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PART I

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HIGHLIGHTS OF THIS ISSUE

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Title 7—AGRICULTURE

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

[Lemon Reg. 493, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) 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 hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based become 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 lemons grown in California and Arizona.

(b) *Order, as amended.* The provision in paragraph (b)(1) of § 910.793 (Lemon Reg. 493, 36 F.R. 15423) during the period August 15, through August 21, 1971, is hereby amended to read as follows: "* * * 225,000 cartons."

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

Dated: August 19, 1971.

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

[FR Doc.71–12384 Filed 8–24–71;8:46 am]

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIF.

Expenses of California Date Administrative Committee for 1970–71 Crop Year

This action authorizes expenses of the California Date Administrative Committee in the amount of $32,850 for the 14-month crop year beginning August 1, 1970, and ending September 30, 1971, in lieu of those previously authorized (7 CFR 987.315(a)) for the Date Administrative Committee in the amount of $29,847 for the 12-month crop year beginning August 1, 1970, and ending July 31, 1971. The administrative agency recommended approval of expenses for such 14-month period. The California Date Administrative Committee is established pursuant to the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987), and further amended effective August 12, 1971 (36 F.R. 15036), regulating the handling of domestic dates produced or packed in Riverside County, Calif., hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The August 12, 1971 (36 F.R. 15036), amendment provides, among other things, that the name of the administrative agency established pursuant to the order is "California Date Administrative Committee"—formerly the Date Administrative Committee—that the 1970–71 crop year beginning August 1, 1970, be extended to end September 30, 1971, and that ensuing crop years be comprised of 12 successive calendar months, each beginning October 1. The administrative agency has estimated that its expenses during the 14-month crop year will be approximately $3,000 more than the expenses approved for committee operations for the 12-month crop year. Hence, the aforesaid amount of $29,847 would be insufficient to meet the 14-month 1970–71 crop year's expenses during the entire period beginning August 1, 1970, and ending September 30, 1971.

According to the administrative agency, the rate of assessment of 10 cents per hundredweight on all accessible dates fixed for the 12-month 1970–71 crop year (7 CFR 987.315(b)) should continue in effect during the entire 14-month period. Assessment income derivable from application of such assessment rate during the extended 1970–71 crop year should be sufficient to meet authorized expenses in the amount of $32,850 and, therefore, no increase in the rate of assessment is necessary.

After consideration of the aforesaid recommendation and supporting information submitted by the administrative agency, and other available information, it is found that the revised expenses of the administrative agency and the rate of assessment, as hereinafter set forth, for the 1970–71 crop year (which began August 1, 1970, and ends September 30, 1971), will tend to effectuate the declared policy of the act.

Therefore, § 987.315 of Subpart—Budget of Expenses and Rate of Assessment is hereby revised to read as follows:

§ 987.315 Expenses of the California Date Administrative Committee and rate of assessment for the 1970–71 crop year.

(a) *Expenses.* Expenses in the amount of $32,850 are reasonable and likely to be incurred by the California Date Administrative Committee during the 1970–71 crop year beginning August 1, 1970, for its maintenance and functioning and for such other purposes as the Secretary may, pursuant to the applicable provisions of this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for that crop year which each handler is required, pursuant to § 987.72, to pay to the California Date Administrative Committee as his pro rata share of the expense is fixed at 10 cents per hundredweight on all assessable dates. Assessable dates are dates which the handler has certified during the crop year as meeting the requirements for marketable dates, including the eligible portion of any field-run dates certified and set aside or disposed of pursuant to § 987.45(f).

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rule making procedure, and that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The August 12, 1971, amendment (36 F.R. 15036) of the order extended the 1970–71 crop year which began August 1, 1970, and ended July 31, 1971, for 2 months, through September 30, 1971; (2) handlers have been aware of the possible change in period of the 1970–71 crop year from 12 to 14 months, as discussed in the recommended decision which was published in the FEDERAL REGISTER on May 27, 1971 (36 F.R. 9655), and adopted as the Assistant Secretary's decision dated July 9, 1971 (36 F.R. 13153); (3) necessary Committee expenses will be incurred during the current month and the subsequent one in addition to those previously authorized for the 12-month crop year and the agency should have authority to defray such additional expenses with assessment income; (4) the amount of $29,847 previously approved as expenses of the administrative agency for the 12-month crop year beginning August 1, 1970, and ending July 31, 1971, is insufficient to meet the authorized anticipated expenses for order operations during the 14-month crop year beginning August 1, 1970, and ending September 30, 1971; (5) handlers were afforded the opportunity to present their views on the aforesaid recommendation of the administrative agency at an open meeting on July 28, 1971, to consider the matter of expenses and assessments; (6) the relevant provisions of the amended marketing agreement and this part require that the rate of assessment fixed for a particular crop year shall be applicable to all assessable dates

during that crop year; and (7) the current crop year began August 1, 1970, and the rate of assessment will automatically apply to all such dates beginning with such date.

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

Dated: August 19, 1971.

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

[FR Doc.71-12385 Filed 8-24-71;8:46 am]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

MISCELLANEOUS AMENDMENTS TO CHAPTER

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

PART 214—NONIMMIGRANT CLASSES

§ 214.2 [Amended]

The second sentence of subparagraph (1) *Without visas* of paragraph (c) *Transits* of § 214.2 *Special requirements for admission, extension, and maintenance of status* is amended by adding "Atlanta, Ga." to the listed ports of entry to read as follows: "Except for transit from one part of foreign contiguous territory to another part of the same territory, application for direct transit without a visa must be made at one of the following ports of entry: Buffalo, N.Y.; Niagara Falls, N.Y.; Rouses Point, N.Y.; Boston, Mass.; New York, N.Y.; Philadelphia, Pa.; Baltimore, Md.; Washington, D.C.; Norfolk, Va.; Atlanta, Ga.; Miami, Fla.; Port Everglades, Fla.; Tampa, Fla.; New Orleans, La.; San Antonio, Tex.; Dallas, Tex.; Houston, Tex.; Brownsville, Tex.; San Diego, Calif.; Los Angeles, Calif.; San Francisco, Calif.; Honolulu, Hawaii; Seattle, Wash.; Portland, Oreg.; Great Falls, Mont.; St. Paul, Minn.; Chicago, Ill.; Detroit, Mich.; Denver, Colo.; Anchorage, Alaska; Fairbanks, Alaska; San Juan, P.R.; Ponce, P.R.; Charlotte Amalie, V.I.; Christiansted, V.I.; Agana, Guam."

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

The listing of transportation lines in paragraph (b) *Signatory lines* of § 238.3 *Aliens in immediate and continuous transit* is amended by adding the following transportation line in alphabetical sequence: "Shawnee Airlines, Inc."

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

Section 264.1 *Registration and fingerprinting* is amended by adding new paragraph (h) to read as follows:

§ 264.1 Registration and fingerprinting.

* * * * *

(h) *Copy of Form I-94.* An attorney or representative as defined in § 1.1 of this chapter who is representing an alien before the Service or the Board may make and retain, solely for information purposes, a copy of the Form I-94 (Arrival-Departure Record) issued to and in the possession of the alien. Such copy shall not be used for any other purpose.

PART 299—IMMIGRATION FORMS

§ 299.1 [Amended]

The listing of forms in § 299.1 *Prescribed forms* is amended to reflect the current edition date of the following forms:

Form No., Title, and description
* * * * *
G-28 (4-15-71) Notice of Entry of Appearance as Attorney or Representative.
* * * * *
G-325A (4-1-71) Biographic Information.
G-325B (5-1-71) Biographic Information.
* * * * *
I-20 (4-1-71) Certificate of Eligibility (For Nonimmigrant "F-1" Student Status).
* * * * *
I-140 (2-1-71) Petition to Classify Preference Status of Alien on Basis of Profession or Occupation.
* * * * *
I-418 (6-1-71) Passenger List—Crew List.
* * * * *
I-486A (4-1-71) Medical Examination and Immigration Interview
* * * * *

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

This order shall be effective on the date of its publication in the FEDERAL REGISTER (8-25-71). Compliance with the provisions of section 553 of title 5 of the United States Code (80 Stat. 383), as to notice of proposed rule making and delayed effective date, is unnecessary in this instance and would serve no useful purpose because the amendment to § 214.2(c)(i) adds a port of entry; the amendment to § 238.3(b) adds a transportation line to the listing; the amendment to § 264.1 grants an exemption; and the amendment to § 299.1 is editorial in nature.

Dated: August 19, 1971.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.71-12393 Filed 8-24-71;8:47 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-SO-104]

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

Alteration of Control Zones and Transition Area

Correction

In F.R. Doc. 71-11365 appearing on page 14636 in the issue of Saturday, August 7, 1971, the paragraph reading "That airspace extending upward from 700 Evansville, Ind. transition area." following the Cincinnati, Ohio, control zone should be deleted.

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z]

PART 226—TRUTH IN LENDING

Open End Credit; Change in Method of Determining Balance on Which Finance Charges Are Computed

§ 226.705 Open end credit—change in the method of determining the balance on which finance charges are computed.

(a) The creditor of an open end credit account plan desires to change his method of determining the balance on which finance charges are computed from a method in which payments and credits made during the billing cycle are not deducted in determining such balance to a method in which such payments and credits are deducted in determining such balance. This change results in a reduction in finance charges to the customer, where full payment of the account is deferred. The question arises whether notice of such change is required to be sent to customers of open end credit accounts under § 226.7(e), since that section also provides that prior notice is not required if the only change is a reduction in the "periodic rate or rates, or in any minimum, fixed, check service, transaction, activity, or similar charge applicable to the account."

