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Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

SUBCHAPTER D—REGULATIONS UNDER THE POULTRY PRODUCTS INSPECTION ACT

PART 54—GRADING AND INSPECTION OF DOMESTIC RABBITS AND EDIBLE PRODUCTS THEREOF; AND U.S. SPECIFICATIONS FOR CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

PART 55—GRADING AND INSPECTION OF EGG PRODUCTS

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PART 70—GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF; AND U.S. CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

PART 81—INSPECTION OF POULTRY AND POULTRY PRODUCTS

Amendments Relating to Changes in Fees and Charges

Under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 et seq.) and the Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.), the U.S. Department of Agriculture hereby amends the Regulations Governing the Grading and Inspection of Domestic Rabbits and Edible Products Thereof and U.S. Specifications for Classes, Standards, and Grades with Respect Thereto (7 CFR, Part 54); the Regulations Governing the Grading and Inspection of Egg Products (7 CFR, Part 55); the Regulations Governing the Grading of Shell Eggs and U.S. Standards, Grades and Weight Classes for Shell Eggs (7 CFR, Part 56); the Regulations Governing the Grading and Inspection of Poultry and Edible Products Thereof and U.S. Classes, Standards, and Grades with Respect Thereto (7 CFR, Part 70); and the Regulations Governing the Inspection of Poultry and Poultry Products (7 CFR, Part 81) as set forth below.

STATEMENT OF CONSIDERATIONS

Mandatory poultry inspection service under the Poultry Products Inspection Act. The amendments increase the hourly rate from $6.20 per hour to $6.60 per hour for overtime and holiday inspection service under the Poultry Products Inspection Act and from $6.20 to $7.20 per hour for inspections upon appeals which are found to be frivolous. These changes are necessary due to the recent general salary and fringe benefits increases of Federal employees and the increase in other cost related to furnishing such service.

Voluntary inspection and grading services under Agricultural Marketing Act. The amendments increase the hourly rate from $6.40 to $7.20 for voluntary inspection and grading services performed on a fee basis under the Agricultural Marketing Act. The unit rate for the inspecting and grading of poultry, frozen eggs, and shell eggs is also increased by approximately 10 percent.

The only changes in fees and charges for resident grading programs concern the hourly rate charged when making surveys and inaugurating service and the charge for the final survey of rabbit and shell egg plants. The hourly rate for these services is increased from $6.40 to $7.20 and the charges for final surveys are changed from $100 to $150. The increase in charges for conducting plant surveys for rabbit and shell egg plants will make these costs correspond to those charged for surveying poultry and egg products plants.

These increases are necessary to cover the cost of performing voluntary fee grading and inspection services and plant survey work. The last increase in hourly and unit rates was in July 1964. Since that time there have been two general salary increases and the costs for terminal market or fee graders have increased substantially. Federal employees have received additional fringe benefits, such as a liberalization in the allowances for moving, since 1964. In addition, other related costs, such as clerical, have also risen. The total costs for providing such services have increased more than the increases in fees and charges contained in the amendments but increased efficiency of operations will absorb some of these costs. The charges for making final surveys in rabbit and shell egg plants have not been changed since the midfifties. The charge for surveys only applies to establishments initiating service for the first time and does not affect present users of the service.

The amendments also increase the fees and charges for conducting voluntary resident poultry and rabbit inspection services. These charges, with a few minor exceptions such as costs of making plant surveys, have not been changed since 1958. There have been numerous increases in salaries and other related costs since that time and the present fees and charges are not adequate to fully cover the costs. The method of setting forth the costs of these voluntary resident inspection programs is being changed to correspond with the present method used for the voluntary resident grading programs.

The amendments are as follows:

As to Part 54:

1. Section 54.101 is hereby amended to read as follows:

§ 54.101 Grading and inspection service on a fee basis.

(a) Fees to be charged and collected for grading or inspection services furnished on a fee basis shall be based on the time required to render such service including but not being limited to, the time required for the travel of the grader or inspector or inspectors in connection therewith, at the rate of $7.20 per hour for each grader or inspector for the time actually required, except as provided in paragraph (b) of this section.

(b) If an applicant requires that any grading or inspection service be performed on a holiday, Saturday, Sunday, or between the hours of 5 p.m., and 7 a.m., Monday through Friday, he shall be charged for such service at the rate of $7.20 per hour.

§ 54.104 [Deleted]

2. Section 54.104 is hereby deleted.

3. Section 54.107 is hereby amended to read as follows:

§ 54.107 Continuous inspection performed on a resident basis.

(a) Except as provided in paragraph (b) of this section, the charges for inspection of domestic rabbits and products thereof shall be the same as those provided for grading services in § 54.108 when the inspection service is performed on a continuous year-round resident basis and the services of an inspector or inspectors are required 4 or more hours per day. When the services of an inspector or inspectors are required on an intermittent basis, the charges shall be at the hourly rate specified in § 54.101 plus the travel expense and other charges provided for in § 54.106.

(b) The applicant will be given credit when inspectors assigned to the applicant's official plant perform inspection for the Department of Defense on products accepted for delivery by the applicant to the Department of Defense. The amount of such credit will be based on a formula concurred in jointly by the Departments of Defense and Agriculture.

4. The heading for § 54.108 is hereby amended to read as follows:

§ 54.108 Continuous grading performed on a resident basis.

* * * * *

5. Section 54.108(a)(1) is hereby amended by deleting the figure "$6.40" and substituting in lieu thereof "$7.20."

6. Section 54.108(a)(2) is hereby amended by deleting the figure "$100" and substituting in lieu thereof "$150."

As to Part 55:

§§ 55.61, 55.62, 55.68 [Amended]

1. Sections 55.61(b), 55.62(b), and 55.68(a)(1) are hereby amended by deleting the figure "$6.40" and substituting in lieu thereof "$7.20."

2. Section 55.61(c) is hereby amended by deleting "6:00 p.m." and the figure "$6.40" and substituting in lieu thereof "5:00 p.m." and "$7.20," respectively.

3. Section 55.65 is hereby amended to read as follows:

§ 55.65 Egg products grading and inspection fees.

For each grading or inspection of any lot of egg products, the following fees shall be applicable and shall be computed on the basis of the number of pounds in such lot:

(a) *Frozen eggs—inspection for condition only.*

	Fee
For 500 pounds or less	(1)
For 501 pounds–1,500 pounds inclusive	$4.40
For 1,501 pounds–3,000 pounds inclusive	6.00
For each additional 3,000 pounds or fraction thereof in excess of 3,000 pounds	1.60

[1] Fee based on time required.

(b) *Egg products—inspection for condition and sampling for laboratory analysis.* Fee for this service will be based on the time required.

4. The heading for § 55.68 is hereby amended to read as follows:

§ 55.68 Continuous inspection performed on a resident basis.

* * * * *

As to Part 56:

§§ 56.46, 56.52 [Amended]

1. Sections 56.46(b) and 56.52(a)(1) are hereby amended by deleting the figure "$6.40" and substituting in lieu thereof "$7.20."

2. Section 56.46(c) is hereby amended by deleting "6:00 p.m." and the figure "$6.40" and substituting in lieu thereof "5:00 p.m." and "$7.20," respectively.

3. Section 56.52(a)(2) is hereby amended by deleting the figure "$100" and substituting in lieu thereof "$150."

4. Section 56.50 is hereby amended to read as follows:

§ 56.50 Egg grading fees.

For each grading, or regrading pursuant to § 56.60, of any lot of eggs, the following fees shall be applicable and shall be computed on the basis of the number of packages in such lot, except in instances where more than one lot of eggs is involved in a single grading for contract acceptance of products to be delivered to an individual receiver the charge for examining each lot in excess of one may be based on the time required at the rate specified in § 56.46(b):

For 15 cases or less	(1)
For 16 cases to 25 cases, inclusive	$4.40
For 26 cases to 50 cases, inclusive	6.00
For 51 cases to 100 cases, inclusive	8.60
For 101 cases to 200 cases, inclusive	12.40
For 201 cases to 300 cases, inclusive	17.00
For 301 cases to 400 cases, inclusive	20.40
For 401 cases to 500 cases, inclusive	22.50
For 501 cases to 600 cases, inclusive	25.25
For each additional 50 cases, or fractions thereof, in excess of 600 cases	1.55

[1] Fee based on time required.

As to Part 70:

1. Section 70.131 is hereby amended to read as follows:

§ 70.131 Grading and inspection service on a fee basis.

(a) Grading: Unless otherwise provided the fees to be charged and collected for any grading service (other than for an appeal grading) on a fee basis shall be based on the applicable rates specified in § 70.133. In the event the aforesaid applicable rates specified in § 70.133 are deemed by the Administrator to be inadequate fully to reimburse the Service for all costs and other items paid or incurred by the Service in connection with such grading service, the fees for such service shall not be based on the rates specified in § 70.133, but shall be based on the time required to perform such grading service and the travel of each grader at the rate of $7.20 per hour for the time actually required. The minimum time charged for grading any lot in excess of 180 pounds shall be one-half hour except when grading multiple lots for contract deliveries as provided for in § 70.133.

(b) Inspection: Fees to be charged and collected for inspection services furnished on a fee basis shall be based on the time required to render such service including but not being limited to, the time required for the travel of the inspector or inspectors, in connection therewith, at the rate of $7.20 per hour for each inspector for the time actually required, except as provided in paragraph (c) of this section.

(c) If an applicant requires that any grading or inspection services be performed on a holiday, Saturday, Sunday, or between the hours of 5 p.m. and 7 a.m., Monday through Friday, he shall be charged for such service at the rate of $7.20 per hour.

§ 70.134 [Deleted]

2. Section 70.134 is hereby deleted.

3. Section 70.133 is hereby amended to read as follows:

§ 70.133 Poultry grading fees.

For each grading for class, quality, or condition of any lot of poultry, whether live, dressed, or ready-to-cook, the following fees shall be applicable, except that in instances where more than one lot of product is involved in a single grading for contract acceptance of product to be delivered to an individual receiver, the charge for examining these lots in excess of one may be based on the time required, at the rate specified in § 70.131 (a) or (c), whichever is applicable:

	Fee
For 500 pounds or less	(1)
For 501 pounds to 1,500 pounds, inclusive	$4.40
For 1,501 pounds to 3,000 pounds, inclusive	6.00
For 3,001 pounds to 6,000 pounds, inclusive	8.50
For 6,001 pounds to 10,000 pounds, inclusive	12.40
For 10,001 pounds to 15,000 pounds, inclusive	17.00
For 15,001 pounds to 20,000 pounds, inclusive	21.50
For each additional 5,000 pounds or fraction thereof, in excess of 20,000 pounds	3.85

[1] Fee based on time required.

Reexamination of previously inspected and/or graded product for condition and determination of quantity (weight test) shall be charged for at the rate of $7.20 per hour.

§ 70.138 [Amended]

4. Section 70.138(a)(1) is hereby amended by deleting the figure "$6.40" and substituting in lieu thereof "$7.20."

5. Section 70.141 is hereby amended to read as follows:

§ 70.141 Continuous inspection performed on a resident basis.

(a) Except as provided in paragraph (b) of this section, the charges and other provisions for inspection of poultry and edible products thereof shall be the same as those provided for grading service in § 70.138 when the inspection service is performed on a continuous year-round resident basis and the services of an inspector or inspectors are required 4 or more hours per day. When the services of an inspector or inspectors are required on an intermittent basis, the charges shall be at the hourly rate specified in § 70.131(b) plus the travel expense and other charges provided for in § 70.136.

(b) Surveys made pursuant to the regulations (Part 81 of this chapter), under the Poultry Products Inspection Act will be accepted for purposes of § 70.44 and where a determination of eligibility for service under the regulations in this part is to be made upon the basis of such surveys the charge specified in § 70.138(a)(2) is not applicable.

As to Part 81:

§ 81.98 [Amended]

1. Section 81.98 is hereby amended by deleting the figure "$6.20" and substituting in lieu thereof "$7.20."

§§ 81.170, 81.171, 81.172 [Amended]

2. Sections 81.170, 81.171, and 81.172 are hereby amended by deleting the figure "$6.20" and substituting in lieu thereof "$6.60."

Legislation requires that the fees and charges for inspection and grading services under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 et seq.), be reasonable and shall, as nearly as possible cover the cost of such

services. The Poultry Products Inspection Act, as amended (21 U.S.C. 451 et seq.) and the regulations promulgated thereunder require that the cost of overtime and holiday inspection service be paid for by the applicant or user of the service. The facts upon which are based the determination as to the level of fees and charges necessary to cover these costs are not available to the industry, but are peculiarly within the knowledge of the Department. Therefore, public rule making would not result in the Department receiving additional information on this matter. For the sake of uniformity of accounting and since the recent pay increase for Federal employees became effective on or about July 3, 1966, these changes in fees and charges should become effective August 1, 1966. 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 unnecessary, and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Issued at Washington, D.C., this 22d day of July 1966, to become effective on August 1, 1966.

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

[F.R. Doc. 66-8157; Filed, July 26, 1966; 8:45 a.m.]

Chapter III—Agricultural Research Service, Department of Agriculture

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Nursery Stock, Plants, and Seeds

ADMINISTRATIVE INSTRUCTIONS CONCERNING IMPORTATION OF ELM PLANTS INTO CALIFORNIA AND NEVADA

Pursuant to § 319.37-24 of the regulations relating to the importation of nursery stock, plants, and seeds (7 CFR 319.37-24), under the authority of sections 1, 5, and 9 of the Plant Quarantine Act of 1912, as amended (7 U.S.C. 154, 159, 162), administrative instructions designated as § 319.37-24c are hereby revised to read as follows:

§ 319.37-24c Administrative instructions concerning nonissuance of permits for importation of elm plants into California and Nevada.

In accordance with § 319.37-24 of the regulations supplemental to the quarantine relating to the importation of nursery stock, plants, and seeds into the United States (7 CFR 319.37-24), the Director of the Plant Quarantine Division has determined that: (a) The Chief of the California Bureau of Plant Quarantine has taken action to suppress the Dutch elm disease caused by the fungus Ceratocystis ulmi (Buisman) C. Moreau and has promulgated as Elm Tree Disease Quarantine Proclamation No. 21, as amended April 17, 1963, a plant quarantine prohibiting the entry into California in interstate commerce of propagative material (except seed) of elm (Ulmus spp.), and of the related genera Zelkova and Planera; and (b) the Executive Director of the Department of Agriculture of the State of Nevada has likewise taken action to suppress the Dutch elm disease and has promulgated as Elm Tree Diseases Exterior Quarantine No. 54.06, effective February 1, 1962, as amended June 1, 1963, a plant quarantine prohibiting the entry into Nevada in interstate commerce of plants and all parts thereof (except seed) of elm (Ulmus spp.) and of the related genera Zelkova and Planera. Further, the Chief of the California Bureau of Plant Quarantine and the Deputy Director of the Nevada State Department of Agriculture, severally, have requested that the U.S. Department of Agriculture cooperate in connection with such quarantines by prohibiting the importation into California and Nevada, respectively, of propagative material of the designed genera, from the foreign countries which had been listed in the notice of quarantine concerning the Dutch elm disease (7 CFR 319.70, revoked May 15, 1966, 31 F.R. 5745).

Under authority conferred upon the Director of the Plant Quarantine Division by § 319.37-24, notice is hereby given that when destined for importation into the States of California and Nevada, import permits will be refused for the importation of propagative material (except seed) of elm (Ulmus spp.) and of the related genera Zelkova and Planera from the continent of Europe and the Dominion of Canada and other foreign areas north of the United States, including Newfoundland, Labrador, St. Pierre, Miquelon, and islands adjacent thereto.

(Secs 1, 5, 9, 37 Stat. 315, 316, 318, as amended; 7 U.S.C. 154, 159, 162; 7 CFR 319.37-24; 29 F.R. 16210, as amended, 30 F.R. 5799, as amended)

These administrative instructions shall become effective July 27, 1966, when they shall supersede 7 CFR 319.37-24c, effective June 15, 1966 (31 F.R. 8337).

The purpose of this revision of the administrative instructions is to cooperate with the State of Nevada by prohibiting the importation into such State, from foreign countries where the Dutch elm disease occurs, of host plants of the disease, in furtherance of action already taken by that State to suppress the disease that might be introduced with such plants. Heretofore the instructions were applicable only in respect to importations of such plants into the State of California. The revision should be made effective promptly in order to accomplish its 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 revision are impracticable and contrary to the public interest, and good cause is found for making the effective date thereof less than 30 days after publication in the FEDERAL REGISTER.

Done at Hyattsville, Md., this 22d day of July 1966.

[SEAL] F. A. JOHNSTON,
Director,
Plant Quarantine Division.

[F.R. Doc. 66-8191; Filed, July 26, 1966; 8:47 a.m.]

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

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 814.4, Amdt. 2]

PART 814—ALLOTMENT OF SUGAR QUOTA, MAINLAND CANE SUGAR AREA

1966

Basis and purpose. This amendment is issued under section 205(a) of the Sugar Act of 1948, as amended (61 Stat. 922), hereinafter called the "Act", for the purpose of amending Sugar Regulation 814.4 (31 F.R. 5682), which established allotments for the Mainland Cane Sugar Area for the calendar year 1966.

This amendment is necessary to substitute final data for estimated data on 1965 crop sugar production, 1965 sugar marketings and January 1, 1966, sugar inventories on the basis of data which have become a part of the official records of the Department and to establish allotments of the entire Mainland Cane Sugar Area Quota on the basis of such final data.

Effective date. Allotments established in this order for all processors are larger than the allotments established in S.R. 814.4 (31 F.R. 5682). To afford adequate opportunity to plan and to market the additional quantities of sugar in an orderly manner, it is imperative that this amendment becomes effective as soon as possible. Accordingly, it is hereby found that compliance with the 30-day effective date requirement of the Administrative Procedure Act (60 Stat. 237) is impracticable and contrary to the public interest and consequently, this amendment shall be effective upon publication in the FEDERAL REGISTER.

In accordance with paragraphs (7) and (9) of the findings and conclusions set forth in S.R. 814.4, Amdt. 1 (31 F.R. 5682), and pursuant to paragraph (e) of such regulation, paragraph (8) of such findings and conclusions is amended to read as follows:

(8) The quantity of sugar and the percentages referred to in paragraph (6) above, reflecting final data on 1965 crop processings, 1965 marketings and January 1, 1966, inventories, for determining 1966 allotments are set forth in the following table:

Processors	Processings of sugar [1]		Average quota marketings [2]		Ability to market					Processor's basic allotment [4]		Processor's adjusted allotment, [3] short tons, raw value
						New-crop quota marketings		Measures used				
	Short tons, raw value	Percent of total	Short tons, raw value	Percent of total	Effective inventory Jan. 1, 1966	Average 1963–65	Shares of difference [3]	Col. (5) plus col. (7)	Percent of total	Percent of total	Short tons, raw value	
					Short tons, raw value							
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Albania Sugar Co	10,780	0.971	11,385	1.075	1,107	10,447	8,075	9,182	0.835	0.9646	10,609	10,405
Alma Plantation, Ltd	10,068	.906	11,599	1.095	437	11,567	8,941	9,378	.853	.9332	10,264	10,066
J. Aron & Co., Inc	14,629	1.317	17,654	1.667	0	17,475	13,507	13,507	1.228	1.3692	15,059	14,769
Billeaud Sugar Factory	10,662	.960	10,838	1.023	3,269	9,568	7,396	10,665	.970	.9746	10,719	10,513
Breaux Bridge Sugar Co-op	8,638	.778	9,386	.886	1,906	8,404	6,496	8,402	.764	.7968	8,763	8,594
Wm. T. Burton Industries, Inc	6,866	.618	8,331	.787	0	4,391	3,394	3,394	.309	.5900	6,489	6,364
Caire & Graugnard	5,512	.496	6,539	.617	338	5,724	4,424	4,762	.433	.5076	5,583	5,476
Cajun Sugar Co-op, Inc	21,260	1.914	17,779	1.679	21,146	38	29	21,175	1.925	1.8692	20,558	21,146
Caldwell Sugars Co-op, Inc	12,789	1.151	15,358	1.450	0	15,048	11,631	11,631	1.058	1.1922	13,112	12,860
Columbia Sugar Co	8,744	.787	8,936	.844	1,599	8,616	6,660	8,259	.751	.7912	8,702	8,535
Cora-Texas Manufacturing Co., Inc	7,405	.667	6,717	.634	4,086	4,007	3,097	7,183	.653	.6576	7,232	7,093
Dugas & LeBlanc, Ltd	15,426	1.389	16,305	1.540	1,864	16,305	12,603	14,467	1.315	1.4044	15,446	15,149
Duhe & Bourgeois Sugar Co	9,764	.879	11,893	1.123	0	11,582	8,952	8,952	.814	.9148	10,061	9,867
Erath Sugar Co., Ltd	7,367	.663	8,425	.796	1,626	7,478	5,780	7,406	.673	.6916	7,606	7,460
Evan Hall Sugar Co-op, Inc	22,779	2.051	25,642	2.421	1,121	25,642	19,820	20,941	1.904	2.0956	23,048	22,605
Frisco Cane Co., Inc	2,654	.239	3,097	.292	139	2,749	2,125	2,264	.206	.2430	2,673	2,622
Glenwood Co-op, Inc	15,849	1.427	18,112	1.710	675	18,112	14,000	14,675	1.334	1.4650	16,112	15,802
Helvetia Sugar Co-op, Inc	11,485	1.034	13,168	1.243	694	12,797	9,891	10,585	.962	1.0614	11,673	11,448
Iberia Sugar Co-op, Inc	19,576	1.763	19,941	1.883	6,470	15,913	12,300	18,770	1.707	1.7758	19,531	19,155
Lafourche Sugar Co	18,022	1.623	20,698	1.954	2,022	20,534	15,872	17,894	1.627	1.6900	18,587	18,229
Harry L. Laws & Co. Inc	16,411	1.478	17,129	1.617	4,885	14,626	11,305	16,190	1.472	1.5046	16,548	16,230
Levert-St. John, Inc	14,137	1.273	16,820	1.588	1,212	16,026	12,387	13,599	1.237	1.3288	14,614	14,333
Louisa Sugar Co-op, Inc	11,668	1.051	12,506	1.181	2,266	11,414	8,823	11,089	1.008	1.0684	11,750	11,524
Louisiana State Penitentiary	5,008	.451	2,640	.249	2,910	2,540	1,963	4,873	.443	.4090	4,498	4,411
Louisiana State University												
Meeker Sugar Co-op, Inc	13,066	1.176	8,840	.835	10,067	4,706	3,638	13,705	1.246	1.1218	12,338	12,101
Milliken & Farwell, Inc	15,397	1.386	15,578	1.471	2,601	15,557	12,025	14,626	1.330	1.3918	15,307	15,012
M. A. Patout & Son, Ltd	16,150	1.454	17,492	1.652	1,729	17,155	13,260	14,989	1.363	1.4754	16,227	15,915
Poplar Grove Planting & Refining Co	8,424	.758	9,693	.915	1,619	7,987	6,174	7,793	.709	.7796	8,574	8,409
Savoie Industries	15,305	1.378	16,419	1.550	1,763	16,419	12,691	14,454	1.314	1.3996	15,393	15,097
St. James Sugar Co-op, Inc	18,126	1.632	16,296	1.539	8,955	11,309	8,741	17,696	1.609	1.6088	17,694	17,354
St. Mary Sugar Co-op, Inc	15,492	1.395	16,272	1.536	1,788	16,272	12,577	14,365	1.306	1.4054	15,457	15,160
South Coast Corp	61,130	5.504	72,442	6.840	44,494	14,214	10,987	55,481	5.045	5.6794	62,463	61,261
Southdown, Inc	36,473	3.284	44,743	4.225	9,569	26,112	20,183	29,752	2.705	3.3564	36,914	36,204
Sterling Sugars, Inc	27,506	2.476	29,631	2.798	3,741	28,987	22,405	26,146	2.377	2.5206	27,722	27,189
Sunshine Processing Co., Inc	2,614	.235	4,138	.391	2,588	9	7	2,595	.236	.2664	2,930	2,874
J. Supple's Sons Planting Co., Inc	5,761	.519	6,561	.620	1,578	4,750	3,672	5,250	.477	.5308	5,838	5,726
Valentine Sugars, Inc	11,333	1.020	14,845	1.402	1,595	9,296	7,185	8,780	.798	1.0520	11,570	11,347
Vida Sugars, Inc	5,348	.482	6,331	.598	0	6,051	4,677	4,677	.425	.4938	5,431	5,326
A. Wilbert's Sons Lumber & Shipping Co	11,073	.997	11,307	1.068	1,941	11,151	8,619	10,560	.960	1.0038	11,040	10,828
Young's Industries, Inc	7,950	.716	8,064	.761	3,129	6,808	5,262	8,391	.763	.7344	8,077	7,922
Louisiana, subtotal	558,647	50.298	609,550	57.555	156,929	467,786	361,574	518,503	47.144	51.1186	562,212	552,381
Atlantic Sugar Association	35,767	3.220	27,254	2.573	35,593	58	45	35,638	3.240	3.0946	34,035	34,745
Florida Sugar Corp	14,524	1.308	13,190	1.245	10,458	5,633	4,354	14,812	1.347	1.3032	14,333	14,057
Glades County Sugar Growers Co-op, Association	43,567	3.922	24,824	2.344	46,518	2,023	1,564	48,082	4.372	3.6964	40,654	45,410
Okeelanta Sugar Refinery, Inc	74,215	6.682	61,794	5.835	65,203	16,386	12,665	77,868	7.080	6.5922	72,502	71,107
Osceola Farms Co	44,316	3.990	28,974	2.736	44,852	5,194	4,015	48,867	4.443	3.8298	42,121	43,784
Sugarcane Growers Co-op of Florida	96,475	8.686	81,108	7.658	102,892	6,148	4,752	107,644	9.788	8.7008	95,693	100,442
Talisman Sugar Co-op	39,703	3.575	15,894	1.501	39,466	1,335	1,032	40,498	3.682	3.1816	34,992	38,526
United States Sugar Corp	203,471	18.319	196,493	18.553	165,482	54,888	42,425	207,907	18.904	18.4828	203,277	199,367
Florida, subtotal	552,038	49.702	449,531	42.445	510,464	91,665	70,852	581,316	52.856	48.8814	537,607	547,438
Total, all mainland cane	1,110,685	100.000	1,059,081	100.000	667,393	559,451	432,426	1,099,819	100.000	100.0000	1,099,819	1,099,819

[1] The higher of either the production of sugar from 1965 crop sugarcane or 75 percent of the average production from the 1963 and 1964 crops of sugarcane.

[2] Average annual quota marketings for each processor for year(s) he had such marketings during the period 1963 through 1965.

[3] The difference between 1,099,819 tons (quota for 1966 established by S.R. 811, less 100 tons reserve for Louisiana State University and 81 tons reserve for Lafourche Sugar Co.) and total Jan. 1, 1966, effective inventories for all processors amounting to 667,393 tons. This difference of 432,426 tons prorated on the basis of each processor's average 1963–65 new-crop marketings.

[4] Determined by weighting "processings," col. (2) by 60 percent; "marketings," col. (4) by 20 percent; and "ability," col. (9) by 20 percent.

[5] Basic processor allotments (col. 11) which were less than the respective processor's Jan. 1, 1966, effective inventory were increased by a total of 16,000 tons and the basic allotments of other processors were reduced proportionately as necessary to make total adjusted allotments equal to 1,099,819 tons (quota less 100 tons reserve for Louisiana State University and 81 tons reserve for Lafourche Sugar Co.). Allotments were increased first to permit processors to market all Jan. 1, 1966, physical inventories and second, to provide other processors having Jan. 1, 1966, effective inventories in excess of their basic allotments, additional allotments, to the extent possible within the 16,000-ton limit, to permit each affected processor to market the same percentage of his Jan. 1, 1966, effective inventory.

Pursuant to provisions of section 205 (a) of the Act and in accordance with paragraph (e) of § 814.4 of this chapter, paragraph (a) of such § 814.4 is amended to read as follows:

§ 814.4 Allotment of the 1966 Sugar Quota for the Mainland Cane Sugar Area.

(a) The 1966 sugar quota for the Mainland Cane Sugar Area of 1,100,000 short tons, raw value, is hereby allotted to the following processors in the quantities which appear opposite their respective names:

Processors	Allotments, short tons, raw value
Albania Sugar Co	10,405
Alma Plantation, Ltd	10,066
J. Aron & Co., Inc	14,769
Billeaud Sugar Factory	10,513
Breaux Bridge Sugar Co-op	8,594
Wm. T. Burton Industries, Inc	6,364
Caire & Graugnard	5,476
Cajun Sugar Co-op, Inc	21,146
Caldwell Sugars Co-op, Inc	12,860
Columbia Sugar Co	8,535
Cora-Texas Manufacturing Co., Inc	7,093
Dugas & LeBlanc, Ltd	15,149
Duhe & Bourgeois Sugar Co	9,867
Erath Sugar Co., Ltd	7,460
Evan Hall Sugar Co-op, Inc	22,605
Frisco Cane Co., Inc	2,622
Glenwood Co-op, Inc	15,802
Helvetia Sugar Co-op, Inc	11,448
Iberia Sugar Co-op, Inc	19,155
Lafourche Sugar Co	18,310
Harry L. Laws & Co., Inc	16,230
Levert-St. John, Inc	14,333
Louisa Sugar Co-op, Inc	11,524
Louisiana State Penitentiary	4,411
Louisiana State University	100
Meeker Sugar Co-op, Inc	12,101
Milliken & Farwell, Inc	15,012
M. A. Patout & Son, Ltd	15,915

Processors	Allotments, short tons, raw value
Poplar Grove Planting & Refining Co	8,409
Savoie Industries	15,097
St. James Sugar Co-op, Inc	17,354
St. Mary Sugar Co-op, Inc	15,160
South Coast Corp	61,261
Southdown, Inc	36,204
Sterling Sugars, Inc	27,189
Sunshine Processing Co., Inc	2,874
J. Supple's Sons Planting Co., Inc	5,726
Valentine Sugars, Inc	11,347
Vida Sugars, Inc	5,326
A. Wilbert's Sons Lumber & Shingle Co	10,828
Young's Industries, Inc	7,922
Louisiana, subtotal	552,562
Atlantic Sugar Association	34,745
Florida Sugar Corp	14,057
Glades Co. Sugar Growers Co-op., Association	45,410
Okeelanta Sugar Refinery, Inc	71,107
Osceola Farms Co	43,784
Sugarcane Growers Co-op of Florida	100,442
Talisman Sugar Corp	38,526
U.S. Sugar Corp	199,367
Florida, subtotal	547,438
Total, all mainland cane	1,100,000

(Secs. 205, 209, 403; 61 Stat. 926 as amended, 928, 932; 7 U.S.C. 1115, 1119, 1153)

Effective date. This docket will become effective upon publication in the FEDERAL REGISTER.

Signed at Washington, D.C., this 21st day of July 1966.

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

[F.R. Doc. 66-8153; Filed, July 26, 1966; 8:45 a.m.]

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

[Valencia Orange Reg. 170, Amdt. 1]

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

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), 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 recommendation 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 amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001–1011) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

Order, as amended. The provisions in paragraph (b)(1) (i) and (ii) of § 908.470 (Valencia Orange Reg. 170, 31 F.R. 9677) are hereby amended to read as follows:

(i) District 1: 270,000 cartons.
(ii) District 2: 330,000 cartons.

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

Dated: July 22, 1966.

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

[F.R. Doc. 66-8159; Filed, July 26, 1966; 8:45 a.m.]

PART 967—CELERY GROWN IN FLORIDA

Limitation of Shipments

Notice of rule making with respect to proposed limitation of shipments regulation to be made effective under Marketing Agreement No. 149 and Order No. 967 (7 CFR Part 967), regulating the handling of celery grown in Florida, was published in the FEDERAL REGISTER, July 2, 1966 (31 F.R. 9118). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunity to file written data, views, or arguments pertaining thereto not later than 15 days after publication. None was filed.

After consideration of all relevant matters, including the proposals set forth in the aforesaid notice, the data, views, and recommendations of the Florida Celery Committee and other available information, it is hereby found that the limitation of shipments regulation, as hereinafter set forth, including the establishment of the Marketable Quantity, and the determination of the Uniform Percentage, as provided in § 967.38(a) will tend to effectuate the declared policy of the act by maintaining orderly marketing conditions tending to increase returns to producers of such celery.

§ 967.302 Marketable quantity for 1966–67 season; uniform percentage; and limitation on handling.

(a) The Marketable Quantity for the 1966–67 season is established, pursuant to § 967.36(a), as 7,887,375 crates.

(b) As provided in § 967.38(a), the Uniform Percentage for the 1966–67 season is determined as 84.128 percent.

(c) During the season August 1, 1966, through July 31, 1967, no handler may handle, as provided in § 967.36(b)(1), any harvested celery unless it is within the Marketable Allotment for the producer of such celery.

(d) Terms used herein shall have the same meaning as when used in the marketing agreement and order.

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

Dated: July 22, 1966 to become effective August 31, 1966.

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

[F.R. Doc. 66-8192; Filed, July 26, 1966; 8:47 a.m.]

Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

PART 1001—MILK IN MASSACHUSETTS-RHODE ISLAND MARKETING AREA

PART 1015—MILK IN CONNECTICUT MARKETING AREA

Determination of Equivalent Factor To Be Used in Computation of Prices for Class I Milk

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and to the applicable provisions of the orders, as amended, regulating the handling of milk in the aforesaid milk marketing areas (7 CFR Part 900) hereinafter referred to as the "orders" it is hereby found and determined as follows:

(1) One of the factors specified in the orders to be used in the computation of the Class I price is the monthly average price paid by farmers in the New England region for 100 pounds of mixed dairy feed containing less than 29 percent protein, as reported by the United States Department of Agriculture. Such feed price is used in the computation of a New England dairy ration index by dividing such price by 0.04041. The 0.04041 index factor is based on the average of such feed prices reported for the base period months of December 1957 through November 1958. Since the Department has now revised such feed prices for the period beginning with January 1954 and such revised prices are significantly lower than the previously reported prices, the index factor 0.04041 is no longer appropriate for use in the Class I price computation.

(2) Each of the orders provides: "If for any reason a price, index, or wage rate specified in this part for use in computing class prices or for other purposes is not reported or published in the manner described in this part, the market administrator shall use one determined by the Secretary to be equivalent to the factor which is specified."

(3) The feed index factor now employed in the orders is based on the average of prices for the period December 1957 through November 1958 which amounted to $4.041 per 100 pounds. The revised prices for the same period average $3.884 per 100 pounds (Agricultural Prices, June 1966, Supplement II). Thus a factor of 0.03884 based on the revised price series will be equivalent to the 0.04041 factor in the previously reported price series.

(4) It is hereby determined that a factor of 0.03884 is now equivalent to the heretofore used factor of 0.04041 as it applies in § 1001.60(a)(3) and § 1015.60 (a)(3).

(5) Thirty days notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This determination is necessary to correct the dairy ration factor to conform with the revised dairy ration prices reported by the Department and insure an appropriate Class I price level pendprices in the economic index and hence an appropriate Class I price level pending amendment of the orders.

(b) This determination does not require of persons affected substantial or extensive preparation prior to the effective date.

(c) This determination was requested by producers at a public hearing held June 20–July 1, 1966, with sessions at Concord, N.H.; Framingham, Mass.; Hartford, Conn.; and Greenfield, Mass. At the hearing witnesses testified that emergency action in the form of a determination order is necessary to maintain appropriate Class I prices under the orders pending amendment of the orders.

Therefore, good cause exists for making this determination effective on issuance.

Effective date: Upon date of issuance.

Signed at Washington, D.C., on: July 22, 1966.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 66-8193; Filed, July 26, 1966; 8:47 a.m.]

[Milk Order 98]

PART 1098—MILK IN THE NASHVILLE, TENN., MARKETING AREA

Order Amending Order

§ 1098.0 Findings and determinations.

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

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Nashville, Tenn., marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

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

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than August 1, 1966. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator was issued May 19, 1966, and the decision of the Assistant Secretary containing all amendment provisions of this order was issued July 1, 1966. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1966, and that it would be contrary to the public interest to delay the effective date of this amendment for 30 days after its publication in the FEDERAL REGISTER (sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011).

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Nashville, Tenn., marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended and as hereby amended, as follows:

1. Section 1098.13(a) is revised to read as follows:

§ 1098.13 Producer milk.

* * * * *

(a) Received at a pool plant directly from a dairy farmer or a handler pursuant to § 1098.8(c): *Provided,* That if the milk received at a pool plant from a handler pursuant to § 1098.8(c) is purchased on a basis other than farm weights, the amount by which the total farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler pursuant to § 1098.8(c) at the location of the pool plant; or

* * * * *

2. The introductory text of § 1098.30 is revised to read as follows:

§ 1098.30 Reports of receipts and utilization.

On or before the 6th day after the end of each month, each handler, except a handler as defined pursuant to § 1098 8 (e), shall report for such month to the market administrator in detail and on forms prescribed by the market administrator the following:

* * * * *

3. In § 1098.32, new paragraphs (d) and (e) are added to read as follows:

§ 1098.32 Other reports.

* * * * *

(d) On or before the 3d day after the end of each month, each cooperative in its capacity as a handler pursuant to § 1098.8(c) shall report to each pool plant operator purchasing producer milk from such cooperative on a basis other than the farm weights the total pounds and butterfat content of such milk received during the month as ascertained by the cooperative at the farm of each producer supplying the pool plant.

(e) On or before the 3d day after the end of each month, the operator of each pool plant purchasing producer milk from a cooperative in its capacity as a

handler pursuant to § 1098.8(c) on a basis other than farm weights shall report to such cooperative the total pounds and butterfat content of such milk received by the pool plant from the cooperative during the month.

4. Section 1098.41(b)(5) is revised to read as follows:

§ 1098.41 Classes of utilization.

* * * * *

(b) * * *

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1098.42(b)(1) but not to exceed the following:

(i) Two percent of producer milk (except that diverted pursuant to § 1098.7), including that received from a handler pursuant to § 1098.8(c), unless the pool plant operator receiving such milk files written notice (which shall apply until rescinded by him) with the market administrator prior to the 1st day of the month that he is not purchasing it on the basis of farm weights, determined by farm bulk tank calibrations and butterfat tests determined from farm bulk tank samples;

(ii) Plus 1.5 percent of producer milk received from a handler pursuant to § 1098.8(c) if the pool plant operator receiving such milk has filed notice with the market administrator (as specified in subdivision (i) of this subparagraph) that he is not purchasing such milk on the basis of farm weights;

(iii) Plus 1.5 percent of fluid milk products received in bulk tank lots from pool plants;

(iv) Plus 1.5 percent of receipts of fluid milk products in bulk from other order plants, exclusive of the quantity for which Class II utilization was requested by the operators of such plant and the handler;

(v) Plus 1.5 percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization is requested by the handler; and

(vi) Less 1.5 percent of fluid milk products disposed of in bulk tank lots to pool plants and nonpool plants; and

* * * * *

5. The introductory text of § 1098.46 is revised to read as follows:

§ 1098.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1098.45, the market administrator shall determine the classification of producer milk at the pool plant(s) of each handler and for each handler pursuant to § 1098.8(c) as follows:

* * * * *

6. The introductory text of § 1098.70 is revised to read as follows:

§ 1098.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each handler defined pursuant to § 1098.8 (a), (b), and (c) during the month shall be a sum of money computed by the market administrator as follows:

* * * * *

7. Section 1098.91 is revised to read as follows:

§ 1098.91 Handlers subject to other Federal orders.

The provisions of this part shall not apply to a handler with respect to the operation of a plant during any month in which the milk at such plant would be subject to the classification, pricing and payment provisions of another marketing agreement or order issued pursuant to the Act and in which the disposition of fluid milk products from such plant in the other Federal marketing area exceeds that in the Nashville, Tenn., marketing area: *Provided,* That on the basis of a written application made either by the plant operator or by the cooperative association supplying milk to such operator's plant, at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the Class I dispositions in the respective marketing areas to be used for purposes of this paragraph shall exclude (for a specified period of time) Class I disposition made under limited term contracts to governmental bases and institutions: *And provided further,* That the operator of a plant which is exempted from the provisions of this part pursuant to this section shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at such plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

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

Effective date: August 1, 1966.

Signed at Washington, D.C., on July 21, 1966.

GEORGE L. MEHREN,
Assistant Secretary.

[F.R. Doc. 66-8194; Filed, July 26, 1966; 8:47 a.m.]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1966 Crop Rye Loan and Purchase Program

Corrections

In F.R. Doc. 66-7412, appearing at page 9341 of the issue for Friday, July 8, 1966, the following corrections are made in § 1421.2855:

1. In paragraph (a), the entry for Prowers County, Colo., should read "$0.94" instead of "$1.94".

2. Paragraph (a) *Discounts,* in the first column of page 9345, should read "(c) *Discounts*".

3. In the tabular matter for ergot content, appearing under paragraph (c) as correctly designated, the discount entry reading "6" should read "3".

PART 1464—TOBACCO

Subpart—Tobacco Loan Program

Set forth below is a schedule of advance rates, by grades, for the 1966 crop of types 11–14 flue-cured tobacco, under the tobacco price support loan program.

§ 1464.1765 1966 Crop—Flue-Cured Tobacco, Types 11–14, Advance Schedule.[1]

[Dollars per hundred pounds, farm sales weight]

Grade	Advance rate	Grade	Advance rate	Grade	Advance rate
A1F	88.25	B5LV	58.25	B5GK	45.25
A2F	86.25	B3FV	67.25	B6GK	38.25
A1R	85.25	B4FV	62.25	B4GG	36.25
A2R	84.25	B5FV	58.25	B5GG	33.25
B1L	82.25	B4KV	53.25	B3LS	58.25
B2L	77.25	B5KV	47.25	B4LS	56.25
B3L	73.25	B6KV	40.25	B5LS	52.25
B4L	70.25	B4K	64.25	B6LS	46.25
B5L	65.25	B5K	60.25	B3FS	58.25
B6L	61.25	B6K	54.25	B4FS	56.25
B1F	82.25	B3KL	55.25	B5FS	52.25
B2F	77.25	B4KL	53.25	B6FS	46.25
B3F	73.25	B5KL	49.25	B5RR	42.25
B4F	70.25	B6KL	43.25	B5RG	38.25
B5F	65.25	B3KF	55.25	H1L	82.25
B6F	61.25	B4KF	53.25	H2L	78.25
B1FR	81.25	B5KF	49.25	H3L	77.25
B2FR	75.25	B6KF	43.25	H4L	75.25
B3FR	71.25	B3KM	58.25	H5L	73.25
B4FR	66.25	B4KM	56.25	H6L	69.25
B5FR	61.25	B5KM	52.25	H1F	82.25
B6FR	56.25	B6KM	46.25	H2F	78.25
B1R	66.25	B4GL	53.25	H3F	77.25
B2R	62.25	B5GL	49.25	H4F	75.25
B3R	58.25	B6GL	43.25	H5F	73.25
B4R	53.25	B4GF	53.25	H6F	69.25
B5R	47.25	B5GF	49.25	H3FR	71.25
B6R	40.25	B6GF	43.25	H4FR	68.25
B5D	41.25	B4GR	48.25	H5FR	65.25
B6D	34.25	B5GR	44.25	H6FR	61.25
B3LV	67.25	B6GR	36.25	H4K	67.25
B4LV	62.25	B4GK	48.25	H5K	63.25

[1] The advance rates listed are applicable only to tied flue-cured tobacco identified on a 1966 tobacco marketing card which does not bear either the notation "No Price Support" or "Discount Variety Limited Support" and which does not, together with all other tobacco previously marketed and currently being offered for marketing on a single tobacco sales bill, exceed 110 percent of the applicable farm marketing quota. Rates for tobacco identified on a marketing card which bears the notation "Discount Variety Limited Support", which does not bear the notation "No Price Support" and which does not, together with all other tobacco previously marketed and currently being offered for marketing on a single tobacco sales bill, exceed 110 percent of the applicable farm marketing quota, are 50 percent plus twelve and one-half cents ($0.125) per hundred pounds of the advance rates listed. Rates for untied flue-cured tobacco are three dollars ($3.00) per hundred pounds less for each grade than for tied tobacco similarly identified. Tobacco is eligible for advances only if consigned by the original producer and only if produced by a cooperator.

In the Georgia-Florida area price support will be available only on untied tobacco as in past years. On all markets except in the Georgia-Florida area, price support on untied tobacco will be available for the first 12 market days on all grades, and price support for tied tobacco will be available for all grades during the first 12 sale days as well as during the remainder of the marketing season.

[Dollars per hundred pounds, farm sales weight]

Grade	Advance rate	Grade	Advance rate	Grade	Advance rate
H6K	57.25	X4L	72.25	X4G	50.25
C1L	82.25	X5L	66.25	X5G	43.25
C2L	78.25	X1F	77.25	X4GK	48.25
C3L	77.25	X2F	76.25	P2L	70.25
C4L	76.25	X3F	75.25	P3L	68.25
C5L	75.25	X4F	72.25	P4L	62.25
C1F	82.25	X5F	66.25	P5L	53.25
C2F	78.25	X3LV	66.25	P2F	70.25
C3F	77.25	X4LV	63.25	P3F	68.25
C4F	76.25	X3FV	66.26	P4F	62.25
C5F	75.25	X4FV	63.25	P5F	50.25
C4LV	71.25	X4KV	53.25	P4G	44.25
C4FV	71.25	X5KV	42.25	P5G	36.25
C4KL	66.25	X4KL	60.26	N1L	33.25
C4KF	66.25	X5KL	51.25	N1XL	44.25
C4KM	66.25	X4KF	60.25	N1F	38.25
C4LS	63.25	X5KF	51.25	N1R	31.25
C5LS	61.25	X3KM	64.25	N1GL	27.25
C4FS	63.25	X4KM	59.25	N1GF	33.25
C5FS	61.25	X3LS	61.25	N1GR	25.25
X1L	77.25	X4LS	58.25	N1GG	25.25
X2L	76.25	X3FS	61.25	N1K	45.25
X3L	75.25	X4FS	58.25		

Tobacco graded "W" (doubtful keeping order), "U" (unsound), N2, No-G or scrap will not be accepted. The Cooperative Association through which price support is made available is authorized to deduct 25 cents per hundred pounds to apply against overhead cost.

(Sec. 4, 62 Stat. 1070, as amended, sec. 5, 62 Stat. 1072, secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, sec. 125, 70 Stat. 198, 74 Stat. 6; 7 U.S.C. 1441, 1445, 1421, 1423, 7 U.S.C. 1813, 15 U.S.C. 714b, 714c)

Effective date. Date of filing with Office of Federal Register.

Signed at Washington, D.C., on July 21, 1966.

