report of compliance is as follows:

*It is further ordered,* That respondents named in the above-captioned proceeding, with the exception of ABC Toy Company, Morton Spolter, Arnold Spol-

ter, and E. Winick & Co., Inc., shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

*It is further ordered,* That respondents, with the exception of ABC Toy Company, Morton Spolter, Arnold Spolter, and E. Winick & Co., Inc., if they so desire, may, within sixty (60) days after service of this order upon them, request modification of the order in the light of the Commission's decisions in Individualized Catalogs, Inc., et al., Docket No. 7971, Santa's Playthings, Inc., et al., Docket No. 8259, ATD Catalogs, Inc., et al., Docket No. 8100, and Billy & Ruth Promotion, Inc., et al., Docket No. 8240. Such a request, if made, will stay the time within which respondents would otherwise be required to file a report of compliance.

Issued: April 3, 1964.

By the Commission, Commissioner Reilly not participating.

[SEAL] JOSEPH W. SHEA,  
Secretary.

[F.R. Doc. 64-4674; Filed, May 8, 1964;  
8:47 a.m.]

[Docket No. 8259 o.]

### PART 13—PROHIBITED TRADE PRACTICES

#### Santa's Playthings, Inc., et al.

Subpart—Discriminating in price under section 5, Federal Trade Commission Act: § 13.892 *Knowingly inducing or receiving discriminating payments.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Santa's Playthings, Inc. (New York, N.Y.) et al., Docket 8259, Apr. 3, 1964]

*In the Matter of Santa's Playthings, Inc., a Corporation, and Charles J. Cunius, Arthur Euben, William T. Uhlen, and Larry Marcus, Individually and as Officers and Directors of Santa's Playthings, Inc.; Joseph Stein, Individually and as a Director of Santa's Playthings, Inc.; L. A. Sales Co., Inc., a Corporation; Marcus Mercantile Co., a Corporation; Uhlen Carriage Company, Inc., a Corporation; Abraham Ponnock, Leon Ponnock, Samuel Ponnock, and Joseph Stein, Doing Business as A. Ponnock and Sons*

Order requiring three toy wholesalers and their association, which was engaged in publishing and distributing to retail outlets on their behalf, annual catalogs illustrating toys, to cease inducing and receiving from suppliers payments for advertising furnished in the catalogs or other publications in connection with the sale of their products when respondents knew, or should have known, that comparable payments were not made available to all the suppliers' other customers competing with respondents.

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

*It is ordered,* That Santa's Playthings, Inc., a corporation, and Charles J. Cunius, Arthur Euben, William T. Uhlen, Larry Marcus, and Joseph Stein, individually and as officers and directors of said corporation; L. A. Sales Co., Inc., a corporation, Uhlen Carriage Company, Inc., a corporation, and Abraham Ponnock, Leon Ponnock, Samuel Ponnock and Joseph Stein, doing business as A. Ponnock and Sons, individually, and the officers, agents, representatives, and employees of the individual and corporate respondents directly or through any corporate or other device in or in connection with any purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Inducing and receiving, or receiving, the payment of anything of value to or for the benefit of the respondents, or any of them, as compensation or in consideration for any services or facilities consisting of advertising or other publicity furnished by or through respondents, or any of them, in a toy catalog, handbill, circular, or any other printed publication, serving the purpose of a buying guide, distributed, directly or through any corporate or other device, by said respondents, or any of them, in connection with the processing, handling, sale or offering for sale, of any toy, game or hobby products manufactured, sold, or offered for sale by the manufacturer or supplier, when the said respondents know or should know that such payment or consideration is not made available on proportionally equal terms to all other customers competing with said respondents in the distribution of such toy, game or hobby products.

*It is further ordered,* That the complaint as to respondent Marcus Mercantile Co. be, and it hereby is, dismissed.

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

Issued: April 3, 1964.

[SEAL] JOSEPH W. SHEA,  
Secretary.

[F.R. Doc. 64-4675; Filed, May 8, 1964;  
8:47 a.m.]

[Docket No. C-735]

### PART 13—PROHIBITED TRADE PRACTICES

#### 2361 State Corp., et al.

Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 *Furnishing means and instrumentalities of misrepresentation or deception:* 13.1055-50 *Preticketing merchandise misleadingly.* Subpart—Misbranding or mislabeling: § 13.1235 *Indorsements, approval, or awards;* § 13.1325 *Source of origin:* § 13.1325-20 *Doctor's design or supervision.* Subpart—Misrepresenting oneself and

goods—Prices: § 13.1805 *Exaggerated as regular and customary.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, 2361, State Corp. et al., Chicago, Ill., Docket C-735, Apr. 21, 1964]

*In the Matter of 2361 State Corp. a Corporation (Formerly Known as A. Brandwein & Co.), and Harry J. Brandwein and Sidney L. Brandwein, Individually and as Officers of Said Corporation*

Consent order requiring Chicago manufacturers of mattresses, box springs and other bedding products, to cease representing falsely—by attaching to their mattresses labels upon which fictitious and excessive amounts were printed—that such amounts did not exceed the highest price at which substantial sales were made in their trade area; and—by use of such words on labels as "Orthopedic" along with a picture of a man in white jacket—that the mattresses were specially designed to prevent or correct body deformities and were prescribed by doctors.

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

*It is ordered,* That respondents 2361 State Corp., a corporation (formerly known as A. Brandwein & Co.), and its officers, and Harry J. Brandwein and Sidney L. Brandwein, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of mattresses, box springs, bedding products or any other article of merchandise in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. The act or practice of pre-ticketing merchandise at an indicated retail price or otherwise disseminating or advertising a list, suggested or other indicated retail price for respondents' merchandise: *Provided, however,* That it shall be a defense in any enforcement proceeding instituted for violation hereof, for respondents to affirmatively establish that such indicated retail price was disseminated or advertised in good faith and has not appreciably exceeded the highest price at which substantial sales of such article were being made in respondents' trade area.

2. Misrepresenting, directly or indirectly, the retail price at which respondents' merchandise is sold in respondents' trade area or the retail price at which respondents' merchandise is sold in the trade area of any distributor or dealer in respondents' merchandise.

3. Using on labels or in any other manner depictions of doctors or members of the medical profession or representing, directly or indirectly, that members of the medical profession prescribe the use of respondents' mattresses or other bedding products.

4. Using the word orthopedic or any variation thereof or the statement "Or-

tho-pedic type construction" or any other word, term or statement of similar import or meaning in reference to or as descriptive of any of said products: *Provided, however*, That it shall be a defense in any enforcement proceeding instituted for violation hereof for respondents to establish affirmatively that:

(a) The product involved has been specially designed and constructed so as to prevent, correct or afford substantial relief with respect to a specific body deformity or deformities;

(b) The design and construction of such product accords with recommendations of orthopedic authorities for the prevention, correction or relief of such body deformity or deformities; and

(c) In using said word, term or statement, as aforesaid, it was accompanied by a designation of the kind or kinds of body deformities for which the product involved had been so designed and constructed.

5. Furnishing or otherwise placing in the hands of retailers or dealers of said products the means and instrumentalities by and through which they may mislead or deceive the purchasing public in respect to the things hereinbefore prohibited.

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

Issued: April 21, 1964.

By the Commission.

[SEAL] JOSEPH W. SHEA,  
Secretary.

[F.R. Doc. 64-4676; Filed, May 8, 1964;  
8:48 a.m.]

[Docket No. 8255]

### PART 13—PROHIBITED TRADE PRACTICES

#### United Variety Wholesalers, et al.

Subpart—Discriminating in price under section 5, Federal Trade Commission Act: § 13.894 *Unequal discounts*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, United Variety Wholesalers (New York, N.Y.) et al., Docket 8255, Apr. 3, 1964]

*In the Matter of United Variety Wholesalers, and Cornelius B. Meyers, Morris Kling, Mack Forbes, Marvin Singer, Individually and as Officers and Directors of United Variety Wholesalers; Gail Enterprises, Inc., a Corporation; Kling Company, Incorporated, a Corporation; The C. B. Meyers Company, a Corporation; Progressive Wholesalers, Inc., a Corporation; Singer & Co., a Corporation; Variety Supply Company, a Corporation*

Consent order requiring a New York City association formed by six toy wholesalers in different states to publish and distribute to retail outlets toy catalogs in which various manufacturers advertised

their toys, to cease violating section 5 of the Federal Trade Commission Act by receiving promotional payments from toy suppliers for advertising toy products in their catalogs, when they knew, or should have known, that comparable allowances were not offered by the suppliers to all their customers competing with respondents.

The order to cease and desist is as follows:

*It is ordered*, That respondent United Variety Wholesalers, an unincorporated association, and the following individual respondents: Cornelius B. Meyers, Morris Kling, Mack Forbes, and Marvin Singer; and the following corporate respondents: Gail Enterprises, Inc., Kling Company, Incorporated, The C. B. Meyers Company, Progressive Wholesalers, Inc., Singer & Co., and Variety Supply Company; and their respective officers, directors, representatives, agents and employees directly or through any corporate or other device in or in connection with any purchase in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

Inducing, receiving or contracting for the receipt of anything of value as payment for or in consideration for advertising or any other services or facilities furnished by or through respondents in connection with the processing, handling, sale, or offering for sale of toy, game, and hobby products manufactured, sold, or offered for sale by the supplier, when the respective respondents know or should know that such payment or consideration is not made available by such supplier on proportionally equal terms to all its other customers competing with the respective respondents in the distribution of such products.

By "Decision of the Commission", etc., further order requiring report of compliance is as follows:

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

*It is further ordered*, That respondents, if they so desire, may, within sixty (60) days after service of this order upon them, request modification of the order in the light of the Commission's decisions in Individualized Catalogues, Inc., et al., Docket No. 7971, Santa's Playthings, Inc., et al., Docket No. 8259, ATD Catalogs, Inc., et al., Docket No. 8100, and Billy & Ruth Promotion, Inc., et al., Docket No. 8240. Such a request, if made, will stay the time within which respondents would otherwise be required to file a report of compliance.

Issued: April 3, 1964.

By the Commission, Commissioner Reilly not participating.

[SEAL] JOSEPH W. SHEA,  
Secretary.

[F.R. Doc. 64-4677; Filed, May 8, 1964;  
8:48 a.m.]

## Title 17—COMMODITY AND SECURITIES EXCHANGES

### Chapter II—Securities and Exchange Commission

[Release 40-3968]

#### PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

##### Exemptions

On September 27, 1963, in Investment Company Act Release No. 3776, and in the FEDERAL REGISTER of October 5, 1963, 28 F.R. 10753, the Securities and Exchange Commission published notice that it had under consideration the adoption of a revised 17 CFR 270.17a-6 (Rule 17a-6) under the Investment Company Act of 1940 ("Act") and invited all interested persons to submit their views and comments upon the proposal. The Commission has considered all comments and suggestions received and has adopted amended § 270.17a-6 in the form set forth below.

Section 17(a) of the Act prohibits an affiliated person of a registered investment company or an affiliated person of such a person, from selling to or purchasing from the registered investment company or a company controlled by the registered investment company any security or other property, subject to certain exceptions, unless the Commission upon application pursuant to section 17(b) of the Act grants an exemption from the provisions of section 17(a) if it finds that the evidence establishes that the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act. 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 that 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 such rules as are necessary or appropriate to the exercise of the powers conferred upon the Commission in the Act.

Before amendment, 17 CFR 270.17a-6 exempted from the prohibitions of sections 17(a)(1) and 17(a)(3) of the Act the sale of securities or other property to, and the borrowing of money or other property from, a registered investment company which is a small business investment company licensed under the Small Business Investment Act of 1958 (SBIC) where such transactions are prohibited solely because of an affiliation created through the owning, controlling, or holding with power to vote by the SBIC of voting securities of a small business concern. The exemption was not



available if any person having an affiliate, promoter or principal underwriter relationship with the SBIC also had a direct or indirect financial interest, within the meaning of the rule, in the small business concern.

The amended rule is similar to the rule before amendment in eliminating the filing and processing of applications in circumstances in which it appears that there is no likelihood of overreaching of the investment company and that the transaction would not be unreasonable or unfair to the registered investment company. The principal respects in which the rule adopted differs from the rule which was published for comment are discussed below.

Paragraph (a) of the amended rule as adopted provides an exemption for transactions to which a registered investment company which is a small business investment company licensed under the Small Business Investment Act of 1958 or which is engaged or proposing to engage principally in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, and reorganizing companies or similar activities, or a company controlled by such a registered investment company, is a party, and to which a company affiliated with such a registered investment company or a person affiliated with such affiliated company is also a party, provided that no person who has a status specified in paragraphs (a) (1) through (5) is a party to the transaction, or has, or within six months prior to the transaction had, or pursuant to an arrangement will acquire, a direct or indirect financial interest in a party, other than the investment company, to the transaction. Paragraphs (a) (1) through (5) specify certain classes of persons who have an affiliation of a character which, if such person also is a party to the proposed transaction or has a direct or indirect financial interest in a party to the proposed transaction, creates the possibility of overreaching of the investment company. In these circumstances independent review of the fairness of the proposed transaction by the Commission under section 17(b) of the Act if necessary for the protection of investors. The rule as adopted does not exempt such transactions from the provisions of Section 17.

Paragraph (b) of the amended rule provides a similar exemption for transactions involving a registered investment company which is not an investment company of the character described in paragraph (a) of the rule, provided that any company which is controlled by or affiliated with the registered investment company and which is a party to the transaction is a "non-public" company. A company shall be deemed to be "non-public" for this purpose if its outstanding securities are beneficially owned by not more than one hundred persons. Certain standards, somewhat modified from those stated in the rule as published for comment, applicable to the computation of the number of persons who will be deemed for this purpose to

be beneficial owners of a company's securities are also prescribed in paragraph (b) of the rule.

The language of the proposed amended rule which was published for comment confined the exemption afforded by the rule to transactions with "non-public" companies, without regard to the character of the registered investment company concerned. This was intended to assure that, consistent with the purposes of section 17 of the Act, no transaction exempted by the rule would involve a risk of overreaching of or unfairness to an affiliated or controlled company in which there is a substantial public investor interest. Comments received from small business investment companies licensed under the Small Business Investment Act of 1958 strongly urged that this limitation of the scope of the exemption provided by the rule published for comment to transactions with "non-public" companies would be unduly burdensome, because it would interfere with their ability to make the kind of prompt changes in their relationships with their portfolio companies which are essential to effective operation of a small business investment company, and unnecessary because their dealings with their portfolio companies are subject to rules, controls and scrutiny of the Small Business Administration which adequately protect the limited public interest in the small business concerns in which they invest. The Small Business Administration requested that we give consideration to revising the provisions of the rule as published for comment to extend the exemption to any transaction with a small business concern as defined by the Small Business Investment Act of 1958 and the regulations thereunder, whether or not the outstanding securities of such small business concern are beneficially owned by more than one hundred persons.

In addition, we note that small business investment companies share many of the characteristics of "venture capital" investment companies, for which special treatment is provided in section 12(e) of the Investment Company Act, in that they engage in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, and reorganizing companies or similar activities. The Commission's experience in the regulation of a number of venture capital investment companies registered under the Investment Company Act which are not licensed small business investment companies indicates that the similarity of their operations gives rise to the same kinds of problems as those encountered by small business investment companies.

The Commission has considered the special circumstances indicated above under which small business investment companies and venture capital investment companies conduct their business and the purpose of the Congress expressed in section 12(e) of the Investment Company Act and in the Small Business Investment Act of 1958 to encourage the development of investment

companies of this nature, and has decided to divide the rule as adopted into two parts, paragraph (a) applicable only to venture capital and small business investment companies and paragraph (b) applicable to all other investment companies.

The changed structure of the rule as adopted from that of the rule which was proposed for comment makes it clear that any person who is not affiliated with the registered investment company or who is not affiliated with an affiliate of the registered investment company may be a party to the transaction without affecting the availability of the exemption provided by the rule.

It should be noted that the reference in paragraph (c) (1) of the rule as published for comment to "a direct or indirect financial interest in the affiliated company or in any affiliated person thereof, or in the controlled company of the registered company, or in any affiliated person of such controlled company" is now subdivision (ii) of paragraph (a) (5) of the rule and is stated as follows: "a direct or indirect financial interest in a party (except the registered investment company) to the transaction". This abbreviation in the language of the rule is not intended to, and in view of the scope of the term "indirect financial interest", is not expected to impair the essential protections provided to investors by the more extensive language first proposed.

As published for comment, the automatic exemption of the rule would not have been available if the affiliated persons referred to in paragraph (c) (1) thereof had a direct or indirect financial interest in the affiliated or controlled company of the registered investment company, or in any affiliated person thereof. The rule has now been revised so that the automatic exemption provided by the rule is not available if a person who has a status specified in paragraphs (a) (1) through (5) of the rule has a direct or indirect financial interest in any party (other than the registered investment company) to the transaction. This change in the language of the rule appeared necessary to protect the interests of the investment company, which may be adversely affected if any of the affiliated persons of the investment company referred to in paragraphs (a) (1) through (5) has a financial interest in any party to the transaction (other than the investment company), whether or not such party is affiliated with the investment company.

Subdivision (iv) has been included in paragraph (c) (1) so that the exemption provided by the rule will not be unavailable merely because a non-executive employee who is an affiliated person of the investment company or an affiliate of an affiliated person of the investment company has a direct or indirect financial interest in a party to the transaction.

Subdivision (v) has been included in paragraph (c) (1) so that the exemption provided by the rule will not be unavailable merely because an insurance company which is an affiliated person of the investment company or an affiliate of an affiliated person of the investment

company has made a loan or issued a policy in its ordinary course of business to a natural person who is a party to the transaction.

Subdivision (vi) has been included in paragraph (c) (1) so that the exemption provided by the rule will not be unavailable merely because a bank which is an affiliated person of the registered investment company or an affiliate of an affiliated person of the registered investment company has made a loan to or maintains an account in its ordinary course of business with a natural person who is a party to the transaction; provided however that, if the natural person is an officer, director or executive of, or directly or indirectly owns, controls, or holds with power to vote, 5 per centum or more of the outstanding voting securities of, a company which is a party to the transaction, the automatic exemption provided by the rule is not available.

Paragraph (c) (2) has been added to the rule so that the exemption provided by the rule would not be unavailable simply because a registered investment company is controlled by another person; this subparagraph makes clear that, in this situation, persons controlled by the investment company are not for this reason to be considered to be under common control with the registered investment company within the scope of paragraph (a) (4) of the rule.

Paragraph (c) (3) has been included in the rule so that the exemption provided by the rule shall not be unavailable merely because the registered investment company, or a person whom it controls, or a person 5 per centum or more of whose outstanding voting securities are owned, controlled, or held with power to vote, by the investment company, is a party to the transaction or has a direct or indirect financial interest in a party to the transaction.

The amended rule as adopted deletes the requirement of § 270.17a-6 before amendment that the pertinent details of each transaction for which exemption is claimed under the rule shall be reported by the investment company in its next annual report to the stockholders and in a report filed with the Commission within 30 days after the end of each semi-annual accounting period of the investment company. The Commission is considering proposing amendments to annual report Forms N-30A-1 and N-5R, including the addition thereto of a specific item or instruction calling for disclosure of the pertinent details of transactions claimed to be exempt pursuant to § 270.17a-6 (Rule 17a-6).

In connection with the adoption of the amended rule, the Commission believes it appropriate to comment on the statutory definition in section 2(a) (3) of the Act of the term "affiliated person" employed in Section 17 of the Act. Because the definition of "affiliated person" is deliberately broad, the factual circumstances of each relationship which may create an affiliation should be carefully examined to assure that unlawful transactions do not occur. In this connection the question has arisen as to whether the right of an investment company to designate a director or directors of a portfolio company pursuant to loan

agreement provisions or other contractual commitments creates an affiliated person status between the two companies. The Commission does not take the position that such a right, in and of itself, constitutes direct or indirect ownership, control, or holding with power to vote, of 5 per centum or more of the outstanding voting securities of the portfolio company by the investment company within the meaning of Clauses (A) and (B) of section 2(a) (3) of the Act. At the same time, the Commission recognizes that such right of an investment company to name a director or directors of a portfolio company, particularly where it exists in the context of other factors indicating the power of an investment company to exercise a controlling influence over the management or policies of a portfolio company, may result in the portfolio company being an "affiliated person" of the investment company within the meaning of Clause (C) of section 2(a) (3) of the Act.

In expressing the foregoing views, the Commission is aware that representation by an investment company on the board of directors of a portfolio company, especially in the case of small business and venture capital investment companies, may well be desirable in order to protect the interests of the investment company and provide the portfolio company with the benefit of advice and assistance from the investment company. Accordingly, the Commission does not intend to discourage appropriate representation and participation by investment companies in the management of portfolio companies. The Commission believes that the provisions of amended § 270.17a-6 will provide an automatic exemption from the prohibitions of section 17(a) for most transactions involving investment companies and affiliated portfolio companies. Thus, if the requirements of the rule are met, an investment company need not be concerned that its representation and participation in the management of portfolio companies will result in affiliated status and require the obtaining of an order of exemption from the Commission before effecting transactions with the affiliated portfolio company.

The action of the Commission follows: Section 270.17a-6 is amended to read as follows:

**§ 270.17a-6 Exemption of transactions with certain affiliated persons.**

(a) A transaction to which a registered investment company which is a small business investment company licensed under the Small Business Investment Act of 1958 or which is engaged or proposing to engage principally in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, and reorganizing companies or similar activities, or a company controlled by such a registered investment company, is a party, and to which a company affiliated with such a registered investment company or a person affiliated with such affiliated company is also a party, shall be exempt from the pro-

visions of section 17(a) of the Act, if no person who is:

(1) An officer, director, employee, investment adviser, member of an advisory board, depositor, promoter or principal underwriter for the registered investment company, or

(2) A person directly or indirectly controlling the registered investment company, or

(3) A person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of the registered investment company, or

(4) A person directly or indirectly under common control with the registered investment company, or

(5) An affiliated person of any of the foregoing (i) is also a party to the transaction, or (ii) has, or within six months prior to the transaction had, or pursuant to an arrangement will acquire, a direct or indirect financial interest in a party (except the registered investment company) to the transaction.

(b) A transaction to which a registered investment company which is not a company of the character described in paragraph (a) of this section, or a non-public company controlled by such a registered investment company, is a party, and to which a non-public company affiliated with the registered investment company or a person affiliated with such affiliated company is also a party, shall be exempt from the provisions of section 17(a) of the Act if the conditions of paragraph (a) of this section are met. For the purposes of this paragraph, a company shall be deemed to be non-public if its outstanding securities are beneficially owned by not more than one hundred persons; securities issued by one company which are owned by a second company shall be deemed to be beneficially owned by the stockholders of the second company if (1) the second company is not the registered investment company, and (2) the second company owns 10 per centum or more of the outstanding voting securities issued by the first company, and (3) the current value of all the securities issued by the first company which are owned by the second company exceeds 5 per centum of the current value of the second company's total assets.

(c) For the purpose of determining the availability of the exemption provided for by this section:

(1) The term "financial interest" as used in paragraph (a) of this section shall not include (i) any interest through ownership of securities issued by the registered investment company; (ii) any interest of a wholly-owned subsidiary of a registered investment company; (iii) usual and ordinary fees for services as a director; (iv) an interest of a non-executive employee; (v) an interest of an insurance company arising from a loan or policy made or issued by it in the ordinary course of business to a natural person; (vi) an interest of a bank arising from a loan or account made or maintained by it in the ordinary course of business to or with a natural person, unless it arises from a loan to a person who is an officer, director or executive of a company which is a party to the trans-

action, or from a loan to a person who directly or indirectly owns, controls, or holds with power to vote, 5 per centum or more of the outstanding voting securities of a company which is a party to the transaction; or (vii) an interest acquired in a transaction described in paragraph (d) (3) of § 270.17d-1 (Rule 17d-1 under the Act).

(2) Subparagraph (4) of paragraph (a) of this section shall not include a person who, if it were not directly or indirectly controlled by the registered investment company, would not be directly or indirectly under the control of a person who controls the registered investment company.

(3) Subparagraph (5) of paragraph (a) of this section shall not include (i) the registered investment company, or (ii) a person who (a) if it were not directly or indirectly controlled by the registered investment company, or (b) if 5 per centum or more of its outstanding voting securities were not directly or indirectly owned, controlled, or held with power to vote by the registered investment company, would not be an affiliated person of a person described in subparagraphs (2) or (3) of paragraph (a) of this section.

(Secs. 6(c), 38(a), 54 Stat. 800, 841, 15 U.S.C. 80a-6(c), 80(a)-37(a))

Effective forthwith.

By the Commission, April 29, 1964.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F.R. Doc. 64-4678; Filed, May 8, 1964; 8:48 a.m.]

## Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter 1—National Park Service, Department of the Interior

### PART 7—SPECIAL REGULATIONS RELATING TO PARKS AND MONUMENTS

Fort Jefferson National Monument, Florida; Fishing and Designated Anchorage

On page 2427 of the FEDERAL REGISTER of February 13, 1964, there was published a notice and text of a proposed amendment to § 7.27 of Title 36, Code of Federal Regulations. The purpose of the

amendment is to enlarge the area wherein commercial fishing is prohibited and designate the area by more visible markers, and to control boat anchorage in the harbor at Fort Jefferson.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions, or objections have been received, and the proposed amendment is hereby adopted without change and is set forth below. This amendment shall become effective at the beginning of the 30th calendar day following the date of this publication in the FEDERAL REGISTER (60 Stat. 238; 5 U.S.C. 1003; 39 Stat. 535; 16 U.S.C. 3).

Paragraphs (a) (4) and (b) of § 7.27 are amended to read as follows:

#### § 7.27 Fort Jefferson National Monument.

(a) *Fishing.* \* \* \*

(4) Commercial fishing or shrimping or the taking of fish for the purpose of sale is prohibited in the area of the National Monument described as follows:

Beginning at Pulaski Shoal Light at latitude 24°41'36" N., longitude 82°46'23" W., thence on a straight line to a point at latitude 24°38'00" N., longitude 82°48'00" W.; thence on a straight line to buoy "N2" at latitude 24°37'23" N., longitude 82°49'48" W.; thence in a straight line to a buoy "C1" at latitude 24°35'35" N., longitude 82°52'19" W.; thence in a straight line to buoy "N8" at latitude 24°35'07" N., longitude 82°54'07" W.; thence in a straight line to a buoy "N2" at latitude 24°35'06" N., longitude 82°55'53" W.; thence in a straight line to a buoy "N10" at latitude 24°36'39" N., longitude 82°52'27" W.; thence in a straight line to a point at latitude 24°40'57" N., longitude 82°54'16" W.; thence in a straight line to a point at latitude 24°41'50" N., longitude 82°53'10" W.; thence in a straight line to a point at latitude 24°42'22" N., longitude 82°51'50" W.; thence in a straight line to a point at latitude 24°42'53" N., longitude 82°49'34" W.; thence in a straight line to a point at latitude 24°42'44" N., longitude 82°48'20" W.; and thence in a straight line to the point of beginning at Pulaski Shoal Light.

(b) *Designated anchorage.* All vessels entering Tortugas Harbor in the vicinity of Garden Key shall anchor only in the designated anchorage area of Bird Key Harbor southwest of Garden Key, which is designated Anchorage Area 202.190 on U.S. Coast and Geodetic Survey Chart No. 585, except that passenger-carrying vessels and yachts carrying

visitors to historic Fort Jefferson may discharge passengers at the main docking area of Garden Key and may moor to the piers and anchor in the channel, harbor, or lagoons in the vicinity of Garden Key for not more than an eight hour period between sunrise and sunset by permission from the Superintendent or his representative.

\* \* \*  
STANLEY C. JOSEPH,  
Superintendent,  
Fort Jefferson National Monument.

[F.R. Doc. 64-4650; Filed, May 8, 1964; 8:45 a.m.]

## Title 41—PUBLIC CONTRACTS

Chapter 8—Veterans Administration

### PART 8-6—FOREIGN PURCHASES

#### Subpart 8-6.53 Purchases From Soviet-Controlled Areas

##### SOVIET-CONTROLLED AREAS

Section 8-6.5301-1 is revised to read as follows:

#### § 8-6.5301-1 Soviet-controlled areas.

The following are considered Soviet-controlled areas:

- Albania.
- Bulgaria.
- China, excluding Taiwan (Formosa).
- Communist-controlled areas of Viet Nam and Laos.
- Cuba.
- Czechoslovakia.
- East Germany (Soviet Zone of Germany and Soviet Sector of Berlin).
- Estonia.
- Hungary.
- Latvia.
- Lithuania.
- Manchuria.
- Mongolia.
- North Korea.
- Romania.
- Union of Soviet Socialist Republics.

(Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c))

By direction of the Administrator.

This regulation is effective immediately.

Approved: May 5, 1964.

[SEAL] A. H. MONK,  
Associate Deputy Administrator.

[F.R. Doc. 64-4671; Filed, May 8, 1964; 8:47 a.m.]

# Proposed Rule Making

## DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[ 7 CFR Part 52 ]

### FROZEN CONCENTRATED ORANGE JUICE

#### Proposed Standards for Grades

Notice is hereby given that the United States Department of Agriculture is considering a revision to the United States Standards for Grades of Frozen Concentrated Orange Juice<sup>1</sup> (7 CFR 52.1581-52.1592) pursuant to the authority contained in the Agricultural Marketing Act of 1946 (secs. 202-208, 60 Stat. 1087, as amended; 7 U.S.C. 1621-1627). This revision, if made effective, will be the fourth issue by the Department of the grade standards for this product.

*Statement of consideration leading to the proposed revision.* Definitions and standards of identity for frozen concentrated orange juice promulgated by the Food and Drug Administration, U.S. Department of Health, Education, and Welfare, are scheduled to become effective on July 1, 1964, except certain provisions pertaining to labeling which have been stayed pending judicial review. On that date certain provisions of the United States Standards for Grades of Frozen Concentrated Orange Juice which have been in effect since December 1, 1955 would be in conflict with these definitions and identity requirements. The first consideration, therefore, is to bring the U.S. Department of Agriculture grade standards into conformance with the Food and Drug definitions and identity requirements, compliance with which is mandatory in interstate commerce.

At this time it is appropriate to propose other changes in the current standards which, considering certain changes in manufacturing and marketing since 1955, would improve their usefulness or which would improve them technically.

The following specific changes (together with explanations) from the current standards are proposed:

(1) The product description would be revised to adopt the identity requirements of the Food and Drug standards for this product. The principal effect of this change would be (a) to allow only 10 percent by volume of Mandarin orange juice (*Citrus reticulata* or hybrids thereof) and to allow any or all of this ten percent to consist of tangerine juice. (The present USDA grade standards permit unlimited Mandarin juice except that no tangerine juice is permitted); (b) to allow 5 percent by volume of the juice of sour oranges (*Citrus aurantium*). (No *Citrus aurantium* is now permitted

<sup>1</sup> Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable state laws and regulations.

under the USDA grade standards); and (c) to require that a product with added sweeteners contain no less than 11.8 percent by weight of soluble orange solids in the reconstituted juice.

(2) The top limit of concentration—44 degrees Brix—would be removed to permit any concentration of 41.8 degrees or more. The current standards apply only to a 3+1 concentration.

(3) Score points would be realigned to allow a 10 point spread in each grade instead of 15 points. This conforms to current practice in most other U.S. grade standards for processed fruits and vegetables. It does not, in itself, change the quality requirements for each grade.

(4) The factor of color would be described to include evaluation, where applicable, by the comparison of the color of the orange juice with that of Official USDA Color Standards under standard conditions of lighting and viewing.

(5) Under the factor of flavor, the Brix value-acid ratios would be changed or remain as:

	Minimum	Maximum
Grade A—without sweetener.	From 11.5:1 to 13.0:1.	Remains at 18:1.
Grade A—with sweetener.	From 12.0:1 to 13.0:1.	From 14.0:1 to 18.0:1.
Grade B—without sweetener.	do	Remains at 19.0:1.
Grade B—with sweetener.	Remains at 10.0:1.	From 15.0:1 to 19.0:1.

(6) Because of the various concentrations that would be permitted the proposed requirements for recoverable oil are based on juice which has been reconstituted in accordance with directions.

(7) Other changes included are minor and would improve format or presentation of the text in the standards.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed revision should file the same with the Chief, Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C., 20250, not later than thirty days after publication hereof in the FEDERAL REGISTER.

#### PRODUCT DESCRIPTION, STYLES, GRADES

Sec. 52.1581	Product description.
52.1582	Styles.
52.1583	Grades.

#### FILL OF CONTAINER

52.1584	Recommended fill of container.
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#### FACTORS OF QUALITY

52.1585	Ascertaining the grade of a sample unit.
52.1586	Ascertaining the rating for the factors which are scored.
52.1587	Color.
52.1588	Defects.
52.1589	Flavor.

#### EXPLANATIONS AND METHODS OF ANALYSES

Sec. 52.1590	Definitions of terms and methods of analyses.
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#### LOT COMPLIANCE

52.1591	Ascertaining the grade of a lot.
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#### SCORE SHEET

52.1592	Score sheet for frozen concentrated orange juice.
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**AUTHORITY:** The provisions of this subpart issued under secs. 202-208, 60 Stat. 1087, as amended; 7 U.S.C. 1621-1627.

#### PRODUCT DESCRIPTION, STYLES, GRADES

##### § 52.1581 Product description.

Frozen concentrated orange juice (or frozen orange juice concentrate) is the product as defined in the standards of identity (28 F.R. 10900, 21 CFR 27.109) issued pursuant to the Federal Food, Drug, and Cosmetic Act.

##### § 52.1582 Styles.

(a) *Without sweetener.* The Brix value of the finished concentrate is not less than 41.8 degrees and shall be such that when reconstituted according to directions, the reconstituted juice tests not less than 11.8 degrees Brix.

(b) *With sweetener.* The Brix value of the finished concentrate is not less than 42.0 degrees and shall be such that, when diluted according to directions, the reconstituted juice contains not less than 11.8 percent, by weight, of soluble orange solids.

##### § 52.1583 Grades.

(a) "U.S. Grade A" (or "U.S. Fancy") is the quality of frozen concentrated orange juice that reconstitutes properly and of which the reconstituted juice: (1) Has the appearance of fresh orange juice, (2) has a very good color, (3) is practically free from defects, (4) possesses a very good flavor, and (5) scores not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U.S. Grade B" (or "U.S. Choice") is the quality of frozen concentrated orange juice that reconstitutes properly, and of which the reconstituted juice: (1) Has a good color, (2) is reasonably free from defects, (3) possesses a good flavor, and (4) scores not less than 80 points when scored in accordance with the scoring system outline in this subpart.

(c) "Substandard" is the quality of frozen concentrated orange juice that fails to meet the requirements of U.S. Grade B.

#### FILL OF CONTAINER

##### § 52.1584 Recommended fill of container.

The recommended fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. It is recommended that the container be as full of frozen concentrated orange juice as

practicable without impairment of quality.

**FACTORS OF QUALITY**

**§ 52.1585 Ascertaining the grade of a sample unit.**

(a) *General.* The grade of a sample unit of frozen concentrated orange juice is ascertained by considering the faculty of reconstituting properly and the appearance of the reconstituted juice, which are not scored; the ratings for the factors of color, absence of defects, and flavor which are scored; the total score; and the limiting rules which may be applicable.

(b) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given such factors are:

Factors:	Points
Color .....	40
Defects .....	20
Flavor .....	40
Total score.....	100

**§ 52.1586 Ascertaining the rating for the factors which are scored.**

The essential variations within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

**§ 52.1587 Color.**

(a) *Evaluation of color.* (1) The color of frozen concentrated orange juice, where applicable, is evaluated by comparing the color of the product with the USDA Orange Juice Color Standards.

(2) Such comparison is made under an artificial light source of approximately 150 candela intensity and having a spectral quality approximating that of daylight under a moderately overcast sky and a color temperature of 7500 degrees Kelvin, ±200 degrees.

(3) The USDA Orange Juice Color Standards range from yellowish-orange to yellow color, with USDA OJ 1 being the most orange color in the series. Orange juice of lesser orange color or brightness than the USDA colors is evaluated by considering the degree of degradation caused by unsuitable or immature fruit, scorching, oxidation, or other conditions.

(b) *Procedure in evaluating color.*

(1) Place the product in a clear glass test tube of 1 inch diameter.

(2) Arrange color standards in a test tube rack or similar device so that light coming from above strikes the standards at a 45 degree angle. The standards are inclined at a 45 degree angle against a neutral grey background. Observe the standards and product at right angles to the tubes.

(3) Classify the juice by inserting the tube of juice where it best fits in the series of color standards.

(c) *Availability of color standards.* The USDA Orange Juice Color Standards cited in this section are official color

standards which may also be applied to other orange juices. Information regarding these color standards, and their availability, may be obtained from:

Processed Products Standardization and Inspection Branch,  
Fruit and Vegetable Division,  
U.S. Department of Agriculture,  
Washington, D.C., 20250.

(d) (A) *Classification.* Frozen concentrated orange juice of which the reconstituted juice possesses a very good color may be given a score of 36 to 40 points. "Very good color" means a very good yellow to yellow-orange color that is bright and typical of rich-colored fresh orange juice. Frozen concentrated orange juice that meets this criterion may be assigned score points in accordance with the following schedule:

As compared with USDA Orange Juice Color Standards:	Score (points)
Equal to or better than USDA OJ 1..	40
Equal to or better than USDA OJ 2..	39
Equal to or better than USDA OJ 3..	38
Equal to or better than USDA OJ 4..	37
Equal to or better than USDA OJ 5..	36

(e) (B) *Classification.* If the reconstituted juice possesses a good color, a score of 32 to 35 points may be given. Frozen concentrate orange juice that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Good color" means that the color is the yellow to yellow-orange color typical of fresh orange juice which may be dull but is not off color for any reason. Frozen concentrated orange juice that meets this criterion may be assigned score points in accordance with the following schedule:

As compared with USRA Orange Juice Color Standards:	Score (points)
Better than USDA OJ 6, not as good as USDA OJ 5.....	35
Equal to USDA OJ 6.....	34
not as good as USDA OJ 6.....	33 or 32

(f) (SStd.) *Classification.* If the reconstituted juice fails to meet the requirements of paragraph (e) of this section a score of 0 to 31 points may be given. Frozen concentrated orange juice that falls into this classification shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

**§ 52.1588 Defects.**

(a) *General.* The factor of defects concerns the degree of freedom from small seeds and portions thereof, from juice cells, from pulp, from recoverable oil and from discolored specks, white flakes, harmless extraneous material, and other similar defects.

(b) *Definitions*—(1) *Small seeds and portions thereof.* "Small seeds and portions thereof" means seed, whether fully developed or not, and particles of seed that could pass readily through round perforations 1/8 inch (3.2 mm.) in diameter.

(2) *Pulp.* "Pulp" means particles of membrane, core and peel.

(3) *Recoverable oil.* "Recoverable oil" means oil recoverable by the method outlined in this subpart.

(c) (A) *Classification.* Frozen concentrated orange juice of which the recon-

stituted juice is practically free from defects may be given a score of 18 to 20 points. "Practically free from defects" means that any combination of defects present (including small seeds and particles thereof, and pulp and/or juice cells in excess of that normally present in orange juice) may no more than slightly detract from the appearance or drinking quality of the juice, and that there may be no more than 0.02 milliliter of recoverable oil per 100 milliliters of the reconstituted juice.

(d) (B) *Classification.* If the reconstituted juice is reasonably free from defects, a score of 16 or 17 points may be given. Frozen concentrated orange juice that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that any combination of defects present (including small seeds and particles thereof, and pulp and/or juice cells in excess of that normally present in orange juice) may not seriously detract from the appearance or drinking quality of the juice, and that there may be no more than 0.03 milliliter of recoverable oil per 100 milliliters of the reconstituted juice.

(e) (SStd.) *Classification.* Frozen concentrated orange juice that fails to meet the requirements of paragraph (d) of this section may be given a score of 0 to 16 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

**§ 52.1589 Flavor.**

(a) (A) *Classification.* Frozen concentrated orange juice of which the reconstituted juice possesses a very good flavor may be given a score of 36 to 40 points. "Very good flavor" means that the flavor is fine, distinct, and substantially typical of orange juice extracted from fresh mature sweet oranges. To score 36 points or more the frozen concentrated orange juice shall meet the following limits for the respective styles:

(1) *Without sweetener style.* Brix value to acid ratio—not less than 13.0 to 1 nor more than 18 to 1.