(b) Where a creditor changes his method of determining the balance on which finance charges are computed from a method in which payments and credits made during the billing cycle are not deducted in determining such balance, to a method in which such payments and credits are deducted in de-

termining such balance, § 226.7(e) requires no prior notice of such change in terms, provided no other changes in terms applicable to the account are made simultaneously which would require § 226.7(e) notification.

(Interprets and applies 15 U.S.C. 1637)

By order of the Board of Governors, July 29, 1971.

[SEAL] NORMAND BERNARD,
Assistant Secretary.

[FR Doc.71-12378 Filed 8-24-71;8:46 am]

Title 20—EMPLOYEES' BENEFITS

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

[Regulations No. 5, further amended]

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

Subpart B—Supplementary Medical Insurance Benefits; Enrollment, Coverage, Exclusions, and Payment

On August 6, 1970, there was published in the FEDERAL REGISTER (35 F.R. 12545) a notice of proposed rule making with proposed amendments which expand, revise, and update Subpart B of Regulations No. 5.

The statement in the preamble to the notice of proposed rule making, concerning the extension by the 1967 amendments of Part B coverage to "certain nonroutine services of podiatrists or surgical chiropodists," was subject to misinterpretation. The statement was intended to merely reflect the extension of coverage to certain services of podiatrists or surgical chiropodists as physician services.

After consideration of all such relevant matter as was presented by interested persons, the amendments as so proposed are hereby adopted, subject to the following changes:

1. Paragraph (a) of § 405.217 is changed to more explicitly set forth the requirement that States must pay the supplementary medical insurance premium for each month of coverage furnished an individual pursuant to a "buy-in" agreement under section 1843 of the Act.

2. Final decisions have not been reached with respect to the proposed revision of paragraph (c) of § 405.223 relating to coverage periods under State buy-in agreements. The proposed revision is accordingly withdrawn and the provisions of § 405.223(c) presently in effect and included herein remain in effect.

3. Subparagraph (2) of § 405.232(i) is changed so as to extend its applicability to any timely filed claim for ambulance service rendered prior to the effective date of the amendment.

Effective date. These amendments shall be effective as of the date of publication in the FEDERAL REGISTER (8-25-71).

Dated: July 23,1971.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: August 18, 1971.

JOHN G. VENEMAN,
Acting Secretary of Health, Education, and Welfare.

Chapter III, Title 20, is amended by revising Subpart B of Part 405 to read as follows:

Sec.

AUTHORITY: The provisions of this Subpart B issued under secs. 1102, 1831-1843, 1861, 1862, 1866, 1871, 49 Stat. 647, as amended, 79 Stat. 301-312, 313, 325, 327, 331; 42 U.S.C. 1302, 1395 et seq.

§ 405.201 Supplementary medical insurance; general.

Part B of title XVIII of the Act provides for a voluntary "supplementary medical insurance plan" available to most individuals age 65 and over. This supplementary medical insurance plan (which is financed by premiums paid by (or for) each individual enrolled in the plan plus matching contributions from funds appropriated by the Federal Government) provides coverage against the costs of certain physicians' services, home health services (without any requirement of prior hospitalization), and other medical and health services in and out of medical institutions. The conditions for enrollment in the supplementary medical insurance plan, the coverage period, the types of benefits provided, amounts paid, and limitations and conditions with respect to payment are set out in this Subpart B. (For collection of premiums for supplementary medical insurance, see Subpart I of this part.)

§ 405.202 Enrollment; general.

To become entitled to supplementary medical insurance benefits, an individual must meet the eligibility requirements for enrollment (see § 405.205) and must enroll (see § 405.210) or be enrolled pursuant to an agreement with a State (see § 405.217) in the supplementary medical insurance plan.

§ 405.205 Eligibility requirements for enrollment.

An individual who is age 65 or over is eligible for enrollment in the supplementary medical insurance plan (unless excluded under § 405.206) if:

(a) He is entitled to hospital insurance benefits under title XVIII of the Act (see § 404.367 of this chapter); or

(b) He is a citizen and resident of the United States; or

(c) He is an alien lawfully admitted for permanent residence, who is a resident of the United States and who has resided in the United States continuously during the 5 years immediately preceding the month in which he applies for enrollment.

§ 405.206 Persons ineligible to enroll.

Notwithstanding the provisions specified in § 405.205, an individual is not eligible for enrollment in the supplementary medical insurance plan if he has been convicted of any offense under chapter 37 (relating to espionage and censorship), chapter 105 (relating to sabotage), or chapter 115 (relating to treason, sedition, and subversive activities) of title 18 of the United States Code, or under sections 4, 112, or 113 of the Internal Security Act of 1950, as amended (relating to conspiracies to establish dictatorships and conspiracies to commit espionage or sabotage).

§ 405.210 Individual enrollment; enrollment procedures.

To enroll in the supplementary medical insurance plan an eligible individual (see § 405.205) must file a written request for enrollment, signed by him or on his behalf, with the Administration during a period of enrollment (see §§ 405.211 through 405.214) open to such individual.

§ 405.211 Individual enrollment; enrollment periods; general.

An individual may enroll in the supplementary medical insurance plan only during an "enrollment period." There are two kinds of enrollment periods—the "initial enrollment period" (see § 405.212), which is based on the time when the individual first meets the eligibility requirements for enrollment, and the "general enrollment period" (see § 405.213) during which an individual who failed to enroll during his initial enrollment period or whose enrollment has been terminated may, with certain limitations, first enroll, or reenroll (see § 405.224 relating to good cause for failure to enroll).

§ 405.212 Individual enrollment; initial enrollment period.

(a) *General.* An individual's first opportunity to enroll in the supplementary medical insurance plan is called his "initial enrollment period." The beginning and ending dates of an individual's initial enrollment period are determined by the month in which he first meets the eligibility requirements for enrollment (see § 405.205).

(b) *Individual eligible before March 1966.* If an individual meets the eligibility requirements in § 405.205 before March 1966, his initial enrollment period begins on September 1, 1965, and ends on May 31, 1966. However, see the provisions relating to good cause for failure to enroll during the initial enrollment period ending May 31, 1966, set forth in § 405.224.

(c) *Individual first eligible after February 1966.* If an individual first meets the eligibility requirements in § 405.205 after February 1966, his initial enrollment period begins on the first day of the third month before the month in which he first meets such requirements and ends with the close of the last day of the third month following the month in which he first satisfies such requirements.

(d) *First eligibility for enrollment; individual eligible solely because of entitlement to hospital insurance benefits.* For purposes of determining the initial enrollment period of an individual who is eligible for enrollment solely because he is entitled to hospital insurance benefits (see § 405.205(a)), the individual is considered as first meeting the eligibility requirements for enrollment on the first day on which he would be entitled to hospital insurance benefits upon filing application therefor whether or not he so filed.

(e) *Deemed initial enrollment period.* Notwithstanding the provisions of paragraphs (a), (b), (c), and (d) of this section, where the Social Security Administration finds that an eligible individual (see § 405.205) failed to enroll during his initial enrollment period (based on a determination by the Administration of the month in which such individual attained age 65), because such individual (relying on erroneous documentary evidence) was mistaken as to his correct date of birth, the Administration shall, on the basis of a written request for enrollment filed on or after February 1, 1968, establish for such individual a deemed initial enrollment period based on his attaining age 65 at the time indicated by such documentary evidence with a coverage period determined under § 405.221 (c) or (d) as though he had attained age 65 at that time. Such deemed initial enrollment period will also be used in determining the amount of the individual's premiums (see § 405.902) and his right to enroll in a general enrollment period, where the use of such deemed initial enrollment period is material and advantageous to the individual.

§ 405.213 Individual enrollment; general enrollment periods.

There shall be a general enrollment period beginning on October 1, 1967, and ending on March 31, 1968, followed by subsequent general enrollment periods which shall begin on January 1 and end on March 31 of each calendar year beginning with the calendar year 1969. Subject to the provisions of § 405.224 (relating to enrollment for "good cause"), an individual who fails to enroll in the supplementary medical insurance plan during his initial enrollment period, or whose enrollment has been terminated, may enroll thereafter only during a general enrollment period.

§ 405.214 Individual enrollment; limitation on enrollment and reenrollment.

(a) *First enrollment.* An individual who fails to enroll in the supplementary medical insurance plan during his initial enrollment period may enroll thereafter only during a general enrollment period (see § 405.213) which begins no later than 3 years after the close of his initial enrollment period. An individual who does not enroll in the supplementary medical insurance plan during a general enrollment period which begins no later than 3 years after the close of his initial enrollment period, is precluded from such enrollment.

Example No. 1. An individual first meets the eligibility requirements for enrollment in August 1966. He does not enroll during his initial enrollment period—May through November 1966. If he wishes to be covered under the supplementary medical insurance plan, he must enroll during the general enrollment period—October 1967 through March 1968, or during the 3 months of the 1969 general enrollment period, i.e., January through March 1969. The individual cannot enroll after March 31, 1969, the close of the last general enrollment period which begins no later than 3 years after the close of his initial enrollment period.