E. A. JAENKE,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 66-8162; Filed, July 26, 1966; 8:45 a.m.]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 21 (Rev. 3)]

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Long-Term Loans and Enforcement

Pursuant to authority contained in section 308 of the Small Business Investment Act of 1958, Public Law 85-699, 72 Stat. 694, as amended, there is amended, set forth below, Part 107 of Subchapter B, Chapter I, of Title 13 of the Code of Federal Regulations, as revised in 29 F.R. 16946-16961, and amended in 30 F.R. 534, 1187, 2652, 2653, 2654, 3635, 3856, 7597, 7651, 8775, 8900, 11960, 13005, 14095, 14850, 14851, and 31 F.R. 2815, 4954, 4954-4955 and 9720, by amending § 107.650 and adding a new § 107.903.

Information and effective date. On June 23, 1966, notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 8695) concerning (1) the modification of certain requirements affecting commitments to finance eligible small business concerns under § 107.650 (b) and (2) the addition of a new §107.903 concerning violations based on false filings, etc. and nonperformance of Licensee's-agreements with SBA. No comments or objections with respect to the June 23, 1966 proposal were received by SBA.

The Administration has determined to adopt the formal amendment, set forth below, as being in furtherance of the best interests of the SBIC program. The amendment incorporates the text of the June 23, 1966 proposals.

In view of the determination made by the Administration that it is necessary in the public interest that the revised provisions of § 107.650(b) and of new § 107.903 shall be promptly applied to the program authorized by the Small Business Investment Act of 1958, the present amendment shall become effective upon publication in the FEDERAL REGISTER.

The Regulations Governing Small Business Investment Companies are hereby amended as follows:

1. By amending paragraph (b) of § 107.650 to read as follows:

§ 107.650 Commitments.

* * * * *

(b) *Repayment period as to funds advanced pursuant to Licensee's commitment.* (1) Where a Licensee enters into a commitment to finance an eligible small business concern up to a stipulated maximum amount, disbursement of the whole or any part thereof to be made on the request of such concern in accordance with the conditions of the commitment, it shall be lawful (notwithstanding the maturity provisions of §§ 107.503 and 107.602) to provide for repayment as follows: (i) Any funds advanced during the first 2 years of the commitment period may become due and payable 5 years after date of the commitment; and (ii) any funds subsequently advanced during the commitment period may be for a period of 3 years from respective dates of disbursement.

(2) Repayment of each advance made shall not be required at an annual average rate in excess of the principal amount thereof divided by the number of years of the applicable repayment period.

* * * * *

2. By adding a new § 107.903, which would read as follows:

§ 107.903 Violations based on false filings and nonperformance of agreements with SBA.

The following shall constitute a violation of the regulations in this part:

(a) Nonperformance by a Licensee of any of the terms, conditions, or requirements of any debenture, loan agreement, note, or other document or agreement relating to its indebtedness to SBA on account of § 107.301 or § 107.402 funds.

(b) Any false statement knowingly made, or misrepresentation or failure to state a material fact necessary in order to make the statement not misleading in the light of the circumstances under which the statement was made, in any document submitted by a Licensee to SBA pursuant to applicable provisions of the Act or regulations.

Dated: July 19, 1966.

BERNARD L. BOUTIN,
Administrator.

[F.R. Doc. 66-8165; Filed, July 26, 1966; 8:45 a.m.]

[Rev. 6; Amdt. 1]

PART 121—SMALL BUSINESS SIZE STANDARDS

Definition of Small Business for Government Procurement

Definition of small business for the purpose of bidding on Government procurements for marine cargo handling services (Standard Industrial Classification Industry No. 4463).

On August 12, 1964, a proposal to change the size standard for the marine cargo handling industry from average annual receipts of $1 million or less for the preceding 3 fiscal years to 500 employees was published in the FEDERAL REGISTER. Some of the comments received by SBA on the proposal were critical of the 500 employee definition and comments varied also as to whether number of employees or annual receipts is the more appropriate size standard for the marine cargo handling industry. Because of the divergency of views SBA held an industry hearing on March 24, 1965, and interested persons were given an opportunity to present their comments, arguments, and recommendations to the Office of Economic Analysis.

At the hearing referred to above, it was established that no yardstick used to measure size in the marine cargo handling industry (number of employees, annual sales or receipts, assets, net worth, profits, etc.) can be considered a "perfect yardstick" and all of the above-named criteria have certain advantages and disadvantages. After careful consideration of the information furnished at the hearing and the most current information otherwise available, SBA has determined that annual sales or receipts or volume of business is the best measure of a concern's competitive position within the marine cargo handling industry.

After consideration of all relevant matters the Small Business Size Standards Regulation (Revision 6) is hereby amended by adding subparagraph (5) to § 121.3-8(e) as follows:

§ 121.3-8 Definition of small business for Government procurement.

* * * * *

(e) *Services.* * * *

(5) Any concern bidding on contracts for marine cargo handling services is classified as small if its annual sales or receipts do not exceed $5 million for the preceding 3 fiscal years.

* * * * *

Effective date. This amendment shall become effective 60 days after publication in the FEDERAL REGISTER.

Dated: June 30, 1966.

BERNARD L. BOUTIN,
Administrator.

[F.R. Doc. 66-8166; Filed, July 26, 1966; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Airspace Docket No. 66-SW-13]

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

Alteration of Control Zone and Transition Area

On April 23, 1966, a notice of proposed rule making was published in the FEDERAL REGISTER (31 F.R. 6276) stating that the Federal Aviation Agency proposed to alter the Lufkin, Tex., control zone and transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0001 e.s.t., September 15, 1966, as hereinafter set forth.

1. In § 71.171 (31 F.R. 2109) the Lufkin, Tex., control zone is amended to read:

LUFKIN, TEX.

That airspace within a 5-mile radius of Angelina County Airport (latitude 31°14'05" N., longitude 94°45'00" W.), within 2 miles each side of the Lufkin VOR 337° radial extending from the 5-mile radius zone to the VOR, and within 2 miles each side of the 153° bearing from the Lufkin DF station (latitude 31°13'57" N., longitude 94°45'15" W.) extending from the 5-mile radius zone to 8 miles SE of the DF station.

2. In § 71.181 (31 F.R. 2216) the Lufkin, Tex., transition area is amended to read:

LUFKIN, TEX.

That airspace extending upward from 700 feet above the surface within 8 miles E and 5 miles W of the Lufkin VOR 157° radial, extending from the VOR to 12 miles SE; within 5 miles each side of the Lufkin VOR 337° radial extending from the VOR to 5 miles NW, and that airspace extending upward from 1,200 feet above the surface within a 25 mile radius of the Lufkin VOR.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348))

Issued in Fort Worth, Tex., on July 19, 1966.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 66-8153; Filed, July 26, 1966; 8:45 a.m.]

Chapter II—Civil Aeronautics Board

SUBCHAPTER B—PROCEDURAL REGULATIONS

[Reg. PR-99]

PART 301—RULES OF PRACTICE IN AIR SAFETY PROCEEDINGS

Timely Motions To Disqualify Members From Participating in Board Decisions Upon Review or Appeal

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on July 22, 1966.

Concurrently with this amendment to the Rules of Practice in Air Safety Proceedings, the Board is adopting a parallel amendment to Part 302, the Rules of Practice in Economic Proceedings. Since economic cases constitute the bulk of Board decisions, the features of the amendments and the reasons therefor are explained in the preamble to the Part 302 amendment and need not be repeated here.

Since this amendment is a rule of agency procedure and practice, notice and public procedure hereon are not required, and the rule shall become effective 30 days after publication in the FEDERAL REGISTER.

Accordingly, the Board hereby amends § 301.10 of Part 301 (14 CFR 301.10) by inserting therein a new paragraph (a-1), effective August 26, 1966, to read as follows:

§ 301.10 Motions.

* * * * *

(a-1) *Motions to disqualify Board Member in review proceedings.* If a party wishes to request that a Board Member disqualify himself from participating in the Board decision of a pending case, he shall file a motion, supported by an affidavit setting forth the grounds for such disqualification, within the times hereinafter prescribed. In nonemergency proceedings where a petition for discretionary review of the examiner's initial decision is filed, such motion shall be filed on or before the date the answer is due pursuant to § 301.45. In emergency proceedings where a notice of appeal is filed, such motion shall be filed on or before the date the briefs are due pursuant to § 301.50. Failure to file a timely motion shall be deemed a waiver of disqualification. Applications for leave to file an untimely motion seeking disqualification of a Board Member shall be accompanied by an affidavit setting forth in detail why the facts relied upon as grounds for disqualification were not known and could not have been discovered with reasonable diligence within the prescribed time.

* * * * *

(Secs. 204(a), 1001, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788 (49 U.S.C. 1324, 1481); secs. 7(a), 8, Administrative Procedure Act, 60 Stat. 241, 242 (5 U.S.C. 1006, 1007))

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 66-8189; Filed, July 26, 1966; 8:47 a.m.]

[Reg. PR-98]

PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

Timely Motions To Disqualify Members From Participating in Board Decisions Upon Appeal or Review in Hearing Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on July 22, 1966.

The Board has determined to establish procedures whereby parties may file timely motions requesting that a Member disqualify himself from participating in the Board decision upon review of hearing matters. The purpose of the rule is to enable the Board to dispose of this preliminary matter prior to consideration of a case on the merits.

Parties to a hearing matter should proceed on the assumption that all Board Members will participate in a Board decision, and the rule here adopted provides that a failure to make objection within the time prescribed will be deemed a waiver of such objection. In cases where the grounds for disqualification were not known and could not have been discovered by the exercise of reasonable diligence within the prescribed time, the Board upon such a showing will permit the filing of late motions.

Since this amendment is a rule of agency procedure and practice, notice and public procedure hereon are not required, and the rule shall become effective 30 days after publication in the FEDERAL REGISTER.

Accordingly, the Board hereby amends § 302.18 of the Board's rules of practice (14 CFR 302.18) by inserting therein a new paragraph (a-1), effective August 26, 1966, to read as follows:

§ 302.18 Motions.

* * * * *

(a-1) *Motions to disqualify Board Member in review of hearing matters.* In cases to be determined upon an evidentiary record after notice and hearing, a party desiring that a Member disqualify himself from participating in the Board decision shall file a motion supported by an affidavit setting forth the grounds for such disqualification within the periods hereinafter prescribed Where review of the examiner's decision can be obtained only upon the filing of a petition for discretionary review, such motions shall be filed on or before the date answers are due pursuant to § 302.28. In cases where exceptions are filed to recommended or tentative decisions or where the Board orders review of an initial decision on its own initiative, such motions shall be filed on or before the date briefs are due pursuant to § 302.31. Failure to file a timely motion shall be deemed a waiver of disqualification. Applications for leave to file an untimely motion seeking disqualification of a Board Member shall be accompanied by an affidavit setting forth in detail why the facts relied upon as grounds for disqualification were not known and could not have been discovered with reasonable diligence within the prescribed time.

* * * * *

(Secs. 204(a), 1001, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788 (49 U.S.C. 1324, 1481); secs. 7(a), 8, Administrative Procedure Act, 60 Stat. 241, 242 (5 U.S.C. 1006, 1007))

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 66-8190; Filed, July 26, 1966; 8:47 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Publisher's Display Allowance Plan Given Conditional Approval

§ 15.75 Publisher's display allowance plan given conditional approval.

(a) A magazine publisher has received conditional approval from the Federal Trade Commission of its promotional assistance program proposed for the New York City area.

(b) The Commission said its understanding is that the program would operate substantially as follows:

(1) Each competing retail magazine seller in or out of the area would be notified of the program by first class mail by the publisher and afforded the opportunity to choose either of two plans for each publication of the publisher he sells.

(2) Under Plan 1, the dealer would be given a rebate of 10 percent of the cover price for each copy of a magazine sold, provided he maintained two displays (full cover exposed, flat stack or vertical display) of the publication through its "on sale" period in (1) the maximum traffic area of his newsstand and (2) on the main or auxiliary racks. Under Plan 2, the dealer would be given a rebate of 5 percent on the same basis as under Plan 1 for maintaining one display in the maximum traffic area. "Maximum traffic area" means: Where the retailer sells most of his magazines—where the largest display of magazines is located.

(3) In the event of a sellout of an issue, the dealer would agree to reorder immediately. Both the publisher and its distributor would spot check on dealer compliance. A dealer would submit quarterly reports together with statements of performance to the publisher to claim his rebate.

(c) The Commission's advice was that "implementation of the program as described probably would not result in violation of laws administered by the Commission provided (1) the program is offered to eligible new entrants into magazine retailing when they receive their initial shipment of magazines and (2) the notice to dealers is changed to include a definition of 'maximum traffic area' conforming to the meaning set forth above."

(38 Stat. 717, as amended; 15 U.S.C. 41–58; 49 Stat. 1526; 15 U.S.C. 13, as amended)

Issued: July 26, 1966.

By direction of the Commission.

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

[F.R. Doc. 66–8172; Filed, July 26, 1966; 8:46 a.m.]

PART 15—ADMINISTRATIVE OPINIONS AND RULINGS

Foreign Origin Disclosure of Individual Items Repackaged in Combination Sets

§ 15.76 Foreign origin disclosure of individual items repackaged in combination sets.

(a) The Federal Trade Commission announced that it had rendered an advisory opinion dealing with disclosure of foreign origin of imported novelty items which will be repackaged in various combination sets in this country.

(b) The items, both textile fiber and nontextile fiber products, which are labeled as to specific country of origin at the time of their importation, will be repackaged in sets in such a manner that the labels will not be visible to prospective purchasers.

(c) As to sets composed entirely of imported nontextile fiber products, the Commission said "that a proceeding by it to require disclosure of origin on the package would not appear to be warranted in the absence of any showing of material deception."

(d) However, as to any combination set containing only imported textile fiber products, the Commission said the specific country of origin of these products must be disclosed in such a manner that it would be observed upon casual inspection by prospective purchasers before, not after, the purchase. The necessity of this disclosure is based upon the requirements of the Textile Fiber Products Indentification Act and the rules issued thereunder. The disclosure, the Commission said, "does not necessarily have to be on the outside of the package; it could be inside the package, provided it would be clearly visible through the cellophane cover. The point is that the disclosure must be in some position on the package where it would be observed prior to the purchase, not afterward."

(e) If imported textile fiber products are packaged in the same combination set with imported nontextile fiber products, the Commission advised that "it would also be necessary to disclose the foreign origin of the nontextile fiber components. Otherwise, prospective purchasers are likely to be misled into the mistaken belief, through the affirmative disclosure of the foreign origin of the textile fiber products, that the nontextile fiber products packaged therewith are of domestic origin."

(38 Stat. 717, as amended; 15 U.S.C. 41–58; 72 Stat. 1717, as amended; 15 U.S.C. 70)

Issued: July 26, 1966.

By direction of the Commission.

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

[F.R. Doc. 66–8173; Filed, July 26, 1966; 8:46 a.m.]

Title 20—EMPLOYEES' BENEFITS

Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Reg. 5]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965 _____)

Subpart A—Hospital Insurance Benefits

Chapter III, Title 20, is amended by adding thereto Subpart A of new Part 405 to read as follows:

Subpart A—Hospital Insurance Benefits

Sec.

Sec.

AUTHORITY: The provisions of this Subpart A issued under secs. 1102, 1801–1817, 1871, 49 Stat. 647, as amended, 79 Stat. 291–301; 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.

§ 405.101 Hospital insurance benefits; general.

An individual who meets the conditions for entitlement to hospital insurance benefits provided under part A of title XVIII of the Act is eligible to have payment made on his behalf, subject to the conditions and limitations set out in this Part 405 and in the Act, for inpatient hospital services, posthospital extended care services, posthospital home health services, and outpatient hospital diagnostic services furnished to him during any month for which he meets such conditions for entitlement to hospital insurance benefits. Payment for the services covered under the hospital insurance benefits program is made to providers of services eligible to receive payment rather than to the individual to whom the services are furnished.

§ 405.102 Conditions for entitlement to hospital insurance benefits.

An individual is entitled to hospital insurance benefits under the provisions described in this Subpart A if such individual either:

(a) Has attained age 65, and either is entitled to monthly insurance benefits under section 202 of the Act (see Subpart D of Part 404 of this chapter) or is a qualified railroad retirement beneficiary; or

(b) Qualifies under the transitional provisions of section 103 of the Social Security Amendments of 1965. (See § 404.370 of Part 404 of this chapter.)

§ 405.103 Duration of entitlement to hospital insurance benefits.

(a) An individual is entitled to hospital insurance benefits beginning with the first day of the first month after June 1966 for which he meets the conditions described in § 405.102; except that no payment may be made for posthospital extended care services furnished before January 1967, and that no payment may be made for posthospital extended care services or posthospital home health services unless the discharge from the hospital required to qualify such services for payment under this Subpart A occurred after June 30, 1966, or, on or after the first day of the month in which he attains age 65, whichever is later.

(b) (1) An individual's entitlement to hospital insurance benefits ends:

(i) With the last day of the month in which he dies, or

(ii) With the last day of the month before the month he no longer meets the requirements:

(*a*) For entitlement to monthly benefits under section 202 of the Act;

(*b*) Of section 21 of the Railroad Retirement Act of 1937, if qualified for hospital insurance benefits solely as a railroad retirement beneficiary;

(*c*) Of the transitional provisions on eligibility for hospital insurance benefits (see § 404.370 of Part 404 of this chapter) because such individual has become eligible for monthly benefits under section 202 of the Act.

(2) Entitlement to hospital insurance benefits, if terminated for reason other than death, may be regained by the individual by filing an application for such benefits and meeting any of the conditions specified in § 404.367 of Part 404 of this chapter.

§ 405.110 Inpatient hospital services; scope of benefits.

(a) *Benefits.* An individual who meets the requirements set forth in § 405.102 is eligible to have payment made on his behalf to a participating hospital (see Subpart J of this Part 405 and § 405.150), subject to the conditions and limitations contained in this Part 405 and title XVIII of the Act, for inpatient hospital services (see § 405.115) furnished to him for up to 90 days during any spell of illness (see Subpart R of this part). (In the case of emergency inpatient hospital services, payment may also be made to certain nonparticipating hospitals—see § 405.152.)

(b) *Deductible and coinsurance amounts.* Payments for inpatient hospital services furnished during any spell of illness (see Subpart R of this part) is reduced by the amount of the applicable deductibles (see §§ 405.113 and 405.114) and, in addition, by any applicable coinsurance amount (see § 405.115).

(c) *90-day benefit limitation for spell of illness.* No payment under this section for inpatient hospital services furnished an individual during any spell of illness (see Subpart R of this part) may be made for any such services furnished to him after the 90th day such services have been furnished to him during such spell of illness (see § 405.161 for exception).

(d) *Lifetime maximum on inpatient psychiatric hospital services.* Notwithstanding the preceding provisions of this section, no payment for inpatient psychiatric hospital services (see Subpart J of this part) may be made for any such services furnished an individual after the 190th day such services have been furnished to him during his lifetime.

§ 405.111 Inpatient hospital services; determining the 90-day benefit limitation-inpatient of a psychiatric or tuberculosis hospital.

If an individual is an inpatient of a qualified psychiatric or tuberculosis hospital as defined in Subpart J of this Part 405 on the first day for which he is entitled to hospital insurance benefits (see § 405.103), the days on which he has already been an inpatient of such hospital in the 90-day period immediately before such day are deducted from the 90 days of inpatient hospital services for which he is entitled to have payment made during his first spell of illness; however, such days preceding entitlement are not counted in determining the 190-day lifetime limit on inpatient psychiatric hospital services (see § 405.110(d)) and are not counted in determining the first day for which the coinsurance amount is deducted from payment for inpatient hospital services (see § 405.115).

EXAMPLE 1: B is an inpatient of a psychiatric hospital on July 1, 1966, the first day for which he is entitled to hospital insurance benefits, and has been an inpatient of such hospital for the 2 years immediately preceding July 1, 1966. No payment will be made for inpatient hospital services furnished to B during that spell of illness.

EXAMPLE 2: C entered a tuberculosis hospital on August 12, 1966, and is still an inpatient of such hospital 50 days later on October 1, 1966, the first day for which he is entitled to hospital insurance benefits. Payment may be made for up to 40 days of inpatient hospital services since C had been an inpatient of the tuberculosis hospital for 50 days preceding the first day for which he was entitled to hospital insurance benefits. However, the 50 days preceding October 1, 1966, is not counted in determining the 60 days of coverage and, therefore, the coinsurance amount (see § 405.115) is not applicable with respect to any payment for the 40 days of services for which C is entitled to have payment made on his behalf.

EXAMPLE 3: D is a patient of an institution that is not a qualified psychiatric hospital on August 1, 1966, the first day for which he is entitled to hospital insurance benefits, and has been a patient of the nonqualifying hospital for the one year preceding August 1, 1966. Several days later D is transferred to a participating psychiatric hospital. Payment may be made for up to 90 days of inpatient hospital services after such transfer since inpatient hospital services received in a nonqualifying hospital in the period preceding entitlement are not considered for the purposes of determining the 90-day spell of illness limitation.

§ 405.112 Inpatient hospital services; services considered for purposes of 90-day and 190-day limitations.

For purposes of determining the 90-day benefit limitation described in § 405.110(c), or § 405.111, or the 190-day benefit limitation described in § 405.110 (d), inpatient hospital services are taken into account only if:

(a) Payment is made with respect to such services; or

(b) Payment would be made for such services except for failure to comply with the request and certification requirements (see § 405.160).

§ 405.113 Inpatient hospital services; deductible.

(a) *Spell of illness beginning prior to 1969.* The amount payable for inpatient hospital services (see §§ 405.150 and 405.151) furnished to an individual during any spell of illness (see Subpart R of this part) beginning prior to 1969 is reduced (but not below zero) by an amount equal to the lesser of:

(1) $40; or

(2) The charges imposed with respect to such services or the customary charges for such services, whichever is greater.

(b) *Spell of illness beginning after 1968.* Between July 1 and October 1 of 1968, and of each year thereafter, the Secretary shall determine the amount of the inpatient hospital deductible which shall be applicable in the case of any spell of illness (see Subpart R of this part) beginning during the succeeding calendar year.

§ 405.114 Inpatient hospital services; whole blood cost deductible.

Where all or part of the first 3 pints of whole blood furnished an individual by a provider of services during a spell of illness is furnished him as part of inpatient hospital services, the amount payable for such services is reduced by the cost of the first 3 pints of whole blood furnished him as part of such services during that spell of illness.

EXAMPLE: During the same spell of illness, B receives the following services: inpatient hospital service in hospital X from July 1 to July 10, 1967: posthospital extended care services in an extended care facility from July 15 to July 25, 1967: inpatient hospital services in hospital Y from August 15 to August 25, 1967. During this spell of illness, B is furnished 6 pints of whole blood; 2 pints in hospital X, 2 pints in the extended care facility, and 2 pints in hospital Y. The whole blood deductible is applicable to the cost of the 2 pints of whole blood furnished in hospital X, and to the cost of 1 pint furnished in the extended care facility, since these are the first 3 pints of whole blood furnished B by providers of services during the spell of illness. It is not applicable to the cost of any of the whole blood furnished in hospital Y.

§ 405.115 Inpatient hospital services; coinsurance amount.

(a) In any case in which an individual is furnished inpatient hospital services for more than 60 days during a spell of illness (see Subpart R of this Part 405) beginning before 1969, the amount payable (see §§ 405.150 and 405.151), for the inpatient hospital services furnished after such 60th day during such spell of illness, is reduced by a coinsurance amount equal to $10 for each day, after the 60th day and before the 91st day, on which he is furnished such services.

(b) Since the inpatient hospital services coinsurance amount is set by law at one-fourth of the inpatient hospital services deductible, the coinsurance amount applicable for spells of illness beginning after 1968 will reflect any adjustment made in the deductible (see § 405.113 (b)).

§ 405.116 Inpatient hospital services; defined.

(a) *Included services.* Subject to the conditions, limitations, and exceptions in the succeeding paragraphs of this section, the term "inpatient hospital services" means the following items and services furnished by a qualified hospital, except as provided in paragraph (e) of this section (including a psychiatric hospital or a tuberculosis hospital) to an inpatient of such hospital:

(1) Bed and board;

(2) Nursing services and other related services;

(3) Use of hospital facilities;

(4) Medical social services;

(5) Drugs, biologicals, supplies, appliances and equipment;

(6) Certain other diagnostic or therapeutic items or services; and

(7) Medical or surgical services provided by certain interns or residents-in-training.

(b) *Bed and board.* The reasonable costs are payable in full for hospital room and board furnished an individual in accommodations containing from two to four beds, or in hospitals in which all accommodations are on a ward basis and charges are not related to the number of beds in a room. The reasonable cost of private accommodations is covered in full only where their use is medically indicated, ordinarily only when a patient's condition requires him to be isolated. Where private accommodations are furnished for a patient's comfort, the amount payable under this Subpart A may not exceed the reasonable cost of accommodations containing from two to four beds. Where accommodations less expensive than accommodations containing from two to four beds are furnished a patient and the use of these accommodations was neither at the request of the patient nor for a reason consistent with the purposes of the Act, the amount payable for bed and board is the reasonable cost of two to four bed accommodations minus the difference between the customary charges for such accommodations and the customary charges for the accommodations furnished.

(c) *Nursing services and other related medical services; medical social services; use of hospital facilities.* Nursing services and other related services, use of hospital facilities, and medical social services, are considered as inpatient hospital services only if ordinarily furnished by the hospital for the care and treatment of inpatients. The services of a private-duty nurse or other private-duty attendant are excluded from the definition of inpatient hospital services.

(d) *Drugs, biologicals, supplies, appliances, and equipment.* Drugs, biologicals, supplies, appliances, and equipment (as defined in Subpart R of this Part 405) are included as inpatient hospital services only if furnished to an inpatient for use in the hospital and if ordinarily furnished by such hospital for the care and treatment of inpatients.

(e) *Diagnostic or therapeutic items or services.* Diagnostic or therapeutic items or services other than those provided for in paragraphs (c), (d), and (f) of this section, are considered as inpatient hospital service furnished by the hospital, or by others under arrangements made by the hospital under which the billing for such services is made through such hospital and if such services are of a kind ordinarily furnished to inpatients either by such hospital or by others under such arrangements (see Subpart R of this part for definition of "arrangement").

(f) *Medical or surgical services provided by a physician, intern, resident, or resident-in-training.* Medical or surgical services provided in a hospital by a physician or by a resident or intern, are excluded from the definition of "inpatient hospital services" unless such services are provided by an intern or resident-in-training under a teaching program approved by the Council on Medical Education of the American Medical Association; or in the case of an osteopathic hospital, approved by the Committee on Hospitals of the Bureau of Professional Education of the American Osteopathic Association; or in the case of a hospital or osteopathic hospital, by an intern or resident-in-training in the field of dentistry under a teaching program approved by the Council on Dental Education of the American Dental Association.

§ 405.120 Posthospital extended care services; scope of benefits.

(a) *Benefits and conditions for entitlement.* An individual who meets the requirements described in § 405.102, is eligible to have payment made on his behalf to a participating extended care facility (see § 405.150) for up to 100 days of extended care services (§ 405.124) furnished to him in a spell of illness if such extended care services are furnished him after transfer from a hospital in which he was an inpatient for not less than 3 consecutive days (as defined in paragraph (c) of this section). An individual is deemed to have transferred from a hospital if he is admitted to the extended care facility within 14 days (as defined in paragraph (d) of this section) after his discharge from such hospital and such discharge occurred on or after the first day of the month in which the individual attained age 65, or after June 30, 1966, whichever is later.

(b) *Services for which payment is not made.* (1) No payment may be made for any posthospital extended care services furnished an individual on any day after the 100th day such services have been furnished to him during a spell of illness.

(2) Where an individual who has been furnished posthospital extended care services is discharged from the extended care facility, no payment may be made for any subsequent extended care services furnished during such spell of illness unless he is again hospitalized for at least 3 consecutive days and the other conditions in paragraph (a) of this section are met; however, for purposes of this

subparagraph, an individual is not deemed to have been discharged from an extended care facility in which he has been receiving posthospital extended care services, if, within 14 days after discharge therefrom, he is readmitted to the same, or any other, extended care facility.

(c) *The 3 consecutive days as a hospital inpatient; defined.* The 3-consecutive-day hospital inpatient requirement is a period of 3 consecutive calendar days beginning with the calendar day of admission even if less than a 24-hour day, and ending with the day before the calendar day of discharge. Thus, in determining whether the 3-consecutive-day requirement is met, the day of admission is counted as one day; the day of discharge is not counted as a day; and each intervening day is counted as a single day.

(d) *14-day period; defined.* The 14-day period referred to in paragraph (a) of this section, for determining whether an individual is deemed to have transferred from a hospital, is the period of 14 consecutive calendar days beginning with the calendar day following the day of discharge from the hospital.

(e) *Deductible and coinsurance amount.* Payment (see §§ 405.150 and 405.151) for posthospital extended care services is reduced by the coinsurance amount (see § 405.124) for any day on which such services are furnished after the 20th day and before the 101st day, during a spell of illness, and does not include the costs of any part of the first 3 pints of whole blood furnished an individual in a spell of illness (see § 405.-123).

§ 405.122 Posthospital extended care services; services considered for purposes of limitation on days of coverage.

For purposes of the limitation on days of coverage (see §§ 405.120(b) and 405.-121), extended care services furnished an individual are taken into account only if:

(a) Payment is made with respect to such services; or

(b) Payment would be made except for failure to comply with the request for payment and certification requirements described in § 405.165.

§ 405.154 Payment for service furnished; Federal providers.

The amount payable (see §§ 405.150 and 405.151) for posthospital extended care services furnished an individual during a spell of illness (see Subpart R of this Part 405) is reduced by an amount equal to the cost of the first 3 pints of whole blood furnished to him as part of such services; except that the deduction provided under this section does not apply to the extent that a deduction for the cost of the first 3 pints of whole blood furnished to him during such spell of illness has been made under § 405.114.

§ 405.124 Posthospital extended care services; coinsurance amount.

(a) *Spell of illness beginning before 1969.* (1) In any case in which an individual is furnished posthospital extended care services for more than 20 days during a spell of illness (see Subpart R of this Part 405) beginning before 1969, the amount payable for posthospital extended care services furnished after such 20th day is reduced by a coinsurance amount equal to $5 for each day such services are furnished after the 20th day and before the 101st day on which he is furnished such services during such spell of illness.

(b) *Spell of illness beginning after 1968.* The posthospital extended care services coinsurance amount applicable for spells of illness beginning after 1968 is one-eighth of the inpatient hosptial services deductible. Therefore, the coinsurance amount applicable for spells of illness beginning after 1968 will reflect any adjustment made in the amount of the inpatient hospital deductible for calendar years after 1968 (see § 405.113(b)).

§ 405.125 Extended care services; defined.

(a) *Items and services included.* Subject to the conditions and limitations in the succeeding paragraphs in this section, the term "extended care services" means the following items and services furnished by a qualified extended care facility (except as provided in paragraphs (d), (f), and (g) of this section and subparagraphs (3) and (6) of this paragraph) to an inpatient of such facility:

(1) Nursing care provided by or under the supervision of a registered professional nurse;

(2) Bed and board in connection with the furnishing of such nursing care;

(3) Physical, occupational or speech therapy;

(4) Medical social services;

(5) Drugs, biologicals, supplies, appliances and equipment;

(6) Medical services provided by an intern or resident-in-training of certain hospitals;

(7) Diagnostic or therapeutic services provided by certain hospitals; and

(8) Such other services necessary to the health of the patient as are generally provided by extended care facilities.

(b) *Excluded services.* No item or service is included as an extended care service if it would not be included as an inpatient hospital service under § 405.116 if furnished to an inpatient of a hospital.

(c) *Bed and board.* Posthospital extended care facility bed and board is covered in full in accommodations containing two to four beds and in extended care facilities in which all accommodations are on a ward basis and charges are not related to the number of beds in a room. Private accommodations are covered in full only where their use is medically indicated, ordinarily when the patient's condition requires him to be isolated. Where private accommodations are furnished for the patient's comfort and their use is not medically indicated, only the reasonable cost of accommodations containing two to four beds is payable under this Subpart A. Where accommodations less expensive than accommodations containing two to four beds are furnished a patient and the use of these accommodations was neither at the request of the patient nor for a reason consistent with the purposes of the Act, the amount payable for bed and board is the reasonable cost of two to four bed accommodations minus the difference between the customary charges for such accommodations and the customary charges for the accommodations furnished.

(d) *Physical, occupational or speech therapy.* Physical, occupational or speech therapy services are considered as extended care services if furnished by the extended care facility or if furnished by others under arrangements (see Subpart R of this Part 405) with them made by the facility under which the billing for such services is through such extended care facility.

(e) *Drugs, biologicals, supplies, appliances, and equipment.* Drugs, biologicals, supplies, appliances, and equipment are considered as extended care services only if furnished for use in the extended care facility and if ordinarily furnished by such facility for the care and treatment of inpatients. (See Subpart R of this part for definition of drugs and biologicals.)

(f) *Medical services provided by an intern or resident-in-training.* Medical services provided by an intern or resident-in-training are included as extended care services if provided by an intern or resident-in-training of a hospital with which the extended care facility has in effect an agreement for the transfer of patients and exchange of medical records (see Subpart K of this part), and under a teaching program of such hospital approved in accordance with the provisions described in § 405.116 (f).

(g) *Other diagnostic or therapeutic services.* Other diagnositc or therapeutic services are included as extended care services if provided by a hospital with which the extended care facility has in effect an agreement for the transfer of patients and exchange of clinical records (see § 405.1133).

(h) *Services not generally provided.* Except as specifically enumerated in this section, only those items and services generally provided by extended care facilities are considered as extended care services. For example, though an individual is furnished the use of an operating room by an extended care facility, such service is not included as "extended care service" since operating rooms are not generally maintained as part of extended care facilities.

§ 405.130 Posthospital home health services; general.

Home health service benefits are provided under the hospital insurance benefits plan described in this Subpart A and also under the medical insurance benefits plan described in Subpart B of this part. The conditions for payment for the services vary, however. The basic difference is that under the hospital insurance benefits plan, the home health services must be furnished as an extension of inpatient hospital services or posthospi-

tal extended care services furnished the individual. Under the medical insurance plan described in Subpart B, it is not necessary that the individual have first been an inpatient of a hospital or extended care facility in order to have payment made for the home health services provided under that plan. The fact that payment may be made under this Subpart A for posthospital home health services for up to 100 visits does not preclude the payment, under Subpart B of this part, for an additional 100 home health service visits furnished to him in the same calendar year if the conditions and requirements for payment are met. The following sections set forth the posthospital home health service benefits and the conditions for entitlement to such benefits.

§ 405.131 Posthospital home health services; benefits provided.

An individual who meets the requirements set forth in § 405.102 is eligible to have payment made on his behalf to a home health agency for home health services (as defined in § 405.236) furnished for up to 100 visits (charged in accordance with § 405.238) if the services are furnished:

(a) To an individual who is under the care of a physician;

(b) After the beginning of one spell of illness and before the beginning of the next;

(c) Within the 1-year period after the individual's most recent discharge from a hospital in which he was an inpatient for at least 3 consecutive days (see § 405.120(c)) or, if later, after his most recent discharge from an extended care facility in which he was an inpatient and entitled to have payment made for services furnished therein;

(d) Under a plan of treatment, established and periodically reviewed by a physician, which was established within 14 days after the date of the individual's discharge specified in paragraph (c) of this section; and

(e) By a home health agency which meets the requirements described in Subpart L of this Part 405, or by others under an arrangement with them made by such an agency; and

(f) On a visting basis in the place of residence used as the individual's home, except that services may be furnished on an outpatient basis at a hospital, extended care facility, or certain rehabilitation centers when it is necessary to use equipment which cannot readily be made available in the individual's place of residence (see § 405.235 for further rules relating to this requirement).

§ 405.141 Outpatient hospital diagnostic services; conditions.

(a) An individual who meets the requirements set forth in § 405.102, is eligible to have payment made on his behalf to a participating hospital (or under the conditions described in § 405.152 or § 405.154) for outpatient hospital diagnostic services (described in § 405.145) furnished to him if such items and services:

(1) Are furnished during a diagnostic study (see § 405.144);

(2) Are furnished to him on an outpatient basis;

(3) Are furnished by the hospital or if furnished by others under arrangements (as described in Subpart R of this Part 405) made by the hospital, are furnished, in the case of services provided by others, under arrangements made with them by the hospital, in the hospital or in other facilities operated by or under the supervision of the hospital or its organized medical staff; and

(4) Are of the type ordinarily furnished by the hospital (or by others under such arrangement described in paragraph (c) of this section) to the hospital's outpatients for the purpose of diagnostic study.

(b) Diagnostic tests and services may also be covered as "medical and other health services" under the supplementary medical insurance benefits plan (see Subpart B of this part) if they could not be covered under this Subpart A.

§ 405.142 Outpatient hospital diagnostic services; deductibles.

(a) *Diagnostic study beginning before 1969.* Any payment under this Subpart A to a hospital for outpatient hospital diagnostic services furnished during a diagnostic study beginning before 1969, is reduced by:

(1) $20; plus

(2) 20 percent of the reasonable cost for such services in excess of $20.

(b) *Diagnostic study beginning after 1968.* In the case of a diagnostic study beginning after 1968, the outpatient hospital deductible equals one-half of the inpatient hospital deductible applicable with respect to a spell of illness beginning in a calendar year after 1968 (see § 405.113(b)) plus 20 percent of the reasonable cost for such services in excess of an amount equal to one-half of such inpatient hospital deductible.

§ 405.144 Outpatient hospital diagnostic services; diagnostic study defined.

A "diagnostic study" for purposes of §§ 405.141 and 405.142 consists of the outpatient hospital diagnostic services provided by (or under arrangements made by) the same hospital during the 20-day period beginning on the first day (not included in a previous diagnostic study) on which the individual meets the requirements described in § 405.102 and on which he is furnished outpatient hospital diagnostic services. The tests and procedures furnished for the purpose of a diagnostic study need not be related to a single illness or condition.

§ 405.145 Outpatient hospital diagnostic services; defined.

The term "outpatient hospital diagnostic services" includes diagnostic services if furnished under the conditions described in § 405.41. Services of a physician are excluded. Also excluded are any items or services which would not be included as an "inpatient hospital service" as enumerated in § 405.116 if furnished to an inpatient of a hospital.

§ 405.150 Payment for services furnished; general.

Amounts payable under the provisions described in this Subpart A for inpatient hospital services, posthospital extended care services, posthospital home health services or outpatient hospital diagnostic services furnished to an individual, are payable only to the provider of such services and, except as provided in §§ 405.152 and 405.153, payment may be made only to a provider of services eligible to receive payment, that is, a provider which has entered into an agreement with the Secretary under the conditions described in Subpart F of this Part 405.

§ 405.151 Payment for services furnished; determination of amount payable based on reasonable cost.

The amount payable to any provider with respect to services for which payment may be made under this Subpart A is, subject to the provisions for reducing such payment (see §§ 405.113, 405.114, 405.123, 405.124, and 405.142), the reasonable cost of such services. The method of determining "reasonable cost" is discussed in Subpart D of this Part 405.

§ 405.152 Payment for services furnished; nonparticipating provider furnishing emergency services.

Payment (in amounts as determined in accordance with § 405.151) may be made to a hospital even though the hospital is not a participating provider (i.e., it has not or could not, because it is not qualified, enter into an agreement with the Secretary under Subpart F of this Part 405) if:

(a) The services furnished were emergency inpatient hospital services or emergency outpatient hospital diagnostic services, furnished an individual who meets the requirements in § 405.102;

(b) The services are furnished by the hospital (or by others under an arrangement (see Subpart R of this part) with the hospital);

(c) Payment for the services would have been made if an agreement under such Subpart F of this part had been in effect with the hospital and the hospital otherwise met the conditions for payment;

(d) The hospital agrees to comply, with respect to the services furnished, with the provisions of such Subpart F of this part regarding the charges for such services which may be imposed on the individual; and

(e) The hospital meets the requirements of § 405.1033.

§ 405.153 Payment for services; hospital outside the United States furnishing emergency services.

The authority contained in § 405.152 is applicable to emergency inpatient hospital services furnished an individual by a hospital located outside the United States if:

(a) The individual was physically present in a place within the United States (see § 404.2(c)(6) of Part 404 of this chapter) at the time the emergency arose which necessitated such inpatient hospital services; and

(b) The hospital was closer to, or substantially more accessible from, such place than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury; and

(c) The conditions set forth in § 405.152 (c) and (d) are met.

§ 405.154 Payment for service furnished; Federal providers.

No payment may be made under this Subpart A to any Federal provider of services (except for emergency hospital services furnished under the conditions described in § 405.152) unless the Secretary determines that such provider is providing services to the public generally as a community institution or agency.

§ 405.155 Payment for services furnished; providers obligated to furnish services at public expense.

No payment may be made under this Subpart A to any provider of services for an item or service which the provider is obligated by a law of, or a contract with, the United States to render at public expense.

§ 405.160 Payment for inpatient hospital services; conditions for payment.

(a) *Inpatient hospital services.* Payment may be made to a hospital eligible to receive payment for inpatient hospital services (other than inpatient psychiatric or tuberculosis hospital services) furnished an individual if:

(1) Written request for payment is filed by, or on behalf of (see Subpart P of this Part 405) the individual to whom the services were furnished;

(2) A physician certifies, and recertifies as necessary (see Subpart P of this part) that such inpatient hospital services were required to be given on an inpatient basis for the individual's medical treatment, or that inpatient diagnostic study was medically required and the services were necessary for such purpose; and

(3) The conditions prohibiting payment, described in §§ 405.162 and 405.163, are not applicable.

(b) *Inpatient psychiatric hospital services.* Payment may be made to a hospital eligible for payment for inpatient psychiatric hospital services furnished an individual if:

(1) Written request for payment is filed by or on behalf of (see Subpart P of this part) the individual to whom the services were furnished;

(2) A physician certifies, and recertifies as necessary (see Subpart P of this part), that such inpatient psychiatric hospital services were required to be given on an inpatient basis, by or under the supervision of a physician, for the psychiatric treatment of the individual, and

(i) That such treatment could reasonably be expected to improve the conditions for which such treatment was necessary; or

(ii) That inpatient diagnostic study was medically required and such services were necessary for such purposes;

(3) The services are those which the records of the hospital indicate were furnished to the individual during periods when he was receiving intensive treatment services, admission and related services necessary for a diagnostic study, or equivalent services; and

(4) The conditions prohibiting payment, described in §§ 405.162 and 405.163, are not applicable.

(c) *Inpatient tuberculosis hospital services.* Payment may be made to a hospital eligible for payment for inpatient tuberculosis hospital services furnished an individual if:

(1) Written request for such payment is filed by or on behalf of (see Subpart P of this part) the individual to whom the services were furnished;

(2) A physician certifies, and recertifies when required (see Subpart P of this part), that such services were required to be given on an inpatient basis, by or under the supervision of a physician, for the treatment of tuberculosis and such treatment could reasonably be expected to improve the condition or render the condition noncommunicable;

(3) The services are those which the records of the hospital indicate were furnished to the individual during periods when he was receiving treatment which could reasonably be expected to improve his condition or render it noncommunicable; and

(4) The conditions prohibiting payment described in §§ 405.162 and 405.163 are not applicable.

§ 405.161 Payment for inpatient hospital services; furnished after 90-day limit or after 190-day limit.

(a) Even though an individual is not entitled to have payment made under this Subpart A for inpatient hospital services because of the 90-day benefit limitation for a spell of illness (see § 405.110(c)), or the 190-day lifetime benefit limitation on inpatient psychiatric hospital services, payment may be made for the inpatient hospital services furnished after such 90th day or after such 190th day in the case of inpatient psychiatric hospital services if:

(1) The services were furnished prior to the seventh elapsed day after the day on which the individual was admitted to such hospital (but not counting a Saturday, Sunday, or legal holiday as an elapsed day);

(2) Payment is precluded only because of the limitations on days of services discussed in §§ 405.110–405.112 inclusive;

(3) The hospital acted reasonably and in good faith in assuming that the individual was entitled to have payment made on his behalf for such services; and

(4) The services were furnished prior to notification by the Secretary of such individual's lack of entitlement to have payment made for such services.

(b) No benefits may be paid pursuant to paragraph (a) of this section if:

(1) The hospital elects not to receive such benefits; or

(2) The hospital fails to refund payments already made by or on behalf of the individual furnished the services, to the person who made such payment (such refund should be made before the first request for payment is submitted after notification of lack of entitlement).

(c) Any payment made to a provider of services under this section may, under the provisions of Subpart C of this part, be recovered from the individual furnished the services with respect to which such payment was made.

§ 405.162 Prohibition against payment for inpatient hospital services furnished after utilization review finding that further services are not medically necessary.

Where pursuant to a system of utilization review (see Subpart J of this Part 405), a finding has been made that further inpatient hospital services are not medically necessary, payment may be made only for those inpatient hospital services furnished before the fourth day following the day on which the hospital received notice of such finding.

§ 405.163 Prohibition against payment for inpatient hospital services furnished after 20th consecutive day by a hospital which has failed to make timely utilization review.

Where the Secretary has determined that a hospital has substantially failed to make timely utilization review (see Subpart F of this Part 405) in long stay cases and has imposed the limitation on days of services provided in section 1866 (d), no payment may be made under this Subpart A for inpatient hospital insurance services furnished by such hospital to any individual after the 20th consecutive day on which such services have been furnished to him if the individual is admitted after the effective date of such determination.

§ 405.165 Payment for posthospital extended care services; conditions.

Payment may be made under this Subpart A for posthospital extended care services only if:

(a) Written request for such payment is filed by or on behalf of (see Subpart P of this Part 405) the individual to whom such services were furnished;

(b) A physician certifies, and recertifies as required (see Subpart P of this part) that such services were required to be given on an inpatient basis because the individual needed skilled nursing care on a continuing basis:

(1) For any of the conditions with respect to which he was receiving inpatient hospital services (or services which would constitute inpatient hospital services if the institution had met the necessary requirements relating respectively to a utilization review plan (see Subpart J of this Part 405) and such other requirements as the Secretary finds necessary in the interest of health and safety (see Subpart J of this part) for qualification as a "hospital") prior to transfer to the extended care facility; or

(2) For a condition requiring such extended care services which arose after

such transfer and while he was still in the facility for treatment of any of the conditions for which he was receiving such inpatient hospital services; and

(c) The prohibitions against payment, described in §§ 405.166 and 405.167, are not applicable.

§ 405.166 Prohibition against payment for posthospital extended care services furnished after a utilization review finding that services are not medically necessary.

Where pursuant to a system of utilization review (see Subpart K of this Part 405), a finding has been made that further posthospital extended care services are not medically necessary, payment may be made only for those posthospital extended care services furnished before the fourth day following the day on which the extended care facility received notice of such finding.

§ 405.167 Prohibition against payment for services furnished by a facility which fails to make timely utilization review.