(2) *With sweetener style.* Brix value to acid ratio—not less than 13.0 to 1 nor more than 18 to 1.

(b) (B) *Classification.* If the reconstituted juice possesses a good flavor, a score of 32 to 35 points may be given. Frozen concentrated orange juice that falls into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Good flavor" means that the flavor is fairly typical of fresh orange juice extracted from fresh mature sweet oranges and is free from abnormal flavors and off flavors of any kind. To score 32 points or more frozen concentrated orange juice shall meet the following requirements for the respective styles:

(1) *Without sweetener style.* Brix value to acid ratio—not less than 10 to 1 nor more than 19 to 1.

(2) *With sweetener style.* Brix value to acid ratio—not less than 10 to 1 nor more than 19 to 1.

(c) (SStd.) Classification. If the frozen concentrated orange juice fails to meet the requirements of paragraph (b) of this section, a score of 0 to 31 points may be given. Frozen concentrated orange juice that falls into this classification shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

EXPLANATIONS AND METHODS OF ANALYSES  
§ 52.1590 Definitions of terms and methods of analyses.

(a) Reconstituted juice. "Reconstituted juice" means the product obtained by thoroughly mixing the concentrate with the amount of water prescribed on the label or other appropriate directions.

(b) Reconstitutes properly. "Reconstitutes properly" means that the concentrate goes into solution readily; and that in approximately 250 ml. of the reconstituted juice, after standing four (4) hours at a temperature of not less than 68 degrees Fahrenheit in a clear glass cylinder (approximately 1 1/4 inches (30 mm.) in diameter), there may be a noticeable separation of suspended matter but any resulting zone of greater clarity shall be definitely turbid and not clear or transparent.

(c) Acid. "Acid" means the percent by weight of total acidity, calculated as anhydrous citric acid, in frozen concentrated orange juice. Total acidity is determined by titration with standard sodium hydroxide solution, using phenolphthalein as indicator.

(d) Brix value. "Brix value" in frozen concentrated orange juice is the refractometric sucrose value determined in accordance with the "International Scale of Refractive Indices of Sucrose Solutions" and to which the applicable correction for acid is added (see Table I of this subpart for corrections). The measurement of Brix value is determined on the thawed concentrate in accordance with the refractometric method for sugars and sugar products, outlined in the "Official Methods of Analysis of the Association of Official Agricultural Chemists."

(e) Brix value-acid ratio. The Brix value-acid ratio is the ratio of the Brix value of the concentrate in degrees Brix to the grams of anhydrous citric acid per 100 grams of concentrate.

TABLE I—CORRECTIONS FOR OBTAINING BRIX VALUE

Citric acid, anhydrous (percent by weight)	Correction to be added to refractometer sucrose value to obtain degree Brix value	Citric acid, anhydrous (percent by weight)	Correction to be added to refractometer sucrose value to obtain degree Brix value
2.0	.39	3.6	.70
2.2	.43	3.8	.74
2.4	.47	4.0	.78
2.6	.51	4.2	.81
2.8	.54	4.4	.85
3.0	.58	4.6	.89
3.2	.62	4.8	.93
3.4	.66	5.0	.97

<sup>1</sup> Source: "Refractometric Determination of Soluble Solids in Citrus Juices," by J. W. Stevens and W. E. Baler, from the Analytical Edition of Industrial and Engineering Chemistry, Vol. II, Page 447, August 15, 1939.

(f) Recoverable oil. "Recoverable oil" is determined by the following method:

(1) Equipment. Oil separatory trap similar to either of those illustrated in Figure 1 or Figure 2.<sup>1</sup>

- Gas burner or hot plate.
- Ringstand and clamps.
- Rubber tubing.
- 3-liter narrow-neck flask.

(2) Procedure. (i) Place exactly 2 liters of the reconstituted juice in a 3-liter flask. Close the stopcock, place distilled water in the graduated tube, run cold water through the condenser from the bottom to top, and bring the solution to a boil. Boiling is continued for one hour at the rate of approximately 50 drops per minute.

(ii) By means of the stopcock, lower the oil into the graduated portion of the separatory trap, remove the trap from the flask, allow it to cool, and record the amount of oil recovered.

(iii) The number of milliliters of oil recovered divided by 20 equals the number of milliliters of recoverable oil per 100 milliliters of the reconstituted juice.

LOT COMPLIANCE

§ 52.1591 Ascertaining the grade of a lot.

The grade of a lot of frozen concentrated orange juice covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 to 52.87).

SCORE SHEET

§ 52.1592 Score sheet for frozen concentrated orange juice.

Size and kind of container.....	.....
Container mark or identification.....	{ Cans.....
Label (including ingredient statement, if any).....	{ Cases.....
Liquid measure (fluid ounces).....	.....
Vacuum (inches).....	.....
Brix value (of concentrate).....	.....
Style.....	.....
Total acidity:	.....
As anhydrous citric.....	.....
Percent by weight.....	.....
Brix value-acid ratio ( :1).....	.....
Recoverable oil (ml./100 ml.).....	.....
Reconstitutes properly: (yes) (no).....	.....
Appearance of fresh juice: (yes) (no).....	.....

Factors	Score points
Color.....	40 { (A) 36-40 (C) 32-35 (SStd.) 10-31
Defects.....	20 { (A) 18-20 (C) 16-17 (SStd.) 10-15
Flavor.....	40 { (A) 36-40 (C) 32-35 (SStd.) 10-31
Total score.....	100

Grade.....

<sup>1</sup> Indicates limiting rule.

Dated: May 6, 1964.

G. R. GRANGE,  
Deputy Administrator,  
Marketing Services.

[F. R. Doc. 64-4688; Filed, May 8, 1964; 8:50 a.m.]

<sup>1</sup> Figures 1 and 2 filed as part of original document.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[ 50 CFR Parts 280, 281 ]

EASTERN PACIFIC TUNA FISHERIES

Notice of Proposed Rule Making

Notice is hereby given, pursuant to section 4(a) of the Administrative Procedure Act of June 11, 1946 (60 Stat. 237), and section 6(c) of the Tuna Conventions Act of 1950 (64 Stat. 778), as amended by the Act of October 15, 1962 (76 Stat. 923; 16 U.S.C. 955), that the Secretary of the Interior proposes to amend Title 50, Code of Federal Regulations, by adding a new Subchapter H—Eastern Pacific Tuna Fisheries, consisting of Part 280—Yellowfin Tuna and Part 281—Restrictions on Tuna Imports. The proposed regulations are set forth in tentative form below.

The proposed regulations are to be issued under the authority contained in subsection (c) of section 6 of the Tuna Conventions Act of 1950, as added by the Act of October 15, 1962. In accordance with the authority cited, after adoption of the regulations proposed as Part 280 and publication thereof in the FEDERAL REGISTER, such regulations are to become applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary of the Interior shall prescribe, but in no event prior to an agreed date for the application by all countries whose vessels engage in fishing for species of fish covered by the Convention for the Establishment of an Inter-American Tropical Tuna Commission (1 U.S.T. 230), in the regulatory area on a meaningful scale of effective measures for the implementation of the Commission's recommendations applicable to all vessels and persons subject to their respective jurisdictions. Steps are being taken to reach agreement with the several countries whose fishermen participate in the tuna fisheries of the eastern Pacific Ocean looking toward July 1, 1964, as the date for the simultaneous application by all such countries of suitable conservation measures to be observed by their fishing vessels.

Prior to the final adoption of the proposed regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Regional Director, Pacific Southwest Region, Bureau of Commercial Fisheries, 101 Seaside Avenue, Terminal Island, California, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Interested persons will also be afforded an opportunity to comment orally on the proposed regulations at a public hearing to be held at United Portuguese Club, 2818 Addison Street, San Diego, California, beginning at 10:00 a.m., May 23, 1964. Any person who intends to present views orally at such hearing is requested to furnish in writing his name and the name of the organization he represents; if any, to the said

Regional Director and not later than May 20, 1964.

Issued at Washington, D.C., and dated May 7, 1964.

JAMES K. CARR,  
Under Secretary of the Interior.

SUBCHAPTER H—EASTERN PACIFIC TUNA  
FISHERIES

PART 280—YELLOWFIN TUNA

Sec.	
280.1	Definitions.
280.2	Basis and purpose.
280.3	Catch limit.
280.4	Open season.
280.5	Closed season.
280.6	Tuna clearance certificates.
280.7	Reports and record keeping.
280.8	Persons and vessels exempted.

**AUTHORITY:** The provisions of this Part 280 issued under sec. 6, 64 Stat. 778, as amended, 16 U.S.C. 955.

§ 280.1 Definitions.

For the purposes of this part, the following terms shall be construed, respectively, to mean and to include:

(a) *Convention.* The Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 31, 1949, by the United States of America and the Republic of Costa Rica (1 U.S.T. 230).

(b) *Commission.* The Inter-American Tropical Tuna Commission established pursuant to the Convention.

(c) *Director of Investigations.* The Director of Investigations, Inter-American Tropical Tuna Commission, La Jolla, California.

(d) *Bureau Director.* The Director of the Bureau of Commercial Fisheries, Fish and Wildlife Service, United States Department of the Interior.

(e) *Regional Director.* The Regional Director, Pacific Southwest Region, Bureau of Commercial Fisheries, 101 Seaside Avenue, Terminal Island, California.

(f) *Regulatory area.* All waters of the eastern Pacific Ocean bounded by the mainland of the Americas and the following lines:

Beginning at a point on the mainland where the parallel of 40 degrees north latitude intersects the coast; thence due west to the meridian of 125 degrees west longitude; thence due south to the parallel of 20 degrees north latitude; thence due east to the meridian of 120 degrees west longitude; thence due south to the parallel of 5 degrees north latitude; thence due east to the meridian of 110 degrees west longitude; thence due south to the parallel of 10 degrees south latitude; thence due east to the meridian of 90 degrees west longitude; thence due south to the parallel of 30 degrees south latitude; thence due east to a point on the mainland where the parallel of 30 degrees south latitude intersects the coast.

(g) *Yellowfin tuna.* Any fish of the species *Thunnus albacares* (synonymy: *Neothunnus macropterus*).

(h) *Other tuna fishes.* Those species (and none other) of the family Scombridae which are known as:

(1) *Albacore*—*Thunnus alalunga* (synonymy: *Thunnus germon*);

(2) *Bigeye*—*Thunnus obesus* (synonymy: *Parathunnus sibi*);

(3) *Bluefin*—*Thunnus thynnus* (synonymy: *Thunnus saliens*).

(4) *Skipjack*—*Euthynnus pelamis* (synonymy: *Katsuwonus pelamis*).

(i) *Fishing vessel.* Every kind, type or description of watercraft subject to the jurisdiction of the United States (other than purse seine skiffs) used in or outfitted for catching or processing fish or transporting its catch of fish from fishing grounds.

(j) *Transport vessel.* Every kind, type or description of watercraft subject to the jurisdiction of the United States used or capable of being used exclusively to take on board on the high seas and transport to a port of the United States the catches of fishing vessels of the United States.

(k) *Person.* Individual, association, corporation or partnership subject to the jurisdiction of the United States.

(l) *Open season.* The time during which yellowfin tuna may lawfully be captured and taken on board a fishing vessel in the regulatory area without limitation on the quantity permitted to be retained during each fishing voyage. Unless otherwise specified, whenever time is stated in hours it shall be construed to refer to standard time in the area affected.

(m) *Closed season.* The time during which yellowfin tuna may not be taken or retained on board a fishing vessel in quantities exceeding the amounts permitted to be taken and retained as an incident to fishing for other tuna fishes.

§ 280.2 Basis and purpose.

(a) At a special meeting held at Long Beach, California, on September 14, 1961, the Commission recommended to the Governments of Costa Rica, Ecuador, Panama, and the United States of America, parties to the Convention, that they take joint action to limit the annual catch of yellowfin tuna from the eastern Pacific Ocean by fishermen of all nations during the calendar year 1962. This recommendation was made pursuant to paragraph 5 of Article II of the Convention on the basis of scientific investigations conducted by the Commission over a period of time dating from 1951. The most recent years of this period were marked by a substantial increase in fishing effort directed toward the yellowfin tuna stocks, resulting in a rate of exploitation of these stocks greater than that at which the maximum average sustainable yield may be obtained. The Commission's recommendation for joint action by the parties to regulate the yellowfin tuna fishery has as its objective the restoration of these stocks to a level of abundance which will permit maximum average sustainable catch and the maintenance of the stocks in that condition in the future.

(b) At annual meetings held at Quito, Ecuador, May 16-18, 1962; at Panama City, Panama, April 16-17, 1963; and at San Diego, California, March 18-19, 1964; the Commission affirmed its earlier conclusions regarding the need for regulating the yellowfin tuna fishery in the eastern Pacific Ocean and at each meeting recommended to the parties to the Convention that they take joint action to:

(1) Establish a prescribed tonnage limit on the total catch of yellowfin tuna

by the fishermen of all nations during each calendar year from an area of the eastern Pacific Ocean defined by the Commission;

(2) Establish open and closed seasons for yellowfin tuna under prescribed conditions;

(3) Permit the landing of not more than fifteen percent (15%) by weight of yellowfin tuna among the tuna taken on a fishing trip made after the close of the yellowfin tuna fishing season; and

(4) Obtain from governments not parties to the Convention, but having vessels which operate in the fishery, co-operation in effecting the recommended conservation measures.

(c) At a meeting held at San Diego, California, on March 20, 1964, representatives of the Governments of Costa Rica, Ecuador, Japan, Mexico, and the United States of America gave assurances that beginning as of July 1, 1964, each country would apply to all vessels and persons subject to its jurisdiction effective measures for the implementation of the recommendations made by the Commission in March 1964 for a yellowfin tuna conservation regime. Subsequent to March 20, 1964, the Governments of \_\_\_\_\_ and \_\_\_\_\_ gave like assurances. The several countries named are parties to the Convention or, not being parties, exercise jurisdiction over vessels which "engage in fishing for species covered by the Convention in the regulatory area on a meaningful scale, in terms of effect upon the success of the conservation program" within the purview of section 6(c) of the Tuna Conventions Act of 1950, as amended.

(d) The regulations in this part are designed to implement the Commission's current and future applicable recommendations for the conservation of yellowfin tuna so far as they affect all vessels and persons subject to the jurisdiction of the United States.

§ 280.3 Catch limit.

The annual limitation on the quantity of yellowfin tuna permitted to be taken from the regulatory area during the open season by the fishing vessels of all nations participating in the fishery will be fixed and determined on the basis of recommendations made by the Commission pursuant to paragraph 5 of Article II of the Convention. Upon approval by the Secretary of State and the Secretary of the Interior of the recommended catch limit, announcement of the catch limit thus established shall be made by the Bureau Director through publication of a suitable notice in the FEDERAL REGISTER. The Bureau Director, in like manner, shall announce any revision or modification of an approved annual catch limit which may subsequently enter into force.

§ 280.4 Open season.

The open season for yellowfin tuna fishing shall begin annually at 12:01 a.m. of the first day of January and terminate at midnight on a date to be determined and announced as provided in § 280.5.

§ 280.5 Closed season.

(a) Pursuant to authority granted by the Commission, the Director of Investi-

gations maintains records of the catches of yellowfin tuna taken from the regulatory area and landed from time to time during the open season by the fishing vessels of all nations participating in the fishery. By taking into account the aggregate weight of the yellowfin tuna landings and the estimated additional quantities of yellowfin tuna expected to be taken by the fishing vessels of all nations operating in the regulatory area, the Director of Investigations will determine the date on which he deems the annual catch limit will be reached and will promptly notify the Bureau Director of such date. The Bureau Director shall announce the season closure date thus established by publication in the FEDERAL REGISTER. The closure date so announced shall be final except that if it shall at any time become evident to the Director of Investigations that the catch limit will not be reached by such date, he may substitute another date which shall be announced by the Bureau Director in like manner as provided for the date originally determined.

(b) Except as provided in paragraphs (c) and (d) of this section, after the date determined in the manner provided in this section for the closing of the yellowfin fishing season, the taking of yellowfin tuna shall be prohibited until the yellowfin tuna fishing season reopens on January 1 next following the close of the season.

(c) Any fishing vessel which has departed port to engage in yellowfin tuna fishing pursuant to a tuna clearance certificate last validated prior to the date of the closure of the yellowfin fishing season may continue to take and retain yellowfin tuna without restriction as to quantity until the fishing voyage has been completed by unloading in port or by transferring to a transport vessel the whole or any part of the fishing vessel's cargo of tuna.

(d) After the close of the yellowfin tuna fishing season as provided in this section, yellowfin tuna captured as an incident to fishing for other tuna fishes may be taken on board a fishing vessel and landed or transferred to a transport vessel in an amount not exceeding fifteen percent by weight of all tuna fishes landed or transferred by the fishing vessel.

(e) At any time during the closed season a transport vessel, without regard to the quantities of yellowfin or other tuna fishes possessed on board the transport vessel, may receive, possess and transport to a port of the United States yellowfin tuna lawfully taken and transferred by a fishing vessel on the high seas: *Provided*, That no yellowfin tuna in any amount may be transferred from a fishing vessel or be received on board a transport vessel during the closed season unless an officer authorized to enforce the regulations in this part is aboard the transport vessel for the purpose of inspecting all such transfers.

#### § 280.6 Tuna clearance certificates.

(a) Except as permitted by § 280.8, after the first day of July 1964, no person shall use a fishing vessel or a transport vessel for the capture, retention, transportation, or landing of yellowfin tuna

in any quantity from the regulatory area during the open season unless such vessel shall have first been registered and cleared for yellowfin tuna fishing or for transporting yellowfin tuna in conformity with the provisions of this section.

(b) The managing owner, master, or other person in charge of a fishing vessel or a transport vessel may register such vessel to engage in yellowfin tuna fishing or in transporting yellowfin tuna from the fishing grounds by furnishing, either by letter or on a form to be supplied by the Bureau of Commercial Fisheries, information specifying the names and addresses of the managing owner and master, respectively, of the vessel, and the name, official number, home port, and cargo capacity (in tons of frozen tuna) of the vessel. Such application shall be submitted to the Regional Director who shall, without charge, issue in the name of the fishing vessel or transport vessel a certificate evidencing its registration to engage in yellowfin tuna fishing or in transporting yellowfin tuna during the calendar year applied for. Each such certificate shall expire at the end of the calendar year during which it is issued and shall be replaced by a new certificate upon application made in like manner as prescribed for the original certificate. New certificates shall similarly be issued to replace lost or mutilated certificates.

(c) Except as provided in paragraph (f) of this section, not earlier than 48 hours prior to each departure from port to engage in fishing for or transporting yellowfin tuna during the open season for such tuna, the master or other person in charge of a fishing vessel or a transport vessel or the agent of such person shall present the vessel's tuna clearance certificate for validation. Validation of a tuna clearance certificate shall be accomplished in the manner specified in paragraph (d) of this section. Such validation shall terminate at the time of the first discharge thereafter of any part of the tuna taken on board during the voyage authorized by the validated certificate.

(d) Validation of a tuna clearance certificate as required in paragraph (c) of this section shall, upon request and only during the open season on yellowfin tuna, be entered as an endorsement made by an authorized validating officer upon the certificate held by the fishing vessel or transport vessel. Authorized officers as listed below, and their authorized representatives, may perform the functions of authorized validating officers:

(1) For vessels departing ports of the United States—

Regional Director, Pacific Southwest Region, Bureau of Commercial Fisheries, Terminal Island, California; and Regional Director, Pacific Northwest Region, Bureau of Commercial Fisheries, Arcade Building, Seattle, Wash.,

Officers of the United States Bureau of Customs,

Officers of the United States Coast Guard, Officers and employees of the Commonwealth of Puerto Rico.

(2) For vessels departing foreign ports—

The officer-in-charge at each of the following United States Consular posts:

Colombia: Barranquilla, Bogota, Buenaventura, and Cali.

Chile: Antofagasta, Concepcion, Santiago, and Valparaiso.

Costa Rica: Puntarenas and San Jose.

Ecuador: Guayaquil and Quito.

El Salvador: San Salvador.

Guatemala: Guatemala.

Mexico: Mexico, D.F., and Mazatlan.

Nicaragua: Managua.

Panama: Colon and Panama.

Peru: Arequipa and Lima.

(e) As circumstances require, the Bureau Director from time to time shall revise the list of authorized validating officers by publishing appropriate changes in the FEDERAL REGISTER. In the event an authorized validating officer is not available in port at the time of impending departure of a fishing vessel on a fishing voyage, a validation of the nature required by paragraph (c) of this section may be obtained by letter or prepaid telegraphic communication.

(f) A validation by an authorized validating officer shall not be required for a vessel departing a foreign port in any case where the Bureau Director finds and publishes notice thereof in the FEDERAL REGISTER that the Government of the country in which the port is situated has in force conservation measures which are adequate to meet the objectives of this section, including the means for providing documentary evidence establishing the date of departure of the vessel to engage in fishing for or transporting yellowfin tuna.

(g) The tuna clearance certificate and validation endorsements thereon issued as provided in this section shall at all times be carried on board the vessel for which issued and such certificate, the vessel, and its cargo shall at all times be subject to inspection for the purposes of this part by officers authorized to enforce the provisions of this part.

#### § 280.7 Reports and record keeping.

The master or other person in charge of a vessel holding a tuna clearance certificate issued under this part shall—

(a) Keep an accurate log of all operations conducted from the vessel, entering therein for each day the date, noon position (stated in latitude and longitude or in relation to known physical features) and the estimated quantities (in short tons) of tuna fish by species which are taken on board the vessel: *Provided*, That the fishing record and bridge log maintained at the request of the Commission shall be deemed a sufficient compliance with this paragraph whenever the items of information specified herein are fully and accurately entered in such log.

(b) Report by radio at least once each calendar week during a fishing voyage conducted in the open season; such reporting to begin on a date to be announced by the Bureau Director through publication of a suitable notice in the FEDERAL REGISTER and to continue throughout the open season. Reports by radio shall be made directly or through a cooperating vessel to Radio Station WWD, La Jolla, California, 4415.8 kc or 8805.6 kc or by prepaid commercial radio



message directed to the Director of Investigations. Radio reports shall be made between 0900 and 2400, P.s.t., and shall state the name of the fishing vessel and the cumulative estimated quantities, by species, of all tuna fish taken on board from week to week throughout the duration of the fishing voyage. Weekly reports containing all items of information required by this paragraph may be submitted to the Director of Investigations by the shore representative of the vessel master in lieu of the radio reports from the vessel.

(c) Furnish on a form supplied by the Bureau of Commercial Fisheries, immediately following the delivery or sale of a catch of tuna made by means of such vessel, a report, certified to be correct, giving the name and official number of the fishing vessel, the dates of commencement and conclusion of the fishing voyage and listing separately by species and weight in pounds or short tons, the gross quantities of each species of tuna fish so sold or delivered: *Provided*, That, at the option of the vessel master or other person in charge, a copy of the fish ticket, weigh-out slip, settlement sheet, or similar record customarily issued by the fish dealer or his agent may be used for reporting purposes, in lieu of the form supplied by the Bureau of Commercial Fisheries, if such alternate record is similarly certified and contains all items of information required by this paragraph: *Provided*, That any vessel landing its catch in California and reporting by means of a copy of the California fish ticket may indicate the California Fish and Game boat number in lieu of the vessel's official number. Such report shall be delivered or mailed to the Regional Director within 48 hours after the weigh-out has been completed.

#### § 280.8 Persons and vessels exempted.

Nothing contained in §§ 280.2 to 280.7 shall apply to:

(a) Any person or vessel authorized by the Commission, the Bureau Director, or any State of the United States to engage in fishing for research purposes.

(b) Any vessel documented as a common carrier by the Government of the United States and engaged exclusively in the carriage of freight and passengers (other than a transport vessel as defined in § 280.1(j)).

(c) Any vessel of less than ten gross tons.

(d) Any person or vessel engaged in sport fishing for personal use.

### PART 281—RESTRICTIONS ON TUNA IMPORTS

Sec.	
281.1	Definitions.
281.2	Basis and purpose.
281.3	Species subject to regulation.
281.4	Species under investigation by the Commission.
281.5	Investigations authorized.
281.6	Publication of findings.
281.7	Proof of admissibility.
281.8	Removal of import restrictions.

**AUTHORITY:** The provisions of this Part 281 issued under sec. 6, 64 Stat. 778, as amended, 16 U.S.C. 955.

#### § 281.1 Definitions.

For the purposes of this part, the following terms shall be construed, respectively, to mean and to include:

(a) *United States*. All areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone.

(b) *Convention*. The Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 31, 1949, by the United States of America and the Republic of Costa Rica (1 U.S.T. 230).

(c) *Commission*. The Inter-American Tropical Tuna Commission established pursuant to the Convention.

(d) *Bureau Director*. The Director of the Bureau of Commercial Fisheries, Fish and Wildlife Service, United States Department of the Interior.

(e) *Regulatory area*. All waters of the eastern Pacific Ocean bounded by the mainland of the Americas and the following lines:

Beginning at a point on the mainland where the parallel of 40 degrees north latitude intersects the coast; thence due west to the meridian of 125 degrees west longitude; thence due south to the parallel of 20 degrees north latitude; thence due east to the meridian of 120 degrees west longitude; thence due south to the parallel of 5 degrees north latitude; thence due east to the meridian of 110 degrees west longitude; thence due south to the parallel of 10 degrees south latitude; thence due east to the meridian of 90 degrees west longitude; thence due south to the parallel of 30 degrees south latitude; thence due east to a point on the mainland where the parallel of 30 degrees south latitude intersects the coast.

(f) *Yellowfin tuna*. Any fish of the species *Thunnus albacares* (synonymy: *Neothunnus macropterus*).

(g) *Other tuna fishes*. Those species (and none other) of the family Scombridae which are known as:

(1) *Albacore*—*Thunnus alalunga* (synonymy: *Thunnus germo*).

(2) *Bigeye*—*Thunnus obesus* (synonymy: *Parathunnus sibi*).

(3) *Bluefin*—*Thunnus thynnus* (synonymy: *Thunnus saliens*).

(4) *Skippjack*—*Euthynnus pelamis* (synonymy: *Katsuwonus pelamis*).

(h) *Fishing vessel*. Every kind, type or description of watercraft (other than purse seine skiffs) used in or outfitted for catching or processing fish or transporting fish from fishing grounds.

(i) *Person*. Individual, association, corporation or partnership.

#### § 281.2 Basis and purpose.

(a) At a special meeting held at Long Beach, California on September 14, 1961, the Commission recommended to the Governments of Costa Rica, Ecuador, Panama, and the United States of America, parties to the Convention, that they take joint action to limit the annual catch of yellowfin tuna from the eastern Pacific Ocean by fishermen of all nations during the calendar year 1962. This recommendation was made pursuant to paragraph 5 of Article II of the Convention on the basis of scientific investigations conducted by the Commission over a period of time dating from 1951. The most recent years of this

period were marked by a substantial increase in fishing effort directed toward the yellowfin tuna stocks, resulting in a rate of exploitation of these stocks greater than that at which the maximum average sustainable yield may be obtained. The Commission's recommendation for joint action by the parties to regulate the yellowfin tuna fishery has as its objective the restoration of these stocks to a level of abundance which will permit maximum average sustainable catch and the maintenance of the stocks in that condition in the future.

(b) At annual meetings held at Quito, Ecuador, May 16-18, 1962; at Panama City, Panama, April 16-17, 1963; and at San Diego, California, March 18-19, 1964; the Commission affirmed its earlier conclusions regarding the need for regulating the yellowfin tuna fishery in the eastern Pacific Ocean and at each meeting recommended to the parties to the Convention that they take joint action to:

(1) Establish a prescribed tonnage limit on the total catch of yellowfin tuna by the fishermen of all nations during each calendar year from an area of the eastern Pacific Ocean defined by the Commission;

(2) Establish open and closed seasons for yellowfin tuna under prescribed conditions;

(3) Permit the landing of not more than fifteen percent (15%) by weight of yellowfin tuna among the tuna taken on a fishing trip made after the close of the yellowfin tuna fishing season; and

(4) Obtain from governments not parties to the Convention, but having vessels which operate in the fishery, cooperation in effecting the recommended conservation measures.

(c) At a meeting held at San Diego, California, on March 20, 1964, representatives of the Government of Costa Rica, Ecuador, Japan, Mexico, and the United States of America gave assurances that beginning as of July 1, 1964, each country would apply to all vessels and persons subject to its jurisdiction effective measures for the implementation of the recommendations made by the Commission in March 1964 for a yellowfin tuna conservation regime. Subsequent to March 20, 1964, the Governments of ----- and ----- gave like assurances. The several countries named are parties to the Convention or, not being parties, exercise jurisdiction over vessels which "engage in fishing for species covered by the Convention in the regulatory area on a meaningful scale, in terms of effect upon the success of the conservation program," within the purview of section 6(c) of the Tuna Conventions Act of 1950, as amended.

(d) In conformity with the provisions of section 6(c) of the Act and simultaneously with the adoption of the regulations in this part, the Secretary of the Interior has made effective Part 280 of this title for the purpose of carrying out the current and future recommendations of the Commission for the conservation of yellowfin tuna in the regulatory area so far as such recommendations affect all vessels and persons subject to the jurisdiction of the United States.

(e) The yellowfin tuna stocks recommended for regulation by the Commission constitute a significant part of an international high seas fishery in which the vessels of a number of countries are engaged in varying degrees. Since some of the countries are not parties to the Convention and, therefore, have no applicable treaty obligations to fulfill, the achievement of the conservation objectives with respect to the tuna resources of the eastern Pacific Ocean is dependent upon international cooperative efforts to implement the Commission's recommendations. With a view toward encouraging effective cooperation on the part of such countries, the Tuna Conventions Act of 1950, as amended, directs that restrictions be established on the importation of certain tuna fish from any country which shall fail to take action to prevent the occurrence of certain proscribed activities. Thus, section 6(c) of the Act provides that the Secretary of the Interior, with the concurrence of the Secretary of State, shall promulgate regulations—

(1) To prohibit the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the regulatory area; and

(2) To prohibit entry into the United States, from any country, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the regulatory area by vessels other than those of such country in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission.

(f) Section 6(c) of the Act further provides that "in the case of repeated and flagrant fishing operations in the regulatory area by the vessels of any country which seriously threaten the achievement of the objectives of the Commission's recommendations, the Secretary of the Interior, with the concurrence of the Secretary of State, may, in his discretion, also prohibit the entry from such country of such other species of tuna, in any form, as may be under investigation by the Commission and which were taken in the regulatory area."

(g) The regulations in this part are designed to implement the provisions of section 6(c) of the Act with respect to import controls and to prescribe procedures for the establishment of restrictions on imports of tuna whenever such action shall be deemed warranted.

#### § 281.3 Species subject to regulation.

The species of fish currently subject to regulation pursuant to a recommendation of the Commission within the meaning of section 6(c) of the Act is yellowfin tuna.

#### § 281.4 Species under investigation by the Commission.

The species of fish currently under investigation by the Commission within the meaning of section 6(c) of the Act are yellowfin tuna, skipjack tuna, and bigeye tuna.

#### § 281.5 Investigations authorized.

(a) The Bureau Director shall cause to be made from time to time such inquiries and investigations as may be necessary to keep himself and other persons concerned currently informed regarding the nature and effectiveness of the measures for the implementation of the Commission's recommendations which are being carried out by countries whose vessels engage in fishing within the regulatory area. In making a finding as to whether or not a country is condoning the use of vessels in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, the Bureau Director shall take into account, among such other considerations as may appear to be pertinent in a particular case, the following factors:

(1) Whether or not the country provides or causes to be provided to the Commission pertinent statistics on a timely basis.

(2) Whether or not the country has in force conservation measures applicable to its own fishermen adequate for the implementation of the Commission's recommendations.

(3) Whether or not the country has in force measures for the control of landings in its ports of species subject to regulation which are taken in the regulatory area by fishermen of other countries contrary to the Commission's conservation recommendations.

(4) Whether or not the country, having put conservation measures into effect, takes reasonable action to enforce such measures.

(5) The number of vessels of the country which conduct fishing operations in the regulatory area.

(6) The quantity of species subject to regulation taken from the regulatory area by the country's vessels contrary to the Commission's conservation recommendations and its relationship to (i) the total quantity permitted to be taken by the vessels of all countries participating in the fishery and (ii) the quantity of such species sought to be restored to the stocks of fish pursuant to the Commission's conservation recommendations.

(7) Whether or not repeated and flagrant fishing operations in the regulatory area by the vessels of the country seriously threaten the achievement of the objectives of the Commission's recommendations.

(b) Any person who shall have reason to believe that the vessels of any country are being used in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission or that other acts within

the purview of the import control provisions of section 6(c) of the Tuna Conventions Act of 1950, as amended, are occurring or are likely to occur, may communicate his belief to the Bureau Director. Every such communication shall contain or be accompanied by a full statement of the reasons for the belief, including a detailed description of such specific acts or events as may support the belief, and such other pertinent facts as may indicate a need for instituting an investigation as authorized in this part.

(c) Upon receipt by the Bureau Director of any communication submitted pursuant to paragraph (b) of this section and found to comply with the requirements of that paragraph, the Bureau Director promptly shall cause such investigation to be made as appears to be warranted by the circumstances of the case. In conducting such investigation the Bureau Director or his designated representative shall consider any representations offered by foreign interests, importers, brokers, domestic producers, or other interested persons. Unless good cause to the contrary shall exist, every such investigation shall be completed within 60 days following receipt of the communication.

#### § 281.6 Publication of findings.

If it shall be determined on the basis of § 281.5 that species of fish subject to regulation or under investigation by the Commission, as the case may be, are ineligible for entry into the United States from a particular country pursuant to the provisions of section 6(c) of the Act, the Bureau Director, with the approval of the Secretary of the Interior and the Concurrence of the Secretary of State, when required by law, shall publish a finding to that effect in the FEDERAL REGISTER. Effective upon the date of publication of such finding in the FEDERAL REGISTER every shipment of fish in any form of the species under regulation or under investigation by the Commission offered for entry either directly or indirectly from the country named in the finding shall be denied entry unless it shall be established by satisfactory proof pursuant to § 281.7 that a particular shipment of such fish is not ineligible for entry: *Provided*, That entry shall not be denied and no such proof shall be required for any such shipment which, on the date of such publication, was in transit to the United States on board a vessel operating as a common carrier.

#### § 281.7 Proof of admissibility.

For the purposes of § 281.6 of this part and section 8(c) of the Tuna Conventions Act of 1950, as amended, a shipment of fish in any form of the species under regulation or under investigation by the Commission offered for entry, directly or indirectly, from a country named in a finding published under such § 281.6 shall be deemed to be eligible for entry if the shipment is accompanied by a certificate of eligibility, executed in the form and manner set forth below, certifying that the tuna in the shipment are not of the species specified in the published findings or, if of such species, were not taken in the regulatory area.

The required certificate of eligibility must be executed by a duly authorized official of the country named in the published finding and the certificate must be authenticated with respect to the signature and official position of the person executing the same by a consular officer or consular agent of the United States.

**CERTIFICATE OF ELIGIBILITY**

I, \_\_\_\_\_, an authorized officer of the Government of \_\_\_\_\_, certify that the shipment of tuna fish accompanied by this certificate, consisting of \_\_\_\_\_ of \_\_\_\_\_ (Quantity)

\_\_\_\_\_ in \_\_\_\_\_ (Species) (Number and kind of packages or containers)

bearing the following marks and numbers \_\_\_\_\_:

(a) Contains no fish of the species prohibited entry into the United States by virtue of a finding of ineligibility published under regulations issued pursuant to section 6(c) of the Tuna Conventions Act of 1950, as amended.

(b) Contains fish of the species prohibited entry into the United States by virtue of a finding of ineligibility published under regulations issued pursuant to section 6(c) of the Tuna Conventions Act of 1950, as amended, but that such fish were caught in the waters of \_\_\_\_\_

(Identify area or areas in which fish were taken)

by vessels subject to the jurisdiction of \_\_\_\_\_, and that none of the said fish (Country)

was taken in any part of the eastern Pacific Ocean subject to conservation regulations pursuant to recommendations of the Inter-American Tropical Tuna Commission.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Address)

[This certificate must be accompanied by a certificate of authentication executed by a consular officer or consular agent of the United States.]

**§ 281.8 Removal of import restrictions.**

Upon a determination by the Bureau Director that the conditions no longer exist which warranted the imposition of import restrictions against the country named in the finding published pursuant to § 281.6, the Bureau Director, with the approval of the Secretary of the Interior, shall publish a finding to such effect in the FEDERAL REGISTER. Effective upon the date of publication of such finding, the prior existing import restrictions against the country designated therein shall terminate: *Provided*, That for a period of one year from such date of publication every shipment of fish in any form of the species subject to regulation or under investigation by the Commission shall continue to be denied entry unless the shipment is accompanied by a certification executed by an authorized official of the country of export and authenticated by a consular officer or consular agent of the United States, certifying that no portion of the shipment is comprised of fish which are of species under regulation and which were prohibited from entry under the prior existing import restrictions.

[F. R. Doc. 64-4711; Filed, May 8, 1964; 8:51 a.m.]

**SECURITIES AND EXCHANGE COMMISSION**

[ 17 CFR Parts 239, 240, 249 ]

[Release 33-4686, etc.]

**RESTRICTED STOCK OPTIONS**

**Proposed Exemption**

Notice is hereby given that the Securities and Exchange Commission has under consideration the adoption of amendments to Forms S-1, S-8, and S-11 under the Securities Act of 1933 (Forms S-1 and S-11 are listed and described, 17 CFR 239.11, 239.18; Form S-8 is set forth in full as 17 CFR 239.16b); and to Form 10 (listed and described, 17 CFR 249.210) and Rules 10b-6 and 16b-3 (17 CFR 240.10b-6, 240.10b-3) under the Securities Exchange Act of 1934. The Commission believes the amendments to be necessary and appropriate in view of certain changes made by the Revenue Act of 1964 in the provisions of the Internal Revenue Code relating to stock options eligible for special tax treatment.

Form S-1, used in general for registration under the Securities Act of 1933 of securities for which no other form is authorized or prescribed, requires certain information respecting options to purchase securities. Paragraph (a) of Item 18 of the form calls for a description of the options including the consideration to the grantor and the market value of the securities involved on the granting date. However, respecting "restricted stock options" as defined in section 421 of the Internal Revenue Code, the only information required is a statement identifying the options as being restricted stock options, a brief description of the terms of the options or of the plan pursuant to which they were granted, and a statement of the provisions of the options or plan respecting the relationship between the option price and the market price of the securities at the date when the options were granted, and respecting the terms of any variable price option.

The above-described information called for by Form S-1 regarding options and restricted stock options is also called for by the following: Item 18(a) of Form S-8 (which may be used for registration under the Securities Act of 1933 of securities offered pursuant to certain unincorporated stock purchase, savings or similar plans, interests in such plans, and "[s]tock to be offered pursuant to 'restricted stock options' as defined in section 421(d) of the Internal Revenue Code of 1954."); Item 21(a) of Form S-11 (used for registration under the Securities Act of 1933 of securities issued by real estate investment trusts or other issuers whose business primarily consists of investing in real estate); Item 10(a) of Form 10 (used for registration under the Securities Exchange Act of 1934 of securities on a National securities exchange for which no other form is provided).

Rule 10b-6 (17 CFR 240.10b-6) was adopted pursuant to section 10(b) of the Securities Exchange Act which makes it

unlawful for any person by use of the mails, interstate media, or national securities exchanges, in connection with the purchase or sale of any security, to use any manipulative or deceptive device or contrivance "in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors." Rule 10b-6 makes it unlawful for certain persons participating or expecting to participate in a distribution of securities, including the issuer of the securities involved in such distribution, to purchase any such security, or any security of the same class or series, until completion of their participation in the distribution, subject to specified exceptions. Paragraph (e) of Rule 10b-6 provides that the prohibitions of the rule do not apply, inter alia, to any distribution of securities by an issuer to its employees, or to employees of its subsidiaries, or to a trustee or other person acquiring the securities for the account of such employees, pursuant to a stock option plan involving only "restricted stock options" as defined in section 421 of the Internal Revenue Code.