Example No. 2. An individual first meets the eligibility requirements for enrollment in October 1968 but fails to enroll during his initial enrollment period—July 1968 through January 1969. If he later wishes to enroll, he must do so during the remaining 2 months of the general enrollment period then in progress, i.e., February and March 1969, or during one of the three general enrollment periods which begin no later than 3 years after the close of his initial enrollment period, i.e., January through March of the calendar years 1970, 1971, or 1972. The individual cannot enroll after March 31, 1972, the close of the last general enrollment period which begins no later than 3 years after the close of his initial enrollment period.

(b) *Second enrollment.* An individual whose enrollment under the supplementary medical insurance plan has terminated (see § 405.223) may, subject to the provisions of paragraph (c) of this section, reenroll in the supplementary medical insurance plan provided that such reenrollment occurs within a general enrollment period which begins no later than 3 years after the effective date of the termination of his prior enrollment.

Example No. 1. An individual notified the Administration in writing during May 1969 that he no longer wished to participate in the supplementary medical insurance plan and, accordingly, his enrollment terminated on September 30, 1969. If he wishes to reenroll under the supplementary medical insurance plan, he must do so within the periods January through March of the calendar years 1970, 1971, or 1972, the three general enrollment periods which begin no later than 3 years after the termination date of his prior enrollment.

Example No. 2. An individual's enrollment terminated on January 31, 1968, for nonpayment of premiums. If he wishes to reenroll under the supplementary medical insurance plan, he must do so within the remaining 2 months of the general enrollment period then in progress, i.e., February and March 1968, or during one of the three general enrollment periods which begin no later than 3 years after the termination of his prior enrollment, i.e., January through March of the calendar years 1969, 1970, or 1971. The individual cannot reenroll after March 31, 1971, the close of the last general enrollment period which begins no later than 3 years after the termination of his prior enrollment.

(c) *Limitation on number of enrollments.* No individual may enroll in the supplementary medical insurance plan more than twice. For purposes of this paragraph, the first reenrollment by an individual following the termination of any prior enrollment for which he was deemed under the provisions of § 405.223(d) to have enrolled, shall, without regard to any previous enrollment or termination of enrollment, be

deemed a second enrollment by the individual.

§ 405.215 Individual enrollment; enrollment periods ending on a nonworkday.

Notwithstanding the provisions of §§ 405.212 and 405.213, where the last day of an individual's initial enrollment period (§ 405.212) or the last day of a general enrollment period (§ 405.213) falls on a nonworkday (Saturday, Sunday, legal holiday, or a day all or part of which is declared to be a nonworkday for Federal employees by statute or Executive order), a written request for enrollment (see § 405.210) received by the Social Security Administration on the first workday thereafter will be considered to have been received on the last preceding workday.

§ 405.217 Enrollment pursuant to a State agreement.

(a) Subject to the provisions of paragraph (c) of this section, the Secretary shall enter into an agreement with any State which so requests before 1970, pursuant to which the State will enroll in the supplementary medical insurance plan (without regard to any prior enrollment or termination of enrollment) all eligible individuals in either of the coverage groups described in paragraph (b) of this section (as specified in the agreement), and pay the premiums due for each such individual so enrolled for all months in his coverage period, beginning as provided in § 405.222 and ending as provided in § 405.223(c).

(b) An agreement entered into with any State pursuant to paragraph (a) of this section shall be applicable to either of the following coverage groups:

(1) Individuals receiving money payments under the plan of such State approved under title I or title XVI of the Act; or

(2) All individuals receiving money payments under any of the plans of such State approved under titles I, X, XIV, XVI, and Part A of title IV of the Act.

(c) Notwithstanding the provisions of paragraph (b) of this section:

(1) An individual may not, subject to the provisions of subparagraph (2) of this paragraph, be a member of the coverage group specified in an agreement entered into under paragraph (a) of this section for any month in which he is entitled to monthly benefits under title II of the Social Security Act or entitled to receive an annuity or pension under the Railroad Retirement Act of 1937 (without regard to the retroactivity of such entitlement) unless the State requests before 1970, and the agreement is modified to provide, that such individuals shall be members of such coverage group.

(2) The coverage group specified in an agreement entered into under paragraph (a) of this section shall, at the request of the State made before 1970, be modified to provide for the inclusion of all eligible individuals (including individuals entitled to monthly benefits under title II of the Act or entitled to receive an annuity or pension under the Railroad Retirement Act of 1937) whom the State determines to be eligible to receive medical assistance under the plan of such State approved under title XIX of the Social Security Act.

(3) Any individual whom the State has determined to be an eligible member and included in its agreement with the Administration pursuant to section 1843 of the Act, shall be deemed to be an eligible member of such coverage group for the purpose of enrollment in the supplementary medical insurance plan under such State's agreement with the Administration. See § 405.223(c) for the termination date of such individual's supplementary medical insurance coverage under such State's agreement.

(d) For purposes of this section, an individual is treated as an "eligible individual" if he meets the requirements set forth in § 405.205 on the date an agreement covering him is entered into under paragraph (a) of this section (or in the case of individuals covered by virtue of a modification described in paragraph (c) (1) or (2) of this section, as of the date the modification is entered into) or he meets such requirements at any time after such date.

(e) For purposes of this section and § 405.222, an individual is treated as receiving money payments described in paragraph (b) of this section if he receives or the State reports to the Administration in accordance with prescribed procedures that he is receiving such payments for the month in which the agreement is entered into (or in the case of individuals covered by virtue of a modification of this agreement, for the month the modification is entered into) or for any month occurring thereafter.

(f) For purposes of this section and § 405.222, an individual is treated as eligible to receive medical assistance under the plan of the State approved under title XIX of the Act if, for the month in which the modification described in paragraph (c)(2) of this section is entered into, or for any month occurring thereafter, the State has made a determination (without regard to the retroactivity of such determination) or the State reports to the Administration in accordance with prescribed procedures that such individual is eligible to receive medical assistance under such plan.

§ 405.220 Coverage period; general.

Payment is made under the supplementary medical insurance plan only for covered expenses incurred during an individual's "coverage period." Subject to the provision that an individual's coverage period continues through the month of death or until such earlier time as his enrollment is terminated, an individual's coverage period begins and terminates as described in §§ 405.221 and 405.223 (a) and (b) or, in the case of an individual enrolled pursuant to a State agreement, in accordance with the provisions of §§ 405.222 and 405.223 (c) and (d).

§ 405.221 Individual enrollment; coverage period beginning date.

An individual's "coverage period" can begin no earlier than July 1, 1966, and begins on a day as determined in accordance with this section (or in the case of an individual enrolled pursuant to a State agreement, in accordance with the provisions of § 405.222):

(a) *Enrollment during initial enrollment period; first eligibility before March 1966.* (1) The coverage period of an individual who first meets the eligibility requirements for enrollment (see § 405.205) prior to March 1966, and who enrolls during his initial enrollment period of September 1965 through May 1966, begins on July 1, 1966.

(2) The coverage period of an individual who first meets the eligibility requirements for enrollment (see § 405.205) prior to March 1966, who fails to enroll prior to June 1966, but who is authorized to enroll at a subsequent time not later than September 30, 1966, under the "good cause" provisions described in § 405.224, begins on the first day of the 6th month after the month in which he so enrolls.

(b) *Enrollment during initial enrollment period; first eligibility in March 1966.* (1) The coverage period of an individual who first meets the eligibility requirements for enrollment during the month of March 1966, and who enrolls before June 1966, begins on July 1, 1966.

(2) The coverage period of an individual who first meets the eligibility requirements for enrollment during March 1966, and who enrolls during the month of June 1966, begins on September 1, 1966.

(c) *Enrollment during initial enrollment period; first eligibility after March 1966.* The coverage period of an individual who first meets the eligibility requirements for enrollment after March 1966, and who enrolls during his initial enrollment period (including a deemed initial enrollment period under the provisions of § 405.212(e)), begins on whichever is later, July 1, 1966, or the first day of:

(1) The month in which the eligibility requirements are first met, if he enrolls during the 3 preceding months;

(2) The month following the month in which the eligibility requirements are first met, if he enrolls in the month such requirements are first met;

(3) The third month following the month in which the eligibility requirements are first met, if he enrolls in the month following the month in which such requirements are first met;

(4) The fifth month following the month in which the eligibility requirements are first met, if he enrolls in the second month following the month in which such requirements are first met;

(5) The sixth month following the month in which the eligibility requirements are first met, if he enrolls in the third month following the month such requirements are first met.

Example. An individual first meets the eligibility requirements for enrollment in April of 1967. Therefore, his initial enrollment period runs from January through July 1967. Depending upon the month in which he enrolls, his coverage period will begin as follows:

Enrolls in—Initial enrollment period:	*Coverage period begins on—*
(1) January	April 1 (month eligibility requirements first met).
(2) February	Do.
(3) March	Do.
(4) April	May 1 (month following month eligibility requirements first met).
(5) May	July 1 (third month following month eligibility requirements first met).
(6) June	September 1 (fifth month following month eligibility requirements first met).
(7) July	October 1 (sixth month following month eligibility requirements first met).

(d) *Enrollment during general enrollment period.* The coverage period of an individual who enrolls after his initial or deemed initial enrollment period or reenrolls during a general enrollment period applicable in his case (see §§ 405.213 and 405.214) begins on July 1 following the month in which he so enrolls, or reenrolls.

§ 405.222 Enrollment pursuant to a State agreement; coverage period beginning date.