Payment may not be made for posthospital extended care services furnished an individual on any day after a period specified by the Secretary during which such services have been furnished the individual, if such individual is admitted to the extended care facility after the effective date of the Secretary's determination (which can be effective only after notice to the facility and the hospital or hospitals with which it has a transfer agreement, and to the public) that such facility has substantially failed to make timely utilization review (see Subpart F of this Part 405) of long stay cases, and that payment for posthospital extended care services is to be so limited. For prohibition against payment for inpatient hospital services furnished after failure to make timely utilization review, see § 405.163.

§ 405.170 Payment for posthospital home health services; conditions.

Payment may be made under this Subpart A for posthospital home health services only if:

(a) Written request for such payment is filed by or on behalf of (see Subpart P of this Part 405) the individual to whom such services are furnished;

(b) A physician certifies, and recertifies when required (see Subpart P of this part) that:

(1) The services were required because the individual was confined to his home (except when receiving items or services on an outpatient basis pursuant to the provisions described in Subpart B of this part);

(2) The individual needed skilled nursing care on an intermittent basis, or physical or speech therapy, for any of the conditions with respect to which he was receiving posthospital extended care services, or inpatient hospital services (or services which would constitute inpatient hospital services if the institution met the necessary requirements relating respectively to a utilization review plan (see Subpart J of this Part 405) and such other requirements as the Secretary finds necessary in the interests of health and safety (see Subpart J of this part));

(3) A plan for furnishing such services to such individual has been established and is periodically reviewed by a physician; and

(4) The services were furnished while the individual was under the care of a physician.

§ 405.175 Payment for outpatient hospital diagnostic services; conditions.

Payment may be made for outpatient hospital diagnostic services only if:

(a) Written request for such payment is filed by or on behalf of (see Subpart P of this Part 405) the individual to whom such services were furnished; and

(b) A physician certifies (see Subpart P of this part) that such services were required for diagnostic study.

§ 405.180 No payment for services furnished to an alien before the first full calendar month in the United States.

No payments may be made under this Subpart A with respect to items or services furnished to an individual in any month for which the prohibition in section 202(t)(1) of the Act (suspension of benefits of aliens who are outside the United States for more than 6 calendar months) against payment of monthly benefits to him is applicable, or would be applicable if he were entitled to such benefits, because he was outside the United States 6 full consecutive months (see Subpart D of Part 404 of this chapter).

§ 405.181 Individual convicted of subversive activities; effect on entitlement.

As provided in section 202(u) of the Act:

(a) If an individual is convicted under Chapters 37, 105, and 115 of title XVIII of the United States Code or under sections 4, 112, 113 of the Internal Security Act of 1950, as amended, for any offense committed after August 1, 1956, then the court may, in addition to all other penalties provided by law, impose the penalty that, in determining whether such individual is entitled to hospital insurance benefits for the month in which he is convicted or for any month thereafter, there shall not be taken into consideration:

(1) Any wages paid to the individual or to any other individual in the calendar quarter in which such conviction occurs or in any prior calendar quarter; and

(2) Any net earnings from self-employment derived by such individual or any other individual during the taxable year in which such conviction occurs or during any prior taxable year.

(b) If such individual is granted a pardon by the President of the United States, the additional penalty provided above shall not apply for any month beginning after the date on which the pardon is granted.

Dated: July 6, 1966.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: July 20, 1966.

WILBUR J. COHEN,
Acting Secretary of Health, Education, and Welfare.

[F.R. Doc. 66-8201; Filed, July 26, 1966; 8:48 a.m.]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ANTISTATIC AND/OR ANTIFOGGING AGENTS IN FOOD-PACKAGING MATERIALS

The Commissioner of Food and Drugs, having evaluated the data in petitions (FAP 3B0969, 6B1821) filed by Geigy Industrial Chemicals, Division of Geigy Chemical Corp., Post Office Box 430, Yonkers, N.Y. 10702, and other relevant material, has concluded that § 121.2527 of the food additive regulations should be amended to provide for the use of certain *N*-acyl sarcosines as antistatic and/or antifogging agents in food-packaging materials. The Commissioner has further concluded that § 121.2513 should be revoked and that the antifogging agent polysorbate 80 should be included in revised § 121.2527.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348 (c)(1)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120; 31 F.R. 3008), Part 121 is amended as follows:

§ 121.2513 [Revoked]

1. Section 121.2513 *Polysorbate 80 as an antifogging agent in food packaging* is revoked.

2. Section 121.2527 is revised to read as follows:

§ 121.2527 Antistatic and/or antifogging agents in food-packaging materials.

The substances listed in paragraph (b) of this section may be safely used as antistatic and/or antifogging agents in food-packaging materials, subject to the provisions of this section:

(a) The quantity used shall not exceed the amount reasonably required to accomplish the intended technical effect.

(b) List of substances:

	Limitations
N-Acyl sarcosines where the acyl group is lauroyl, oleoyl, or derived from the combined fatty acids of coconut oil.	For use only: 1. As antistatic and/or antifogging agents at levels not to exceed a total of 0.15 percent by weight of polyolefin film used for packaging meat, fresh fruits, and fresh vegetables. The average thickness of such polyolefin film shall not exceed 0.003 inch. 2. As antistatic and/or antifogging agents at levels not to exceed a total of 0.15 percent by weight of ethylene-vinyl acetate copolymer film complying with § 121.2570 and used for packaging dry food of the type identified in § 121.2526 (c), table 1, under type VIII. The average thickness of such ethylene-vinyl acetate copolymer film shall not exceed 0.01 inch.
N,N-Bis(2 - hydroxyethyl)alkyl(C_{12}-C_{18})amine.	For use only as an antistatic agent at levels not to exceed 0.1 percent by weight of polyolefin food-contact films.
Polysorbate 80 conforming to the identity prescribed in § 121.1009.	For use only: 1. As an antifogging agent at levels not to exceed 1.2 percent by weight of polyvinyl chloride film used for packaging meat, fresh fruit, and fresh vegetables. 2. As an antifogging agent at levels not to exceed 1.5 percent by weight of rubber hydrochloride film used for packaging meat.

Any person who will be adversely affected by the foregoing order may at any time within 30 days from the date of its publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 5440, 330 Independence Avenue SW., Washington, D.C. 20201, written objections thereto, preferably in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

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

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

Dated: July 20, 1966.

J. K. KIRK,
Acting Commissioner of Food and Drugs.

[F.R. Doc. 66-8196; Filed, July 26, 1966; 8:47 a.m.]

SUBCHAPTER C—DRUGS

PART 146a—CERTIFICATION OF PENICILLIN AND PENICILLIN-CONTAINING DRUGS

Sodium Oxacillin for Injection; Addition of Optional Stabilizer

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended; 21 U.S.C. 357) and delegated by him to the Commissioner of Food and Drugs (21 CFR 2.120; 31 F.R. 3008), the antibiotic drug regulations are amended to provide for the certification of sodium oxacillin for injection containing trisodium ethylenediamine tetraacetic acid as a stabilizer. Accordingly, § 146a.8 is amended by changing the section heading and paragraph (a) to read as follows:

§ 146a.8 Sodium oxacillin for injection.

(a) *Standards of identity, strength, quality, and purity.* Sodium oxacillin for injection is a dry mixture of sodium oxacillin and one or more buffer substances, with or without trisodium ethylenediamine tetraacetic acid, and with or without one or more suitable and harmless preservatives. It is sterile. It passes the toxicity test. It is nonpyrogenic. Its moisture content is not more than 6.0 percent. When reconstituted as directed in the labeling, the pH is not less than 6.0 and not more than 8.5. The sodium oxacillin used conforms to the requirements of § 146a.12(a). Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

Since this amendment provides for the certification of a modified formulation of an established antibiotic drug that as modified has been determined to be safe and efficacious for its use, conditions prerequisite to certification under section 507 of the Federal Food, Drug, and Cosmetic Act, and since it presents no points of controversy and is in the public interest, notice and public procedure and delayed effective date are deemed unnecessary prerequisites to the promulgation of this order.

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

(Sec. 507, 59 Stat. 463 as amended; 21 U.S.C. 357)

Dated: July 20, 1966.

J. K. KIRK,
Acting Commissioner of Food and Drugs.

[F.R. Doc. 66-8197; Filed, July 26, 1966; 8:48 a.m.]

PART 148e—ERYTHROMYCIN

Erythromycin Ethylsuccinate Injection

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under the authority delegated to the Commissioner of Food and Drugs by the Secretary of Health, Education, and Welfare (21 CFR 2.120; 31 F.R. 3008), the antibiotic drug regulation for erythromycin ethylsuccinate injection is amended to change the moisture limit for the drug from 0.5 percent to 1.5 percent and to effect an editorial change. Accordingly, § 148e.18(a)(1) is amended to read as follows:

§ 148e.18 Erythromycin ethylsuccinate injection.

(a) *Requirements for certification—(1) Standards of identity, strength, quality, and purity.* Erythromycin ethylsuccinate injection is erythromycin ethylsuccinate and butylaminobenzoate dissolved in polyethylene glycol 400. It contains a suitable and harmless preservative. Each milliliter contains 50 milligrams of erythromycin. It contains 2 percent butylaminobenzoate. It is sterile. It is nontoxic. Its moisture content is not more than 1.5 percent. The erythromycin ethylsuccinate used conforms to the standards prescribed therefor by § 148e.7(a)(1). Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

Notice and public procedure and delayed effective date are unnecessary prerequisites to the promulgation of this order, and I so find, since one change is editorial in nature and the other relaxes existing requirements.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER.

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: July 20, 1966.

J. K. KIRK,
Acting Commissioner of Food and Drugs.

[F.R. Doc. 66-8198; Filed, July 26, 1966; 8:48 a.m.]

PART 166—DEPRESSANT AND STIMULANT DRUGS; DEFINITIONS, PROCEDURAL AND INTERPRETATIVE REGULATIONS

Combination Drugs; Extension of Temporary Exemption From Recordkeeping Requirements

An order was published in the FEDERAL REGISTER of January 8, 1966 (31 F.R. 264), promulgating § 166.51, which exempted until August 1, 1966, certain combination drugs containing amphetamines or barbiturates from the recordkeeping requirements of section 511(d)(1) of the Federal Food, Drug, and Cosmetic Act. In the FEDERAL REGISTER of

January 27, 1966 (31 F.R. 1074), § 166.51 was redesignated as § 166.8.

The Food and Drug Administration Advisory Committee on Abuse of Depressant and Stimulant Drugs has considered the problems presented by the combination drugs and reported available data is inadequate for making decisions with respect to nontemporary exemptions.

The Commissioner of Food and Drugs has concluded that the exemption in § 166.8 should be extended to February 1, 1967, to provide for further study of available information and the securing of additional data, and that this extension will present no undue hazard to the public health.

Therefore, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 511(f), 701, 52 Stat. 1055, as amended, 79 Stat. 230; 21 U.S.C. 360a(f), 371) and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.120; 31 F.R. 3008), § 166.8 is amended by changing the introduction to the section to read as follows:

§ 166.8 Combination drugs; temporary exemption from recordkeeping requirements of section 511(d)(1) of the act.

The following drugs are exempt from the recordkeeping requirements of section 511(d)(1) of the act on an interim basis until February 1, 1967:

* * * * *

Notice and public procedure and delayed effective date are unnecessary prerequisites to the promulgation of this order, and I so find, since this amendment is nonrestrictive in nature and protects the public health.

Effective date. This order shall become effective upon publication in the FEDERAL REGISTER.

(Secs. 511(f), 701, 52 Stat. 1055, as amended, 79 Stat. 230; 21 U.S.C. 360a(f), 371)

Dated: July 22, 1966.

WINTON B. RANKIN,
Deputy Commissioner of Food and Drugs.

[F.R. Doc. 66-8168; Filed, July 26, 1966; 8:45 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Disappearance of Veteran Receiving Pension

1. In § 3.656, paragraph (d) is added to read as follows:

§ 3.656 Disappearance of veteran.

* * * * *

(d) When any veteran has disappeared for 90 days or more and his whereabouts remain unknown to members of his family and the Veterans Administration, any pension under Public Law 86-211 or Indian or Spanish-American War pension which he was receiving or entitled to receive may be paid to or for his wife or children. The status of the veteran at the time of disappearance, with respect to permanent and total disability, income and net worth will be presumed to continue unchanged. Payment for the wife or children will be effective the day following the date of last payment to the veteran if a claim is received within 1 year after that date; otherwise from date of receipt of a claim. The total amount payable will be the lesser of these amounts:

(1) Death pension.

(2) Amount of pension payable to the veteran at the time of disappearance (38 U.S.C. 507; Pub. Law 89-467).

2. In § 3.666, the introductory portion preceding paragraph (a) is amended to read as follows:

§ 3.666 Penal Institutions.

Where any individual to or for whom pension is being paid under a public or private law administered by the Veterans Administration is imprisoned in a Federal, State or local penal institution as the result of conviction of a felony or misdemeanor, such pension payments will be discontinued effective on the 61st day of imprisonment following conviction. The payee will be informed of his rights and the rights of dependents to payments while he is imprisoned as well as the conditions under which payments to him may be resumed on his release from imprisonment. Payments of pension authorized under this section will continue until notice is received in the Veterans Administration that the imprisonment has terminated.

* * * * *

(72 Stat. 1114; 38 U.S.C. 210)

These VA Regulations are effective June 22, 1966.

Approved: July 21, 1966.

By direction of the Administrator.

[SEAL] CYRIL F. BRICKFIELD,
Deputy Administrator.

[F.R. Doc. 66-8175; Filed, July 26, 1966; 8:46 a.m.]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 66-658]

PART 0—COMMISSION ORGANIZATION

Delegation of Authority To Grant Requests for Waiver of Application Procedures in Safety and Special Radio Services

In the matter of amendment of Part 0 of the Commission's rules to delegate authority to the staff to grant requests for waiver of application procedures in the Safety and Special Radio Services to allow the modification or assignment of a number of outstanding authorizations without filing a separate application for each station.

1. At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 20th day of July 1966, the above-entitled matter was under consideration.

2. In many instances, a licensee in the Safety and Special Radio Services may hold a large number of station licenses. During the term of such licenses, it may become necessary to apply for identical modification or assignment of all or a large part of the licenses held by the licensee. In most cases, the application procedures require that an application be submitted for each station. Licensees in the past have requested, and the Commission has granted, waivers of the application procedures to allow the filing of one blanket application to cover all stations involved in order to save the time, effort, and expenses of preparing numerous similar applications. The fee charged is the same as if separate applications were filed.

3. The benefit of this so-called blanket application is recognized; however, the circumstances that make its use feasible from a Commission standpoint vary with respect to the manner in which applications are processed in the various services. It is felt, therefore, that those situations where a blanket application may be in order should be determined on a case-by-case basis as they arise.

4. Inasmuch as a number of requests for waiver to permit a blanket application are received each year, it is felt that a delegation of authority to the Chief, Safety and Special Radio Services Bureau to grant waivers of this nature will result in a more efficient administration of the Commission's functions. Waivers will be granted only when the circumstances are such that it is deemed administratively feasible to process a single application which modifies numerous stations. The fee requirement will be the same as if an application were filed for each station because processing of a blanket application will still require reference to the respective station files and issuance of separate station authorizations.

5. The amendment adopted herein relates to practice and procedure and is procedural in nature; therefore, the prior notice, procedure and effective date provisions of section 4 of the Administrative Procedure Act are not applicable. The authority for the amendment is contained in sections 4(i) and 5(d)(1) of the Communications Act of 1934, as amended.

6. In view of the foregoing: *It is ordered*, Effective July 29, 1966, that Part 0 of the Commission's rules is amended, as set forth below.

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

Released: July 22, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

Part 0 is amended as follows:

Section 0.331(b) is amended by adding a new subparagraph (18) as follows:

[1] Commissioner Johnson not participating.

§ 0.331 Authority delegated.

• • • • •

(b) • • •

(18) To act on requests for waiver of application procedures to allow a licensee to submit a request for the identical modification or assignment of a number of outstanding authorizations without filing a separate application for each station. Action taken under this delegation does not include authority to waive or reduce applicable fee requirements which shall be determined as if separate applications were filed for each station.

• • • • •

[F.R. Doc. 66-8202; Filed, July 26, 1966; 8:48 a.m.]

[FCC 66-670]

PART 73—RADIO BROADCAST SERVICES

Miscellaneous Amendments

Report and order. 1. The Commission has under consideration various sections of the rules governing FM broadcast stations and desires to make certain editorial and clarifying changes in order to remove ambiguities, repetitions, etc.

2. Section 73.202(a) refers to the FM assignments in the 48 conterminous states. However, in the fourth report and order in Docket 14185, assignments were added in Alaska and Hawaii and the U.S. Territories and possessions. This section will be amended to reflect this change.

3. Section 73.205(a) is an incorrect description of the Zone I line in the area near Lake Erie, in that it implies that the line extends across Ontario instead of following the United States-Canadian border in this area. This section will be amended to correct this error.

4. In § 73.207(a) the parenthetical expression starting on line 5 and reading "(except as provided in paragraph (b) of this section)" was pertinent under a previous version of this rule but is no longer significant. We are deleting this expression from the rule.

5. Sections 73.210(c) and 73.315(a) both contain the same requirement for coverage of the principal community. Since this repetition is unnecessary and the provision more appropriately belongs in § 73.315(a), 73.210(c) will be deleted.

6. Section 73.211(b)(3) permits stations in Puerto Rico to utilize antenna heights up to 2,000 feet with powers up to 25 kw E.R.P. but requires reduction in power for heights above 2,000 feet to the equivalent of 25 kw-2,000 feet. The rule is not clear however as to the facilities which are permitted for antenna heights below 2,000 feet and powers above 25 kw but not over 50 kw (the power limit for Class B stations). In order to clarify this rule we are adding the statement that in the event that powers above 25 kw are used antenna heights will not be authorized which result in greater coverage by the 1 mv/m contour than obtained from the combination of 25 kw power and 2,000 feet antenna height. Section 73.211 specifies the maximum and minimum authorized facilities for FM broadcast stations.[1] Subsection (d) "grandfathers" in existing "supermaximum" stations which were in operation as of September 10, 1962, but states that any application for a change in facilities for such stations will be subject to the provisions of the section except for minimum power. There is contained no definitions of change in facilities, and it is not in the public interest to apply this rule to any change regardless of how inconsequential. Since the rule was adopted it has been interpreted by the Commission to permit changes in facilities as long as there was no increase in the power authorized and no extension of the 1 mv/m field strength contour in any direction. The rule will be amended to reflect this practice and interpretation.

7. In § 73.242(a), the "AM-FM nonduplication" rule, it is stated that the rule applies to stations in cities of over 100,000 population "as listed in the latest U.S. Census Reports." In addition to the decennial census of the entire population, the Bureau of the Census on occasion takes censuses of individual cities and publishes the reports thereof. The question has arisen as to whether the applicability of the rule is based on such special reports. This was not our intention; the basis of the rule was intended to be the latest regular census. Therefore, the word "decennial" will be added in the text of the paragraph mentioned.

8. In § 73.311(b)(3) there is an incorrect reference to "paragraph (a) of this section." The corrected version of this paragraph will make the correct reference, which is to § 73.315(a).

9. Section 73.312(c) states where certain maps may be obtained and includes the costs of these maps. Since the prices change from time to time and the ones listed are now incorrect it is proposed to delete reference to prices in this rule.

10. Since the changes in the FM rules adopted herein are editorial, clarifying or interpretative in nature, the Commission finds that prior notice and rulemaking proceedings are unnecessary and would not serve the public interest. For the same reasons, and also since in some respects they represent a relaxation of existing restrictions, it is appropriate that they be made effective immediately. Authority for the rule amendments below is contained in sections 4(i), 303(f), and 303(r) of the Communications Act of 1934, as amended.

11. In view of the foregoing: *It is ordered*, That, effective August 1, 1966, Part 73 of the Commision's rules and regulations is amended as set forth below.

[1] The antenna heights referred to in this section are those above average terrain and not above ground. Normally, the higher heights above average terrain are obtained by placing a short tower on top of a mountain or other high natural elevation. Thus, there is no apparent conflict with our rule making in Docket No. 16030, which concerns certain restrictions on antenna heights of over 1,000 feet above ground.

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Adopted: July 20, 1966.

Released: July 22, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE,
Secretary.

Part 73 of the Commission's rules and regulations is amended in the following respects:

1. In § 73.202 paragraph (a) is amended to read as follows:

§ 73.202 Table of Assignments.

(a) *General.* The following table of assignment contains the channels (other than noncommercial educational channels) assigned to the listed communities in the United States, its Territories and possessions. Channels designated with an "A" are for Class A FM stations. All other listed channels are for Class B stations in Zones I and I-A and for Class C stations in Zone II.

• • • • •

2. In § 73.205 the introduction and paragraph (a) is amended to read as follows:

§ 73.205 Zones.

For the purpose of allocation and assignment, the United States is divided into three zones as follows:

(a) Zone I consists of that portion of the United States located within the confines of the following lines drawn on the United States Albers Equal Area Projection Map (based on standard parallels 29½° and 45½°; North American datum): Beginning at the most easterly point on the State boundary line between North Carolina and Virginia; thence in a straight line to a point on the Virginia-West Virginia boundary line located at north latitude 37°49′ and west longitude 80°12′30″; thence westerly along the southern boundary lines of the States of West Virginia, Ohio, Indiana, and Illinois to a point at the junction of the Illinois, Kentucky, and Missouri State boundary lines; thence northerly along the western boundary line of the State of Illinois to a point at the junction of the Illinois, Iowa, and Wisconsin State boundary lines; thence easterly along the northern State boundary line of Illinois to the 90th meridian; thence north along this meridian to the 43.5° parallel; thence east along this parallel to the United States-Canada border; thence southerly and following that border until it again intersects the 43.5° parallel; thence east along this parallel to the 71st meridian; thence in a straight line to the intersection of the 69th meridian and the 45th parallel; thence east along the 45th parallel to the Atlantic Ocean. When any of the above lines pass through a city, the city shall be considered to be located in Zone I. (See Figure 1 of § 73.699.)

• • • • •

[2] Commissioner Johnson not participating.

3. In § 73.207 the text of paragraph (a) preceding the table is amended to delete the second parenthetical expression and as amended will read as follows:

§ 73.207 Minimum mileage separations between cochannel and adjacent-channel stations on commercial channels.

(a) Petitions to amend the table of assignments (§ 73.202(b)) (other than those expressly requesting amendment of this section or § 73.205) will be dismissed and no application for a new station, change in the channel of an existing station, or increase in antenna height or effective radiated power, or change in location of an existing station will be accepted for filing unless the proposed facilities will be located at least as far from the transmitter sites of other cochannel and adjacent-channel stations (both existing and proposed) as the distances in miles specified in this paragraph. Proposed stations of the respective classes shown in the left-hand column of the following table shall be located no less than the distance shown from cochannel stations and first adjacent-channel stations (200 kc/s removed) and second and third adjacent-channel stations (400 and 600 kc/s removed) of the classes shown in the remaining columns of the table. The distances shown between stations of different classes apply regardless of which is the proposed stations under consideration (e.g., distances shown from a new Class A station to an existing Class C station are also the distances between a new Class C and an existing Class A station). The distances between Class B and Class C stations apply only across zone lines. The adjacent-channel spacings listed also apply: (1) To applications for noncommercial educational facilities on Channels 218, 219, or 220, with respect to other stations on Channels 221, 222, or 223; (2) to applications for facilities on Channels 221, 222, or 223, with respect to noncommercial educational stations on Channels 218, 219, or 220 (for classification of noncommercial education stations, see § 73.504).

* * * * *

§ 73.210 [Amended]

4. In § 73.210 delete paragraph (c).

5. In § 73.211 paragraphs (b)(3) and (d) are amended to read as follows:

§ 73.211 Power and antenna height requirements.

* * * * *

(b) *Maximum power and antenna height.* * * *

(3) In Puerto Rico antenna heights may be used up to 2,000 feet above average terrain with effective radiated powers up to 25 kw. For antenna heights above 2,000 feet the power shall be reduced so that the station's 1 mv/m contour (located pursuant to Figure 1 of § 73.333) will be no further from the station's transmitter than with the facilities of 25 kw and antenna height of 2,000 feet. For powers above 25 kw (up to 50 kw) no antenna heights will be authorized which result in greater coverage by the 1 mv/m contour than that obtained with the facilities of 25 kw and antenna height of 2,000 feet.

* * * * *

(d) *Existing stations.* Stations authorized as of September 10, 1962 which do not conform to the requirements of this section, may continue to operate as authorized. For stations operating with facilities in excess of those specified in paragraph (b) of this section no changes in facilities will be authorized which either increases the effective radiated power or extends the location of the 1 mv/m field strength contour beyond that of its present authorization in any direction. The provisions of this section shall not apply to applications to increase facilities for those stations operating with powers less than the minimum powers specified in paragraph (a) of this section.

6. In § 73.242 paragraph (a) is amended to read as follows:

§ 73.242 Duplication of AM and FM programing.

(a) After October 15, 1965, licensees of FM stations in cities of over 100,000 population (as listed in the latest regular U.S. Census Reports) shall operate so as to devote no more than 50 percent of the average FM broadcast week to programs duplicated from an AM station owned by the same licensee in the same local area. For the purposes of this paragraph, duplication is defined to mean simultaneous broadcasting of a particular program over both the AM and FM station or the broadcast of a particular FM program within 24 hours before or after the identical program is broadcast over the AM station.

* * * * *

7. In § 73.311 paragraph (b) is amended to read as follows:

§ 73.311 Field strength contours.

* * * * *

(b) The field strength contours provided for in this section shall be considered for the following purposes only:

(1) In the estimation of coverage resulting from the selection of a particular transmitter site by an applicant for an FM broadcast station.

(2) In connection with problems of coverage arising out of application of § 73.240.

(3) In determining compliance with § 73.315(a) concerning the minimum field strength to be provided over the principal community to be served.

8. In § 73.312 paragraph (c) is amended to read as follows:

§ 73.312 Topographic data.

* * * * *

(c) The U.S. Geological Survey Topography Quadrangle Sheets may be obtained from the U.S. Geological Survey Department of the Interior, Washington, D.C. 20240. The Sectional Aeronautical Charts are available from the U.S. Coast and Geodetic Survey, Department of Commerce, Washington, D.C. 20235. These maps may also be secured from branch offices and from authorized agents or dealers in most principal cities.

[F.R. Doc. 66-8203; Filed, July 26, 1966; 8:48 a.m.]

[FCC 66-659]

PART 83—STATIONS ON SHIPBOARD IN MARITIME SERVICES

PART 85—PUBLIC FIXED STATIONS AND STATIONS OF MARITIME SERVICES IN ALASKA

Miscellaneous Amendments

In the matter of amendment of Parts 83 and 85 of the Commission's rules to permit certain changes in respect to the transmitting equipment of a ship radio station without the need for filing application for modification of ship station license; RM-924.

1. At a session of the Federal Communication Commission held at its offices in Washington, D.C., on the 20th day of July 1966 the Commission considered the above-captioned matter.

2. Parts 83 and 85 of the Commission's rules now require licensees of all ship stations to file application for modification of ship station license whenever there is a change in equipment in the station.

3. North Pacific Marine Radio Council, Inc., 610 Pontius Avenue North, Seattle, Wash., has filed a petition to amend Parts 83 and 85 of the Commission's rules to permit ship station licensees to substitute type accepted radiotelephone transmitters and/or radar units without the need for modification of ship station license.

4. In support of the request, petitioner has indicated that the current regulations requiring application for modification of ship station licenses when there is a change in equipment tends to discourage ship owners to upgrade their equipment. The time needed to comply with the licensing requirements is such that the repair of old equipment instead of replacement with modern equipment is necessary to avoid delaying the vessel. Petitioner has further stated that the amendment requested would be consistent with the Commission's program to upgrade marine radio and thus enhance safety in the maritime services.

5. Recently, we have been reexamining our requirements for filing formal applications. As a result, we have concluded that in many instances, our practices and procedures requiring application for modification of license regarding minor changes are no longer necessary. In light of this and the instant petition, we are amending the rules in Parts 83 and 85 to eliminate certain requirements that necessitate the filing of application for modification of ship station license when changes occur in regard to the authorized transmitting equipment.

6. Accordingly, the petitioner's request is granted to the extent that Parts 83 and 85 of the Commission's rules are amended to permit ship station licensees to replace type accepted radiotelephone transmit-

ters and/or type approved radar units which operate in the same frequency band or bands as specified in the license without the need for filing application for modification of license. On our own motion, we are further amending Parts 83 and 85 to eliminate the requirement that application for modification of license be filed when deletions occur with respect to the authorized transmitting equipment in a ship station. Also, no application for modification will be required to add transmitting equipment that operates in the same frequency band or bands specified in the ship station license if the equipment is type accepted or type approved.

7. Since ship stations in the maritime services are allocated numerous frequency bands for operation by international agreement, we are of the opinion it is necessary for proper administration that the Commission's files contain complete and up-to-date information in this regard. Therefore, the rule amendments ordered herein will still require ship station licensees to submit application for modification of license when they replace or add type accepted radiotelephone transmitters and/or type approved radar units that operate in a frequency band or bands other than specified in the station license. Licensees, however, should exercise caution in interchanging or adding used transmitting equipment, some of which may not be type accepted.

8. Moreover, licensees of ship stations subject to the requirements of Title III, Part II of the Communications Act of 1934, as amended, will continue to be required to file application for modification of ship station license whenever there are additions, deletions, or replacement with respect to the transmitting equipment required by the Act to be installed because section 362 of the Act requires that the particulars of such equipment be included in the station license.

9. These rule amendments adopted herein to reflect revisions in the Commission's practices and procedures with regard to licensing should result in a convenience to both licensees and the Commission. The rule amendments adopted herein are procedural in nature and hence the public notice, procedure, and effective date provisions of section 4 of the Administrative Procedures Act are not applicable. Authority for the amendments ordered herein is contained in section 4(i) and 303(r) of the Communications Act of 1934, as amended.

10. In view of the foregoing: *It is ordered*, Effective August 1, 1966, that Parts 83 and 85 of the Commission's rules are amended as set forth below.

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

(Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interprets or applies sec. 303, 48 Stat. 1082, as amended; 47 U.S.C. 303)

Released: July 22, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[1]

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

A. Part 83, Stations on Shipboard in the Maritime Services is amended as follows:

1. Section 83.33, paragraph (a) is amended to read and new paragraphs (d) and (e) are added:

§ 83.33 Changes during license term.

(a) Application for modification of license shall be submitted in the following instances:

(1) Additions, deletions or replacement of transmitting equipment required to be installed to comply with the provisions of Title III, Part II of the Communications Act;

(2) Additions or replacement of transmitting equipment which operates in a frequency band or bands other than specified in the license.

• • • • •

(d) Except as provided in paragraph (a) of this section, no application for modification of license is required when deletions occur with respect to the authorized transmitting equipment.

(e) Except as provided in paragraph (a) of this section, no application for modification of license is required for additions or replacement of type accepted radiotelephone transmitters and/or type approved radar units that operate in the same frequency band or bands as specified in the license.

2. Section 83.35, paragraph (a) is amended to read:

§ 83.35 Request for interim ship station license.

(a) A formal application for a new ship station license or for a modification of an existing license if required by § 83.33 to authorize the use of telephony and/or radar on board a vessel when accompanied by a request for an interim ship station license, shall be filed in accordance with § 83.36 and presented in person by the applicant or his agent at the nearest Field Engineering Office of the Commission or at the Commission's main office in Washington, D.C.: *Provided*, That, as an alternative procedure, an applicant, in Alaska, for such a ship station license may submit an application by mail to the Commission's Field Engineering Office at Anchorage, Alaska, when accompanied by a written request for an interim ship station license.

• • • • •

3. Section 83.134, paragraph (a) is amended to read and paragraph (g) is deleted in its entirety:

[1] Commissioner Johnson not participating.

§ 83.134 Transmitter power.

(a) Unless specifically expressed otherwise, transmitter power is peak envelope power (see § 83.7) for A3A, A3B, A3H, and A3J emissions, and total plate input power to the final radio stage of the transmitter (without modulation present in the case of A3 emission) for other emissions.

• • • • •

(g) [Deleted]

B. Part 85, Public Fixed Stations and Stations of the Maritime Services in Alaska is amended as follows:

1. Section 85.22, paragraph (a) is amended to read:

§ 85.22 Application precedent to authorization.

(a) Except as otherwise provided in §§ 81.26 and 81.41 of this chapter in respect to stations on land (including Alaska-public fixed stations), and in §§ 83.26, 83.41, and 83.42 of this chapter in respect to radio stations on board ship, no authorization will be granted for use or operation of any radio station subject to this part unless formal written application therefor in proper form first is filed with the Commission. Except as otherwise permitted by § 85.23 or by applicable rules in Parts 81 and 83 of this chapter (including such rule sections applicable to Alaska-public fixed stations as are designated in § 85.24), a separate application shall be filed in respect to each station and service subject to this part. Except as otherwise provided in §§ 81.32, 81.36, and 81.41 of this chapter in respect to stations on land (including Alaska-public fixed stations), and in §§ 83.35, 83.41, and 83.42 of this chapter in respect to radio stations on board ship, an application in writing should be filed at least 60 days prior to the earliest date on which it is desired that the requested authorization (or change in authorization) be granted by the Commission in order that action thereon may be taken by that date. Each application shall be specific and complete with regard to the information requested in the application form or otherwise specifically requested by the Commission.

• • • • •

2. Section 85.153, paragraph (a) is amended to read:

§ 85.153 Transmitter power.

(a) Unless specifically expressed otherwise, transmitter power is peak envelope power (see § 81.8 or § 83.7 of this chapter) for A3A, A3H, and A3J emissions and total plate input power to the final radio stage of the transmitter (without modulation present in the case of A3 emission) for other emissions.

• • • • •

[F.R. Doc. 66-8204; Filed, July 26, 1966; 8:48 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Time for Mailing Certain Notices to Shareholders of Regulated Investment Companies; Certain Redemptions by Unit Investment Trusts

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, within the period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner within the 30-day period. In such a case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] SHELDON S. COHEN,
Commissioner of Internal Revenue.

In order to conform the Income Tax Regulations (26 CFR Part 1) under sections 852 to 855, inclusive, of the Internal Revenue Code of 1954 to sections 201(d) and 229 of the Revenue Act of 1964 (78 Stat. 32, 99), such regulations are amended as follows:

PARAGRAPH 1. Section 1.852 is amended by revising section 852(b)(3)(C), by revising section 852(b)(3)(D)(i), by adding a subsection (d) to section 852, and by revising the historical note. These revised and added provisions read as follows:

§ 1.852 Statutory provisions; taxation of regulated investment companies and their shareholders.

SEC. 852. *Taxation of regulated investment companies and their shareholders.* • • •

(b) *Method of taxation of companies and shareholders.* • • •

(3) *Capital gains.* • • •

(C) *Definition of capital gain dividend.* For purposes of this part, a capital gain dividend is any dividend, or part thereof, which is designated by the company as a capital gain dividend in a written notice mailed to its shareholders not later than 45 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including capital gains dividends paid after the close of the taxable year described in section 855) is greater than the excess of the net long-term capital gain over the net short-term capital loss of the taxable year, the portion of each distribution which shall be a capital gain dividend shall be only that proportion of the amount so designated which such excess of the net long-term capital gain over the net short-term capital loss bears to the aggregate amount so designated.

(D) *Treatment by shareholders of undistributed capital gains.* (i) Every shareholder of a regulated investment company at the close of the company's taxable year shall include, in computing his long-term capital gains in his return for his taxable year in which the last day of the company's taxable year falls, such amount as the company shall designate in respect of such shares in a written notice mailed to its shareholders at any time prior to the expiration of 45 days after close of its taxable year, but the amount so includible by any shareholder shall not exceed that part of the amount subjected to tax in subparagraph (A) which he would have received if all of such amount had been distributed as capital gain dividends by the company to the holders of such shares at the close of its taxable year.

• • • • •

(d) *Distributions in redemption of interests in unit investment trusts.* In the case of a unit investment trust—

(1) Which is registered under the Investment Company Act of 1940 and issues periodic payment plan certificates (as defined in such Act), and

(2) Substantially all of the assets of which consist of securities issued by a management company (as defined in such Act),

section 562(c) (relating to preferential dividends) shall not apply to a distribution by such trust to a holder of an interest in such trust in redemption of part or all of such interest, with respect to the net capital gain of such trust attributable to such redemption.

[Sec. 852 as amended by sec. 2, Act of July 11, 1956 (Pub. Law 700, 84th Cong., 70 Stat. 530); secs. 39, 101, Technical Amendments Act 1958 (72 Stat. 1638, 1674); sec. 10(b), Act of Sept. 14, 1960 (Pub. Law 86-779, 74 Stat. 1009); sec. 229, Rev. Act 1964 (78 Stat. 99)]

PAR. 2. Paragraph (b)(1) of § 1.852-2 is amended to read as follows:

§ 1.852-2 Method of taxation of regulated investment companies.

• • • • •

(b) *Taxation of capital gains*—(1) *In general.* Section 852(b)(3)(A) imposes a tax of 25 percent for each taxable year on the excess, if any, of the net long-term capital gain of a regulated investment company (subject to tax under part I, subchapter M, chapter 1 of the Code) over the sum of its net short-term capital loss and its deduction for dividends paid (as defined in section 561) determined with reference to capital gain dividends only. For the definition of capital gain dividend paid by a regulated investment company, see section 852(b)(3)(C) and paragraph (c) of § 1.852-4. See § 1.852-10, relating to certain distributions in redemption of interests in unit investment trusts which for purposes of the deduction for dividends paid with reference to capital gains dividends only under section 852(b)(3)(A) are not considered preferential dividends under section 562(c). See section 855 and § 1.855-1, relating to dividends paid after the close of the taxable year.

• • • • •

PAR. 3. Paragraph (c) of § 1.852-4 is amended to read as follows:

§ 1.852-4 Method of taxation of shareholders of regulated investment companies.

• • • • •

(c) *Definition of capital gain dividend.* A capital gain dividend, as defined in section 852(b)(3)(C), is any dividend or part thereof which is designated by a regulated investment company as a capital gain dividend in a written notice mailed to its shareholders not later than 45 days (30 days for a taxable year ending before February 26, 1964) after the close of its taxable year. If the aggregated amount so designated with respect to the taxable year (including capital gain dividends paid after the close of the taxable year pursuant to an election under section 855) is greater than the excess of the net long-term capital gain over the net short-term capital loss of the taxable year, the portion of each distribution which shall be a capital gain dividend shall be only that proportion of the amount so designated which such excess of the net long-term capital gain over the net short-term capital loss bears to the aggregate amount so designated. For example, a regulated investment company making its return on the calendar year basis advised its shareholders by written notice mailed December 30, 1955, that of a distribution of $500,000 made December 15, 1955, $200,000 constituted a capital gain dividend, amounting to $2 per share. It was later discovered that an error had been made in determining the excess of the net long-term capital gain over the net short-term capital loss of the taxable year, and that such excess was $100,000 instead of $200,000. In such case each shareholder would have received a capital gain dividend of $1 per share instead of $2 per share.

• • • • •

PAR. 4. Paragraphs (a)(1), (a)(2)(ii), and (b) of § 1.852–9 are amended to read as follows:

§ 1.852–9 Special procedural requirements applicable to designation under section 852(b)(3)(D).

(a) *Regulated investment company—*(1) *Notice to shareholder.* A designation of undistributed capital gains under section 852(b)(3)(D) and paragraph (b)(2)(i) of § 1.852–2 shall be made by notice on Form 2439 mailed by the regulated investment company to each person who is a shareholder of record of the company at the close of the company's taxable year. The notice on Form 2439 shall show the name and address of the regulated investment company, the taxable year of the company for which the designation is made, the name and address of the shareholder, the amount designated by the company for inclusion by the shareholder in computing his long-term capital gains, and the tax paid with respect thereto by the company, which tax is deemed to have been paid by the shareholder. Form 2439 shall be prepared in triplicate, and copies B and C of the form shall be mailed to the shareholder on or before the 45th day (30th day for a taxable year ending before February 26, 1964) following the close of the company's taxable year. Copy A of each Form 2439 must be associated with the duplicate copy of the undistributed capital gains tax return of the company (Form 2438), as provided in subparagraph (2)(ii) of this paragraph.

(2) *Return of undistributed capital gains tax.* * * *

(ii) *Copies A of Form 2439.* For each taxable year which ends on or before December 31, 1965, there shall be submitted with the company's return on Form 2438 all copies A of Form 2439 furnished by the company to its shareholders in accordance with subparagraph (1) of this paragraph. For each taxable year which ends after December 31, 1965, there shall be submitted with the duplicate copy of the company's return on Form 2438, which is attached to and filed with the income tax return of the company on Form 1120 for the taxable year, all copies A of Form 2439 furnished by the company to its shareholders in accordance with subparagraph (1) of this paragraph. The copies A of Form 2439 shall be accompanied by lists (preferably in the form of adding machine tapes) of the amounts of undistributed capital gains and of the tax paid with respect thereto shown on such forms. The totals of the listed amounts of undistributed capital gains and of tax paid with respect thereto must agree with the corresponding entries on Form 2438.

* * * * *

(b) *Shareholder of record not actual owner—*(1) *Notice to actual owner.* In any case in which a notice on Form 2439 is mailed pursuant to paragraph (a)(1) of this section by a regulated investment company to a shareholder of record who is a nominee of the actual owner or owners of the shares of stock to which the notice relates, the nominee shall furnish to each such actual owner notice of the owner's proportionate share of the amounts of undistributed capital gains and tax with respect thereto, shown on the Form 2439 received by the nominee from the regulated investment company. The nominee's notice to the actual owner shall be prepared in triplicate on Form 2439 and shall contain the information prescribed in paragraph (a)(1) of this section, except that the name and address of the nominee, identified as such, shall be entered on the form in addition to, and in the space provided for, the name and address of the regulated investment company, and the amounts of undistributed capital gains and tax with respect thereto entered on the form shall be the actual owner's proportionate share of the corresponding items shown on the nominee's notice from the regulated investment company. Copies B and C of the Form 2439 prepared by the nominee shall be mailed to the actual owner—

(i) For taxable years of regulated investment companies ending after February 25, 1964, on or before the 75th day (135th day if the nominee is a resident of a foreign country) following the close of the regulated investment company's taxable year, or

(ii) For taxable years of regulated investment companies ending before February 26, 1964, on or before the 60th day (120th day if the nominee is a resident of a foreign country) following the close of the regulated investment company's taxable year.

(2) *Transmittal of Form 2439.* The nominee shall enter the word "Nominee" in the upper right hand corner of copy B of the notice on Form 2439 received by him from the regulated investment company, and on or before the appropriate day specified in subdivision (i) or (ii) of subparagraph (1) of this paragraph shall transmit such copy B, together with all copies A of Form 2439 prepared by him pursuant to subparagraph (1) of this paragraph, to the internal revenue officer with whom his income tax return is required to be filed.

* * * * *

PAR. 5. Immediately following § 1.852–9, there is inserted the following new section:

§ 1.852–10 Distributions in redemption of interests in unit investment trusts.

(a) *In general.* In computing that part of the excess of its net long-term capital gain over net short-term capital loss on which it must pay a capital gains tax, a regulated investment company is allowed under section 852(b)(3)(A)(ii) a deduction for dividends paid (as defined in section 561) determined with reference to capital gains dividends only. Section 561(b) provides that in determining the deduction for dividends paid, the rules provided in section 562 are applicable. Section 562(c) (relating to preferential dividends) provides that the amount of any distribution shall not be considered as a dividend unless such distribution is pro-rata, with no preference to any share of stock as compared with other shares of the same class except to the extent that the former is entitled to such preference.

(b) *Redemption distributions made by unit investment trust—*(1) *In general.* Where a unit investment trust (as defined in paragraph (c) of this section) liquidates part of its portfolio represented by shares in a management company in order to make a distribution to a holder of an interest in the trust in redemption of part or all of such interest, and by so doing, the trust realizes net long-term capital gain, that portion of the distribution by the trust which is equal to the amount of the net long-term capital gain realized by the trust on the liquidation of the shares in the management company will not be considered a preferential dividend under section 562(c). For example, where the entire amount of net long-term capital gain realized by the trust on such a liquidation is distributed to the redeeming interest holder, the trust will be allowed the entire amount of net long-term capital gain so realized in determining the deduction under section 852(b)(3)(A)(ii) for dividends paid determined with reference to capital gains dividends only. This paragraph and section 852(d) shall apply only with respect to the net capital gain realized by the trust which is attributable to a redemption by a holder of an interest in such trust.

(2) *Example.* The application of the provisions of this paragraph may be illustrated by the following example:

Example. B entered into a periodic payment plan contract with X, a unit investment trust, under which he purchased 100 certificates of X. Under this contract, upon B's demand, X must redeem B's certificates at a price substantially equal to the market value of X's net assets dividend by the number of shares of X which are then outstanding. Except for a small amount of cash, all of the assets of X consist of shares in Y, a management company. Both X and Y have elected to be treated as regulated investment companies. On March 1, 1965, B notified X that he wished to redeem his entire interest in X. At that time the pro-rata share of X's net assets was $15 per certificate. In order to redeem B's interest, X redeemed 100 shares of Y which had at that time a value of $15 per share. X then distributed the $1,500 to B. X's basis for the Y stock which it redeemed was $10 a share. Therefore, X realized a long-term capital gain of $500.00 ($5 x 100 shares) which is attributable to the redemption by B of his interest in the trust. Under section 852(d), the $500 capital gain distributed to B will not be considered a preferential dividend. Therefore, X is allowed a deduction of $500 under section 852(b)(3)(A)(ii) for dividends paid determined with reference to capital gains dividends only, with the result that X will not pay a capital gains tax with respect to such amount.

(c) *Definition of unit investment trust.* A unit investment trust to which paragraph (a) of this section refers is a trust which—

(1) Is registered under the Investment Company Act of 1940 as a unit investment trust;

(2) Issues periodic payment plan certificates (as defined in such Act);

(3) Possesses, as substantially all of its assets, securities issued by a management company (as defined in such Act);

(4) Qualifies as a regulated investment company under section 851; and

(5) Complies with the requirements provided for by section 852(a).

PAR. 6. Section 1.853 is amended by revising section 853(c) and by adding a historical note. These revised and added provisions read as follows:

§ 1.853 Statutory provisions; foreign tax credit allowed to shareholders.

SEC. 853. *Foreign tax credit allowed to shareholders.* * * *

(c) *Notice to shareholders.* The amounts to be treated by the shareholder, for purposes of subsection (b)(2), as his proportionate share of—

(1) Taxes paid to any foreign country or possession of the United States, and

(2) Gross income derived from sources within any foreign country or possession of the United States,

shall not exceed the amounts so designated by the company in a written notice mailed to its shareholders not later than 45 days after the close of its taxable year.