Rule 16b-3 was adopted pursuant to section 16(b) of the Securities Exchange Act, which was enacted for the purpose of preventing the unfair use of information in short-term trading by persons owning beneficially more than 10 percent of any class of equity security which is registered on a national securities exchange, and by directors and officers of the issuer of such security. Section 16(b) provides that profits realized by such persons from the purchase and sale, or the sale and purchase, of any equity security of the company, within a period of less than six months, inure to and are recoverable on behalf of the company. It expressly exempts from its operation the sale of securities acquired in good faith in connection with a debt previously contracted, transactions by a beneficial owner who was not such both at the time of the purchase and of the sale, and "any transaction or transactions which the Commission by rules and regulations may exempt as not comprehended within the purpose of this subsection." Rule 16b-3 provides an exemption from section 16(b) for shares of stock (other than stock required upon the exercise of an option, warrant, or right) pursuant to a stock bonus, profit sharing, retirement, incentive, thrift, savings or similar plan meeting specified conditions. The rule also exempts "restricted stock options" pursuant to a plan meeting those conditions. The term "restricted stock option" is defined by reference to section 421 of the Internal Revenue Code of 1954.

Section 221 of the Revenue Act of 1964, Public Law 88-272, 78 Stat. 19, which became law on February 26, 1964, has amended the Internal Revenue Code of 1954 to provide for three categories of stock options that are entitled to special tax treatment. These categories are designated variously as "qualified stock options" (section 422), stock options granted pursuant to "employee stock purchase plans" (section 423), and "restricted stock options" (section 424).

The amendments to Form S-1, Form S-8, Form S-11, Form 10, Rule 10b-6 and

Rule 16b-3 that the Commission has under consideration are designed merely to conform those forms and rules to the above-described changes in the Internal Revenue Code. The proposed amendments would not be intended to change the requirements of the forms nor to expand or narrow the coverage of the exemptions now provided in the rules except for such changes in requirements or coverage as would flow from the amendments to the Internal Revenue Code.

The proposed amendments are as follows:

I. Section 239.11 would be amended by setting forth Form S-1 in full, with Item (18) (a) of Part I thereof changed as described above.

II. Section 239.16b (Form S-8) would be amended by changing paragraph (a), and Item (18) (a) of paragraph (d), as described above and as set forth below.

III. Section 239.18 would be amended by setting forth Form S-11 in full, with Item (21) (a) of Part I thereof changed as described above.

IV. Section 240.10b-6 would be amended by changing paragraph (e) as described above and set forth below.

V. Section 240.16b-3 would be amended by changing the caption thereof, the introductory paragraph, and paragraphs (b) (1) (iii), (2) (iii), and (c) (1) as described above and set forth below.

VI. Section 249.210 would be amended by setting forth Form 10 in full, with Item (10) (a) thereof changed as described above.

The sections as proposed to be amended read as follows:

§ 239.11 Form S-1—Registration statement under the Securities Act of 1933.

(a) Cover sheet of form.

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C., 20549

FORM S-1

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

(Exact name of registrant as specified in charter)

(Address of principal executive offices)

(Name and address of agent for service)

Approximate date of commencement of proposed sale to the public

CALCULATION OF REGISTRATION FEE

Title of each class of securities being registered	Amount being registered	Proposed maximum offering price per unit	Proposed maximum aggregate offering price

Amount of registration fee

(b) General instructions — (1) Rule as to use of Form S-1. Form S-1 shall be used for registration under the Securities Act of 1933 of securities of all issuers for which no other form is authorized or prescribed, except that this form shall not be used for securities of foreign governments or political subdivisions thereof.

(2) Application of general rules and regulations. Attention is directed to

the General Rules and Regulations under the Act, particularly those comprising Regulation C (§§ 230.400-230.494). That regulation contains general requirements regarding the preparation and filing of the registration statement. The definitions contained in Rule 405 (§ 230.405) should be especially noted.

(3) Documents comprising registration statement. The registration statement shall consist of the facing sheet of the form, the prospectus containing the information specified in Part I, the information called for by Part II, the undertaking to file reports, the required signatures, consents of experts, financial statements and exhibits and any other prospectus, information, undertaking or documents which are required or which the registrant may file as a part of the registration statement.

(4) Form and content of prospectus. (i) The purpose of the prospectus is to inform investors. Hence, the information set forth in the prospectus should be presented in clear, concise, understandable fashion. Avoid unnecessary and irrelevant details, repetition or the use of unnecessary technical language. The prospectus shall contain the information called for by all of the items of Part I of the form, except that no reference need be made to inapplicable items, and negative answers to any item may be omitted.

(ii) Unless clearly indicated otherwise, information set forth in any part of the prospectus need not be duplicated elsewhere in the prospectus. Where it is deemed necessary or desirable to call attention to such information in more than one part of the prospectus, this may be accomplished by appropriate cross reference. In lieu of restating information in the form of notes to the financial statements, references should be made to other parts of the prospectus where such information is set forth.

(5) Foreign subsidiaries. Information required by any item or other requirement of this form with respect to any foreign subsidiary may be omitted to the extent that the required disclosure would be detrimental to the registrant, provided a statement is made that such information has been omitted. In such case, a statement of the names of the subsidiaries omitted shall be separately furnished. The Commission may, in its

discretion, call for justification that the required disclosure would be detrimental.

(6) Exchange offers. If any of the securities being registered are to be offered in exchange for securities of any other issuer the prospectus shall also include the information which would be required by Item (6) to (10) inclusive and Item (12) if the securities of such other issuer were being registered on this form. Item (11) should be included if any promoter of such other issuer is a promoter, officer or director of the registrant or a security holder named in answer to Item (19) (a). There shall also be included the information concerning such securities of such other issuer which would be called for by Item (13), (14) or (15) if such securities were being registered. In connection with this instruction, reference is made to Rule 409 (§ 230.409).

(7) Preparation of Part II. (i) Part II of the registration statement shall contain the numbers and captions of the items in Part II of the form (paragraph (d) of this section), but the text of the items may be omitted provided the answers are so prepared as to indicate to the reader the coverage of the items without the necessity of referring to the text of the items or the instructions thereto. If the information required by any item of Part II is completely disclosed in the prospectus, reference may be made to the specific page or caption of the prospectus which contains such information.

(ii) If the information required by Items (26), (27), (28) or (30) has been given in a registration statement, application for registration or annual report filed with the Commission pursuant to any act administered by the Commission and no additional information is needed to make the information previously filed accurate, complete and up to date, the required information may be incorporated by a specific reference to the page or pages of the previous filing which contains such information.

(c) Part I—Information required in prospectus.

Item (1): Distribution spread. The information called for by the following table shall be given, in substantially the tabular form indicated, on the outside front cover page of the prospectus as to all securities being registered which are to be offered for cash (estimate, if necessary).

Per unit	Price to public	Underwriting discounts and commissions	Proceeds to registrant or other persons
Total			

Instructions. 1. The term "commissions" has the meaning given in paragraph (17) of Schedule A of the Act. Only commissions paid by the registrant or selling security holders in cash are to be included in the table. Commissions paid by other persons, and other considerations to the underwriters, shall be set forth following the table with a reference thereto in the second column of the table. Any finder's fees or similar payments shall be appropriately disclosed.

2. If it is impracticable to state the price to the public, the method by which it is to be determined shall be explained. In addition, if the securities are to be offered

at the market, or if the offering price is to be determined by a formula related to market prices, indicate the market involved and the market price as of the latest practicable date.

3. If any of the securities being registered are to be offered for the account of security holders, refer on the first page of the prospectus to the information called for by Instruction 3 to Item (19).

Item (2): Plan of distribution. (a) If the securities being registered are to be offered through underwriters, give the names of the principal underwriters, and state the respective amounts underwritten. Identify

each such underwriter having a material relationship to the registrant and state the nature of the relationship. State briefly the nature of the underwriters' obligation to take the securities.

**Instructions.** All that is required as to the nature of the underwriters' obligation is whether the underwriters are or will be committed to take and to pay for all of the securities if any are taken, or whether it is merely an agency or "best efforts" arrangement under which the underwriters are required to take and pay for only such securities as they may sell to the public. Conditions precedent to the underwriters' taking the securities, including "market outs", need not be described except in the case of an agency or "best efforts" arrangement.

(b) State briefly the discounts and commissions to be allowed or paid to dealers, including all cash, securities, contracts or other consideration to be received by any dealer in connection with the sale of the securities.

**Instruction.** If any dealers are to act in the capacity of sub-underwriters and are to be allowed or paid any additional discounts or commissions for acting in such capacity, a general statement to that effect will suffice without giving the additional amounts to be so paid.

(c) Outline briefly the plan of distribution of any securities being registered which are to be offered otherwise than through underwriters.

**Item (3): Use of proceeds to registrant.** State the principal purposes for which the net proceeds to the registrant from the securities to be offered are intended to be used, and the approximate amount intended to be used for each such purpose.

**Instructions.** 1. Details of proposed expenditures are not to be given; for example, there need be furnished only a brief outline of any program of construction or addition of equipment. If any substantial portion of the proceeds has not been allocated for particular purposes, a statement to that effect shall be made together with a statement of the amount of proceeds not so allocated.

2. Include a statement as to the use of the actual proceeds if they are not sufficient to accomplish the purposes set forth and the order of priority in which they will be applied. However, such statement need not be made if the underwriting arrangements are such that, if any securities are sold to the public, it can be reasonably expected that the actual proceeds of the issue will not be substantially less than the estimated aggregate proceeds to the registrant as shown under Item (1).

3. If any material amounts of other funds are to be used in conjunction with the proceeds, state the amounts and sources of such other funds. If any material part of the proceeds is to be used to discharge a loan, the item is to be answered as to the use of the proceeds of the loan if the loan was made within one year; otherwise, it will suffice to state that the proceeds are to be used to discharge the indebtedness created by the loan.

4. If any material amount of the proceeds is to be used to acquire assets, otherwise than in the ordinary course of business, briefly describe the assets and give the names of the persons from whom they are to be acquired. State the cost of the assets to the registrant and the principle followed in determining such cost.

**Item (4): Sales otherwise than for cash.** If any of the securities being registered are to be offered otherwise than for cash, state briefly the general purposes of the distribution, the basis upon which the securities are to be offered, the amount of compensation and other expenses of distribution, and by whom they are to be borne.

**Instruction.** If the distribution is to be made pursuant to a plan of acquisition, re-organization, readjustment or succession, describe briefly the general effect of the plan and state when it became or is to become operative. As to any material amount of assets to be acquired under the plan, furnish information corresponding to that required by Instruction 4 of Item (3). See also General Instruction F (paragraph (b) (6) of this section).

**Item (5): Capital structure.** Furnish the information called for by the following table, in substantially the tabular form indicated, as to each class of securities of the registrant and each class of securities, other than those owned by the registrant or its totally-held subsidiaries, of all subsidiaries whose financial statements are filed with the registration statement on either a consolidated or individual basis:

Title of class	Amount authorized or to be authorized	Amount outstanding as of a specified date within 90 days	Amount to be outstanding if all securities being registered are sold
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**Instructions.** 1. Securities held by or for the account of the issuer thereof are not to be included in the amount outstanding, but the amount so held shall be stated in a note to the table. Also set forth in a note to the table a cross reference to the note in the financial statements containing information concerning the extent of obligations under leases on real property.

2. Indebtedness evidenced by drafts, bills of exchange, bankers' acceptances or promissory notes may be set forth in a single aggregate amount under an appropriate caption such as "Sundry Indebtedness."

3. A registrant may, at its option, include in the table the capital share liability in dollars, as well as the amount, of each class of shares shown in the table, together with capital surplus and earned surplus. Surplus shall be shown in the same manner as in the balance sheet of the registrant, or in the consolidated balance sheet of the registrant and subsidiaries, if such a consolidated balance sheet is included in the prospectus.

**Item (6): Summary of earnings.** Furnish in comparative columnar form a summary of earnings for the registrant or for the registrant and its subsidiaries consolidated, or both, as appropriate, for each of the last five fiscal years of the registrant (or for the life of the registrant and its immediate predecessors, if less) and for any period between the end of the latest of such fiscal years and the date of the latest balance sheet furnished, and for the corresponding period of the preceding fiscal year. In connection with such summary, whenever necessary, reflect information or explanation of material significance to investors in appraising the results shown, or refer to such information or explanation set forth elsewhere in the prospectus.

**Instructions.** 1. Include comparable data for any additional fiscal years necessary to keep the summary from being misleading. Subject to appropriate variation to conform to the nature of the business or the purpose of the offering, the following items shall be included: net sales or operating revenues; cost of goods sold or operating expenses (or gross profit); interest charges; income taxes; net income; special items; and net income and special items. The summary shall reflect the retroactive adjustment of any material items affecting the comparability of the results. See Item (21) (b).

2. If common stock is being registered, the summary shall be prepared to present earnings applicable to common stock. Per share earnings and dividends declared for each

period of the summary shall also be included unless inappropriate.

3. A registrant which is engaged primarily (1) in the generation, transmission or distribution of electricity, the manufacture, mixing, transmission or distribution of gas, the supplying or distribution of water or in furnishing telephone or telegraph services or (2) in holding securities in such companies, may, at its option, include a summary for a twelve months period to the date of the latest balance sheet furnished, in lieu of both the summary for the interim period between the end of the last fiscal year and such balance sheet date and the summary for the corresponding period of the preceding fiscal year.

4. A registrant may, at its option, show in tabular form for each fiscal year or other period, the ratio of earnings (computed in accordance with generally accepted accounting principles after all operating and income deductions, except taxes based on income or profits and fixed charges) to fixed charges. The term "fixed charges" shall mean (1) interest and amortization of debt discount and expenses and premium on all indebtedness; (2) an appropriate portion of rentals under long-term leases and, (3) in case consolidated figures are used, preferred stock dividend requirements of consolidated subsidiaries, excluding in all cases, items eliminated in consolidation. In the case of utilities, interest credits charged to construction should be added to gross income and not deducted from interest. If the ratio is shown, the pro forma ratio of earnings to fixed charges adjusted to give effect to the issuance of securities being registered and to any presently proposed issuance, retirement or redemption of securities should be disclosed. Any registrant electing to show the ratio of earnings to fixed charges, in accordance with this instruction, shall file as an exhibit a statement setting forth in reasonable detail the computations of such ratios. For the purpose of this exhibit and the pro forma ratio referred to above, an assumed maximum interest rate may be used on securities as to which the interest rate has not yet been fixed, which assumed rate should be shown.

5. In connection with any unaudited summary for an interim period or periods between the end of the last fiscal year and the balance sheet date, and any comparable unaudited prior period, a statement shall be made that all adjustments necessary to a fair statement of the results for such interim period or periods, have been included. In addition, there shall be furnished in such cases, as supplemental information but not as a part of the registration statement, a letter describing in detail the nature and amount of any adjustments, other than normal recurring accruals, entering into the determination of the results shown.

6. If long term debt or preferred stock is being registered, there shall be shown the annual interest requirements on such long term debt or the annual dividend requirements on such preferred stock. To the extent that an issue represents refunding or refinancing, only the additional annual interest or dividend requirements shall be stated.

**Item (7): Organization of registrant.** State the year in which the registrant was organized, its form of organization (such as "a corporation", "An unincorporated association" or other appropriate statement) and the name of the State or other jurisdiction under the laws of which it was organized.

**Item (8): Parents of registrant.** List all parents of the registrant showing the basis of control and, as to each parent, the percentage of voting securities owned or other basis of control by its immediate parent, if any.

**Instructions.** 1. Include the registrant and show the percentage of its voting securities owned or other basis of control by its

immediate parent. In case any parent is a resident of, or a corporation or other organization formed under the laws of, any foreign country, give the name of such country for each such foreign parent, and, if it is a corporation or other organization, state briefly the nature of the organization.

2. If the securities being registered are to be issued in connection with or pursuant to a plan of acquisition, reorganization, readjustment or succession, indicate, so far as practicable, the status to exist upon consummation of the plan.

*Item (9): Description of business.* (a) Briefly describe the business done and intended to be done by the registrant and its subsidiaries and the general development of such business during the past five years. If the business consists of the production or distribution of different kinds of products or the rendering of different kinds of services, indicate, insofar as practicable, the relative importance of each product or service or class of similar products or services which contributed 15% or more to the gross volume of business done during the last fiscal year.

*Instructions.* 1. The description shall not relate to the powers and objects specified in the charter, but to the actual business done and intended to be done. Include the business of subsidiaries of the registrant only insofar as is necessary to understand the character and development of the business conducted by the total enterprise.

2. In describing developments, information shall be given as to matters such as the following: The nature and results of any bankruptcy, receivership or similar proceedings with respect to the registrant or any of its significant subsidiaries; the nature and results of any other materially important reorganization, readjustment or succession of the registrant or any of its significant subsidiaries; the acquisition or disposition of any material amount of assets otherwise than in the ordinary course of business; any materially important changes in the types of products produced or services rendered by the registrant and its subsidiaries; and any materially important changes in the mode of conducting the business, such as fundamental changes in the methods of distribution.

(b) Indicate briefly, to the extent material, the general competitive conditions in the industry in which the registrant and its subsidiaries are engaged or intend to engage, and the position of the enterprise in the industry. If several products or services are involved, separate consideration should be given to the principal products or services or classes of products or services.

*Item (10): Description of property.* State briefly the location and general character of the principal plants, mines and other materially important physical properties of the registrant and its subsidiaries. If any such property is not held in fee or is held subject to any major encumbrance, so state and briefly describe how held.

*Instructions.* 1. What is required is information essential to an investor's appraisal of the securities being registered. Such information should be furnished as will reasonably inform investors as to the suitability, adequacy, productive capacity and extent of utilization of the facilities used in the enterprise. Detailed descriptions of the physical characteristics of individual properties or legal descriptions by metes and bounds are not required and should not be given.

2. In the case of an extractive enterprise, material information should be given as to production, reserves, locations, developments and the nature of the registrant's interest. Where individual properties are of major significance to the enterprise (1) more detailed information concerning these matters should be furnished, including the results of development in the area and significant geological structures and formations, where

appropriate and (2) appropriate maps should be used to disclose location data of significant properties except where numerous maps would be required. Where the report of an engineer or other expert is referred to in the prospectus, a copy of the full report normally should be furnished as supplemental information but not as a part of the registration statement.

*Item (11): Organization within 5 years.* If the registrant was organized within the past 5 years, furnish the following information:

(a) State the names of the promoters, the nature and amount of anything of value (including money, property, contracts, options or rights of any kind) received or to be received by each promoter directly or indirectly from the registrant, and the nature and amount of any assets, services or other consideration therefor received or to be received by the registrant. The term "promoter" is defined in Rule 405 (§ 230.405 of this chapter).

(b) As to any assets acquired or to be acquired by the registrant from a promoter, state the amount at which acquired or to be acquired and the principle followed or to be followed in determining the amount. Identify the persons making the determination and state their relationship, if any, with the registrant or any promoter. If the assets were acquired by the promoter within two years prior to their transfer to the registrant, state the cost thereof to the promoter.

*Item (12): Pending legal proceedings.* Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted and the principal parties thereto. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

*Instructions.* 1. If the business ordinarily results in actions for negligence or other claims, no such action or claim need be described unless it departs from the normal kind of such actions.

2. No information need be given with respect to any proceeding which involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 15 percent of the current assets of the registrant and its subsidiaries on a consolidated basis. However, if any proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. Notwithstanding Instructions 1 and 2, any material bankruptcy, receivership, or similar proceeding with respect to the registrant or any of its significant subsidiaries shall be described. Any material proceedings to which any director, officer or affiliate of the registrant, any security holder named in answer to Item (19)(a), or any associate of any such director, officer or security holder, is a party adverse to the registrant or any of its subsidiaries shall also be described.

*Item (13): Capital stock being registered.* If capital stock is being registered, state the title of the class and furnish the following information:

(a) Outline briefly (1) dividend rights; (2) voting rights; (3) liquidation rights; (4) pre-emptive rights; (5) conversion rights; (6) redemption provisions; (7) sinking fund provisions; and (8) liability to further calls or to assessment by the registrant.

(b) If the rights of holders of such stock may be modified otherwise than by a vote of a majority or more of the shares outstanding, voting as a class, so state and explain briefly.

(c) Outline briefly any restriction on the repurchase or redemption of shares by the

registrant while there is any arrearage in the payment of dividends or sinking fund installments. If there is no such restriction, so state.

*Instructions.* 1. This item requires only a brief summary of the provisions which are pertinent from an investment standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions of the governing instruments verbatim; only a succinct resume is required.

2. If the rights evidenced by the securities being registered are materially limited or qualified by the rights of any other class of securities, include such information regarding such other securities as will enable investors to understand the rights evidenced by securities being registered. If any securities being registered are to be offered in exchange for other securities, an appropriate description of such other securities shall be given. No information need be given, however, as to any class of securities all of which will be redeemed and retired, provided appropriate steps to assure such redemption and retirement will be taken prior to or upon delivery by the registrant of the securities being registered.

*Item (14): Long-term debt being registered.* If long-term debt is being registered, outline briefly such of the following as are relevant:

(a) Provisions with respect to interest, conversion, maturity, redemption, amortization, sinking fund or retirement.

(b) Provisions with respect to the kind and priority of any lien securing the issue, together with a brief identification of the principal properties subject to such lien.

(c) Provisions restricting the declaration of dividends or requiring the maintenance of any ratio of assets, the creation or maintenance of reserves or the maintenance of properties.

(d) Provisions permitting or restricting the issuance of additional securities, the withdrawal of cash deposited against such issuance, the incurring of additional debt, the release or substitution of assets securing the issue, the modification of the terms of the security, and similar provisions.

*Instructions.* 1. In the case of secured debt, there should be stated (1) the approximate amount of unbonded bondable property available for use against the issuance of bonds, as of the most recent practicable date, and (2) whether the securities being registered are to be issued against such property, against the deposit of cash, or otherwise.

2. Provisions permitting the release of assets upon the deposit of equivalent funds or the pledge of equivalent property, the release of property no longer required in the business, obsolete property or property taken by eminent domain, the application of insurance moneys, and similar provisions, need not be described.

(e) The name of the trustee and the nature of any material relationship with the registrant or any of its affiliates; the percentage of securities of the class necessary to require the trustee to take action, and what indemnification the trustee may require before proceeding to enforce the lien.

(f) The general type of event which constitutes a default and whether or not any periodic evidence is required to be furnished as to the absence of default or as to compliance with the terms of the indenture.

*Instructions.* 1. The instructions to Item (13) shall also apply to this item. Section 305(a)(2) of the Trust Indenture Act of 1939 shall not be deemed to require the inclusion in the registration statement or in the prospectus of any information not required by this form.

2. If the registrant would be entitled to use Form S-9 for registration of the securities being described in response to this item, the information called for by paragraphs (e) and (f) may be omitted provided

the exhibit called for by Instruction 5 of the Instructions as to Exhibits in Form S-9 is filed.

**Item (15): Other securities being registered.** If securities other than capital stock or long-term debt are being registered, outline briefly the rights evidenced thereby. If subscription warrants or rights are being registered, state the title and amount of securities called for, the period during which and the price at which the warrants or rights are exercisable.

**Instruction.** The instructions to Item (13) shall also apply to this item.

**Item (16): Directors and executive officers.** List the names of all directors and executive officers of the registrant and all persons chosen to become directors or executive officers. Indicate all positions and offices with the registrant held by each person named, and the principal occupations during the past five years of each executive officer and each person chosen to become an executive officer.

**Instructions.** 1. If any person chosen to become a director or executive officer has not consented to act as such, so state.

2. For the purpose of this item, the term "executive officer" means the president, vice president, secretary and treasurer, and any other officer who performs similar policymaking functions for the registrant.

**Item (17): Remuneration of directors and officers.** (a) Furnish the following information in substantially the tabular form indicated below as to all direct remuneration paid by the registrant and its subsidiaries during the registrant's last fiscal year to the following persons for services in all capacities:

(1) Each director, and each of the three highest paid officers, of the registrant whose aggregate direct remuneration exceeded \$30,000, naming each such person.

(2) All directors and officers of the registrant as a group, without naming them.

(A) (B)

Name of individual Capacities in which or identity of group remuneration received

(C)

Aggregate direct remuneration

**Instructions.** 1. This item applies to any person who was a director or officer of the registrant at any time during the period specified. However, information need not be given for any portion of the period during which such person was not a director or officer of the registrant.

2. The information is to be given on an accrual basis if practicable. The tables required by this paragraph and paragraph (b) may be combined if the registrant so desires.

3. Do not include remuneration paid to a partnership in which any director or officer was a partner, but see Item (20).

4. If the registrant has not completed a full fiscal year since its organization or if it acquired or is to acquire the majority of its assets from a predecessor within the current fiscal year, the information shall be given for the current fiscal year, estimating future payments, if necessary. To the extent that such remuneration is to be computed upon the basis of a percentage of profits, it will suffice to state such percentage without estimating the amount of such profits to be paid.

5. If any part of the remuneration shown in response to this item was paid pursuant to a material bonus or profit-sharing plan, briefly describe the plan and the basis upon which directors or officers participate therein. See Instruction 1 to paragraph (b) for the meaning of the term "plan."

(b) Furnish the following information, in substantially the tabular form indicated below, as to all pension or retirement bene-

fits proposed to be paid under any existing plan in the event of retirement at normal retirement date, directly or indirectly, by the registrant or any of its subsidiaries to each director or officer named in answer to paragraph (a) (1) above:

(A) (B)  
Name of individual Amounts set aside or accrued during registrant's last fiscal year

(C)

Estimated annual benefits upon retirement

**Instructions.** 1. The term "plan" in this item includes all plans, contracts, authorizations or arrangements, whether or not set forth in any formal document.

2. Column (B) need not be answered with respect to amounts computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service.

3. The information called for by Column (C) may be given in a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

4. In the case of any plan (other than those specified in Instruction 2) where the amount set aside each year depends upon the amount of earnings of the registrant or its subsidiaries for such year or a prior year, or where it is otherwise impracticable to state the estimated annual benefits upon retirement, there shall be set forth, in lieu of the information called for by Column (C), the aggregate amount set aside or accrued to date, unless it is impracticable to do so, in which case there shall be stated the method of computing such benefits.

(c) Describe briefly all remuneration payments (other than payments reported under paragraph (a) or (b) of this item) proposed to be made in the future, directly or indirectly, by the registrant or any of its subsidiaries pursuant to any existing plan or arrangement to (1) each director or officer named in answer to paragraph (a) (1), naming each such person, and (2) all directors and officers of the registrant as a group, without naming them.

**Instruction.** Information need not be included as to payments to be made for, or benefits to be received from, group life or accident insurance, group hospitalization or similar group payments or benefits. If it is impracticable to state the amount of remuneration payments proposed to be made, the aggregate amount set aside or accrued to date in respect of such payments should be stated, together with an explanation of the basis for future payments.

**Item (18): Options to purchase securities.** Furnish the following information as to options to purchase securities from the registrant or any of its subsidiaries, which are outstanding as of a specified date within 30 days prior to the date of filing.

(a) Describe the options, stating the material provisions including the consideration received and to be received for such options by the grantor thereof and the market value of the securities called for on the granting date. If, however, the options are "qualified stock options" or "restricted stock options" or options granted pursuant to a plan qualifying as an "employee stock purchase plan," as those terms are defined in sections 422 through 424 of the Internal Revenue Code of 1954, as amended, and the regulations or rulings of the Internal Revenue Service thereunder, only the following is required:

(1) a statement to that effect, (2) a brief description of the terms and conditions of the options or of the plan pursuant to which they were issued, and (3) a statement of the provisions of the plan or options with

respect to the relationship between the option price and the market price of the securities at the date when the options were granted, or with respect to the terms of any variable price option.

(b) State (i) the title and amount of the securities called for by such options; (ii) the purchase prices of the securities called for and the expiration dates of such options; and (iii) the market value of the securities called for by such options as of the latest practicable date.

**Instruction.** In case a number of options are outstanding having different prices and expiration dates, the options may be grouped by prices and dates. If this produces more than five separate groups then there may be shown only the range of the expiration dates and the average purchase prices, i.e., the aggregate purchase price of all securities of the same class called for by all outstanding options to purchase securities of that class divided by the number of securities of such class so called for.

(c) Furnish separately the information called for by paragraph (b) above for all options held by (1) each director or officer named in answer to paragraph (a) (1) of Item (17) naming each such person, and (2) all directors and officers as a group without naming them.

**Instructions.** 1. The term "options" as used in this item includes all options, warrants and rights other than those issued to security holders as such on a pro rata basis.

2. The extension of options shall be deemed the granting of options within the meaning of this item.

3. Where the total market value of securities called for by all outstanding options as of the specified date referred to in this item does not exceed \$10,000 for any officer or director named in answer to paragraph (a) (1) of Item (17), or \$30,000 for all officers and directors as a group, or for all option holders as a group, this item need not be answered with respect to options held by such person or group.

**Item (19): Principal holders of securities.** Furnish the following information as of a specified date within 90 days prior to the date of filing in substantially the tabular form indicated:

(a) As to the voting securities of the registrant owned of record or beneficially by each person who owns of record, or is known by the registrant to own beneficially, more than 10 percent of any class of such securities. Show in Column (3) whether the securities are owned both of record and beneficially, of record only, or beneficially only, and show in Columns (4) and (5) the respective amounts and percentages owned in each such manner:

(1) Name and address	(2) Title of class	(3) Type of ownership
(4) Amount owned	(5) Percent of class	

(b) As to each class of equity securities of the registrant or any of its parents or subsidiaries, other than directors' qualifying shares, beneficially owned directly or indirectly by all directors and officers of the registrant, as a group, without naming them.

(1) Title of class	(2) Amount beneficially owned
(3) Percent of class	

**Instructions.** 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the issuer. In any

case where the amount owned by directors and officers as a group is less than 1 percent of the class, the percent of the class owned by them may be omitted.

2. If the equity securities are being registered in connection with, or pursuant to, a plan of acquisition, reorganization, readjustment or succession, indicate, as far as practicable, the status to exist upon consummation of the plan on the basis of present holdings and commitments.

3. If any of the securities being registered are to be offered for the account of security holders, name each such security holder and state the amount of the securities owned by him, the amount to be offered for his account, and the amount to be owned after the offering.

4. If, to the knowledge of the registrant or any principal underwriter of the securities being registered, more than 10 percent of any class of voting securities of the registrant are held or are to be held subject to any voting trust or other similar agreement, state the title of such securities, the amount held or to be held and the duration of the agreement. Give the names and addresses of the voting trustees and outline briefly their voting rights and other powers under the agreement.

**Item (20): Interest of management and others in certain transactions.** Describe briefly, and where practicable state the approximate amount of any material interest, direct or indirect, of any of the following persons in any material transactions during the last three years, or in any material proposed transactions, to which the registrant or any of its subsidiaries was, or is to be, a party:

(a) Any director or officer of the registrant;

(b) Any security holder named in answer to Item (19)(a);

(c) Any associate of any of the foregoing persons.

**Instructions.** 1. See Instruction 1 to Item (17)(a). Include the name of each person whose interest in any transaction is described and the nature of the relationship by reason of which such interest is required to be described. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

2. As to any transaction involving the purchase or sale of assets by or to the registrant or any subsidiary, otherwise than in the ordinary course of business, state the cost of the assets to the purchaser and the cost thereof to the seller if acquired by the seller within two years prior to the transaction.

3. This item does not apply to any interest arising from the ownership of securities of the registrant where the security holder receives no extra or special benefit not shared on a pro rata basis by all other holders of the same class.

4. No information need be given in answer to this item as to any remuneration not received during the registrant's last fiscal year or as to any remuneration or other transaction disclosed in response to Items (17) or (18).

5. Information should be included as to any material underwriting discounts and commissions upon the sale of securities by the registrant where any of the specified persons was or is to be a principal underwriter or is a controlling person, or member, of a firm which was or is to be a principal underwriter. Information need not be given concerning ordinary management fees paid by underwriters to a managing underwriter pursuant to an agreement among underwriters the parties to which do not include the registrant or its subsidiaries.

6. No information need be given in answer to this item as to any transaction or any interest therein where:

(i) the rates or charges involved in the transaction are fixed by law or determined by competitive bids;

(ii) the interest of the specified persons in the transaction is solely that of a director of another corporation which is a party to the transaction;

(iii) the transaction involves services as a bank depository of funds, transfer agent, registrar, trustee under a trust indenture, or other similar services;

(iv) the interest of the specified persons, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed \$30,000;

(v) the transaction does not involve remuneration for services, directly or indirectly, and (A) the interest of the specified persons arises from the ownership individually and in the aggregate of less than 10% of any class of equity securities of another corporation which is a party to the transaction, (B) the transaction is in the ordinary course of business of the registrant or its subsidiaries, and (C) the amount of such transaction or series of transactions is less than 10% of the total sales or purchases, as the case may be, of the registrant and its subsidiaries.

7. Information shall be furnished in answer to this item with respect to transactions not excluded above which involve remuneration, directly or indirectly, to any of the specified persons for services in any capacity unless the interest of such persons arises solely from the ownership individually and in the aggregate of less than 10% of any class of equity securities of another corporation furnishing the services to the registrant or its subsidiaries.

8. This item does not require the disclosure of any interest in any transaction unless such interest and transaction are material.

**Item (21): Financial statements.** Include in the prospectus all financial statements called for by the Instructions as to Financial Statements for this form, except as provided in paragraphs (a) and (b) below:

(a) All schedules to balance sheets and profit and loss statements may be omitted from the prospectus except (1) those prepared in accordance with Rules 12-16 and 12-32 of Regulation S-X (§§ 210.12-16 and 210.12-32 of this chapter) which are applicable to balance sheets and profit and loss statements included in the prospectus, and (2) those prepared in accordance with Rule 12-27 in Regulation S-X (§ 210.12-27 of this chapter) which are applicable to a company's latest balance sheet included in the prospectus. All historical information required by Part E of the Instructions as to Financial Statements (paragraph (g) of this section) may also be omitted from the prospectus.

(b) If either the profit and loss or earned surplus statements required are included in their entirety in the summary of earnings required by Item 6, the statements so included need not be otherwise included in the prospectus or elsewhere in the registration statement.

(d) **Part II—Information not required in prospectus.**

**Item (22): Marketing arrangements.** Briefly describe any arrangement known to the registrant or to any person named in answer to Item (2) or (19)(a) made for any of the following purposes:

(a) To limit or restrict the sale of other securities of the same class as those to be offered for the period of distribution.

(b) To stabilize the market for any of the securities to be offered.

(c) For withholding commissions, or otherwise to hold each underwriter or dealer responsible for the distribution of his participation.

**Instruction.** If the answer to this item is contained in an exhibit, the item may be answered by cross-reference to the relevant paragraphs of the exhibit.

**Item (23): Other expenses of issuance and distribution.** Furnish a reasonably itemized statement of all expenses in connection with the issuance and distribution of the securities being registered, other than underwriting discounts and commissions. If any of the securities being registered are to be offered for the account of security holders, indicate the portion of such expenses to be borne by such security holders.

**Instruction.** Insofar as practicable, registration fees, Federal taxes, State taxes and fees, trustees' and transfer agents' fees, cost of printing and engraving, and legal, accounting and engineering fees shall be separately itemized. The information may be given as subject to future contingencies. If the amounts of any items are not known, estimates designated as such shall be given.

**Item (24): Relationship with registrant of experts named in registration statement.** If any expert named in the registration statement as having prepared or certified any part thereof was employed for such purpose on a contingent basis or, at the time of such preparation or certification or at any time thereafter, had a substantial interest in the registrant or any of its parents or subsidiaries or was connected with the registrant or any of its subsidiaries as a promoter, underwriter, voting trustee, director, officer or employee, furnish a brief statement of the nature of such contingent basis, interest or connection.

**Instruction.** In the case of an accountant any direct financial interest or any material indirect financial interest held during the period covered by the financial statements prepared or certified shall be deemed a "substantial interest" for the purpose of this item.

**Item (25): Sales to special parties.** Name each person or specify each class of persons (other than underwriters or dealers, as such) to whom any securities have been sold within the past six months, or are to be sold, by the registrant or any security holder for whose account any of the securities being registered are to be offered, at a price varying from that at which securities of the same class are to be offered to the general public pursuant to this registration. State the consideration given or to be given by each such person or class.

**Item (26): Recent sales of unregistered securities.** Furnish the following information as to all securities of the registrant sold by the registrant within the past three years which were not registered under the Securities Act of 1933. Include sales of reacquired securities as well as new issues, securities issues in exchange for property, services, or other securities, and new securities resulting from the modification of outstanding securities.

(a) Give the date of sale and the title and amount of securities sold.

(b) Give the names of the principal underwriters, if any. As to any securities sold not publicly offered, name the persons or identify the class of persons to whom the securities were sold.

(c) As to securities sold for cash, state the aggregate offering price and the aggregate underwriting discounts or commissions. As to any securities sold otherwise than for cash, state the nature of the transaction and the nature and aggregate amount of consideration received by the registrant.

(d) Indicate the section of the Act or the Rule of the Commission under which exemption from registration was claimed and state briefly the facts relied upon to make the exemption available.

**Instructions.** 1. Information need not be set forth as to notes, drafts, bills of exchange



or bankers' acceptances which mature not later than one year from the date of issuance.

2. If the sales were made in a series of transactions, the information may be given by such totals and periods as will reasonably convey the information required.

**Item (27): Subsidiaries of registrant.** Furnish a list or diagram of all subsidiaries of the registrant, and as to each such subsidiary indicate (1) the State or other jurisdiction under the laws of which it was organized, and (2) the percentage of voting securities owned or other basis of control by its immediate parent. Designate (i) subsidiaries for which separate financial statements are filed; (ii) subsidiaries included in consolidated financial statements; (iii) subsidiaries included in group financial statements filed for unconsolidated subsidiaries; and (iv) subsidiaries for which no financial statements are filed, indicating briefly why statements of such subsidiaries are not filed.

**Instructions.** 1. In case the registrant owns directly or indirectly approximately 50% of the voting securities of any person and approximately 50% of the voting securities of such person are owned directly or indirectly by another single interest, such person shall be deemed to be a subsidiary for purposes of this item.

2. Include the registrant and show clearly the relationship of each person named to the registrant and to the other persons named. The names of particular subsidiaries may be omitted if the unnamed subsidiaries considered in the aggregate as a single subsidiary would not constitute a significant subsidiary.

3. If the securities being registered are to be issued in connection with, or pursuant to, a plan of acquisition, reorganization, readjustment, or succession, indicate insofar as practicable the status to exist upon consummation of the plan.

**Item (28): Franchises and concessions.** State briefly the general effect of all material franchises and concessions held by the registrant and its subsidiaries.

**Instruction.** As used in this item, the term "franchise" means a special privilege granted by governmental authority to use public property for business purposes, such as the use of the streets by a public utility company, or the maintenance of an establishment upon the public domain, and the term "concession" means a grant by governmental authority of the right to engage in the exploitation of natural resources.

**Item (29): Indemnification of directors and officers.** State the general effect of any charter provision, by-law, contract, arrangement or statute under which any director or officer of the registrant is insured or indemnified in any manner against any liability which he may incur in his capacity as such.

**Item (30): Treatment of proceeds from stock being registered.** If capital stock is being registered hereunder and any portion of the consideration to be received by the registrant for such stock is to be credited to an account other than the appropriate capital stock account, state to what other account such portion is to be credited and the estimated amount per share. If the consideration from the sale of par value shares is less than par value, state the amount per share involved and its treatment in the accounts.

**Item (31): Financial statements and exhibits.** List all financial statements and exhibits filed as a part of the registration statement.

(a) Financial statements, indicating those included in the prospectus.

(b) Exhibits.

(c) Statement of eligibility and qualification of each person designated to act as trustee under an indenture to be qualified under the Trust Indenture Act of 1939.

(e) **Undertakings.** (1) The following undertaking shall be included in every registration statement:

"Subject to the terms and conditions of Section 15(d) of the Securities Exchange Act of 1934, the undersigned registrant hereby undertakes to file with the Securities and Exchange Commission such supplementary and periodic information, documents and reports as may be prescribed by any rule or regulation of the Commission heretofore or hereafter duly adopted pursuant to authority conferred in that section."

(2) The following undertaking, with appropriate modifications to suit the particular case, shall be included in the registration statement if the securities being registered are to be offered to existing security holders pursuant to warrants or rights and any securities not taken by security holders are to be reoffered to the public:

"The undersigned registrant hereby undertakes to supplement the prospectus, after the expiration of the subscription period, to set forth the results of the subscription offer, the transactions by the underwriters during the subscription period, the amount of unsubscribed securities to be purchased by the underwriters and the terms of any subsequent reoffering thereof. If any public offering by the underwriters is to be made on terms differing from those set forth on the cover page of the prospectus, a post-effective amendment will be filed to set forth the terms of such offering."