The coverage period of an individual enrolled pursuant to an agreement with a State under the provisions set forth in § 405.217 begins (without regard to any prior enrollment or termination of enrollment) on whichever of the following is the latest:

(a) July 1, 1966;

(b) The first day of the third month following the month in which the State agreement is entered into (or in the case of individuals covered by virtue of a modification described in § 405.217(c)(1) or (2), as of the first day of the third month following the month such modification is entered into);

(c) The first day of the first month in which he is both an eligible individual (see § 405.205) and a member of the coverage group that is specified in such agreement, except that, if an individual is a member of such group solely by virtue of a modification described in § 405.217(c)(2) (i.e., he does not receive money payments as a member of the State's coverage group), his coverage period may not begin before the first day of the second month following the month in which he is both an eligible individual and the State has made the determination (without regard to the retroactivity of such determination) that he is eligible to receive medical assistance under the plan of such State approved under title XIX of the Act; or

(d) Such date as may be specified in the agreement, or, where the individual is covered by virtue of a modification described in § 405.217(c), as may be specified in such modification.

§ 405.223 Individual enrollments; State enrollments; manner and time of termination of enrollment and coverage period.

Subject to the provision that an individual's coverage period attributable to a State agreement may be terminated only as provided in paragraph (c) of this section and is not subject to termination by the individual, an enrollment and the coverage period may be terminated only as described in this section:

(a) *Individual requests termination.* An individual may at any time after September 1967 notify the Administration in writing that he no longer wishes to participate in the supplementary medical insurance plan. In such case, his enrollment and coverage period terminate effective with the close of the calendar quarter following the calendar quarter in which such notice is submitted to the Administration except that:

(1) Where such notice is submitted during the period October through December 1967, such individual's enrollment and coverage period shall terminate on December 31, 1967;

(2) Where such notice is submitted during the period January through March 1968, such individual's enrollment and coverage period shall terminate on March 31, 1968;

(3) Where an individual entitled to monthly benefits under title II of the Act or to an annuity or pension under the Railroad Retirement Act of 1937, whose coverage attributable to a Federal-State agreement containing the provisions described in § 405.217(c) is terminated or who ceases to be a member of the coverage group before his coverage under such agreement begins, files a written notice with the Administration before the first day of the fourth month which begins after the date of such termination, his coverage period is terminated effective with the last day of the third month which begins after the date his coverage period under a Federal-State agreement is terminated.

(b) *Nonpayment of premiums.* Enrollment under the supplementary medical insurance plan shall be terminated because of nonpayment of premiums. In such case, an individual's enrollment and coverage period is terminated at such time as is provided in Subpart I of this part.

(c) *Enrollees pursuant to State agreements.* In the case of an individual enrolled pursuant to a Federal-State agreement (see § 405.217), the coverage period attributable to the agreement ends (subject to the provisions of paragraph (d) of this section) on whichever of the following first occurs:

(1) The last day of the month in which he becomes ineligible (as determined by the State) for money payments of a kind specified in the agreement; or

(2) The last day of the month preceding the first month in which he becomes entitled to monthly benefits under title II of the Act (see Subpart D of Part 404 of this chapter) or to an annuity or pension under the Railroad Retirement Act of 1937 without regard to the retroactivity of such entitlement; or

(3) The last day of the month in which the State agreement is terminated; or

(4) The last day of the month in which he dies.

(d) *Continuation of enrollees' coverage period pursuant to State agreements.* Notwithstanding the provisions of paragraph (c) of this section, if an individual's coverage pursuant to enrollment under a State agreement is terminated under the provisions of paragraph (c) of this section, such individual is deemed to have enrolled for supplementary medical insurance benefits in the initial enrollment period described in § 405.212 (b) and his coverage period continues until terminated for his failure to pay premiums or by his written notice to the Administration that he wishes to terminate his supplementary medical insurance coverage, as provided in paragraphs (a) and (b) of this section. An individual who is enrolled under a State agreement but who ceases to be a member of the coverage group before his coverage begins is also deemed to have so enrolled and his coverage as an individual begins on the date his coverage under the agreement would have begun had he continued in the coverage group.

§ 405.224 Good cause for failure to enroll during the initial enrollment period ending May 31, 1966.

An individual who first meets the eligibility requirements for enrollment prior to March 1, 1966, and who fails to enroll during the initial enrollment period ending May 31, 1966, may enroll at any time before October 1966 if such individual, or his representative, establishes to the satisfaction of the Administration that "good cause" exists because such failure was due to:

(a) Circumstances beyond the individual's control, such as extended illness, mental or physical impairment, communication difficulties;

(b) Incorrect or incomplete information furnished by official sources to the individual or another person acting on his behalf;

(c) Difficulty encountered by the individual in obtaining, within a reasonable time before the end of the initial enrollment period, an enrollment form and information about supplementary medical insurance and the manner and time limit in which enrollments may be made;

(d) Bona fide unawareness or misunderstanding of the need to enroll within the prescribed time period or of the nature of coverage under this Subpart B; or

(e) Other circumstances (as a result of which the individual was deterred from enrolling) in the light of which it would be clearly inequitable to deny him a second chance to enroll.

§ 405.230 Supplementary medical insurance benefits.

(a) *Benefits provided.* Any individual who is enrolled under the supplementary medical insurance plan established by Part B of title XVIII of the Act is, subject to the conditions, limitations, and exclusions described in this Part 405, entitled to have:

(1) Payment made to him, or on his behalf, for physicians' services;

(2) Payment made to him, or on his behalf, for medical and other health services other than outpatient physical therapy services (see § 405.231) furnished by other than a participating provider of services (in the case of certain nonparticipating hospitals which have elected to claim payment with respect to emergency outpatient services—see § 405.249);

(3) Payment made on his behalf for medical and other health services (see § 405.231) furnished to him by a participating provider of services (or furnished by others under an arrangement made with them by a participating provider of services);

(4) Payment made on his behalf for home health services (see § 405.233) for up to 100 visits (as discussed in § 405.238) furnished by a participating home health agency during a calendar year; and

(5) Payment made on his behalf to a provider of services (see § 405.231(l)) for outpatient physical therapy services furnished to him after June 30, 1968.

(b) *Reimbursable expenses.* In order to be considered incurred expenses, expenses for physicians' services, home health services, and for other medical and health services covered under the supplementary medical insurance plan must be for services furnished to an individual during his coverage period. (See §§ 405.221 through 405.223.) If such individual incurs expenses during a calendar year in meeting the $20 deductible imposed under the hospital insurance program for outpatient hospital diagnostic services furnished before April 1968 (see § 405.142(a)), such expenses shall be regarded as an incurred expense for which reimbursement (see § 405.240) may be made under this Subpart B.

§ 405.231 Medical and other health services; included items and services.

Subject to the conditions, limitations, and exclusions set forth in § 405.232, the term "medical and other health services" means the following items or services:

(a) Physicians' services (including diagnosis, therapy, surgery, consultations, and home, office, and institutional calls);

(b) Services and supplies, including drugs and biologicals which cannot be self-administered, furnished as an incident to a physician's professional service, and of kinds which are commonly furnished in a physician's office or clinic and are commonly either rendered without charge, or included in the physician's bill;

(c) Hospital services and supplies (including drugs and biologicals which cannot be self-administered) incident to physicians' services rendered to outpatients;

(d) Diagnostic X-ray tests (including portable X-ray tests), diagnostic laboratory tests, and other diagnostic tests;

(e) X-ray therapy, radium therapy, and radioactive isotope therapy (including materials and services of technicians administering such therapies);

(f) Surgical dressings, and splints, casts and other devices used for reduction of fractures and dislocations;

(g) Rental or, effective January 1, 1968, the purchase of durable medical equipment, including iron lungs, oxygen tents, hospital beds, and wheelchairs used in the patient's home. For purposes of this paragraph, the term "home" does not include an institution which meets the requirements of section 1861(e)(1) or 1861(j)(1) of the Act—see §§ 405.1001 and 405.1101;

(h) Prosthetic devices (other than dental) which replace all or part of an internal body organ, including replacement of such devices;

(i) Leg, arm, back, and neck braces, and artificial legs, arms, and eyes, including replacements if required because of a change in the patient's physical condition;

(j) Ambulance services when the use of other means of transportation is contraindicated by the individual's condition;

(k) After March 31, 1968, outpatient hospital diagnostic services (with respect to outpatient hospital diagnostic services furnished before April 1, 1968, see § 405.141) including drugs and biologicals required in the performance of such services which are:

(1) Furnished to outpatients by a hospital (or by others under an arrangement made by a hospital); and

(2) Ordinarily furnished by such hospital (or under such arrangements) to its outpatients for the purposes of diagnostic study; and

(l) Outpatient physical therapy services furnished by or under arrangements made by a participating clinic, rehabilitation agency, public health agency (see Subpart Q of this part) or other provider of services (see Subparts J, K, and L of this part).

§ 405.232 Medical and other health services; conditions, limitations, and exclusions.

In addition to the general exclusions described in Subpart C of this part, the following conditions, limitations, and exclusions shall apply with respect to the "medical and other health services" described in § 405.231:

(a) *Inpatient hospital services; extended care services; home health services; for services rendered prior to April 1, 1968.* If any item or service described in § 405.231 would otherwise constitute inpatient hospital services or outpatient hospital diagnostic services, extended care services, or home health services (see §§ 405.233 through 405.237), it is not considered as a medical or other health service for purposes of § 405.230 (a) (2) or (3).