* * * * *

[Sec. 853 as amended by sec. 229, Rev. Act 1964 (78 Stat. 99)]

PAR. 7. Section 1.853–3 is amended to read as follows:

§ 1.853–3 Notice to shareholders.

If a regulated investment company makes an election under section 853(a), in the manner provided in § 1.853–4, the investment company is required, under section 853(c), to furnish its shareholders with a written notice mailed not later than 45 days (30 days for taxable years ending before February 26, 1964) after the close of its taxable year. The notice must designate the shareholder's portion of foreign taxes paid to each such country or possession and the portion of the dividend which represents income derived from sources within each such country or possession. For purposes of section 853(b)(2) and paragraph (b) of § 1.853–2, the amount that a shareholder may treat as his proportionate share of foreign taxes paid and the amount to be included as gross income derived from any foreign country or possession of the United States shall not exceed the amounts so designated by the company in such written notice. If, however, the amount designated by the company in the notice exceeds the shareholder's proper proportionate shares of foreign taxes or gross income from sources within any foreign country or possession, the shareholder is limited to the amount correctly ascertained.

PAR. 8. Section 1.854 is amended by revising subsections (a), (b)(1), and (b)(2) of section 854 and by adding a historical note. These revised and added provisions read as follows:

§ 1.854 Statutory provisions; limitations applicable to dividends received from regulated investment company.

SEC. 854. *Limitations applicable to dividends received from regulated investment company*—(a) *Capital gain dividend.* For purposes of section 116 (relating to an exclusion for dividends received by individuals) and section 243 (relating to deductions for dividends received by corporations), a capital gain dividend (as defined in section 852(b)(3)) received from a regulated investment company shall not be considered as a dividend.

(b) *Other dividends*—(1) *General rule.* In the case of a dividend received from a regulated investment company (other than a dividend to which subsection (a) applies)—

(A) If such investment company meets the requirements of section 852(a) for the taxable year during which it paid such dividend; and

(B) The aggregate dividends received by such company during such taxable year are less than 75 percent of its gross income,

then, in computing the exclusion under section 116 and the deduction under section 243, there shall be taken into account only that portion of the dividend which bears the same ratio to the amount of such dividend as the aggregate dividends received by such company during such taxable year bear to its gross income for such taxable year.

(2) *Notice to shareholders.* The amount of any distribution by a regulated investment company which may be taken into account as a dividend for purposes of the exclusion under section 116 and the deduction under section 243 shall not exceed the amount so designated by the company in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.

* * * * *

[Sec. 854 as amended by secs. 201, 229, Rev. Act 1964 (78 Stat. 32, 99)]

PAR. 9. Paragraphs (a) and (b) of § 1.854–1 are amended to read as follows:

§ 1.854–1 Limitations applicable to dividends received from regulated investment company.

(a) *In general.* Section 854 provides special limitations applicable to dividends received from a regulated investment company for purposes of the exclusion under section 116 for dividends received by individuals, the deduction under section 243 for dividends received by corporations, and, in the case of dividends received by individuals before January 1, 1965, the credit under section 34.

(b) *Capital gain dividend.* Under the provisions of section 854(a) a capital gain dividend as defined in section 852(b)(3) and paragraph (c) of § 1.852–4 shall not be considered a dividend for purposes of the exclusion under section 116, the deduction under section 243, and, in the case of taxable years ending before January 1, 1965, the credit under section 34.

* * * * *

PAR. 10. Section 1.854–2 is amended to read as follows:

§ 1.854–2 Notice to shareholders.

Section 854(b)(2) provides that the amount that a shareholder may treat as a dividend for purposes of the exclusion under section 116 for dividends received by individuals, the deduction under section 243 for dividends received by corporations, and, in the case of dividends received by individuals before January 1, 1965, the credit under section 34, shall not exceed the amount so designated by the company in written notice to its shareholders mailed not later than 45 days (30 days for a taxable year ending before February 26, 1964) after the close of the company's taxable year. If, however, the amount so designated by the company in the notice exceeds the amount which may be treated by the shareholder as a dividend for such purposes, the shareholder is limited to the amount as correctly ascertained under section 854(b)(1) and paragraph (c) of § 1.854–1.

PAR. 11. Section 1.855 is amended by revising section 855(c) and by revising the historical note. These revised provisions read as follows:

§ 1.855 Statutory provision; dividends paid by regulated investment company after close of taxable year.

SEC. 855. *Dividends paid by regulated investment company after close of taxable year.* * * *

(c) *Notice to shareholders.* In the case of amounts to which subsection (a) is applicable, any notice to shareholders required under this part with respect to such amounts shall be made not later than 45 days after the close of the taxable year in which the distribution is made.

* * * * *

[Sec. 855 as amended by sec. 10(b), Act of Sept. 14, 1960 (Pub. Law 86–799, 74 Stat. 1009), sec. 229, Rev. Act 1964 (78 Stat. 99)]

PAR. 12. Paragraph (e) of § 1.855–1 is amended to read as follows:

§ 1.855–1 Dividends paid by regulated investment company after close of taxable year.

* * * * *

(e) *Notice to shareholders.* Section 855(c) provides that in the case of dividends, with respect to which a regulated investment company has made an election under section 855(a), any notice to shareholders required under subchapter M, chapter 1 of the Code, with respect to such amounts, shall be made not later than 45 days (30 days for a taxable year ending before February 26, 1964) after the close of the taxable year in which the distribution is made. Thus, the notice requirements of section 852(b)(3)(C) and paragraph (c) of § 1.852–4 with respect to capital gain dividends, section 853(c) and § 1.853–3 with respect to allowance to shareholder of foreign tax credit, and section 854(b)(2) and § 1.854–2 with respect to the amount of a distribution which may be treated as a dividend, may be satisfied with respect to amounts to which section 855(a) and this section apply if the notice relating to such amounts is mailed to the shareholders not later than 45 days (30 days for a taxable year ending before February 26, 1964) after the close of the taxable year in which the distribution is made. If the notice under section 855(c) relates to an election with respect to any capital gain dividends, such capital gain dividends shall be aggregated by the investment company with the designated capital gain dividends actually paid during the taxable year to which the election applies (not including such dividends with respect to which an election has been made for a prior year under

section 855) for the purpose of determining whether the aggregate of the designated capital gain dividends with respect to such taxable year of the company is greater than the excess of the net long-term capital gain over the net short-term capital loss of the company. See section 852(b)(3)(C) and paragraph (c) of § 1.852–4.

* * * * *

[F.R. Doc. 66–8177; Filed, July 26, 1966; 8:46 a.m.]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 991]

HANDLING OF HOPS OF DOMESTIC PRODUCTION

Notice of Proposed Salable Quantity and Allotment Percentage for 1966–67 Marketing Year

Notice is hereby given of a proposal to establish, for the 1966–67 marketing year, which begins August 1, 1966, a salable quantity and allotment percentage of 51,200,000 pounds and 93 percent, respectively, applicable to hops produced in Washington, Oregon, Idaho, and California. The proposed percentages would be established in accordance with the provisions of Marketing Order No. 991 (31 F.R. 9713) regulating the handling of hops of domestic production, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal is made in view of the July crop estimate of 54,755,000 pounds being in excess of market requirements and of the order requirement that the allotment percentage must be established prior to August 15 to be effective on the 1966 crop.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same in quadruplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than August 5, 1966. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during official hours of business (7 CFR 1.27(b)).

The proposed salable quantity and allotment percentage is based upon information contained in the record of the public hearing held in Yakima, Wash., March 1 through March 8, 1966, and would result in the following determinations for the marketing year beginning August 1, 1966:

(1) A salable quantity of 51,200,000 pounds consisting of domestic brewery and extract use of 26,400,000, exports of 24,000,000 and miscellaneous use of 800,000 pounds;

(2) A total of all producer allotments of at least 55,200,000 pounds;

(3) An allotment percentage (salable quantity divided by the total of all producer allotment bases) of 93 percent, the minimum percentage permitted, pursuant to § 991.37, on the 1966 crop.

Since the allotment percentage may determine a different salable quantity, the proposal is as follows:

§ 991.201 Allotment percentage and salable quantity for hops during the marketing year beginning August 1, 1966.

The allotment percentage during the marketing year beginning August 1, 1966, shall be 93 percent, and the salable quantity shall be 51,200,000 pounds or such quantity as is salable by application of the allotment percentage to the producer allotment bases.

Dated: July 22, 1966.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 66–8200; Filed, July 26, 1966; 8:48 a.m.]

[7 CFR Part 1069]

[Docket No. AO–153–A12]

MILK IN DULUTH-SUPERIOR MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Auditorium of the Zion Lutheran Church, 25th Avenue West and Third Street, Duluth, Minn., beginning at 10 a.m. local time, on August 10, 1966, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Duluth-Superior marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Arrowhead Cooperative Milk Producers Association:

Proposal No. 1. Revise paragraph (b) of § 1069.51 to read as follows:

§ 1069.51 Class prices.

* * * * *

(b) *Class II milk.* The Class II price shall be the basic formula price for the month.

Proposed by Twin Ports Cooperative Dairy Association:

Proposal No. 2. Amend § 1069.51(b), *Class II milk price*, to provide:

A. A seasonal basis of pricing Class II milk; and

B. A basis of pricing milk used to produce butter and milk powder separate from that of pricing milk for other Class II uses.

Proposal No. 3. Amend the pertinent provisions of the order to provide for a reasonable rate of interest on unpaid obligations of handlers under the terms of the order.

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 4. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Earl E. Gulland, 508 Providence Building, Duluth, Minn. 55802, or from the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on July 25, 1966.

CLARENCE H. GIRARD,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 66–8224; Filed, July 26, 1966; 8:49 a.m.]

[7 CFR Part 1079]

[Docket No. AO 295–A11]

MILK IN DES MOINES, IOWA, MARKETING AREA

Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of a public hearing to be held at the Hotel Savery, Fourth and Locust Streets, Des Moines, Iowa, beginning at 9:30 a.m., local time, on August 3, 1966, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Des Moines, Iowa, marketing area.

The public hearing is for the purpose of receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Des Moines Co-operative Dairy:

Proposal No. 1. Revoke the provisions of the Des Moines order relating to the base-excess payment plan.

This includes §§ 1079.22, 1079.23, 1079.27(j)(3), 1079.65, 1079.66, 1079.67, 1079.73, and parts of §§ 1079.30(a), 1079.72(b), 1079.80(a), and 1079.82(a).

Proposed by Beatrice Foods Co.:

Proposal No. 2. Amend § 1079.12(a) by reducing from 15 percent to 10 percent the required percentage of Grade A milk receipts which must be disposed of on routes in the marketing area to qualify as a pool plant.

Proposed by the Dairy Division, Consumer and Marketing Service:

Proposal No. 3. Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, E. H. McGuire, Post Office Box 834, 6000 Douglas Avenue, Room 190, Des Moines, Iowa 50304, or from the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250 or may be there inspected.

Signed at Washington, D.C., on July 25, 1966.

CLARENCE H. GIRARD,
Deputy Administrator,
Regulatory Programs.

[F.R. Doc. 66–8225; Filed, July 26, 1966; 8:49 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 71]

[Airspace Docket No. 66–CE–60]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the controlled airspace in the Salina, Kans., terminal area.

Effective 0001 e.s.t., August 18, 1966, the Salina, Kans., terminal area controlled airspace will be designated as follows, pursuant to final rule published in the FEDERAL REGISTER on June 24, 1966 (31 F.R. 8749):

(1) The Salina, Kans., control zone is designated as that airspace within a 5-mile radius of Salina Municipal Airport, latitude 38°49'10" N., longitude 97°34'00" W., and within a 5-mile radius of Schilling Airport (formerly Schilling AFB) latitude 38°47'30" N., longitude 97°38'45" W., and within 2 miles each side of the 188° radial of the Salina, Kans., VORTAC, extending from the 5-mile radius to the VORTAC.

(2) The Salina, Kans., transition area is designated as that airspace extending upward from 700 feet above the surface within 2 miles each side of the Salina VORTAC 008° radial, extending from the VORTAC to 8 miles N of the VORTAC; and that airspace extending upward from 1,200 feet above the surface within 8 miles SW and 5 miles NE of the 321° and 141° radials of the Salina, Kans., VORTAC, extending to points 12 miles NW and 5 miles SE, and the airspace north of VOR Federal Airway No. 4 within a 14-mile radius of the VORTAC.

On or about August 18, 1966, all operations will be transferred from the Salina Municipal Airport to the Schilling Airport, and at that time the present Salina Municipal Airport will be closed and the associated instrument approach procedure will be canceled. With the closing of the present Salina Municipal Airport the Schilling Airport (formerly Schilling AFB) will be referred to as the Salina Municipal Airport.

The Federal Aviation Agency is planning to commission the Salina, Kans., ILS system to serve the new Salina Municipal Airport on approximately October 1, 1966. In addition to a VOR instrument approach procedure, an ADF and an ILS approach will be established when the ILS is commissioned.

As a result of the proposed changes in the Salina, Kans., terminal area and of a comprehensive review of the terminal airspace requirements, the Federal Aviation Agency proposes the following:

(1) Redesignate the Salina, Kans., control zone as that airspace within a 5-mile radius of Salina Municipal Airport, latitude 38°47'30" N., longitude 97°38'45" W. (formerly Schilling AFB); within 2 miles each side of the 191° radial of the Salina, Kans., VORTAC, extending from the 5-mile radius to the VORTAC, and within 2 miles each side of the Salina ILS localizer S course extending from the 5-mile radius to the LOM.

(2) Redesignate the Salina, Kans., transition area as that airspace extending upward from 700 feet above the surface within 2 miles each side of the Salina VORTAC 011° radial, extending from the VORTAC to 8 miles N of the VORTAC, and within 8 miles E and 5 miles W of the Salina ILS localizer S course extending from the OM to 12 miles S of the OM; and that airspace extending upward from 1,200 feet above the surface within a 14-mile radius of the VORTAC bounded on the south by V–4, and within a 19-mile radius of the VORTAC bounded on the north by V–4S and on the west by V–73.

The proposal eliminates the controlled airspace associated with the old Salina Municipal Airport and will provide additional controlled airspace required for the proposed ILS and ADF approach procedures for the new Salina Municipal Airport.

The floors of the airways that traverse the transition area proposed herein would automatically coincide with the floors of the transition areas.

Modifications proposed herein are recommended to accommodate new procedures; therefore, no procedural changes would be required. Specific details of these new procedures may be examined by contacting the Chief, Airspace Branch, Air Traffic Division, Federal Aviation Agency, 601 East 12th Street, Kansas City, Mo. 64106.

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

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

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued at Kansas City, Mo., on July 12, 1966.

EDWARD C. MARSH,
Director, Central Region.

[F.R. Doc. 66–8152; Filed, July 26, 1966; 8:45 a.m.]

[14 CFR Part 71]

[Airspace Docket No. 66–SW–23]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Agency is considering an amendment to Part 71 of the Federal Aviation Regulations which would alter the Ardmore, Okla., transition area.

The Ardmore, Okla., transition area is described as that airspace extending upward from 700 feet above the surface within a 7-mile radius of the Ardmore Municipal Airport (latitude 34°18'00" N., longitude 97°00'50" W.); within 2 miles each side of the Ardmore VOR 233° and 053° radials, extending from the 7-mile radius area to 8 miles SW of the VOR; within 2 miles each side of the 265° and 085° bearings from the Ardmore RBN, extending from the 7-mile radius area to 8 miles W of the RBN.

The Federal Aviation Agency proposes to redesignate the Ardmore, Okla., transition area as that airspace extending upward from 700 feet above the surface within a 7-mile radius of the Ardmore Municipal Airport (latitude 34°18'00" N., longitude 97°00'50" W.); within a 5-mile radius of the Downtown Ardmore Airport (latitude 34°09'30" N., longitude 97°08'00" W.); within 2 miles each side of the Ardmore VOR 233° (224° magnetic) and 053° (044° magnetic) radials, extending from the 7-mile radius area to 8 miles SW of the VOR; within 2 miles N and 8 miles S of the 265° (256° magnetic) and 085° (076° magnetic) bearings from the Ardmore RBN, extending from 3 miles E to 8 miles W of the RBN.

Alteration of the Ardmore, Okla., transition area will provide airspace protection for aircraft executing instrument approach/departure procedures from the Ardmore Municipal Airport and also the Downtown Ardmore airport.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Agency, Post Office Box 1689, Fort Worth, Tex. 76101. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Air Traffic Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Agency, Fort Worth, Tex. An informal Docket will also be available for examination at the Office of the Chief, Air Traffic Division.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348).

Issued in Fort Worth, Tex., on July 19, 1966.

HENRY L. NEWMAN,
Director, Southwest Region.

[F.R. Doc. 66-8154; Filed, July 26, 1966; 8:45 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Docket No. 16779; FCC 66-657]

SAFETY AND SPECIAL RADIO SERVICES

Waiver of Construction Permit Requirement

1. The requirement that a construction permit be obtained from the Commission before construction of a radio station has been waived for most radio stations in the Safety and Special Radio Services under the authority contained in section 319(d) of the Communications Act. However, this requirement still exists for a number of categories of stations. These categories, which are listed in § 1.923 of the rules, are: Operational fixed, land radiopositioning, public and limited class I and II coast, shore radiolocation, shore radionavigation, shore radar, Alaskan public fixed stations, and stations proposing an antenna tower which requires study for possible air navigation hazards.

2. The construction permit requirement was retained in these cases because the establishment of these stations may involve some degree of construction in contrast to the installation of prepackaged equipment. However, separate authorization for construction and a separate authorization for regular operation has not been found necessary in most cases and the Commission has found it advisable to issue a single authorization, a combined construction permit and license, in most cases where the construction permit is required.

3. Since the present requirement is no longer necessary, we propose to amend § 1.923 of the Commission's rules to waive the requirement for a construction permit for all stations in the Safety and Special Radio Services.

4. However, it should be noted that, although a prior construction permit would not be required for the construction of certain antenna towers if the proposed amendment is adopted, there would be no change thereby in the existing requirements concerning notification to the Federal Aviation Agency in accordance with Part 77 of its rules and the complementary requirements of Part 17 of our rules.

5. Authority for the amendments proposed herein is found in sections 319(d) and 303(r) of the Communications Act of 1934, as amended.

6. Any interested person who is of the opinion that the proposed amendment should not be adopted in the form set forth herein may file with the Commission on or before August 29, 1966, written data, views, or arguments setting forth his comments. Comments in support of the proposal may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed on or before September 9, 1966. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with § 1.419 of the Commission's rules, an original and 14 copies of all statements, views, or comments filed shall be furnished the Commission.

Adopted: July 20, 1966.

Released: July 22, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-8205; Filed, July 26, 1966; 8:48 a.m.]

[1] Commissioner Johnson not participating.

[47 CFR Parts 2, 74]

[Docket No. 16776; FCC 66-653]

LAND MOBILE SERVICES

Allocation of Presently Unassignable Spectrum by Adjustment of Certain of Band Edges

In the matter of amendment of Parts 2 and 74 of the Commission's rules with respect to the 150.8–162 Mc/s band to allocate presently unassignable spectrum to the land mobile services by adjustment of certain of the band edges, Docket No. 16776; amendment of § 21.501(b) of the Commission's rules governing the Domestic Public Land Mobile Radio Service to make available for assignment thereunder the frequencies 152.84 Mc/s and 158.10 Mc/s, RM-318; proposed amendment of the rules for the exclusive use of the frequency 152.486 Mc/s for one-way high capacity signaling service by communications common carriers engaged in the business of affording public landline message telephone service, RM-615; the petition by the Forest Industries Radio Communications for assignment of additional frequency space in the 150 Mc/s band to the Forest Products Radio Service, RM-707; amendment of §§ 21.501(c), 21.501(i), and 21.601(a) of the rules to provide for the assignment of 152.24, 158.70, 454.00, 459.00 Mc/s to the Domestic Public Land Mobile Radio Service and the Rural Radio Service for use by radio common carriers, RM-741; allocation and assignment of additional 150 Mc/s channels to the Special Industrial Radio Service, RM-752; amendment of Parts 21, 89, 91, and 93 of the rules to provide for the allocation of band edge frequencies in the 152–160 Mc/s band, RM-884.

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

2. As a result of the several proceedings which the Commission has undertaken to reduce the separation between assignable frequencies in the various land mobile services and because of certain deficiencies in a block allocation system, sufficient spectrum space is available between the frequency segments allocated to certain services which could provide seven clear 30 kc/s channels. Because of the growing congestion in the land mobile services, both private and domestic public, the Commission believes this spectrum should not lie fallow but should be utilized to the maximum extent practicable.

3. Of primary consideration has been the determination of how the spectrum should be divided and for what services and types of operation it should be allocated. The Commission has received a number of petitions (e.g., RM-318 filed by the Sunland-Tujunga Telephone Co.; RM-615 filed by American Telephone & Telegraph Co.; RM-741 filed by National Mobile Radio Systems; RM-707 filed by the Forest Industries Radio Communications; RM-752 filed by the Special Industrial Radio Service Association; and RM-884 filed by the National Committee for Utilities Radio), which request addi-

tional spectrum including the use of all or portions of this presently unassignable space. These petitions will be considered specifically in related proceedings as described below.

4. As an initial step toward allocation of this spectrum, the Commission is herein proposing to divide the spectrum between the private and the domestic public land mobile radio services as follows:

(a) The 30 kc/s frequency pair 152.840/158.100 Mc/s would be allocated to the domestic public land mobile radio services for probable use by wire line common carriers.

(b) The 30 kc/s frequency pair 152.240/158.700 Mc/s would be allocated to the domestic public land mobile radio services for probable use by the nonwireline common carriers.

(c) The remaining three 30 kc/s channels (152.480 Mc/s, 157.740 Mc/s and 158.460 Mc/s) would be allocated to the private land mobile services.

Although additional spectrum is available between some of the band edges, it is comprised of segments each less than 30 kc/s wide. Adjustment of the band edges to make use of these segments is not being taken at this time since to do so could interfere with the planned regular implementation of tertiary assignments by certain of the private land mobile radio services.

5. In summary, it is proposed herein to make 120 kc/s of spectrum available to the domestic public land mobile radio services and 90 kc/s of spectrum available to the private land mobile radio services. Appropriate proposals to amend Part 2 by adjusting the band edges to permit individual service allocations are set forth below. Attention is invited, however, to two related proceedings. A notice of inquiry, captioned as Docket No. 16778 requests information and comments concerning allocation of 4 of the available channels to Part 21 of the rules for specific purposes (i.e., voice or paging). A notice of proposed rule making in Docket No. 16777 proposes to allocate three of the available channels to services in Part 91 of the rules.

6. In proposing the above division, the Commission considered the following factors:

(a) Improved Mobile Telephone System equipment recently developed operates in the transceiver mode thereby making a fixed frequency spacing between transmitter and receiver of 5.26 Mc/s necessary.

(b) The frequency pair 152.240/158.700 Mc/s is compatible with the transmitter/receiver spacing of 6.46 Mc/s common to the miscellaneous common carriers and is the only space adjacent to their presently allocated channels.

(c) Private services generally use simplex operation and consequently have no fixed transmit/receive frequency relationship.

(d) Coordinating committees enhance the ability of most private users to maximize use of channels less than 30 kc/s wide through geographic spacing.

7. In view of the foregoing, the petitions described in paragraph 3 above are, to the extent they are compatible with the proposals contained herein, granted and in all other respects denied.

8. In making the proposed band edge adjustments, it should be pointed out that remote pickup operations are now permitted in the band 152.84–153.38 Mc/s provided no interference is caused to the industrial radio service. Since remote pickup operations are permitted a 60 kc/s channel width, adjustment of the band edge from 152.84 to 152.855 Mc/s with a reallocation of the 15 kc/s to the domestic public radio service results in an overlap of the remote pickup channel centered on 152.870 Mc/s. It is proposed, therefore, to continue to permit remote operations in the 152.84–153.38 Mc/s portion of the spectrum, but to extend the noninterference protection provisions to the domestic public radio service as well. This would be accomplished by appropriate revision to footnote NG4 to the Table of Frequency Allocations.

9. Authority for the proposed amendment to the appropriate rules is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

10. Any interested person who is of the opinion that the proposed amendment should not be adopted in the form set forth herein may file with the Commission on or before September 1, 1966, written data, views, or arguments setting forth his comments. Comments in support of the proposal may also be filed on or before the same date. Comments or briefs in reply to the original may be filed on or before September 15, 1966. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

11. In accordance with § 1.419 of the Commission's rules, an original and 14 copies of all statements, views of comments filed shall be furnished the Commission.

Adopted: July 20, 1966.

Released: July 22, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

I. Part 2 of the Commission's rules is amended as follows:

1. In Part 2, § 2.106, the Table of Frequency Allocations is amended, in part, to read as follows:

Federal Communications Commission

Band (Mc/s)	Service	Class of station	Frequency (Mc/s)	Nature {OF SERVICES of stations
7	8	9	10	11
•	•	•	•	•
152–152.255	LAND MOBILE.	Base. Land mobile.		DOMESTIC PUBLIC.
152.255–152.465	LAND MOBILE.	Base. Land mobile.		LAND TRANSPORTATION. (NG38).
152.465–152.495	LAND MOBILE.	Base. Land mobile.		INDUSTRIAL.
152.495–152.855	LAND MOBILE.	Base. Land mobile.		DOMESTIC PUBLIC. (NG4).
152.855–153.7325	LAND MOBILE.	Base. Land mobile.		INDUSTRIAL. (NG4).
•	•	•	•	•
157.45–157.725	LAND MOBILE.	Base. Land mobile.		LAND TRANSPORTATION. (NG5) (NG38).
157.725–157.755	LAND MOBILE.	Base. Land mobile.		INDUSTRIAL.
157.755–158.115	LAND MOBILE.	Base. Land mobile.		DOMESTIC PUBLIC.
158.115–158.475	LAND MOBILE.	Base. Land mobile.		INDUSTRIAL.
158.475–158.715	LAND MOBILE.	Base. Land mobile.		DOMESTIC PUBLIC.
158.715–159.480	LAND MOBILE.	Base. Land mobile.		PUBLIC SAFETY.
•	•	•	•	•

2. Footnote NG4 to the Table of Frequency Allocations is amended to read as follows:

NG4 The use of the frequencies in the band 152.84–153.38 Mc/s may be authorized, in any area, to remote pickup broadcast base and mobile stations on the condition that harmful interference will not be caused to stations operating in accordance with the Table of Frequency Allocations.

[1] Commissioner Johnson not participating.

II. Part 74 of the Commission's rules is amended as follows: In § 74.402(a), footnote 3 is amended to read as follows:

§ 74.402 Frequency assignment.

(a) • • •

[3] Subject to the condition that no harmful interference is caused to stations operating in accordance with the Table of Frequency Allocations.

• • • • •

[F.R. Doc. 66-8206; Filed, July 26, 1966; 8:48 a.m.]

[47 CFR Part 18]

[Docket No. 11467]

OPERATION OF RADIO FREQUENCY STABILIZED ARC WELDERS

Order Extending Time for Filing Comments

The Commission has before it for consideration a request from the Joint Industry Committee on High Frequency Stabilized Arc Welders to extend the time for filing comments in the above proceeding from August 1, 1966, to November 1, 1966.

It appearing, that the Joint Industry Committee, at its meeting of June 1, 1966, considered the Commission's third notice of proposed rule making in this proceeding and concluded that the Committee itself should undertake a comprehensive coordinated testing program to study the proposed radiation limits and to review the measurement procedure as set forth in the proposed rules; and

It further appearing, that the Committee cannot complete such a testing program in time to file comments by August 1, 1966; and

It further appearing, that the data which the Committee will derive from its testing should be of interest to the Commission in the proceeding and, accordingly, the public interest will be served by granting the additional time requested:

It is ordered, This 13th day of July 1966, pursuant to § 0.251(b) of the Commission's rules, that the time for filing comments in this proceeding is extended to November 1, 1966, and the time for filing reply comments is extended to November 15, 1966.

Released: July 18, 1966.

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

[F.R. Doc. 66-8207; Filed, July 26, 1966; 8:48 a.m.]

[47 CFR Part 21]

[Docket No. 16778; FCC 66-655]

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

Allocation of Presently Unassignable Spectrum by Adjustment of Certain of Band Edges

In the matter of amendment of Part 21 of the Commission's rules with respect to the 150.8–162 Mc/s band to allocate presently unassignable spectrum to the Domestic Public Land Mobile Radio Service by adjustment of certain of the band edges; Docket No. 16778.

1. Notice of inquiry is hereby given in the above-entitled matter.

2. By notice of proposed rule making, Docket No. 16776, it is proposed, inter alia, that a portion of the presently unassignable spectrum in the 150.8–162 Mc/s band be allocated to the Domestic Public Land Mobile Radio Service for use as follows:

(a) The frequency pair 152.840/158.100 Mc/s for use by wire-line common carriers.

(b) The frequency pair 152.240/158.700 Mc/s for use by nonwire-line common carriers.

By this notice of inquiry, comments, data, views, and arguments are hereby solicited on or before September 30, 1966, from interested persons setting forth suggestions concerning the utilization of the channels proposed for each as to whether they should be assigned for two-way voice communications or for one-way signaling communications in the Domestic Public Land Mobile Radio Service. Recommendations with respect to one-way signaling should direct themselves to channel width, transmitter frequency stability, modulation system(s), signaling system(s), compatibility with adjacent channel operations using the same or different modulation systems and other technical requirements which should be applied to the use of such frequencies. The nature and extent of engineering measurements and observations in support of such recommendations also should be supplied. Comments in reply may be filed on or before October 31, 1966.

Adopted: July 20, 1966.

Released: July 22, 1966.

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

[F.R. Doc. 66-8212; Filed, July 26, 1966; 8:49 a.m.]

[47 CFR Part 73]

[Docket No. 16784, RM-834; FCC 66-669]

TELEVISION BROADCAST STATIONS

Table of Assignments; New Brunswick-Newark, N.J.

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

2. The Commission has before it for consideration a petition filed August 9, 1965, by New Jersey Television Broadcasting Corp., the licensee of Channel WNJU–TV, Linden, N.J., requesting that Channel 47 upon which it operates be reassigned from New Brunswick to Newark, N.J.

3. Petitioner makes the following allegations: The Commission authorized the station to operate on a channel assigned to New Brunswick, N.J., as a Linden, N.J., station, under the 15-mile rule (§ 73.607(b) of the Commission's rules and regulations) with a transmitter on the Empire State Building. Petitioner applied for Channel 47 to provide service to northern New Jersey when station which operated on Channel 13 was sold to Educational Broadcasting Corp. (Station WNDT) whose programing is primarily educational and oriented to New York, that is, a large void was left for commercial service at Newark and environs. The fifth report and order in Docket 14229, adopted February 9, 1966, which inter alia assigned Channel 68 to Newark, specifically referred to our considering this petition at some later date (see paragraph 70, 2 FCC 2d 527, 533).

4. Petitioner's main studio is in Newark under waiver of § 73.613 of the Commission rules and regulations, and multiple city identification with Newark also has been authorized. In the circumstances, petitioner feels that the reassignment would simply recognize current status.

5. Reliance is also placed on the difference of population between the two communities. Linden with a 1960 population of 39,939 while Newark has a population of 400,220 with a SMSA population of 1,689,420.

6. Accordingly, comments are invited on petitioner's proposal to amend the television table of assignments as follows:

City	Channel No.	
	Present	Proposed
New Brunswick, N.J.	*19, 47	*19
Newark, N.J.	13-, 68	13-, 47, 68

7. Authority for the adoption of the amendment proposed herein is contained in sections 4(i), 303(r), and 307(b) of the Communications Act of 1934, as amended.

8. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before August 29, 1966, and reply comments on or before September 9, 1966. All submissions by parties to this proceeding or by persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

9. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all written comments, reply comments, pleadings, briefs, or other documents, shall be furnished the Commission.

Adopted: July 20, 1966.

Released: July 22, 1966.

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

[F.R. Doc. 66-8208; Filed, July 26, 1966; 8:49 a.m.]

[1] Commissioner Johnson not participating.

[1] Commissioner Cox dissenting; Commissioner Johnson not participating.

[47 CFR Part 89]

[Docket No. 16781, RM-891; FCC 66-662]

POLICE RADIO SERVICE

Surveillance Activities on Available Frequencies

1. The Commission has received a petition from the Associated Public Safety Communications Officers, Inc. (APCO), supported by the International Association of Chief of Police (IACP), requesting that "any police agency authorized to operate in the Police Radio Service be permitted to utilize any channel assigned to the Police Radio Service for low-powered equipment needed in connection with police activity." The petition further proposes that such usage be limited by the following:

(1) The equipment does not exceed a power of 3 watts output, (2) the police agency using such equipment accepts full responsibility for the avoidance of interference to any nearby police department, and (3) that the frequency selected for the use of such equipment not be a frequency assigned to another police department within a distance of 35 miles.

2. The petitioner points out that since records of frequency assignments are open for public inspection, those engaged in criminal activity are able to know the specific frequency assigned to a given police department. Thus, they are able to monitor any assigned frequency and, thereby, to obtain information which thwarts the effectiveness of police raids and stakeouts of suspicious locations. Heretofore the frequency 39.06 Mc/s has been available to the Police Radio Service with a 3-watt input power limit for use in connection with surveillance activities. However, for the reasons stated above, usage of this frequency has not been effective. By permitting licensees in the Police Radio Service to use any of the frequencies available to this service, the police departments involved could change to other police frequencies periodically and minimize or eliminate the ability of lawbreakers to monitor their transmissions.

3. With respect to APCO's suggested limitations, the Commission is of the opinion that the power limitation is advisable to minimize possible harmful interference, but that it should be 3-watts "input" rather than output. However, instead of the other limitations suggested by the petitioner, the Commission is proposing that such operation be on a noninterference basis to any other licensee. This is a necessary protection since, in many cases, police frequencies are interspersed between those available to other public safety services. APCO's proposed 35-mile protection area would then appear to be unnecessary since all surveillance operation would, thus, be on a completely secondary and noninterference basis. It should also be noted that users of a nonassigned frequency must accept any interference from assigned frequency users.

4. Adoption of this proposal would require appropriate amendment of the Commission's rules to permit police licensees to utilize any frequency listed in § 89.309(g) above 40 Mc/s and available for mobile service, with a maximum power input of 3 watts. Such operation would be on a noninterference basis to other authorized systems. Further, the proposed operation would be restricted to special project types of use and the establishment of stations or systems for regular routine operations would not be permissible. Certain present requirements, such as mobile identification (§ 89.153(f)), would also not apply to such usage. Since the Commission is cognizant of the present difficulties facing police departments in discharging their public responsibilities, it appears appropriate to initiate this proceeding to enable them to carry out these duties more efficiently.

5. Authority for the proposed amendments is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

6. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before August 29, 1966, and reply comments on or before September 12, 1966. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

7. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all statements, briefs, and comments filed should be furnished the Commission.

Adopted: July 20, 1966.

Released: July 22, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[1]

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

[F.R. Doc. 66-8209; Filed, July 26, 1966; 8:49 a.m.]

[47 CFR Part 91]

[Docket No. 16777; FCC 66-654]

INDUSTRIAL RADIO SERVICES

Allocation of Certain Unassigned Band-Edge Frequencies

In the matter of amendment of Part 91 of the Commission's rules to allocate certain unassigned band-edge frequencies in the 150.8–162 Mc/s band, Docket No. 16777; petition of the Forest Industries Radio Communications for assignment of additional frequency space to the Forest Products Radio Service in the 150 Mc/s bands, RM-707; petition of Special Industrial Radio Service Association, Inc., for allocation of additional frequencies to the Special Industrial Radio Service in the 150 Mc/s bands, RM-752; petition of National Committee for Utilities Radio for amendment of Parts 21, 89, 91, and 93 of the Commission's rules to allocate certain frequencies in the 150–162 Mc/s bands, RM-884.

1. Notice of proposed rule making is given in the above-entitled matters.

2. In its notice of proposed rule making in Docket No. 16776 released this date, the Commission proposes to allocate 7, 30 kc/s spaces in the 150.8–162 Mc/s area, consisting of so-called guard bands between frequency spaces assigned to different radio services, to the Domestic Public land mobile radio services and to the private land mobile services. In that Docket, 3, 30 kc/s spaces would be allocated to the services governed by Part 91 of our rules. In this proceeding, we propose to reallocate these 3 spaces to the private land mobile services, if the Commission finally adopts the division of the spectrum proposed in Docket 16776. The following frequency spaces are involved:

152.465–152.495 (30 kc/s)
157.725–157.755 (30 kc/s)
158.445–158.475 (30 kc/s)

3. Three petitions for rule making pertaining to the allocation of this frequency space have been filed. RM-707 was filed by the Forest Industries Radio Communications Association (FIRCA) on January 4, 1965; RM-752 was filed by the Special Industrial Radio Service Association, Inc. (SIRSA), on March 30, 1965; and RM-884 was filed by the National Committee for Utilities Radio (NCUR) on November 26, 1965.

4. FIRCA requests that 10 frequencies in the 150.8–162 Mc/s area be allocated to the Forest Products Radio Service to be used for mobile relay operations in the States of Oregon, Washington, Idaho, and in the Southwestern and Southeastern United States. FIRCA claims that the frequencies now available to Forest Products Radio Service in the 150 Mc/s area are in use either by Forest Products licensees or by licensees in other services sharing these frequencies (e.g. Petroleum and Manufacturers Radio Services) and that clearance cannot be obtained from Canada for use of certain frequencies in the 158 Mc/s band along the border because of use of these frequencies by Canadians. It claims that the forest products industry requires communications over wide areas for mobile to mobile communications and that it needs frequencies in the 150 Mc/s area for mobile relay because frequencies in the 450 Mc/s area and in other possible areas are not suitable for that purpose. FIRCA points to the frequency spectrum in the guard bands as the source for part of the frequencies it requests.

5. SIRSA also points to the spectrum in the guard bands, lists the possible assignable frequencies, and requests that "a substantial number" of them be assigned to the Special Industrial Radio Service. It claims that the frequencies available to this service in the 150–162 Mc/s area are crowded, citing the 1963 study of our frequency assignment lists by the Electronics Industry Associations which, according to SIRSA, shows that as of June 1963 there were approximate-

[1] Commissioner Johnson not participating.

ly 8,000 transmitters authorized for each frequency assigned to the Special Industrial Radio Service in this area of the spectrum. SIRSA further states that in many metropolitan areas there are now 10 to 15 licensees with a total of 2 to 300 transmitter units operating on each 150 Mc/s frequency.

6. NCUR suggests that the guard bands in the 150.8–162 Mc/s area should be assigned to the services whose allocations are immediately adjacent to the particular guard band, and requests that the frequencies 153.7325, 158.10, and 158.115 Mc/s be assigned to the Power Radio Service. NCUR states that this service has a critical need for additional frequencies and would make good use of any frequencies it receives.

7. These petitions have been considered and have been disposed partially in the companion proceeding in Docket 16776. They are considered here only to the extent that they propose allocation of the spectrum which is the subject of this proceeding. However, in reaching our tentative proposals for allocating this spectrum we have also taken into consideration information available from other sources.

8. It should be noted at this point that the petitions listed as available more and, in some cases different, frequency spaces than are being considered here. Also, the petitioners did not agree among themselves on the specific guard band frequencies which they believed to be available. We need not discuss each frequency space mentioned. Suffice it to say that all of these frequencies are not available; for example, some are within the blocks already allocated to specific services, although they may not have been made available for regular assignment in the appropriate part of the rules. There are, however, a few narrow band-edge frequency spaces which are available, in addition to those being allocated here. Those frequency spaces will be disposed of in another proceeding possibly together with the various tertiary frequencies.

9. Most private land mobile services, with allocations in the 150 mc/s area, have requested additional frequencies in this area and we have recognized their needs. However, we feel that allocation of these three frequency spaces to one or more services for normal base and mobile communications would provide at best temporary relief to them in few locations of the country. On the other hand, there has developed in the past few years much demand for one-way radio communications service for paging. In fact, a number of one-way paging systems now operate on regularly assignable base and mobile frequencies. One-way paging communications, especially tone signaling, normally require less frequency spectrum than normal voice communication. Thus, it seems to us that the three, 30 kc/s bands made available in this proceeding would best serve the interests of the private land mobile users by making them available for one-way transmissions for paging, either voice or signaling. It also appears that the types of communications contemplated can be conducted on narrow channels.

10. Therefore, we propose to divide this 90 kc/s of spectrum into nine channels, each of 10 kc/s bandwidth, and to make them available for one-way communications. The majority of paging systems now in operation seem to exist in the Industrial Radio Services and the greater need for additional one-way communications service seems to be in those services. Therefore, we propose to make these nine channels available for paging to the Industrial Radio Services. However, if there is substantial need for this type of communications service in the Public Safety and in the Land Transportation Radio Services, we assume that licensees or their representatives in those services would make those needs known to us. Finally, although we realize that tone signaling may be employed to activate or control remote objects, we propose to limit the availability of these channels to paging in order to realize the maximum possible benefits for that purpose. Thus under our proposal, these frequencies would not be available for the control of remote objects.

11. Comments are requested on this proposal. Information is also requested on the availability of equipment to be used on these frequencies as proposed.

12. Accordingly, the petition filed by the Forest Industries Radio Communications Association (RM–707), is denied, and the petitions filed by the Special Industrial Radio Service Association (RM–752), and by the National Committee for Utilities Radio (RM–884) are granted to the extent indicated herein and are denied in all other respects.

13. The proposed amendments of the rules are issued pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

14. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before September 1, 1966, and reply comments on or before September 15, 1966. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in the proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

15. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs or comments filed shall be furnished the Commission.

Adopted: July 20, 1966.

Released: July 22, 1966.

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

[F.R. Doc. 66–8210; Filed, July 26, 1966; 8:49 a.m.]

[1] Commissioner Johnson not participating.

[47 CFR Part 93]

[Docket No. 16780; FCC 66–660]

RAILROAD RADIO SERVICE

Licensing of Unattended Stations Used in Conjunction With Right-of-Way Safety Inspection Devices

In the matter of amendment of Part 93, Subpart H, Railroad Radio Service, § 93.357, of the Commission's rules to provide for the licensing, on a regular basis, of unattended stations used in conjunction with right-of-way safety inspection devices; Docket No. 16780, RM–469.

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

2. The Seaboard Air Line Railroad Co. (Seaboard) has filed a Petition for amendment of the Railroad Radio Service Rules to provide for the regular licensing of automatic, unattended, transmitting devices which use voice, tone, and impulse emissions and are activated by train or right-of-way inspection devices.

3. The use to which petitioner and other railroads would dispose the stations to be licensed is basically safety in character, and involves so called "hot box" detection. A "hot box," apparently, is an overheated journal on certain railroad rolling stock, the timely detection of which can avert damage to the journal and prevent derailment of the train. The "hot box" detection radio stations petitioned for, and their use, would assure timely and accurate warnings to train crews of dangerously overheated journals. Seaboard has operated a number of these devices for a period of years, on a developmental basis, with much success, and no interference to other railroad users on the same frequency.

4. The Commission is disposed to consider an amendment to its Railroad Radio Service rules along the lines suggested by Petitioner. Essentially, our proposal would allow the use of Railroad Radio Service frequencies for "hot box" detection, subject to the conditions that (a) interference be not caused to other licensees operating on the same frequency; (b) the bandwidth used shall not exceed that authorized for voice transmission; (c) 50 watts input shall be the maximum power authorized; and (d) the stations shall be so designed that they may be activated only by associated control equipment; and deactivated automatically within 3 minutes following activation by the last car in the train. Tone, voice or impulse transmissions will be allowed. In this connection, we note specifically, that, station identification will be required. The full text of the proposed rules is set forth below.

5. Authority for this proposed amendment is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

6. Any interested person who is of the opinion that the proposed amendment should not be adopted in the form set forth herein may file with the Commis-

sion on or before September 14, 1966, written data, views or arguments setting forth his comments. Comments in support of the proposal may also be filed on or before the same date. Comments or briefs in reply to the original comments may be filed on or before September 29, 1966. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

7. In accordance with § 1.419 of the Commission's rules, an original and fourteen copies of all statements, views or comments filed shall be furnished the Commission.

Adopted: July 20, 1966.

Released: July 22, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[1]

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

Section 93.357(c) is amended to read as follows:

§ 93.357 Scope of service.

* * * * *

(c) Stations in this service operating on frequencies listed in § 93.352(a) may be used (1) for intercommunication between adjacent base stations, provided interference is not caused to communications involving radio stations aboard railroad rolling stock; and (2) for transmission of tone signals for signaling and control purposes where a satisfactory showing of need therefor has been made in compliance with § 93.103(b), provided interference is not caused to other stations licensed under this subpart; and (3) for transmission of tone or voice communications, including such communications when prerecorded, for purposes of automatically indicating abnormal conditions of trackage and railroad rolling stock when in motion, subject to the condition that no harmful interference is caused to any other licensee on the particular frequency. All such operations shall be subject to the following limitations:

(i) The plate power input to the final radio frequency stage shall not exceed 50 watts.

(ii) The bandwidth used shall not exceed that authorized to the licensee for voice transmissions on the frequency concerned.

(iii) The station shall be so designed and installed that it can normally be activated only by its associated automatic control equipment and, in addition, it shall be equipped with a time delay or clock device which will deactivate the station within three (3) minutes following activation by the last car in the train.

(iv) Stations authorized pursuant to the provisions of this subparagraph are exempt from the requirements of § 93.107(c).

* * * * *

[F.R. Doc. 66-8211; Filed, July 26, 1966; 8:49 a.m.]

[1] Commissioner Johnson not participating.

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 170]

[Ex Parte No. MC-37 (Sub-No. 2)]

MINNEAPOLIS-ST. PAUL COMMERCIAL ZONE

Redefinition of Limits; Extension of Time

JULY 18, 1966.

Redefinition of the limits of the Minneapolis-St. Paul, Minn., commercial zone, heretofore defined in Ex Parte No. MC-37, Commercial Zones and Terminal Areas, 48 M.C.C. 441 at page 453.

At the request of interested persons, the time for filing written representations in favor of, or against, the proposed revision of the Minneapolis-St. Paul, Minn., commercial zone (31 F.R. 7841) is further extended to September 8, 1966.

By the Commission.

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

[F.R. Doc. 66-8187; Filed, July 26, 1966; 8:47 a.m.]

Notices

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

STATEMENT OF ORGANIZATION

Ports of Entry; Port Isabel, Tex.

Effective upon publication in the FEDERAL REGISTER, the following amendment to the Statement of Organization of the Immigration and Naturalization Service (19 F.R. 8071, Dec. 8, 1954), as amended, is prescribed:

The listing of Class A ports of entry in District No. 36—Port Isabel, Tex., of subparagraph (2) *Ports of entry for aliens arriving by vessel or by land transportation* of paragraph (c) *Suboffices* of section 1.51 *Field service* is amended to read as follows:

DISTRICT NO. 36—PORT ISABEL, TEX.