(3) The following undertaking, with appropriate modifications to suit the particular case, shall be included in the registration statement if the securities being registered are to be offered at competitive bidding:

"The undersigned registrant hereby undertakes to file an amendment to the registration statement reflecting the results of bidding, the terms of the reoffering and related matters to the extent required by the applicable form, not later than the first use, authorized by the registrant after the opening of bids, of a prospectus relating to the securities offered at competitive bidding, unless no further public offering of such securities by the registrant and no reoffering of such securities by the purchasers is proposed to be made."

(f) **Signature.** Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of \_\_\_\_\_, and State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

(Registrant)

By \_\_\_\_\_  
(Signature and Title)

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed below by the following persons in the capacities and on the dates indicated.

\_\_\_\_\_  
(Signature) (Title) (Date)

**Instructions.** 1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer and by at least the majority of the board of directors or persons performing similar functions. If the registrant is a foreign person, the registration statement shall also be signed by its authorized representative in the United States.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement.

(g) **Instructions as to financial statements.** These instructions specify the balance sheets

and profit and loss statements required to be filed as a part of a registration statement on this form. Regulation S-X (Part 210 of this chapter) governs the certification, form and content of such balance sheets and profit and loss statements, including the basis of consolidation, and prescribes the statements of surplus and the schedules to be filed in support thereof. Item (21) (a) above specifies the statements which are to be included in the prospectus. Attention is directed to Rule 411(b) (§ 230.411(b) of this chapter) regarding incorporation by reference of financial statements.

**A. THE REGISTRANT**

(1) **Balance sheets of the registrant.** (i) The registrant shall file a balance sheet as of a date within 90 days prior to the date of filing the registration statement. This balance sheet need not be certified. If all of the following conditions exist, this balance sheet may, however, be as of a date within six months prior to the date of filing.

(a) The registrant files annual and other reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934;

(b) The total assets of the registrant and its subsidiaries, as shown by the latest consolidated balance sheet filed, less any valuation or qualifying reserves, amount to \$5,000,000 or more, exclusive of intangibles; and

(c) No long-term debt of the registrant is in default as to principal, interest or sinking fund provisions.

(ii) If the balance sheet required by paragraph (i) is not certified, there shall be filed in addition a certified balance sheet as of a date within one year unless the fiscal year of the registrant has ended within 90 days prior to the date of filing, in which case the certified balance sheet may be as of the end of the preceding fiscal year.

(2) **Profit and loss statements of the registrant.** The registrant shall file a profit and loss statement for each of the three fiscal years preceding the date of the latest balance sheet filed, and for the period, if any, between the close of the latest of such fiscal years and the date of the latest balance sheet filed. These statements shall be certified up to the date of the latest certified balance sheet filed.

(3) **Omission of registrant's statements in certain cases.** Notwithstanding Instructions (1) and (2), the individual financial statements of the registrant may be omitted if (a) consolidated statements of the registrant and one or more of its subsidiaries are filed, (b) the conditions specified in either of the following paragraphs are met, and (c) the Commission is advised as to the reasons for such omission.

(i) The registrant is primarily an operating company and all subsidiaries included in the consolidated financial statements filed are totally-held subsidiaries; or

(ii) The registrant's total assets, exclusive of investments in and advances to the consolidated subsidiaries, constitute 85% or more of the total assets shown by the consolidated balance sheets filed and the registrant's total gross revenues for the period for which its profit and loss statements would be filed, exclusive of interest and dividends received from the consolidated subsidiaries, constitute 85% or more of the total gross revenue shown by the consolidated profit and loss statements filed.

**B. CONSOLIDATED STATEMENTS**

(4) **Consolidated balance sheets.** There shall be filed a consolidated balance sheet of the registrant and its subsidiaries as of the same date as each balance sheet of the registrant filed pursuant to Instruction (1). The consolidated balance sheet shall be certified if the registrant's balance sheet as of the same date is certified. If the registrant's balance sheets are omitted pursuant to Instruction (3), the consolidated balance

sheets filed shall be as of the same dates as the balance sheets of the registrant would be required and shall be certified if the corresponding balance sheet of the registrant would be required to be certified.

(5) *Consolidated profit and loss statements.* There shall be filed consolidated profit and loss statements of the registrant and its subsidiaries for each of the three fiscal years preceding the date of the latest consolidated balance sheet filed, and for the period, if any, between the close of the latest of such fiscal years and the date of the latest consolidated balance sheet filed. These statements shall be certified up to the date of the latest related certified consolidated balance sheet filed.

#### C. UNCONSOLIDATED SUBSIDIARIES AND OTHER PERSONS

(6) *Unconsolidated subsidiaries.* (1) Subject to Rule 4-03 of Regulation S-X (§ 210.4-03 of this chapter) regarding group statements of unconsolidated subsidiaries, there shall be filed for each majority-owned subsidiary of the registrant not consolidated the balance sheets and profit and loss statements which would be required if the subsidiary were itself a registrant. Insofar as practicable, these balance sheets and profit and loss statements shall be as of the same dates or for the same periods as those of the registrant.

(1) If it is impracticable to file a balance sheet of any unconsolidated subsidiary as of a date within 90 days prior to the date of filing, there may be filed in lieu thereof a certified balance sheet of the subsidiary as of the end of its latest annual or semi-annual fiscal period preceding the date of filing the registration statement, for which it is practicable to do so.

(7) *Fifty-percent-owned persons.* If the registrant owns, directly or indirectly, approximately 50 percent of the voting securities of any person and approximately 50 percent of the voting securities of such person is owned, directly or indirectly, by another single interest, there shall be filed for each such person the financial statements which would be required if it were a registrant. The statements filed for each such person shall identify the other single interest.

(8) *Omission of statements in certain cases.* Notwithstanding Instructions (6) and (7), there may be omitted from the registration statement all financial statements of any one or more unconsolidated subsidiaries or 50-percent-owned persons if all such subsidiaries and 50-percent-owned persons for which statements are so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(9) *Affiliates whose securities secure an issue being registered.* (1) For each affiliate, securities of which constitute or are to constitute a substantial portion of the collateral securing any class of securities being registered, there shall be filed the financial statements that would be required if the affiliate were a registrant.

(1) For the purposes of this instruction, securities of a person shall be deemed to constitute a substantial portion of collateral if the aggregate principal amount, par value, or book value as shown by the books of the registrant, or market value, whichever is the greatest, of such securities equals 20 percent or more of the principal amount of the class secured thereby.

#### D. SPECIAL PROVISIONS

(10) *Reorganization of registrant.* (1) If during the period for which its profit and loss statements are required, the registrant has emerged from a reorganization in which substantial changes occurred in its asset, liability, capital stock, surplus or reserve accounts, a brief explanation of such changes shall be set forth in a note or supporting schedule to the balance sheets filed.

(1) If the registrant is about to emerge from such a reorganization, there shall be filed, in addition to the balance sheets of the registrant otherwise required, a balance sheet giving effect to the plan of reorganization. These balance sheets shall be set forth in such form, preferably columnar, as will show in related manner the balance sheet of the registrant prior to the reorganization, the changes to be effected in the reorganization and the balance sheet of the registrant after giving effect to the plan of reorganization. By a footnote or otherwise a brief explanation of the changes shall be given.

(11) *Succession to other businesses.* (1) If during the period for which its profit and loss statements are required, the registrant has by merger, consolidated or otherwise succeeded to one or more businesses, the additions, eliminations and other changes effected in the succession shall be appropriately set forth in a note or supporting schedule to the balance sheets filed. In addition, profit and loss statements for each constituent business, or combined statements if appropriate, shall be filed for such period prior to the succession as may be necessary when added to the time, if any, for which profit and loss statements after the succession are filed to cover the equivalent of the period specified in Instructions (2) and (5) above.

(1) If the registrant by merger, consolidation or otherwise is about to succeed to one or more businesses, there shall be filed for the constituent businesses financial statements, combined if appropriate, which would be required if they were registering securities under the Act. In addition, there shall be filed a balance sheet of the registrant giving effect to the plan of succession. These balance sheets shall be set forth in such form, preferably columnar, as will show in related manner the balance sheets of the constituent businesses, the changes to be effected in the succession and the balance sheet of the registrant after giving effect to the plan of succession. By a footnote or otherwise, a brief explanation of the changes shall be given.

(1) This instruction shall not apply with respect to the registrant's succession to the business of any totally-held subsidiary or to any acquisition of a business by purchase.

(12) *Acquisition of other businesses.* (1) There shall be filed for any business directly or indirectly acquired by the registrant after the date of the latest balance sheet filed pursuant to Part (Caption) A or B above and for any business to be directly or indirectly acquired by the registrant, the financial statements which would be required if such business were a registrant.

(1) The acquisition of securities shall be deemed to be the acquisition of a business if such securities give control of the business or combined with securities already held give such control. In addition, the acquisition of securities which will extend the registrant's control of a business shall be deemed the acquisition of the business if any of the securities being registered hereunder are to be offered in exchange for the securities to be acquired.

(1) No financial statements need be filed, however, for any business acquired or to be acquired from a totally-held subsidiary. In addition, the statements of any one or more businesses may be omitted if such businesses, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary, provided that the statements of any business may not be omitted where any of the securities being registered are to be offered in exchange for securities representing such business.

(13) *Filing of other statements in certain cases.* The Commission may, upon the request of the registrant, and where consistent with the protection of investors, permit the omission of one or more of the statements herein required or the filing in substitution

thereof of appropriate statements of comparable character. The Commission may also require the filing of other statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of investors.

#### E. HISTORICAL FINANCIAL INFORMATION

(14) *Scope of Part (Caption) E.* The information required by Part (Caption) E shall be furnished for the seven-year period preceding the period for which profit and loss statements are filed, as to the accounts of each person whose balance sheet is filed. The information is to be given as to all of the accounts specified whether they are presently carried on the books or not. Part (Caption) E does not call for an audit, but only for a survey or review of the accounts specified. It should not be detailed beyond a point material to an investor. Information may be omitted, however, as to any person for whom equivalent information for the period has been filed with the Commission pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934.

(15) *Revaluation of property.* (1) If there were any material increases or decreases in investments, in property, plant and equipment, or in intangible assets, resulting from revaluing such assets, state (a) in what year or years such revaluations were made; (b) the amounts of such increases or decreases, and the accounts affected, including all related entries; and (c) if in connection with such revaluations any related adjustments were made in reserve accounts, state the accounts and amounts with explanations.

(1) Information is not required as to adjustments made in the ordinary course of business, but only as to major revaluations made for the purpose of entering in the books current values, reproduction cost or any values other than original cost.

(1) No information need be furnished with respect to any revaluation entry which was subsequently reversed or with respect to the reversal of a revaluation entry recorded prior to the period if a statement as to the reversal is made.

(16) *Capital shares.* (1) If there were any material restatements of capital shares which resulted in transfers from capital share liability to surplus or reserve, state the amount of each such restatement and all related entries. No statement need be made as to restatements resulting from the declaration of share dividends.

(1) If there was an original issue of capital shares, any part of the proceeds of which was credited to accounts other than capital share accounts, state the title of the class, the accounts and the respective amounts credited thereto.

(17) *Debt discount and expense written off.* If any material amount of debt discount and expense, on long-term debt still outstanding, was written off earlier than as required under any periodic amortization plan, give the following information: (1) title of the securities, (2) date of the write-off, (3) amount written off, and (4) to what account charged.

(18) *Premiums and discount and expense on securities retired.* If any material amount of long-term debt or preferred shares was retired, and if either the retirement was made at a premium or there remained, at the time of retirement, a material amount of unamortized discount and expense applicable to the securities retired, state for each class (1) title of the securities retired, (1) date of retirement, (1) amount of premium paid and of unamortized discount and expense, (1) to what account charged, and (v) whether be-

ing amortized and, if so, the plan of amortization.

(19) *Other changes in surplus.* If there were any material increases or decreases in surplus, other than those resulting from transactions specified above, the closing of the profit and loss account or the declaration or payment of dividends, state (i) the year or years in which such increases or decreases were made; (ii) the nature and amounts thereof; and (iii) the accounts affected, including all material related entries. Instruction (15) (c) above shall also apply here.

(20) *Predecessors.* The information shall be furnished, to the extent it is material, as to any predecessor of the registrant from the beginning of the period to the date of succession, not only as to the entries made respectively in the books of the predecessor or the successor, but also as to the changes effected in the transfer of the assets from the predecessor. However, no information need be furnished as to any one or more predecessors which, considered in the aggregate, would not constitute a significant predecessor.

(21) *Omission of certain information.* (i) No information need be furnished as to any subsidiary, whether consolidated or unconsolidated, for the period prior to the date on which the subsidiary became a majority-owned subsidiary of the registrant or of a predecessor for which information is required above.

(ii) No information need be furnished hereunder as to any one or more unconsolidated subsidiaries for which separate financial statements are filed if all subsidiaries for which the information is so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(iii) Only the information specified in Instruction (15) need be given as to any predecessor or any subsidiary thereof if immediately prior to the date of succession there to by a person for which information is required, the predecessor or subsidiary was in insolvency proceedings.

(h) *Instructions as to exhibits.* Subject to the rules regarding incorporation by reference, the following exhibits shall be filed as a part of the registration statement. Exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for by Item (31).

(1) Copies of each underwriting contract with a principal underwriter, each syndicate agreement and each purchase, subunderwriting or selling group agreement or letter pursuant to which the securities being registered are to be distributed or, if the terms of such documents are not determined, the proposed forms thereof.

(2) Copies of any plan of acquisition, reorganization, readjustment or succession described in answer to Item (4), (9) or (12).

(3) Copies of the charter and by-laws or instruments corresponding thereto as presently in effect.

(4) (i) Specimens or copies of all securities being registered hereunder and copies of all constituent instruments defining the rights of holders of long-term debt of the registrant and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed.

(ii) There need not be filed, however, (a) any instrument with respect to long-term debt not being registered hereunder if the total amount of securities authorized thereunder does not exceed 5% of the total assets of the registrant and its subsidiaries on a consolidated basis and if there is filed an agreement to furnish a copy of such instrument to the Commission upon request, (b)

any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class will be taken prior to or upon delivery by the registrant of the securities being registered, or (c) copies of instrument evidencing scrip certificates for fractions of shares.

(iii) If any of the securities being registered are, or are to be, issued under an indenture to be qualified under the Trust Indenture Act of 1939, the copy of such indenture which is filed as an exhibit shall include or be accompanied by (a) a reasonably itemized and informative table of contents, and (b) a cross-reference sheet showing the location in the indenture of the provisions inserted pursuant to Section 310 through 318(a) inclusive of the Trust Indenture Act of 1939.

(5) Copies of any plan setting forth the terms and conditions upon which outstanding options, warrants or rights to purchase securities of the registrant or its subsidiaries from the registrant or any of its affiliates have been issued, together with specimen copies of such options, warrants, or rights; or, if not issued pursuant to such a plan, copies of each such option, warrant or right.

(6) An opinion of counsel, as to the legality of the securities being registered, indicating whether they will when sold be legally issued, fully paid and non-assessable, and, if debt securities, whether they will be binding obligations of the registrant.

(7) Copies of each material foreign patent for an invention not covered by a United States patent. If a substantial part of the securities to be offered or of the proceeds therefrom has been or is to be used for the particular purpose of acquiring, developing or exploiting one or more material patents or patent rights, furnish a list showing the number and a brief identification of each such patent or patent right.

(8) If any discount on capital shares is shown as a deduction from capital shares on the most recent balance sheet being filed for the registrant, there shall be filed a statement of the circumstances under which such discount arose and an opinion of counsel as to the legality of the issuance of the shares to which such discount relates. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which in the opinion of counsel are controlling.

(9) If the registrant has any shares, the preference of which upon involuntary liquidation exceeds the par or stated value thereof, there shall be filed an opinion of counsel as to whether there are any restrictions upon surplus by reason of such excess and also as to any remedies available to security holders before or after payment of any dividend that would reduce surplus to an amount less than the amount of such excess. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which, in the opinion of counsel, are controlling.

(10) Copies of any voting trust agreement referred to in answer to Item (19).

(11) Copies of all pension, retirement or other deferred compensation plans, contracts or arrangements. If any such plan, contract or arrangement is not set forth in a formal document, furnish a reasonably detailed description thereof. Copies of any available booklet or other written description of any such plan, contract or arrangement shall be also be filed.

(12) Copies of all indemnification contracts or arrangements described in answer to Item (29).

(13) (i) Copies of every material contract not made in the ordinary course of business which is to be performed in whole or in part at or after the filing of the registration statement or which was made not more than two years before filing, except contracts called for, or the omission of which is ex-

pressly authorized by the foregoing instructions. Only contracts need be filed as to which the registrant or a subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment, or in which the registrant or such subsidiary has a beneficial interest.

(ii) If the contract is such as ordinarily accompanies the kind of business conducted by the registrant and its subsidiaries, it is made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance:

(a) Directors, officers, promoters, voting trustees, security holders named in answer to Item 19(a) or underwriters are parties thereto except where the contract merely involves purchase or sale of current assets having a determinable market price, at such price.

(b) It is of such materiality as to call for specific reference to it in the prospectus.

(c) The registrant's business is substantially dependent upon it, as in the case of continuing contracts to sell the major part of registrant's production in the case of a manufacturing enterprise or to purchase the major part of registrant's requirements of goods in the case of a distributing enterprise, or licenses to use a patent or formula upon which registrant's business depends to a material extent.

(d) It calls for the acquisition or sale of fixed assets for a consideration exceeding 15 percent of all fixed assets of the registrant and its subsidiaries.

(e) It is a lease under which a significant part of the property described under Item 10 is held by the registrant, or

(f) The amount of the contract, or its importance to business of the registrant and its subsidiaries, are material, and the terms and conditions are of a nature of which investors reasonably should be informed.

(ii) Any management contract or bonus or profit-sharing plan, contract or arrangement (or if not set forth in any formal document, a written description thereof) except the following, shall be deemed material and shall be filed:

(a) Ordinary purchase and sales agency agreements.

(b) Agreements with managers of stores in a chain organization or similar organization.

(c) Contracts providing for labor or salesmen's bonuses or payments to a class of security holders, as such.

(i) *Instructions as to summary prospectuses.* A summary prospectus used pursuant to Rule 434A (§ 230.434A of this chapter) shall at the time of its use contain such of the information specified below as is then included in the registration statement. All other information and documents contained in the registration statement may be omitted.

(1) As to Item (1), the aggregate offering price to the public, the aggregate underwriting discounts and commissions and the offering price per unit to the public; as to Item (2)(a), the name of the managing underwriter or underwriters and a brief statement as to the nature of the underwriter's obligation to take the securities; as to Item (2)(c), a brief statement as to the manner of distribution; as to Item (3), a brief statement of the principal purposes for which the proceeds are to be used; Item (4); Item (5); Item (6); Item (7), if the registrant was organized within 5 years; as to Item (9), a brief statement of the general character of the business done and intended to be done; Item (11)(a); as to Item (12), a brief statement of the nature and present status of any material pending legal proceedings; Item (13)(a) (1) and (2); as to Item (14)(a), a brief statement as to interest and maturity provisions; as to Item (15), information corresponding to the foregoing; and Item (18)

(b) as to outstanding options to purchase securities of any class being registered.

(2) The summary prospectus shall not contain a summary or condensation of the information required by Item (21).

(3) The Commission may, upon the request of the registrant, and where consistent with the protection of investors, permit the omission of any of the information herein required or the furnishing in substitution therefor of appropriate information of comparable character. The Commission may also require the inclusion of other information in addition to, or in substitution for, the information herein required in any case where such information is necessary or appropriate for the protection of investors.

§ 239.16b Form S-8—For registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans.

(a) *General instructions*—(1) *Rule as to use of Form S-8*. Any issuer which at the time of filing a registration statement on this form is required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 may use this form for registration under the Securities Act of 1933 of the following securities:

(iii) Stock to be offered pursuant to "qualified," "restricted," or "employee stock purchase plan" stock options as those terms are defined in sections 422 through 424 of the Internal Revenue Code of 1954, as amended, and the regulations or rulings of the Internal Revenue Service thereunder.

(d) *Information required in the prospectus*.

*Item (18): Options to purchase securities*. Furnish the following information as to options to purchase securities from the issuer or any of its subsidiaries, which are outstanding as of a specified date within 30 days prior to the date of filing.

(a) Describe the options, stating the material provisions including the consideration received and to be received for such options by the grantor thereof and the market value of the securities called for on the granting date. If, however, the options are "qualified stock options" or "restricted stock options" or options granted pursuant to a plan qualifying as an "employee stock purchase plan", as those terms are defined in Sections 422 through 424 of the Internal Revenue Code of 1954, as amended, and the regulations or rulings of the Internal Revenue Service thereunder, only the following is required: (i) A statement to that effect, (ii) a brief description of the terms and conditions of the options or of the plan pursuant to which they were issued, and (iii) a statement of the provisions of the plan or options with respect to the relationship between the option price and the market price of the securities at the date when the options were granted, or with respect to the terms of any variable price option.

§ 239.18 Form S-11 for registration under the Securities Act of 1933 of securities of certain real estate companies.

(a) *General instructions*—(1) *Rule as to use of Form S-11*. This form is to be used for registration under the Securities Act of 1933 of (i) securities issued by real estate investment trusts, as defined in Section 856 of the Internal Revenue Code, or (ii) securities issued by

other issuers whose business is primarily that of acquiring and holding for investment real estate or interests in real estate or interests in other issuers whose business is primarily that of acquiring and holding real estate or interests in real estate for investment. This form shall not be used, however, by any issuer which is an investment company registered or required to register under the Investment Company Act of 1940.

(2) *Application of general rules and regulations*. Before undertaking the preparation of the registration statement reference should be made to the General Rules and Regulations under the Act, particularly the rules comprising Regulation C (§§ 230.400 to 230.494 of this chapter). That regulation contains general requirements regarding the preparation and filing of the registration statement. The definitions contained in Rule 405 (§ 230.405 of this chapter) should be especially noted.

(3) *Documents comprising registration statement*. The registration statement shall consist of the facing sheet of the form, the prospectus containing the information specified in Part I, the information called for by Part II, the undertakings to file reports, the required signatures, consents of experts, financial statements and exhibits and any other prospectus, information, undertaking or documents which are required or which the registrant may file as a part of the registration statement.

(4) *Form and content of prospectus*. (i) The purpose of the prospectus is to inform investors. Hence, the information set forth in the prospectus should be presented in clear, concise, understandable fashion. Avoid unnecessary and irrelevant details, repetition or the use of unnecessary technical language. The prospectus shall contain the information called for by all of the items of Part I of the form, except that no reference need be made to inapplicable items, and negative answers to any item may be omitted except as otherwise prescribed.

(ii) Unless clearly indicated otherwise, information set forth in any part of the prospectus need not be duplicated elsewhere in the prospectus. Where it is deemed necessary or desirable to call attention to such information in more than one part of the prospectus, this may be accomplished by appropriate cross reference. In lieu of restating information in the form of notes to the financial statements, references should be made to other parts of the prospectus where such information is set forth.

(iii) Where appropriate to a clear understanding by investors, an introductory statement shall be made in the forefront of the prospectus, in a series of short, concise paragraphs, summarizing the principal factors which make the offering speculative. Where appropriate, statements with respect to the following shall also be set forth:

(a) A comparison in percentages of the securities being offered to the public and those issued or to be issued to affiliated persons;

(b) The extent to which security holders may be liable for the acts or obligations of the registrant;

(c) Allocations of cash distributions between the public security holders and security holders who are affiliated persons;

(d) The remuneration and other forms of compensation and benefits to be received, directly or indirectly, by affiliated persons, including in the case of underwriters a comparison of the aggregate compensation to be received by them with the aggregate net proceeds from the sale of the securities being registered.

(iv) If there are any limitations on the transferability of the securities being registered, so state on the outside front cover page of the prospectus and refer to a statement elsewhere in the prospectus as to the nature of such limitations. If there is no market for securities of the same class as those being registered, so state on the outside front cover page of the prospectus; otherwise, state elsewhere in the prospectus the nature of the market for such securities and the market price thereof as of the latest practicable date prior to the filing of the registration statement or amendment thereto.

(5) *Exchange offers*. If any of the securities being registered are to be offered in exchange for securities of any other issuer, the prospectus shall also include the information which would be required by Items (6) to (12), inclusive, if securities of such other issuer were being registered on this form. Item (24) shall also be answered as to any promoter, director, officer or security holders of such other issuer who is an affiliated person of the registrant. There shall also be included the information concerning such securities of such other issuer which would be called for by Items (13), (14), and (15), if such securities were being registered.

(6) *Preparation of Part II*. (i) Part II of the registration statement shall contain the numbers and captions of the items in Part II of the form, but the text of the items may be omitted provided the answers are so prepared as to indicate to the reader the coverage of the items without the necessity of referring to the text of the items or the instructions thereto. If the information required by any item of Part II is completely disclosed in the prospectus, reference may be made to the specific page or caption of the prospectus which contains such information.

(ii) If any of the information required by any item of Part II has been given in a registration statement, application for registration or annual report filed with the Commission pursuant to any Act administered by the Commission and no additional information is needed to make the information previously filed accurate, complete and up-to-date, the required information may be incorporated by a specific reference to the page or pages of the previous filing which contains such information.

(7) *Definitions*. Unless the context clearly indicates the contrary, the following definitions apply:

(i) *Affiliated person*. The term "affiliated person" means any of the following persons: (a) Any director or officer of the registrant; (b) any person directly

or indirectly controlling or under direct or indirect common control with the registrant; (c) any person owning of record or known by the registrant to own beneficially 10 percent or more of any class of equity securities of the registrant; (d) any promoter of the registrant directly or indirectly connected with the registrant in any capacity; (e) any principal underwriter of the securities being registered; (f) any person performing general management or advisory services for the registrant; and (g) any associate of any of the foregoing persons.

(ii) *Director.* The term "director" means any director of a corporation, trustee of a trust, general partner of a partnership, or any person who performs for an organization functions similar to those performed by the foregoing persons.

(iii) *Governing instruments.* The term "governing instruments" means the Charter, trust agreement, partnership agreement, bylaws or other instruments under which the registrant was organized or created or under which it will operate.

(iv) *Mortgage.* The term "mortgage" means any mortgage, deed of trust or other evidence of indebtedness secured by a lien upon real estate or upon any interest in real estate.

(v) *Share.* The term "share" means a share of stock in a corporation, a share or other unit of beneficial interest in a trust or unincorporated association, a limited partnership interest, or any similar equity interest in any other type of organization.

(b) *Cover sheet of registration statement.*

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C., 20549

Form S-11

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

(Exact name of registrant as specified in governing instruments)

(Address of principal executive offices)

(Name and address of agent for service)

Approximate date of commencement of proposed sale to the public

CALCULATION OF REGISTRATION FEE

Title of securities being registered	Amount being registered
Proposed maximum offering price per unit	Proposed maximum aggregate offering price
	Amount of registration fee

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.<sup>1</sup>

<sup>1</sup> Inclusion of this paragraph is optional. See Rule 473 (§ 430.473 of this chapter).

(c) Part I—Information required in prospectus.

*Item (1): Distribution spread.* (a) The information called for by the following table shall be given in substantially the tabular form indicated, on the outside front cover page of the prospectus as to all securities being registered which are to be offered for cash (estimate, if necessary).

Per unit	Price to public	Underwriting discounts and commissions	Proceeds to registrant of other persons
Total			

*Instructions.* 1. The term "commissions" has the meaning given in paragraph (17) of Schedule A of the Act. Only commissions paid by the registrant or selling security holders in cash are to be included in the table. Commissions paid by other persons and other compensation or benefits to the underwriters shall be set forth in answer to paragraph (b) below with a reference thereto in the second column of the table required above. Any finder's fees or similar payments shall be appropriately disclosed.

2. If it is impracticable to state the price to the public, the method by which it is to be determined shall be explained. In addition, if the securities are to be offered at the market, or if the offering price is to be determined by a formula related to market prices, indicate the market involved and the market price as of the latest practicable date.

3. If any of the securities being registered are to be offered for the account of security holders, set forth following the above table a reference to the information called for by Instruction (4) to Item (18).

(b) If the underwriters are to receive from the registrant or any other person any additional compensation in the form of reimbursement for expenses, options, warrants, other securities or other property, or any other rights or benefits, state the nature and amount thereof.

*Instructions.* 1. Include information with respect to (1) any right of the underwriters

to representation on the registrant's board of directors, (ii) any preferential right to underwrite future security offerings, (iii) any indemnification of the underwriters and (iv) any agreement with the registrant or any other person to restrict the sale of other securities during the period of distribution of the securities being registered.

2. The nature and amount of any additional compensation, or other rights or benefits shall be indicated on the outside front cover page of the prospectus. Where necessary to avoid crowding the cover page or the use of type smaller than that specified by Rule 420 (§ 230.420 of this chapter) for the body of the prospectus, a reference shall be made on the cover page to a more complete description which shall be set forth elsewhere in the prospectus.

*Item (2): Plan of distribution.* (a) If the securities being registered are to be offered through underwriters, give the names of the principal underwriters, the respective amounts underwritten and state whether the underwriters will be committed to take and pay for all of the securities if any are taken, or whether they will be required to take and pay for only such securities as they may sell to the public.

(b) Identify each principal underwriter having any material relationship with the registrant and state the nature of the relationship.

*Instruction.* If any affiliated person (other than an underwriter) has any interest in, or business connection with, any principal underwriter or any of its affiliates, include a description of such interest or business connection.

(c) State briefly the discounts and commissions to be allowed or paid to dealers or other persons, including all cash, securities, contracts or other consideration to be received by any dealer in connection with the sale of the securities.

*Instruction.* If any dealers or other persons are to act in the capacity of sub-underwriters and are to be allowed or paid any additional discounts or commissions for acting in such capacity, a general statement to that effect will suffice without giving the additional amounts to be so paid.

(d) Briefly describe any arrangement to stabilize the market for any of the securities to be offered or to withhold commissions or otherwise hold each underwriter or dealer responsible for the distribution of his participation.

(e) Outline briefly the plan of distribution of any securities being registered which are to be offered otherwise than through underwriters.

*Item (3): Use of proceeds to registrant.* State the principal purposes for which the net proceeds to the registrant from the securities to be offered are intended to be used, and the approximate amount intended to be used for each such purpose.

*Instructions:* 1. Reasonable details of proposed expenditures shall be given; for example, there shall be furnished a brief outline of any program of construction or addition of equipment. If any substantial portion of the proceeds has not been allocated for particular purposes, a statement to that effect shall be made together with a statement of the amount of proceeds not so allocated and the proposed disposition thereof.

2. Unless the underwriting arrangements are such that the registrant can reasonably expect to receive the total amount of the estimated aggregate proceeds shown under Item (1), include a statement as to the use of the actual proceeds if they are not sufficient to accomplish all of the purposes set forth, whether or not the funds will be returned to subscribers in such case and, if not, the order of priority in which the proceeds will be used for the respective purposes.

3. If any material amounts of other funds are to be used in conjunction with the proceeds, state the amounts and source of such other funds. If any material part of the proceeds is to be used to discharge a loan, the item is to be answered as to the use of the proceeds of the loan if the loan was made within one year; otherwise, it will suffice to state that the proceeds are to be used to discharge the indebtedness created by the loan.

4. If any material amount of the proceeds is to be used to acquire capital assets, briefly describe the assets and give the names of the persons from whom they are to be acquired. State the cost of the assets to the registrant and the principle followed in determining such cost.

*Item (4): Sales otherwise than for cash.* If any of the securities being registered are to be offered otherwise than for cash, state briefly the general purposes of the distribution, the basis upon which the securities are to be offered, the amount of compensation and other expenses of distribution, and by whom they are to be borne.

*Instruction.* If the distribution is to be made pursuant to a plan of acquisition, reorganization, readjustment or succession, describe briefly the general effect of the plan and state when it became or is to become operative. As to any material amount of assets to be acquired under the plan, furnish information corresponding to that required

## PROPOSED RULE MAKING

by Instruction 4 of Item (3). See General Instruction E (subparagraph (a) (5) of this section).

**Item (5): Capital structure.** Furnish the information called for by the following table, in substantially the tabular form indicated, as to each class of securities of the registrant and each class of securities, other than those owned by the registrant or its totally held subsidiaries, of all subsidiaries whose financial statements are filed with the registration statement on either a consolidated or individual basis:

Title of class	Amount authorized or to be authorized
Amount outstanding as of the latest practicable date	Amount to be outstanding if all securities being registered are sold

**Instructions.** 1. Securities held by or for the account of the registrant are not to be included in the amount outstanding, but the amount so held shall be stated in a note to the table. Also set forth in a note to the table a cross-reference to the note in the financial statements containing information concerning the extent of obligations under leases on real property.

2. Include debt securities and mortgages on property owned by the registrant or its subsidiaries. Indebtedness evidenced by drafts, bills of exchange, bankers' acceptances or promissory notes may be set forth in a single aggregate amount under an appropriate caption such as "Sundry Indebtedness."

3. Include in the table for each class of capital shares the number of shares and the capital share liability in dollars, together with capital surplus and earned surplus. Surplus shall be shown in the same manner as in the balance sheet of the registrant or in the consolidated balance sheet of the registrant and its subsidiaries, if such a consolidated balance sheet is included in the prospectus.

4. A footnote shall be appended to the capitalization table to disclose the amount of securities reserved (a) for conversion of another security and (b) for issuance upon exercise of stock options or warrants.

**Item (6): Summary financial data.** (a) Furnish in comparative columnar form a summary of earnings for the registrant or for the registrant and its subsidiaries consolidated, or both, as appropriate, for each of the last five fiscal years of the registrant (or for the life of the registrant, if less) and for any interim period between the end of the latest of such fiscal years and the date of the latest balance sheet furnished, and for the corresponding interim period of the preceding fiscal year. Include comparable data for any additional fiscal years of the registrant or its immediate predecessors necessary to keep the summary from being misleading or to cover the total period specified.

**Instructions.** 1. Subject to appropriate variation to conform to the nature of the business or the purpose of the offering, the following items shall be included: rental income; mortgage interest income; management fees; operating expenses; real estate taxes; depreciation; interest expense; other income; income taxes; and net income. Realized gain or loss on investments shall be shown as a separate item after net operating income. See Item (26) (b).

2. The summary shall reflect any retroactive adjustments of material items affecting the comparability of the results. Include, whenever necessary, information or explanation of material significance to investors in appraising the results shown, or refer to such information or explanation set forth elsewhere in the prospectus.

3. Any unaudited summary for an interim period shall be prepared on a basis consistent with the summary for annual periods. In connection with any unaudited summary for

an interim period include a statement that all adjustments necessary to a fair presentation of the results for such period have been made. If all such adjustments are of a normal recurring nature, a statement to that effect shall be made; otherwise, there shall be furnished as supplemental information, but not as a part of the registration statement, a letter describing in detail the nature and amount of any adjustments, other than normal recurring adjustments, entering into the determination of the results shown.

4. If common stock is being registered, the summary shall show earnings applicable to common stock. Per-share earnings and distributions for each period of the summary shall also be shown and the basis of computation and the status for Federal income tax purposes stated.

5. If preferred stock is being registered, there shall be shown the annual dividend requirements on such preferred stock.

6. If long term debt is being registered, the registrant shall show in tabular form for each fiscal year or other period, the ratio of earnings (computed in accordance with generally accepted accounting principles after all operating and income deductions, except taxes based on income or profits and fixed charges) to fixed charges. The term "fixed charges" shall mean (i) interest and amortization of debt discount and expenses and premium on all indebtedness; (ii) one-third of all rentals reported in Schedule XVI, or such portion as can be demonstrated as representative of the interest factor in the circumstances of the particular case; and (iii) in case consolidated figures are used, preferred stock dividend requirements of consolidated subsidiaries, excluding in all cases, items eliminated in consolidation. The pro forma ratio of earnings to fixed charges adjusted to give effect to the issuance of securities being registered and to any presently proposed issuance, retirement or redemption of securities shall be shown. The registrant shall file as an exhibit a statement setting forth in reasonable detail the computation of such ratios. For the purpose of this exhibit and the pro forma ratio referred to above, an assumed maximum interest rate may be used on securities as to which the interest rate has not yet been fixed, which assumed rate shall be shown.

(b) If the registrant was organized to acquire and hold primarily for investment, one specific property or group of properties, the following shall be furnished in lieu of the summary of earnings required by paragraph (a):

(1) An historical summary of operations, for the period specified in paragraph (a), which shall exclude items not comparable to the proposed future operation of the property, such as mortgage interest, leasehold rental, depreciation, corporate expenses and Federal and state income taxes. Earnings per unit shall not be given in this summary. The three most recent fiscal years of this summary shall be certified.

(2) If the property is to be operated by the registrant, there shall be furnished a statement showing the estimated taxable operating results of the registrant based on the most recent twelve-month period including such adjustments as can be factually supported. If the property is to be acquired subject to a net lease the estimated taxable operating results shall be based on the rent to be paid for the first year of the lease. In either case the estimated amount of cash to be made available by operations shall be shown. There shall be stated in an introductory paragraph the principal assumptions which have been made in preparing the statements of estimated taxable operating results and cash to be made available by operations.

(3) If appropriate under the circumstances, there shall be given in tabular form for a limited number of years the estimated cash distribution per unit showing the portion

thereof reportable as taxable income and the portion representing a return of capital together with an explanation of annual variations, if any. If taxable net income per unit will become greater than the cash available for distribution per unit that fact and the approximate year of occurrence shall be stated if significant.

**Item (7): General information as to registrant.** (a) State the name and form of organization of the registrant and the name of the State or other jurisdiction the laws of which govern with respect to the organization of the registrant.

(b) State the date on which the governing instruments became operative and the date on which they will expire. If the duration of the registrant may be sooner terminated or may be extended, outline briefly the pertinent provisions.

(c) If the registrant is not a corporation state briefly the provisions of the governing instruments with respect to the holding of annual or other meetings of security holders. If the governing instruments do not provide for such meetings state the policy or proposed policy of the registrant with respect to holding annual or other meetings of security holders.

(d) If the registrant was organized within the last five years, give the full names of all promoters and indicate all positions and offices with the registrant now held or intended to be held by each such promoter.

**Instruction.** If any person named as a promoter is no longer connected with the registrant in any capacity, so state.

**Item (8): Policy with respect to certain activities.** Describe the policy of the registrant with respect to each of the following types of activities, indicating whether such policy may be changed by the officers and directors without a vote of security holders. Indicate the extent to which the registrant proposes to engage in such activities and the extent to which it has engaged in such activities during the past three years.

(a) To issue senior securities.  
 (b) To borrow money.  
 (c) To make loans to other persons.  
 (d) To invest in the securities of other issuers for the purpose of exercising control.  
 (e) To underwrite securities of other issuers.  
 (f) To engage in the purchase and sale (or turnover) of investments.  
 (g) To offer securities in exchange for property.

(h) To repurchase or otherwise reacquire its shares or other securities.

(i) To make annual or other reports to security holders, indicating the nature and scope of such reports and whether they will contain financial statements certified by independent public accountants.

**Instructions.** 1. The policy or proposed policy of the registrant with respect to each activity shall be described separately. If the registrant does not propose to engage in a particular activity, a specific statement to that effect shall be made. The information shall be given in such manner and detail as will be meaningful to investors.

2. For the purpose of (c), the purchasing of a portion of publicly distributed bonds, debentures or other securities, whether or not the purchase was made upon the original issuance of the securities, is not to be considered the making of a loan by the registrant.

**Item (9): Investment policies of registrant.** Describe the policy of the registrant with respect to investing in each of the following types of investments, indicating whether such policy may be changed by the directors without a vote of security holders, the percentage of assets which the registrant may invest in any one type of investment and, in the case of securities, the percentage of securities of any one issuer which the registrant may acquire and the principles

and procedures the registrant will employ in connection with the acquisition of assets.

(a) *Investments in real estate or interests in real estate.*

*Instructions.* 1. Indicate the geographic area or areas in which the registrant proposes to acquire real estate or interests in real estate.

2. The types of real estate and interests in real estate in which the registrant may invest shall be indicated; for example, office buildings, apartment buildings, shopping centers, industrial and commercial properties, special purpose buildings and undeveloped acreage.

3. The method or proposed method of operating and financing the registrant's real estate shall be briefly described. Indicate any limitations on the number or amount of mortgages which may be placed on any one piece of property.

4. The answer to this item shall be such as will be appropriate in view of the nature of the registrant's business, its history and its experience and the proposed nature of its business and activities.