(b) *Diagnostic tests.* For purposes of § 405.231(d):

(1) Diagnostic laboratory tests are not considered as "medical or other health services" if performed in a laboratory which is independent of both the attending or a consulting physician's office or a hospital, unless such laboratory meets the requirements as set forth in Subpart M of this Part 405. For purposes of this subparagraph, the term "hospital" means a hospital which meets the requirements described in § 405.249(a)(1).

(2)(i) Except as provided in subdivision (ii) of this subparagraph, diagnostic X-ray tests are covered only if performed under the immediate personal supervision of a physician, and

(ii) Portable X-ray services, including portable X-ray services furnished on or after January 1, 1968, in a place of residence used as the patient's home, are covered if such services (*a*) are furnished under the general supervision of a physician, and (*b*) the supplier of such services meets the requirements as set forth in Subpart N of this part.

(c) *Drugs and biologicals.* For purposes of § 405.231 (b) and (c), drugs and biologicals which can be self-administered are excluded from the term "medical and other health services" whether such drugs and biologicals are furnished by a physician, a provider of services, or other than a provider of services.

(d) *Outpatient hospital diagnostic services.* There shall be excluded from the outpatient hospital diagnostic services described in § 405.231(k), any items or services (except services by interns and residents not under approved teaching programs) which:

(1) Would not be included as inpatient hospital services if they were furnished to an inpatient of a hospital or if furnished by others under an arrangement made by a hospital; or

(2) Are not furnished in the hospital or in facilities operated by or under the supervision of the hospital or its organized medical staff.

(e) *Outpatient physical therapy services.* There shall be excluded from the outpatient physical therapy services described in § 405.231(l) any item or service which:

(1) Is furnished before July 1, 1968 (with respect to services furnished before such date—see § 405.231(c)); or

(2) Would not be included as inpatient hospital services if furnished to an inpatient of a hospital.

(f) *Laboratory and X-ray services.* Laboratory or X-ray services furnished after March 1968 to a patient of a hospital which meets the emergency hospital requirements of § 405.249(a)(1) are not covered as "medical and other health services" under this Subpart B unless the hospital meets the laboratory or radiology requirements (§ 405.1028 or § 405.1029 as applicable) of the conditions of participation for hospitals.

(g) *Laboratory and radiology services furnished by a nonparticipating hospital which does not meet the requirements of § 405.249(a)(1).* Laboratory and radiology services furnished by a nonparticipating hospital which does not meet

the requirements of § 405.249(a)(1) are not considered as "medical and other health services" covered under Part B of title XVIII of the Act unless:

(1) The laboratory of the nonparticipating hospital meets the conditions for coverage of services of independent laboratories set forth in Subpart M of this part; and

(2) The radiology department of the nonparticipating hospital meets the conditions of participation for radiology departments of participating hospitals set forth in § 405.1029.

(h) *Diagnostic laboratory and portable X-ray services furnished by a nonparticipating extended care facility.* Diagnostic laboratory services and portable X-ray services furnished by a nonparticipating extended care facility are not considered as "medical and other health services" covered under Part B of title XVIII of the Act unless:

(1) The laboratory of the nonparticipating extended care facility meets the conditions for coverage of services of independent laboratories set forth in Subpart M of this part; and

(2) The portable X-ray services of the nonparticipating extended care facility meets the conditions for coverage of portable X-ray services set forth in Subpart N of this part.

(i) *Ambulance service.* (1) For purposes of § 405.231(j) payment will be made for ambulance service only when the use of other means of transportation is contraindicated by the individual's condition and where:

(i) Such individual is transported to an institution, as defined in subparagraph (4) of this paragraph, whose locality encompasses the place where the ambulance transportation began and which would ordinarily be expected to have appropriate facilities, or where the institution serving the locality lacks appropriate facilities, the individual is transported to the nearest institution having appropriate facilities; or

(ii) Such individual is transported from one hospital to another or, from one skilled nursing facility to another provided the institution from which he is transported lacks appropriate facilities and the one to which he is transported is the nearest such institution with appropriate facilities; or

(iii) Such individual is transported from an institution to his home provided that his home is within the locality of the institution or the institution in relation to his home is the nearest institution with appropriate facilities.

(2) Where the individual is transported beyond the destinations specified in subparagraph (1) of this paragraph:

(i) If the transportation was to an institution, payment is limited to that which would have been made had the individual been transported to the nearest institution with appropriate facilities; or

(ii) If the transportation was to the individual's home, payment is limited to that which would have been made had he been transported from the institution in relation to his home that is the nearest one with appropriate facilities.

(iii) The provisions of this subparagraph also apply to any timely filed claim for ambulance service rendered prior to the effective date hereof.

(3) "Ambulance" for the purposes of this paragraph means a specially designed and equipped vehicle (i.e., containing stretcher, linens, first aid supplies, oxygen equipment and such other lifesaving equipment required by State or local law, and manned by personnel trained to render first aid treatment) for transporting the sick or injured.

(4) "Institution" for the purposes of this paragraph means a hospital or skilled nursing facility which meets the requirements of section 1861(e)(1) or 1861(j)(1) of the Act.

(5) "Locality" for the purposes of this paragraph means the service area surrounding the institution from which individuals normally come or are expected to come for hospital or skilled nursing services.

(6) "Appropriate facilities" for the purposes of this paragraph means that the institution is equipped to provide the needed hospital or skilled nursing care for the illness or injury involved.

§ 405.233 Home health services; general.

Home health service benefits are provided under both the supplementary medical insurance plan described in this Subpart B and also under the hospital insurance benefits plan described in Subpart A of this part. Home health services qualify for payment under the supplementary medical insurance plan even though the individual has not been an inpatient of a hospital or extended care facility. Payments for home health services for up to 100 visits (as defined in § 405.238) in a calendar year may be made under the supplementary medical insurance plan. This is entirely separate from the 100 health visits available (after the beginning of one spell of illness and before the beginning of the next) under the hospital insurance plan during the 1-year period after the individual's latest discharge from a qualifying inpatient stay.

§ 405.234 Home health services; conditions.

The items and services described in § 405.236 are "home health services" (unless excluded under § 405.237) if such items and services are furnished:

(a) To an individual who is under the care of a physician (other than a doctor of podiatry or surgical chiropody) and confined to his home;

(b) By a participating home health agency (see Subpart L of this Part 405) or by others under arrangements with them made by such agency;

(c) Under a written plan designed for such individual, established by a physician (other than a doctor of podiatry or surgical chiropody) and periodically reviewed by a physician (other than a doctor of podiatry or surgical chiropody); and

(d) At a place as described in § 405.235.

§ 405.235 Home health services; place where items and services must be furnished.

To be considered "home health services," items and services described in § 405.236 must be:

(a) Furnished on a visiting basis to the individual in a place of residence used as his home. The term "home" does not include an institution which meets the requirements of section 1861(e)(1) or 1861(j)(1) of the Act (see §§ 405.1001 and 405.1101); or

(b) Provided on an outpatient basis at a hospital or extended care facility, or at a rehabilitation center if such items or services:

(1) Are furnished under arrangements made by a participating home health agency and such arrangements provide that payment to the agency discharges the liability of the patient or any other person to pay for the services; and

(2) Involve (or are furnished while the individual is there to receive) the use of equipment which cannot readily be made available to the individual in a place of residence used as his home, or cannot be supplied to him there (see also § 405.238).

§ 405.236 Home health services; items and services included.

Subject to the provisions described in § 405.237, "home health services" means the following items and services furnished to an individual in accordance with §§ 405.234 and 405.235:

(a) Part-time or intermittent nursing care provided by or under the supervision of a registered professional nurse;

(b) Physical (see § 405.239), occupational, or speech therapy;

(c) Medical social services provided under the direction of a physician;

(d) Part-time or intermittent services of a home health aide;

(e) Medical supplies (other than drugs and biologicals) and the use of medical appliances while under the plan described in § 405.234(c);

(f) In the case of a home health agency which is affiliated or under common control with a hospital, medical services provided by an intern or resident-in-training of such hospital, under a teaching program of such hospital approved as provided in § 405.116(f).

§ 405.237 Home health services; items and services not included.

(a) *Items and services not considered as inpatient hospital services.* Notwithstanding the provisions set forth in § 405.236, no item or service listed in § 405.236 is includable as a "home health service" if the item or service would not be included as an inpatient hospital service under Subpart A of this part, if furnished to a hospital inpatient.

(b) *Transportation services.* Transportation services, whether by ambulance or other means, required to take a homebound individual to a hospital, extended care facility, rehabilitation center, or other place, in order to furnish him with items and services which cannot be supplied to him in his home, are not included as a "home health service," even

though the services provided at such hospitals, etc., are included as a home health service.

(c) *Housekeeping services.* The services of housekeepers or food service arrangements such as those of "meals-on-wheels" programs are not includable as "home health services."

§ 405.238 Home health services; "visits" defined.

For purposes of determining the 100-visit home health services limitation specified in § 405.230(a)(4), one "visit" is charged each time a "home health service" is furnished to the individual by home health agency personnel (or by personnel furnishing "home health services" under an arrangement with them made by a home health agency). For example, since one "visit" is charged each time a therapist goes to an individual's home to furnish therapy, if the individual is visited during the same day by both a speech therapist and a visiting nurse (or if provided with the same home health service twice in the same day), two "visits" are charged. Similarly, if an individual is taken to a hospital to receive outpatient therapy that could not be furnished in his own home (e.g., hydrotherapy) and, while at the hospital receives speech therapy and other services, all of which qualify as home health services under § 405.236, two or more "visits" are charged.