CLASS A

Beaumont, Tex.
*Brownsville, Tex. (The port of Brownsville includes, among others, the port facilities at Port Isabel, Tex.).
*Corpus Christi, Tex. (The port of Corpus Christi includes, among others, the port facilities at Harbor Island, Ingleside, and Port Lavaca-Point Comfort, Tex.).
*Galveston, Tex. (The port of Galveston includes, among others, the port facilities at Freeport, Port Bolivar, and Texas City, Tex.).
*Houston, Tex. (The port of Houston includes, among others, the port facilities at Baytown, Tex.).
*Port Arthur, Tex. (The port of Port Arthur includes, among others, the port facilities at Orange and Sabine, Tex.).

Dated: July 22, 1966.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[F.R. Doc. 66-8195; Filed, July 26, 1966; 8:47 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

SCHERING CORP.

Notice of Filing of Petition for Food Additives Amprolium, Dienestrol Diacetate

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 has been filed by Schering Corp., Bloomfield, N.J. 07003, proposing the amendment of § 121.210 *Amprolium* and § 121.266 *Dienestrol diacetate* to provide for the safe use of the combination drug in the feed of roaster and fryer chickens for the prevention of coccidiosis and for the promotion of fat distribution for tenderness and bloom.

Dated: July 20, 1966.

J. K. KIRK,
Acting Commissioner of Food and Drugs.

[F.R. Doc. 66-8199; Filed, July 26, 1966; 8:48 a.m.]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 1]

SALES OF CERTAIN COMMODITIES

July Sales List

Pursuant to the policy of the Commodity Credit Corporation issued October 12, 1954 (19 F.R. 6669), and subject to the conditions stated therein, the CCC Monthly Sales List for July 1966 is amended as set forth below:

Private stocks of corn, grain sorghum, wheat, wheat flour, and tobacco now are eligible to be exported under barter contracts covering procurements for Federal agencies that will reimburse Commodity Credit Corporation.

Dry edible beans are withdrawn from the CCC Monthly Sales List since stocks have been depleted.

(Sec. 4, 62 Stat. 1070, as amended, 15 U.S.C. 714b. Interpret or apply sec. 407, 63 Stat. 1066; sec. 105, 63 Stat. 1051, as amended by 76 Stat. 612; secs. 303, 306, 307, 76 Stat. 614-617; 7 U.S.C. 1427; 1441 (note))

Signed at Washington, D.C., on July 21, 1966.

E. A. JAENKE,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 66-8164; Filed, July 26, 1966; 8:45 a.m.]

[Amdt. 2]

SALES OF CERTAIN COMMODITIES

July Sales List

Pursuant to the policy of the Commodity Credit Corporation issued October 12, 1954 (19 F.R. 6669), and subject to the conditions stated therein, the CCC Monthly Sales List for July 1966 is amended as set forth below:

The export section of the July Sales List is amended to provide that sales of CCC-owned corn will only be made for application to barter contracts and approved CCC credit. Paragraph A of the export section with respect to corn, bulk, is deleted accordingly.

(Sec. 4, 62 Stat. 1070, as amended; 15 U.S.C. 714b. Interpret or apply sec. 407, 63 Stat. 1066; sec. 105, 63 Stat. 1051, as amended by 76 Stat. 612; secs. 303, 306, 307, 76 Stat. 614-617; 7 U.S.C. 1441 (note))

Signed at Washington, D.C., on July 21, 1966.

E. A. JAENKE,
Acting Executive Vice President, Commodity Credit Corporation.

[F.R. Doc. 66-8163; Filed, July 26, 1966; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

UNITED SECURITY LIFE INSURANCE CO.

Order Suspending Trading

JULY 21, 1966.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $1 par value, of United Security Life Insurance Co., Birmingham, Ala., otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period July 22, 1966, through July 31, 1966, both dates inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
Secretary.

[F.R. Doc. 66-8178; Filed, July 26, 1966; 8:46 a.m.]

ATOMIC ENERGY COMMISSION

STATE OF NEBRASKA

Proposed Agreement for Assumption of Certain AEC Regulatory Authority

Notice is hereby given that the U.S. Atomic Energy Commission is publishing for public comment, prior to action thereon, a proposed agreement received from the Governor of the State of Nebraska for the assumption of certain of the Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

A resume, prepared by the State of Nebraska and summarizing the State's proposed program, was also submitted to the Commission and is set forth below as an appendix to this notice. Attachments referenced in the appendix are included in the complete text of the program. A copy of the program, including proposed Nebraska regulations, is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.,

or may be obtained by writing to the Director, Division of State and Licensee Relations, U.S. Atomic Energy Commission, Washington, D.C. 20545. All interested persons desiring to submit comments and suggestions for the consideration of the Commission in connection with the proposed agreement should send them, in triplicate, to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 20545, within 30 days after initial publication in the FEDERAL REGISTER.

Exemptions from the Commission's regulatory authority which would implement this proposed agreement, as well as other agreements which may be entered into under section 274 of the Atomic Energy Act, as amended, were published as Part 150 of the Commission's regulations in FEDERAL REGISTER issuances of February 14, 1962, 27 F.R. 1351; September 22, 1965, 30 F.R. 12069; and March 19, 1966, 31 F.R. 4668. In reviewing this proposed agreement, interested persons should also consider the aforementioned exemptions.

Dated at Washington, D.C., this 1st day of July 1966.

For the Atomic Energy Commission.

W. B. McCOOL,
Secretary.

PROPOSED AGREEMENT BETWEEN THE U.S. ATOMIC ENERGY COMMISSION AND THE STATE OF NEBRASKA FOR DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY AND RESPONSIBILITY WITHIN THE STATE PURSUANT TO SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Whereas, the U.S. Atomic Energy Commission (hereinafter referred to as the Commission) is authorized under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act) to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8 and section 161 of the Act with respect to byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, the Governor of the State of Nebraska is authorized under section 71–3509 of the 1963 Radiation Control Act, to enter into this Agreement with the Commission; and

Whereas, the Governor of the State of Nebraska, certified on June 3, 1966, that the State of Nebraska (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

Whereas, the Commission found on , that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, the State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, the Commission and the State recognize the desirability of reciprocal recognition of licenses and exemption from licensing of those materials subject to this Agreement; and

Whereas, this Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

Now, therefore, it is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

ARTICLE I. Subject to the exceptions provided in Articles II, III, and IV, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and section 161 of the Act with respect to the following materials:

A. Byproduct materials;

B. Source materials; and

C. Special nuclear materials in quantities not sufficient to form a critical mass.

ART. II. This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

A. The construction and operation of any production or utilization facility;

B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission.

ART. III. Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

ART. IV. This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

ART. V. The Commission will use its best efforts to cooperate with the State and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

ART. VI. The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

ART. VII. The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that such termination or suspension is required to protect the public health and safety.

ART. VIII. This Agreement shall become effective on October 1, 1966, and shall remain in effect unless, and until such time as it is terminated pursuant to Article VII.

POLICIES AND PROCEEDURES FOR THE CONTROL OF IONIZING RADIATION

FOREWORD

This narrative describes the policies and procedures of the State of Nebraska, Department of Health, radiological health program relating to the regulation of ionizing radiation sources. The control program will be conducted by the Division of Radiological Health.

AUTHORITY

Section 274b, 1954 Atomic Energy Act, as amended, authorizes an agreement between the U.S. Atomic Energy Commission and the Governor of a State. The agreement transfers to the State licensing and regulatory control of certain byproduct, source, and special nuclear materials. Transfer of this control depends upon an evaluation and acceptance by the Commission of the State's competence to administer a licensing and regulatory program.

Paragraph (1), section 71–3509 of the 1963 Radiation Control Act, authorizes the Governor of Nebraska to enter into the agreement. The Act makes the Department of Health responsible for public health and safety matters of ionizing radiation. The Department is authorized by the Act to develop rules and regulations for the safe use of radiation, registration of radiation sources, and licensing of radioactive materials in accordance with the agreement. The Act also authorizes a nine-member Radiation Advisory Council to the State Board of Health.

HISTORY

The Nebraska Department of Health has been engaged in radiological health since 1956 when public interest in fallout and X-ray exposures became significant. Until 1962, this program was an integral part of the Division of Laboratories, occupying the attention of at least one full-time technical employee. When funds were available, counting equipment and survey instruments were purchased. Personnel were given specialized training on the job or at courses offered by the U.S. Public Health Service and the U.S. Atomic Energy Commission.

On September 17, 1962, the State Board of Health created a separate Division of Radiological Health and transferred personnel from the Division of Laboratories to the newly created Division. This was done because the workload became significant, public interest was high in the health hazards associated with nuclear fallout and to take advantage of recently announced categorical funds from the U.S. Public Health Service.

During the period 1956–62 several hundred X-ray units had been physically inspected, a basic environmental surveillance capability established and various educational and assistance programs were inaugurated, especially in the area of radiological civil defense.

Until July 1964, the Director of Laboratories was Acting Director of the Division of Radiological Health. A permanent Director of Radiological Health was hired in July 1964, and subsequent staff vacancies were filled.

Early in 1964, safety inspections of dental X-ray machines began using the Dental Sur-

pak method. By August of 1965 virtually all dental machines had been surveyed at least once. Correction of machine deficiencies was carried out as soon as results of the survey were obtained. Although some physical X-ray inspections of medical and industrial units had been carried out in the past, a concentrated effort to inspect all such sources in the State began in July 1965.

The environmental surveillance program has been strengthened and refined by acquiring low background gamma spectrum analysis equipment and establishing a statewide milk sampling network. The functional counting and survey equipment inventory is valued at $32,000.

LICENSING AND REGISTRATION

The State program will control all sources of ionizing radiation except those sources for which regulatory control has been retained by the U.S. Atomic Energy Commission.

Nebraska's Radiological Health Regulations have been developed in accordance with recommendations of the Radiation Advisory Council, U.S. Public Health Service, U.S. Atomic Energy Commission, and the Council of State Governments. Licensing and registration requirements will become effective on the effective date of the AEC-Nebraska Agreement.

Registration is required for radiation producing equipment; radium, radon, other naturally occurring and accelerator-produced radioactive materials of nonexempt quantities and types.

Section 71–3512 of the 1963 Radiation Control Act exempts hospitals and related institutions from the requirements of registration. However, information on sources of radiation is available to the radiation control program from applications for operating licenses issued by the Department which are renewed annually. Hospitals and related institutions are not exempt from the licensing requirements of the Act and Radiological Health Regulations.

Provisions have been made for the issuance of both specific and general licenses for byproduct, source, and special nuclear materials. Specific licenses will be issued to authorize receipt, use, possession, transfer or disposal of radioactive materials not exempted or generally licensed by the Department.

The licensing program will be essentially identical to that presently used by the U.S. Atomic Energy Commission. Applications for specific licenses will be reviewed and approved or disapproved by the Director, Division of Radiological Health. Prelicensing inspections will be made when necessary. Qualified members of the Radiation Advisory Council will be called upon for advice and assistance in evaluation of license applications for human use of licensed radioactive material when the proposed use is nonroutine. Other consultants may be named by the Board of Health as needed for unusual circumstances.

The signature of the Director, Division of Radiological Health, will be required on all specific licenses issued. Specific licenses for human use of radioactive material will also require the signature of the Director of Health.

INSPECTION

Periodic inspections will be conducted to determine a licensee's or registrant's degree of compliance with regulations and license conditions. These inspections will be performed by personnel of the Division of Radiological Health who are qualified to evaluate radiological health hazards and are conversant with the regulations.

Most inspections will be unannounced. The following frequency is planned but may be increased or decreased depending on individual circumstances:

Waste Disposal Operations—once each 4 months;

Industrial Radiographers—once each 12 months;

Broad Licenses—Industrial, Medical, Academic—once each 12 months;

Specific Licenses—Industrial, Medical, Academic—once each 24 months; and

Others—based on the hazards associated with the program.

Inspections will be comparable to the type now undertaken by the Division of Compliance of the U.S. Atomic Energy Commission.

At the end of each inspection, the inspector will confer with the licensee to discuss the results of his inspection, presenting recommendations or suggestions. During this meeting he will also answer questions on the regulatory program.

The inspector will submit a written report to the Director, Division of Radiological Health, on the results of each inspection. The report will enumerate items of noncompliance and, if any, include recommendations. Recommendations made by inspectors in the field are subject to critical review by senior members of the Division of Radiological Health.

Licensees are to be informed of any items of noncompliance observed during each inspection by letter from the Department after the inspection if items of noncompliance are of a more serious nature or by notice at the time of inspection if the items of noncompliance are only minor.

COMPLIANCE

If only minor items of noncompliance, such as improper signs, failure to label, etc., are involved which the licensee agrees in writing at the time of inspection to correct, no further action will be taken by the Department. Any corrective action taken by the licensee will be reviewed during the next inspection.

If the inspection reveals noncompliance of a more serious nature, the licensee will be required to correct such items within a time period to be specified by the Department based upon the degree of the hazard involved. The licensee will be required to inform the Department in writing at the end of the specified time period, usually 15 to 30 days, as to the corrective action he has taken. The Department will conduct a followup inspection or the matter will be reviewed during the next regular inspection to determine that the corrective action has been accomplished.

ENFORCEMENT

When, in the judgment of the Department, a person is engaged or about to engage in any act or practice in violation of the Radiation Control Act or the Radiological Health Regulations issued under the Act, the Nebraska Attorney General, or any county attorney, at the request of the Department, may make application to the district court for an order enjoining such act or practice or to direct compliance.

Should the Department determine that an emergency exists affecting the public health and safety, it has the authority to issue an order or regulation, effective immediately, to meet the emergency and to impound sources of ionizing radiation in the possession of any person who is not equipped to observe or fails to observe the provisions of the Act or any rules or regulations issued under the Act.

The Act also provides an opportunity for any person to whom an emergency order or regulation is directed to file an application to the Department of Health for a hearing not less than 15 days nor more than 30 days after the filing of such an application. The Health Department shall, within 30 days after such hearing and on the basis of the hearing, continue, modify or revoke an order or regulation and mail the applicant a copy of its findings of fact and determination.

In accordance with section 3.12 of the Radiological Health Regulations, the terms of all Radioactive Material Licenses are subject to amendment, revision or modification. By order of the Director of Health, the Department may suspend, revoke or modify any license because of amendment to the Radiation Control Act; changes in or additions to the regulations on orders of the Department; false statements by the applicant for a license; and violations of or failure to observe the rules, regulations or orders of the Department of Health.

Section 71–3517 of the Act provides penalties, upon conviction, by fine for those persons who violate provisions of the Act or rules and regulations issued thereunder.

The full legal procedures will normally be used only in those instances where there is continued noncompliance after notice, deliberate and willful negligence on the part of a licensee or registrant or where a serious potential hazard exists.

RECIPROCITY AND COMPATIBILITY

The Nebraska Radiological Health Regulations provide for reciprocal recognition of licenses issued by the U.S. Atomic Energy Commission or any Agreement State. These regulations are consistent with those of the U.S. Atomic Energy Commission and, as far as possible, with other "Agreement" state regulations.

STAFFING AND DELEGATION OF AUTHORITY

The State of Nebarska Department of Health is responsible for administering provisions of the Radiation Control Act. The accompanying organization chart illustrates the lines of authority within the State.

The eight members of the State Board of Health are appointed by the Governor and administer the Department of Health. E. A. Rogers, M.D., M.P.H., Director of Health, conducts the affairs of the Department during the intervals between the Board meetings. Heinz G. Wiims, M.S., Director of Radiological Health, is responsible to the Director of Health and presents a periodic and annual report to the Board of Health. The Director of Radiological Health also acts as executive secretary of the Radiation Advisory Council to the Board of Health.

The Radiation Advisory Council consists of nine members appointed by the Governor. Council members represent the fields of (a) radiology, (b) medicine, exclusive of radiology, (c) health physics, (d) law, (e) agriculture, (f) labor, (g) industry, (h) dentistry, and (i) chiropractic, osteopathy or podiatry. The Council provides valuable advice to the Department of Health on policy and technical matters relating to the use and regulation of sources of ionizing radiation.

The Director of Radiological Health has technical and administrative supervision of the Radiological Health program.

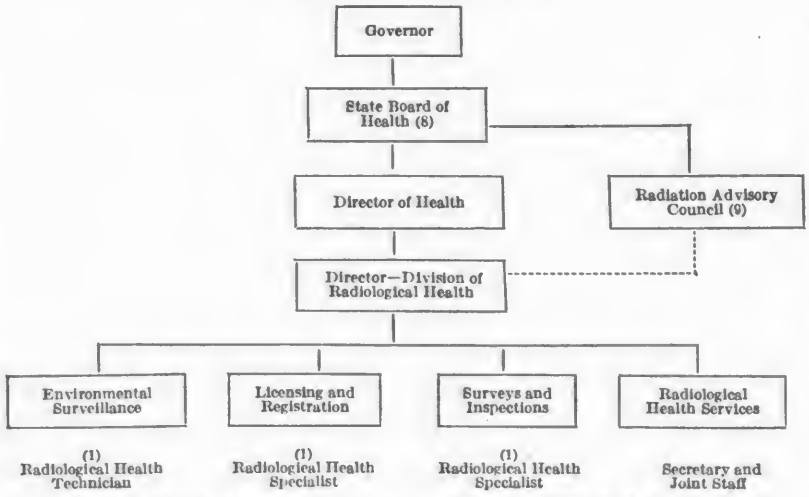
Radiological Health Specialists assist the Director in license application evaluations and issuance of specific licenses. Specialists also conduct and supervise licensee compliance inspections. Radiological Health Inspectors can conduct compliance inspections under supervision of a Specialist.

Newly employed Specialists and Inspectors will assume duties in licensee inspection after receiving training in broad aspects of the State's Radiological Health Program.

Persons hired to replace current personnel will be required to have equivalent capabilities in radiological health before conducting license application review or licensee inspections.

STATE OF NEBRASKA, DEPARTMENT OF HEALTH, DIVISION OF RADIOLOGICAL HEALTH

ORGANIZATION AND ACTIVITIES CHART



HEINZ G. WILMS, B.S., M.S.

DIRECTOR, DIVISION OF RADIOLOGICAL HEALTH

EDUCATION

B.A. in Physics, Westmar College, LeMars, Iowa, 1960; M.S. in Radiological Science, University of Washington, Seattle, 1962; AEC Health Physics Fellowship, 1960–1962; Radiation Protection Course, Hanford Atomic Products Operation, Richland, Wash., Summer, 1961; AEC Orientation Course in Licensing and Regulatory Practices (3 weeks), Bethesda, Md., September, 1965; Radium Hazards and Control (1 week), USPHS, Montgomery, Ala., December 1965.

EXPERIENCE

1962–1963—Health Physicist for U.S. Geological Survey, Denver, Colo. Responsible for total radiation safety and licensing program of the USGS. Radiation usage included 1 and 10 curies Pu-be neutron sources; radium and cobalt-60 gamma sources for gamma well logging and instrument calibration; soil moisture and density probes using neutron sources; Antimony 124 used in beryllium exploration and quantitative analysis (50 mc and 1 curie respectively); uranium ores, fission product samples and various isotopes for radiochemical analyses; conducted leak tests and radiation surveys and prepared radiation protection procedures and kept inventories of radioactive material. Also was Bureau Safety Officer for USGS.

1963–1964—Health Physicist-Engineer A—Pan American World Airways, Nuclear Rocket Development Station, Nev. Supervisor in Radiation Services Department of PAA. In charge of industrial radiography, assisted in reactor power test radiation safety support in reentry procedures, special nuclear materials Accountability Officer and performed staff functions including preparation of rad-safe procedures.

1964–Present—Director, Division of Radiological Health, in charge of State radiological health program encompassing X-ray inspections; radioactive materials control, preparation of Radiological Health Regulations and overall charge of licensing and registration program. Has accompanied AEC inspector during routine inspections of licensees in Nebraska since 1964.

ORLEN N. JOHNSON, B.S., D.D.S., M.S.

RADIOLOGICAL HEALTH SPECIALIST I

EDUCATION

B.S., University of Minnesota, 1957; D.D.S., University of Minnesota, 1959; M.S., Major in Radiological Health, Wayne State University, Detroit, Mich., 1964; Basic Radiological Health (2 weeks), USPHS, Rockville, Md., May 1962; Medical X-ray Protection (2 weeks), USPHS, Rockville, Md., October 1964; Radiation and Radiation Protection (two semesters), University of Nebraska, 1965–1966; Radium Hazards and Control (1 week), USPHS, Montgomery, Ala., December 1965; AEC Orientation Course in Licensing and Regulatory Practices (3 weeks), Bethesda, Md., March 1966.

EXPERIENCE

1964–1965—Director, Professional Education, Dental X-ray Program, State Assistance Branch, Division of Radiological Health, U.S. Public Health Service, Rockville, Md.; most important duties consisted of investigating and promoting educational materials on radiation hygiene for incorporation into dental education; planning and developing educational material, such as pamphlets, displays, brochures, table clinics, and movies; participating in speaking engagements and educational presentations; working with State health departments, the American Dental Association, dental schools, and dental societies to develop radiological health educational programs for teachers of oral roentgeneology, dental students and practicing dentists.

August 1965 to present—Radiological Health Specialist, Nebraska State Health Department, Division of Radiological Health, Lincoln, Nebr., (PHS State Assignee); in charge of radium inspection, registration and assists in X-ray inspections and environmental surveillance; has accompanied AEC inspector during routine compliance inspections at licensee locations in Nebraska since 1965; has assisted in preparation of the Radiological Health Regulations; will assist Director in licensee inspections after effective date of Agreement until sufficient experience has been obtained to conduct inspections alone; will assist Director in evaluation of license applications.

H. ELLIS SIMMONS, B.S., M. of S.S. AND P.H.

RADIOLOGICAL HEALTH SPECIALIST I

EDUCATION

B.S. in Biological Science, Kansas State Teachers College, Emporia, Kans., 1952; Master of Sanitary Science and Public Health, Major in Radiological Health, Oklahoma University, Norman, Okla., 1964; Medical X-ray Protection (2 weeks), USPHS, Rockville, Md., May 1965; Radiation and Radiation Protection (two semesters), University of Nebraska, 1965–1966; AEC Orientation Course in Licensing and Regulatory Practices (3 weeks), Bethesda, Md., March 1966.

EXPERIENCE

1954–1965—Public Health Environmental Sanitarian, Omaha-Douglas County Health Department, Omaha, Nebr.; 10 years experience in environmental sanitation; supervisor of milk sanitation program; given responsibility for development of an air pollution program.

March 1965–Present—Radiological Health Specialist, Nebraska State Health Department, Division of Radiological Health, Lincoln, Nebr.; in charge of and conducts X-ray inspection of medical, dental, industrial, veterinarian facilities; assists in radium surveys, environmental surveillance and registration; assisted in preparation of Radiological Health Regulations; accompanied AEC inspectors during routine compliance inspections of licensed facilities in Nebraska since 1965; will assist Director in license inspection after effective date of Agreement until he has sufficient experience to conduct inspections alone; will assist Director in evaluation of license applications.

EDWARD R. WILLIAMS

RADIOLOGICAL HEALTH TECHNICIAN

EDUCATION

113 hours college credit toward B.S. in Chemistry, University of Nebraska; X-ray-Lab Technician training, U.S. Army (Autumn, 1953); Course in Industrial Uses of Isotopes (two semesters, 1961), University of Omaha, Omaha, Nebr.; 1 week state conference on radiological health, USPHS, Las Vegas, Nev., May 1960; AEC Orientation Course in Licensing and Regulatory Practices (3 weeks), Bethesda, Md., September 1963; Radiation and Radiation Protection (two semesters), University of Nebraska, 1965–1966.

EXPERIENCE

1958–Present—Radiological Health Technician, Nebraska State Health Department, Division of Radiological Health, Lincoln, Nebr.; work included activation analysis experiments at Omaha Veterans Administration Hospital, Omaha, Nebr., during a period of about 1½ years. Performs analysis of environmental surveillance samples (air, precipitation, water, and milk). Assists in X-ray surveys. Has accompanied AEC inspector during routine compliance inspections of licensed facilities in Nebraska since 1961. He will assist Director in licensee inspections after effective date of Agreement. When promoted to Inspector after obtaining degree and sufficient experience, he will be able to conduct licensee inspections alone, limited to facilities of a low priority nature. Subsequent experience and training will permit advancement to Specialist with increased responsibility and completion in licensee inspections.

[F.R. Doc. 66-7375; Filed, July 5, 1966; 8:48 a.m.]

[Docket Nos. 50-259, 50-260]

TENNESSEE VALLEY AUTHORITY

Notice of Application for Construction Permit and Facility License

Please take notice that the Tennessee Valley Authority, 818 Power Building, Chattanooga, Tenn. 37401, pursuant to section 104(b) of the Atomic Energy Act of 1954, as amended, has filed an application for authority to construct and operate a two unit nuclear powerplant to be located at the applicant's Browns Ferry site, approximately 10 miles southwest of Athens, Ala., and 10 miles northwest of Decatur, Ala., in Limestone County.

The proposed nuclear powerplant will consist of two single cycle, forced circulation, boiling water reactors, designated by the applicant as the Browns Ferry Nuclear Power Plant Units 1 and 2, each having a design capacity of 1,098 megawatts gross electrical derived from a thermal capacity of approximately 3,293 megawatts.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Md., this 20th day of July 1966.

For the Atomic Energy Commission.

R. L. DOAN,
Director,
Division of Reactor Licensing.

[F.R. Doc. 66-8151; Filed, July 26, 1966; 8:45 a.m.]

CIVIL AERONAUTICS BOARD

[Docket No. 16236; Order No. E-23940]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Specific Commodity Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of July 1966.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conference 1-2 of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated July 8, 1966,[1] as set forth in the attachment hereto, names rates under a new commodity description—Machines for Aircraft Arresting, Catapulting, and Retrieving. The rates will apply from New York to points within Europe and will afford significant reductions from the otherwise applicable rate. For example, the New York-London rate would afford a reduction of 43.6 percent for a minimum weight of 200 kilograms, and a reduction of 38.8 percent for a minimum weight of 1,000 kilograms.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find the subject agreement to be adverse to the public interest or in violation of the Act, provided that approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered:

That Agreement CAB 18934, R-8,[2] be approved, provided that approval thereof shall not constitute approval of the specific commodity description contained therein for purposes of tariff publication.

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 19 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. 66-8188; Filed, July 26, 1966; 8:47 a.m.]

[1] Received in the Board July 11, 1966.

[2] Filed as part of the original document.

FEDERAL COMMUNICATIONS COMMISSION

[FCC 66-674; Public Notice—G]

PUBLIC'S RIGHT TO INFORMATION

Compliance With Freedom of Information Law

JULY 21, 1966.

The Federal Communications Commission announced today that it would promptly begin compliance with Public Law 89-487, the so-called Freedom of Information Law, rather than wait until the effective date of the law in July 1967. Immediate steps to implement the law and bring FCC practice into full compliance will be supervised by Chairman Rosel H. Hyde.

The law, which is an amendment to section 3 of the Administrative Procedure Act, was signed by President Johnson on July 4, 1966. At that time the President called on all agencies "to make information available to the full extent consistent with individual privacy and the national interest." Chairman Hyde stated that the FCC is fully committed to observe the letter and the spirit of the law and to achieve the objective stated by the President.

Chairman Hyde noted that the FCC had started publishing all Commission orders, opinions and other documents of precedential significance in July 1965, and within recent months had started the preparation of an index to all reported Commission decisions. These measures are among those which will be required by the new law. In addition, a review of Commission practices and records will be made to insure that all records are available to the public except those which are specifically privileged to be withheld. Other actions to implement the new law will include coordination with other interested Government agencies.

Adopted: July 20, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-8213; Filed, July 26, 1966; 8:49 a.m.]

[1] Commissioner Johnson not participating.

[FCC 66-682; Public Notice]

LAND MOBILE RADIO SERVICES

Establishment of Committee for Testing Sharing of Television Channels

JULY 22, 1966.

On June 30, 1966, at the direction of the Commission, a meeting was held by industry and FCC personnel concerned with sharing of television channels with the land mobile services. As a result, the Commission today adopted a further notice of inquiry in Docket 15398 in which it concluded that the information necessary for a decision regarding shared use of television channels by stations in the land mobile services is incomplete and that some of the required data can be obtained only through field tests involving actual operation of a typical land mobile system on a television channel. Additionally, the Commission requested information from interested parties concerning television receiver characteristics.

As an initial step toward setting up field tests, the Commission, effective this date and in accordance with section 3(b) of Executive Order 11007, is establishing an advisory committee to be composed of representatives from the Commission, The National Association of Broadcasters (NAB), Electronic Industries Association (EIA), National Association of Manufacturers (NAM), Association of Maximum Service Telecasters, Inc. (AMST), and the Joint Technical Advisory Committee (JTAC). This committee will be expected to: (1) Assess and analyze the information now available which bears on the feasibility of sharing television channels; (2) identify such additional information as may be necessary or desirable for a proper decision in the matter; (3) determine what part of, and the manner in which, such additional information can be obtained through field tests; (4) set up parameters and guidelines for tests which will provide meaningful results under conditions closely approximating normal operations of land mobile stations; (5) arrange for and conduct such tests; and (6)

submit appropriate reports to the Commission concerning such test data.

As pointed out in the initial notice of inquiry in this proceeding, consideration of the feasibility of sharing television channels by stations in the land mobile radio services is restricted initially to the VHF Channels 2 through 13 since the VHF Table of Assignments is more stabilized than is the Table of UHF assignments which is being changed frequently. Testing of UHF channel sharing may, however, be conducted at a later date. So long as the test purposes and parameters are reasonable, no other restrictions will be placed on the committee at this time except that such tests should be conducted in a thoroughly professional manner and as expeditiously as possible.

The date and place of the first meeting and the appointment of a chairman will be announced shortly.

Adopted: July 20, 1966.

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

[F.R. Doc. 66-8214; Filed, July 26, 1966; 8:49 a.m.]

[Docket No. 15398; FCC 66-681]

TELEVISION AND LAND MOBILE SERVICES

Further Notice of Inquiry

In the matter of an inquiry into the optimum frequency spacing between assignable frequencies in the land mobile service and the feasibility of frequency sharing by television and land mobile services, Docket No. 15398.

1. Because the Advisory Committee for Land Mobile Radio Services is considering the practicability of reducing channel spacing in the frequency bands allocated to the land mobile services, this further notice of inquiry is concerned only with that portion of the above-captioned docket proceeding dealing with the feasibility of sharing frequencies between stations in the television broadcasting and land mobile radio services.

2. The Commission has under study the comments filed in this proceeding with a view toward determining the means by which sharing of television channels by land mobile services, if deemed feasible, could be accomplished. The Electronic Industries Association (EIA) and the Joint Technical Advisory Committee (JTAC), which were specifically invited to file comments, conclude that carefully controlled sharing of television channels by land mobile services is technically feasible and each submitted extensive information in support of those views. The Association of Maximum Service Telecasters, Inc. (AMST), also filed extensive comments, but in opposition to those of EIA and JTAC.

3. In the Commission's view, the wide divergence of opinion indicates either that data used as the basis for the theoretical computations were misinterpreted by the two factions or that opinions were developed on different bases. Because the Commission is not satisfied that sufficient data are available at this time to make a sound judgment regarding the practicability of sharing as proposed herein, it has decided to take two courses of action, both of which stem from the overall conclusion that tests should be conducted to provide additional information on which such a judgment may be based and which cannot be obtained from theoretical or laboratory studies.

4. The first course of action is to establish a Committee To Test Sharing of Television Channels by Land Mobile Radio Systems. This Committee and the scope of its authority is set forth in the public notice adopted this date. Secondly, while the Committee is forming, the Commission must obtain additional information which was not submitted in the original comments. This information, considered essential before a complete and accurate analysis of the comments can be made, refers to television receivers primarily and is as follows:

(a) How, and to what degree, are various television receivers affected when operating in strong signal areas (e.g., 1 to 5 volts at the receiver antenna terminals) when subjected simultaneously to signals from stations in the land mobile service?

(b) What is the effect on television receivers of signals from multiple land mobile base transmitters operating simultaneously in the same area?

(c) There is insufficient information in the docket on tests that have already been conducted regarding adjacent and cochannel desired-to-undesired signal ratios which result in interference in television receivers. More detailed data are needed in order to determine median values and distributions of the performance characteristics of representative high and low VHF band television channels. These data should cover a range of frequencies from 6 Mc/s below to 6 Mc/s above that to which the measured receiver was tuned, and a range of desired signal levels including levels up to several volts.

(d) Information is also needed as to the estimated number of receivers in use by the public represented by each of the measured receivers, whether the receivers were color or monochrome, and whether the television signal was color or monochrome.

(e) What effect will solid state receivers have on the aforementioned data?

10. In accordance with § 1.419 of the Commission's rules, interested parties are requested to file an original and 14 copies of all comments and statements on or before September 2, 1966, and reply comments on or before September 19, 1966.

Adopted: July 20, 1966.

Released: July 22, 1966.

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

[F.R. Doc. 66-8215; Filed, July 26, 1966; 8:49 a.m.]

[Docket No. 16058; FCC 66-677]

COMMUNICATIONS SATELLITE CORP.

Memorandum Opinion and Statement of Policy

In the matter of authorized entities and authorized users under the Communications Satellite Act of 1962, Docket No. 16058.

Preliminary Statement. 1. During April, May, and June 1965, the Commission received requests from several concerns (including press wire services, a newspaper, a television network, and an airline) for information regarding procedures to be followed in order that such concerns might be authorized to obtain satellite telecommunication services directly from the Communications Satellite Corporation (Comsat). On May 28, 1965, Comsat forwarded to the Commission its initial tariff, offering channels of communication via satellite to communications common carriers only. In an accompanying letter of transmittal the Corporation stated that in the event that any other entities, foreign or domestic, were to be authorized to obtain channels directly from Comsat, it would expect to supplement its tariff to provide for the offering of such channels.

2. On June 16, 1965, the Commission issued a notice of inquiry stating that the foregoing developments presented issues concerning the extent to which, as a matter of law, entities in the United States other than communications common carriers can be authorized, under the Communications Satellite Act of 1962 (Satellite Act), to obtain telecommunication services directly from Comsat; the extent to which, as a matter of policy, such entities should be authorized to obtain services; the nature and scope of such services; the type of entities which may be deemed eligible to obtain the services; the nature and extent of the authorization required; and the policies and procedures which the Commission should establish to govern applications for such authorization.

3. Legal briefs and comments were received on or before November 1, 1965, from Aeronautical Radio, Inc. (ARINC), and the Air Transport Association of America (ATAA), filing jointly; the American Telephone & Telegraph Co. (AT&T); the Columbia Broadcasting System, Inc. (CBS); the Communications Satellite Corporation (Comsat); the Administrator of General Services (GSA); the GT&E Service Corp. (GT&E); the Hawaiian Telephone Co. (Hawaiian); the International Business Machines Corp. (IBM); the Interna-

[1] Commissioner Johnson not participating.

[1] Commissioner Johnson not participating.

tional Educational Broadcasting Corp. (IEBC); ITT World Communications, Inc. (ITT); Merrill Lynch, Pierce, Fenner & Smith, Inc.; the Communications Committee of the National Association of Manufacturers (NAM); United Press International, Inc. (UPI); the United States Independent Telephone Association (USITA); Western Union International, Inc. (WUI); and the Western Union Telegraph Co. (WU).

4. In addition to the briefs and comments received from the above listed parties, general comments or statements were received from American Broadcasting Cos., Inc. (ABC); the American Communications Association (ACA); the American Newspaper Publishers Association (ANPA); the American Petroleum Institute (API); the American Trucking Association (ATA); the Associated Press (AP); the Communications Workers of America AFL–CIO (CWA); Dow Jones & Co., Inc.; Eastern Airlines, Inc.; RCA Communications, Inc. (RCAC); and the Washington Post Co. (the Post).

5. On or before January 3, 1966, reply comments were received from ARINC and ATAA filing jointly; AT&T; the Association of American Railroads (AAR); Comsat; GSA; Hawaiian; IBM; ITT Worldcom; RCAC; WUI and WU.

6. An analysis of the briefs, comments and reply comments indicates that the filing parties have focused primarily on the initial question of the notice of inquiry, i.e., the extent to which, as a matter of law, entities in the United States other than communications common carriers may be granted access to the facilities and services of Comsat. The second point to which attention was given is the question of policy relating to noncarrier access to the satellite system directly through Comsat. Relatively few parties addressed themselves to the questions of the nature of authorized entities, the nature and scope of authorized services, and the policies and procedures to be adopted by the Commission for handling and disposing of applications for authorization of direct access to the satellite system.

7. We shall discuss first the basic legal questions raised and then the policy issues. However, the two are interrelated and aspects of policy are necessarily developed in the ensuing discussion of the legal issues.

Basic legal issues. 8. The critical question is the extent to which the Satellite Act contemplates, permits or requires that Comsat be authorized to provide service directly to entities other than carriers. In general, respondents to our notice took one of the following positions:

(a) The terrestrial carriers allege that the Satellite Act does not contemplate or permit Comsat to be authorized to provide service to any noncarrier entity, with the possible exception of the Government;

(b) The noncarrier entities allege that the Act contemplates that Comsat should be permitted to provide service to them and that the Commission should issue authorizations upon appropriate findings that the particular service sought would be in the public interest;

(c) The Administrator of General Services (GSA) alleges that Comsat is authorized by the Satellite Act to provide service directly to the Government without restriction or limitation whenever the Governmnt desires to take such service;

(d) Comsat alleges that it should provide service to noncarriers when (i) the carriers fail to provide a requested service via satellite although capacity is available; (ii) there is a need for development of technology or provision of new satellite services and then only during the early developmental stage; and (iii) in which and any other case there is a finding that the public interest would be served by the authorization. Comsat also took the position that it is authorized by the Satellite Act to provide service directly to the Government in any instance when the Government requests service.

9. We note that the term "authorized users" appears twice in the Satellite Act. The first time is in the section setting forth the policy and purpose of the Act where, among other things, it is declared that "It is the intent of Congress that all authorized users shall have nondiscriminatory access to the system * * *" (section 102(c)). The second time is among the powers and purposes of Comsat when it is stated that Comsat is authorized "to contract with authorized users, including the U.S. Government, for the services of the communications satellite system * * *" (section 305(b)(4)). Reference is also made to another term "authorized entities" in section 305(a)(2), which states that Comsat may "furnish, for hire, channels of communication to U.S. communications common carriers and to other authorized entities, foreign and domestic * * *". Neither the term "authorized user" nor "authorized entity" is defined in the Satellite Act, nor is the use of the different terms, "channels of communications" in 305(a)(2) and "service of the communications satellite system" in section 305(b)(4), explained in the Act or the legislative history. In addition to those terms the Satellite Act makes reference to "authorized carriers," particularly in section 201(c)(2) and (c)(7). This term is defined in section 103(7) as part of the definition of "communications common carrier."[1]

[1] Communications Satellite Act of 1962, section 103(7): As used in this Act, and unless the context otherwise requires—the term "communications common carrier" has the same meaning as the term "common carrier" has when used in the Communications Act of 1934, as amended, and in addition includes, but only for purposes of sections 303 and 304, any individual, partnership, association, joint-stock company, trust, corporation, or other entity which owns or controls, directly or indirectly, or is under direct or indirect common control with, any such carrier; and the term "authorized carrier," except as otherwise provided for purposes of section 304 by section 304(b)(1), means a communications common carrier which has been authorized by the Federal Communications Commission under the Communications Act of 1934, as amended, to provide services by means of communications satellites.

The contention that "users" and "entities" are "carriers." 10. AT&T contends that because there are different possible categories of "carriers" it was necessary "to recognize in the language of section 305 that Comsat could deal with foreign entities authorized by the Commission to act as carriers here in the United States." (AT&T brief, Nov. 1, 1965, p. 13.) AT&T also claims "it must be recognized that there are U.S. telecommunications entities which operate offices abroad, such as RCA Communications, Inc., and Globe Wireless, Ltd." (Ibid.) It is not explained why both classes of entities are not reasonably to be considered as included in the term "carriers," but AT&T concludes that because of the nondomestic status of these "carriers" they had to be referred to as "entities" or "users" in the Act. This contention completely ignores the language of section 305(a)(2) and (b)(4) and the broad language of section 102(c).

11. In particular, section 305(a)(2) refers to "U.S. communications common carriers and to other authorized entities, foreign and domestic." In section 305(b)(4) the Act provides that Comsat is authorized "to contract with authorized users, including the U.S. Government * * *." In these provisions it is clear that Congress contemplated that Comsat could be authorized to provide service directly to entities other than common carriers. We note that that finding is further supported by the declaration in section 102(c) that, "It is the intent of Congress that all authorized users shall have nondiscriminatory access to the system * * *." Since "authorized users" may include the U.S. Government, a noncarrier (section 305(b)(4)), and since under the Act Comsat may be authorized to furnish channels for hire to carriers and "other authorized entities, foreign and domestic," the terms "authorized users" and "authorized entities" must include more than only "communications common carriers." We therefore reject the contention that the terms "carriers," "entities" and "users," as used in the Satellite Act, are synonymous, and must be read as synonymous.

12. ITT Worldcom contends that in view of the necessity for any "authorized user" to utilize earth terminal station facilities for access to the satellite system, and in view of the specific language of the Act, particularly section 201(c)(7), limiting authorized construction and operation of satellite earth terminal stations to Comsat and "authorized carriers":

> The term "authorized users" in section 305(b)(4) can thus include only those authorized to use the satellite system to create telecommunications channels pursuant to authority to operate a satellite terminal. No one else: neither television networks, news wire services, nor other users of leased channels are or can be within the scope of the term. (Brief, Oct. 29, 1965, pp. 7–8.)

ITT is confusing authorized operation with *access*. Authority to operate satellite terminal stations is limited as ITT alleges. However, Congress differen-

tiated between the two matters by its statement in section 102(c) that: "• • • it is the intent of Congress that *all* authorized users shall have nondiscriminatory access to the system" (italic supplied). In view of this statement of intent and in the absence of any provision excluding any entity not an operator from access to the system, we reject ITT's contention that to be a user of the system one must be eligible to construct and operate a satellite terminal facility.

The contention that the Commission is empowered only to authorize carrier access to the Satellite System. 13. AT&T, RCAC and others point out that, as a matter of law, the Commission may exercise only those powers expressly delegated to it by Congress. All concur that the Satellite Act empowers the Commission to authorize "carriers" to use and have access to the facilities of the satellite system. However, RCAC, after citing selected provisions of section 201(c), contends that "these are the only provisions of the Satellite Act which grant the Commission the power to authorize use of the satellite system and, as is evident, they are limited to carriers." (Statement of RCAC, Nov. 1, 1965, p. 4.)

14. We agree that the provisions of section 201(c) of the Satellite Act delegate to the Commission positive power to assure equitable and nondiscriminatory access to the satellite system by communications common carriers. We believe, however, that this provision was inserted because of the fact that Comsat was to serve primarily as a carrier's carrier. Heretofore, under the Communications Act of 1934, as amended, the rendering of service by a carrier to a carrier has not been considered a common carrier function subject to regulation in the same way as service to the public. Instead, such control as the Commission found essential has been exercised by the imposition of conditions in instruments of authorization. Congress was fully aware of this situation and made both general and specific provisions to assure that the Commission had ample direct legislative authority to deal with the matter. In section 401 of the Satellite Act it made the services rendered by one carrier to another a regulated service, and in section 201(c)(2) specifically spelled out how this requirement was to be implemented in the case of access to earth terminals.

15. A similar situation does not obtain with respect to any possible service Comsat may be authorized to provide to noncarrier entities. The Satellite Act provides specifically (section 401) that Comsat is deemed a common carrier within the definition of that term in the Communications Act and is fully subject to the provisions of Titles II and III of the Communications Act not inconsistent with the Satellite Act. Thus, any noncarrier entity whom Comsat might be authorized to serve is already guaranteed just and reasonable charges by section 201(b) of the Communications Act and protected against unjust or unreasonable discrimination in charges, practices, classification, regulations, facilities or services by section 202 of that Act. These provisions are further implemented by detailed requirements for tariff filing and powers given the Commission to prescribe charges and practices. Under these circumstances no additional provisions were necessary to protect the rights of noncarrier entities. The carriers would have us read section 201(c)(2) of the Satellite Act as a directive to exclude all noncarrier entities from access to the system. The above discussion makes it clear that the carriers are attempting to convert a shield included by Congress to protect them against possible improper acts into a sword to strike down others who might seek to be given such access under other provisions of law. This is not what Congress meant by this provision. The Satellite Act must be read as a whole and administered to give effect to its general purposes. We therefore reject this contention of the carriers.

The contention that the Commission is without guidelines or criteria to authorize non-carrier access. 16. The carriers contend that the Satellite Act contains no standards pursuant to which the Commission might authorize access to the system by any entity other than a communications common carrier. The Satellite Act and the expressly incorporated Communications Act provide for necessary determinations of this kind by the Commission. The Communications Act directs that the Commission, acting in accordance with the standard of public convenience, interest, or necessity, grant radio licenses (section 307(a)); "prescribe the nature of the service to be rendered by each class of licensed stations and each station within any class" (section 303(b)); study new uses for radio and generally encourage the larger and more effective use of radio in the public interest (section 303(g)); and make such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of the Act (section 303(r).[2] Complementing these provisions, which are expressly incorporated into the Satellite Act (section 401 of that Act), the Satellite Act itself contains the declaration that "It is the intent of Congress that all authorized users shall have nondiscriminatory access to the system; • • • [and] that the Corporation created under this Act be so organized and operated as to maintain and strengthen competition in the provision of communications services to the public • • •" (section 102(c)). To implement this intent, the Commission is directed to "make rules and regulations to carry out the provisions of this Act." (Satellite Act, sec. 201(c)(11)).

17. Congress thus specified the necessary broad standards or guidelines to be followed by the Commission in making requisite judgments. NBC v. United States, 319 U.S. 190 (1943). It did not establish rigid or detailed criteria for regulation of new and dynamic techniques of communication. See Philadelphia Television Broadcasting Co. v. FCC, ——— U.S. App. D.C. ———, 359 F. 2d 282, decided March 28, 1966. Rather, Congress left to the informed discretion of the Commission the establishment of the methods, procedures, and particular criteria for authorization of provision of services by communications common carriers to other carriers and the general public. The Commission is to make its judgment based upon an evaluation of the often changing situation and the congressional concern with the public interest in (1) encouraging wider and more effective use of radio techniques; (2) assuring that competition is maintained and strengthened in the provision of communication services to the public; (3) assuring that access to the satellite system shall be available to all authorized users on a nondiscriminatory and equitable basis; and (4) assuring that the benefits of new technology shall be reflected in service made available to the public through both improvements in the quality of service and the realization of all possible economies. The standards established by the Communications Act for authorizing carriers to provide service to the public are applicable to satellite services as well as to other telecommunication services. The contention that the Commission cannot authorize Comsat to provide noncarrier users direct access to the satellite system because there are no guidelines or standards for such authorization is, therefore, without merit.