5. Include a specific statement as to whether or not it is the registrant's policy to acquire assets primarily for possible capital gain or primarily for income.

6. State the registrant's policy as to the amount or percentage of assets which will be invested in any specific property.

7. Include a statement with respect to any other material policy with respect to real estate activities.

(b) *Investments in real estate mortgages.*

*Instructions.* 1. Indicate the types of mortgages; for example, first or second mortgages and whether such mortgages are to be insured by the Federal Housing Administration or guaranteed by the Veterans Administration or otherwise guaranteed or insured, and the proportion of assets which may be invested in each type of mortgage or in any single mortgage.

2. Include a description of each type of mortgage activity in which the registrant intends to engage such as originating, servicing and warehousing of mortgages and its portfolio turnover policy.

3. Indicate the types of properties subject to mortgages in which the registrant invests or proposes to invest; for example, single family dwellings, apartment buildings, office buildings, bowling alleys, commercial properties and unimproved land.

(c) *Securities of or interests in persons primarily engaged in real estate activities.*

*Instructions.* 1. Indicate separately the types of securities of or interests in persons engaged in real estate activities (for example, common stock, interests in real estate investment trusts, partnership interests, joint venture interests) in which the registrant may invest and the proportion of its assets which may be invested in each such type of security or interest.

2. Indicate the primary activities of persons in which the registrant will invest such as mortgage sales, investment in office buildings or investments in undeveloped acreage and the investment policies of such persons.

3. State the criteria followed in the purchase of such securities and interests (for example, securities listed on a national securities exchange, minimum net income requirements, period of operation of issuer).

(d) *Investments in other securities.*

*Instructions.* 1. Indicate the type of securities (for example, bonds, preferred stocks, common stocks) and the industry groups in which the registrant may invest and the percentage of its assets which it may invest in each such type or industry group.

2. Instruction 3 to paragraph (c) shall also apply to this paragraph.

*Item (10): Description of real estate.* (a) State the location and describe the general character of all materially important real

properties now held or intended to be acquired by or leased to the registrant or its subsidiaries. Include information as to the present or proposed use of such properties and their suitability and adequacy for such use. Properties not yet acquired shall be identified as such.

(b) State the nature of the registrant's or subsidiary's title to, or other interest in, such properties and the nature and amount of all material mortgages, liens or other encumbrances against such properties. Set forth briefly the current principal amount of each such material encumbrance, its interest and amortization provisions, its pre-payment provisions and its maturity date and balance to be due at maturity assuming no payment has been made on principal in advance of its due date.

(c) Outline briefly the principal terms of any lease of any of such properties or any option or contract to purchase or sell any of such properties.

(d) Outline briefly any proposed program for the renovation, improvement or development of such properties, including the estimated cost thereof and the method of financing to be used. If there are no present plans for the improvement or development of any unimproved or undeveloped property, so state and indicate the purpose for which the property is to be held or acquired.

(e) Describe the general competitive conditions to which the properties described above are or may be subject.

*Instructions.* 1. What is required is information essential to an investor's understanding of the securities being registered. Detailed descriptions of the physical characteristics of individual properties or legal descriptions by metes and bounds are not required and should not be given. If the registrant has a number of properties, the information may be given in tabular form to the extent that it is practicable to do so.

2. The information shall be furnished separately as to each property the book value of which amounts to ten percent or more of the total assets of the registrant and its consolidated subsidiaries or the gross revenue from which for the last fiscal year amounted to ten percent or more of the aggregate gross revenues of the registrant and its consolidated subsidiaries for the registrant's last fiscal year. With respect to other properties the information shall be given by such classes or groups and in such detail as will reasonably convey the information required.

3. Include a statement as to whether, in the opinion of the management of the registrant, the properties are adequately covered by insurance.

*Item (11): Operating data.* Furnish the following information with respect to each improved property which is separately described in answer to Item (10):

(a) Occupancy rate expressed as a percentage for each of the last five years.

(b) Number of tenants occupying ten percent or more of the rentable square footage and principal nature of business of such tenant.

(c) Principal business, occupations and professions carried on in, or from the building.

(d) The principal provisions of the leases between the tenants referred to in (b) above including, but not limited to: rental per annum, expiration date, and renewal options.

(e) The average effective annual rental per square foot or unit for each of the last five years prior to the date of filing.

(f) Schedule of the lease expirations for each of the ten years starting with the year in which the registration statement is filed, stating (i) the number of tenants whose leases will expire, (ii) the total area in square feet covered by such leases, (iii) the annual rental represented by such leases, and (iv)

the percentage of gross annual rental represented by such leases.

(g) Each of the properties and components thereof upon which depreciation is taken, setting forth the (i) Federal tax basis, (ii) rate, (iii) method, and (iv) life claimed with respect to such property or component thereof for purposes of depreciation.

(h) The realty tax rate, annual realty taxes and estimated taxes on any proposed improvements.

*Instruction.* Instruction 3 to Item (10) shall apply to this item.

*Item (12): Tax treatment of registrant and its security holders.*

(a) Briefly describe the material aspects of the tax treatment of registrant under Federal income tax laws and the Federal tax treatment of registrant's security holders with respect to distributions by registrant, including the tax treatment of gains from the sale of securities or property and distributions in excess of annual net income.

(b) If any of the securities being registered are to be offered in exchange for other securities or property indicate the tax effect upon such exchanges of the Federal income tax laws.

*Item (13): Description of shares being registered.* Furnish the following information with respect to the shares being registered:

(a) Outline briefly (i) dividend or distribution rights; (ii) voting rights; (iii) liquidation rights; (iv) pre-emptive rights; (v) conversion rights; (vi) redemption provisions; (vii) sinking fund provisions; (viii) liability to further calls or to assessment by the registrant; (ix) liability, directly or indirectly, to persons other than the registrant; and (x) transferability provisions.

(b) If the rights of holders of such shares may be modified otherwise than by a vote of a majority or more of the shares outstanding, voting as a class, so state and explain briefly.

(c) Outline briefly any restriction on the repurchase or redemption of shares by the registrant while there is any arrearage in the payment of dividends or sinking fund installments. If there is no such restriction, so state.

*Instructions.* 1. This item requires only a brief summary of the provisions which are pertinent from an investment standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions of the governing instruments verbatim; only a succinct resume is required.

2. Under the description of voting rights include a description of any cumulative voting rights or rights to vote on changes in investment policies of the registrant; if none, so state. If the registrant is other than a corporation, indicate the matters on which shareholders may vote, including voting on the selection or removal of directors or on operational activities, transactions and acts of the registrant.

3. Include a brief outline of any provisions for the amendment or modification of the governing instruments and indicate whether or not notice to, or the consent of, the security holders is required in connection therewith.

4. If the rights evidenced by the securities being registered are materially limited or qualified by the rights of any other class of securities, include such information regarding such other securities as will enable investors to understand the rights evidenced by securities being registered. If any securities being registered are to be offered in exchange for other securities, an appropriate description of such other securities shall be given. No information need be given, however, as to any class of securities all of which will be redeemed and retired, provided appropriate steps to assure such redemption and retirement will be taken prior to or upon

delivery by the registrant of the securities being registered.

**Item (14): Long-term debt being registered.** If long-term debt is being registered, outline briefly such of the following as are relevant:

(a) Provisions with respect to interest, conversion, maturity, redemption, amortization, sinking fund or retirement.

(b) Provisions with respect to the kind and priority of any lien securing the issue, together with a brief identification of the principal properties subject to such lien.

(c) Provisions restricting the declaration of dividends or requiring the maintenance of any ratio of assets, the creation or maintenance of reserves or the maintenance of properties.

(d) Provisions permitting or restricting the issuance of additional securities, the withdrawal of cash deposited against such issuance, the incurring of additional debt, the release or substitution of assets securing the issue, the modification of the terms of the security, and similar provisions.

(e) The name of the indenture trustee and the nature of any material relationship with the registrant or any of its affiliates; the percentage of securities of the class necessary to require the trustee to take action, and what indemnification the trustee may require before proceeding to enforce the lien.

(f) The general types of events which constitute defaults and whether or not any periodic evidence is required to be furnished as to the absence of default or as to compliance with the terms of the indenture.

**Instruction.** Instructions 1 and 4 to Item (13) shall also apply to this item. Section 305(a)(2) of the Trust Indenture Act of 1939 shall not be deemed to require the inclusion in the registration statement or in the prospectus of any information not required by this form.

**Item (15): Other securities being registered.** If securities other than shares of long-term debt are being registered, outline briefly the rights evidenced thereby. If subscription warrants or rights are being registered, state the title and amount of securities called for, the period during which and the price at which the warrants or rights are exercisable.

**Instruction.** Instructions 1 and 4 to Item (13) shall also apply to this item.

**Item (16): Pending legal proceedings.** Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted and the principal parties thereto. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

**Instructions.** 1. If the business ordinarily results in actions for negligence or other claims, no such action or claim need be described unless it departs from the normal kind of such actions.

2. No information need be given with respect to any proceedings which involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 5 percent of the total assets of the registrant and its consolidated subsidiaries. However, if any proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. Notwithstanding Instructions 1 and 2, any material bankruptcy, receivership, or similar proceeding with respect to the registrant or any of its significant subsidiaries shall be described. Any material proceedings to which any affiliated person or subsidiary of the registrant is a party adverse to the regis-

trant or any of its subsidiaries shall also be described.

**Item (17): Parents of registrant.** List the names of all parents of the registrant showing the basis of control and, as to each parent, the percentage of voting securities owned or other basis of control by its immediate parent, if any.

**Instructions.** 1. Include the registrant and show the percentage of its voting securities owned or other basis of control by its immediate parent. In case any parent is a resident of, or a corporation or other organization formed under the laws of any foreign country, give the name of such country for each such foreign parent, and, if it is a corporation or other organization, state briefly the nature of the organization.

2. If the securities being registered are to be issued in connection with or pursuant to a plan of acquisition, reorganization, readjustment or succession, indicate, so far as practicable, the status to exist upon consummation of the plan.

**Item (18): Persons owning securities of registrant.** Furnish the information required by the following table as to all equity securities of the registrant owned of record or known by the registrant to be owned beneficially by the following persons as of the latest practicable date:

(a) Each person who owns of record or is known to own beneficially more than ten percent of any class of such securities, naming each such person.

(b) All directors and officers of the registrant and their associates, as a group, without naming them.

(1) Name of person or identity of group	(2) Title of class	(3) Type of ownership	(4) Amount owned	(5) Percent of class
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**Instructions.** 1. The information shall be furnished in tabular form. Indicate in the third column whether the securities are owned both of record and beneficially, of record only, or beneficially only, and show separately in the fourth and fifth columns the respective amounts and percentages owned in each such manner.

2. The percentages are to be calculated on the basis of the amount of outstanding securities of the class, excluding securities held by or for the account of the registrant. In any case where the amount owned by the group specified in paragraph (b) is less than one percent, a statement to that effect will suffice as an answer to that paragraph.

3. If securities are being registered in connection with, or pursuant to, a plan of acquisition, reorganization, readjustment or succession, indicate as far as practicable, the status to exist upon consummation of the plan on the basis of present holdings and commitments.

4. If any of the securities being registered are to be offered for the account of security holders, name each such security holder and state the amount of securities owned by him, the amount to be offered for his account, and the percentage of securities of the class (computed in accordance with instruction 2) to be owned after the offering if all of the securities offered for his account are sold.

5. If, to the knowledge of the registrant or any principal underwriter of the securities being registered, more than ten percent of any class of voting securities of the registrant are held or to be held subject to any voting trust or other similar agreement, state the title of such securities, the amount held or to be held and the duration of the agreement. Give the names and addresses of the voting trustees and outline briefly their voting rights and other powers under the agreement.

**Item (19): Directors and executive officers.** Furnish the following information as to each director and each executive officer of the registrant and each person chosen to become a director or executive officer of the registrant:

(a) Name and the nature of all positions and offices held or to be held with the registrant.

(b) All principal occupations and employments during the past five years, including the name and principal business of each corporation or other organization with which such occupations or employments were carried on.

(c) Unless the directors are elected annually by the security holders, state the manner in which they are selected, their terms of office and the terms and conditions under which they may resign or be removed from office.

**Instructions.** 1. For the purpose of this item the term "executive officer" means the president, vice president, secretary and treasurer and any other officer who performs similar policy making functions for the registrant.

2. If any person chosen to become a director or executive officer has not consented to act as such, so state. See Rule 438 (§ 230.438 of this chapter).

**Item (20): Remuneration of directors and officers.** (a) Furnish the following information in substantially the tabular form indicated below as to all direct remuneration paid by the registrant and its subsidiaries during the registrant's last fiscal year to the following persons for services in all capacities:

(1) Each director, and each of the three highest paid officers, of the registrant whose aggregate direct remuneration exceeded \$30,000, naming each such person.

(2) All directors and officers of the registrant, as a group, without naming them.

(A) Name of individual or identity of group	(B) Capacities in which remuneration was received	(C) Aggregate direct remuneration
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**Instructions.** 1. This item applies to any person who was a director or officer of the registrant at any time during the period specified. However, information need not be given for any portion of the period during which such person was not a director or officer of the registrant.

2. The information is to be given on an accrual basis if practicable. The tables required by this paragraph and paragraph (b) may be combined if the registrant so desires.

3. Do not include remuneration paid to a partnership in which any director or officer was a partner, but see Item (24).

4. If the registrant has not completed a full fiscal year since its organization or if it acquired or is to acquire the majority of its assets from a predecessor within the current fiscal year, the information shall be given for the current fiscal year, estimating future payments, if necessary. To the extent that such remuneration is to be computed upon the basis of a percentage of profits, it will suffice to state such percentage without estimating the amount of such profits to be paid.

5. If any part of the remuneration shown in response to this item was paid pursuant to a material bonus or profit-sharing plan, briefly describe the plan and the basis upon which directors or officers participate therein. See Instruction 1 to paragraph (b) for the meaning of the term "plan".

(b) Furnish the following information, in substantially the tabular form indicated below, as to all pension or retirement benefits proposed to be paid under any existing plan in the event of retirement at normal retire-



ment date, directly or indirectly, by the registrant or any of its subsidiaries to each director or officer named in answer to paragraph (a) above.

(A)	(B)
Name of individual	Amounts set aside or accrued during registrant's last fiscal year

(C)

Estimated annual benefits upon retirement

**Instructions.** 1. The term "plan" in this item includes all plans, contracts, authorizations or arrangements, whether or not set forth in any formal document.

2. Column (B) need not be answered with respect to amounts computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service.

3. The information called for by Column (C) may be given in a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

4. In the case of any plan (other than those specified in Instruction 2) where the amount set aside each year depends upon the amount of earnings of the registrant or its subsidiaries for such year or a prior year, or where it is otherwise impracticable to state the estimated annual benefits upon retirement, there shall be set forth, in lieu of the information called for by Column (C), the aggregate amount set aside or accrued to date, unless it is impracticable to do so, in which case there shall be stated the method of computing such benefits.

(c) Describe briefly all remuneration payments (other than payments reported under paragraph (a) or (b) of this item) proposed to be made in the future, directly or indirectly, by the registrant or any of its subsidiaries pursuant to any existing plan or arrangement to (i) each director or officer named in answer to paragraph (a) (1), naming each such person, and (ii) all directors and officers of the registrant as a group, without naming them.

**Instruction.** Information need not be included as to payments to be made for, or benefits to be received from, group life or accident insurance, group hospitalization or similar group payments or benefits. If it is impracticable to state the amount of remuneration payments proposed to be made, the aggregate amount set aside or accrued to date in respect of such payments should be stated, together with an explanation of the basis for future payments.

**Item (21): Options to purchase securities.** Furnish the following information as to options to purchase securities from the registrant or any of its subsidiaries, which are outstanding as of a specified date within 30 days prior to the date of filing.

(a) Describe the options, stating the material provisions including the consideration received and to be received for such options by the grantor thereof and the market value of the securities called for on the granting date. If, however, the options are "qualified stock options" or "restricted stock options" or options granted pursuant to a plan qualifying as an "employee stock purchase plan", as those terms are defined in Sections 422 through 424 of the Internal Revenue Code of 1954, as amended, and the regulations or rulings of the Internal Revenue Service thereunder, only the following is required: (i) a statement to that effect, (ii) a brief description of the terms and conditions of the options or of the plan pursuant to which they were issued, and (iii) a statement of the provisions of the plan or options with respect to the relationship between the option price and the market price of the securities at the date when the options were granted, or with

respect to the terms of any variable price option.

(b) State (i) the title and amount of the securities called for by such options; (ii) the purchase prices of the securities called for and the expiration dates of such options; and (iii) the market value of the securities called for by such options as of the latest practicable date.

**Instruction.** In case a number of options are outstanding having different prices and expiration dates, the options may be grouped by prices and dates. If this produces more than five separate groups then there may be shown only the range of the expiration dates and the average purchase prices, i.e., the aggregate purchase price of all securities of the same class called for by all outstanding options to purchase securities of that class divided by the number of securities of such class so called for.

(c) Furnish separately the information called for by paragraph (b) above for all options held by (i) each director and officer named in answer to Item (20) (a) (1), naming each such person, (ii) all directors and officers of the registrant as a group without naming them, and (iii) each principal underwriter named in answer to Item (2) (a) and its directors and officers as a group, naming each such underwriter.

**Instructions.** 1. The term "options" as used in this item includes all options, warrants and rights other than those issued to security holders as such on a pro rata basis.

2. The extension of options shall be deemed the granting of options within the meaning of this item.

3. Where the total market value of securities called for by all outstanding options as of the specified date referred to in this item does not exceed \$10,000 for any person specified in (c) (i), or \$30,000 for any group specified in (c) (ii) or (iii), or for all option holders as a group, this item need not be answered with respect to options held by such person or group.

**Item (22): Selection and management of registrant's investments.**

(a) Describe the arrangements made or proposed to be made by the registrant with respect to the following:

(1) Management of the registrant's real estate, including arranging for purchases, sales, leases, maintenance and insurance.

(2) The purchase, sale and servicing of mortgages for the registrant.

(3) Investment advisory services.

(b) If any of the services specified in paragraph (a) are performed or to be performed by any affiliated person, furnish the following information as to such person:

(1) Name and address.

(2) Nature of principal business.

(3) Principal occupations during the last five years.

(4) Nature of all existing direct or indirect material interests in or business connections with the registrant or any of its other affiliated persons.

(5) Nature of all services rendered to the registrant and its subsidiaries.

(6) Aggregate remuneration received from the registrant and its subsidiaries, directly or indirectly, during registrant's last fiscal year and the capacities in which such remuneration was received.

**Instructions.** 1. If any person whose principal occupations during the last five years are described in answer to paragraph (b) (3) is a corporation or other organization, include the name and principal occupations during the last five years of each principal executive officer of such corporation or other organization.

2. The information required by paragraph (b) need not be furnished with respect to any director or officer of the registrant who performs the services specified solely in his capacity as such director or officer and who

receives no additional compensation directly or indirectly for such services.

**Item (23): Policies with respect to certain transactions.** Outline briefly any provisions of the governing instruments limiting any director, officer, security holder or affiliate of the registrant, or any other person in the following respects. If the governing instruments contain no such provisions, describe the policy of the registrant with respect to such matters.

(a) Having any direct or indirect pecuniary interest in any investment to be acquired or disposed of by the registrant or any of its subsidiaries or in any transaction to which the registrant or any of its subsidiaries is a party or has an interest.

(b) Engaging for their own account in business activities of the types conducted or to be conducted by the registrant and its subsidiaries.

**Item (24): Interest of certain persons in transactions with registrant.** Describe briefly and where practicable state the approximate amount of any material interest, direct or indirect, of any affiliated person in any material transactions during the last five years or in any material proposed transactions to which the registrant or any of its subsidiaries was or is to be a party.

**Instructions.** 1. This item applies to any of the specified persons who, at the time of the transaction, held the position or relationship specified or who held such position or relationship within one year before or after such transaction or any portion thereof.

2. The information called for by this item is to be given as to each material transaction and each series of transactions which is material in the aggregate.

3. The materiality of any interest or transaction, is to be determined on the basis of the significance of the information to investors in the light of all of the circumstances of the particular case. The importance of the interest to the person having the interest, the relationship of the parties to the transaction to each other and the amount involved in the transaction are among the factors to be considered in determining the significance of the information to investors.

4. Include the name of each person whose interest in any transaction is described and the nature of the relationship by reason of which such interest is required to be described. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

5. As to any transaction involving the purchase or sale of assets by or to the registrant state the cost of the assets to the purchaser and the cost thereof to the seller and the aggregate depreciation claimed by the seller for Federal income tax purposes, if acquired by the seller within five years prior to the transaction. Indicate the principle followed in determining the registrant's purchase or sale price and the name of the person making such determination.

6. This paragraph shall not apply to any interest arising from the ownership of securities of the registrant where the security holder receives no extra or special benefit not shared on a pro rata basis by all holders of the same class, unless the amount of securities owned by the person having the interest, or his relationship to other security holders or to the registrant is such as to make his interest material to investors.

7. No information need be given under this paragraph as to—

(A) the interest of any specified person where such interest does not exceed \$30,000 in the aggregate;

(B) the payment of remuneration to any person for services as a director or officer of the registrant or any of its subsidiaries;

(C) any interest in a transaction where the rates or charges involved in the trans-

action are fixed by law or governmental authority; or

(D) the interest of any specified person in a transaction where such interest is solely that of a director of another corporation which is a party to the transaction.

8. Information should be included as to any material underwriting discounts and commissions upon the sale of securities by the registrant where any of the specified persons was or is to be a principal underwriter or is a controlling person, or member, of a firm which was or is to be a principal underwriter. Information need not be given concerning ordinary management fees paid by underwriters to a managing underwriter pursuant to an agreement among underwriters the parties to which do not include the registrant or its subsidiaries.

*Item (25): Limitations of liability.* Outline briefly the principal provisions of the governing instruments or of any contract or arrangement to which the registrant or a subsidiary is a party with respect to limitations on the liability of affiliated persons or any of their directors, officers or employees.

*Instruction.* If any of such provisions are broad enough to cover liability arising under the Securities Act of 1933, the effect of Section 14 of that Act upon such provisions should be indicated.

*Item (26): Financial statements.* Include in the prospectus all financial statements called for by the Instructions as to Financial Statements for this form, except as provided in paragraphs (a) and (b) below:

(a) All schedules to balance sheets and profit and loss statements may be omitted from the prospectus, except those prepared in accordance with Instructions (4), (5), (6) and (7) of the Instructions as to Financial Statements herein (subparagraphs (g) (4), (g) (5), (g) (6), and (g) (7) of this section) and Rule 12-16 of Regulation S-X (§ 210.12-16 of this chapter) which are applicable to the balance sheets and profit and loss statements included in the prospectus. All historical information required by Part E of the Instructions as to Financial Statements in Form S-1 (§ 239.11) may also be omitted from the prospectus.

(b) If the statements of income and expenses and realized capital gain or loss on investments or the related statement of surplus are included in their entirety in lieu of the summary financial data required by Item (6), the statements so included need not be otherwise included in the prospectus or elsewhere in the registration statement.

(c) *Part II—Information not required in prospectus.*

*Item (27): Other expenses of issuance and distribution.* Furnish a reasonably itemized statement of all expenses in connection with the issuance and distribution of the securities being registered, other than underwriting discounts and commissions. If any of the securities being registered are to be offered for the account of security holders, indicate the portion of such expenses to be borne by such security holders.

*Instruction.* Insofar as practicable, registration fees, Federal taxes, state taxes and fees, trustees' and transfer agents' fees, cost of printing and engraving, and legal accounting and engineering fees shall be separately itemized. The information may be given as subject to future contingencies. If the amounts of any items are not known, estimates designated as such shall be given.

*Item (28): Relationship with registrant of experts named in registration statement.*

(a) If any accountant named in the registration statement as having certified any financial statements or data filed as a part of such statement was employed for such purpose on a contingent basis or, during the period covered by the certified financial statements or at any time thereafter, had any direct financial interest or any material in-

direct financial interest in the registrant or any of its subsidiaries or was connected with the registrant or any of its subsidiaries as a promoter, underwriter, voting trustee, director, officer, or employee, state the nature of such contingent basis, interest or connection.

(b) If any other expert named in the registration statement as having prepared or certified any part thereof was employed for such purpose on a contingent basis or, at the time of such preparation or certification or at any time thereafter, had a substantial interest in the registrant or any of its parents or subsidiaries or was connected with the registrant or any of its subsidiaries as a promoter, underwriter, voting trustee, director, officer or employee, state the nature of such contingent basis, interest or connection.

*Item (29): Sales to special parties.* Name each person or specify each class of persons (other than underwriters or dealers, as such) to whom any securities have been sold within the past six months, or are to be sold, by the registrant or any security holder for whose account any of the securities being registered are to be offered, at a price varying from that at which securities of the same class are to be offered to the general public pursuant to this registration. State the consideration given or to be given by each such person or class.

*Item (30): Recent sales of unregistered securities.* Furnish the following information as to all securities of the registrant sold by the registrant within the past three years which were not registered under the Securities Act of 1933. Include sales of reacquired securities as well as new issues, securities issued in exchange for property, services, or other securities, and new securities resulting from the modification of outstanding securities.

(a) Give the date of sale and the title and amount of securities sold.

(b) Give the names of the principal underwriters, if any. As to any securities sold not publicly offered, name the persons or identify the class of persons to whom the securities were sold.

(c) As to securities sold for cash, state the aggregate offering price and the aggregate underwriting discounts or commissions. As to any securities sold otherwise than for cash, state the nature of the transaction and the nature and aggregate amount of consideration received by the registrant.

(d) Indicate the section of the Act or the Rule of the Commission under which exemption from registration was claimed and state briefly the facts relied upon to make the exemption available.

*Instructions.* 1. Information need not be set forth as to notes, drafts, bills of exchange or bankers' acceptances which mature not later than one year from the date of issuance.

2. If the sales were made in a series of transactions, the information may be given by such totals and periods as will reasonably convey the information required.

*Item (31): Subsidiaries of registrant.* Furnish a list or diagram of all subsidiaries of the registrant, and as to each such subsidiary indicate (1) the State or other jurisdiction under the laws of which it was organized, and (2) the percentage of voting securities owned or other basis of control, by its immediate parent. Designate (i) subsidiaries for which separate financial statements are filed; (ii) subsidiaries included in consolidated financial statements; (iii) subsidiaries included in group financial statements filed for unconsolidated subsidiaries; and (iv) subsidiaries for which no financial statements are filed, indicating briefly why statements of such subsidiaries are not filed.

*Instructions.* 1. In case the registrant owns directly or indirectly approximately 50 percent of the voting securities of any person and approximately 50 percent of the

voting securities of such person are owned directly or indirectly by another single interest, such person shall be deemed to be a subsidiary for purposes of this item.

2. Include the registrant and show clearly the relationship of each person named to the registrant and to the other persons named. The names of particular subsidiaries may be omitted if the unnamed subsidiaries considered in the aggregate as a single subsidiary would not constitute a significant subsidiary.

3. If the securities being registered are to be issued in connection with, or pursuant to, a plan of acquisition, reorganization, readjustment, or succession, indicate insofar as practicable the status to exist upon consummation of the plan.

*Item (32): Indemnification of directors and officers.* State the general effect of any provision of the governing instruments or of any contract, arrangement or statute under which any director or officer of the registrant is insured or indemnified in any manner against any liability which he may incur in his capacity as such.

*Instruction.* Attention is directed to the Note to Rule 460 (§ 230.460 of this chapter).

*Item (33): Treatment of proceeds from stock being registered.* If the capital shares are being registered hereunder and any portion of the consideration to be received by the registrant for such shares is to be credited to an account other than the appropriate capital share account, state to what other account such portion is to be credited and the estimated amount per share. If the consideration from the sale of par value shares is less than par value, state the amount per share involved and its treatment in the accounts.

*Item (34): Financial statements and exhibits.* List all financial statements and exhibits filed as a part of the registration statement:

(a) Financial statements, indicating those included in the prospectus.

(b) Exhibits.

(c) Statement of eligibility and qualification of each person designated to act as trustee under an indenture to be qualified under the Trust Indenture Act of 1939.

(d) *Undertakings.* (1) The following undertaking shall be included in every registration statement:

"Subject to the terms and conditions of Section 15(d) of the Securities Exchange Act of 1934, the undersigned registrant hereby undertakes to file with the Securities and Exchange Commission such supplementary and periodic information, documents and reports as may be prescribed by any rule or regulation of the Commission heretofore or hereafter duly adopted pursuant to authority conferred in that section."

(2) The following undertaking, with appropriate modifications to suit the particular case, shall be included in the registration statement if the securities being registered are to be offered to existing security holders pursuant to warrants or rights and any securities not taken by security holders are to be reoffered to the public:

"The undersigned registrant hereby undertakes to supplement the prospectus, after the expiration of the subscription period, to set forth the results of the subscription offer, the transactions by the underwriters during the subscription period, the amount of unsubscribed securities to be purchased by the underwriters and the terms of any subsequent reoffering thereof. If any public offering by the underwriters is to be made on terms differing from those set forth on the cover page of the prospectus, a post-effective amendment will be filed to set forth the terms of such offering."

(3) The following undertaking, with appropriate modifications to suit the particular case, shall be included in the registration statement if the securities being registered

are to be offered in a continuous offering over an extended period of time:

"The registrant undertakes (a) to file any prospectuses required by Section 10(a)(3) as post-effective amendments to the registration statement, (b) that for the purpose of determining any liability under the Act each such post-effective amendment may be deemed to be a new registration statement relating to the securities offered therein and the offering of such securities at that time may be deemed to be the initial bona fide offering thereof, and (c) that all post-effective amendments will comply with the applicable forms, rules and regulations of the Commission in effect at the time such post-effective amendments are filed, (d) to remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering and (e) to furnish the Division of Corporation Finance a letter informing said Division when all of the securities registered have been sold."

(e) *Signatures.* Pursuant to the requirements of the Securities Act of 1933, the registrant has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the city of \_\_\_\_\_, and State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

\_\_\_\_\_  
(Registrant)

By \_\_\_\_\_  
(Signature and title)

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed below by the following persons in the capacities and on the dates indicated.

\_\_\_\_\_  
(Signature)                      (Title)                      (Date)

*Instructions.* 1. The registration statement shall be signed by the registrant, its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer and by at least the majority of the board of directors or persons performing similar functions. If the registrant is a foreign person, the registration statement shall also be signed by its authorized representative in the United States.

2. The name of each person who signs the registration statement shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the registration statement.

(f) *Instructions as to financial statements.* These instructions specify the balance sheets and profit and loss statements to be filed as a part of a registration statement on this form. Regulation S-X (Part 210 of this chapter) governs the certification, consolidation, and form and content of such financial statements. The financial statements, including the statements of surplus and schedules to be filed in support thereof, shall be in accordance with the requirements of Article 5 of Regulation S-X (§§ 210.5-01 to 210.5-04 of this chapter) except as otherwise provided in the special provisions hereunder. Item (26) above specifies the statements which are to be included in the prospectus. Attention is directed to Rule 411(b) (§ 230.411(b) of this chapter) regarding incorporation by reference of financial statements.

#### A. GENERAL PROVISIONS

(1) The financial statements filed as a part of a registration statement on this form shall be in accordance with the requirements of Form S-1.

#### B. SPECIAL PROVISION AS TO REAL ESTATE INVESTMENT TRUSTS

(2) (i) In lieu of the profit and loss or income statements required by Rule 5-03 of Regulation S-X (§ 210.5-03 of this chapter)

there shall be filed statements of income and expense and statements of realized capital gain or loss on investments which shall generally conform with the requirements of Rules 6-04 and 6-05 of Regulation S-X (§§ 210.6-04 and 210.6-05 of this chapter). In place of the balance sheet caption prescribed by Rule 5-02.35(a)(4) of Regulation S-X (§ 210.5-02.35(a)(4) of this chapter) there shall be shown separately (a) the balance of undistributed net income and (b) accumulated net realized gain or loss on investments, and the statements of surplus shall generally conform to the requirements of Rule 6-07 of Regulation S-X (§ 210.6-07 of this chapter).

(ii) The trust's status as a "real estate investment trust" under applicable provisions of the Internal Revenue Code as amended shall be stated in a note referred to in the appropriate statements. Such note shall also indicate briefly the principal present assumptions on which the trust has relied in making or not making provisions for such taxes.

#### C. SPECIAL PROVISIONS AS TO SCHEDULES

(3) *Schedules required to be filed.* Except as provided in Instructions (4), (5), (6) and (7) below the schedules specified by Rule 5-04 of Regulation S-X (§ 210.5-04 of this chapter) shall be filed.

(4) *Marketable securities—other security investments (Schedule I).* In lieu of the schedule of marketable securities—other security investments as prescribed by Rule 12-02 (§ 210.12-02 of this chapter) required under Schedule I there shall be filed a schedule in accordance with that prescribed by Rule 12-19 (§ 210.12-19 of this chapter).

(5) *Real estate and reserve for depreciation and amortization (Schedule XVIII).* Investments in real estate and the related reserve for depreciation shall be reported on the schedule prescribed by Rule 12-38 (§ 210.12-38 of this chapter). (Real estate, furniture and fixtures, and the related reserve for depreciation and amortization, which are used in the business and are not considered as investments shall be included on the schedules required under Schedules V and VI.) The prescribed schedule shall be adjusted as follows:

(i) Part 2 and footnotes 2, 3 and 8 may be omitted as being inapplicable.

(ii) The required information is to be given as to each individual investment included in Column E except that an amount not exceeding five percent of the total of Column E may be listed in one amount as "miscellaneous investments." There shall be shown as to each investment listed separately and for the total of Columns C and E the amount allocable to land and the amount allocable to buildings and improvements.

(iii) In addition to the reconciliation required by footnote 4 there shall be given in a similar form a reconciliation of the total amount of the reserve for depreciation at the beginning of the period with the total amount shown in Column F.

(iv) This schedule, which is in addition to the stated requirements of Rule 5-04 (§ 210.5-04 of this chapter), shall be designated Schedule XVIII.

(6) *Mortgage loans on real estate (Schedule XIX).* There shall be included a schedule of investments in mortgage loans on real estate as prescribed by Rule 12-37 (§ 210.12-37 of this chapter). Part 2 and footnotes 3, 5, 6, 7 and 12 of the prescribed schedule may be omitted as being inapplicable. The required information is to be given as to each individual mortgage loan included in Column C except that an amount not exceeding five percent of Column C may be listed in one amount as "miscellaneous mortgages." This schedule, which is in addition to the stated requirements of Rule 5-04 (§ 210.5-04 of this chapter) shall be designated Schedule XIX.

(7) *Other investments (Schedule XX).* If there are any other investments not included in the schedules required, there shall be set forth in a separate schedule information concerning such investments corresponding to that included in the prescribed schedules. This schedule, which is in addition to the stated requirements of Rule 5-04 (§ 210.5-04 of this chapter), shall be designated Schedule XX.

(8) *Filing of other statements in certain cases.* The Commission may, upon the request of the registrant, and where consistent with the protection of investors, permit the omission of one or more of the statements herein required or the filing in substitution therefor of appropriate statements of comparable character. The Commission may also require the filing of other statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required or whose statements are otherwise necessary for the protection of investors.

(h) *Instructions as to exhibits.* Subject to the rules regarding incorporation by reference, the following exhibits shall be filed as a part of the registration statement. Exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for by Item (34).

(1) Copies of each underwriting contract with a principal underwriter, each syndicate agreement and each purchase, sub-underwriting or selling group agreement or letter pursuant to which the securities being registered are to be distributed or, if the terms of such documents are not determined, the proposed forms thereof.

(2) Copies of any plan of acquisition, reorganization, readjustment or succession described in answer to Item (4) or (16).

(3) Copies of the governing instruments as presently in effect.

(4) (i) Specimens or copies of all securities being registered hereunder and copies of all constituent instruments defining the rights of holders of long-term debt of the registrant and of all subsidiaries for which consolidated or unconsolidated financial statements are required to be filed.

(ii) There need not be filed, however, (a) any instrument with respect to long-term debt not being registered hereunder if the total amount of securities authorized thereunder does not exceed five percent of the total assets of the registrant and its subsidiaries on a consolidated basis and if there is filed an agreement to furnish a copy of such instrument to the Commission upon request, (b) any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class will be taken prior to or upon delivery by the registrant of the securities being registered, or (c) copies of instrument evidencing scrip certificates for fractions of shares.

(iii) If any of the securities being registered are, or are to be, issued under an indenture to be qualified under the Trust Indenture Act of 1939, the copy of such indenture which is filed as an exhibit shall include or be accompanied by (a) a reasonably itemized and informative table of contents, and (b) a cross-reference sheet showing the location in the indenture of the provisions inserted pursuant to Sections 310 through 318(a), inclusive, of the Trust Indenture Act of 1939.

(5) Copies of any plan setting forth the terms and conditions upon which outstanding options, warrants or rights to purchase securities of the registrant or its subsidiaries

from the registrant or any of its affiliates have been issued, together with specimen copies of such options, warrants or rights; or, if not issued pursuant to such a plan, copies of each such option, warrant or right.

(6) (i) An opinion of counsel, as to the legality of the securities being registered, indicating whether they will when sold be legally issued, fully paid and non-assessable, and, if debt securities, whether they will be binding obligations of the registrant.

(ii) An opinion of counsel supporting the tax matters and consequences as to the registrant's activities or proposed activities described in the prospectus.

(7) If any discount on capital shares is shown as a deduction from capital shares on the most recent balance sheet being filed for the registrant, there shall be filed a statement of the circumstances under which such discount arose and an opinion of counsel as to the legality of the issuance of the shares to which such discount relates. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which in the opinion of counsel are controlling.

(8) If the registrant has any shares, the preference of which upon involuntary liquidation exceeds the par or stated value thereof, there shall be filed an opinion of counsel as to whether there are any restrictions upon surplus by reason of such excess and also as to any remedies available to security holders before or after payment of any dividend that would reduce surplus to an amount less than the amount of such excess. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which, in the opinion of counsel, are controlling.

(9) Copies of any voting trust agreement referred to in answer to Instruction 5 to Item (18).

(10) Copies of all bonus, profit sharing, pension, retirement or deferred compensation plans, contracts or arrangements. If any such plan, contract or arrangement is not set forth in a formal document, furnish a reasonably detailed description thereof. Copies of any available booklet or other written description of any such plan, contract or arrangement shall also be filed.

(11) Copies of all indemnification contracts or arrangements described in answer to Item (32).

(12) (i) Copies of every material contract not made in the ordinary course of business which is to be performed in whole or in part at or after the filing of the registration statement or which was made not more than two years before filing, except contracts called for, or the omission of which is expressly authorized by the foregoing instructions. Only contracts need be filed as to which the registrant or a subsidiary of the registrant is a party or has succeeded to a party by assumption or assignment, or in which the registrant or such subsidiary has a beneficial interest.

(ii) If the contract is such as ordinarily accompanies the kind of business conducted by the registrant and its subsidiaries, it is made in the ordinary course of business and need not be filed, unless it falls within one or more of the following categories, in which case it should be filed except where immaterial in amount or significance:

(a) Affiliated persons are parties thereto, except where the contract merely involves the purchase or sale of current assets having a determinable market price at such price.

(b) Such contract is of such materiality as to call for specific reference to it in the prospectus.

(c) The registrant's business is substantially dependent upon it.

(d) It calls for the acquisition or disposition of assets for a consideration amount-

ing to ten percent or more of the total assets of the registrant and its consolidated subsidiaries.

(e) It is a lease under which a significant part of the property separately described in answer to Item (10) is held by the registrant.

(f) The amount of the contract, or its importance to the business of the registrant and its subsidiaries, is material, and the terms and conditions are of a nature of which investors reasonably should be informed.

(1) *Supplemental information.* There shall be furnished for the information of the Commission, but not as part of the registration statement, the following information and documents:

(1) If within the past twelve months any report pertaining to broad aspects of the registrant's present or proposed operations, or to any substantial properties owned or to be acquired by the registrant, has been prepared for the registrant, any security holder named in answer to Item (18)(a) or any principal underwriter of the securities being registered, a copy of each such report shall be furnished as supplemental information. A brief statement of the use and any distribution of such report shall be furnished also. Any report submitted as supplemental information will be returned upon request.

(2) A copy of any report prepared for external use by the registrant or a principal underwriter in connection with the proposed offering, together with a brief statement as to the use and distribution, if any, of such report.

(3) If pursuant to Item (8)(b)(2) a statement showing the pro forma taxable operating results of the registrant is included in the registration statement, there shall be furnished a schedule reconciling such pro forma results with the historical operating results.