§ 405.239 Option available to patients under a home health plan who require physical therapy.

A patient under a home health plan may elect to receive required physical therapy service as a "medical and other health service" (see § 405.231(l) rather than as a home health service (see § 405.-236(b)) and thereby save home health visits for other covered home health services. Because of the deductible and coinsurance provisions applicable to Part B, an individual who qualifies for Part A home health services will generally elect to receive physical therapy as a home health service.

§ 405.240 Payment of supplementary medical insurance benefits; amounts payable.

In the case of an individual who incurs expenses during his coverage period under the supplementary medical insurance plan, payment with respect to the total amount of such expenses incurred during a calendar year shall, subject to the provisions of §§ 405.243–405.246, be made as follows:

(a) (1) Eighty percent of the reasonable charges for physicians' services, and

(2) Effective April 1, 1968, with respect to radiological and pathological services, 100 percent of the reasonable charges for such services furnished to an inpatient of a hospital by a physician in the field of radiology or pathology (see § 405.232(f) and (g));

(b) Eighty percent of the reasonable charges for medical and health services furnished by other than a participating provider of services;

(c) Eighty percent of the reasonable cost for medical and other health services furnished by (or under arrangements made by) participating providers of services;

(d) Eighty percent of the reasonable cost of home health services furnished by (or under arrangements made by) a participating home health agency; and

(e) Eighty percent of the deductible imposed under the hospital insurance benefits plan for outpatient hospital diagnostic services furnished before April 1968 (see § 405.230(b)).

§ 405.241 Payment of supplementary medical insurance benefits; election by group-practice prepayment plan as to method of determining amount of payment.

Notwithstanding the provisions of § 405.240 (a) and (b), payment to a group-practice prepayment plan which has furnished (or arranged for the availability of) items and services qualifying as medical and other health services, may be made on the basis of the reasonable cost of such services rather than on the basis of reasonable charges, even though such organization is other than a provider of services, if the group-practice prepayment plan elects to have payment made on a reasonable cost basis and agrees to charge the individuals to whom the services were provided not more than the amount of any unpaid annual deductible (see § 405.245), if any, plus 20 percent of the difference between the deductible and the reasonable cost.

§ 405.243 Psychiatric services limitation; expenses incurred for physician services.

(a) *Limitation.* With respect to expenses incurred in any calendar year in connection with the treatment of a mental, psychoneurotic, or personality disorder of an individual who is not an inpatient of a hospital (as described in paragraph (b) of this section) at the time such expenses are incurred, only the lesser of (1) $312.50; or (2) 62½ percent of such expenses, is considered as incurred expenses for purposes of §§ 405.-240 and 405.245.

(b) *Application of limitation.* Notwithstanding any other provision of this Subpart B, paragraph (a) of this section applies to specific expenses incurred for physicians' services (with no distinction being made between the services of psychiatrists and nonpsychiatrist physicians) rendered to an individual who is not an inpatient of a hospital, in connection with the treatment of a mental, psychoneurotic, or personality disorder of such individual, and any items or supplies furnished by the physician in connection with his treatment of such disorder. The term "mental, psychoneurotic, or personality disorder" means the specific psychiatric conditions described in the American Psychiatric Association's Diagnostic and Statistical Manual—Mental Disorders. Expenses incurred for services furnished by health personnel other than physicians, including home health services and outpatient services, as well as physicians' services furnished to an individual who is an inpatient of a hospital are not subject to such limitation even though the services are in connection with a condition which is included in the definition of mental, psychoneurotic, or personality disorder. For purposes of this paragraph (b), "hospital" means a hospital which is primarily engaged in providing to inpatients, by or under the supervision of physicians, diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons; or psychiatric services for the diagnosis and treatment of mentally ill persons; or medical services for the diagnosis and treatment of tuberculosis.

Example. As a private patient, Mr. X's only medical expenses during the calendar year amounted to $750 for physicians' services in connection with the treatment of a mental disorder which did not require inpatient hospitalization. The statutory limit for any calendar year on the amount of these expenses that is covered under this Subpart B is $312.50 ($312.50 being lesser in amount than 62½ percent of $750). Mr. X is required to meet the first $50 as a deductible, and 20 percent of the balance. The remaining 80 percent is payable under this Subpart B.

Total covered expenses	Mr. X's payment	Payment under Subpart B
$312.50	[2] $437.50	.....
[1] −50.00	[1] 50.00	.....
262.50	[3] 52.50	[4] $210.00

[1] Deductible.
[2] In excess of $312.50.
[3] 20 percent of total covered expenses less deductible.
[4] 80 percent of total covered expenses less deductible.

If Mr. X had incurred $350 of the above expenses while an inpatient of an institution (see paragraph (b) of this section), and the remaining $400 while not an inpatient of an institution, payment would be computed as follows:

Total covered expenses	Mr. X's payment	Payment under subpart B
[1] $250	[2] $150	.....
[3] +350		
600	[4] 50	.....
[4] −50		
550	[5] 110	[6] $440

[1] 62½ percent of $400.
[2] In excess of 62½ percent of $400.
[3] 100 percent of expenses incurred while an inpatient.
[4] Deductible.
[5] 20 percent of total covered expenses less deductible.
[6] 80 percent of total covered expenses less deductible.

§ 405.244 Incurred expenses; expenses excluded from total expenses or not considered for purposes of the deductibles.

(a) To the extent that an individual is entitled (or would be entitled except for application of the deductible or coinsurance amounts described in section 1813 of the Act (other than the outpatient hospital diagnostic deductible—see § 405.230(b))) to have payment made under the provisions contained in Subpart A of this part with respect to services furnished to him, no payment

may be made under the provisions described in this Subpart B with respect to such services and the costs or charges for such services are not considered as incurred expenses for purposes of §§405.240, 405.245, and 405.246.

(b) To the extent that an indivdual incurred expenses in meeting the medical insurance blood deductible (including the value of replacements made for such blood—see § 405.246), no payment may be made under the provisions described in this Subpart B with respect to such expenses (or value), and the costs or charges incurred in meeting such deductible are not considered incurred expenses for purposes of §§ 405.240 and 405.245.

(c) To the extent that an individual incurred expenses with respect to radiological and pathological services for which payment is made in an amount equal to 100 percent of the reasonable charges for such services (see § 405.240 (a)(2)), the costs or charges for such services are not considered as incurred expenses for purposes of §§ 405.245 and 405.246 and are not subject to the $50 deductible.

§ 405.245 The supplementary medical insurance benefits deductible.

Subject to the provisions of § 405.244, the total amount of expenses incurred by an individual during a calendar year is reduced, prior to applying the payment percentages in § 405.240, by a deductible in an amount equal to:

(a) $50; less

(b) The amount of any expenses incurred by such individual in the last 3 months of the preceding calendar year and applied toward such individual's deductible under this section for such preceding year.

Example. During 1969 Jones incurred total expenses of $350 for covered medical and other health services furnished to him. Ordinarily, a deductible of $50 would be imposed in determining the amount payable under the supplementary medical insurance plan. However, during November of 1968, Mr. Jones had incurred expenses of $35 for covered medical and other health services which had been applied toward his supplementary medical insurance deductible for 1968. Since any expenses incurred in the last quarter of the prior calendar year, and applied toward the supplementary medical insurance benefits deductible for such year, can be carried over to the following year and applied toward the deductible, Mr. Jones' 1969 supplementary medical insurance benefits deductible is only $15 ($50–$35).

§ 405.246 Supplementary medical insurance blood deductible.

(a) Subject to the provisions of §§ 405.244 and 405.245, where an individual incurs expenses for whole blood or equivalent quantities of packed red cells furnished to him as part of "medical and other health services" (see § 405.231) during a calendar year after 1967, the total amount of expenses incurred by such individual in such calendar year shall, after being reduced in accordance with the provisions of § 405.245, be further reduced before payment is made under this Subpart B by the reasonable and customary charge made by the supplier (e.g., physician, hospital, clinic, etc.) for any of the first 3 pints of whole blood or equivalent quantities of packed red blood cells furnished to the individual in such calendar year.

(b) For purposes of the blood deductible described in paragraph (a) of this section:

(1) A unit of packed red cells is considered equivalent to a pint of whole blood; and

(2) The amount of blood deductible is reduced to the extent that the individual replaces the blood on a pint for pint basis.

§ 405.249 Payment to a nonparticipating hospital furnishing emergency outpatient services.

(a) Payment (in amounts determined in accordance with § 405.240(c)) may be made to a hospital even though the hospital is not a participating provider (i.e., it has not entered into an agreement with the Secretary, pursuant to section 1866 of the Act—see § 405.606) if:

(1) The hospital meets the requirements of section 1861(e) (5) and (7) of the Act (see § 405.1001(a)); and

(i) Is primarily engaged in providing under the supervision of a doctor of medicine or osteopathy the services described in section 1861(e)(1); and

(ii) Is not primarily engaged in providing the services described in section 1861(j)(1)(A) (see § 405.1101(a)); and

(2) The services furnished are emergency outpatient services (see paragraph (b) of this section) furnished on or after April 1, 1968, to an individual who is enrolled under the supplementary medical insurance plan. (With respect to emergency outpatient hospital diagnostic services furnished before Apr. 1, 1968—see § 405.152.)