The contention that the legislative history of the Act indicates congressional intent to limit access exclusively to carriers. 18. We think that the Act clearly empowers the Commission to authorize Comsat to provide service to entities other than carriers. The legislative history of the Satellite Act further supports this conclusion. Comsat was intended by Congress to serve primarily as a carrier's carrier, that is, Comsat is to use its licensed facilities primarily to provide satellite capacity to other carriers which in turn will utilize such capacity, together with all of their other facilities (e.g., cable, HF radio, scatter systems), to furnish service to the using public. But the legislative history of the Act indicates congressional intent that entities other than communications common carriers could be authorized direct access to the satellite system under appropriate circumstances. In a speech made on the floor of the Senate immediately prior to Senate passage of the Satellite Act (108 Congressional Record 16920), Senator John O. Pastore explained that "• • • the satellite corporation under H.R. 11040 will serve *mainly* the carriers" (italic added). Significantly, he did not say that Comsat would serve exclusively as a carrier's carrier.

19. On February 7, 1962, President Kennedy submitted a proposal to the Congress calling for establishment of a privately owned communications satel-

[2] Further, sec. 201(b) provides that communications by wire or radio subject to this Act may be classified into such "• • • classes as the Commission may decide to be just and reasonable • • •".

lite corporation in which carriers were to have a share of ownership. The President's letter of transmittal states that the administration's proposed bill sets forth "purposes and powers of the new corporation (which) would include furnishing for hire channels of communication to authorized users, including the U.S. Government." In the course of subsequent hearings, testimony was heard from all Government agencies concerned with the legislation, several Senators, communications common carriers, and other interested persons. The comprehensive and detailed committee report on the bill, delivered by Senator Pastore from the Senate Committee on Commerce on June 11, 1962, states: "It will be the purpose of the Corporation to plan, initiate, construct, own, manage and operate, in conjunction with foreign governments and business entities, a commercial communications satellite system, including satellite terminal stations when licensed therefor by the Federal Communications Commission. It will also be its purpose to furnish for hire channels of communication to U.S. communications common carriers who, in turn, will use such channels in furnishing their common carrier communications services to the public. *Provision is also made whereby the Corporation may furnish such channels for hire to other authorized entities, foreign and domestic* (pp. 10–11). (Italics supplied)."

Thus, both the President's message transmitting the bill to Congress, and the report of the Senate Commerce Committee recognized that the Corporation could be authorized to render telecommunication services to entities other than communications common carriers. We conclude that it was the intent of Congress that the Commission could authorize Comsat to afford access to the satellite system by noncarrier entities upon a proper finding that such access would serve the public interest and comport with the purposes and policies of the Satellite Act.

Authorization of noncarriers to deal with Comsat must be regulated by the Commission and be on a specified basis. 20. Comsat can thus be authorized to serve noncarriers directly. But it does not follow, as some of the noncarriers appear to contend, that such authorization is to be left unregulated—that Comsat and the noncarriers are free to contract as they wish. Were that the case, Comsat could readily become, to a very substantial extent, a common carrier dealing directly with the public. But as stated (par. 18), and indeed acknowledged by all parties, Comsat was and is to serve primarily as a common carrier's common carrier.[3] Further, under unrestricted dealings between Comsat and noncarriers, large users might tend to contract directly with Comsat, while members of the general public are left to deal with the carriers. In such circumstances, it would be clearly impossible for the Commission to carry out its responsibility under section 201 (c) (5) to "• • • insure that any economies made possible by a communications satellite system are appropriately reflected in rates for public communication service." We also note here our responsibility under the Communications Act to conduct our regulatory activities in such fashion,

> • • • as to make available, so far as possible, to all the people of the United States a rapid, efficient, nationwide, and worldwide wire and radio communication service with adequate facilities at reasonable charges • • •

There is another basic tenet of the Satellite Act which would be violated by unrestricted dealings between Comsat and noncarriers. At least insofar as international common carrier communications services are concerned, Comsat is given a virtual statutory monopoly position with respect to the operation of the space segment of the commercial communications satellite system. See sections 102 (d) and 305(a)(1) of the Act. The Commission is not given authority to license any other U.S. carrier to operate the space segment of a satellite system to provide international communication service; instead, such carriers must procure the space segment facilities from Comsat. Clearly, if there were to be unrestricted dealings of Comsat with the public, it would mean that Comsat would be using its monopoly position to the detriment of the other carriers and, indeed, to deprive them of the opportunity to serve segments of the public under fair and equitable conditions.

21. Direct access by noncarriers to the satellite system must therefore be regulated in such manner as to insure consistency with the Acts' purposes and with Comsat's primary role as a common carrier's common carrier. There is no question but that such regulation is a function which the Commission must discharge. This follows from the provisions of the Communications Act and the Satellite Act cited in paragraph 16. Just as the Commission is to authorize the communications common carrier, so also it is the agency to specify the "other authorized" domestic entities referred to in section 305(a)(2) (and see 305(b)(4)); indeed, the user must be "authorized" and no one can seriously argue, in light of the statutory scheme, that such authorization can stem from other than this agency.[4] For, under section 401 of the Satellite Act, Comsat is designated as a communications common carrier subject to the provisions of Titles II and III of the Communications Act. In the process of issuing authorizations to Comsat as a common carrier and reviewing its tariffs, the Commission is required, under the public interest standard, to take into account and specify the conditions under which Comsat can depart from its primary role as a common carrier's carrier and provide service directly to the public.[5] Further, it is the Commission's responsibility to issue regulations or policy statements to insure that authorized users have nondiscriminatory access to the system. See sections 102 (c); 201(c)(11) of the Satellite Act. Finally, we note here that the intent of Congress was stated by then Deputy Attorney General Katzenbach in response to questions from Senator Kefauver regarding use of the services of Comsat for various purposes, including weather reporting:

> You have to have an agency (the Federal Communications Commission) which is going to control these users, which is going to act in the governmental interest • • •.[6]

The Government's position as authorized user—GSA's contentions. 22. We turn now to consideration of the Government's position as an authorized user. There is no question but that the Government is to be included in the category of "authorized user." See section 305 (b)(4). We disagree, however, with GSA's assertion that Comsat may provide direct satellite communications service to the Government, without any limitation or restriction. Rather, the Satellite Act makes clear that Comsat's direct dealings with the Government must be of such a nature as to be consistent with the Act's purposes and objectives. Thus, Comsat is authorized in section 305 to furnish channels of communication "• • • to *other authorized entities* • • •" ((a)(2)) and "to contract with *authorized users, including the U.S. Government* • • •", in "order to achieve the objectives and to carry out the purposes of the Act" (italic supplied). These provisions must therefore be read in terms of the objectives and purposes of the Act. Section 102(c) sets forth the following pertinent purposes:

> • • • It is the intent of Congress that all authorized users shall have nondiscriminatory access to the system; that • • • the corporation created under this Act be so • • • operated as to maintain and strengthen competition in the provision of communications services to the public • • •.

23. Some further brief comment upon the last listed statutory purpose is appropriate. Were Comsat to be operated as GSA urges—unrestricted direct dealings with the Government—the result, as we develop with specific figures (see par.

[3] Senate Committee on Commerce, Report No. 1584, June 11, 1962, pp. 18, 28–29; see also remarks by Senator Pastore on the floor of the Senate, 108 Congressional Record 16920.

[4] Significantly, the "authorized user" provision in sec. 305 is in the section setting forth "the purposes and powers of the corporation"; the corporation, in turn, is subject to the regulation of the Commission ("the FCC shall be responsible for the regulation of the corporation," S. Rept. 1584, 87th Cong., 2d sess., p. 12).

[5] There is nothing unusual about the concept of a special purpose carrier. The Commission has, since its inception, licensed Press Wireless, Inc., except in unique circumstances, to handle only press traffic. The contention of ARINC and ATAA that "there would appear to be no need for the Commission additionally to undertake the unprecedented action of regulating users of Comsat" (Comments of ARINC and ATAA, Nov. 1, 1965, p. 12), is thus based upon a misconception of the Commission's role.

[6] Hearings before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, 87th Cong., 2d sess., pp. 55–56 (1962).

——), would not be to maintain or strengthen competition in the provision of communications services to the public. Rather, it would seriously weaken the competitive forces. Section 201(a)(6) lends added support to the congressional intent to maintain or strengthen competition in the provision of communications services to the public. The main thrust of that section is to insure that satellite facilities provided by Comsat will be utilized for general governmental purposes except where a separate system is required in the national interest. See Senate Report No. 1319, 87th Cong., 2d sess., p. 4; [1] Senate Report No. 1584, 87th Cong., 2d sess., p. 15.

24. The foregoing considerations are thus consistent with the general concept pervading the Satellite Act of Comsat as a monopoly (insofar as the space segment of international communications is concerned) and as primarily a carrier's carrier, created to provide at least the space segment of international communications as part of an improved global communications network consisting of all means of providing such communications services, so that lower rates should be possible to all the using public. There is, we believe, every indication in the statute that the nature and extent of direct dealings between Comsat and GSA or any other Government agency, in its role as a user, must be considered in the light of the effect of such dealings upon the statutory scheme, the rights of the other carriers in the face of Comsat's monopoly, the total global network of services, which includes cables, HF radio and other media as well as satellite facilities, and the quality of services or charges to the general using public.

25. This does not mean that the Government does not have a special status under the Satellite Act. As shown by the provision in section 305(b)(4), it clearly does. We believe that the explicit specification of the Government as an authorized user stemmed from congressional recognition of the special or unique nature of the communications needs that may arise in the Government's case, precisely because of the special or unique functions of the Government. We believe that the standard for direct dealings between Comsat and the Government is thus embodied in the Act in the sections dealing with the somewhat related question of a separate Government system—namely, if such dealing "is required to meet unique governmental needs, or is otherwise required in the national interest" (section 201(a)(6); section 102(d)). Clearly, if resort can be had to a separate governmental system in order to meet unique Government needs or if otherwise required in the national interest, a fortiori, such circumstances warrant departure from the carrier's carrier approach if that approach would not effectively meet the Government's unique needs or the national interest. In short, we stress our full recognition that in the Government's case, unique or national interest circumstances can and do arise where the needs of the Government cannot be effectively met under the carrier's carrier approach. The authorization to Comsat to meet the needs of NASA's Apollo project through a specially designed system is a current example of such unique circumstances. See also Bendix Aviation Corp. v. United States, 106 U.S. App. D.C. 304, 272 F. 2d 533, cert. den., 361 U.S. 965. We emphasize that in all cases where such national interest circumstances exist, we shall act promptly to authorize Comsat to provide service directly to the Government at just and reasonable rates.

Basic policy issues. 26. In reaching our basic policy determinations we are aware that in this instance we are not confronted by a normal competitive situation; namely, one where one entity through its initiative, ability or inventiveness produces a cheaper or better means of providing service and thus captures a market. Instead, we have a situation where there is an artificial restraint upon the terrestrial carriers. They cannot ordinarily be licensed to provide the essential space segment of the international satellite circuits and thus compete with Comsat on equal terms, but must rely on Comsat which was created to provide these facilities to them. Sound policy indicates that, absent a statutory requirement to the contrary, that they should not be required to depend solely on Comsat for satellite circuits while Comsat is simultaneously allowed to siphon the most profitable part of the business from them. Neither Comsat nor anyone else proposes that Comsat meet the needs of all users; i.e., message, TELEX, and all other switched services. Thus, this is not a situation where a proposed competitor would meet all or even a major portion of the essential public needs should it supplant the other carriers.

27. No lengthy discussion of the policy considerations is needed since we have already covered a number of these considerations in the foregoing treatment of sections such as 102(c) and 201(c)(5) of the Satellite Act. In light of those considerations and the Act's basic concept of Comsat as primarily a carrier's carrier, we believe that it would be in derogation of the policy of the Act to permit Comsat to compete with the conventional carriers in furnishing to users those communication services and channels which customarily and conventionally are or can be furnished by such carriers within the framework of their general tariff offerings. In other words, Comsat would be authorized to deal directly with the users in only those instances where the requirement for satellite service is of such an exceptional or unique nature that the service must be tailored to the peculiar needs of the customer and therefore cannot be provided within the terms and conditions of a general public tariff offering. In this connection, a current example is the satellite service which Comsat has been authorized to furnish to NASA for support of the Apollo program. Of course, Comsat should also be permitted to furnish a satellite service or channel to a user in any case where the conventional carriers fail or refuse to meet reasonable demand, therefor, although they are or would be otherwise capable of doing so in accordance with general tariff offerings.

28. The wisdom of this policy is evident from the serious adverse consequences that would result if Comsat were permitted without limitation to furnish service in competition with their principal customers for satellite services and channels—the conventional carriers. In this connection, we have reviewed the nature of the proposals before us from entities which seek to be "authorized users" and take service directly from Comsat. It is clear from the filings herein that the services sought are primarily leased channel services; i.e., service which customarily and conventionally are provided by common carriers within the framework of their general tariff offerings. Comsat does not propose to, nor does anyone seek to have Comsat, provide message telegraph, message telephone, or any other exchange type of service. Yet these exchange-type services provide the bulk of the international or transoceanic services offered the public. In 1965 there were 24.2 million overseas telegrams which originated in, terminated in, or transited the United States. In the same year there were 7.9 million telephone calls between the United States and foreign or overseas points or transiting the United States between foreign points. Insofar as TELEX is concerned, in 1965 there were 3.9 million messages originating in, terminating in or transiting the United States.[2] On the other hand, in 1965 there were a total of about 200 voice-grade circuits (179 to U.S. Government agencies) and 400 telegraph-grade circuits (68 to U.S. Government agencies) leased between the United States and overseas points. Essentially, therefore, only a very small part of the using public using international communications facilities had sufficient traffic to justify or require leased circuit facilities.

29. When we turn to the revenue side of the picture, we find that revenues from leased circuits provide an important, if not indispensable, part of the carriers' total receipts. Thus, in 1965 all overseas carriers, voice and record, other than Comsat, reported that leased circuits provided about 16 percent of toal overseas revenues or some $34,900,000 ($25,300,000 from leases to U.S. Government agencies) out of a total of $22,700,000. The importance of revenues from leased circuit traffic becomes manifest when such revenues are compared with the international record carriers' net operating revenues before Federal income taxes. Reports to the Commission show that in 1965 these carriers, as a whole, had net

[1] The Committee, which originated the provision essentially in the form in which it now stands, described the provision in the following terms: that the President is to ["t]ake necessary steps to insure utilization of the commercial system for general governmental purposes whenever there is no requirement for a separate communications system to meet unique governmental needs". S. Rept. No. 1319, p. 4.

[2] All figures exclude United States-Canada and United States-Mexico traffic.

operating revenues, before Federal income taxes, of about $20,300,000. Their revenues from leased circuit services for the same year were $20,200,000 ($11,083,000 from leases to U.S. Government agencies). Because of the relatively low nonfixed or variable costs associated with this service, the loss of such business could come close to wiping out completely the record carriers' earnings, unless the facilities could be immediately used for other services and produce substantial revenues, which appears unlikely.

30. Separate figures regarding net revenues or earnings of telephone carriers from overseas communication services are not readily available. However, data filed with the Commission indicate that total revenues for such services in 1965 were about $116 million. Leased circuit services provided about $14.7 million or 12.7 percent of these revenues. In the case of Hawaiian Telephone Co., the ratio of its leased circuit to total revenues is much greater, accounting for about one-third of its total gross overseas revenues.

31. The danger of the loss by the terrestrial carriers of existing or additional leased circuit business to satellite facilities is not merely theoretical.[10] A recent complaint filed by ITT World Com, and a press release issued by Comsat in response thereto, indicate that Comsat would propose to charge both authorized users and carriers approximately the same amount for leased circuits and that the amount is substantially below current or recently proposed charges for leased cable circuits. Accordingly, the terrestrial carriers could reasonably be expected to lose a substantial share of their leased circuit revenues to Comsat. Under these conditions and in light of the data set forth above, it could very well be necessary to permit these carriers to increase rates charged other users in order to enable them to earn a fair return. Certainly such detriment to the vast majority of users for the apparent benefit of a few large users would be in derogation of the objectives of the Act.[11] The fact is that the Satellite Act requires the opposite result, namely, that the benefits of these lower rates be made available to all users.

32. In light of GSA's contentions, we believe it appropriate to consider the revenue effects of Comsat providing service on an unlimited basis to the Government. We have analyzed above the potential effect of a loss of leased circuit revenues upon the terrestrial carriers. The Government as a user provided over 70 percent of total leased circuit revenues. In the case of voice-grade circuits which provide the bulk of such revenues, the Government is an even more important factor as it accounted for 90 percent of the total number of circuits leased by all users. The importance of revenues from Government leases to the international telegraph carriers and to the Hawaiian Telephone Co. is shown by the table below:

YEAR 1965

[Thousands of dollars]

Carrier	Total revenues	Net revenues before F.I.T.	Total leased circuit revenues	U.S. Gov't leased circuit revenues [a]
ITT World Com	29,808	4,546	5,952	3,200
RCAC	51,054	11,512	11,438	6,433
WUI	18,124	2,543	1,924	1,407
Hawaiian [b]	14,280	N.A.	4,741	4,606

N.A.—Not available.
[a] Partly estimated.
[b] Data are for overseas services only.

For each carrier, revenues from services to the Government are essential to a fair rate of return and provide a sizable part of its total profit margin. Thus the loss of a substantial proportion of Government-leased circuit revenues could have serious adverse effect upon the carriers. Instead of being able to reduce rates to reflect the lower costs of satellite circuits, they would probably have to seek substantial rate increases.

33. It might be argued that in our discussion thus far we have ignored the interests of Comsat in our concern about the potential effects of direct service by Comsat to "authorized users." This is not so. It will be recalled that Comsat has a virtual monopoly in the provision of at least the space segment for international common carrier service. Thus, to the extent that any United States user desires to lease satellite circuits or to the extent that Comsat, by selling activities, induces users to demand such circuits, the carriers must come to Comsat for at least the space segment of the facilities. Since, as noted above, Comsat's proposed charges to the carriers and other users would be substantially the same, it should realize substantially the same revenues whether the carriers or others lease the circuits from it.

34. We now address ourselves to the question of the effect upon prospective users of any refusal to permit Comsat to lease circuits directly to them. It appears to us that in general these users would also benefit from such a policy. We are mindful of the injunction in section 204(c) of the Satellite Act that the Commission shall:

> Insure that any economies made possible by a communications satellite system are appropriately reflected in rates for public communication services;

Satellite circuits now becoming available should enable the carriers to secure facilities at lower costs in relation to terrestrial facilities and thereby permit them to reduce rates to reflect such cost reductions. We therefore expect the common carriers promptly to give further review to their current rate schedules and file revisions which fully reflect the economies made available through the leasing of circuits in the satellite system. Failure of the carriers to do so promptly and effectively will require the Commission to take such actions as are appropriate. Even though satellite circuits are not now and will not for some time be available to all points to which users presently lease circuits from terrestrial carriers, implementation of this policy by the carriers should also reduce charges to many points to which satellite circuits are not now available. Furthermore, major users require redundancy and diversity in their facilities and thus would normally be expected to use a combination of terrestrial and satellite facilities to the same points to provide such redundancy. These users may very well find that the average charge per circuit will be less if the terrestrial carriers supply all their needs than if Comsat were to be permitted to lease satellite circuits to them at lower rates, while the other carriers meet their needs for diversity and redundancy at rates reflecting the higher cable costs associated with conventional facilities such as cable and high frequency radio.

35. Aside from the foregoing considerations we note that entities which have sufficient traffic to require the lease of circuits are also large users of other international services such as message telephone, message telegraph and TELEX. To the extent that loss of leased circuit revenues might require upward adjustments or prevent contemplated reductions in rates for other services, such large users could very well find their total international communications bills increased if Comsat were to be permitted to provide leased service directly to them without limitation.

[10] The situation here is not unlike that facing the international telegraph carriers when AT&T laid its transatlantic high capacity cables which made voice-grade leased circuits feasible. During 1960 the government canceled leases for circuits to Europe with Commercial Cable and Western Union's cable system resulting in a loss of revenues in that year of about $0.5 million for each of the carriers as compared with 1959. The full annual effect of these cancellations was much greater. They could not compete effectively with AT&T because the latter proposed to lease voice-grade circuits to them at the same price as it leased these circuits to the ultimate users. The problems raised by this development were finally resolved in our TAT IV decision, American Telephone & Telegraph Co., 37 FCC 1151 (1964), wherein we required that the necessary cable facilities be owned jointly and excluded AT&T from all participation in future international voice-data leased business. This was done because of the effects that provision of such service could have on the ability of the international record carriers to provide efficient and economical record services to the public as well as the fact that the carriers could not be expected to obtain a meaningful share of the business in competition with AT&T.

[11] We say "apparent benefit" because we will show hereinafter that even most large scale users would probably suffer no economic detriment by a requirement that they take service from the carriers rather than directly from Comsat.

36. We therefore conclude that only in unique or exceptional circumstances should noncarrier entities deal directly with Comsat. We believe that the ascertainment of such circumstances must be left to a case-by-case approach, since it is dependent upon the nature of the particular service requested. We can state, however, that refusal or failure of the terrestrial carriers to provide, upon reasonable demand, satellite leased circuit facilities, otherwise available, would, in absence of a valid explanation, constitute exceptional circumstances. Similarly, we believe it our duty to encourage development of new uses of satellite facilities and will, upon application, issue authorizations which are best designed to further such ends. Finally, as already set forth more fully in paragraph 26, we again stress the special position of the Government, and specifically, that in the Government's case, unique or national interest circumstances can and do arise where the needs of the Government cannot be met under the carrier's carrier approach.

Conclusions. 37. We have reached the following policy conclusions:

(a) The terrestrial carriers cannot under existing law themselves be licensed to operate the space segment of the international system and therefore cannot compete effectively in furnishing satellite service to the public.

(b) Comsat is not and does not propose to be a full service carrier meeting directly the needs of the vast majority of users of international services for all classes of communication services.

(c) If Comsat were to be permitted to provide leased channel services directly to users, other than in unique or exceptional circumstances, the basic purposes of Congress in enacting the Satellite Act—reflection of the benefits of the new technology in both quality of service and charges therefor—would be frustrated.

(d) A requirement that, except in unique and extraordinary circumstances, users take service from the terrestrial carriers should not have adverse effects upon either Comsat or the users but instead should make it possible to reduce rates for all classes of users.

38. Our ultimate conclusions are:

(a) Comsat may as a matter of law be authorized to provide service directly to noncarrier entities;

(b) Comsat is to be primarily a carrier's carrier and in ordinary circumstances users of satellite facilities should be served by the terrestrial carriers;

(c) In unique and exceptional circumstances Comsat may be authorized to provide services directly to noncarrier users; therefore, the authorization to Comsat to provide services is dependent upon the nature of the service; i.e., unique or exceptional, rather than the identity of the user. The U.S. Government has a special position because of its unique or national interest requirements; Comsat may be authorized to provide service directly to the Government, whenever such service is required to meet unique governmental needs or is otherwise required in the national interest, in circumstances where the Government's needs cannot be effectively met under the carrier's carrier approach.

39. We do not now propose to set forth specific procedures. However, any request by Comsat for authorization to provide service directly to any user desiring to take such service in particular circumstances should include showings by Comsat as to:

(i) Whether the proposed service via satellite is available from terrestrial carriers, including evidence of request made therefor and the response of the carriers;

(ii) Whether the facilities to provide this service are available, and, if not, a description of the new or expanded facilities required as well as the cost thereof;

(iii) A statement showing why the circumstances involved are so unique and exceptional as to require service directly from Comsat or what the national interest requirements are that indicate that service cannot be provided under the carrier's carrier approach.

(iv) Any other facts which would indicate that the public interest would be served by a grant.

The above required information shall be set forth in support of the applications for modification of the applicable earth station and/or satellite station licenses as well as for authorization to acquire units of satellite utilization which Comsat shall file in each case in which it is requested to provide a particular service directly to any noncarrier users. Unless and until such authorizations are granted, Comsat shall not provide services to any noncarrier entity. In addition Comsat, of course, must also have an effective tariff on file before it can provide service directly to any noncarrier entity it may be authorized to serve.

40. This inquiry was instituted under authority set forth in section 403 of the Communications Act of 1934, as amended; the policies and procedures set forth herein are adopted pursuant to authority contained in sections 4(i), 4(j), 201(b), 303, and 307 of the Communications Act of 1934, as amended, and sections 102(c), 201(c)(11), 305(a), 305(b), and 401 of the Communications Satellite Act of 1962.

41. *Accordingly, it is ordered,* This 20th day of July 1966, that the Statement of Policy set forth in this Memorandum Opinion and Order is adopted and that the proceeding is terminated.

Released: July 21, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[12]
[SEAL] BEN F. WAPLE,
Secretary.

[F.R. Doc. 66-8216; Filed, July 26, 1966; 8:49 a.m.]

[Docket Nos. 16258, 15011; FCC 66-676]

AMERICAN TELEPHONE & TELEGRAPH CO. ET AL.

Memorandum Opinion and Order

In the matter of American Telephone & Telegraph Co. and the Associated Bell System Cos., Docket No. 16258; charges for interstate and foreign communication service; American Telephone & Telegraph Co., Docket No. 15011; charges, practices, classifications, and regulations for and in connection with Teletypewriter Exchange Service.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 20th day of July 1966;

The Commission having adopted a Memorandum Opinion and Order today in Docket 15011 consolidating the proceedings in Docket 15011 with the proceedings in Docket 16258;

It is ordered, That Issue 3, specified in our Order of October 27, 1965 (FCC 65-959) in Docket 16258 is amended to read: "Whether the charges for (1) message toll telephone service, (2) WATS, (3) TWX, (4) private line telephone grade service, (5) private line telegraph grade service and (6) all other service, except TELPAK (as to which a separate proceeding is now pending in Docket No. 14251) * * *"

Released: July 22, 1966.

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

[F.R. Doc. 66-8219; Filed, July 26, 1966; 8:49 a.m.]

[Docket No. 16525, 16526; FCC 66M-1010]

JAMES L. HUTCHENS AND FAITH TABERNACLE, INC. (KRVC)

Order Continuing Hearing

In re applications of James L. Hutchens, Central Point, Oreg., Docket No. 16525, File No. BP-16640; Faith Tabernacle, Inc. (KRVC), Ashland, Oreg., Docket No. 16526, File No. BP-16745; for construction permits.

Pursuant to agreements arrived at during prehearing conference on this date, *It is ordered,* This 20th day of July 1966, that a further session of the prehearing conference will be held on September 15, 1966, at 9 a.m. and the evidentiary hearing in this proceeding will commence on October 19, 1966, at 10 a.m. in Washington, D.C.

Released: July 22, 1966.

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

[F.R. Doc. 66-8220; Filed, July 26, 1966; 8:49 a.m.]

[Docket No. 16388, 16389; FCC 66R-281]

D. H. OVERMYER COMMUNICATIONS CO. AND MAXWELL ELECTRONICS CORP.

Memorandum Opinion and Order Enlarging Issues

In re applications of D. H. Overmyer Communications Co., Dallas, Tex., Docket No. 16388, File No. BPCT-3463, Max-

[12] Commissioner Johnson not participating.

[1] Commissioners Hyde, Chairman; and Lee dissenting; and Commissioner Johnson not participating.

well Electronics Corp., Dallas, Tex., Docket No. 16389, File No. BPCT-3489; for construction permits.

1. This proceeding involves the applications of D. H. Overmyer Communications Co. (Overmyer) and Maxwell Electronics Corp. (Maxwell) for a new television broadcast station to operate on Channel 29, Dallas, Tex. These mutually exclusive applications were designated for hearing by the Commission order, FCC 65-1151, released December 30, 1965.[1] The designated issues include a financial qualifications issue as to Overmyer's proposal and a standard comparative issue.[2] Now before the Review Board for consideration is a petition for enlargement of issues against Maxwell Electronics Corp. filed by Overmyer on January 20, 1966, and associated pleadings.[3]

2. The issues requested by Overmyer fall into five general categories: Financial qualifications of Maxwell; the real party in interest in Maxwell's proposal; a Suburban issue to determine whether Maxwell has made an effort to ascertain the programing needs and interests of the Dallas area; a comparative coverage issue; and an issue to determine the reliability of Maxwell's representations, particularly with respect to its proposal for integration of ownership with management.

Financial qualifications. 3. Maxwell Electronics Corp. is engaged in the business of manufacturing electronic equipment under contracts with the U.S. Government. Maxwell proposes to construct the transmitter which it will use.[4] James T. Maxwell is president and a 36.9 percent stockholder; his father, Carroll H. Maxwell, is vice president and a 20.5 percent stockholder; and his brother, Carroll H. Maxwell, Jr., is treasurer and an 8.8 percent stockholder. The three Maxwells are also the directors of Maxwell Electronics Corp.

4. The Sailer Co. is an investment company. Carroll H. Maxwell, Jr., is married to the former Patricia Sailer and is a vice president and director of the Sailer Co. Neither Carroll H. Maxwell, Jr., nor Patricia Maxwell has any ownership interest in the Sailer Co. However, the balance sheet of the Sailer Co. submitted with the Maxwell application lists a "noncurrent" liability of $413,286.17 as an "annuity payable—Patricia Sailer."

5. In an October 15, 1965, amendment to its application,[5] Maxwell specifies total construction costs of $350,855; of this, $86,150 is listed for the "transmitter proper, including tubes." Cost of operation is estimated at $288,000 for the first year; revenues for the first year are estimated at $300,000. Thus, according to Maxwell, the total cost of construction and initial (first-year) operation will be $638,855. Maxwell originally proposed that this cost would be met by an equipment credit from the General Electric Co. of $238,855 and by a loan from the Sailer Co. of $400,000. However by an amendment accepted by the Examiner (FCC 66M-772, released June 1, 1966), Maxwell has substituted for the Sailer loan a commitment from the First National Bank of Dallas to lend Maxwell $400,000. The Sailer loan would continue to be made available to Maxwell as a backup, but Sailer has deleted a requirement that the Maxwells pledge their stock to Sailer. A further statement of Maxwell's financial plans appears as Exhibit No. 4 to its application. In addition to the above-described equipment credit from General Electric and the loans from the bank and from Sailer, Maxwell has indicated that it will "invest additional capital from present capital and profits from existing operations if needed"; the transmitter building will be leased (from Carroll H. Maxwell) for $150 a month; and land for the transmitter will be leased for "in the neighborhood of $350 per month on a 10-year term renewable for 10 years at $400 per month."

6. In the petition for enlargement of issues, Overmyer questions (a) the availability of the Sailer loan to Maxwell and the ability of Sailer to make the loan; (b) the validity of Maxwell's estimate of construction costs; (c) the validity of Maxwell's estimate of operating costs; and (d) whether other substantial cash expenditures required before the end of the first year have been ignored by Maxwell. In its supplement to the petition to enlarge issues, Overmyer questions the adequacy of the loan commitment letters from the First National Bank of Dallas. Because the bank loan and the Sailer loan would suffice to meet Maxwell's estimated costs of construction and first year's operation and would cover all the deficiencies alleged by Overmyer, the Board will limit its consideration of Overmyer's petitions to the Sailer Co. loan question and the First National Bank of Dallas loan question.[6]

7. The Sailer Co. loan question. Overmyer first contends that Sailer does not have $400,000 cash; that Sailer has not shown the manner in which it proposes to provide funds to Maxwell; and that it is not to be assumed that Sailer will liquidate part of its principal asset (capital stock in the Southland Corp.).[7] These contentions are answered in an amendment to Maxwell's application filed by Maxwell on February 9, 1966, and accepted by the Examiner (FCC 66M-308, released Mar. 2, 1966). In a February 1, 1966, letter to the Commission from Sailer, the terms and conditions of the loan are clarified and Sailer specifically states its intention to either liquidate a portion of its fixed assets or obtain a bank loan using its assets as collateral. Sailer states that it now owns 261,400 shares of Southland with a market value of $6,992,450. In its reply to Maxwell's opposition, Overmyer argues that it has not been shown that the stockholders of Sailer would approve liquidation by Sailer of part of its Southland stock holdings nor has it been shown that the Southland stock asset is "unencumbered by other security interests." These latter arguments are wholly without merit: The Sailer loan commitment is evidenced by letters of its president, whose authority to speak for the corporation must be assumed under these circumstances, and the Sailer balance sheet shows liabilities of less than $950,000, which could hardly substantially "encumber" the almost $7 million worth of Southland stock. The Board concludes that there is no question raised concerning the ability of Sailer to make a $400,000 loan to Maxwell. This conclusion is not affected by Overmyer's contentions that Sailer is not in the practice of making commercial loans and that the present commitment is made as a matter of accommodation.

8. Overmyer next questions whether certain stated conditions precedent to the availability of loan funds from Sailer prevent the Sailer commitment from being considered unconditional. The Sailer letter of October 6, 1965, attached to Exhibit No. 4 of Maxwell's application as amended October 15, 1965, conditions the willingness of Sailer to make the loan on (a) an examination of then current information and projections (financial and operating) of Maxwell, the results of which must be satisfactory to the Sailer Board of Directors; and (b) financial statements of each of the Maxwells, which also must be satisfactory to the Sailer Board.[8] Overmyer suggests that conditions (a) and (b) must be considered as making the Sailer loan commitment conditional, because the Commission questioned the availability of Overmyer's bank loan on the ground

[1] A third application for Channel 29, Dallas, Tex., that of Grandview Broadcasting Co., was designated for hearing with the applications of Overmyer and Maxwell. The Grandview application was dismissed with prejudice by the Hearing Examiner (FCC 66M-169, released Feb. 2, 1966).

[2] Included in the designation order was an issue to determine whether the tower height and location proposed by Maxwell would constitute a hazard to air navigation. That issue was deleted by the Review Board (FCC 66R-54, released Feb. 8, 1966).

[3] The pleadings before the Board are listed in the Appendix.

[4] A grant of Maxwell's application would be made subject to the condition that, prior to licensing, permittee shall submit acceptable data for type-acceptance of its transmitter in accordance with sec. 73.640 of the Commission's rules.

[5] Overmyer's petition for enlargement (p. 1) erroneously lists Oct. 10, 1965, as the date of Maxwell's amended application.

[6] The Board has examined Maxwell's estimates of construction and operating expenses in light of the challenges made by Overmyer. While there are some questions concerning the accuracy of certain of Maxwell's estimates as to the costs of transmitter construction, of the studio-transmitter link, and of first year operation, even using a cost figure suggested by Overmyer's petition, the $1,038,855 available to Maxwell by virtue of the bank and Sailer loans and manufacturer's equipment credit, is substantially in excess of Maxwell's requirements.

[7] Sailer's Nov. 30, 1964, balance sheet, attached to Exhibit No. 4 of Maxwell's application as amended Oct. 15, 1965, shows common stock in the Southland Corp., at cost, to be $852,093.10 (256,274 shares). As of Oct. 4, 1965, the bid price was 26, thus, the Southland stock owned by Sailer had a market value of $6,663,124.

[8] Sailer's original requirement that the Maxwells pledge their shares in the corporation to Sailer has been deleted.

that it is subject to the condition that an appropriate loan agreement be executed between the parties at the time the loan is to be made. In its February 1, 1966, letter to the Commission clarifying the terms and conditions of the proposed loan, Sailer states its present willingness to lend $400,000 to Maxwell and emphasizes that conditions (a) and (b) questioned by Overmyer are intended to apply to a situation where the financial picture changes adversely in the future. In its reply to Maxwell's opposition, Overmyer contends that Maxwell's financial position is so deteriorating that there is little likelihood that Sailer will in fact make the loan.

9. The Board concludes that Overmyer has not raised a substantial question concerning the availability of the $400,000 loan from Sailer. Any question that the Sailer loan commitment is conditional has been resolved by the subsequent clarification of Sailer's position in its letter of February 1, 1966. There is no similar clarification of Overmyer's loan commitment letter in its case. No useful purpose would be served by examining in detail Overmyer's assertions that Maxwell Electronics Corp. is now insolvent or is on the verge of insolvency and that there is no real likelihood that Sailer would go through with the loan. Overmyer's analysis is replete with speculation, surmise and conjecture and in some instances mischaracterizes statements made by Maxwell in its opposition. The fact remains that Sailer is presently satisfied with Maxwell's financial and operating posture. Specific factual allegations are required to warrant inquiry into the financial prospects of the applicant to determine whether a loan agreement is likely to be consummated at the time the application is granted.

10. The First National Bank of Dallas loan question. In a substantial amendment to its financial proposal, Maxwell has secured a loan commitment from the First National Bank of Dallas for $400,000. This is to be Maxwell's primary source of funds for construction and operation of the proposed television broadcast station. The Sailer Co. loan discussed above, also for $400,000, will be a secondary source of funds. The bank, by letters dated April 14, 1966, and May 11, 1966, would lend Maxwell $400,000 at 7 percent per annum; the commitment is effective until January 1, 1967 (with a ½ percent commitment fee payable each 90 days); the guarantors, the Maxwells and Robert Faulkner, are to pledge marketable securities with a 20 percent margin; repayment must be made within 5 years of the initial date of borrowing (commencement of repayment may be deferred for 1 year); the Sailer Co. loan is to be subordinated to the bank loan; a loan agreement between Maxwell and the bank is to be executed; there is to be no adverse change in the financial conditions of Maxwell Electronics Corp. or of the guarantors; immediate repayment in full is to be required on default; the bank must consent to Maxwell's investments in other companies or disposal of its properties or merger; compliance by Maxwell with applicable laws and regulations is to be assured; and Maxwell is not to pledge or encumber its assets except equipment purchased from General Electric Co. or another manufacturer finally chosen by Maxwell.

11. In its supplement to the petition to enlarge issues, Overmyer contends that Maxwell has not accepted the bank loan; other terms and conditions may be involved; "the trend of Maxwell's finances" is down; the guarantors (especially Faulkner) have not evidenced their willingness to comply with the security provisions; the ability of the guarantors to supply the required collateral is also questionable; and the loan commitment is effective only to January 1, 1967, with no provision for renewal.

12. Overmyer's challenges to the First National Bank of Dallas loan commitment to Maxwell are wholly without merit. Its first contention, that Maxwell has not expressly accepted the bank's proposal, is rebutted by Maxwell's submission of the bank's letters to the Commission and the absence of any allegation of fact to establish that despite Maxwell's efforts to obtain the loan commitment, it would not ultimately use it. As the Bureau points out, the loan is available to Maxwell and that is the "critical point." Likewise, the bank loan commitment letters supply sufficient, detailed terms which render speculative only Overmyer's argument that other conditions may be involved.

13. As was the case with the Sailer Co. loan, the bank loan commitment is conditioned on the financial condition of Maxwell remaining satisfactory to the lender. According to Overmyer, Maxwell's financial condition is so deteriorating that it is unlikely that the loan agreements involved will ever be consummated. As with the Sailer loan, the Board is convinced that under the circumstances here, in the absence of allegations of fact supported by affidavits reflecting personal knowledge, the controlling factor is that the prospective lender is satisfied with the applicant's present financial posture. The requirement that the borrower's financial condition not change adversely, whether express or implied, does not make the loan commitment unreliable. Tri-Cities Broadcasting Co., FCC 65R–48, 4 RR 2d 516. Nor is there any reasonable basis for Overmyer's claim that the bank loan is defective in the absence of express undertakings by the Maxwells and Faulkner to guarantee the loan as required by the bank and without a showing of the securities which will be pledged as collateral. Where, as here, the principals of an applicant must guarantee a loan which that applicant has submitted to the Commission as a part of its financial proposal, it is reasonable to infer that such principals are, in effect, representing to the Commission that they will ultimately guarantee the loan. Any other construction of an applicant's submission would be unreasonable. In addition, it is clear that the bank has examined the financial statements of the proposed guarantors, has found them acceptable and is assured that its collateral requirements can be met. Under these circumstances, no useful purpose would be served by requiring submission of a list of securities, intended for use as collateral, to the Commission. Tri-Cities Broadcasting Co., supra.

14. Overmyer's final challenge to the bank loan commitment is that it is effective only until January 1, 1967. This argument overlooks the possibility of an extension or renewal of the commitment and it is reasonable to assume that in the ordinary course of business the bank would renew its offer. Cf. Flathead Valley Broadcasters (KOFI), FCC 65R–161, 5 RR 2d 74. In the absence of a showing that a renewal would not be forthcoming, the existence of an expiration date on a loan commitment letter does not render the commitment unreliable during its term.

15. For the foregoing reasons, the Board has concluded that Maxwell has adequately established the availability of the First National Bank of Dallas loan as a primary source of funds and the Sailer Co. loan as a secondary source. These two loans amount to $800,000 and, when considered with the manufacturer's equipment credit proposed by Maxwell, amply support the conclusion that Maxwell is financially qualified.

Real party in interest. 16. In support of its request for a real party in interest issue, Overmyer originally contended that Maxwell will make no significant financial contribution to the proposed television venture and that the only investment (aside from the usual equipment credit from the manufacturer) will be made by the Sailer Co. Despite Maxwell's amended proposal to obtain a bank loan, Overmyer pursues its request for this issue. Sailer's potential for control of Maxwell is reflected, according to Overmyer, by the requirement of a pledge of stock by the Maxwells for the Sailer loan and by the marital tie between Carroll H. Maxwell, Jr., and Patricia Sailer.[9] In further support of its request, Overmyer cites WLOX Broadcasting Co. v. FCC, 260 F. 2d 712, 17 RR 2120 (D.C. Cir. 1958); Massillon Broadcasting Co., FCC 61–1164, 22 RR 218; and Publix Television Corp., FCC 59–643, 18 RR 762.

17. In opposition to Overmyer's petition on this issue, Maxwell states that Sailer is aware that it could not assume control of Maxwell (through default after pledge of stock) without prior Commission consent. Maxwell asserts that it has merely obtained an arm's-length credit commitment from a noncommercial lending source. The fact that Carroll H. Maxwell, Jr., is married to Patricia Sailer Maxwell is discounted by Maxwell on the ground that neither has any ownership interest in the Sailer Co. Cited as support for Maxwell's opposition to this issue is Theodore Granik, FCC

[9] The marriage of Carroll H. Maxwell, Jr., and Patricia Sailer is reported by Overmyer on information and belief, but is admitted as a fact by Maxwell. Also alleged on the basis of information and belief, not on the basis of personal knowledge of the facts as required by Rule 1.229, is that Carroll H. Maxwell, Jr., is "trustee under a certain trust of Sailer stock."

66R–38, 2 FCC 2d 515, released February 1, 1966. Maxwell does not address itself to the fact that Carroll H. Maxwell is a vice president and director of the Sailer Co.

18. The Broadcast Bureau, taking note of the specific language of the Sailer loan commitment letter of October 6, 1965, that the Sailer Co. "shall in no way have the power or right to direct or influence the operation or programing of said proposed station," nevertheless originally supported inclusion of a real party in interest issue. However, in view of Maxwell's proposal to obtain a bank loan, the Bureau now opposes inclusion of a real party in interest issue. In reply to Maxwell's opposition, Overmyer asserts that the Sailer Co.'s right to approve Maxwell's financial and operating projections as a condition to the loan and the interlocking directorship and connection by marriage of Maxwell and Sailer require that Sailer be considered a principal in this application and that its ability to dictate the manner of station operation must be considered at the hearing.

19. Overmyer's request for a real party in interest issue will be denied. The entire factual basis of Overmyer's petition has been substantially altered: the Sailer loan is no longer Maxwell's primary source of funds and Sailer has deleted the requirement that the Maxwells pledge their stock as security for the loan. Under these circumstances, the arguments made and the cases cited by Overmyer are inapplicable. As for Overmyer's unsupported and general claim that a real party in interest issue should be added concerning the participation of the First National Bank of Dallas, suffice it to say that no extraordinary provision of the proposed bank loan agreement supports any suspicion that the bank will exercise any greater control over Maxwell's affairs than would any creditor in a comparable position. Cf. Flathead Valley Broadcasters (KOFI), FCC 65R–161, 5 RR 2d 74.

Suburban issue. 20. In an attempt to discover whether Maxwell had made an effort to ascertain the programing needs and interests of the Dallas area, Overmyer retained Marketing and Research Counselors (MARC), which had conducted Overmyer's survey, to determine whether community leaders who would logically have been interviewed by Maxwell had in fact been contacted.[10] The affidavit of the vice-president of MARC states that not one of the 34 local leaders contacted by MARC had been interviewed by any party other than Overmyer concerning programing needs.

21. In its opposition, Maxwell asserts that it sent a letter to the 14 school districts in Dallas County; hired a programing consultant who conducted a survey; had an employee interview the Superintendent of the Richardson Independent School District; and had James T. Maxwell personally interview the same superintendent. A letter from the Superintendent of the Dallas Independent School District was received; a Maxwell employee interviewed "several religious leaders"; and the Chairman of the Radio and TV Committee of the Greater Dallas Council of Churches was interviewed, according to Maxwell. Maxwell states that a full exposition of its surveys will be presented at the hearing as "this is already part of the hearing issues as outlined in the Comparative Criteria Policy Statement release" of the Commission.

22. The Broadcast Bureau states that Overmyer's showing is sufficient to support addition of a Suburban issue with respect to Maxwell unless Maxwell's responsive pleading gives assurance that adequate contacts of leaders other than those interviewed by MARC were made by Maxwell in the preparation of its proposal. In its reply, Overmyer suggests that the showing made by Maxwell in its opposition is insufficient in that it specifically identifies only 3 interviewees: one is the Superintendent of the Dallas Independent School District, who, according to Overmyer, will not speak on television matters; the second is the Superintendent of the Richardson Independent School District, wherein James T. Maxwell and Carroll H. Maxwell, Jr., reside and where James T. Maxwell's children attend school;[11] the third is the Chairman of the Radio and TV Committee of the Greater Dallas Council of Churches, whose statement to MARC was that he was unaware of any Maxwell interview on the date specified by Maxwell.

23. The questions raised by Overmyer as a result of its survey of local leaders are sufficient to warrant the addition of a Suburban issue. Maxwell is in error in assuming that such evidence can be adduced under the new standard comparative issue. The policy statement specifically states that "no comparative issue will ordinarily be designated on program plans and policies * * * or *other program planning elements, and evidence on these matters will not be taken under the standard issues,*" 1 FCC 2d 393, 397, 5 RR 2d 1901, 1912 (1965). (Italics supplied.) Because its opposition fails to provide assurance that meaningful steps were taken by Maxwell to ascertain the programing needs and interests of the Dallas area, Maxwell will be given an opportunity to make such a showing at hearing.