(4) A brief description of any bankruptcy, receivership, assignment for the benefit of creditors or similar proceedings within the past five years with respect to any director, officer or parent of the registrant or any person named in answer to Item (22)(b).

**NOTE:** If none of the reports referred to in subparagraphs (1) and (2) above has been prepared, a letter to that effect shall accompany the registration statement.

#### § 240.10b-6 Prohibitions against trading by persons interested in a distribution.

(e) The provisions of this section shall not apply to any distribution of securities by an issuer to its employees, or to employees of its subsidiaries, or to a trustee or other person acquiring such securities for the account of such employees, pursuant to (1) a stock option plan involving only "qualified stock options", or "restricted stock options" or qualifying as an "employee stock purchase plan" as those terms are defined in Sections 422 through 424 of the Internal Revenue Code of 1954, as amended, and the regulations or rulings of the Internal Revenue Service thereunder; or (2) a savings, investment or stock purchase plan providing for both (i) periodic payments (or payroll deductions) for acquisition of securities by participating employees and (ii) periodic purchases of the securities by participating employees, or the person acquiring them for the account of such employees.

#### § 240.16b-3 Exemption from section 16(b) of acquisitions of shares of stock and stock options under certain stock bonus, stock option or similar plans.

Any acquisition of shares of stock (other than stock acquired upon the exercise of an option, warrant or right) pursuant to a stock bonus, profit sharing, retirement, incentive, thrift, savings or similar plan, or any acquisition of a qualified or a restricted stock option pursuant to a qualified or a restricted stock option plan or of a stock option pursuant to an employee stock purchase plan by a director or officer of the issuer of such stock or stock option shall be exempt from the operation of section 16(b) of the Act if the plan meets the following conditions:

(b) If the selection of any director or officer of the issuer to whom stock may be allocated or to whom qualified, restricted or employee stock purchase plan stock options may be granted pursuant to the plan, or the determination of the number or maximum number of shares of stock which may be allocated to any such director or officer or which may be covered by qualified, restricted or employee stock purchase plan stock options granted to any such director or officer, is subject to the discretion of any person, then such discretion shall be exercised only as follows:

(1) With respect to the participation of directors \* \* \*

(iii) Otherwise in accordance with the plan, if the plan (a) specifies the number or maximum number of shares of stock which directors may acquire or which may be subject to qualified, restricted or employee stock purchase plan stock options granted to directors and the terms upon which and the times at which, or the periods within which, such stock may be acquired or such options may be acquired and exercised; or (b) sets forth, by formula or otherwise, effective and determinable limitations with respect to the foregoing based upon earnings of the issuer, dividends paid compensation received by participants, option prices, market value of shares outstanding shares or percentages thereof outstanding from time to time, or similar factors.

(2) With respect to the participation of officers who are not directors:

(ii) By, or only in accordance with the recommendations of, a committee of three or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons.

For the purpose of this paragraph, a director or committee member shall be deemed to be a disinterested person only if such person is not at the time such discretion is exercised eligible and has not at any time within one year prior thereto been eligible for selection as a person to whom stock may be allocated or to whom qualified, restricted or employee stock purchase plan stock options

may be granted pursuant to the plan or any other plan of the issuer or any of its affiliates entitling the participants therein to acquire stock, qualified, restricted or employee stock purchase plan stock options of the issuer or any of its affiliates.

(c) (1) As to each participant or as to all participants the plan effectively limits the aggregate dollar amount or the aggregate number of shares of stock which may be allocated, or which may be subject to qualified, restricted or employee stock purchase plan stock options granted pursuant to the plan. The limitations may be established on an annual basis, or for the duration of the plan, whether or not the plan has a fixed termination date, and may be determined either by fixed or maximum dollar amounts or fixed or maximum numbers of shares or by formulas based upon earnings of the issuer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof or similar factors which will result in an effective and determinable limitation. Such limitations may be subject to any provisions for adjustment of the plan or of stock allocable or options outstanding thereunder to prevent dilution or enlargement of rights.

(2) Unless the context otherwise requires, all terms used in this rule shall have the same meaning as in the Act or elsewhere in the general rules and regulations thereunder. In addition, the following definitions apply:

(ii) The definitions of the terms "qualified stock option," "restricted stock option" and "employee stock purchase plan" that are set forth in sections 422 through 424 of the Internal Revenue Code of 1954, as amended, and the regulations or rulings of the Internal Revenue Service thereunder, are to be applied to those terms where used in this section.

**§ 249.210 Form 10, for corporations.**

(a) *Cover sheet of the registration application.*

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C., 20549  
Form 10

APPLICATION FOR REGISTRATION OF SECURITIES ON  
A NATIONAL SECURITIES EXCHANGE

Pursuant to the Securities Exchange Act of  
1934

(Exact name of registrant as  
specified in charter)

(Address of principal executive offices)

SECURITIES BEING REGISTERED

Title of each class being registered.	Name of each exchange on which each class is being registered

(b) *General instructions*—(1) *Rule as to use of Form 10.* Form 10 shall be used for registration under the Securities Exchange Act of 1934 of classes of securities of issuers for which no other form is prescribed.

(2) *Application of general rules and regulations.* (i) The General Rules and Regulations under the Act contain certain general requirements which are applicable to registration on any form. These general requirements should be carefully read and observed in the preparation and filing of applications for registration on this form.

(ii) Particular attention is directed to Regulation 12b (§§ 240.12b-1 to 240.12b-36 of this chapter) which contains general requirements regarding matters such as the kind and size of paper to be used, the legibility of the application, the information to be given whenever the title of securities is required to be stated, and the filing of the application. The definitions contained in Rule 12b-2 (§ 240.12b-2) should be especially noted.

(iii) Three complete copies of the application on this form, including exhibits and all papers and documents filed as a part thereof, shall be filed with the Commission, except that only one copy of applications filed pursuant to General Instruction E or F (subparagraphs (5) and (6) of this paragraph) need be filed with the Commission. At least one such complete copy shall be filed with each exchange on which registration is being applied for. At least one of the copies filed with the Commission and one filed with each such exchange shall be manually signed. Unsigned copies shall be conformed.

(3) *Preparation of application.* (i) This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the application on paper meeting the requirements of Rule 12b-12 (§ 240.12b-2 of this chapter). The application shall contain the item numbers and captions, but the text of the items may be omitted provided the answers thereto are prepared in the manner specified in Rule 12b-13 (§ 240.12b-13 of this chapter).

(ii) Unless otherwise stated, the information required shall be given as of a date reasonably close to the date of filing the application.

(iii) If a registrant elects to file its application pursuant to General Instruction E or F (subparagraph (5) or (6) of this paragraph), the application shall be filed under cover of the facing sheet of this form and shall be accompanied by the signature prescribed by this form. Items (14), (15), (16) and (18) (b) of this form shall be answered and any required exhibits shall be filed but all reference to any other items of this form may be omitted. The reports and financial statements referred to in General Instruction E or F (subparagraphs (5) or (6) of this paragraph) shall be filed as additional exhibits to the application. The annual reports to stockholders so furnished shall not be deemed to be "filed" with the Commission or otherwise subject to the liabilities of Section 18 of the Act, except as to the financial statements contained in such a report filed pursuant to General Instruction E (subparagraph (5) of this paragraph).

(4) *Disclosure with respect to foreign subsidiaries.* Information required by any item or other requirement of this

form with respect to any foreign subsidiary may be omitted to the extent that the required disclosure would be detrimental to the registrant, provided a statement is made that such information has been omitted. In such case, a statement of the names of the subsidiaries omitted shall be separately furnished. The Commission may, in its discretion, call for justification that the required disclosure would be detrimental.

(5) *Registrants reporting to Federal Power Commission.* (i) Any registrant which files annual reports with the Federal Power Commission on that Commission's Form No. 1 or Form No. 2 and whose annual report to stockholders for its last three fiscal years contained financial statements (other than schedules) prepared and certified substantially in accordance with Regulation S-X (Part 210 of this chapter) may substitute for the information and the financial statements (including schedules) required by this form (except Items (14), (15), (16) and (18) (b)) the following reports and statements:

(a) The registrant's annual report to stockholders for each of its last three fiscal years and its annual reports to the Federal Power Commission for each such fiscal year;

(b) The annual reports to the Federal Power Commission on Form No. 1 or Form No. 2 filed by each majority-owned subsidiary of the registrant, which filed such a report, for each of its last three fiscal years; and

(c) For each other majority-owned subsidiary of the registrant whose financial statements were not included, on either an individual or a consolidated basis, in the registrant's annual report to stockholders, the financial statements called for by this form.

(ii) Notwithstanding the foregoing, annual reports and financial statements of subsidiaries may be omitted to the extent that all subsidiaries for which they are so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(6) *Registrants reporting to Interstate Commerce Commission or Federal Communications Commission.* (i) Any registrant which files annual reports under Section 20 of the Interstate Commerce Act, Section 220 of the Motor Carriers Act, 1935, or Section 219 of the Communications Act of 1934 may substitute for the information and the financial statements (including schedules) required by this form except Items (14), (15), (16) and (18) (b):

(a) the registrant's annual reports to the Interstate Commerce Commission or the Federal Communications Commission on either a separate or system basis for each of the last three fiscal years;

(b) its annual reports to stockholders, if any, covering the comparable period (if no such reports were published, the registrant should so state in the list of financial statements called for by Item (18) (a));

(c) the annual reports to the Interstate Commerce Commission or the Federal Communications Commission (on either a separate or system basis) for each of the last three fiscal years of each

majority-owned subsidiary of the registrant which filed such reports and which is not included in the system reports filed pursuant to clause (a) of this subparagraph, and

(d) the financial statements called for by this form (which need not be certified) for each majority-owned subsidiary of the registrant which does not file reports with the Federal Communications Commission or the Interstate Commerce Commission and whose financial statements are not included on either an individual or consolidated basis in the annual reports filed pursuant to (a), (b) or (c) of this subparagraph.

(ii) Notwithstanding the foregoing, annual reports and financial statements of subsidiaries may be omitted to the extent that all subsidiaries for which they are so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(c) *Information required in application.*

*Item (1): General information.* State the year in which the registrant was organized, its form of organization (such as "A corporation," "An unincorporated association" or other appropriate statement) and the name of the State or other jurisdiction under the laws of which it was organized.

*Item (2): Parents and subsidiaries of registrant.* (a) List all parents of the registrant showing the basis of control and, as to each parent, the percentage of voting securities owned or other basis of control by its immediate parent, if any.

(b) Furnish a list or diagram of all subsidiaries of the registrant and as to each subsidiary indicate (1) the state or other jurisdiction under the laws of which it was organized, and (2) the percentage of voting securities owned or other basis of control by its immediate parent. Designate (i) subsidiaries for which separate financial statements are filed; (ii) subsidiaries included in consolidated financial statements; (iii) subsidiaries included in group financial statements filed for unconsolidated subsidiaries; and (iv) subsidiaries for which no financial statements are filed, indicating briefly why statements of such subsidiaries are not filed.

*Instructions.* 1. Include the registrant and show clearly the relationship of each person named to the registrant and the other person named, including the percentage of voting securities of the registrant owned or other basis of control by its immediate parent. The names of particular subsidiaries may be omitted if the unnamed subsidiaries considered in the aggregate as a single subsidiary would not constitute a significant subsidiary.

2. In case any parent is a resident of, or a corporation or other organization formed under the laws of, any foreign country, give the name of such country for each foreign parent, and, if it is a corporation or other organization, state briefly the nature of the organization.

3. If the securities being registered are to be issued in connection with, or pursuant to, a plan of reorganization, readjustment or succession, indicate, insofar as practicable the status to exist upon consummation of the plan.

4. In case the registrant owns, directly or indirectly, approximately 50% of the voting securities of any person and approximately 50% of the voting securities of such person are owned directly or indirectly by another single interest, such person shall be deemed to be a subsidiary for purposes of this item.

*Item (3): Description of business.* (a) Briefly describe the business done and in-

tended to be done by the registrant and its subsidiaries and the general development of such business during the past five years. If the business consists of the production or distribution of different kinds of products or the rendering of different kinds of services, indicate, insofar as practicable, the relative importance of each product or service or class of similar products or services which contributed 15% or more to the gross volume of business done during the last fiscal year.

*Instructions 1.* The description shall not relate to the powers and objects specified in the charter, but to the actual business done and intended to be done. Include the business of subsidiaries of the registrant only insofar as is necessary to understand the character and development of the business conducted by the total enterprise.

2. In describing developments, information shall be given as to matters such as the following: The nature and results of any bankruptcy, receivership or similar proceedings with respect to the registrant or any of its significant subsidiaries; the nature and results of any other materially important reorganization, readjustment or succession of the registrant or any of its significant subsidiaries; the acquisition or disposition of any material amount of assets otherwise than in the ordinary course of business; any materially important changes in the types of products produced or services rendered by the registrant and its subsidiaries; and any materially important changes in the mode of conducting the business, such as fundamental changes in the methods of distribution.

(b) Indicate briefly, to the extent material, the general competitive conditions in the industry in which the registrant and its subsidiaries are engaged or intend to engage, and the position of the enterprise in the industry. If several products or services are involved, separate consideration should be given to the principal products or services or classes of products or services.

*Item (4): Description of property.* State briefly the location and general character of the principal plants, mines and other materially important physical properties of the registrant and its subsidiaries. If any such property is not held in fee or is held subject to any major encumbrance, so state and briefly describe how held.

*Instructions.* 1. What is required is information essential to an investor's appraisal of the securities being registered. Such information should be furnished as will reasonably inform investors as to the suitability, adequacy, productive capacity and extent of utilization of the facilities used in the enterprise. Detailed descriptions of the physical characteristics of individual properties or legal descriptions by metes and bounds are not required and should not be given.

2. In the case of an extractive enterprise, material information should be given as to production, reserves, locations, development and the nature of the registrant's interest. Where individual properties are of major significance to the enterprise (1) more detailed information concerning these matters should be furnished, including the results of development in the area and significant geological structures and formations, where appropriate and (ii) appropriate maps should be used to disclose location data of significant properties, except where numerous maps would be required. Where the report of an engineer or other expert is referred to in the prospectus, a copy of the full report normally should be furnished as supplemental information but not as a part of the registration statement.

*Item (5): Organization within 5 years.* If the registrant was organized within the past 5 years, furnish the following information:

(a) State the names of the promoters, the nature and amount of anything of value (including money, property, contracts, op-

tions or rights of any kind) received or to be received by each promoter directly or indirectly from the registrant, and the nature and amount of any assets, services or other consideration therefor received or to be received by the registrant. The term "promoter" is defined in Rule 12b-2 (§ 240.12b-2 of this chapter).

(b) As to any assets acquired or to be acquired by the registrant from a promoter, state the amount at which acquired or to be acquired and the principle followed or to be followed in determining the amount. Identify the persons making the determination and state their relationship, if any, with the registrant or any promoter. If the assets were acquired by the promoter within two years prior to their transfer to the registrant, state the cost thereof to the promoter.

*Item (6): Pending legal proceedings.* Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings were instituted, the date instituted and the principal parties thereto. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

*Instructions 1.* If the business ordinarily results in actions for negligence or other claims, no such action or claim need be described unless it departs from the normal kind of such actions.

2. No information need be given with respect to any proceeding which involves primarily a claim for damages if the amount involved, exclusive of interests and costs, does not exceed 15 percent of the current assets of the registrant and its subsidiaries on a consolidated basis. However, if any proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. Notwithstanding Instructions 1 and 2, any material bankruptcy, receivership, or similar proceeding with respect to the registrant or any of its significant subsidiaries shall be described. Any material proceedings to which any director, officer or affiliate of the registrant, any security holder named in answer to Item (11)(a), or any associate of any such director, officer or security holder, is a party adverse to the registrant or any of its subsidiaries shall also be described.

*Item (7): Directors and officers.* List the names of all directors and executive officers of the registrant and all persons chosen to become directors or executive officers. Indicate all positions and offices with the registrant held by each person named, and the principal occupations during the past five years of each executive officer and each person chosen to become an executive officer.

*Instructions.* 1. If any person chosen to become a director or executive officer has not consented to act as such, so state.

2. For the purpose of this item, the term "executive officer" means the president, vice president, secretary and treasurer, and any other officer who performs similar policymaking functions for the registrant.

*Item (8): Indemnification of directors and officers.* State the general effect of any charter provision, by-law, contract, arrangement or statute under which any director or officer of the registrant is insured or indemnified in any manner against any liability which he may incur in his capacity as such.

*Item (9): Remuneration of directors and officers.* (a) Furnish the following information in substantially the tabular form indicated below as to all direct remuneration paid by the registrant and its subsidiaries during the registrant's last fiscal year to the

following persons for services in all capacities:

(1) Each director, and each of the three highest paid officers, of the registrant whose aggregate direct remuneration exceeded \$30,000, naming each such person.

(2) All directors and officers of the registrant as a group, without naming them.

(A)	(B)
Name of individual or identity of group	Capacities in which remuneration was received

(C)  
Aggregate direct remuneration

**Instructions.** 1. This item applies to any person who was a director or officer of the registrant at any time during the period specified. However, information need not be given for any portion of the period during which such person was not a director or officer of the registrant.

2. The information is to be given on an accrual basis if practicable. The tables required by this paragraph and paragraph (b) may be combined if the registrant so desires.

3. Do not include remuneration paid to a partnership in which any director or officer was a partner, but see Item (13).

4. If the registrant has not completed a full fiscal year since its organization or if it acquired or is to acquire the majority of its assets from a predecessor within the current fiscal year, the information shall be given for the current fiscal year, estimating future payments, if necessary. To the extent that such remuneration is to be computed upon the basis of a percentage of profits, it will suffice to state such percentage without estimating the amount of such profits to be paid.

5. If any part of the remuneration shown in response to this item was paid pursuant to a material bonus or profit-sharing plan, briefly describe the plan and the basis upon which directors or officers participate therein. See Instruction 1 to paragraph (b) for the meaning of the term "plan."

(b) Furnish the following information, in substantially the tabular form indicated below, as to all pension or retirement benefits proposed to be paid under any existing plan in the event of retirement at normal retirement date, directly or indirectly, by the registrant or any of its subsidiaries to each director or officer named in answer to paragraph (a) (1) above:

(A)	(B)
Name of individual	Amounts set aside or accrued during registrant's last fiscal year

(C)

Estimated annual benefits upon retirement

**Instructions.** 1. The term "plan" in this item includes all plans, contracts, authorizations or arrangements, whether or not set forth in any formal document.

2. Column (B) need not be answered with respect to amounts computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a specified age or after a specified number of years of service.

3. The information called for by Column (C) may be given in a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

4. In the case of any plan (other than those specified in Instruction 2) where the amount set aside each year depends upon the amount of earnings of the registrant or its subsidiaries for such year or a prior year, or where it is otherwise impracticable to state the estimated annual benefits upon retirement, there shall be set forth, in lieu of the information called for by Column (C), the

aggregate amount set aside or accrued to date, unless it is impracticable to do so, in which case there shall be stated the method of computing such benefits.

(c) Describe briefly all remuneration payments (other than payments reported under paragraph (a) or (b) of this item) proposed to be made in the future, directly or indirectly, by the registrant or any of its subsidiaries pursuant to any existing plan or arrangement to (1) each director or officer named in answer to paragraph (a) (1), naming each such person, and (2) all directors and officers of the registrant as a group, without naming them.

**Instruction.** Information need not be included as to payments to be made for, or benefits to be received from, group life or accident insurance, group hospitalization or similar group payments or benefits. If it is impracticable to state the amount of remuneration payments proposed to be made, the aggregate amount set aside or accrued to date in respect of such payments should be stated, together with an explanation of the basis for future payments.

**Item (10): Options to purchase securities.** Furnish the following information as to options to purchase securities from the registrant or any of its subsidiaries, which are outstanding as of a specified date within 30 days prior to the date of filing.

(a) Describe the options, stating the material provisions including the consideration received and to be received for such options by the grantor thereof and the market value of the securities called for on the granting date. If, however, the options are "qualified stock options" or "restricted stock options" or options granted pursuant to a plan qualifying as an "employee stock purchase plan", as those terms are defined in Sections 422 through 424 of the Internal Revenue Code of 1954, as amended, and the regulations or rulings of the Internal Revenue Service thereunder, only the following is required: (i) a statement to that effect, (ii) a brief description of the terms and conditions of the options or of the plan pursuant to which they were issued, and (iii) a statement of the provisions of the plan or options with respect to the relationship between the option price and the market price of the securities at the date when the options were granted, or with respect to the terms of any variable price option.

(b) State (i) the title and amount of the securities called for by such options; (ii) the purchase prices of the securities called for and the expiration dates of such options; and (iii) the market value of the securities called for by such options as of the latest practicable date.

**Instruction.** In case a number of options are outstanding having different prices and expiration dates, the options may be grouped by prices and dates. If this produces more than five separate groups then there may be shown only the range of the expiration dates and the average purchase prices, i.e., the aggregate purchase price of all securities of the same class called for by all outstanding options to purchase securities of that class divided by the number of securities of such class so called for.

(c) Furnish separately the information called for by paragraph (b) above for all options held by (1) each director or officer named in answer to paragraph (a) (1) of Item (9) naming each such person, and (2) all directors and officers as a group without naming them.

**Instructions** 1. The term "options" as used in this item includes all options, warrants and rights other than those issued to security holders as such on a pro rata basis.

2. The extension of options shall be deemed the granting of options within the meaning of this item.

3. Where the total market value of securities called for by all outstanding options as

of the specified date referred to in this item does not exceed \$10,000 for any officer or director named in answer to paragraph (a) (1) of Item (9), or \$30,000 for all officers and directors as a group, or for all option holders as a group, this item need not be answered with respect to options held by such person or group.

**Item (11). Principal holders of securities.** Furnish the following information as of a specified date within 90 days prior to the date of filing in substantially the tabular form indicated:

(a) As to the voting securities of the registrant owned of record or beneficially by each person who owns of record, or is known by the registrant to own beneficially, more than 10 percent of any class of such securities. Show in Column (3) whether the securities are owned both of record and beneficially, of record only, or beneficially only, and show in Columns (4) and (5) the respective amounts and percentages owned in each such manner:

(1)	(2)
Name and address	Title of class
(3)	(4)
Type of ownership	Amount owned
	(5)
	Percent of class

(b) As to each class of equity securities of the registrant or any of its parents or subsidiaries, other than directors' qualifying shares, beneficially owned directly or indirectly by all directors and officers of the registrant, as a group, without naming them.

(1)	(2)
Title of class	Amount beneficially owned
	(3)
	Percent of class

**Instructions** 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the issuer. In any case where the amount owned by directors and officers as a group is less than 1 percent of the class, the percent of the class owned by them may be omitted.

2. If, to the knowledge of the registrant of the securities being registered, more than 10 percent of any class of voting securities of the registrant are held or to be held subject to any voting trust or other similar agreement, state the title of such securities, the amount held or to be held and the duration of the agreement. Give the names and addresses of the voting trustees and outline briefly their voting rights and other powers under the agreement.

**Item (12): Number of stockholders.** State, in substantially the tabular form indicated, as of a specified date within 90 days prior to the date of filing, the approximate number of holders of record of each class of stock of the registrant.

Title of class	Number of holders
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**Item (13): Interest of management and others in certain transactions.** Describe briefly, and where practicable state the approximate amount of any material interest, direct or indirect, of any of the following persons in any material transactions during the last three years, or in any material proposed transactions, to which the registrant or any of its subsidiaries was, or is to be, a party:

- (a) Any director or officer of the registrant;
- (b) Any security holder named in answer to Item (11) (a); or
- (c) Any associate of any of the foregoing persons.

## PROPOSED RULE MAKING

**Instructions.** 1. See Instruction 1 to Item (9)(a). Include the name of each person whose interest in any transaction is described and the nature of the relationship by reason of which such interest is required to be described. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

2. As to any transaction involving the purchase or sale of assets by or to the registrant or any subsidiary, otherwise than in the ordinary course of business, state the cost of the assets to the purchaser and the cost thereof to the seller if acquired by the seller within two years prior to the transaction.

3. This item does not apply to any interest arising from the ownership of securities of the registrant where the security holders receive no extra or special benefit not shared on a pro rata basis by all other holders of the same class.

4. No information need be given in answer to this item as to any remuneration not received during the registrant's last fiscal year or as to any remuneration or other transaction reported in response to Item (9) or (10).

5. Information should be included as to any material underwriting discounts and commissions upon the sale of securities by the registrant where any of the specified persons was or is to be a principal underwriter or is a controlling person or member of a firm which was or is to be a principal underwriter. Information need not be given concerning ordinary management fees paid by underwriters to a managing underwriter pursuant to an agreement among underwriters the parties to which do not include the registrant or its subsidiaries.

6. No information need be given in answer to this item as to any transaction or any interest therein where:

(i) The rates or charges involved in the transaction are fixed by law or determined by competitive bids;

(ii) The interest of the specified persons in the transaction is solely that of a director of another corporation which is a party to the transaction;

(iii) The transaction involves services as a bank depository of funds, transfer agent, registrar, trustee under a trust indenture, or other similar services;

(iv) The interest of the specified persons, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed \$30,000;

(v) The transaction does not involve remuneration for services, directly or indirectly, and (A) the interest of the specified persons arises from the ownership individually and in the aggregate of less than 10% of any class of equity securities of another corporation which is a party to the transaction, (B) the transaction is in the ordinary course of business of the registrant or its subsidiaries, and (C) the amount of such transaction or series of transactions is less than 10% of the total sales or purchases, as the case may be, of the registrant and its subsidiaries.

7. Information shall be furnished in answer to this item with respect to transactions not excluded above which involve remuneration, directly or indirectly, to any of the specified persons for services in any capacity unless the interest of such persons arises solely from the ownership individually and in the aggregate of less than 10% of any class of equity securities of another corporation furnishing the services to the registrant or its subsidiaries.

8. This item does not require the disclosure of any interest in any transaction unless such interest and transaction are material.

**Item (14): Capital stock being registered.** If capital stock is being registered, state the

title of the class and furnish the following information:

(a) Outline briefly (1) dividend rights; (2) voting rights; (3) liquidation rights; (4) pre-emptive rights; (5) conversion rights; (6) redemption provisions; (7) sinking fund provisions; and (8) liability to further calls or to assessment by the registrant.

(b) If the rights of holders of such stock may be modified otherwise than by a vote of a majority or more of the shares outstanding, voting as a class, so state and explain briefly.

(c) Outline briefly any restriction on the repurchase or redemption of shares by the registrant while there is any arrearage in the payment of dividends or sinking fund installments. If there is no such restriction, so state.

**Instructions.** 1. This item requires only a brief summary of the provisions which are pertinent from an investment standpoint. A complete legal description of the provisions referred to is not required and should not be given. Do not set forth the provisions of the governing instruments verbatim; only a succinct resume is required.

2. If the rights evidenced by the securities being registered are materially limited or qualified by the rights of any other class of securities, include such information regarding such other securities as will enable investors to understand the rights evidenced by securities being registered. If any securities being registered are to be offered in exchange for other securities, an appropriate description of such other securities shall be given. No information need be given, however, as to any class of securities all of which will be redeemed and retired, provided appropriate steps to assure such redemption and retirement will be taken prior to registration of the securities being registered.

**Item (15): Long-term debt being registered.** If long-term debt is being registered, outline briefly such of the following as are relevant:

(a) Provisions with respect to interest, conversion, maturity, redemption, amortization, sinking fund or retirement.

(b) Provisions with respect to the kind and priority of any lien, securing the issue, together with a brief identification of the principal properties subject to such lien.

(c) Provisions restricting the declaration of dividends or requiring the maintenance of any ratio of assets, the creation or maintenance of reserves or the maintenance of properties.

(d) Provisions permitting or restricting the issuance of additional securities, the withdrawal of cash deposited against such issuance, the incurring of additional debt, the release or substitution of assets securing the issue, the modification of the terms of the security, and similar provisions.

**Instruction.** Provisions permitting the release of assets upon the deposit of equivalent funds or the pledge of equivalent property, the release of property no longer required in the business, obsolete property or property taken by eminent domain, the application of insurance moneys, and similar provisions, need not be described.

(e) The name of the trustee and the nature of any material relationship with the registrant or any of its affiliates; the percentage of securities of the class necessary to require the trustee to take action, and what indemnification the trustee may require before proceeding to enforce the lien.

**Instruction.** The instructions to Item (14) shall also apply to this item.

**Item (16): Other securities being registered.** If securities other than capital stock or long-term debt are being registered, outline briefly the rights evidenced thereby. If subscription warrants or rights are being registered, state the title and amount of securities called for, the period during which and the price at which the warrants or rights are exercisable.

**Instruction.** The instructions to Item (14) shall also apply to this item.

**Item (17): Recent sales of unregistered securities.** Furnish the following information as to all securities of the registrant sold by the registrant within the past three years, or presently proposed to be sold, which were not, or are not to be, registered under the Securities Act of 1933. Include sales of reacquired securities as well as new issues, securities issued in exchange for property, services, or other securities, and new securities resulting from the modification of outstanding securities.

(a) Give the date of sale and the title and amount of securities sold.

(b) Give the names of the principal underwriters, if any. As to any securities sold privately, name the persons or identify the class of persons to whom the securities were sold.

(c) As to securities sold for cash, state the aggregate offering price and the aggregate underwriting discounts or commissions. As to any securities sold otherwise than for cash, state the nature of the transaction and the nature and aggregate amount of consideration received by the registrant.

(d) Give a reasonably itemized statement of the purposes, so far as determinable, for which the net proceeds have been or are to be used and the approximate amount to be used for each purpose.

(e) Indicate the section of the Act or the Rule of the Commission under which exemption from registration was claimed and state briefly the facts relied upon to make the exemption available.

**Instructions 1.** Information need not be set forth as to notes, drafts, bills of exchange or bankers' acceptances which mature not later than one year from the date of issuance.

2. If the sales were made in a series of transactions, the information may be given by such totals and periods as will reasonably convey the information required.

**Item (18): Financial statements and exhibits.** List all financial statements and exhibits filed as a part of the registration statement.

(a) Financial statements.

(b) Exhibits.

(d) **Signatures.** Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this application for registration to be signed on its behalf by the undersigned, thereto duly authorized.

-----  
(Registrant)

By -----  
(Signature) <sup>1</sup>

Date -----

<sup>1</sup> Print the name and title of the signing officer under his signature.

(e) **Instructions as to financial statements.** These instructions specify the balance sheets and profit and loss statements required to be filed as a part of an application on this form. Regulation S-X (Part 210 of this chapter) governs the certification, form and content of the balance sheets and profit and loss statements required, including the basis of consolidation, and prescribes the statements of surplus and schedules to be filed in support thereof. Attention is directed to Rules 12b-23(b) and 12b-36 (§§ 240.12b-23(b) and 240.12b-36 of this chapter).

#### A. STATEMENTS OF THE REGISTRANT

(1) **Balance sheets of the registrant.** (1) The registrant shall file a certified balance sheet as of the close of its latest fiscal year unless such fiscal year has ended within 90



days prior to the date of filing the application with the exchange, in which case the balance sheet may be as of the close of the preceding fiscal year.

(1) If the latest fiscal year of the registrant has ended within 90 days prior to the date of filing the application with the exchange and the balance sheet required by paragraph (1) is filed as of the end of the preceding fiscal year, there shall be filed as an amendment to the application, within 120 days after the date of filing, a certified balance sheet of the registrant as of the end of the latest fiscal year.

(2) *Profit and loss statements of the registrant.* (1) The registrant shall file certified profit and loss statements for each of the three fiscal years preceding the date of the balance sheet required by Instruction 1(a).

(2) There shall be filed with each balance sheet filed pursuant to Instruction 1(b) a certified profit and loss statement of the registrant for the fiscal year immediately preceding the date of the balance sheet.

(3) *Omission of registrant's statements in certain cases.* Notwithstanding Instructions (1) and (2), the individual financial statements of the registrant may be omitted if (a) consolidated statements of the registrant and one or more of its subsidiaries are filed, and (b) the conditions specified in either of the following paragraphs are met.

(1) The registrant is primarily an operating company and all subsidiaries included in the consolidated financial statements filed are totally-held subsidiaries; or

(2) The registrant's total assets, exclusive of investments in and advances to the consolidated subsidiaries, constitute 85% or more of the total assets shown by the consolidated balance sheets filed and the registrant's total gross revenues for the period for which its profit and loss statements would be filed, exclusive of interest and dividends received from the consolidated subsidiaries, constitute 85% or more of the total gross revenue shown by the consolidated profit and loss statements filed.

#### B. CONSOLIDATED STATEMENTS

(4) *Consolidated balance sheets.* (1) There shall be filed a certified consolidated balance sheet of the registrant and its subsidiaries as of the close of the latest fiscal year of the registrant, unless such fiscal year has ended within 90 days prior to the date of filing the application with the exchange, in which case this balance sheet may be as of the close of the preceding fiscal year.

(2) If the latest fiscal year of the registrant has ended within 90 days prior to the date of filing the application with the exchange, and the balance sheet required by paragraph (1) is filed as of the end of the preceding fiscal year, there shall be filed as an amendment to the application, within 120 days after the date of filing, a certified consolidated balance sheet of the registrant and its subsidiaries as of the end of the latest fiscal year.

(5) *Consolidated profit and loss statement.* (1) There shall be filed certified consolidated profit and loss statements of the registrant and its subsidiaries for each of the three fiscal years preceding the date of the consolidated balance sheet required by Instruction 4(a).

(2) There shall be filed with each balance sheet filed pursuant to Instruction (4) (2), a certified consolidated profit and loss statement of the registrant and its subsidiaries for the fiscal year immediately preceding the date of the balance sheet.

#### C. UNCONSOLIDATED SUBSIDIARIES AND OTHER PERSONS

(6) *Unconsolidated subsidiaries.* (1) Subject to Rule 4-03 of Regulation S-X (§ 210.4-03 of this chapter) regarding group statements of unconsolidated subsidiaries, there shall be filed for each majority-owned sub-

siary of the registrant not consolidated the balance sheets and profit and loss statements which would be required if the subsidiary were itself a registrant. Insofar as practicable, these balance sheets and profit and loss statements shall be as of the same dates or for the same periods as those of the registrant.

(2) If the fiscal year of any unconsolidated subsidiary ends within 90 days before the date of filing the application, or ends after the date of filing, the financial statements of the subsidiary may be filed as an amendment to the application within 120 days after the end of the subsidiary's fiscal year.

(7) *Fifty-percent owned persons.* If the registrant owns directly or indirectly approximately 50 percent of the voting securities of any person and approximately 50 percent of the voting securities of such person is owned directly or indirectly by another single interest, there shall be filed for each such person the financial statements which would be required if it were a registrant. The statements filed for each such person shall identify the other single interest.

(8) *Omission of statements required by Instructions (6) and (7) of this paragraph.* Notwithstanding Instructions (6) and (7), there may be omitted from the application for registration all financial statements of any one or more unconsolidated subsidiaries or 50 percent owned persons if all such subsidiaries and 50 percent owned persons for which statements are so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(9) *Affiliates whose securities secure an issue being registered.* (1) For each affiliate, securities of which constitute or are to constitute a substantial portion of the collateral securing any class of securities being registered, there shall be filed the financial statements that would be required if the affiliate were a registrant.

(2) For the purposes of this instruction, securities of a person shall be deemed to constitute a substantial portion of the collateral if the aggregate principal amount, par value, or book value as shown by the books of the registrant, or market value, whichever is the greatest, of such securities equals 20 percent or more of the principal amount of the class secured thereby.

#### D. SPECIAL PROVISIONS

(10) *Reorganization of registrant.* (1) If during the period for which its profit and loss statements are required the registrant has emerged from a reorganization in which substantial changes occurred in its asset, liability, capital stock, surplus or reserve accounts, a brief explanation of such changes shall be set forth in a note or supporting schedule to the balance sheets filed.

(2) If the registrant is about to emerge from such a reorganization, there shall be filed, in addition to the balance sheets of the registrant otherwise required, a balance sheet giving effect to the plan of reorganization. These balance sheets shall be set forth in such form, preferably columnar, as will show in related manner the balance sheet of the registrant prior to the reorganization, the changes to be effected in the reorganization and the balance sheet of the registrant after giving effect to the plan of reorganization. By a footnote or otherwise a brief explanation of the changes shall be given.

(3) *Succession to other businesses.* (1) If during the period for which its profit and loss statements are required, the registrant has by merger, consolidation, or otherwise succeeded to one or more businesses, the additions, eliminations and other changes effected in the succession shall be appropriately set forth in a note or supporting schedule to the balance sheets filed. In addition, profit and loss statements for each constituent business, or combined statements if appropriate, shall be filed for such

period prior to the succession as may be necessary when added to the time, if any, for which profit and loss statements after the succession are filed to cover the equivalent of the period specified in Instructions (2) and (5) above.

(2) If the registrant by merger, consolidation or otherwise is about to succeed to one or more businesses, there shall be filed for the constituent businesses financial statements, combined if appropriate, which would be required if they were registering securities under the Act. In addition, there shall be filed a balance sheet of the registrant giving effect to the plan of succession. These balance sheets shall be set forth in such form, preferably columnar, as will show in related manner the balance sheets of the constituent businesses, the changes to be effected in the succession and the balance sheet of the registrant after giving effect to the plan of succession. By a footnote or otherwise, a brief explanation of the changes shall be given.

(3) This instruction shall not apply with respect to the registrant's succession to the business of any totally-held subsidiary or to any acquisition of a business by purchase.

(4) *Acquisition of other businesses.* (1) There shall be filed for any business directly or indirectly acquired by the registrant after the date of the balance sheet filed pursuant to Part A or B above and for any business to be directly or indirectly acquired by the registrant, the financial statements which would be required if such business were a registrant.

(2) The acquisition of securities shall be deemed to be the acquisition of a business if such securities give control of the business or combined with securities already held give such control. In addition, the acquisition of securities which will extend the registrant's control of a business shall be deemed the acquisition of the business if any of the securities being registered hereunder are to be offered in exchange for the securities to be acquired.

(3) No financial statements need be filed, however, for any business acquired or to be acquired from a totally-held subsidiary. In addition, the statements of any one or more businesses may be omitted if such businesses, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(4) *Statements of banks and insurance companies.* Notwithstanding the requirements of the foregoing instructions, financial statements filed for banks or insurance companies (other than title insurance companies) need not be certified.

(5) *Registrants not in the production stage.* Notwithstanding the foregoing instructions, if the registrant falls within the terms of paragraph (b) or (c) of Rule 5A-01 of Regulation S-X (§ 210.5A-01 of this chapter), the following statements, all of which shall be certified, shall be filed for the registrant and each of its significant subsidiaries, if any:

(1) The statements specified in Rules 5A-02, 5A-03, 5A-04, 5A-05 and 5A-07 (§§ 210.5A-02 to 210.5A-05, and 210.5A-07 of this chapter) shall be filed as of the end of the registrant's latest fiscal year unless such fiscal year has ended within 90 days prior to the date of filing the application with the exchange, in which case such statements may be as of the close of the preceding fiscal year.

(2) If the latest fiscal year of the registrant has ended within 90 days prior to the date of filing the application with the exchange and the statements required by paragraph (a) are filed as of the end of the preceding fiscal year, statements as of the end of the latest fiscal year shall be filed as an amendment to the application within 120 days after the date of filing the application.

(3) The statement of cash receipts and disbursements specified in Rule 5A-06

(§ 210.5A-06 of this chapter) shall be filed for each of the three fiscal years preceding the date of the statements required by paragraph (1) above, and for the fiscal year immediately preceding the date of any statements filed pursuant to paragraph (ii).

(15) *Filing of other statements in certain cases.* The Commission may, upon the request of the registrant, and where consistent with the protection of investors, permit the omission of one or more of the statements herein required or the filing in substitution thereof of appropriate statements of comparable character. The Commission may also require the filing of other statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of investors.

#### E. HISTORICAL FINANCIAL INFORMATION

(16) *Scope of Part E (subparagraphs 16 to 23).* The information required by Part E shall be furnished for the seven-year period preceding the period for which profit and loss statements are filed, as to the accounts of each person whose balance sheet is filed. The information is to be given as to all of the accounts specified whether they are presently carried on the books or not. Part E does not call for an audit, but only for a survey or review of the accounts specified. It should not be detailed beyond a point material to an investor. Information may be omitted, however, as to any person for whom equivalent information for the period has been filed with the Commission pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934.