(3) The services are furnished by the hospital or by others under an arrangement made by the hospital;

(4) The hospital agrees to comply, with respect to the services furnished, with the provisions of Subpart F of this Part 405 regarding the charges for such services which may be imposed on the individual or any other person, and the return of any money incorrectly collected;

(5) The hospital has filed, and the Administration has accepted, the hospital's election to claim payment from the health insurance program for all emergency services furnished in the current calendar year under title XVIII of the Act (see § 405.658);

(6) Written request for payment is filed by or on behalf of the individual to whom such services were furnished;

(7) Payment for the services would have been made if an agreement under § 405.606 had been in effect with the hospital and the hospital otherwise met the conditions for payment;

(8) The hospital's claim for payment is filed with the Administration and is accompanied (attached thereto or as part thereof) by a physician's statement describing the nature of the emergency and stating that the emergency services rendered were necessary to prevent the death of the individual or the serious impairment of his health. The statement must be sufficiently comprehensive to support a finding that an emergency existed.

(b) For purposes of the supplementary medical insurance benefits plan "emergency outpatient services" are those outpatient hospital diagnostic and therapeutic services which are necessary to prevent the death or serious impairment of the health of the individual, and which, because of the threat to the life or health of the individual, necessitate the use of the most accessible hospital available and equipped to furnish such services.

(c) The requirements as to medical necessity for emergency outpatient services and as to whether the most accessible hospital available and equipped to furnish such services was utilized, will be made in accordance with the provisions of §§ 405.191 and 405.192.

§ 405.250 Procedures for payment; medical and other health services furnished by participating provider; home health services.

Payment for medical and other health services (see §§ 405.230(a)(3), 405.231, and 405.232), and for home health services (see §§ 405.230(a)(4), 405.233 through 405.236), furnished by a participating provider of services is made to such provider only if:

(a) A written request is filed by or on behalf of the individual to whom the services were furnished to have such payment made; and

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

(1) In the case of medical and other health services (except services described in § 405.231 (c), (k), and (l)), such services were medically required; or

(2) In the case of home health services:

(i) Such services were required because the individual was confined to his home (except when receiving items and services referred to in § 405.236(g)) and needed skilled nursing care on an intermittent basis, or physical or speech therapy, as the case may be; and

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

(iii) Such services were furnished while the individual was under the care of a physician.

(3) In the case of outpatient physical therapy services:

(i) Such services were required because the individual needed physical therapy services on an outpatient basis; and

(ii) A written plan for furnishing such services has been established, and is periodically reviewed, by a physician; and

(iii) Such services were furnished while the individual was under the care of a physician.

§ 405.251 Procedures for payment; medical and other health services furnished by other than a participating provider.

Payment for medical and other health services furnished by other than a participating provider of services (see §§ 405.230(a) (1) and (2), 405.231 and 405.232) may be made to the individual who incurred such expenses, or to the person who provided such services, under the following circumstances:

(a) *Payment to the individual.* Payment may be made to an individual who incurred expenses for medical and other health services furnished him by other than a participating provider of services if:

(1) He files a written request for payment;

(2) An itemized bill (which may be receipted or unpaid) is submitted which shows in detail the services provided;

(3) The items or services furnished such individual are "medical and other health services" (including "emergency outpatient services," if payment cannot be made under the provisions of § 405.249 solely because the hospital furnishing such services has not elected to claim such payment) for which payment may be made under the provisions set forth in § 405.230(a) (1) and (2).

(b) *Payment to the person who furnished the services.* Payment in the amount determined in accordance with § 405.240 may be made to a person (or organization) other than a participating provider of services who furnishes an enrolled individual medical and other health services for which payment may be made under the provisions set forth in §§ 405.230(a) (1) and (2), 405.231, and 405.232, if:

(1) The individual who was furnished the services executes an assignment of benefits to the person or organization which furnished the services;

(2) The assignment is properly filed;

(3) The items or services furnished are "medical and other health services" for which payment may be made under § 405.230(a) (1) and (2) in an amount as determined under the provisions of § 405.240; and

(4) The person or organization to whom such assignment has been made:

(i) Agrees to accept the individual's assignment of the right to receive payment for such services;

(ii) Agrees that the reasonable charge for such services shall be the full charge for such services; and

(iii) Agrees to charge the individual not more than the amount of any unpaid annual deductible (see § 405.245), if any, the blood deductible (see § 405.246), if applicable, plus 20 percent of the difference between the deductibles and the reasonable charge (as determined in subdivision (ii) of this subparagraph).

§ 405.252 Conditions prohibiting payment of benefits.

In addition to any other limitation, condition, or exclusion in the regulations in this subpart, payment of supplementary medical insurance benefits may not be made under the following circumstances:

(a) *No payment unless information furnished.* No payment may be made to any person, organization or to any provider of services unless the information necessary to determine the amount due has been furnished.

(b) *Federal provider; Federal agency.* No payment may be made to any Federal provider of services or other Federal agency, except a provider of services which may be determined by the Secretary to be providing services to the public generally as a community institution or agency.

(c) *Services furnished at public expense.* No payment may be made to any provider of services or other person or organization for any item or service which such provider, person, or organization is obligated by a law of, or contract with, the United States to render at public expense.

(d) *Alien is outside the United States for 6 full calendar months.* No payment may be made under this Subpart B with respect to items or services furnished to an individual who is not a citizen or national of the United States in any month for which monthly benefits are not being paid to such individual (or would not be paid if he were entitled to such benefits) under certain circumstances because he has been outside the United States throughout 6 full calendar months, until, and beginning with, the first full calendar month such individual has been back in the United States.

(e) *Time limitation on payment.* After March 1968, no payment may be made under Part B of title XVIII of the Act to any person, organization, or provider of services unless a bill or request for payment made pursuant to the provisions of §§ 405.249–405.251 is submitted no later than the close of the calendar year following the year in which the services were furnished. For purposes of this paragraph, services furnished during the last 3 months of any calendar year are deemed to have been rendered in the succeeding calendar year.

[FR Doc.71-12391 Filed 8-24-71;8:47 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter III—Housing Assistance Administration, Department of Housing and Urban Development

[Docket No. R-71-139]

PROTOTYPE COST LIMITS FOR PUBLIC HOUSING

Washington, D.C., Area

In the FEDERAL REGISTER issued for Saturday, May 1, 1971 (36 F.R. 8213–8232), prototype per unit cost schedules were published pursuant to section 209 (a) of the Housing and Urban Development Act of 1970. While these schedules are currently being evaluated in light of public comments received pursuant to invitation in the issuing order, consideration of subsequent factual project cost data received from the Washington, D.C., Area Office indicates that certain prototype per unit cost schedules should be revised.

Inasmuch as the new prototype cost schedules cannot be utilized until the costs themselves become effective by publication in the FEDERAL REGISTER, continuity of contract approvals requires the immediate publication of this material. Accordingly, it is impracticable to provide notice and public procedure with respect to those cost limits in accordance with the Department's recently adopted Publication Policy (24 CFR Part 10), and good cause exists for making them effective on the date of publication in the FEDERAL REGISTER.

For the foregoing reasons the following changes are made to the schedule as originally published in volume 36 of the FEDERAL REGISTER:

1. On page 8216, delete the Washington, D.C., schedule under Region III and substitute the revised prototype per unit cost schedule for Washington, D.C., shown on Appendix I set forth below, Prototype Per Unit Cost Schedules, revised July 21, 1971.

(Sec. 7(d) of Dept. of HUD Act, 42 U.S.C. 3535(d))

Effective date. This rule is effective upon the date of publication in the FEDERAL REGISTER (8–25–71).

EUGENE A. GULLEDGE,
Assistant Secretary-Commissioner.

PROTOTYPE PER UNIT COST SCHEDULE

REGION III

	Number of bedrooms						
	0	1	2	3	4	5	6
Washington, D.C.							
Detached and semidetached	10,400	12,450	13,750	16,450	19,800	22,050	23,000
Row dwellings	9,850	11,850	13,150	15,650	18,850	20,950	21,850
Walk-up	8,250	10,150	11,650	13,700	15,900	17,550	18,450
Elevator-structure	12,750	14,800	18,750				

[FR Doc.71-12375 Filed 8-24-71;8:46 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

[T.D. 7137]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Amortization of Certain Coal Mine Safety Equipment

Correction

In F.R. Doc. 71-11550 appearing at page 14732 in the issue of Wednesday, August 11, 1971, the phrase "(such date)" appearing in the 12th and last lines of § 1.187-1(b)(3) should be replaced by the date "August 11, 1971".

Title 32—NATIONAL DEFENSE

Chapter XVIII—Office of Civil Defense, Office of the Secretary of the Army

PART 1802—DONATION OF FEDERAL SURPLUS PERSONAL PROPERTY FOR CIVIL DEFENSE PURPOSES

Additional Conditions

Section 1802.6 is amended as follows:

In paragraph (e) delete the figure "$50,000" and substitute the figure "$100,000."

New paragraph (g) is added to read as follows:

§ 1802.6 Additional conditions.

* * * * *

(g) *GSA review or proposed amendment, enforcement, or release of restrictions on donated property with original acquisition cost of $2,500 or more.* Actions taken by the Director of Civil Defense or other duly authorized OCD official(s) acting under his delegated authority (1) to determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in any instrument by which the donated property was transferred; (2) to reform, correct, or amend any such instrument; or (3) to grant releases from any of the terms, conditions, reservations, and restrictions contained therein, and to convey or release any right or interest reserved to the United States thereby; are subject to the disapproval of the Administrator of General Services within thirty (30) days after notice to him of any action to be taken.