Comparative coverage. 24. As reflected in the two applications and in an affidavit submitted by a consulting engineer on behalf of Overmyer, the Grade A and Grade B contours to be covered by Overmyer and Maxwell include the following areas and populations:

Contour	Overmyer	Maxwell
Grade A—area	8,958	5,385
Grade A—population	(1)	(1)
Grade B—area	15,176	10,342
Grade B—population	1,904,040	1,794,331

[1] Not shown.

On the basis of its greater area coverage, particularly the 47 percent greater Grade B area coverage, Overmyer requests addition of a comparative coverage issue.

25. Maxwell contends that the difference in Grade B area coverage is minimized by the fact that there is only a small difference between the two proposals with respect to Grade B population coverage. Nevertheless, Maxwell's opposition concludes with the concession that "comparative coverage should be considered under the standard comparative issues." The Broadcast Bureau suggests that a specific issue is not necessary but that it should be indicated that because of the disparity in coverage, evidence of coverage may be adduced under the comparative issue. Such a statement was included in the Commission's designation order in Harriscope, Inc., FCC 65–1165, 2 FCC 2d 223, cited by the Bureau.

26. The difference in Grade B area coverage is sufficient to warrant consideration of the relative efficiency of the respective proposals in the comparative hearing. Chicagoland TV Company, FCC 65R–28, 4 RR 2d 339; Roswell Television, FCC 64R–374, 3 RR 2d 569. Whether a specific issue is necessary or a directive in this opinion will suffice is a matter of form. The Board will in this instance proceed as was indicated in Harriscope, Inc., supra, and merely state that the disparity in coverage is such that evidence with respect thereto may be adduced under the comparative issue in this proceeding.

Reliability of representations. 27. Overmyer contends that the proposal of Maxwell's principals to devote substantial time to the proposed television broadcast operation, in view of the representations in the brochure of Maxwell Electronics Corp. that its manufacture of electronics equipment operation requires the close supervision of top management, is questionable or incredible. Thus, according to Overmyer, Maxwell's reliability as an applicant is called into question. Beyond this general assertion, Overmyer offers no specific allegations of fact in support of its request for a specific issue on the matter. As both Maxwell and the Bureau point out, whether Maxwell can show meaningful participation in station operation

[10] MARC's inquiries were keyed to specific proposals in Maxwell's application. For example, Maxwell lists a "School Principal's Report," but MARC's checks with the Dallas Superintendent of Schools and principals of major Dallas elementary and high schools indicate that they had not been interviewed by Maxwell. Similar specific deficiencies are indicated with respect to agricultural and religious programing proposals made in Maxwell's application.

[11] Overmyer states that because of these facts "it is doubtful without further proof that these so-called 'personal interviews' actually involved any significant discussions regarding the program needs and interests of the Dallas community." Presumably, because the interview was cited by Maxwell in response to Overmyer's request for a Suburban issue, it involved a discussion of Dallas area programing needs. More than Overmyer's conjecture is required to impeach Maxwell's sworn statement. If the interview were casual and unrelated to Dallas television matters, however, a serious question respecting Maxwell's representations would be raised.

consistent with its present obligations to the electronics manufacturing business is a matter which can be fully explored under the issues as framed. Accordingly, Overmyer's request for a specific issue will be denied.

Supplemental pleadings. 28. Based on its contention that Overmyer's reply to its opposition contains new matter not responsive to the opposition, Maxwell has filed (a) a motion to strike portions of D. H. Overmyer's reply to opposition to petition to enlarge issues; (b) a statement on reply to opposition to petition to enlarge issues; and (c) a petition to accept special pleading (statement (b), supra).[12] The Board has reviewed the pleadings carefully to determine whether there is any substantial foundation for Maxwell's concern. As is apparent from an examination of the nature of the issues raised by Overmyer, the questions are such that opposition, reply and counter-reply could continue ad infinitum. It is true, as Maxwell contends, that there are facts and arguments in Overmyer's reply which could have been presented in the first instance in its petition. From Maxwell's point of view, it would be desirable to permit it to further respond to these "new" facts and arguments. Such an approach, however, would lead to limitless pleadings or to a requirement that a petitioner anticipate the opposition and make all its conceivable arguments and factual allegations in its original pleading. The difficulties inherent in such an approach to administrative pleading should be obvious. Consistent with these views, the Board finds no instance wherein Overmyer's reply exceeds the bounds of propriety in terms of responsiveness to Maxwell's opposition. The Board will take this opportunity to observe, however, that only in the most compelling and unusual circumstances where it is felt that basic fairness to a party requires such action will the Board permit the filing of pleadings beyond the limits prescribed in the rules, either in terms of number or of length

Accordingly, it is ordered, This 20th day of July 1966, that the petition for enlargement of issues against Maxwell Electronics Corp., filed by D. H. Overmyer Communications Co. on January 20, 1966, is granted to the extent indicated herein and is denied in all other respects; that the motion to strike portions of D. H. Overmyer's reply to opposition to petition to enlarge issues, and the petition to accept special pleading, both filed by Maxwell Electronics Corp. on April 4, 1966, are denied; that the statement of Maxwell Electronics Corp. on reply to opposition to petition to enlarge issues, filed on April 4, 1966, is not accepted; and that the supplement to petition to enlarge issues, filed by D. H. Overmyer Communications Co. on June 7, 1966, is denied;

It is further ordered, That the issues in this proceeding are enlarged by addition of the following issue: To determine the efforts, if any, made by Maxwell to ascertain the needs and interests of the area proposed to be served.

Released: July 21, 1966.

FEDERAL COMMUNICATIONS COMMISSION,[13]

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

APPENDIX

(1) Petition for enlargement of issues against Maxwell Electronics Corp., filed on January 20, 1966, by D. H. Overmyer Communications Co.

(2) Opposition to petition for enlargement of issues, filed on February 9, 1966, by Maxwell.

(3) Statement of Broadcast Bureau, filed on February 9, 1966.

(4) Reply to opposition, filed on March 10, 1966, by Overmyer.

(5) Motion to strike portions of D. H. Overmyer reply, filed on April 4, 1966, by Maxwell.

(6) Statement of Maxwell Electronics Corp. on reply, filed on April 4, 1966.

(7) Petition to accept special pleading, filed on April 4, 1966, by Maxwell.

(8) Opposition of Broadcast Bureau to motion to strike, filed on April 12, 1966.

(9) Opposition of Broadcast Bureau to petition to accept special pleading, filed on April 12, 1966.

(10) Opposition to motion to strike, filed on April 21, 1966, by Overmyer.

(11) Opposition to petition to accept special pleading, filed on April 21, 1966, by Overmyer.

(12) Reply to oppositions to motion to strike portions of D. H. Overmyer reply to opposition to petition to enlarge issues, filed on April 26, 1966, by Maxwell.

(13) Reply to oppositions to motion to accept special pleading, filed on April 26, 1966, by Maxwell.

(14) Supplement to petition to enlarge issues, filed on June 7, 1966, by Overmyer.

(15) Opposition to supplement to petition to enlarge issues, filed on June 21, 1966, by Maxwell.

(16) Opposition of Broadcast Bureau to supplement to petition to enlarge issues, filed on June 21, 1966.

(17) Reply to opposition, filed on June 27, 1966, by Overmyer.

[F.R. Doc. 66-8221; Filed, July 26, 1966; 8:49 a.m.]

[12] These three pleadings were filed by Maxwell on Apr. 4, 1966. These and responsive pleadings are also listed in the Appendix.

[13] Board Member Nelson absent and Board Member Berkemeyer dissenting in part filed with the original document.

FEDERAL MARITIME COMMISSION

J. E. BERNARD & CO., INC., ET AL.

Notice of Agreements Filed for Approval and Agreements Subject to Cancellation

Notice is hereby given that the following freight forwarder cooperative working agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1321 H Street NW., Room 609. Comments with reference to an agreement including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. A copy of any such statement or request for a hearing should also be forwarded to each of the parties to the agreement (as indicated hereinafter), and the comments should indicate that this has been done.

Unless otherwise indicated, these agreements are nonexclusive, cooperative working agreements under which the parties may perform freight forwarding services for each other. Forwarding and service fees are to be agreed upon on each transaction. Ocean freight compensation is to be divided as agreed between the parties.

J. E. Bernard & Co., Inc., New York, N.Y., and Koeller-Struss Co., St. Louis, Mo	FF-3079
John S. James, Savannah, Ga., and Globe Shipping Co., Inc., New York, N.Y	FF-3080
Trans-World Shipping Corp., New York, N.Y., and Seaway Forwarding Co., Cleveland, Ohio	FF-3081
H. Stone & Co., New York, N.Y., and J. K. Ebberwein, Savannah, Ga	FF-3082
Peter A. Bernacki, Inc., Philadelphia, Pa., and Star Forwarders, Inc., New York, N.Y	FF-3083
R. F. Downing & Co., Inc., New York, N.Y., and Raymond H. Hamson, Boston, Mass	FF-3084
Seaport Shipping Co. (Portland), Portland, Oreg., and Severin Goldstein, Los Angeles, Calif	FF-3085
George W. Wise, Jr., Savannah, Ga., and C. H. Powell Co., Inc., New York, N.Y	FF-3086
Gallagher & Ascher Co., Chicago, Ill., and Trans International Forwarders, Inc., New York, N.Y	FF-3087
Daniel F. Young, Inc., New York, N.Y., and Freedman & Slater, Inc., Albany, N.Y	FF-3088
Karl Schroff & Associates, Inc., Chicago, Ill., and W. R. Zanes & Co. of Louisiana, New Orleans, La	FF-3090
Samuel Shapiro & Co., Inc., Baltimore, Md., and W. M. Cook & Co., Inc., New York, N.Y	FF-3092

Agreement No. FF-3089 between Export Enterprises, Inc., Philadelphia, Pa., and Gerry Schmitt & Co., Detroit, Mich., is a cooperative working arrangement whereunder ocean freight compensation is to be retained by the originating forwarder. The basic fee for passing shipper's export declaration will be: $7.50 each. Other forwarding and service fees are subject to negotiation and agreement on each transaction depending upon the services rendered or to be performed.

Agreement No. FF-3091 between C. S. Greene & Co., Inc., Chicago, Ill., and R. N. Forwarding Co., Inc., New York, N.Y., is a cooperative working arrangement whereunder forwarding and service fees are: Passing shipper's export declaration only—$3.50; passing shipper's export declaration, ordering freight to pier, issuing bills of lading for direct release—$7.50; passing shipper's export declaration, ordering freight to pier, issuing bills of lading and preparation consular invoice—$11.50. Special services remain subject to negotiation and agreement on each transaction. Ocean freight

compensation is to be retained by the originating forwarder.

NOTICE OF AGREEMENTS SUBJECT TO CANCELLATION

Notice is hereby given that the following independent ocean freight forwarder cooperative working agreements approved by the Commission pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814 are scheduled for cancellation inasmuch as in accordance with the terms therein one of the parties to the agreement have requested in writing that the agreement be terminated.

Freedman & Slater, Inc., New York, N.Y., and Stone Forwarding Co., Inc., Houston, Tex---------- FF- 332
Samuel Shapiro & Co., Inc., Baltimore, Md., and Bayport Shipping Corp., New York, N.Y---------- FF-2962

Dated: July 22, 1966.

THOMAS LISI,
Secretary.

[F.R. Doc. 66-8176; Filed, July 26, 1966; 8:46 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CS66-2, etc.]

MAXWELL OIL CO., ET AL.

Findings and Order

JULY 20, 1966.

Findings and order after statutory hearing issuing small producer certificates of public convenience and necessity, terminating certificates, severing and terminating proceedings, amending orders issuing certificates, canceling FPC gas rate schedules, and dismissing applications.

Each Applicant herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.20 of the regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce from the Permian Basin area of Texas and New Mexico, all as more fully set forth in the applications and in the Appendix hereto.

All Applicants have heretofore been authorized to sell natural gas from the Permian Basin area; and, therefore, the small producers certificates issued to them shall be effective on the date of this order except that the certificate issued in Docket No. CS66-118 shall be effective as of March 28, 1966.[1] The certificates heretofore issued to Applicants shall be terminated and the related rate schedules canceled, except that the orders issuing certificates in Docket Nos. G-11564 and G-14475 shall be amended by deleting therefrom authorization to sell gas from the interests of Applicants in Docket Nos. CS66-124 and CS66-118, respectively. Pending certificate applications will be dismissed as moot.

Various Applicants herein have heretofore filed increases in rate which have been suspended and, in some cases, have been made effective subject to refund. Some of the rate proceedings have been consolidated with the original proceeding in Docket No. AR61-1, et al., or in the proceeding on the order to show cause issued August 5, 1965, in Docket No. AR61-1, et al. In those instances in which the increased rates have not been made effective or have been made effective and are below the applicable area base rates, the proceedings will be severed from Docket No. AR61-1, et al., and terminated. These proceedings are listed in the Appendix together with the proceedings which will not be terminated.

After due notice no petition to intervene, notice of intervention or protest to the granting of the applications has been received.

At a hearing held on July 14, 1966, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and exhibits thereto submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each Applicant herein is engaged in the sale of natural gas in interstate commerce for ultimate public consumption subject to the jurisdiction of the Commission and is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications herein and in the Appendix hereto, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are 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) Applicants are or will be independent producers of natural gas who are not affiliated with natural gas pipeline companies and whose total jurisdictional sales on a nationwide basis, together with sales of affiliated producers, were not in excess of 10,000,000 Mcf at 14.65 p.s.i.a. during the preceding calendar year.

(5) The sales of natural gas by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and small producer certificates of public convenience and necessity therefor should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates heretofore issued to Applicants for sales of natural gas from the Permian Basin, which sales will be continued under the small producer certificates issued hereinafter, should be terminated, and the related FPC gas rate schedules should be canceled; except that the orders issuing certificates in Docket Nos. G-11564 and G-14475 should be amended by deleting therefrom authorization to sell gas from the interests of Applicants in Docket Nos. CS66-124 and CS66-118, respectively.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the proceedings listed in the Appendix hereto in which Applicants' increased rates have not been made effective or have been made effective and are less than the area base rates should be severed from the proceedings in Docket No. AR61-1, et al., and terminated.

The Commission orders:

(A) Small producer certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale for resale and delivery of natural gas in interstate commerce by Applicants from the Permian Basin area of Texas and New Mexico, 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 Appendix hereto and in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue 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, and particularly,

(a) The subject certificates shall be applicable only to all previous and all future "small producer sales," as defined in § 157.40(a)(3) of the regulations under the Natural Gas Act, from the Permian Basin area, except that the certificate issued in Docket No. CS66-60 shall be applicable only to those sales heretofore made pursuant to Applicant's FPC Gas Rate Schedule No. 1,

(b) Sales shall not be at rates in excess of those set forth in § 157.40(b)(1) of the regulations under the Natural Gas Act, and

(c) Applicants shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificates granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificates because Applicants no longer qualify as small producers or fail to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of

[1] On Mar. 28, 1966, Applicant in Docket No. CS66-118 filed a motion in Docket No. RI60-90 to put into effect in part an increased rate at 14.5 cents per Mcf at 14.65 p.s.i.a.

the certificates. Upon such termination Applicants will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms and conditions of this order is observed, the small producer certificates will still be effective as to those sales already included thereunder.

(D) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act 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 the respective Applicants. Further, 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 contracts herein involved. Nor shall the grant of the certificates aforesaid for service to the particular customers involved imply approval of all of the terms of the respective contracts, particularly as to the cessation of service upon termination of said contracts, as provided by section 7(b) of the Natural Gas Act. Nor shall the grant of the certificates 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 sales subject to said certificates.

(E) The certificates issued herein shall be effective on the date of this order, except that the certificate issued in Docket No. CS66–118 shall be effective as of March 28, 1966.

(F) The certificates heretofore issued to Applicants for sales proposed to be continued under small producer certificates are terminated and the related FPC gas rate schedules are canceled; except that the orders issuing certificates in Docket Nos. G–11564 and G–14475 are amended by deleting therefrom authorization to sell natural gas from the interests of Applicants in Docket Nos. CS66–124 and CS66–118, respectively, and in all other respects said orders shall remain in full force and effect.

(G) The proceedings in which Applicants' increased rates have not been made effective or have been made effective and are less than the applicable area base rates are terminated as indicated in the Appendix hereto.[2] The aforementioned proceedings, except Docket Nos. G–16477, G–17059, and RI64–293, which are consolidated with the proceedings in Docket No. AR61–1, et al., are severed therefrom.

(H) The issuance and termination of certificates and the cancellation of rate schedules herein shall not relieve Applicants from compliance with any orders which have been or may be issued in Applicants' pending rate proceedings and in the proceeding in Docket No. AR61–1, et al., including refund obligations, and from the submission of refund reports for sales made at rates in excess of the applicable area base rates between September 1, 1965, and the date of this order; nor shall any action taken herein be construed to relieve Applicants from the obligations of making refunds for sales commenced pursuant to unconditioned temporary certificates if the Commission finds that such refunds are required.

(I) The certificate applications pending in those dockets in which Applicants have been selling gas pursuant to temporary certificates are dismissed as moot.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

APPENDIX

Docket No.	Applicant	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated suspension dockets	Suspension dockets not to be terminated
CS66–2 10–21–65	Maxwell Oil Co. (Operator), et al.	1	C160–232		RI61–281.[3]
		2	C161–995		
		3	G–18231 [1]		
		4	G–18232 [1]		
		5	C162–685		
CS66–3 11–24–65	Tucker Drilling Co., Inc.	1	C161–1794		
CS66–10 9–27–65	Albert Gackle (Operator), et al.	1	G–6110		
			G–6111		
			G–6112		
			G–6114		
			G–6115	R160–151 [3]	
		2	G–6113		G–13940.[3]
		3	G–6121	R160–151 [3]	
		5	G–6118		
			G–6117		
		6	G–6120	RI60–117 [3]	G–14045.[3]
		7	G–10914		
		8	G–10915		
		9	G–10916		
		10	G–10917		
		11	C161–278		
CS66–11 9–27–65	W. E. Bakke (Operator), et al.	7	G–12120	G–16477 [3] [4]	
CS66–12 10–13–65 12–16–65	Kewanee Oil Co.	2	G–3776	G–15235 [3]	RI61–155.[3]
		4	C161–332		
		53	G–18551 [1]		
		54	G–18552 [1]		
		55	G–14364	R161–505 [3]	
		56	G–14585	G–14761 [3]	RI61–495.[3]
CS66–13 10–14–65	Wrightsman Investment Co.	1	C161–1690		RI65–174.[3] G–20540.[3]
CS66–18 10–15–65	Benedum Trees Oil Co.	4	G–4664	G–12881 [3]	RI65–142.[3] G–20522.[3]
CS66–24 11–12–65	Johnson & French Oil Co., et al.	1	G–17645		
		2	C161–1610		
		3	C161–1680		
CS66–26 11–16–65	Robert B. Honeyman, Jr.	1	G–8406		
CS66–30 11–26–65	Yates Petroleum Corp. (Operator), et al.	1	C161–993	RI64–526 [3]	
CS66–32 12–2–65	Z. C. Ambrose	[5]	[5]		
CS66–41 10–13–65	Oil Well Drilling Co., et al.	5	G–18311		RI60–152.[3]
CS66–45 12–13–65 3–10–66	Hal Bogle, et al.	1	C161–219		
CS66–47 12–27–65	Thompson & Cone, et al.	2	G–7748		
CS66–60 1–3–66	Curtis R. Inman	1	G–16106		
CS66–62 1–3–66	Wolfson Oil Co. (Operator), et al.	1	G–2739		
CS66–63 1–3–66	Claud E. Aikman	2	C160–357		RI65–247.[3]
		1	G–8229		RI60–73.[3]
		3	G–5382		RI60–73.[3]
		5	G–17901		RI60–73.[3]
CS66–66 1–3–66	Roy E. Kimsey (Operator), et al.	1	C163–1272	R165–441 [3]	RI60–43.[3]
CS66–68 1–7–66	Southwestern-Greer Estate No. I, Ltd	2	C165–782 [1]		
		1	C166–92 [1]		
CS66–69 12–27–65	J. R. Cone, et al.	1	G–7746		
			G–11098		
CS66–70 12–27–65	Markham, Cone & Redfern	4	G–7747		
CS66–71 12–27–65	S. E. Cone, et al.	3	G–7750		
CS66–72 10–18–65	Reserve Oil & Gas Co. (Operator), et al.	3	C161–919	RI65–188 [3]	RI60–12.[3]
		4	C161–919		
		5	C161–919		
		6	C161–919		
		7	C161–919		
		8	C161–919		
		9	C161–919		
		10	C161–919		
		11	C161–919		
		12	C161–919		
		13	C161–919		
		14	C161–919		
		15	C161–919	RI65–188 [3]	RI60–13.[3]
		16	C161–919	RI65–188 [3]	RI60–13.[3]
		17	C161–919	RI64–188 [3]	RI60–13.[3]
		18	C161–919	RI65–188 [3]	RI60–13.[3]
		19	C161–1093		
		[5]	[5]		

See footnotes at end of table.

[2] The proceedings in Docket Nos. G–17059 and RI64–293 are terminated only with respect to the interest of Applicant in Docket No. CS66–110 and the proceeding in Docket No. G–16477 is terminated only with respect to the interest of Applicant in Docket No. CS66–11.

Docket No.	Applicant	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated suspension dockets	Suspension dockets not to be terminated
CS66-74 12-30-65	G. Scott Hammonds	(2)	(2)		
CS66-75 12-30-65	Doris A. Beard	1	G-15393		R164-782,[3] G-20539,[3]
CS66-83 1-24-66	R. L. Force	1	G-17954		
CS66-84 2-2-66	E. E. Reigle, d.b.a. Richmond Drilling Co.	2	G-19418		R160-38,[3]
CS66-85 2-2-66 3-17-66	Miles Kimball Co.	4	CI66-860 [1]		
CS66-86 2-2-66 3-17-66	Edward F. Leyhe	(2)	(2)		
CS66-87 2-2-66 3-17-66	Alberta S. Kimball	(2)	(2)		
CS66-96 2-14-66	Dalco Oil Co.	[3] 1	CI64-1442		
CS66-101 2-16-66	McGrath & Smith, Inc. (Operator), et al.	1	G-16092		R160-196,[3]
		1	G-18195		R160-316,[3]
CS66-108 3-7-66	Texam Oil Corp. (Operator), et al.	8	C162-1258		
		11	CI66-308 [1]		
CS66-114 3-14-66	Southland Royalty Co. (Operator), et al.	11	G-8475		R160-119,[3]
		14	G-11257	RI66-231	R160-148,[3]
		15	G-10304		R160-148,[3]
		17	CI60-98		R160-306,[3]
		19	CI161-1214		R163-381,[3]
		22	CI65-806 [1]		
CS66-115 3-21-66	Westates Petroleum Co., et al.	2	G-3572		G-20414,[3]
		3	G-3572		
CS66-118 3-28-66	Ard Drilling Co.	1	G-14475 [4]	R16-90 [4]	
CS66-119 4-4-66	George L. Buckles (Operator), et al.	2	C163-678		
		3	C163-678		
		4	C163-678		
		5	C163-678		
		6	C163-678		
		7	C163-678		
		8	C164-1128		
		9	C164-1127		
		10	C165-212		
		11	C165-247		
		12	C161-994		
		13	C166-773		
		14	C166-259		
		15	C166-259		R160-13,[3]
		16	G-6119		
CS66-121 4-8-66	Neleh Gas & Oil Corp. (Operator)	1	C162-268	R165-525 [5]	
CS66-122 4-14-66	Bert Fields Estate, et al.	11	G-19601	R163-366 [5]	
CS66-124 4-25-66	Great Western Drilling Co.	2	G-11564 [4]	R164-293 [3 6] G-17059 [3 6]	
		3	G-14798		

[4] Applicant has succeeded to the interests of Limpia Royalties, Inc., respondent in Docket No. G-14761.
[1] Temporary certificate. The application pending in this docket is dismissed as moot.
[2] Consolidated in the proceeding on the order to show cause issued Aug. 5, 1965, in Docket No. AR61-1, et al.
[3] Consolidated in the original proceeding in Docket No. AR61-1, et al.
[4] This proceeding is terminated only with respect to sales from the interest of Applicant in the instant order.
[5] Applicant presently makes only a percentage type sale from the Permian Basin area. The small producer certificate will cover additional, future sales from the Permian Basin area.
[6] Applicant's Permian Basin sales are presently made pursuant to the certificate issued to Apco Oil Corp. (Operator), et al., in Docket No. CS66-1.
[7] Applicant has filed to cover its interest in Miles Kimball Co., d.b.a. Kimball Production Co. (Operator), et al., FPC Gas Rate Schedule No. 4.
[8] Tentative designation. This rate schedule has not been accepted for filing.
[9] The order issuing this certificate is amended by deleting therefrom authorization to sell gas from the interest of Applicant in the instant order. The certificate is not terminated.

[F.R. Doc. 66-8127; Filed, July 26, 1966; 8:45 a.m.]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 583]

OHIO

Declaration of Disaster Area

Whereas, it has been reported that during the month of July 1966, because of the effects of certain disasters, damage resulted to residences and business property located in Erie, Ottawa, and Sandusky Counties in the State of Ohio;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the Office below indicated from persons or firms whose property, situated in the aforesaid counties and areas adjacent thereto, suffered damage or destruction resulting from floods and accompanying conditions occurring on or about July 12, 1966.

OFFICE

Small Business Administration Regional Office, 1370 Ontario Street, Cleveland, Ohio 44113.

2. If a temporary office is established at Sandusky, Ohio, the address will be announced locally.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to January 31, 1967.

Dated: July 14, 1966.

BERNARD L. BOUTIN,
Administrator.

[F.R. Doc. 66-8167; Filed, July 26, 1966; 8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[Notice 405]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JULY 22, 1966.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission, under the Commission's deviation rules revised, 1957 (49 CFR 211.1(c)(8)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 211.1(d)(4)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 211.1(e)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's deviation rules revised, 1957, will be numbered consecutively for convenience in identification and protests if any should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC 629 (Deviation No. 25), HELM'S EXPRESS, INC., 1011 Lincoln Highway West, Irwin, Pa., filed July 8, 1966. Carrier's representative: Richard J. Smith, 1515 Park Building, Pittsburgh, Pa. 15222. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Washington, D.C., over Interstate Highway 495 to junction Interstate Highway 70–S, thence over Interstate Highway 70–S to junction Interstate Highway 70, thence over Interstate Highway 70 to Breezewood, Pa., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Washington, D.C., over U.S. Highway 240 to Frederick, Md., thence over U.S. Highway 40 to junction U.S. Highway 522, thence over U.S. Highway 522 to junction Pennsylvania Highway 126, thence over Pennsylvania Highway 126 to Breezewood, Pa., and return over the same route.

No. MC 4966 (Deviation No. 2), JONES TRANSFER COMPANY, 111 Jones Avenue, Monroe, Mich. 48161, filed July 12, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From junction U.S. Highway 20 and Ohio Highway 108, thence over Ohio Highway 108 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 21, thence over U.S. Highway 21 to Cleveland, Ohio, (2) from junction U.S. Highway 20 and Ohio Highway 10 and 82, over Ohio Highway 10 and 82 to Cleveland, Ohio, and (3) from Toledo, Ohio, over Ohio Highway 120 to junction U.S. Highway 20, thence over U.S. Highway 20 to junction Ohio Highway 51, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Toledo, Ohio, over Ohio Highway 2 to Lorain, Ohio, thence over Ohio Highway 57 to Elyria, Ohio (also from Sandusky, Ohio, over Ohio Highway 13 to Milan, Ohio, thence over Ohio Highway 113 to Elyria), thence over Ohio Highway 57 to junction Ohio Highway 254, thence over Ohio Highway 254 to Cleveland, Ohio, (2) from Toledo, Ohio, over Ohio Highway 51 (formerly Business Route U.S. Highway 20) to junction U.S. Highway 20, thence over U.S. Highway 20 via Elyria, Ohio, to Cleveland, Ohio, and (3) from Morenci, Mich., over Michigan Highway 156 to the Michigan-Ohio State line, thence over Ohio Highway 108 to junction U.S. Highway 20, thence over U.S. Highway 20 to Toledo, Ohio, and return over the same routes.

No. MC 4966 (Deviation No. 3), JONES TRANSFER COMPANY, 111 Jones Avenue, Monroe, Mich. 48161, filed July 14, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Toledo, Ohio, over Interstate Highway 75 to Flint, Mich., (2) from Detroit, Mich., over Interstate Highway 96 to Howell, Mich., and (3) from Detroit, Mich., over Interstate Highway 94 to Ypsilanti, Mich., and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Detroit, Mich., over U.S. Highway 25 to Monroe, Mich., thence over Michigan Highway 50 to junction U.S. Highway 24, thence over U.S. Highway 24 to junction U.S. Highway 25, thence over U.S. Highway 25 to Toledo, Ohio, (2) from Detroit, Mich., over U.S. Highway 10 to junction Michigan Highway 87, thence over Michigan Highway 87 to Fenton, Mich., thence over U.S. Highway 23 to junction U.S. Highway 16, thence over U.S. Highway 16 to Howell, Mich., (3) from junction U.S. Highway 10 and Michigan Highway 82, over U.S. Highway 10 to Flint, Mich., (4) from Detroit, Mich., over U.S. Highway 16 to Howell, Mich., and (5) from Detroit, Mich., over U.S. Highway 12 (formerly U.S. Highway 112) to Clinton, Mich., thence over Michigan Highway 52 to junction unnumbered Lenawee County Highway, approximately 2 miles south of Jasper, Mich., thence over said unnumbered highway to Morenci, Mich., and return over the same routes.

No. MC 10761 (Deviation No. 43), TRANSAMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit, Mich. 48209, filed July 14, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Oklahoma City, Okla., over Interstate Highway 35 to the Oklahoma-Kansas State line, thence over the Kansas Turnpike to Emporia, Kans., thence over Interstate Highway 35 to Kansas City, Mo., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Oklahoma City, Okla., over U.S. Highway 66 to Tulsa, Okla., thence over U.S. Highway 75 to Caney, Kans., thence over U.S. Highway 166 to Coffeyville, Kans., thence over U.S. Highway 169 to Garnett, Kans., thence over U.S. Highway 59 to junction U.S. Highway 50, thence over U.S. Highway 50 to Kansas City, Mo., and return over the same route.

No. MC 30204 (Deviation No. 13), HEMINGWAY TRANSPORT INC., 438 Dartmouth Street, New Bedford, Mass. 02740, filed July 12, 1966. Carrier's representative: Carroll B. Jackson, 1301 North Boulevard, Richmond, Va. 23230. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 52 and Interstate Highway 81, at Fort Chiswell, Va., over Interstate Highway 81 to junction Interstate Highway 78, thence over Interstate Highway 78 to Newark, N.J., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Roanoke, Va., over U.S. Highway 11 to junction U.S. Highway 52, thence over U.S. Highway 52 to Hillsville, Va., (2) from Winchester, Va., over U.S. Highway 11 to Roanoke, Va., and (3) from Winchester, Va., over U.S. Highway 11 to Harrisburg, Pa., thence over U.S. Highway 22 to junction unnumbered highway (formerly U.S. Highway 22), thence over unnumbered highway via Allentown, Bethlehem, and Easton, Pa., to junction U.S. Highway 22, thence over U.S. Highway 22 to Newark, N.J., thence over U.S. Highway 1 to New York, N.Y., and return over the same routes.

No. MC 30204 (Deviation No. 14), HEMINGWAY TRANSPORT INC., 438 Dartmouth Street, New Bedford, Mass. 02740, filed July 13, 1966. Carrier's representative: Carroll B. Jackson, 1301 North Boulevard, Richmond, Va. 23230. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Virginia Highway 7 and junction U.S. Highway 340, at Berryville, Va., over U.S. Highway 340 to junction Virginia Highway 277, thence over Virginia Highway 277 to Stephens City, Va., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Berryville, Va., over Virginia Highway 7 to junction U.S. Highway 11, at or near Winchester, Va., thence over U.S. Highway 11 to Stephens City, Va., and return over the same route.

No. MC 30204 (Deviation No. 15), HEMINGWAY TRANSPORT, INC., 438 Dartmouth Street, New Bedford, Mass. 02740, filed July 13, 1966. Carrier's representative: Carroll B. Jackson, 1301 North Boulevard, Richmond, Va. 23230. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Virginia Highway 7 and U.S. Highway 340, at Berryville, Va., over U.S. Highway 340 to junction U.S. Highway 522, thence over U.S. Highway 522 to junction Virginia Highway 55 at Riverton, Va., thence over Virginia Highway 55 to junction U.S. Highway 11 at Strasburg, Va., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From junction Virginia Highway 7 and U.S. Highway 340 at Berryville, Va., over Virginia Highway 7 to Winchester, Va., thence over U.S. Highway 11 to Strasburg, Va., and return over the same route.

No. MC 30204 (Deviation No. 16), HEMINGWAY TRANSPORT, INC., 438 Dartmouth Street, New Bedford, Mass. 02740, filed July 14, 1966. Carrier's representative: Carroll B. Jackson, 1301 North Boulevard, Richmond, Va. 23230. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 40 and Interstate Highway 695, west of Baltimore, Md., over Interstate Highway 695 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction U.S. Highway 13, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Baltimore, Md., over U.S. Highway 40 to State Road, Del., thence over U.S. Highway 13 to Philadelphia, Pa., and return over the same route.

No. MC 30204 (Deviation No. 17), HEMINGWAY TRANSPORT, INC., 438 Dartmouth Street, New Bedford, Mass. 02740, filed July 14, 1966. Carrier's representative: Carroll B. Jackson, 1301 North Boulevard, Richmond, Va. 23230. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a

deviation route as follows: From Winchester, Va., over U.S. Highway 522 (formerly Alternate U.S. Highway 340) to junction U.S. Highway 340, thence over U.S. Highway 340 to Waynesboro, Va., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Winchester, Va., over U.S. Highway 11 to Staunton, Va., thence over U.S. Highway 250 via Waynesboro to Afton, Va., thence over Virginia Highway 151 to Greenfield, Va., thence over Virginia Highway 6 to junction U.S. Highway 29, thence over U.S. Highway 29 to Lynchburg, Va., thence over U.S. Highway 460 to Roanoke, Va., and return over the same route.

No. MC 59680 (Deviation No. 42), STRICKLAND TRANSPORTATION CO., INC., 3011 Gulden Lane, Dallas, Tex., filed July 11, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From St. Louis, Mo., over U.S. Highway 50 via Cincinnati, Ohio, to junction U.S. Highway 52, thence over U.S. Highway 52 to junction U.S. Highway 60 at Huntington, W. Va., thence over U.S. Highway 60 to junction U.S. Highway 1 at Richmond, Va., thence over U.S. Highway 1 to Philadelphia, Pa., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: From St. Louis, Mo., over U.S. Highway 66 to junction Illinois Highway 48, thence over Illinois Highway 48 to junction U.S. Highway 54, thence over U.S. Highway 54 via Onarga to Gilman, Ill., thence over U.S. Highway 24 to Napoleon, Ohio, thence over U.S. Highway 6 to Lorain, Ohio, thence over Ohio Highway 57 to junction Ohio Highway 254, thence over Ohio Highway 254 to Cleveland, Ohio, thence via Ohio, Pennsylvania and New Jersey Turnpikes to Newark, N.J., thence over U.S. Highway 1 to Philadelphia, Pa., and return over the same route.

No. MC 59680 (Deviation No. 43), STRICKLAND TRANSPORTATION CO., INC., 3011 Gulden Lane, Dallas, Tex., filed July 11, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Boston, Mass., and Cleveland, Ohio, over Interstate Highway 90 for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Boston, Mass., over U.S. Highway 20 to Springfield, Mass., thence over U.S. Highway 5 to New Haven, Conn., thence over U.S. Highway 1 to Newark, N.J., thence over New Jersey Turnpike to the Pennsylvania Turnpike, thence over Pennsylvania Turnpike to the Ohio Turnpike, thence over the Ohio Turnpike and U.S. Highway 21 to Cleveland, Ohio, and return over the same route.

No. MC 61616 (Deviation No. 15), MIDWEST BUSLINES, INC., 433 West Washington Avenue, North Little Rock, Ark., filed July 11, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, over a deviation route as follows: From Dodson's Corner, Ark., over unnumbered St. Francis County Road to junction Interstate Highway 40, thence over Interstate Highway 40 to junction Arkansas Highway 38, thence over Arkansas Highway 38 to junction U.S. Highway 70, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Fort Smith, Ark., over U.S. Highway 64 to junction U.S. Highway 65, thence over U.S. Highway 65 to junction U.S. Highway 70, and thence over U.S. Highway 70 to Memphis, Tenn., and return over the same route.

No. MC 72444 (Deviation No. 14), AKRON-CHICAGO, INC., 1016 Triplett Boulevard, Akron, Ohio 44306, filed July 11, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) Between New York Highway 33A and exit 47 of the New York Thruway and Rochester, N.Y., over Interstate Highway 490, and (2) between Binghamton and Syracuse, N.Y., over Interstate Highway 81, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) Between Rochester, N.Y., and Batavia, N.Y., over New York Highway 33 (also over the New York Thruway (Interstate Highway 90), and (2) between Syracuse and Binghamton, N.Y., over New York Highway 11.

No. MC 105808 (Sub-No. 5) (Deviation No. 1), PLYMOUTH ROCK TRANSPORTATION CORP., 28 Travis Street, Boston, Mass. 02134, filed July 11, 1966. Carrier's representative: Francis E. Barrett, Professional Building, 25 Bryant Avenue, East Milton (Boston), Mass. 02186. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: Between Boston, Mass., and junction Interstate Highway 90 (Massachusetts Turnpike) and Massachusetts Highway 15 at or near Fiskdale, Mass., over Interstate Highway 90 (Massachusetts Turnpike), for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From New Haven, Conn., over U.S. Alternate Highway 5 to North Haven, Conn. (also from New Haven, Conn., over U.S. Highway 5 to North Haven, Conn.), thence over U.S. Highway 5 to Springfield, Mass., and thence over U.S. Highway 20 to Boston, Mass., and (2) from Hartford, Conn., over Connecticut Highway 15 to the Connecticut-Massachusetts State line, thence over Massachusetts Highway 15 to junction U.S. Highway 20, and return over the same routes.

No. MC 105808 (Sub-No. 5) (Deviation No. 2), PLYMOUTH ROCK TRANSPORTATION CORP., 28 Travis Street., Boston, Mass. 02134. Applicant's representative: Francis E. Barrett, Professional Building, 25 Bryant Avenue, East Milton (Boston), Mass. 02186; filed July 11, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction U.S. Highway 20 and Interstate Highway 91 at or near Springfield, Mass., over Interstate Highway 91 to junction Connecticut Turnpike at New Haven, Conn., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From New Haven, Conn., over U.S. Alternate Highway 5 to North Haven, Conn. (also from New Haven over U.S. Highway 5 to North Haven), thence over U.S. Highway 5 to Springfield, Mass., thence over U.S. Highway 20 to Boston, Mass., and return over the same route.

No. MC 105808 (Sub-No. 5) (Deviation No. 3), PLYMOUTH ROCK TRANSPORTATION CORP., 28 Travis Street, Boston, Mass. 02134. Applicant's representative: Francis E. Barrett, Professional Building, 25 Bryant Avenue, East Milton (Boston), Mass. 02186; filed July 11, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From the northern terminus of Interstate Highway 95 at or near Boston, Mass., over Interstate Highway 95 to New York, N.Y., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From New York, N.Y., over U.S. Highway 1 to Boston, Mass., and return over the same route.

MOTOR CARRIER OF PASSENGERS

No. MC 1515 (Deviation No. 320), GREYHOUND LINES, INC. (Southern Division), 219 East Short Street, Lexington, Ky. 40507, filed July 13, 1966. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, over a deviation route as follows: From Ocala, Fla., over Florida Highway 40 to junction Interstate Highway 75 immediately west of Ocala, Fla., thence over Interstate Highway 75 to Tampa, Fla., with the following access routes: (1) From Ocala, Fla., over Florida Highway 200 to junction Interstate Highway 75 southwest of Ocala, and (2) from Dade City, Fla., over Florida Highway 52 to junction Interstate Highway 75, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service

routes as follows: (1) From Ocala, Fla., over U.S. Highway 441 to Belleview, Fla., thence over U.S. Highway 301 via Wildwood and Dade City, Fla., to junction Florida Highway 39, thence over Florida Highway 39 to Plant City, Fla., thence over Florida Highway 574 to Tampa, Fla., (2) from Williston, Fla., over U.S. Highway 27 to Ocala, Fla., thence over Florida Highway 200 to junction Florida Highway 484, thence over Florida Highway 484 to Dunnellon, Fla., thence over U.S. Highway 41 to Tampa, Fla., and (3) from junction Florida Highways 200 and 484 over Florida Highway 200 to Hernando, Fla., and return over the same routes.

By the Commission.

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

[F.R. Doc. 66-8179; Filed, July 26, 1966; 8:46 a.m.]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JULY 22, 1966.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by special rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State docket No. 15801, (Correction), filed June 24, 1966, published in FEDERAL REGISTER, issue of July 7, 1966, corrected July 18, 1966, and republished as corrected, this issue. Applicant: JIMMY STEIN MOTOR LINES, INC., Post Office Box 4532, Mobile, Ala. Applicant's representative: Robert E. Tate, 2025 City Federal Building, Birmingham, Ala. Certificate of public convenience and necessity sought to operate a freight service as follows: Transporting *general commodities* (except commodities in bulk, commodities requiring special equipment, commodities injurious to other lading, and high explosives), serving the plantsite of MacMillan, Bloedel, Ltd., near Pine Hill, Ala., as an off-route point to applicant's Alabama Highway 5 and U.S. Highway 43 routes. NOTE: The purpose of this republication is to correct the description of the proposed operation.

HEARING: August 2, 1966, at 9 a.m., Room 702, State Office Building, Montgomery, Ala. Requests for procedural information, including the time for filing protests, concerning this application, should be addressed to the Alabama Public Service Commission, Post Office Box 991, Montgomery, Ala. 36102, and should not be directed to the Interstate Commerce Commission.

By the Commission.

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

[F.R. Doc. 66-8180; Filed, July 26, 1966; 8:46 a.m.]

[Notice 220]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JULY 22, 1966.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules in Ex Parte No. MC 67 (49 CFR Part 240), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date notice of filing of the application is published in the FEDERAL REGISTER. One copy of such protest must be served on the applicant, or its authorized representative, if any, and the protest must certify that such service has been made. The protest must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined, at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the field office to which protests are to be transmitted.

No. MC 13134 (Sub-No. 13 TA), filed July 20, 1966. Applicant: PENNSYLVANIA-OHIO EXPRESS, INC., Post Office Box 256, State Route 75 North, Oak Hill, Ohio. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, in tank vehicles, from Wadsworth, Ohio, to Bethlehem, Pa., for 180 days. Supporting shipper: Industrial Minerals Division, International Minerals & Chemical Corp., Skokie, Ill. 60078. Send protests to: A. J. Stevens, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 236 New Post Office Building, Columbus, Ohio 43215.

No. MC 13806 (Sub-No. 29 TA), filed July 19, 1966. Applicant: VIRGINIA HAULING COMPANY, a corporation, Mountain Road, Glen Allen, Va. Applicant's representative: Robert McKee, Virginia Hauling Co., Glen Allen, Va. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wirebound box material* (wood and wire combined), from Richmond, Va., to Tipton, Pa., for 150 days. Supporting shipper: David M. Lea Co., Inc., Hopkins Road, Richmond, Va. Send protests to: Robert W. Waldron, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 10-502 Federal Building, Richmond, Va. 23240.

No. MC 59454 (Sub-No. 7 TA), filed July 20, 1966. Applicant: L. CIERCIELLI AND SON, INCORPORATED, 1717 State Street, Hamden, Conn. Applicant's representative: Paul J. Goldstein, 109 Church Street, New Haven, Conn. 06510. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cinder blocks and concrete blocks*, from Acton and Medford, Mass., to Hartford, North Haven, and Hamden, Waterbury, and Danbury, Conn., no compensation on return except as otherwise authorized, for 180 days. Supporting shipper: Plasticrete Corp., 1883 Dixwell Avenue, Hamden, Conn. Send protests to: David J. Kiernan, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 324 U.S. Post Office Building, 135 High Street, Hartford, Conn. 06101.

No. MC 96607 (Sub-No. 5 TA), filed July 20, 1966. Applicant MURRELL RUCKER AND BURRELL RUCKER, a partnership, doing business as RUCKER BROTHERS TRUCKING COMPANY, 733 East 11th Street, Tacoma, Wash. 98401. Applicant's representative: Jack R. Davis, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, and lumber products*, between points in Oregon and points in King and Pierce Counties, Wash., for 180 days. Supporting shippers: Crown Zellerbach Corp., Northwest Lumber & Plywood Division, St. Helens, Oreg. 97051; St. Regis Paper Co., Forest Products Division, 733 East 11th Street, Tacoma, Wash. 98401; Santiam Lumber Co., Sweet Home, Oreg. 97386; Western Veneer & Plywood Co., Post Office Box 428, Albany, Oreg. 97321. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 110191 (Sub-No. 16 TA), filed July 20, 1966. Applicant: TURNER'S EXPRESS, INCORPORATED, 1300 Shelton Avenue, Post Office Box 1006, Norfolk, Va. Applicant's representative: W. P. Davis (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in mechanically refrigerated vehicles, from Norfolk, Va. to Ahoskie, N.C., for 180 days. Supporting shipper: J. H. Filbert, Inc., 3701 Southwestern Boulevard, Baltimore, Md. 21229. Send protests to: Robert W. Waldron, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 10-502 Federal Building, Richmond, Va. 23240.

No. MC 111729 (Sub-No. 162 TA), filed July 18, 1966. Applicant: AMERICAN COURIER CORPORATION, 222-17 Northern Boulevard, Bayside, N.Y. 11361.

Applicant's representative: J. K. Murphy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, audit and accounting media, payroll records and checks and sales and advertising pamphlets moving therewith* (excluding plant removals), between Washington, D.C., on the one hand, and, on the other, points in Philadelphia County, Pa.; (2) *exposed and processed film and prints, complimentary replacement film, incidental dealer or handling supplies consisting of labels, envelopes, and packaging materials and advertising literature moved therewith* (excluding motion picture film used primarily for commercial theater and television exhibition), (a) between Cleveland, Ohio, on the one hand, and, on the other, points in Maryland, Pennsylvania, and West Virginia; and (b) between Philadelphia, Pa., on the one hand, and, on the other, points in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Salem, and Warren Counties, N.J., for 150 days. Supporting shippers: Sealtest Foods, 2535 Pennsylvania Avenue NW., Washington, D.C. 20037; Perfect Photo, Inc., 4747 North Broad Street, Philadelphia, Pa. 19141; Brunner-Booth Fotochrome Corp., 2300 Payne Avenue, Cleveland 14, Ohio. Send protests to: E. N. Carignan, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 346 Broadway, New York, N.Y. 10013.