(17) *Revaluation of property.* (i) If there were any material increases or decreases in investments, in property, plant and equipment, or in intangible assets, resulting from revaluing such assets, state (1) in what year or years such revaluations were made; (2) the amounts of such increases or decreases, and the accounts affected, including all related entries; and (3) if in connection with such revaluations any related adjustments were made in reserve accounts, state the accounts and amounts with explanations.

(ii) Information is not required as to adjustments made in the ordinary course of business, but only as to major revaluations made for the purpose of entering the books current values, reproduction cost or any values other than original cost.

(iii) No information need be furnished with respect to any revaluation entry which was subsequently reversed or with respect to the reversal of a revaluation entry recorded prior to the period if a statement as to the reversal is made.

(18) *Capital shares.* (i) If there were any material restatements of capital shares which resulted in transfers from capital share liability to surplus or reserve, state the amount of each such restatement and all related entries. No statement need be made as to restatements resulting from the declaration of share dividends.

(ii) If there was an original issue of capital shares, any part of the proceeds of which was credited to accounts other than capital share accounts, state the title of the class, the accounts and the respective amounts credited thereto.

(19) *Debt discount and expense written off.* If any material amount of debt discount and expense, on long-term debt still outstanding, was written off earlier than as required under any periodic amortization plan, give the following information: (i) title of the securities, (ii) date of the write-off, (iii) amount written off, and (iv) to what account charged.

(20) *Premiums and discount and expense on securities retired.* If any material amount of long-term debt or preferred shares was retired, and if either the retirement was made at a premium or there remained, at the time of retirement, a material amount of unamortized discount and expense applicable to the securities retired, state for each class (i) title of the securities retired, (ii) date of retirement, (iii) amount of premium paid and of unamortized discount and expense, (iv) to what account charged, and (v) whether being amortized and, if so, the plan of amortization.

(21) *Other changes in surplus.* If there were any material increases or decreases in surplus, other than those resulting from transactions specified above, the closing of the profit and loss account or the declaration or payment of dividends, state (i) the year or years in which such increases or decreases were made; (ii) the nature and amounts thereof; and (iii) the accounts affected, including all material related entries. Instruction (17(c)) above shall also apply here.

(22) *Predecessors.* The information shall be furnished, to the extent it is material, as to any predecessor of the registrant from the beginning of the period to the date of succession, not only as to the entries made respectively in the books of the predecessor or the successor, but also as to the changes effected in the transfer of the assets from the predecessor. However, no information need be furnished as to any one or more predecessors which, considered in the aggregate, would not constitute a significant predecessor.

(23) *Omission of certain information.* (1) No information need be furnished as to any subsidiary, whether consolidated or unconsolidated, for the period prior to the date on which the subsidiary became a majority-owned subsidiary of the registrant or of a predecessor for which information is required above.

(ii) No information need be furnished hereunder as to any one or more unconsolidated subsidiaries for which separate financial statements are filed if all subsidiaries for which the information is so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

(iii) Only the information specified in Instruction (17) need be given as to any predecessor or any subsidiary thereof if immediately prior to the date of succession thereto by a person for which information is required, the predecessor or subsidiary was in insolvency proceedings.

(f) *Instructions as to exhibits.* Subject to the rules regarding incorporation by reference, the following exhibits shall be filed as a part of the application for registration. Exhibits shall be appropriately lettered or numbered for convenient reference. Exhibits incorporated by reference may bear the designation given in the previous filing. Where exhibits are incorporated by reference, the reference shall be made in the list of exhibits called for under Item (18).

(1) Copies of the charter and by-laws or instruments corresponding thereto as presently in effect.

(2) Copies of any plan of acquisition, reorganization, readjustment, or succession described in answer to Item (3), (6), or (17).

(3) (i) Specimens or copies of all securities being registered hereunder, and copies of all constituent instruments defining the rights of holders of long-term debt of the registrant and of all subsid-

aries for which consolidated or unconsolidated financial statements are required to be filed.

(ii) There need not be filed, however, (a) any instrument with respect to long-term debt not being registered hereunder if the total amount of securities authorized thereunder does not exceed 5% of the total assets of the registrant and its subsidiaries on a consolidated basis and if there is filed an agreement to furnish a copy of such instrument to the Commission upon request, (b) any instrument with respect to any class of securities if appropriate steps to assure the redemption or retirement of such class will be taken prior to or upon delivery by the registrant of the securities being registered, or (c) copies of instruments evidencing scrip certificates for fractions of shares.

(4) Copies of all pension, retirement or other deferred compensation plans, contracts or arrangements. If any such plan, contract or arrangement is not set forth in a formal document, furnish a reasonably detailed description thereof. Copies of any available booklet or other written description of any such plan, contract or arrangement shall also be filed.

(5) Copies of any plan setting forth the terms and conditions upon which outstanding options, warrants or rights to purchase securities of the registrant or its affiliates have been issued, together with specimen copies of such options, warrants or rights; or, if they were not issued pursuant to such a plan, copies of each such option, warrant or right.

(6) Copies of any voting trust agreement referred to in answer to Item (11).

(7) If any discount on capital shares is shown as a deduction from capital shares on the balance sheet being filed for the registrant, there shall be filed a statement of the circumstances under which such discount arose and an opinion of counsel as to the legality of the issuance of the shares to which such discount relates. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which in the opinion of counsel are controlling.

(8) If the registrant has any shares the preference of which upon involuntary liquidation exceeds the par or state value thereof, there shall be filed an opinion of counsel as to whether there are any restrictions upon surplus by reason of such excess and also as to any remedies available to security holders before or after payment of any dividend that would reduce surplus to an amount less than the amount of such excess. The opinion shall set forth any applicable constitutional and statutory provisions and shall cite any decisions which in the opinion of counsel are controlling.

(9) (i) Copies of all material contracts and arrangements of the categories enumerated below:

(a) Management and general supervisory contracts providing for management of or services to the registrant or any of its subsidiaries;

(b) Advisory, construction and service contracts with affiliates providing for

management of or services to the registrant or any of its subsidiaries;

(c) Contracts between (A) the registrant or any of its subsidiaries and (B) any director or officer of the registrant, any security holder named in answer to Item (11) (a) or any associate of any such director, officer or security holder.

(ii) Copies of the following need not be filed:

(a) Contracts between the registrant and a wholly-owned subsidiary or contracts between two or more wholly-owned subsidiaries.

(b) Any employment or service contracts with directors, officers or employees of the registrant or its subsidiaries, except contracts of more than 1 year's duration with directors and officers named in answer to Item (9) (a).

(c) Any employment or service contract with any other person which provides for remuneration on an annual or shorter basis of an amount less than 5 percent of the total amount charged to selling, general and administrative expenses, as shown by the registrant's profit and loss statement filed for the latest annual period, or if a consolidated statement is filed, by the consolidated statement filed for such period.

(d) Ordinary purchase and sales agency agreements.

(e) Agreements with managers of stores in a chain store organization or similar organization.

(Secs. 7 and 19 (a), 48 Stat. 78, 85, as amended, 15 U.S.C. 77g, 77s; secs. 16(b) and 23(a), 48 Stat. 896, 901, as amended, 15 U.S.C. 78p, 78w)

All interested persons are invited to submit their views and comments on the proposed rule, in writing, to the Securities and Exchange Commission, Washington, D.C., on or before May 12, 1964. All such communications will be considered available for public inspection.

By the Commission.

[SEAL] ORVAL L. DuBois,  
Secretary.

APRIL 21, 1964.

[F.R. Doc. 64-4679; Filed, May 8, 1964; 8:48 a.m.]

# Notices

## DEPARTMENT OF THE TREASURY

Office of the Secretary

[AA 643.3-m]

### WELDED STANDARD STEEL PIPE FROM BELGIUM

#### Fair Value Determination

MAY 4, 1964.

A complaint was received that welded standard steel pipe from Belgium was being sold in the United States at less than fair value within the meaning of the Antidumping Act of 1921.

I hereby determine that welded standard steel pipe from Belgium is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

*Statement of reasons.* During the period under consideration one firm produced and sold most of the pipe under consideration. Sales to the United States were to unrelated purchasers, and the quantity sold in Belgium was sufficient to afford a proper basis of comparison. Purchase price was, therefore, compared with home market price for fair value purposes.

Purchase price was calculated by deducting inland freight charges from the f.o.b. port selling price exclusive of any selling commission. To this was added the amount of transmission tax not collected by reason of the exportation of the pipe.

Home market sales are based on published price lists and are f.o.b. buyer's location. From this were deducted the discounts and commissions granted on a preponderance of the pipe sold in the home market. Adjustments were made for production cost differentials, and an allowance was made for the cost of technical assistance incurred only in home market sales, and for the difference in credit terms applicable to the sales in the markets compared.

In the case of every size but one, the net adjusted home market price was lower than the purchase price in the United States. As to that one size, the amount of potential dumping duties on all shipments was so small as to be deemed not more than insignificant.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL]

**JAMES A. REED,**  
Assistant Secretary  
of the Treasury.

[F.R. Doc. 64-4712; Filed, May 8, 1964;  
8:52 a.m.]

## DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ARIZONA

### Order Opening Unclassified Lands to Application

1. Pursuant to authority delegated to me by Bureau Order No. 684, dated August 28, 1961 (26 F.R. 8216), I hereby open the following described lands to the filing of applications on Form 4-776 in accordance with the provisions of the Act of June 1, 1938 (43 U.S.C. 682 a-e), as amended, and the regulations in 43 CFR, Part 2233:

GILA AND SALT RIVER MERIDIAN, ARIZONA  
T. 23 S., R. 24 E.,  
Sec. 8, Lot 2.

Containing 36.27 acres.

2. The lands have not been classified for disposition as small tracts. Applications for the lands will be considered on their merits in accordance with the criteria set forth in 43 CFR Part 2233.

3. Copies of the small tract regulations and application forms may be secured from the U.S. Bureau of Land Management, Arizona Land Office, Room 3022 Federal Building, Phoenix, Arizona, 85025.

Dated: May 5, 1964.

**FRED J. WEILER,**  
State Director.

[F.R. Doc. 64-4683; Filed, May 8, 1964;  
8:48 a.m.]

Office of the Secretary

**LEMORE W. CLARK**

### Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

- (1) No change.
- (2) A. No deletions. B. Additions: Pacific Gas & Elec., Richardson-Merrill, Inc., General Mills, Inc., General Foods Corp., Chesapeake & Ohio R.R., American Tel. & Tel. Co., and Union Bank & Trust Co.
- (3) No change.
- (4) No change.

This statement is made as of April 23, 1964.

Dated: April 23, 1964.

**LEMORE W. CLARK.**

[F.R. Doc. 64-4680; Filed, May 8, 1964;  
8:48 a.m.]

## MARVIN FRANCIS PERSONS

### Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

- (1) No change.
- (2) No change.
- (3) No change.
- (4) No change.

This statement is made as of April 29, 1964.

Dated: April 29, 1964.

**MARVIN FRANCIS PERSONS.**

[F.R. Doc. 64-4681; Filed, May 8, 1964;  
8:48 a.m.]

## ATOMIC ENERGY COMMISSION

[Docket No. 50-170]

### ARMED FORCES RADIOBIOLOGY RESEARCH INSTITUTE

#### Notice of Issuance of Facility License Amendment

Please take notice that the Atomic Energy Commission has issued, effective as of the date of issuance, Amendment No. 4, set forth below, to Facility License No. R-84. The license authorizes Armed Forces Radiobiology Research Institute to operate its DASA-TRIGA Mark F nuclear reactor located on the National Naval Medical Center site in Bethesda, Maryland. The amendment permits operation of the reactor with any one of three specified types of fuel elements or combinations thereof, and increases to 8.2 kilograms from 4.5 kilograms the amount of uranium-235 which the Armed Forces Radiobiology Research Institute is authorized to receive, possess, and use in connection with operation of the reactor.

The Commission has found that:

- (1) The application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, CFR;
- (2) Operation of the reactor in accordance with the license as amended will not present undue hazard to the health and safety of the public and will not be inimical to the common defense and security;
- (3) Prior public notice of proposed issuance of this amendment is not required since the amendment does not involve significant hazard considerations different from those previously evaluated.

Within fifteen (15) days from the date of publication of this notice in the FEDERAL REGISTER, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's regulation (10 CFR Part 2). If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) the licensee's application for license amendment dated March 23, 1964, and (2) a related hazards analysis prepared by the Test & Power Reactor Safety Branch of the Division of Reactor Licensing, both of which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of item (2) above may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington, D.C., 20545. Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 30th day of April 1964.

For the Atomic Energy Commission.

SAUL LEVINE,  
Chief, Test and Power Reactor  
Safety Branch, Division of  
Reactor Licensing.

AMENDMENT TO FACILITY LICENSE

[License R-84, Amdt. 4]

License No. R-84, as amended, issued to Armed Forces Radiobiology Research Institute is hereby amended in the following respects:

1. In addition to the activities previously authorized by the Commission in License No. R-84, as amended, Armed Forces Radiobiology Research Institute is authorized to operate the Institute's DASA-TRIGA Mark F reactor at presently authorized power and temperature limits, with the following types of fuel elements:

(1) Fourteen inch aluminum clad fuel elements (containing approximately 37 grams of uranium 235 per element);

(2) Fifteen inch aluminum clad fuel elements (containing approximately 39 grams of uranium 235 per element);

(3) Fifteen inch stainless steel clad fuel elements (containing approximately 39 grams of uranium 235 per element); and

(4) Any combination of the above fuel elements, as described in its application for license amendment dated March 23, 1964.

2. Paragraph 3.B. of License No. R-84 is revised in its entirety to read as follows:

B. Pursuant to the Act and Title 10, CFR, Chapter I, Part 70, "Special Nuclear Material" to receive, possess, and use up to 8.2 kilograms of contained uranium 235 for use in connection with operation of the reactor.

This amendment is effective as of the date of issuance.

Date of issuance:

For the Atomic Energy Commission.

SAUL LEVINE,  
Chief, Test and Power Reactor  
Safety Branch, Division of Reactor  
Licensing.

[F.R. Doc. 64-4651; Filed, May 8, 1964;  
8:45 a.m.]

[Docket No. 50-155]

CONSUMERS POWER CO.

Notice of Issuance of Operating License

Please take notice that no request for a formal hearing having been filed following publication of the notice of proposed action in the FEDERAL REGISTER, the Atomic Energy Commission ("the Commission") has issued Operating License No. DPR-6 to Consumers Power Company ("Consumers"). The license (1) converts Consumers' provisional operating license to a full term operating license, (2) authorizes the conduct of Phase II of a Research and Development Program, and (3) authorizes operation of the Big Rock Point nuclear reactor, located in Charlevoix County, Michigan, at thermal power levels not to exceed 240 megawatts.

The Commission has found that Consumers has submitted proof of financial protection which satisfies the requirements of 10 CFR Part 140, and has executed an indemnity agreement as required by section 170 of the Atomic Energy Act of 1954, as amended, and 10 CFR Part 140.

The license issued is as set forth in the Notice of Proposed Issuance of Operating License published in the FEDERAL REGISTER on March 31, 1964, 29 F.R. 4166.

Dated at Bethesda, Md., this 1st day of May 1964.

For the Atomic Energy Commission.

E. G. CASE,  
Acting Director,  
Division of Reactor Licensing.

[F.R. Doc. 64-4652; Filed, May 8, 1964;  
8:45 a.m.]

[Docket No. 50-222]

LOCKHEED WESTERN EXPORT CO.

Notice of Application For and Proposed Issuance of Facility Export License

Please take notice that Lockheed Western Export Company, One East First Street, Reno, Nevada, 89505, has submitted an application dated April 21, 1964, for a license to authorize the export of a 10 kilowatt thermal nuclear training reactor to Instituto de Asuntos Nucleares, Bogota, Colombia.

Upon finding that the reactor proposed for export is within the scope of the Agreement for Cooperation between the Government of the United States of America and the Government of Colombia, and unless within fifteen days after the publication of this notice in the FEDERAL REGISTER, a request for a formal hearing is filed with the U.S. Atomic Energy Commission by the applicant or an intervener as provided by the Commission's rules of practice (Title 10, CFR, Chapter I, Part 2), the Commission proposes to issue to Lockheed Western Export Company a facility export license on Form AEC-250 containing the authority set forth in the text below authorizing export of the reactor described in the application.

Pursuant to the Atomic Energy Act of 1954, as amended, and Title 10, Chapter I, Code of Federal Regulations, the Commission has found that:

(a) The application complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations set forth in Title 10, Chapter I, Code of Federal Regulations, and

(b) The reactor proposed to be exported is a utilization facility as defined in said Act and regulations.

In its review of applications solely to authorize the export of production or utilization facilities, the Commission does not evaluate the health and safety characteristics of the facility to be exported.

A copy of the application, dated April 21, 1964, is on file in the Atomic Energy Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 30th day of April 1964.

For the Atomic Energy Commission.

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

PROPOSED EXPORT LICENSE

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations of the U.S. Atomic Energy Commission issued pursuant thereto, and in reliance on statements and representations heretofore made, Lockheed Western Export Company, One East First Street, Reno, Nevada, 89505, is authorized to export a 10 kilowatt thermal nuclear training reactor to Instituto de Asuntos Nucleares, Bogota, Colombia, subject to the terms and provisions herein. The license to export extends to the licensee's duly authorized shipping agent.

Neither this license nor any right under this license shall be assigned or otherwise transferred in violation of the provisions of the Atomic Energy Act of 1954.

This license is subject to the right of recapture or control reserved by section 108 of the Atomic Energy Act of 1954, and to all other provisions of said Act, now or hereafter in effect and to all valid rules and regulations of the U.S. Atomic Energy Commission. This license is effective as of the date of issuance and shall expire on September 30, 1965.

For the Atomic Energy Commission.

[F.R. Doc. 64-4654; Filed, May 8, 1964;  
8:46 a.m.]

[Docket No. 50-138]

CURTISS-WRIGHT CORP.

Notice of Issuance of Facility Export License

Please take notice that no request for a formal hearing having been filed following the publication of notice of proposed action in the FEDERAL REGISTER on April 14, 1964 (29 F.R. 5097), the Atomic Energy Commission has issued License No. XR-33-C to Curtiss-Wright Corporation, authorizing the export of the remaining parts of the 1,000 kilowatt nuclear research reactor for the Thai Atomic Energy Commission for Peace, Bangkok, Thailand.

Dated at Bethesda, Md., this 30th day of April 1964.

For the Atomic Energy Commission.

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

[F.R. Doc. 64-4653; Filed, May 8, 1964;  
8:45 a.m.]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration  
UNION CARBIDE CORP.

### Notice of Filing of Petition Regarding Food Additive Poly(Ethylene Oxide)

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1342) has been filed by Union Carbide Corporation, P.O. Box 65, Tarrytown, New York, and J. E. Siebel Sons' Company, Inc., 4055 West Peterson Avenue, Chicago 46, Illinois, proposing the issuance of a regulation to provide for

the safe use of poly(ethylene oxide) as a foam stabilizer in fermented malt beverages, when the level of use of the additive does not exceed 300 parts per million of the beverages.

Dated: April 30, 1964.

**MALCOLM R. STEPHENS,**  
Assistant Commissioner  
for Regulations.

[F.R. Doc. 64-4669; Filed, May 8, 1964;  
8:47 a.m.]

## DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service  
VALLEY LIVESTOCK COMMISSION  
CO., ET AL.

### Notice of Changes in Names of Posted Stockyards

It has been ascertained, and notice is hereby given, that the names of the livestock markets referred to herein, which were posted on the respective dates specified below as being subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), have been changed as indicated below.

#### IDAHO

<i>Original Name of Stockyard, Location, and Date of Posting</i>	<i>Current Name of Stockyard and Date of Change in Name</i>
Valley Livestock Commission Co., Rupert, Mar. 11, 1957.	Valley Livestock Commission Co., Apr. 20, 1964.

#### IOWA

Fort Dodge Livestock Auctions, Fort Dodge, May 20, 1959.	Fort Dodge Livestock Auctions, Inc., Jan. 1, 1964.
LaPorte City Sales Co., LaPorte City, May 22, 1959.	LaPorte City Sales Barn, Apr. 20, 1964.
North English Livestock Auction, North English, June 9, 1959.	English Valleys Auction & Market, Apr. 8, 1964.
Spencer Marketing Corp., Spencer, Apr. 16, 1958.	Spencer Livestock Sales, Feb. 18, 1964.

#### KANSAS

Syracuse Sales Co., Inc., Syracuse, Apr. 13, 1950.	Weaver & Dunn Live Stock Auction Co., March 28, 1964.
----------------------------------------------------	-------------------------------------------------------

#### TEXAS

Alice Auction & Commission Co., Inc., Alice, May 1, 1957.	Jim Wells Auction & Commission Co., Inc., June 27, 1962.
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Done at Washington, D.C., this 6th day of May 1964.

**H. L. JONES,**  
Chief, Rates and Registrations  
Branch, Packers and Stock-  
yards Division, Agricultural  
Marketing Service.

[F.R. Doc. 64-4689; Filed, May 8, 1964;  
8:51 a.m.]

## CIVIL AERONAUTICS BOARD

[Docket 15224]

### AERONAVES DE MEXICO, S.A.

#### Notice of Prehearing Conference

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on May 12, 1964, at 10:00 a.m., e.d.s.t., in Room 725, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Leslie G. Donahue.

Dated at Washington, D.C., May 5, 1964.

[SEAL] - **FRANCIS W. BROWN,**  
Chief Examiner.

[F.R. Doc. 64-4693; Filed, May 8, 1964;  
8:51 a.m.]

[Docket 14493]

### EASTERN AIR LINES, INC.

#### Notice of Postponement of Prehearing Conference; Redesignation of Philadelphia, Pa.-Wilmington, Del.

Pursuant to request of Eastern Air Lines, Inc., and for good cause shown, the prehearing conference in the above-entitled proceeding, now assigned to be held on May 12, 1964, is hereby postponed and is now assigned to be held before the undersigned Examiner on May 14, 1964, at 10:00 a.m., e.d.s.t., in Room 511, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., May 6, 1964.

[SEAL]

**RICHARD A. WALSH,**  
Hearing Examiner.

[F.R. Doc. 64-4694; Filed, May 8, 1964;  
8:51 a.m.]

[Docket 14945; Order E-20780]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Agreement Relating to North Atlantic Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of May 1964.

There has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, an agreement between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conference 1-2 of the International Air Transport Association (IATA). The agreement, assigned the above-designated C.A.B. Agreement number, was adopted by mail vote and establishes North Atlantic fares and rules to be applicable for the period May 1, 1964, through March 31, 1965.

The North Atlantic fare structure has been the subject of considerable controversy among carriers and their governments alike, a controversy precipitated in no little measure by the Board's disapproval early last year of the then-proposed increase in fares. The controversy was temporarily resolved through a compromise agreement with intended effectiveness of May 28, 1963, and which by its terms expired on March 31 of this year. In approving the compromise agreement, the Board alerted the carriers of its belief that the economics of jet operations would support the offering of significantly lower fares for the period beyond April 1, 1964.

During the interim period, the Board has devoted considerable time and attention to North Atlantic fare problems. In an effort to facilitate the adoption of an agreement within IATA which would properly equate the commercial interests of the carriers with those of the traveling public, members of the Board and its staff have participated in intergovernmental meetings and in discussions with the civil aeronautical authorities of various European governments on the broad question of the relationship between aeronautical authorities and IATA and on ratemaking procedures followed by the IATA carriers. In addition, the Board maintained close scrutiny of developments within IATA.

The agreement here before the Board is the result of a series of formal discussions held by the carriers at Salzburg and Nassau and is, in effect, the outcome of the controversy precipitated by the Board. In summary, the agreement accomplishes the following:

*First-class fares.* Round-trip fares between New York and London have been reduced by \$190.00 from \$902.50 to \$712.50. The same reduction is extended to most points beyond London.

**Economy-class fares.** Two levels of economy-class fares have been established, an off-peak or low-level fare and a peak-period fare. Round-trip low-level fares between New York and London reflect a reduction of \$100.70, from \$499.70 to \$399.00. The same reduction is extended to points beyond London. Round-trip peak-period fares, however, reflect only a token reduction of \$15.20. Low-level fares will be available all year except for eastbound travel during the period May 22 through August 3 and westbound travel during the period July 17 through September 28. One-half of the round-trip peak fares may be combined with one-half of the round-trip low-level fares to construct round-trip fares involving one transatlantic crossing when the peak fares apply and one transatlantic crossing when the low-level fares apply.

**Round-trip affinity group fares.** These fares have been revalidated for travel for a limited period through September 30, 1964, with a continuation of restrictions against weekend travel during June and July, eastbound, and during August and September, westbound. Amendments, however, (1) preclude travel during April and May; (2) extend the present two-week periods in which travel may not be undertaken to include June 26 through July 12, eastbound, and August 21 through September 6, westbound (as compared with last year's restrictions against travel June 24 through July 7, eastbound, and August 25 through September 7); and (3) to increase the fares by about 5 percent—from \$310.00 to \$325.00, New York-London, and return.

**14-21-day round-trip excursion fares.** Last year's fares have been reduced by \$50.00—from \$350.00 to \$300.00, New York-London, and return. These fares, which were heretofore available in the off-season (October 1 through April 30) will be available for travel, except on weekends, during the following periods:

Outbound travel originating in the United States	Outbound travel originating in Europe
Feb. 15 through June 11.	Feb. 15 through June 4.
July 13 through Aug. 6.	June 29 through Aug. 20.
Aug. 31 through Nov. 5.	Sept. 15 through Nov. 5.

Return transatlantic travel may be undertaken at any time, subject to the restriction against travel on weekends and to the provisions that prohibit the commencement of return travel prior to the 14th day after departure and require its completion by midnight of the 21st day after departure.

**Other fares and revisions.** The agreement provides for the continuation, subject to limited amendments of the special fares to Israel for groups of 40 or more passengers<sup>1</sup> and the different special

<sup>1</sup> An amendment applicable during the second six-month period of the agreement, October 1, 1964, through March 31, 1965, requires that the entire group, on the return flight, must resume travel from the point of stopover, if any.

fares for U.S. military personnel and/or dependents. The New York-London reduced round-trip fares for individual travel by U.S. military personnel have been reduced from \$349.80 to \$300.00. Family-fare discounts and North Atlantic emigrant fares from Europe to the United States will be terminated.

The above-described agreement embraces in all major respects the same fares and rules as are contained in the North Atlantic carriers' tariff filings that became effective on April 1, 1964, prior to the conclusion of a full agreement within IATA. In dealing with the carriers' action in filing substantially similar tariffs, the Board in its Order E-20706 found that an agreement existed among the carriers within the meaning of section 412 of the Act, irrespective of the fact that it had not been unanimously adopted by the IATA carriers, and approved the agreement. Consistent therewith, we will approve the instant agreement. Since the merits of the revised fare structure were discussed at some length in Order E-20706, it would serve no useful purpose to review herein the relative advantages and deficiencies of the various fare revisions. In summary, the Board found that the revised fare structure in its totality represented a marked improvement over that applicable last year. This is not to say that we consider it wholly desirable in all respects. Indeed, we consider that the 10½-week periods in each direction when the low-level fares may not apply are excessive since they appear to exceed true peak travel periods by three to four weeks. On the other hand, the low-level fares offer significant reductions that will be available during most of the year. In addition, the 14-21 day excursion fares are the lowest jet fares ever offered on the North Atlantic. This fact coupled with their availability during the more popular travel months, except for periods of comparatively limited duration, would appear to be a most promising experiment in the development of new traffic.

With respect to the revisions in the affinity group fare which, in some instances, will result in increased fares or disruption of travel plans, we believe the Board's views have been fully developed in the above-discussed Order E-20706 and in Order E-20769, dealing with a petition on behalf of the National Education Association. Here we would stress that it must be recognized that major fare revisions incorporating substantial reductions for the majority of travelers may, of necessity, include revisions that will adversely affect limited segments of the public. It is unfortunate when fare changes result in a disruption of travel plans. Nevertheless, we would point out that the resolutions under which many tours were planned, or tentatively so, expired by their terms on March 31, 1964. Their continuation beyond that date was questionable. Moreover, tariffs were filed early in January reflecting the proposed changes. For

these reasons, we are not conditioning our approval of this agreement to require retention of last year's fare provisions. Simple fairness, however, requires that groups for which reservations were accepted by the carriers under the old rules be accommodated within the new periods. Therefore, in those instances where the groups elect to rearrange their travel plans, we will expect the carriers to make reservations available under the new rules and as nearly as may be to the old schedule.

We take particular note of Resolution 045x which provides that not later than October 1, 1964, minimum charter rates shall be established with respect to the North Atlantic. This resolution is so interlocked with other fare resolutions that failure of one to become effective would nullify the others. It does not appear that the relationship between this resolution and other resolutions is such as to warrant the interlocking. Although we are herein approving this resolution, we wish to make it crystal clear that any agreement that may be reached on charter rates must be filed with the Board for approval or disapproval and that it will be dealt with solely on its merits. It would be most regrettable if the instant resolution should be so interpreted that lack of agreement or, for that matter, failure for any reason of any charter agreement that may be reached to become effective would void the entire rate structure.

In view of the experimental characteristics of the revised fare structure, we believe it is essential to acquire data on the traffic and revenues under the new fares. We have therefore instructed our staff to arrange for appropriate reporting procedures with the United States flag carriers. This will enable the Board to monitor the results on a reasonably current basis, and in addition, have data available to consider fare proposals that may be made for effect after the expiry of this agreement.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. The Board finds that, on the basis of all facts presently known, the following resolutions, incorporated in Agreement C.A.B. 17700, do not affect air transportation within the meaning of the Act:

C.A.B. No. 17700	IATA No.	Title
R-16-----	095a	Reduced Fares for Canadian Armed Forces.
R-17 <sup>2</sup> -----	096	North Atlantic Emigrant Fares.

<sup>2</sup> Applicable from Europe to Canada.

2. The Board does not find the following resolutions, contained in Agreement C.A.B. 17700, to be adverse to the public interest or in violation of the Act, provided that approval herein shall be subject to a continuation of the conditions heretofore attached to resolutions which are revalidated.

## NOTICES

C.A.B. No. 17700	IATA No.	Title
R-1.....	001b	Special Effectiveness Resolution—North Atlantic.
R-2.....	003	Standard Rescission Resolution.
R-3.....	014a	Construction Rule for Passenger Fares—Revalidating and Amending.
R-4.....	015	North American Proportional Fares—Revalidating and Amending.
R-5.....	045x	Minimum Charter Rates—Passenger.
R-6.....	050	First Class Conditions of Service—Revalidating and Amending.
R-7.....	054a	North Atlantic First Class Fares.
R-8.....	060	Economy Class Conditions of Service—Revalidating.
R-9.....	064a	North Atlantic Economy Class Fares.
R-10.....	080d	North Atlantic 21-day Excursion Fare.
R-11.....	088	Special Round Trip Economy Class Group Fares.
R-12.....	088a	Group Travel Discount—North Atlantic Revalidating and Amending.
R-13.....	089	Group Fares for U.S. Military Personnel and Dependents—Amending.
R-14.....	089a	Group Fares for Dependents of U.S. Military Personnel—Amending.
R-15.....	095	Reduced Fares for U.S. Military Personnel.
R-18.....	116	Meeting Rates and Practices—Revalidating.
R-19.....	150a	Round Trip Discount—Revalidating.

Accordingly, it is ordered, That:

1. Jurisdiction is disclaimed with respect to that portion of Agreement C.A.B. 17700 set forth in finding paragraph 1 above; and

2. That portion of Agreement C.A.B. 17700 set forth in finding paragraph 2 above is approved subject to the conditions heretofore attached to resolutions which are revalidated.

Any air carrier party to the agreement, or any interested person, may, within 15 days from the date of service of this order, submit statements in writing containing reasons deemed appropriate, together with supporting data, in support of or in opposition to the Board's action herein. An original and nineteen copies of the statements should be filed with the Board's Docket Section. The Board may, upon consideration of any such statements filed, modify or rescind its action herein by subsequent order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,  
Secretary.

[F.R. Doc. 64-4695; Filed, May 8, 1964;  
8:51 a.m.]

## FEDERAL MARITIME COMMISSION

[Commission Order 1 (amended), Amdt. 9]

### ORGANIZATION AND FUNCTIONS

#### Delegation of Authority

The purpose of this amendment is to delegate to the Managing Director, the authority to determine whether terminal leases, licenses, assignments or other agreements of a similar character for the use of terminal property or facilities between persons subject to the Shipping

Act, 1916, are within the purview of section 15.

A new subpart to section 7, Commission Order No. 1 (amended) March 31, 1963, is hereby instituted:

7.08 Authority to determine whether terminal leases, licenses, assignments or other agreements of a similar character for the use of terminal property or facilities between persons subject to the Shipping Act, 1916, are within the purview of section 15.

Dated: April 23, 1964.

JOHN HARLEE,  
Rear Admiral, U.S. Navy  
(Retired), Chairman.

Commission Order No. 201.1 is supplemented by a new subsection 6.08 to redelegate to the Director, Bureau of Domestic Regulation, the authority to determine whether terminal leases, licenses, assignments or other agreements of a similar character for the use of terminal property or facilities between persons subject to the Shipping Act, 1916, are within the purview of section 15, as provided in Commission Order No. 1 (amended) Amendment 9.

Dated: April 23, 1964.

TIMOTHY J. MAY,  
Managing Director.

[F.R. Doc. 64-4656; Filed, May 8, 1964;  
8:46 a.m.]

### AMERICAN UNION TRANSPORT, INC., ET AL.

#### Notice of Agreements Filed for Approval

Notice is hereby given that the following agreements have been filed with the Federal Maritime Commission for approval pursuant to section 15 of the Shipping Act, 1916 (75 Stat. 763 and 46 U.S.C. 814). All parties involved are eligible to operate as independent ocean freight forwarders pursuant to section 44 of the Shipping Act, 1916.

Unless otherwise indicated, these agreements are nonexclusive, cooperative working arrangements under which the parties may perform freight forwarding services for each other, dividing forwarding and service fees as agreed on each transaction. Ocean freight compensation is to be divided as agreed between the parties.

American Union Transport, Inc., New York, N.Y., is party to the following agreements, the terms of which are identical. The other parties are:

Circle Forwarders, Inc., Detroit  
Mich..... FF-1500  
Florida International Forwarders,  
Miami, Fla..... FF-1501

Henry A. Wess, Inc., Cincinnati, Ohio,  
is party to the following agreements, the  
terms of which are identical. The other  
parties are:

Frontier Freight Forwarders, Inc.,  
Miami, Fla..... FF-1507  
G. Karmel Forwarding, Inc., New  
York, N.Y..... FF-1508  
John S. Connor, Inc., Baltimore,  
Md..... FF-1509

Rohner, Gehrig & Co., Inc., New  
York, N.Y..... FF-1510

Triangle Forwarding Corp, New York,  
N.Y., is party to the following agree-  
ments, the terms of which are identical.  
The other parties are:

Frank P. Dow & Co., Inc., Seattle,  
Wash..... FF-1514  
Ellis Forwarding Co., Inc., Houston,  
Tex..... FF-1515

General Freight Services, Inc., Port-  
land, Oreg., is party to the following  
agreements, the terms of which are iden-  
tical. The other parties are:

J. T. Steeb & Co., Inc., Seattle,  
Wash..... FF-1518  
J. T. Steeb & Co., Inc., Tacoma,  
Wash..... FF-1519

The following agreements have similar  
terms:

John A. Merritt & Co., Pensacola,  
Fla., and Behring South Ports  
Shipping Co., Houston, Tex..... FF-1485

Karr, Ellis & Co., Inc., New York,  
N.Y., and Wilmington Shipping  
Co., Wilmington, N.C..... FF-1487

Globe Shipping Co., Inc., New York,  
N.Y., and Seifert Steamship  
Agency, Chicago, Ill..... FF-1494

Fillette, Green & Co., Pensacola,  
Fla., and Barr Shipping Co., Inc.,  
New York, N.Y..... FF-1495

Leyden Shipping Corporation, New  
York, N.Y., and The Cottman Co.,  
Baltimore, Md..... FF-1496

Export Enterprises, Inc., Philadel-  
phia, Pa., and W. G. Kesler, New  
Orleans, La..... FF-1498

F.N.S. Corporation, New York, N.Y.,  
and J. R. Michels, Inc., Houston,  
Tex..... FF-1499

Amersped, Inc., New York, N.Y., and  
B. R. Anderson & Co., Seattle,  
Wash..... FF-1503

Trans-World Shipping Service, Inc.,  
Toledo, Ohio, and The Interport  
Co., Chicago, Ill..... FF-1504

D.C. Andrews & Co., Inc., New York,  
N.Y.; D. C. Andrews & Co. of Ill.,  
Inc., Chicago, Ill; D. C. Andrews &  
Co. of La., Inc., New Orleans, La.;  
D. C. Andrews & Co. of Md., Inc.,  
Baltimore, Md.; D. C. Andrews &  
Co. of Mass., Inc., Boston, Mass.;  
and The A. W. Fenton Co., Inc.,  
Cleveland, Ohio..... FF-1505

Chas. Kurz Co., Philadelphia, Pa.,  
and Tone Forwarding Corp., New  
York, N.Y..... FF-1506

John S. James, Savannah, Ga., and  
W. J. Byrnes & Co., Inc., San  
Francisco, Calif..... FF-1511

Stone Forwarding Co., Inc., Offices  
in Galveston, Houston and Corpus  
Christi, Tex.; and Admiral Ship-  
ping Co., Washington, D.C..... FF-1512

A. F. Burstrom & Sons, Inc., Detroit,  
Mich., and R. G. Hobelmann &  
Co., Inc., Toledo, Ohio..... FF-1513

James E. Fox & Co., Inc., New York,  
N.Y., and Dyson Shipping Co.,  
Inc., Baltimore, Md..... FF-1517

Norton & Ellis of New York, Inc., New  
York, N.Y., is party to the following  
agreements under which forwarding and  
service fees are divided as agreed.

Ocean freight compensation is to be re-  
tained (100 percent) by the originating  
party. The other parties are:

Stone & Downer Co., Boston, Mass... FF-1488  
R. G. Hobelmann & Co., Inc.,  
Baltimore, Md..... FF-1489

Morris Friedman Co., Philadelphia,  
Pa..... FF-1490

Smith & Kelly Co., Savannah, Ga... FF-1491

Coastal Forwarders, Charleston, S.C. FF-1492



Agreement No. FF-1493 between Regal Shipping Corporation, New York, N.Y., and W. M. Stone & Co., Inc., Norfolk, Va., is an arrangement under which forwarding and service fees are to be divided as agreed. Ocean freight compensation is to be retained by the originating party.

Agreement No. FF-1497 between J. D. Smith Inter-Ocean, Inc., New York, N.Y., and The Cottman Co., Baltimore, Md., is an arrangement under which forwarding and service fees are to be divided as agreed. Ocean freight compensation is to be retained by the originating forwarder.

Agreement No. FF-1516 between Acco Foreign Shipping, Inc., Miami, Fla., and Alonso Shipping Co., New Orleans, La., is an arrangement whereby forwarding and service fees are \$5.00 per shipment. Ocean freight compensation is to be divided equally.

Interested persons may inspect these agreements and obtain copies thereof at the Bureau of Domestic Regulation, Federal Maritime Commission, Washington, D.C. They may submit to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within twenty days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their approval, disapproval, or modification together with request for hearing should such hearing be desired.

Dated: May 5, 1964:

By the Federal Maritime Commission.

THOMAS LISI,  
Secretary.

[F.R. Doc. 64-4657; Filed, May 8, 1964;  
8:46 a.m.]

### BOOTH LAMPORT WEST INDIES SERVICE AND DELTA STEAMSHIP LINES, INC.

#### Notice of Filing of Agreement

Notice is hereby given that the following described agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733; 75 Stat. 763; 46 U.S.C. 814):

Agreement 9216-1 between The Booth Steamship Company, Ltd. and Lamport & Holt Line, Ltd. (carriers comprising the Booth Lamport West Indies Service joint service operating pursuant to approved Agreement 8215, as amended), and Delta Steamship Lines, Inc., modifies approved Agreement 9216 between the parties which covers an arrangement whereby Delta, as agent at U.S. Gulf ports, perform certain services in connection with common carrier operations of the joint service between U.S. Gulf ports and Barbados, Trinidad, Jamaica and British Guiana; and for The Booth Steamship Company, Ltd., in the U.S. Gulf ports-Brazil trade. This modification provides that Delta's agency arrangement shall also include services relating to the joint service operations between U.S. Gulf ports and Antigua, Martinique and Guadeloupe.

Interested parties may inspect this agreement and obtain copies thereof at the Bureau of Foreign Regulation, Fed-

eral Maritime Commission, Washington, D.C. or may inspect a copy at the offices of the District Managers of the Commission in New York, N.Y., New Orleans, La., and San Francisco, Calif., and may submit to the Secretary, Federal Maritime Commission, Washington, D.C., 10573, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with a request for hearing, should such hearing be desired.

Dated: May 6, 1964.

By order of the Federal Maritime Commission.

THOMAS LISI,  
Secretary.

[F.R. Doc. 64-4658; Filed, May 8, 1964;  
8:46 a.m.]

### CITY OF PHILADELPHIA, ET AL.

#### Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 75 Stat. 763; 46 U.S.C. 814):

Agreement No. T-111, between the city of Philadelphia (Philadelphia), and National Steel Erecting Company (National), provides for the lease of certain pier and terminal property in Philadelphia, Pennsylvania, at an annual rental of \$78,600. The agreement provides that at all times during the term of the lease, the maximum rates for wharfage, dockage and for use of the pier other than storage, may be fixed by Philadelphia's Director of Commerce, provided that such rates shall not be discriminatory.

Agreement No. T-111-A, between National and Stockard Shipping and Terminal Corporation (Stockard), is a sublease of a portion of the facilities described in Agreement No. T-111 between Philadelphia and National. Under the terms of the agreement Stockard agrees to pay National rental of \$5,000 per month plus a proportionate share of certain insurance premiums, and to use the premises exclusively for steamship terminal operations. Agreement No. T-111-A is subject to the terms of Agreement No. T-111 and the maximum rates for wharfage, dockage and for use of the pier other than storage may be fixed by the Director of Commerce of the city of Philadelphia, provided that such rates shall not be discriminatory.

Interested parties may inspect the agreements and obtain copies thereof at the Bureau of Domestic Regulation, Federal Maritime Commission, Washington, D.C., 20573, or may inspect a copy at the offices of the District Managers of the Commission in New York, N.Y., New Orleans, La., and San Francisco, Calif., and may submit to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within 20 days after publication of this notice in the FEDERAL REGISTER, written statements

with reference to the agreements and their position as to approval, disapproval, or modification, together with a request for hearing, should a hearing be desired.

Dated: May 5, 1964.

By order of the Federal Maritime Commission.

THOMAS LISI,  
Secretary.

[F.R. Doc. 64-4659; Filed, May 8, 1964;  
8:47 a.m.]

## FEDERAL AVIATION AGENCY

[OE Docket No. 64-SO-9]

### UNIVERSITY CITY TELEVISION CABLE CO., INC.

#### Determination of Hazard to Air Navigation

The Federal Aviation Agency has circularized the following proposal for aeronautical comment and has conducted a study (SO-OE-3795) to determine its effect upon the safe and efficient utilization of navigable airspace.

University City Television Cable Company, Inc., proposes to construct a guyed community antenna television tower near Gainesville, Florida, at latitude 29°37'09" N., longitude 82°15'54" W. The overall height of the structure would be 796.2 feet above mean sea level (700 feet above ground).

The proposed structure would be located approximately 25,600 feet south-southeast of the Gainesville Airport and within the newly designated Gainesville control zone. It would exceed the standards for determining hazards to air navigation as defined in § 77.23(a) (2) of the Federal Aviation Regulations by 500 feet as applied to the control zone.

The aeronautical study disclosed that the proposed structure would require an increase from 1,700 feet to 1,800 feet in the procedure turn altitude for special FAA-511 ADF approach to the Gainesville Airport. The increase in procedure turn altitude would have no significant effect on aeronautical operations since the descent rate would remain well within the capability of those aircraft using the approach.

The aeronautical study further disclosed the proposed structure would be on a frequently used direct course between the Ocala, Florida, VORTAC and the Gainesville Airport. It would also be located adjacent to a major highway and railroad which serve as a natural VFR route for aircraft operating between the Atlantic Coastal area of Florida and the Gainesville Airport. In addition, it was disclosed that the restricted area complex which lies east of Gainesville and Ocala would tend to channel the low altitude flights operating into Gainesville from the eastern and southern areas of Florida by the above routes.

The Agency's publication, Air Traffic Patterns of VFR General Aviation for Fiscal Year 1962, indicates approximately 20 flight plans were filed between the Gainesville Airport and Ocala Airport. In addition, current Agency

figures show there are 72 aircraft based within 20 nautical miles of the proposed tower site and that there are approximately 51,000 operations conducted yearly in this area.

The erection of the proposed structure would place the controlling obstruction for the Gainesville area in the control zone for the Gainesville Airport. It would also result in locating the two tallest structures in the Gainesville area on opposite sides of the airport.

Based upon the aeronautical study, it is the finding of the Agency that the structure, at the height proposed, would constitute an unacceptable obstruction to aeronautical operations in the Gainesville area adjacent to the Gainesville Airport, within its control zone, and on natural VFR routes to the airport.

Therefore, pursuant to the authority delegated to me by the Administrator (§ 77.37 [New]), it is found that the proposed structure would have a substantial adverse effect upon the safe and efficient utilization of navigable airspace; and it is hereby determined that the proposed structure would be a hazard to air navigation.

This determination is effective and will become final 30 days after the date of issuance unless an appeal is filed under § 77.39 [New] (27 F.R. 10352). If the appeal is denied, the determination will then become final as of the date of the denial or 30 days after the issuance of the determination, whichever is later.

Issued in Washington, D.C., on April 30, 1964.

GEORGE R. BORSARI,  
Chief, Obstruction Evaluation Branch.  
[F.R. Doc. 64-4655; Filed, May 8, 1964;  
8:46 a.m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 15271, 15451; FCC 64-388]

### AMERICAN COLONIAL BROADCASTING CORP.

#### Memorandum Opinion and Order Designating Application for Consolidated Hearing on Stated Issues

In re applications of American Colonial Broadcasting Corporation, Ponce, Puerto Rico, Docket No. 15271, File No. BPCT-3104; for construction permit to change transmitter site and antenna height above average terrain of station WSUR-TV, Channel 9, Ponce, Puerto Rico; American Colonial Broadcasting Corporation, Caguas, Puerto Rico, Docket No. 15451, File No. BPCT-3300; for construction permit to increase power of station WKBM-TV, Channel 11, Caguas, Puerto Rico.

1. The Commission has before it for consideration: (a) The above-captioned application (BPCT-3300) of American Colonial Broadcasting Corporation, licensee of Television Broadcast Station WSUR-TV, Channel 9, Ponce, Puerto Rico, and permittee of Television Broadcast Station WKBM-TV, Channel 11,

Caguas, Puerto Rico; (b) Petition to Deny, filed March 19, 1964, by El Mundo, Inc., licensee of Television Broadcast Station WKAQ-TV, Channel 2, San Juan, Puerto Rico; (c) Opposition, filed April 6, 1964, by applicant, against (b), above; and (d) Reply, filed April 16, 1964, by El Mundo, Inc., against (c) above. By its application, filed February 12, 1964, American Colonial seeks authority to increase the effective radiated visual power of Station WKBM-TV from 27.1 kw to 270 kw, change antenna type, and directionalize its antenna. No change is proposed in tower height or in the location of the transmitter site.

2. American Colonial, on September 25, 1962, filed its application (BPCT-3104) for a construction permit to change the transmitter site of Station WSUR-TV and to change antenna height above average terrain from 2,590 feet to minus 43 feet. A grant of that application would result in a substantial shrinkage of the present service contours of Station WSUR-TV from its present coverage of nearly all of Puerto Rico to a predicted Grade B coverage area consisting of a circle approximately 35 miles in diameter. As the result of an informal objection and related pleadings filed against that application by El Mundo, Inc., licensee of Television Broadcast Station WKAQ-TV, Channel 2, San Juan, Puerto Rico, the Commission, by Memorandum Opinion and Order released January 13, 1964 (FCC 64-12), designated the application for hearing on specified issues. Among the issues specified in the Order was the following:

3. To determine the facts and circumstances surrounding the preparation and filing of the instant application.

3. While the facts which gave rise to the specification of this issue are fully set forth in the Commission's designation order (FCC 64-12), a brief review of the history of this proceeding may be helpful in placing our decision herein in proper perspective. In mid-1960, American Colonial filed two applications, the effect of a grant of both of which would have been to shrink the coverage area of Station WSUR-TV in Ponce and to expand the coverage area of Station WKBM-TV in Caguas.<sup>1</sup> Both applications were granted without hearing and thereafter, pursuant to the provisions of the Communications Act and the Commission's rules then in effect, El Mundo filed a post-grant protest and petition for reconsideration. Throughout that proceeding, both applications were considered as a single proposal since the expansion of the Station WKBM-TV service contours would fill the voids resulting from the shrinkage of the Station WSUR-TV service contours. Further, a grant of both applications would have avoided conflict with § 73.636 of the Commission's rules relating to overlap. El Mundo at that time was a "party in interest" under applicable provisions of the statute then in effect and the Commission, after considering the matters raised by El Mundo, postponed the effective

<sup>1</sup> Station WKBM-TV is permitted to identify itself as "Caguas-San Juan".

date of the grants and designated both for hearing in a consolidated proceeding. Three months later, American Colonial tendered its construction permits for cancellation and, after various mesne proceedings, the construction permits were cancelled and the proceeding terminated.

4. In its informal objection filed against the pending American Colonial application for Station WSUR-TV (BPCT-3104), El Mundo alleged that the applicant was attempting once again to shrink the coverage area of the Ponce station solely for the purpose of expanding the coverage area of the Caguas station without violating the overlap provisions of § 73.636 of the Commission's rules, and that the pending application for Ponce was the precursor of an application to expand the service contours of Station WKBM-TV. El Mundo suggested that the applicant was concealing its intention to file an application to expand the coverage area of Station WKBM-TV, hoping to achieve by a different strategy that which it had failed to achieve in 1960. The applicant, in its reply to that charge, disputed the relevancy of its future intentions, but did not confirm nor deny that it had such intentions. The Commission, however, in its designation order in the Ponce matter, determined that, in view of the applicant's past history, inquiry into the motives of the applicant in filing the Ponce application (BPCT-3104) was warranted. Accordingly, Issue 3, quoted above, was specified. El Mundo was made a party to that proceeding on the Commission's own motion.

5. Petitioner alleges standing in this proceeding as a "party in interest" under the doctrine of Federal Communications Commission v. Sanders Brothers Radio Station, 309 U.S. 470. The applicant does not dispute petitioner's standing and we find that the petitioner has such standing.

6. Petitioner alleges that a grant of the Caguas application (BPCT-3300) would result in a substantial increase in the existing overlap of the service contours of the applicant's two stations. It is alleged that there will be an increase in the existing overlap of Grade A contours of 173 square miles, involving 77,000 persons, or a total Grade A overlap area of 818 square miles, representing 24 percent of the area of Puerto Rico. There will, petitioner alleges, be an increase in the existing overlap of the applicant's Grade B contours of 55 square miles, involving 19,560 persons, or a total Grade B overlap area of 2,110 square miles, representing 61 percent of the area of Puerto Rico. Applicant contends that the increase in overlap would be insignificant. As discussed in succeeding paragraphs hereof, we are of the opinion that an issue with respect to the overlap problem is warranted.

7. Petitioner further alleges that the Commission's rules require that antenna modifications to achieve directionalization (such as applicant proposes) must be made, measured, and tested by the manufacturer and not in the field, as the applicant proposes. Section 73.685 (f) (3) of the Commission's rules, how-

ever, permits directional patterns to be either computed or measured and the Commission has customarily required measured patterns only in such unusual situations as were presented in the so-called "drop-in" proposal. Petitioner's contentions in this respect, therefore, appear to be without merit.

8. Petitioner requests the Commission to specify issues to determine whether a grant of the Caguas application (BPCT-3300) would be consistent with the provisions of § 73.606 of the Commission's rules (the Table of Assignments) and section 307(b) of the Communications Act with respect to the fair, efficient and equitable distribution of radio service among communities. Petitioner contends that the proposal represents an attempt to make Station WKBM-TV a San Juan station instead of a Caguas station, in circumvention of the Table of Assignments and the Communications Act. We think that the facts alleged do not support petitioner's conclusions. The applicant does not propose a transmitter move, a change in the location of its main studio, or a substantial change in its general programming to reflect interest in San Juan to the exclusion of Caguas. Station WKBM-TV will continue to place a principal city signal over Caguas as required by the Commission's rules. The Commission has consistently held that a station is required to formulate its programming to meet the needs and interests of the entire area proposed to be served and should not confine itself to meeting the needs and interests of its specified principal community. It does not follow that the fact that Station WKBM-TV would improve its signal in San Juan would make it a San Juan station rather than a Caguas station. In short, we are of the opinion that the petitioner has not alleged facts sufficient to warrant the specification of issues with respect to these matters.

9. Finally, the petitioner suggests that a grant of the Caguas application would impair the development of UHF broadcasting in the San Juan area. The petitioner, however, has alleged no facts in support of this conclusion. Clearly, the specification of an issue on the basis of conjecture is not warranted.

10. The situation now before the Commission is not unlike that presented in the 1960 proceeding. As in 1960, the applicant is the same in the Ponce proceeding and in the instant matter and it is apparent that similar and inter-related issues and problems are involved. A grant of the Ponce application alone may involve serious losses in terms of areas and populations receiving television service; a grant of the Caguas application alone may involve problems with respect to overlap; we cannot predict the effect of a grant of both applications. The two applications are, once again, effectively a single proposal and the applicant has indicated that they are intended to be such.<sup>2</sup> Under the

circumstances, this application must be designated for consolidated hearing with the pending proceeding in Docket No. 15271, pursuant to the provisions of § 1.227 of the Commission's rules.<sup>3</sup> We will, accordingly, order consolidation upon our own motion. We note that the applicant anticipates such consolidation.<sup>4</sup> Issues will be specified to determine the areas and populations which may be expected to gain or lose television service in the event of a grant of this application, the availability of other television service to such areas and populations, and the extent, if any, to which a grant of the Caguas application, or both applications, may contravene the provisions of § 73.636 of the Commission's rules with respect to overlap.

In view of the foregoing, we find that, except as indicated by the issues specified below,<sup>5</sup> the applicant is legally, financially, technically and otherwise qualified to construct and operate as proposed. However, the Commission is unable to make the statutory finding that a grant of the application would serve the public interest, convenience and necessity.

Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned application (BPCT-3300) of American Colonial Broadcasting Corporation is designated for hearing and consolidated into the pending proceeding in Docket No. 15271 upon the following issues:

1. To determine the areas and populations which may be expected to gain or lose television service from the proposed operation of Television Broadcast Station WSUR-TV and the availability of other television service to such areas and populations.
2. To determine the nature of the conditions which exist with respect to the accessibility of the present site of the Station WSUR-TV transmitter and the extent if any, to which such conditions may impair the ability of Station WSUR-TV to maintain and operate its equipment.
3. To determine the facts and circumstances surrounding the preparation and filing of the instant applications.
4. To determine the areas and populations which may be expected to gain or lose television service from the proposed operation of Television Broadcast Station WKBM-TV and the availability

<sup>2</sup> Section 1.227 of the Commission's rules provides, in substance, that the Commission will order consolidation of any hearing cases involving the same applicant or substantially the same issues where to do so would be conducive to the proper dispatch of the Commission's business and the ends of justice.

<sup>3</sup> American Colonial, in the pleading referred to in Footnote 2, supra, has asked, inter alia, that the proceedings in Docket No. 15271 be stayed pending disposition by the Commission of its application (BPCT-3300) for changes in the facilities of Station WKBM-TV (Paragraph 19 of said pleading).

<sup>4</sup> The first three issues are identical to those specified by the Commission in its Memorandum Opinion and Order (FCC 64-12), released January 13, 1964, which designated the Ponce application (BPCT-3104) for hearing, except that Issue 3 has been pluralized to include both applications.

of other television service to such areas and populations.

5. To determine whether a grant of the application (BPCT-3300) seeking authority to make changes in the facilities of Station WKBM-TV, or of both applications, would be consistent with the provisions of § 73.636 of the Commission's rules with respect to overlap.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the applications, or either of them, would serve the public interest, convenience and necessity.

It is further ordered, That Issues 1, 2, 3 and 6 of this order shall supersede the issues specified in the Commission's order of January 13, 1964 (FCC 64-12) in Docket No. 15271; and

It is further ordered, That the Petition to Deny filed herein by El Mundo, Inc., is granted to the extent that it requests that the application (BPCT-3300) be designated for hearing; and

It is further ordered, That El Mundo, Inc., licensee of Television Broadcast Station WKAQ-TV, Channel 2, San Juan, Puerto Rico, is made a party to this proceeding; and

It is further ordered, That, to avail themselves of the opportunity to be heard, the applicant and the party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order; and

It is further ordered, That the applicant herein shall, pursuant to section 311(a) (2) of the Communications Act of 1934, as amended, and § 1.594(a) of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: April 29, 1964.

Released: May 5, 1964.

FEDERAL COMMUNICATIONS  
COMMISSION,<sup>6</sup>

[SEAL] BEN F. WAPLE,  
Secretary.

[F.R. Doc. 64-4690; Filed, May 8, 1964;  
8:50 a.m.]

[Docket No. 14341-14344; FCC 64-377]

### COLLIER ELECTRIC CO.

#### Memorandum Opinion and Order Amending Issues

In re applications of Collier Electric Company, for renewal of the license for station KAQ79, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Fort Morgan, Colorado, Docket No. 14341, File No. 848-C1-R-61; for renewal of the license for station KAQ80, a facility in the Domestic Public Point-to-Point Microwave Radio Service at

<sup>6</sup> Commissioner Lee absent.

<sup>2</sup> Paragraph 16, "Petition for Reconsideration in Whole or in Part and/or For Stay of Proceedings and For Other Relief", filed February 12, 1964, by American Colonial in Docket No. 15271, the Ponce proceeding.

Sterling, Colorado, Docket No. 14342, File No. 849-C1-R-61; for renewal of the license for station KAQ81, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Sidney, Nebraska, Docket No. 14343, File No. 2670-C1-R-61; for renewal of the license for station KAS41, a facility in the Domestic Public Point-to-Point Microwave Radio Service at Bridgeport, Nebraska, Docket No. 14344, File No. 2710-C1-R-61.

1. The Commission has before it for consideration: (a) A joint petition for deletion of issues and for implementation of a non-duplication agreement in the above-captioned proceeding, filed by Collier Electric Company and Frontier Broadcasting Company on February 28, 1964; (b) a supplement to such petition, filed by both parties on March 10, 1964; and (c) Comments to the above petition filed jointly by the Broadcast Bureau and the Common Carrier Bureau of the Federal Communications Commission on March 11, 1964.

2. On January 4, 1961, Collier filed applications for renewal of the licenses of the above-captioned stations in the Domestic Public Point-to-Point Microwave Service, serving community antenna television systems in Sterling, Colorado, and in Sidney, Kimball, Alliance and Gering, Nebraska, respectively. By Memorandum Opinion and Order, FCC 61-1248, released October 30, 1961, the Commission designated this matter for hearing on a number of issues with respect to Collier's qualifications to be a licensee in the common carrier microwave service, and also ordered that Frontier, the licensee of television broadcast station KSTF in Scottsbluff, Nebraska, be made a party with respect to the renewal of the license for Station KAS41 serving CATV systems at Alliance and Gering, Nebraska. By Memorandum Opinion and Order, FCC 62-175, released February 19, 1962, the Commission granted Frontier's petition with respect to its request to include an issue (issue (e)) as to what impact a grant of the application of KAS41 would have on the operation of Station KSTF, Scottsbluff, Nebraska, and the resulting injury, if any, to the public since Gering is located within the city grade contour and Alliance within the Grade B contour of Station KSTF. On February 16, 1962, Frontier filed an application for a construction permit for a VHF television broadcast station to operate on Channel 3 at Sterling, Colorado. The Sterling community receives CATV service from a system served by Collier's Station KAQ79 located at Fort Morgan, Colorado. On February 19, 1963, the Commission granted Frontier's application for a new TV station at Sterling assigning the call letters KTVS-TV. Frontier then petitioned to enlarge the issues in the proceeding to include an "economic impact" issue with regard to the Sterling CATV. By Memorandum Opinion and Order, FCC 63R-279, released June 5, 1963, the Review Board, on its own motion, added an unnumbered issue directed at determining what impact a grant of the applications for KAQ79, KAQ80 and KAQ81 would have upon the operation of the new television station at Sterling, Colo-

rado, and the resulting injury, if any, to the public that will be served by the station.

3. In their joint petition, as amended by the supplement, Collier and Frontier submit an "Agreement Relating to Non-Duplication", and request that (a) the "economic impact" issues in this proceeding be deleted and (b) that the Agreement, specifically paragraphs 1, 2, and 6-13, be imposed as conditions upon Collier's licenses now before us in this proceeding and upon any renewal thereof or any new license which may be granted in this proceeding. Because of the Agreement, which petitioners allege sufficiently protects their respective economic interests, Frontier, which had the burden of proof on the "impact issues", has not presented and does not plan to present evidence on these issues at the hearing.

4. Upon careful study of the "Agreement Relating to Non-Duplication", we find that the pertinent provisions thereof are in conformity with the spirit of the desired goals as embodied in our notice of further proposed rule making and notice of proposed rule making in Docket Nos. 14895 and 15233, FCC 63-1128, released December 13, 1963.<sup>1</sup> In that notice, we stated that "an agreement, fairly arrived at between the parties and designed to fit the particular needs of the area, is entitled to great weight; we do not mean to inhibit or impair the good faith working out, by the broadcaster and the CATV, of the problems here under consideration."

5. Since Frontier subscribes to the Agreement, and feels that it contains adequate guarantees which will permit it to continue to meet the local needs of its service area without any injury to the public served thereby, and no evidence to the contrary having come to our attention, we conclude that favorable action is warranted on the request contained in the supplement to the joint petition. We will therefore delete the "economic impact" issues as requested, impose the conditions specified in Paragraphs 1, 2, and 6-13 of the "Agreement Relating to Non-Duplication" upon the outstanding licenses of Collier which are the subject of this proceeding, and provide that any renewal of such licenses or any new license issued in this proceeding likewise be made subject to the foregoing conditions.

6. The agreement between the parties contemplates the revision of the tariffs on file with the Commission. Collier must therefore proceed with the filing of appropriate modification of its tariffs as called for by the Agreement, and in accordance with Part 61 of the rules.

Accordingly, it is ordered, This 29th day of April 1964, that Issue No. (e) relating to the economic impact upon Television Station KSTF, Scottsbluff,

<sup>1</sup> This notice relates to establishing rules to protect local television stations from duplication of their programming by CATV systems operating within their service contours who utilize microwave facilities, either in the Business Radio Service or the Domestic Public Point-to-Point Microwave Radio Service frequencies, to bring the signals of distant stations to the CATV systems.

Nebraska, and the unnumbered issue added by the Review Board relating to the economic impact upon Television Station KTVS, Sterling, Colorado, of a grant of the licenses herein are deleted from this proceeding; and

It is further ordered, That paragraphs 1, 2, and 6-13 of the "Agreement Relating to Non-Duplication", submitted by Collier Electric Company and Frontier Broadcasting Company, dated September 4, 1963, shall be included as conditions upon the outstanding licenses of Collier Electric Company involved in this proceeding; and

It is further ordered, That the aforesaid conditions shall be attached as conditions to any new license or renewal of license which may be granted in this proceeding.

Released: May 4, 1964.

FEDERAL COMMUNICATIONS  
COMMISSION,  
BEN F. WAPLE,  
Secretary.

[F.R. Doc. 64-4691; Filed, May 8, 1964;  
8:50 a.m.]

[Docket Nos. 15449, 15450; FCC 64M-388]

## SPRINGFIELD TELECASTING CO. AND MIDWEST TELEVISION, INC.

### Order Scheduling Hearing and Conference

In re applications of Springfield Telecasting Co., Springfield, Illinois, Docket No. 15449, File No. BPCT-2838; Midwest Television, Inc., Springfield, Illinois, Docket No. 15450, File No. BPCT-2846; for construction permits for new television broadcast stations.

It is ordered, This 4th day of May 1964, that Isadore A. Honig will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on July 15, 1964, in Washington, D.C.: And, it is further ordered, That a prehearing conference in the proceeding will be convened by the presiding officer at 10:00 a.m., June 8, 1964.

Released: May 6, 1964.

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

[F.R. Doc. 64-4692; Filed, May 8, 1964;  
8:51 a.m.]

## FEDERAL POWER COMMISSION

[Project No. 2016]

### CITY OF TACOMA, WASHINGTON

#### Notice of Application for Amendment of License

MAY 4, 1964.

Public notice is hereby given that application has been filed under the Fed-

<sup>2</sup> Commissioner Bartley concurring and issuing a statement filed as part of the original document; Commissioner Lee absent; Commissioners Ford and Cox not participating; Commissioner Loewinger concurring in the result.

eral Power Act (16 U.S.C. 791a-825r) by city of Tacoma, Washington (correspondence to: C. A. Erdahl, Director, city of Tacoma Department of Public Utilities, P.O. Box 11007, Tacoma, Washington 98411) for amendment of license for Project No. 2016, located on the Cowlitz River, Lewis County, Washington.

The amendment proposes to: increase the maximum normal reservoir elevation of the Mossyrock Development of the project from 750 to 770 feet; revise Article 34 of the license so as, among other things, to control flood storage in the Mossyrock reservoir up to 778.5 feet; and to eliminate the present license requirement for an initial installation of three 75 megawatt generators and 103,000 horsepower turbines with provision for the ultimate installation of a fourth generator and turbine of the same capacities and provide in lieu thereof for the initial installation of two 150 megawatt generators and 206,000 horsepower turbines at design head with provision for the ultimate installation of a third generator and turbine of the same capacities.

Protests 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 of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is July 15, 1964. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 64-4660; Filed, May 8, 1964;  
8:47 a.m.]

[Docket No. CP64-171]

## KENTUCKY GAS TRANSMISSION CORP.

### Notice of Application

MAY 4, 1964.

Take notice that on January 31, 1964, Kentucky Gas Transmission Corporation (Applicant), a Delaware corporation with its principal place of business in Charleston, West Virginia, filed an application for permission and approval under section 7(b) of the Natural Gas Act, to abandon its Menifee storage field located in Menifee, Powell and Montgomery Counties, Kentucky, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant represents that the underground storage of natural gas was initiated in Menifee storage field about 1918. Because of the receipt of high pressure pipeline gas, as contrasted with the much lower operating pressures of the Menifee Storage Field, the economic advantages of the storage operations have steadily declined.

Applicant further represents that its natural gas transmission pipeline system is currently designed to take full advantage of the higher delivery pressures now available from its supplier and, consequently, the continued operation of Applicant's Menifee storage field is no

longer required for Applicant's present or future operations.

Applicant proposes to continue the withdrawal of all volumes of natural gas stored and to thereafter produce the native gas reserves underlying the storage area so long as such is economically feasible.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that preliminary staff analysis has indicated that there are no problems which would warrant a recommendation that the Commission designate this application for formal hearing before an examiner and 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 may be held without further notice before the Commission on this application provided no protest or petition to intervene is filed within the time required herein. Where a protest or petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Protests 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 or 1.10) on or before May 22, 1964.

JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 64-4661; Filed, May 8, 1964;  
8:47 a.m.]

[Project No. 2455]

## NEW YORK STATE ELECTRIC & GAS CORP.

### Notice of Application for License

MAY 4, 1964.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by New York State Electric & Gas Corporation (correspondence to: Naylor, Aronson, Huber & Magill, Attorneys, 61 Broadway, New York 6, New York) for license for constructed Project No. 2455, known as the Colliers Hydroelectric Project on North Branch of the Susquehanna River in the Towns of Milford and Middlefield, Otsego County, New York.

The project consists of: a reinforced concrete dam, 200 feet long and 36 feet high; a 520-acre reservoir known as Goodyear Lake; a 550-foot power canal leading to a small forebay; a reinforced concrete powerhouse containing 4 horizontal generating units having a total capacity of 3,810 kilowatts driven by four turbines having a total capacity of 4,792 horsepower; and a substation and appurtenant electrical and mechanical facilities.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C., 20426, in accord-

ance with the rules of practice and procedure of the Commission (18 CFR 1.8 or 1.10). The last day upon which protests or petitions may be filed is June 22, 1964. The application is on file with the Commission for public inspection.

JOSEPH H. GUTRIDE,  
Secretary.

[F.R. Doc. 64-4662; Filed, May 8, 1964;  
8:47 a.m.]

[Docket Nos. G-13221 etc.]

## UNION TEXAS PETROLEUM ET AL.

### Order Granting Motion for Severance and Issuing Certificate of Public Convenience and Necessity

MAY 4, 1964.

Union Texas Petroleum, et al., Docket Nos. G-13221, et al.; George R. Brown (Operator), et al., Docket Nos. CI63-523.

On February 24, 1964, George R. Brown (Operator), et al. (Brown or Applicant), filed a motion for severance of Docket No. CI63-523 from the consolidated proceeding Union Texas Petroleum, et al., Docket No. G-13221, et al. (the Union Texas Proceeding), and for the issuance of a certificate of public convenience and necessity in accordance with Brown's application in Docket No. CI63-523. Brown pointed out that the proposed total initial price in its contract (on file as its FPC Gas Rate Schedule No. 12) is 20.625 cents per Mcf<sup>1</sup> and that there is no provision for escalation above the initial price. (The contract also provides for life-of-contract take-or-pay makeup and contains what could be described as a limited downward favored-nation clause.)<sup>2</sup> Brown contended that its application as originally filed is in the public interest, citing the numerous settlements which have provided for an initial price of 20.625 cents per Mcf for sales from South Louisiana with a 5-year moratorium on rate increase filings and extension of take-or-pay makeup periods to 4 years, and which have heretofore been approved by the Commission in the Union Texas Proceeding.

On March 20, 1964, the Pennsylvania Public Utility Commission (Pennsylvania) filed an answer in opposition to Brown's motion. However, on April 24, 1964, Pennsylvania withdrew its opposition to Brown's motion. Now other answers have been received.

By order issued December 26, 1963, we conditionally approved the settlement of Brown's Docket Nos. G-18131 and CI60-580.<sup>3</sup> The initial prices approved in that order were 20.625 cents per Mcf<sup>4</sup> and 20.25 cents per Mcf in Docket Nos. G-18131 and CI60-580, respectively. Other terms of the Brown settlement proposal, which was filed on November 8, 1963, included a 5-year moratorium or rate in-

<sup>1</sup> All rates expressed inclusive of applicable tax reimbursement and all volumes expressed at 15.025 psia.

<sup>2</sup> A temporary certificate was issued to Brown on November 16, 1962, authorizing this sale without price condition.

<sup>3</sup> Union Texas Petroleum, et al., Docket No. G-13221, et al., 30 FPC \_\_\_\_.

<sup>4</sup> The initial price originally proposed in Docket No. G-18131 was 23.55 cents per Mcf.

crease filings. (The contract involved in Docket No. G-18131 has a take-or-pay makeup period of 5 years and the contract involved in Docket No. CI60-580 does not contain a take-or-pay provision.)

A comparison of the terms of the Brown settlement proposal in Docket Nos. G-18131 and CI60-580, which was conditionally approved by us, with the terms of the original contract in Docket No. CI63-523 makes it apparent that the latter sale should be certificated as proposed. It has generally been the practice in Union Texas Proceeding settlements to treat all sales of an applicant alike, without regard to the dates of contracts, insofar as it is practical to do so. Since we permitted settlement of the two other Brown sales which were consolidated in the Union Texas Proceeding, it seems fair to us that this additional sale by the same seller should be approved under substantially similar terms and that Brown should be granted a certificate in Docket No. CI63-523 at the contractual initial price of 20.625 cents per Mcf.<sup>5</sup>

In accordance with the above and since no party has objected we shall grant Brown's motion for severance and issue a certificate in Docket No. CI63-523.<sup>6</sup>

The Commission finds:

(1) Applicant is engaged in the sale and delivery of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and is, therefore, a "natural-gas company" within the meaning of the Natural Gas Act.

(2) The sale of natural gas hereinbefore described, as more fully described in the application in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sale by Applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, is subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The sale of natural gas by Applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor is required by the public convenience and necessity and a certificate therefor should be issued as hereinafter ordered and conditioned.

The Commission orders:

(A) A certificate of public convenience and necessity be and the same is hereby issued, upon the terms and conditions of this order, authorizing the sale by Applicant herein of natural gas in interstate commerce for resale, together with the construction and operation of any facilities

subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the application and exhibits in this proceeding.

(B) The certificate granted in paragraph (A) is not transferable and shall be effective only so long as Applicant continues the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations and orders of the Commission.

(C) The grant of the certificate issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 4 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's regulations thereunder, and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Applicant, our action in this proceeding shall not foreclose nor prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contract herein involved. Nor shall the grant of the certificate aforesaid for service to the particular customer involved imply approval of all of the terms of the contract, particularly as to the cessation of service upon termination of said contract, as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificate aforesaid be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sale of natural gas subject to said certificate.

By the Commission.

[SEAL] GORDON M. GRANT,  
Acting Secretary.

[F.R. Doc. 64-4663; Filed, May 8, 1964;  
8:47 a.m.]

## SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 30-XII, Amdt. 4]

### SAN FRANCISCO REGIONAL AREA

#### Delegation of Authority to Conduct Program Activities in Regional Offices

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30 (Revision 8), as amended, 28 F.R. 3228, 7204, 8179 and 29 F.R. 4842, 5489, Delegation of Authority No. 30-XII, as amended (28 F.R. 4937, 8231, 29 F.R. 5653), and Amendment 3 dated April 13, 1964, is hereby amended by adding Item I.L. thereto:

L. The following authority is hereby redelegated to the Specialist in Charge of Post of Duty Station Guam:

1. To approve and decline disaster loans in an amount not exceeding \$50,000.

2. To execute loan authorizations for Washington and Regional Office ap-

proved loans and for Disaster loans approved under delegated authority, said execution to read as follows:

Name -----  
Administrator.  
By -----  
Specialist in Charge,  
Post of Duty Station Guam.

3. To cancel, reinstate, modify and amend authorizations for disaster loans approved under delegated authority.

4. To disburse unsecured disaster loans.

5. To extend the disbursement period on all disaster loan authorizations or undischarged portions of disaster loans.

6. To take all necessary actions in connection with the administration, servicing and collection of all loans and other obligations or assets; 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, licences, 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 or special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or in 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.

NOTE: In connection with taking actions as covered by sections 6. a and b., of Item I.L., above, the rule of three called for in SBA-500 Manual is waived and such actions as delegated by the manual may be approved by the Specialist in Charge when in agreement with the recommendation of the specialist who prepared the report.

7. To (a) make emergency purchases chargeable to the Administrative expense fund, not in excess of \$25 in any one object class in any one instance but not more than \$50 in any one month for total purchases in all object classes; (b) make purchases not in excess of \$10 in any one instance for "one-time use items" not carried in stock subject to the total limitations set forth in (a) of this paragraph; and (c) to contract for the repair and maintenance of equipment and furnishings in an amount not to exceed \$25 in any one instance.

Effective date. May 1, 1964.

EDWARD L. TURKINGTON,  
Regional Director,  
San Francisco.

[F.R. Doc. 64-4682; Filed, May 8, 1964;  
8:48 a.m.]

<sup>5</sup> As noted above, this is also the maximum price over the life of the contract.

<sup>6</sup> The hearing in this proceeding concluded on July 25, 1963. The remaining contested matters are presently before the Commission on exceptions to the examiner's decision issued January 14, 1964.

## DEPARTMENT OF LABOR

## Bureau of Labor Standards

[No. MSVAR-9]

## MATSON NAVIGATION CO.

## Order Granting Variation

*Name and address of applicant.* Pursuant to section 41(d) of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1444, as amended, 33 U.S.C. 941(d)) and the provisions of 29 CFR 1504.5 and 1507.6, a variation from particular provisions of 29 CFR Part 1504 is hereby granted to Matson Navigation Company, 215 Market Street, San Francisco 5, California.

*Provisions of 29 CFR Part 1504 varied.* The provisions of 29 CFR 1504.85(a) requiring the marking of weights on vans and reusable cargo containers, are varied subject to the conditions stated herein.

*Condition of variation.* Except as noted herein, the marking of either the gross maximum allowable or actual weights on vans is not required when handled in the operations of the Matson Navigation Company at Hawaiian ports and at the Port of Portland, Oregon, by floating cranes when the following conditions are met:

(1) The vans are the standard 8½' x 8' x 24' equipment used in the company's operation;

(2)(a) The handling at Hawaiian ports is accomplished by the company's own ocean going, crane equipped, barge designed for this purpose;

(2)(b) The handling at Portland, Oregon, is accomplished by a crane equipped barge or barges with the capability of safely hoisting 25 tons or more under the conditions of use; or, if less than 25 tons, the actual gross weights shall be plainly marked or otherwise indicated on all loaded or partially loaded vans prior to hoisting.

*Reasons.* The reasons for this variation are that the operation is a captive system utilizing only those vans intended for the purpose, that the floating cranes presently in use are designed for or fully suitable for lifting the maximum gross weights, that the loaded weights of the individual vans must be known and controlled for ship stability purposes, and that under these conditions, the marking and maintenance of marking of gross maximum allowable weights on the large number of vans in the service would

cause an unnecessary hardship and expenses without contributing to the safety of employees.

*Period of variation.* The variation shall be effective until terminated. See 29 CFR 1507.11.

Signed at Washington, D.C., this 4th day of May 1964.

ARTHUR W. MOTLEY,  
Director,

Bureau of Labor Standards.

[F.R. Doc. 64-4684; Filed, May 8, 1964;  
8:48 a.m.]

INTERSTATE COMMERCE  
COMMISSIONFOURTH SECTION APPLICATIONS FOR  
RELIEF

MAY 6, 1964.

Protests to the granting of an application must be prepared in accordance with Rule 1.40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

## LONG-AND-SHORT HAUL

FSA No. 39005: *Cement returned from points in southwestern territory.* Filed by Southwestern Freight Bureau, agent (No. B-8542), for interested rail carriers. Rates on cement, returned shipments in covered hopper cars, in carloads, from points in southwestern territory, to specified points in Illinois, Indiana, Minnesota, and Pennsylvania.

Grounds for relief: Carrier competition.

Tariff: Supplement 59 to Southwestern Freight Bureau, agent, tariff I.C.C. 4210.

FSA No. 39006: *Fresh meats and packinghouse products from Columbus Junction, Iowa.* Filed by Western Trunk Line Committee, agent (No. A-2358), for interested rail carriers. Rates on fresh meats and packinghouse products, in carloads, from Columbus Junction, Iowa, to points in southern territory.

Grounds for relief: Market competition.

Tariff: Supplement 7 to Western Trunk Line Committee, agent, tariff I.C.C. A-4518.

FSA No. 39007: *Import sugar from North Atlantic ports.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 2710), for interested rail

carriers. Rates on import sugar, in carloads, from ports of Albany and New York, N.Y., Boston, Mass., and Philadelphia, Pa., and points grouped therewith, to points in Indiana, Kentucky, Michigan, New York, Ohio, Pennsylvania, and West Virginia.

Grounds for relief: Elimination of port differentials.

By the Commission.

[SEAL] HAROLD D. McCoy,  
Secretary.

[F.R. Doc. 64-4667; Filed, May 8, 1964;  
8:47 a.m.]

[Notice 981]

MOTOR CARRIER TRANSFER  
PROCEEDINGS

MAY 6, 1964.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 66663. By order of May 5, 1964, the Transfer Board approved the transfer to Happy Times Bus Co., Inc., Stratford, Conn., of Certificate in No. MC 59285 issued April 24, 1942 to Trumbull Coach Lines, Incorporated, Trumbull, Conn., authorizing the transportation of passengers and their baggage, restricted to traffic originating in the territory indicated, in charter operations, over irregular routes, from Trumbull, Conn., and points within 30 miles of Trumbull, to points in New York, New Jersey, Massachusetts, Rhode Island, and Pennsylvania, and return. Francis E. Barrett, Jr., 182 Forbes Building, Forbes Road, Braintree, Mass., attorney for applicants.

[SEAL] HAROLD D. McCoy,  
Secretary.

[F.R. Doc. 64-4668; Filed, May 8, 1964;  
8:47 a.m.]

## CUMULATIVE CODIFICATION GUIDE—MAY

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