No. MC 116045 (Sub-No. 27 TA), filed July 20, 1966. Applicant: NEUMAN TRANSIT CO., INC., Post Office Box 38, Rawlins, Wyo. Applicant's representative: John P. Thompson, 450 Capitol Life Building, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nitro-carbo-nitrate*, from Rawlins, Wyo. to Zonolite Co. (Division of W. R. Grace, Inc.), mine site located approximately 10 miles northeast of Libby, Mont., near Montana State Highway 37, for 180 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, Mo. 63166. Send protests to: Paul A. Naughton, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, D & S Building, 255 North Center Street, Casper, Wyo. 82601.

No. MC 119195 (Sub-No. 8 TA), filed July 20, 1966. Applicant: CHARLES S. ROGERS, JR. AND EDNA ROGERS, a partnership, doing business as ROGERS TRUCKING, Old Country Road, Monroe, N.Y. 10950. Applicant's representative: Vincent M. Brennan, Central Valley, N.Y. 10917. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is distributed by premium stamp redemption center in the redemption of premium stamps*, from South Hackensack, N.J., to points in Orange, Ulster, Greene, and Dutchess Counties, N.Y., with no transportation for compensation on return, for 180 days. Supporting shipper: Stop and Save Trading Stamp Corp., 125 Phillips Avenue, South Hackensack, N.J. 07606. Send protests to: Charles F. Jacobs, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 215–217 Post Office Building, Binghamton, N.Y. 13902.

No. MC 126055 (Sub-No. 1 TA), filed July 18, 1966. Applicant: JOHN W. GROEN, doing business as JACK'S TRUCKING SERVICE, Lennox, S. Dak. 57039. Applicant's representative: R. W. Wigton, 710 Badgerow Building, Sioux City, Iowa 51101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Animal and poultry feed*, from Lennox, S. Dak., to points in North Dakota, points in that part of Iowa bounded on the south by Iowa Highway 175 commencing at a point on the Iowa-Nebraska State line near Onawa, Iowa, thence east along Iowa Highway 175 to junction of Iowa Highways 175 and 37, thence east along Iowa Highway 37 to Soldier, Iowa, thence northeasterly along Iowa Highway 183 to Ute, Iowa, thence easterly along Iowa Highway 141 to Denison, Iowa, thence east along U.S. Highway 30 to Ames, Iowa; on the east by U.S. Highway 69 running north from Ames, Iowa, to the Iowa-Minnesota State line; on the north by the Iowa-Minnesota State line and on the west by the Iowa-South Dakota and Iowa-Nebraska State lines, including points on such designated highways, points in that part of Minnesota bounded on the north and east by U.S. Highway 10 and then east and southeast along U.S. Highway 10 to junction of U.S. Highways 10 and 65 at Minneapolis, Minn., thence south along U.S. Highway 65 to Albert Lea, Minn., thence south along U.S. Highway 69 to the Minnesota-Iowa State line; on the south by the Iowa-Minnesota State line and on the west by the Minnesota-North Dakota and Minnesota-South Dakota State lines, from Sioux City, Iowa, to Lennox, S. Dak.; and *animal and poultry feed ingredients*, from points in Iowa, Minnesota, and Nebraska to Lennox, S. Dak., for 180 days. Supporting shipper: Nutrena Mills, Lennox, S. Dak. 57039. Send protests to: J. L. Hammond, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC-126286 (Sub-No. 5 TA), filed July 20, 1966. Applicant: JOHN NIX, JR., Queen and Ferry Streets, Post Office Box 721, Albany, Oreg. Applicant's representative: Lawrence V. Smart, Jr., 419 Northwest 23d Avenue, Portland, Oreg. 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Lane, Linn, Benton, and Polk Counties, Oreg., to Yaquina Bay, Coos Bay, and Portland, Oreg., docks, for 150 days. Supporting shipper: Starr-Carter Lumber Sales, 998 Ferry Lane, Post Office Box 1618, Eugene, Oreg. 97401. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 450 Multnomah Building, Portland, Oreg. 97204.

No. MC 128382 (Sub-No. 1 TA), filed July 20, 1966. Applicant: MAX B. ZUCKERMAN, doing business as M. B. ZUCKERMAN, 570 Seventh Avenue, New York, N.Y. 10018. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel in cartons*, from New York, N.Y., to Edison, N.J., for 150 days. Supporting shipper: W. T. Grant, Co., 1441 Broadway, New York, N.Y. 10018. Send protests to: Paul W. Assenza, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 346 Broadway, New York, N.Y. 10013.

No. MC 128406 TA, filed July 20, 1966. Applicant: LAMBETH PLEASANT MARTIN, Route No. 1, Virgilina, Va. Applicant's representative: B. T. Henderson II, Post Office Drawer 309, Raleigh, N.C. 27602. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Sand and gravel*, from points in North Carolina to points in Virginia; and on return, *sand and gravel* from points in Virginia to points in North Carolina, for 180 days. Supporting shippers: Roxboro Concrete Supply Co., Roxboro, N.C.; Kelly W. Carver, masonry contractor, Roxboro, N.C. Send protests to: Archie W. Andrews, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Post Office Box 10885, Cameron Village Station, Raleigh, N.C. 27605.

No. MC 128407 TA, filed July 20, 1966. Applicant: MIDWEST TRANSPORT COMPANY, 860 West Cypress, Covina, Calif. Applicant's representative: J. Max Harding, Post Office Box 2028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fabricated iron and steel products*, from the plantsite of Pacific Coast Engineering, Alameda, Calif., to Boston, Mass., Baltimore, Md., Philadelphia, Pa., Charleston, S.C., and to a hydroelectric damsite near Cambridge, Idaho; (2) *raw steel*, from Coastville and Johnston, Pa., and Burns Harbor, Ind., to the plantsite of Pacific Coast Engineering, Alameda, Calif., for 180 days. Supporting shipper: Pacific Coast Engineering Co., Post Office Drawer E, Alameda, Calif. 94501. Send protests to: John E. Nance, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, Federal Building Room 7708, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-8181; Filed, July 26, 1966; 8:46 a.m.]

[Amdt. 1, S.O. 981; 2d Rev. Pfahler's Car Distribution Direction 6]

ATLANTIC COAST LINE RAILROAD CO. AND ILLINOIS CENTRAL RAILROAD CO.

Boxcar Distribution

Upon further consideration of Second Revised Pfahler's Car Distribution Direction No. 6 (Atlantic Coast Line Railroad Co.—Illinois Central Railroad Co.) and good cause appearing therefor:

It is ordered, That:

Second Revised Pfahler's Car Distribution Direction No. 6 be, and is hereby amended by substituting the following paragraph (4) for paragraph (4) thereof:

(4) *Expiration date.* This Direction shall expire at 11:59 p.m., August 14, 1966, unless otherwise modified, changed or suspended by order of this Commission.

It is further ordered, That this Direction shall become effective at 11:59 p.m., July 24, 1966, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement, and by filing it with the Director, Office of Federal Register.

Issued at Washington, D.C., July 21, 1966.

INTERSTATE COMMERCE COMMISSION,
[SEAL] H. R. LONGHURST,
Agent.

[F.R. Doc. 66-8182; Filed, July 26, 1966; 8:46 a.m.]

FOURTH SECTION APPLICATIONS FOR RELIEF

JULY 22, 1966.

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. 40629—*Joint motor-rail rates—Niagara Frontier.* Filed by Niagara Frontier Tariff Bureau, Inc., agent (No. 40), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in Central States and southern territories, on the one hand, and points in Provinces of Ontario and Quebec, Canada, on the other.

Grounds for relief—Motortruck competition.

FSA No. 40630—*Joint motor-rail rates—Niagara Frontier.* Filed by Niagara Frontier Tariff Bureau, Inc., agent (No. 41), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in Central States, Middle Atlantic, and New England territories, on the one hand, and points in Provinces of Ontario and Quebec, Canada, on the other.

Grounds for relief—Motortruck competition.

FSA No. 40631—*Joint motor-rail rates—Southern Motor Carriers.* Filed by Southern Motor Carriers Rate Conference, agent (No. 157), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in southern territory, on the one hand, and points in middle west and southwestern territories, on the other.

Grounds for relief—Motortruck competition.

Tariffs—Supplements 11 and 4 to Southern Motor Carriers Rate Conference, agent, tariffs MF-ICC 1392 and 1403, respectively.

FSA No. 40632—*Joint Motor-rail rates—Southern Motor Carriers.* Filed by Southern Motor Carriers Rate Conference, agent (No. 158), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in southern territory, on the one hand, and points in southwestern territory, on the other.

Grounds for relief—Motortruck competition.

Tariff—Supplement 4 to Southern Motor Carriers Rate Conference, Agent, tariff MF-ICC 1403.

FSA No. 40633—*Joint Motor-rail rates—Eastern Central.* Filed by The Eastern Central Motor Carriers Association, Inc., agent (No. 440), for interested carriers. Rates on property moving on class and commodity rates over joint routes of applicant rail and motor carriers, between points in middle Atlantic and New England territories, on the one hand, and points in middlewest and southwestern territories, on the other.

Grounds for relief—Motortruck competition.

Tariff—Supplement 9 to Eastern Central Motor Carriers Association, Inc., agent, tariff MF-ICC A-268.

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66-8183; Filed, July 26, 1966; 8:46 a.m.]

[Notice 948]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JULY 22, 1966.

The following publications are governed by special rule 1.247 of the Commission's rules of practice, published in the FEDERAL REGISTER issue of April 20, 1966, which became effective May 20, 1966.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 64994 (Sub-No. 72) (Amendment), filed March 7, 1966, published FEDERAL REGISTER issue of March 31, 1966, amended and republished, this issue. Applicant: HENNIS FREIGHT LINES, INC., Post Office Box 612, Winston-Salem, N.C. 27102. Applicant's representative: Frank C. Philips (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrapping paper, printing paper and pulpboard*, from Asheville, Canton, and Waynesville, N.C., to points in that part of Illinois and Wisconsin within the area bounded as follows: From the Illinois-Indiana State line over U.S. Highway 30 to Aurora, Ill., thence northward via Illinois Highway 31 to the Illinois-Wisconsin State line, thence eastward along the Illinois-Wisconsin State line to its junction with Wisconsin Highway 32, thence northward on Wisconsin Highway 32 to Milwaukee, Wis., including all points on the specified highways and State line. NOTE: The purpose of this republication is to amend the destination area. Hearing was held in the above proceeding on July 14, 1966, at Washington, D.C. Any interested party desiring to participate may file an original and six copies of his written representations, views or argument in support of, or against the above within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 1515 (Sub-No. 92) (Republication), filed January 3, 1966, published FEDERAL REGISTER issue of January 27, 1966, and republished, this issue. Applicant: GREYHOUND LINES, INC., WESTERN GREYHOUND LINES, 371 Market Street, San Francisco, Calif. 94102. Applicant's representative: W. T. Meinhold (same address as applicant). By application filed January 3, 1966, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over regular routes, of passengers and their baggage in the same vehicle. Establish an additional special-operations route between Victorville, Calif., and Apple Valley, Calif., over California Highway 18, to be designated as California Route No. 257B, as a segment of the route to be used for transportation of interstate traffic in special operations between said points in conjunction with applicant's authorized interstate routes as may be requested by patrons of applicant. California Route No. 257B. Between Victorville and Apple Valley: From Victorville over California Highway 18 to Apple Valley, and return over the same route, serving all intermediate points. Service is authorized to be conducted in special operations only. NOTE: The

changes in operating authority hereinabove shown and explained are proposed to be incorporated in the designated revised sheet of certificate No. MC 1515 (Sub-No. 7).

An order of the Commission, Operating Rights Board No. 1, dated June 30, 1966, and served July 14, 1966, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, of *passengers and their baggage* in the same vehicle with passengers over the following regular route: California Route No. 257B. Betwen Victorville and Apple Valley, Calif., over California Highway 18, serving all intermediate points; that applicant is fit, willing and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. Mc. 107839 (Sub-No. 90) (Republication), filed September 27, 1965, published FEDERAL REGISTER issue of October 21, 1965, and republished, this issue. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., Post Office Box 16021, 5135 York Street, Denver, Colo. By application filed September 27, 1965, and amended, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) malt beverages moving in vehicle equipped with mechanical refrigeration for Denver, Colo., to points in Arkansas, Texas, Louisiana, Mississippi, Alabama, Tennessee, and points in Missouri east of U.S. Highway 65, and (2) empty bottles, kegs, and containers from points in Kansas, Oklahoma, Missouri, Arkansas, Texas, Louisiana, Mississippi, Alabama, and Tennessee, to Denver, Colo., restricting both parts (1) and (2) against the transportation of any shipments moving to or from Golden, Colo. An order of the Commission, Operating Rights Board No. 1, dated June 30, 1966, and served July 19, 1966, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) *malt beverages*, in vehicles equipped with mechanical refrigeration, from Denver, Colo., to points in Arkansas, Texas, Louisiana, Mississippi, Alabama, Tennessee, and to those points in Missouri east of U.S. Highway 65; (2) *malt beverage containers* from points in Kansas, Oklahoma, Missouri, Arkansas, Texas, Louisiana, Mississippi, Alabama, and Tennessee to Denver, Colo.; and (3) *glass containers* (except malt beverage containers) from Ada, Muskogee, Okmulgee, and Sand Springs, Okla., to Denver, Colo.; in each instance restricted to the transportation of traffic originating at or destined to Denver, Colo.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC 114045 (Sub-No 194), (Republication), filed October 13, 1965, published FEDERAL REGISTER issue of October 28, 1965, and republished, this issue. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, Tex. By application filed October 13, 1965, and amended, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of food products (other than frozen foods, meats, meat products, meat byproducts, dairy products, uncooked bakery products, yeast, and salad dressing), in vehicles equipped with mechanical refrigeration, from Muscatine, Iowa, to points in New Mexico, Texas, and Arizona. An order of the Commission, Operating Rights Board No. 1, dated June 14, 1966, and served June 24, 1966, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of *food products* not frozen (except in bulk, and except meats, meat products, meat byproducts, and dairy products), in vehicles equipped with mechanical refrigeration, from Muscatine, Iowa, to points in New Mexico, Texas, and Arizona; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder.

Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC 117119 (Sub-No. 261) (Republication), filed September 3, 1965, published FEDERAL REGISTER, issue of September 22, 1965, and republished this issue. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Elm Springs, Ark. Applicant's representative: John H. Joyce, 26 North College, Fayetteville, Ark. By application filed September 3, 1965, applicant seeks a certificate of public convenience and necessity authorizing operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) frozen foods, and frozen fruit juice concentrates, from Burley, Caldwell, Heyburn, American Falls, Boise, Nampa, and Pocatello, Idaho, and Ontario, Oreg., to points in Kansas and Wyoming, restricted to traffic moving for storage-in-transit, and (2) potato products and frozen foods, from Ontario, Oreg., and points in Idaho, to points in Kansas and Wyoming, restricted to traffic moving in the same vehicle and at the same time with traffic named in (1) above. An order of the Commission, Operating Rights Board No. 1, dated June 30, 1966, and served July 14, 1966, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of (1) *frozen foods*, from Burley, Caldwell, Heyburn, American Falls, Boise, Nampa, and Pocatello, Idaho, and Ontario, Oreg., to points in Kansas and Wyoming.

Restricted to the transportation of traffic moving from storage-in-transit, and (2) *potato products and frozen foods*, from Ontario, Oreg., and points in Idaho, to points in Kansas and Wyoming. restricted to traffic moving in the same vehicle and at the same time with traffic named in (1) above; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certifiacte in the proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC-F-9470. Authority sought for control by L. A. TUCKER TRUCK LINES, INCORPORATED, Cape Girardeau, Mo., of HART TRUCK LINE, INC., Dexter, Mo., and for acquisition by CHARLES N. HARRIS, WALTER SCHMIDT, and HARRY MESSMER, all of Cape Girardeau, Mo., of control of HART TRUCK LINE, INC., through the acquisition by L. A. TUCKER TRUCK LINES, INCORPORATED. Applicants'

attorney: G. M. Rebman, 314 North Broadway, St. Louis, Mo. 63102. Operating rights sought to be controlled: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between St. Louis, Mo., and Bernie, Mo., serving certain intermediate and off-route points, one alternate route for operating convenience only; between junction U.S. Highway 67 and U.S. Highway 61 (formerly Missouri Highway 25), near Crystal City, Mo., and Malden, Mo., serving certain intermediate and off-route points, between McClure, Ill., and Poplar Bluff, Mo., serving all intermediate points in Missouri, and the off-route points of Mounds and Mound City, Ill., between junction Missouri Highway 72 (formerly U.S. Highway 61) and U.S. Highway 67 near Fredericktown, Mo., and Jackson, Mo., serving all intermediate points, between Patton Junction, Mo., and the Missouri-Arkansas State line, serving all intermediate points in Missouri, between Advance, Mo., and junction Missouri Highways 91 and 51, serving all intermediate points, between Charleston, Mo., and Matthews Junction, Mo., serving all intermediate points, and the off-route point of Matthews, Mo., between Jackson, Mo., and Dutchtown, Mo., between Dutchtown, Mo., and Wolf Island, Mo., serving all intermediate points in Missouri, between Jackson, Mo., and Lutesville, Mo., serving all intermediate points, between Esther, Mo., and junction Missouri Highway 34 and U.S. Highway 67, serving all intermediate points, and the off-route points within 10 miles of the specified route, restricted to pickup and delivery of livestock.

Restriction: Service over the routes specified following the semicolon above, is restricted against traffic moving between Poplar Bluff, Qulin, and Malden, Mo.; between Perryville, Mo., and Chester, Ill., serving no intermediate points between Memphis, Tenn., and Dexter, Mo., serving the intermediate points of Malden and Bernie, Mo. Restriction: The authority granted in the paragraph next above shall not be joined with that otherwise authorized hereinabove for the purpose of rendering through service between points in the Memphis, Tenn., commercial zone, as defined by the Commission, on the one hand, and, on the other, points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone as defined by the Commission, points in Mississippi and those in Scott and Cape Girardeau Counties, Mo., which are on and east of U.S. Highway 61 and Missouri Highway 77 (formerly Missouri Highway 55); between St. Louis, Mo., and Marquand, Mo., serving the intermediate points of Patton Junction and Patton, Mo., one alternate route for operating convenience only; *general commodities*, excepting, among others, household goods, but not excepting commodities in bulk, between Poplar Bluff, Mo., and Dexter, Mo., serving all intermediate and certain off-route points, between Malden, Mo., and the Missouri-Arkansas State line, serving all intermediate points, between Poplar Bluff, Mo., and Campbell, Mo., serving all intermediate and certain off-route points.

Restriction: The above authority is subject to the condition that no service is authorized on traffic originating at Malden and Dexter, Mo., destined to St. Louis, Mo., or originating at St. Louis, Mo., destined to Malden and Dexter, Mo. No service is authorized on traffic moving between Malden and Dexter, Mo.; *household goods*, as defined by the Commission, over irregular routes, between points in Butler County, Mo., on the one hand, and, on the other, points in Illinois and Arkansas; *livestock*, between point in Stoddard County, Mo., on the one hand, and, on the other, National City, Ill., between Poplar Bluff, Mo., and points in that part of Missouri within 20 miles of Poplar Bluff, on the one hand, and, on the other, National Stock Yards, Ill. Restriction: The authority granted next above is restricted against service to or from points on Missouri Highway 53 between Poplar Bluff, Mo., and 20 miles thereof; *malt beverages*, from Belleville, Ill., to Poplar Bluff, Mo.; *petroleum products*, in containers, from Wood River, Ill., to Poplar Bluff, Mo.; and *scrap leather*, from Poplar Bluff and Dexter, Mo., to Chemical, Ill. L. A. TUCKER TRUCK LINES, INCORPORATED, is authorized to operate as a *common carrier* in Illinois, Missouri, Indiana, Iowa, Arkansas, and Tennessee. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9471. Authority sought for control and merger by DANDY TRUCKING, INC. (name to be changed to DEPEN LINE, INC.), 1879 West Marshall Street, Norristown, Pa., of the operating rights and property of (1) DELAWARE VALLEY EXPRESS, INC., 1879 West Marshall Street, Norristown, Pa., and (2) BRUNO BROTHERS, INC., 1879 West Marshall Street, Norristown, Pa. Applicants' attorney: Raymond A. Thistle, Jr., Suite 1408–09, 1500 Walnut Street, Philadelphia, Pa. 19102. Operating rights sought to be controlled and merged: (1) *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Philadelphia, Pa., and Longwood, Pa., serving all intermediate points, and certain off-route points, between Longwood, Pa., and Wilmington, Del., serving all intermediate points; (2) *general commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over irregular routes, between certain specified points in Pennsylvania, between the points immediately above, on the one hand, and, on the other, Philadelphia, Pa., between Downingtown and Ephrata, Pa., between Philadelphia, Pa., on the one hand, and, on the other, certain specified points in Pennsylvania; *metal tanks, insulating materials*, and *supplies and materials* used in their installation, from Norristown, Pa., to Wilmington, Del., Baltimore, Md., and Washington, D.C.; *insulating materials and supplies and materials* used in their installation, from Port Kennedy and Valley Forge, Pa., to Wilmington, Del., Baltimore, Md., Washington, D.C., New York, N.Y., points on Long Island, N.Y., and points in New Jersey; *metal tanks, boilers, machinery, magnesia products, asbestos products, insulating materials and supplies, pipe covering, materials used in the installation of the foregoing commodities, rivets, bolts, nuts, grease, lubricating oil* in containers, *linseed oil* in containers, *tallow, tin, roofing paper, asphalt*, and *steel bars*, from Norristown, Pa., and points within 5 miles of Norristown, to certain specified points in New York, and points in New Jersey. Restriction: No service shall be performed in the transportation of textile machinery, from Norristown, Pa., and points within 5 miles of Norristown, to New York, N.Y., in connection with the authority immediately above. DANDY TRUCKING, INC., is authorized to operate as a *common carrier* in Pennsylvania, New Jersey, Delaware, Maryland, New York, Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b). NOTE: (A) Attached to the above application is a motion to dismiss for lack of jurisdiction.

(B) There are two transfer proceedings, presently pending, involving the same three carriers herein: (1) No. MC–FC–68224 wherein DANDY TRUCKING, INC., is transferee, and DELAWARE VALLEY EXPRESS, INC., is transferor; and (2) No. MC–FC–68225 wherein DANDY TRUCKING, INC., is transferee, and BRUNO BROTHERS, INC., is transferor.

No. MC–F–9472. Authority sought for control by BERNARD A. BROWN, 57 West Park Avenue, Vineland, N.J., of SERVICE TRUCKING CO., INC., Box 276, Federalsburg, Md. Applicants' attorneys: Francis W. McInerny, 1000 16th Street NW., Washington, D.C. 20036, and David Brodsky, 1776 Broadway, New York, N.Y. Operating rights sought to be controlled: Numerous specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between certain specified points in Pennsylvania, Maryland, New York, Delaware, Virginia, New Jersey, Connecticut, Rhode Island, Massachusetts, Florida, North Carolina, Georgia, South Carolina, Michigan, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, Ohio, Tennessee, West Virginia, Wisconsin, Louisiana, Alabama, Mississippi, New Hampshire, Vermont, and the District of Columbia, serving certain intermediate and off-route points, with certain restrictions, as more specifically described in Docket No. MC–75185 (Sub-No. 9), and numerous subnumbers thereunder. This notice does not purport to be a complete description of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety thereof. BERNARD A. BROWN holds no authority from this Commission. However, he controls NATIONAL FREIGHT, INC., 57 West Park Avenue, Vineland, N.J., which is authorized to

operate as a *common carrier* in New Jersey, Pennsylvania, New York, Connecticut, Massachusetts, Rhode Island, Delaware, Maryland, Florida, New Hampshire, Ohio, Vermont, Virginia, West Virginia, Wisconsin, Illinois, Indiana, Maine, Michigan, Minnesota, Missouri, and the District of Columbia. Application has been filed for temporary authority under section 210a(b). NOTE: See also Docket No. MC-F-9480 (EASTERN FREIGHT-WAYS, INC.—Control—SERVICE TRUCKING CO., INC.), published this same issue.

No. MC-F-9473. Authority sought for control and merger by REISCH TRUCKING & TRANSPORTATION CO., INC., 819 Union Avenue, Pennsauken, N.J., of the operating rights and property of (1) BRIGGS TRANSPORTATION CO., INC., Post Office Box D, Robinsville, N.J., (2) WAR-HUNT TRUCKING CO., INC., 2121 Glendale Avenue, Philadelphia, Pa., and (3) DEPENDABLE FREIGHT LINES, INC., Post Office Box 6564, Baltimore, Md., and for acquisition by EHM RENTAL CO., INC., and in turn by MARTIN WEINER, both also of Pennsauken, N.J., of control of such rights and property through the transaction. Applicants' attorney and representative: Irving J. Raley, 1411 K Street, NW., Washington, D.C. 20005, and David E. Karabel, Suite 610-618, Chamber of Commerce Building, 121 South Broad Street, Philadelphia, Pa. 19107. Operating rights sought to be controlled and merged: (1) BRIGGS TRANSPORTATION CO., INC. *General commodities*, excepting among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Trenton, N.J., and Hightstown, N.J., serving the intermediate and off-route points of Mercerville, Hamilton Square, and Windsor, N.J.; and *general commodities*, excepting among others, household goods and commodities in bulk, over irregular routes, between points in Mercer County, N.J., on the one hand, and, on the other, Providence, R.I., Corning, N.Y., and certain specified points in Pennsylvania, New York, Massachusetts, and Connecticut; (2) WAR-HUNT TRUCKING CO., INC. *General commodities*, excepting among others, household goods and commodities in bulk, as a *common carrier*, over irregular routes, between points in Hunterdon and Warren Counties, N.J., on the one hand, and, on the other, Providence, R.I., Corning, N.Y., and certain specified points in Pennsylvania, New York, Massachusetts, and Connecticut; and (3) DEPENDABLE FREIGHT LINES, INC. *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, gasoline, scrap iron, commodities in bulk, commodities requiring refrigeration or special equipment, and those injurious or contaminating to other lading, as a *common carrier*, over regular routes, between Washington, D.C., and Baltimore, Md., serving the intermediate point of Laurel, Md. REISCH TRUCKING & TRANSPORTATION CO., INC., is authorized to operate as a *common carrier* in New York, New Jersey, Maryland, Delaware, Pennsylvania, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9474. Authority sought for purchase by COLE'S EXPRESS, 76 Dutton Street, Bangor, Maine, of the operating rights and certain property of FRED A. OXLEY, doing business as FRED'S EXPRESS, 25 Emerson Street, Bangor, Maine, and for acquisition by GALEN L. COLE, CHESLEY R. COLE, both of 76 Dutton Street, Bangor, Maine, GERALD A. COLE, 36 Plum Street, Portland, Maine, and ESTATE OF A. J. COLE (MERRILL TRUST CO., TRUSTEE), 2 Hammond Street, Bangor, Maine, of control of such rights and property through the purchase. Applicants' attorneys: Francis E. Barrett and Francis P. Barrett, both of 25 Bryant Avenue East, Milton, Mass. 02186. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-58243, Sub No. 1, covering the transportation of freight or merchandise, in intrastate commerce, as a common carrier, within the State of Maine. Vendee is authorized to operate as a *common carrier* in the State of Maine. Application has been filed for temporary authority under section 210a(b).

No. MC-F-9476. Authority sought for merger into R. C. MOTOR LINES, INC., 2500 Laura Street, Jacksonville, Fla. 32206, of the operating rights and property of GEORGIA-FLORIDA MOTOR EXPRESS, INC., 2500 Laura Street, Jacksonville, Fla. 32206, and for acquisition by B. S. REID and G. D. JOYNER, both also of Jacksonville, Fla. 32206, of control of such rights and property through the transaction. Applicants' attorney: McCarthy Crenshaw, Post Office Box 1086, Jacksonville, Fla. 32201. Operating rights sought to be merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Atlanta, Ga., and Jacksonville, Fla., serving all intermediate and certain off-route points, between Atlanta, Ga., and Jonesboro, Ga., between Conley, Ga., and junction unnumbered highway known as Mountain View Road and Georgia Highway 54, between Barnesville, Ga., and Perry, Ga., between Hazelhurst, Ga., and junction Georgia Highway 15 and U.S. Highway 1, serving no intermediate points, between Macon, Ga., and Warner Robins, Ga., serving no intermediate points and with service at Macon, Ga., for the purpose of joinder only in connection with carrier's authorized regular-route operations; and serving the off-route point of Warner Robins Airfield Base, Ga., with restriction; *frozen fruits and vegetables, salad dressing, meat, dressed poultry, lard, butter, oleomargarine, cheese*, and *eggs*, from Cincinnati, Ohio, to certain specified points in Georgia and Florida, serving certain intermediate and off-route points for delivery only; *fresh and frozen fruits and vegetables, processed citrus fruits*, and *processed citrus fruit juices*, over regular and irregular routes, from Florida points to Cincinnati, Ohio; *fresh and frozen peaches*, from Georgia points to Cincinnati, Ohio; *canned goods*, over irregular routes, from Chicago, Ill., and Austin, Ind., and points within 5 miles of Austin, to Albany, Ga. R. C. MOTOR LINES, INC., is authorized to operate as a *common carrier* in Florida, Maryland, Virginia, South Carolina, Georgia, Pennsylvania, North Carolina, New York, Delaware, New Jersey, Alabama, Tennessee, Massachusetts, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9477. Authority sought for purchase by ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901, of a portion of the operating rights of FORD DRAYAGE SERVICE, INC., 610 Wainwright Building, St. Louis, Mo. 63101, and for acquisition by R. A. YOUNG, JR., R. A. YOUNG III, H. L. HEMBREE, and J. B. SPEED, all also of Fort Smith, Ark., of control of such rights through the purchase. Applicants' attorney: Thomas Harper, Post Office Box 43, Fort Smith, Ark. Operating rights sought to be transferred: *General commodities*, excepting among others, household goods and commodities in bulk, as a *common carrier*, over irregular routes, between points and places in the St. Louis-East St. Louis commercial zone as defined in St. Louis, Mo.-East St. Louis, Ill., commercial zone, 1 M.C.C. 656, on the one hand, and, on the other, points and places in St. Louis County, Mo., not within the commercial zone. Vendee is authorized to operate as a *common carrier* in Ohio, Texas, Indiana, Missouri, Oklahoma, Illinois, Louisiana, Arkansas, Mississippi, Tennessee, Kansas, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-9478. Authority sought for purchase by BEAVER TRANSPORT CO., 100 South Calumet Street, Post Office Box 339, Burlington, Wis., of a portion of the operating rights of HARRY J. LaDUC and MARIAN R. LaDUC, doing business as WHITEWATER TRANSFER CO., Lake Geneva, Wis., and for acquisition by QUALITY CARRIERS, INC., and, in turn by ALLAN H. TORHORST and LELAND S. BARNEY, all also of Burlington, Wis., of control of such rights through the purchase. Applicants' representative: Fred H. Figge, 100 South Calumet Street, Burlington, Wis. Operating rights sought to be transferred: *General commodities*, excepting, among others, commodities in bulk, but not excepting household goods, as a *common carrier*, over irregular routes, between Whitewater, Wis., on the one hand, and, on the other, Chicago, and Elgin, Ill.; and *tile*, between Whitewater, Wis., and points within 10 miles thereof, on the one hand, and, on the other, Capron, Ill. Vendee is authorized to operate as a *common carrier* in Wisconsin, Minnesota, Illinois, Indiana, Iowa, North Dakota, Kentucky, Michigan, Missouri, Ohio, South Dakota, Pennsylvania, and Nebraska. Application has

not been filed for temporary authority under section 210a(b).

No. MC–F–9479. Authority sought for control by MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050, of AL ZEFFIRO TRANSFER AND STORAGE, INC., Eighth and Meldon Streets, Donora, Pa., and for acquisition by MATLACK CORPORATION, and, in turn by DUVERNEY B. MATLACK, EDWIN L. MATLACK,, E. BROOKE MATLACK, JR., and ROBERT W. MATLACK, all also of Lansdowne, Pa., of control of AL ZEFFIRO TRANSFER AND STORAGE, INC., through the acquisition by MATLACK, INC. Applicants' attorney: Maxwell A. Howell, 1120 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Operating rights sought to be controlled: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Donora, Pa., and Pittsburgh, Pa., serving certain intermediate and off-route points; *general commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, from certain specified points in Pennsylvania, to certain specified points in Pennsylvania, with exception; *bulk commodities* and *commodities*, the transportation of which because of their size or weight, require the use of special equipment, and *related machinery parts* and *related contractors' machinery and supplies*, when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight require the use of special equipment, except aircraft and missiles and parts thereof, and *materials, equipment and supplies* used or useful in mining, building, highway construction, and excavation work, between points in Pennsylvania, Ohio, Maryland, and West Virginia, within 150 miles of Monongahela, Pa.; *fresh meats* and *packinghouse products* and *byproducts*, and *soap and soap products*, from certain specified points in Pennsylvania, to Weirton, W. Va., and certain specified points in Pennsylvania; *prefabricated houses*, in pieces or in sections, and *heating systems, plumbing equipment, and hardware* to be used in the erection and completion of such houses, from West Newton, Pa., to all points in Delaware, Ohio, West Virginia, and the District of Columbia, certain specified points in Maryland, Virginia, and New York; and *bulk commodities*, in dump vehicles (except fertilizer and fertilizer materials, stone, and stone products, slag, sand, gravel, salt, aggregates, clay, ferrous sulphate, and dry feed ingredients), from Baltimore, Md., to certain specified points in Ohio, Pennsylvania, and West Virginia. MATLACK, INC., is authorized to operate as a *common carrier* in all States in the United States (except Alaska and Hawaii), and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9480. Authority sought for control by EASTERN FREIGHT-WAYS, INC., Eastern and Moonachie Avenues, Carlstadt, N.J. 07072, of SERVICE TRUCKING CO., INC., Post Office Box 276, Federalsburg, Md., and for acquisition by NANTAM SYSTEM, INC., and in turn by DANIEL E. SHEVELL and MYRON P. SHEVELL, all of Carlstadt, N.J. 07072, of control of SERVICE TRUCKING CO., INC., through the acquisition by EASTERN FREIGHT-WAYS, INC. Applicants' attorney: Maxwell A. Howell, 1511 K Street NW., Washington, D.C. 20005. Operating rights sought to be controlled: Numerous specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between certain specified points in Pennsylvania, Maryland, New York, Delaware, Virginia, New Jersey, Connecticut, Rhode Island, Massachusetts, Florida, North Carolina, Georgia, South Carolina, Michigan, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, Ohio, Tennessee, West Virginia, Wisconsin, Louisiana, Alabama, Mississippi, New Hampshire, Vermont, and the District of Columbia, serving certain intermediate and off-route points, with certain restrictions, as more specifically described in Docket No. MC–75185 (Sub-No. 9), and numerous subnumbers thereunder. This notice does not purport to be a complete description of the operating rights of the carrier involved.

The foregoing summary is believed to be sufficient for public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety thereof. EASTERN FREIGHT-WAYS, INC., is authorized to operate as a *common carrier* in Vermont, New York, New Jersey, Pennsylvania, Connecticut, and Massachusetts. Application has been filed for temporary authority under section 210a(b). NOTE: See also Docket No. MC–F–9472 (BERNARD A. BROWN—CONTROL—SERVICE TRUCKING CO., INC.), published this same issue.

No. MC–F–9481. Authority sought for purchase by WORSTER MOTOR LINES, INC., East Main Road, Rural Delivery No. 1, North East, Pa., of a portion of the operating rights of E. T. STRETTON TRANSPORTATION CORPORATION, 1034 Fulkerson Street, Cambridge, Mass., and for acquisition by DAVID B. WORSTER, West Lake Road, Rural Delivery No. 1, North East, Pa., of control of such rights through the purchase. Applicants' attorney: William W. Knox, 23 West 10th Street, Erie, Pa. Operating rights sought to be transferred: *Raw materials*, used in the manufacture of paper, as a *common carrier*, over irregular routes, from Boston, Mass., to East Pepperell, Mass.; *paper products*, from East Pepperell, Mass., to Boston, Mass.; *manufactured leather products, shoe manufacturers' supplies and machinery, paper and paper products*, and *wholesale leather*, between points in Massachusetts; *paper, paper articles*, and *paper products*, from Springfield, West Springfield, and Holyoke, Mass., to Boston, Mass.; *papermill supplies*, from Boston, Mass., to Holyoke and South Hadley Falls, Mass.; *paper* and *paper products*, between Holyoke and South Hadley, Mass., on the one hand, and, on the other, points in Rhode Island and New Jersey; and *paper, paper products*, and *materials and supplies* used in the manufacture of paper and paper products, between points in Hampden, Hampshire, and Berkshire Counties, Mass., on the one hand, and, on the other, points in Connecticut and New York. Vendee is authorized to operate as a *common carrier* in Pennsylvania, New York, Massachusetts, Connecticut, Rhode Island, Virginia, New Jersey, Delaware, Maryland, West Virginia, Illinois, Indiana, Michigan, Ohio, New Hampshire, Vermont, Maine, Minnesota, South Carolina, Wisconsin, Alabama, Florida, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9482. Authority sought for purchase RIVERSIDE MOTOR LINES, INC., Post Office Box 8295, Station A, Greenville, S.C., of a portion of the operating rights of J. C. HAGLER, JR., AND T. W. HAGLER, a partnership, doing business as HAGLER TRUCK COMPANY, 605 12th Street, Augusta, Ga., and for acquisition by J. M. ROGERS, Route 81, Greenville, S.C., Mailing Address: Post Office Box 8295, Station A, Greenville, S.C., of control of such rights through the purchase. Applicants' attorney: Henry P. Willimon, Post Office Box 1075, Greenville, S.C. Operating rights sought to be transferred: *Brick and other clay products*, as a *contract carrier*, over irregular routes, from Augusta, Ga., and North Augusta, S.C., to points within 110 miles of Augusta; and *brick and clay products*, from Augusta, Ga., to points in South Carolina more than 110 miles from Augusta, and to points in North Carolina, with restriction; from Augusta, Ga., to points in South Carolina more than 110 miles from Augusta, Ga., and to points in North Carolina, with restriction. RIVERSIDE MOTOR LINES, INC., holds no authority with this Commission. However, its controlling stockholder, is the sole owner of J. M. ROGERS, doing business as J. M. ROGERS TRUCK LINE, Route No. 8, Sandra Avenue, Greenville, S.C., which is authorized to operate as a *common carrier* in South Carolina, Georgia, North Carolina, Tennessee, Virginia, and West Virginia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9483. Authority sought for purchase by CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa., of a portion of the operating rights and property of RYDER TRUCK LINES, INC. (Tank Line Division), Post Office Box 2408, Jacksonville, Fla., and for acquisition by S. F. NINESS, also of Downingtown, Pa., of control of such rights and property through the purchase. Applicants' attorneys: Leonard A. Jaskiewicz, 1155 15th Street NW., Washington, D.C. 20005, and Roland Rice, 1111 E Street NW., Washington, D.C. 20004. Operating rights sought to be transferred: *Acids* and *chemicals*, among others, and numerous

other specified commodities, in bulk, trailers, and tank vehicles, as a *common carrier*, over irregular routes, from and to and between certain specified points in all States in the United States (except Alaska and Hawaii), and the District of Columbia, with certain specified restrictions, as more specifically described in Docket No. MC–2900 and numerous subnumbers thereunder. This notice does not purport to be a complete description of the operating rights sought to be transferred. The foregoing summary is believed to be sufficient for public notice regarding the nature and extent of this carrier's tank line division operating rights, without stating, in full the entirety thereof. Vendee is authorized to operate as a *common carrier* in all States in the United States (except Alaska, Hawaii, Idaho, Montana, Nevada, North Dakota, South Dakota, Utah, and Wyoming), and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–9484. Authority sought for control and merger by NOLTE BROS. TRUCK LINE, INC., 2509 O Street, Omaha, Nebr., of the operating rights and property of UTICA TRANSFER, INC., 605 South 14th Street, Lincoln, Nebr., and for acquisition by C. O. D. E., INC., and, in turn by BYRON RAZNICK, 3963 Walnut, Denver, Colo., of control of such rights and property through the transaction. Applicants' attorney: Donald E. Leonard, Box 2028, 605 South 14th Street, Lincoln, Nebr. 68501. Operating rights sought to be controlled and merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Utica, Nebr., and Omaha, Nebr., serving certain intermediate points, between Utica, Nebr., and Wilber, Nebr., serving certain intermediate points, and the off-route point of Friend, Nebr., between Utica, Nebr., and Lincoln, Nebr., serving the intermediate point of Tamora, Nebr., between Utica, Nebr., and Henderson, Nebr., serving certain intermediate points; *general commodities*, with exceptions as noted above, over irregular routes, between Utica, Nebr., and points within 15 miles thereof, between Utica, Nebr., and points within 15 miles thereof, on the one hand, and, on the other, points in Nebraska. NOLTE BROS. TRUCK LINE, INC., is authorized to operate as a *common carrier* in Iowa, Nebraska, Illinois, Indiana, Wisconsin, Missouri, Minnesota, South Dakota, Colorado, Montana, Oklahoma, Wyoming, Kansas, Kentucky, Michigan, North Dakota, and Ohio. Application has been filed for temporary authority under section 210a(b). NOTE: See also MC–F–9485 (NOLTE BROS. TRUCK LINE, INC.—CONTROL AND MERGER—G&H TRUCK LINE, INC.), this same issue.

No. MC–F–9485. Authority sought for control and merger by NOLTE BROS. TRUCK LINE, INC., 2509 O Street, Omaha, Nebr., of the operating rights and property of G & H TRUCK LINE, INC., 3963 Walnut, Denver, Colo., and for acquisition by C.O.D.E., INC., and, in turn by BRYON RAZNICK, also of Denver, Colo., of control of such rights and property through the transaction. Applicants' attorney: Donald E. Leonard, Box 2028, 605 South 14th Street, Lincoln, Nebr. 68501. Operating rights sought to be controlled and merged: *General commodities*, excepting, among others, household goods and commodities in bulk, as a *common carrier*, over regular routes, between Denver, Colo., and Pueblo, Colo., serving the intermediate point of Colorado Springs, Colo., between Pine Bluffs, Wyo., and Denver, Colo., serving the intermediate and off-route points of Greeley, Colo., and points within 20 miles of Pine Bluffs; *general commodities*, excepting, among others, household goods and commodities in bulk, over irregular routes, between Pine Bluffs, Wyo., and points within 20 miles thereof, on the one hand, and, on the other, Sidney and Scottsbluff, Nebr.; and *meats, meat products, and meat byproducts*, and *dairy products*, as described in sections A and B of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61, M.C.C. 209 and 766, from Denver, Colo., to certain specified points in Colorado. NOLTE BROS. TRUCK LINE, INC., is authorized to operate as a *common carrier* in Iowa, Nebraska, Illinois, Indiana, Wisconsin, Missouri, Minnesota, South Dakota, Colorado, Montana, Oklahoma, Wyoming, Kansas, Kentucky, Michigan, North Dakota, and Ohio. Application has been filed for temporary authority under section 210a(b). NOTE: See also Docket No. MC–F–9484 (NOLTE BROS. TRUCK LINE, INC.—Control and merger—UTICA TRANSFER, INC.), this same issue.

MOTOR CARRIERS OF PASSENGERS

No. MC–F–9469. Authority sought for purchase by HUDSON TRANSIT LINES, INC., 17 Franklin Turnpike, Township of Mahwah, N.J., of a portion of the operating rights of INTER-CITY TRANSPORTATION CO., INC., 733 Madison Avenue, city of Paterson, N.J., and for acquisition by DAVID RUKIN, 503 Winthrop Road, Teaneck, N.J., SHORT LINE TERMINAL AGENCY, INC., HUDSON-MAHWAH REALTY CORPORATION, HUDSON-PARAMUS REALTY CORPORATION, all of Mahwah, N.J., and HUDSON TRANSIT CORPORATION, Harriman, N.Y., of control of such rights through the purchase. (NOTE: DAVID RUKIN controls through majority stock ownership, all of the above corporations which control transferee herein.) Applicants' attorneys: James F. X. O'Brien, c/o Hudson Transit Lines, Inc., 17 Franklin Turnpike, Mahwah, N.J. 07430, and Edward F. Bowes, 1060 Broad Street, Newark, N.J. 07102. Operating rights sought to be transferred: *Passengers and their baggage*, during the season extending from the 15th day of May to the 15th day of September, inclusive of each year, as a *common carrier*, over regular routes, between Jersey City, N.J., and Delawanna, N.J., serving all intermediate points. Vendee is authorized to operate as a *common carrier* in all States in the United States, including Alaska (but excluding Hawaii), and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–9475. Authority sought for purchase by SCENIC HAWKEYE STAGES, INC., 801 River Street, Decorah, Iowa, of a portion of the operating rights of JEFFERSON TRANSPORTATION CO., 1114 Currie Avenue, Minneapolis, Minn. Applicants' attorney: D. C. Nolan, 405 Iowa Bank Building, Iowa City, Iowa. Operating rights sought to be transferred: Passengers and their baggage, and express, newspapers and mail in the same vehicle with passengers, as a *common carrier*, over regular routes, between Rochester, Minn., and Decorah, Iowa, over U.S. Highway 52, serving all points intermediate thereto, between Rochester, Minn., to Spring Valley, Minn., over U.S. Highway No. 63, serving all points intermediate thereto, between Decorah, Iowa, and Cedar Rapids, Iowa, serving all intermediate points, between Spencer, Iowa, and Mason City, Iowa, over U.S. Highway No. 18 and all intermediate points and the off-route points of Whittmore and Dickens, Iowa. Vendee is authorized to operate as a *common carrier* in all States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66–8184; Filed, July 26, 1966; 8:47 a.m.]

[Notice 1389–A]

MOTOR CARRIER TRANSFER PROCEEDINGS

JULY 22, 1966.

Application filed for temporary authority under section 210(a)(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 179:

No. MC–FC–68601. By application filed July 20, 1966, SOUTHWESTERN TRANSFER COMPANY, INC., 1730 Bassett Avenue, El Paso, Tex., seeks temporary authority to lease the operating rights of MERLE F. HARRINGTON AND CLAUDE M. HARRINGTON, doing business as J. J. HARRINGTON SONS, Phillips Highway, Borger, Tex., under section 210a(b). The transfer to SOUTHWESTERN TRANSFER COMPANY, INC., of the operating rights of MERLE F. HARRINGTON AND CLAUDE M. HARRINGTON, doing business as J. J. HARRINGTON SONS, is presently pending.

[SEAL] H. NEIL GARSON,
Secretary.

[F.R. Doc. 66–8185; Filed, July 26, 1966; 8:47 a.m.]

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