(64 Stat. 1255, 50 U.S.C. App. 2253; 70 Stat. 493, 40 U.S.C. 484 (j), (k); Reorg. Plan No. 1 of 1958, as amended, 72 Stat. 1799-1801, 23 F.R. 4991, E.O. 10952, as amended, 26 F.R. 6577; Establishment of the Office of Civil Defense and Delegation of Authority Regarding Civil Defense Functions, published Apr. 10, 1964, 29 F.R. 5017)

Effective date. These amendments are effective immediately.

Dated: August 12, 1971.

JOHN E. DAVIS,
Director of Civil Defense.

[FR Doc.71-12364 Filed 8-24-71;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

PART 1-1—GENERAL

Miscellaneous Amendments

This amendment to the Federal Procurement Regulations changes §§ 1-1.703-1 and 1-1.703-2 to include new and revised procedures prescribed by the Small Business Administration with regard to the determination of the status of a bidder or offeror as a small business concern and the handling of protests, appeals, and requests for reconsideration relating thereto.

Subpart 1-1.7—Small Business Concerns

1. Section 1-1.703-1 is revised to make editorial changes in paragraphs (a) and (b) and to prescribe new and revised provisions in paragraph (b). As revised, the section reads as follows:

§ 1-1.703-1 Representation by bidder or offeror.

(a) Except as provided in paragraph (b) of this § 1-1.703-1, the contracting officer shall accept as conclusive for the purpose of a specific procurement as representation by a bidder or offeror that it is a small business concern as defined by SBA.

(b) In the submission of a bid or offer in connection with a specific procurement, a concern which meets the criteria in § 1-1.701 and which either has not been determined by the SBA to be ineligible, or has been determined to be ineligible but has subsequently been certified by the SBA as being a small business, may represent that it is a small businss. A representation by a bidder or offeror that it is a small business concern shall be effective, even though questioned in accordance with the terms of § 1-1.703-2, unless the SBA, in response to such question and pursuant to the procedures set forth in § 1-1.703-2, determines that the bidder or offeror in question is not a small business concern. The controlling point in time for a determination concerning the size status of a questioned bidder or offeror shall be the date of award, except that no bidder or offeror shall be eligible for award as a small business concern unless it has in good faith represented itself as a small business prior to the opening of bids or the closing date for the submission of offers (see § 1-2.405(b) regarding minor informalities and irregularities in bids). In the absence of a written protest or other information which would cause him to question the veracity of the self-certification of the bidder or offeror, the contracting officer shall accept the self-certification at face value for the particular procurement involved. If the contracting officer has cause to question the veracity of a self-certification and elects to do so, he shall refer the eligibility issue to the SBA by filing a formal protest pursuant to § 1-1.703-2. If SBA determines that a concern is ineligible as a small business concern for the purpose of a particular procurement, that concern cannot thereafter become eligible for the purpose of such procurement by taking affirmative acts to constitute itself a small business.

2. Section 1-1.703-2 is revised to prescribe new and amended provisions in paragraphs (a), (b), (c), (d), (e), (f), (g), and (h). As revised the section reads as follows:

§ 1-1.703-2 Protest regarding small business status.

(a) Any bidder or offeror or other interested party may challenge the small business status of any other bidder or offeror on a particular procurement by sending or delivering a written protest, as defined in paragraph (b) of this § 1-1.703-2, to the contracting officer responsible for the particular procurement. Any contracting officer who receives a timely protest, or who wishes to question the small business status of a bidder or offeror himself, shall promptly forward such protest (or submit his protest) to the SBA district office serving the geographical area in which the principal office of the protested concern, not including its affiliates, is located.

(b) As used in this section, "protest" means a statement in writing from any bidder or offeror on a particular procurement (or from any other party interested therein) alleging that another bidder or offeror on such procurement is not a small business concern. The statement shall contain the basis for the protest, together with specific detailed evidence in support of the protestant's claim. Such protest must be received by the contracting officer prior to the close of business on the 5th working day after bid opening date or closing date for receipt of proposals, except that in the case of negotiated procurements, a protest may be filed with the contracting officer by any other offeror or other interested party within 5 working days after receipt from the contracting officer of notification of the identity of the offeror being protested. A protest received after such time limits shall be timely for the purpose of the procurement in question if, in the case of a mailed protest, such protest is sent by registered or certified mail and the postmark thereon indicates that the protest would have been delivered within the time limit but for delays beyond the control of the protestant or, in the case of a telegraphed protest, the telegram date and time line indicates that the protest would have been delivered within the time limit but for delays beyond the control of the protestant. An untimely protest or one received after award of a contract, even though timely, shall be forwarded to the SBA district office serving the geographical area in which the principal office of the protested concern, not including its affiliates, is located. The SBA will make a determination on the protest but such determination shall not apply to the procurement in question. The contracting officer may at any time

after bid or proposal opening question the small business status of any bidder or offeror for the purpose of a particular procurement by filing a written protest with the SBA district office in which the principal office of the protested concern, not including its affiliates, is located. A protest by a contracting officer shall be timely for the purpose of the procurement in question whether filed before or after award.

(c) Upon receipt of a protest, the SBA district director or his delegatee will immediately notify the contracting officer and the protestant of the date such protest was received and that the size of the concern being protested is being considered by SBA. The SBA district director or his delegatee shall also immediately advise the protested bidder or offeror of the receipt of the protest and shall forward to the protested bidder or offeror a copy of the protest and a blank SBA Form 355, Application for Small Business Determination, by certified mail with return receipt requested. Such bidder or offeror must, within 3 working days after receiving the copy of the protest and the SBA Form 355, file the completed form as directed by SBA, and must attach thereto a statement in answer to the allegations in the letter of protest, together with evidence to support its position. If such bidder or offeror does not submit the completed SBA Form 355 with the attached statement and supporting evidence within the filing period provided herein, or within any additional period of time granted by SBA for cause, the SBA will rule that the protested concern is other than a small concern.

(d) SBA will, within 10 working days, if possible, after receipt of a protest, investigate and determine the small business status of the protested bidder or offeror and, by certified mail with return receipt requested, notify the contracting officer, the protestant, and the protested bidder or offeror of its decision. Such decision shall be final unless appealed in accordance with paragraph (f) of this § 1–1.703–2 and the procuring activity is notified of the appeal prior to award. If an award has been made prior to the time the contracting officer receives notice of the appeal, the contract awarded shall be presumed to be valid and any determination rendered by SBA concerning the small business status of the concern involved shall be considered in future procurements.

(e) Following receipt by the contracting officer of a protest as set forth in paragraphs (a) and (b) of this § 1–1.703–2, procurement action by the procuring activity shall be suspended pending SBA's determination of the status of the protested bidder or offeror or the expiration of the 10-day period prescribed in paragraph (d) of this § 1–1.703–2, unless unusual conditions make it necessary that an award be made. If SBA's determination is not received by the contracting officer within 10 working days after SBA's receipt of the protest, the contracting officer shall ascertain when such determination can be expected. In cases where further delay in awarding the contract would be disadvantageous to the Government, it shall be presumed that the protested bidder or offeror is a small business concern.

(f) (1) An appeal from a size determination made by an SBA Regional Director or his delegatee may be taken by: (i) Any concern or other interested party which has protested the small business status of another concern pursuant to paragraphs (a) and (b) of this § 1–1.703–2 and whose protest has been denied by the SBA Regional Director or his delegatee; (ii) any concern or other interested party which has been adversely affected by the decision of the SBA Regional Director or his delegatee; or (iii) the SBA Associate Administrator for the SBA program involved. Written notices of appeal shall be addressed to the Chairman, Size Appeals Board, Small Business Administration, Washington, DC 20416. An appeal from a decision concerning the small business status of a bidder or offeror involved in a pending procurement may be taken within 5 working days after receipt of a decision by an SBA Regional Director or his delegatee. Unless written notice of such an appeal is received by the SBA Size Appeals Board before the close of business on the fifth working day after receipt of the decision, the appellant will be deemed to have waived its rights of appeal insofar as the pending procurement is concerned.

(2) No particular form is prescribed for the notice of appeal. However, the appellant shall submit to the SBA Size Appeals Board an original and four legible copies of such notice and, to avoid time-consuming correspondence, the notice should include the following information: (i) Name and address of the concern on which the size determination was made; (ii) the character of the determination from which the appeal is taken and its date; (iii) if applicable, the IFB or contract number and date, and the name and address of the contracting officer; (iv) a concise and direct statement of the reasons why the decision of the SBA Regional Director or his delegatee is alleged to be erroneous; (v) documentary evidence in support of such allegations; and (vi) action sought by the appellant.

(3) The SBA Size Appeals Board shall promptly acknowledge receipt of the notice of appeal and shall send a copy of such notice to the appropriate SBA Regional Director or his delegatee and to the contracting officer (if a pending procurement is involved). If the appellant is not the concern whose size status is in question, the Size Appeals Board shall also send a copy of the notice of appeal to such concern. The Board shall also notify all known interested parties that the appeal has been filed. In its discretion, the Board may also provide any of such interested parties with copies of the appellant's notice of appeal, or parts thereof, when the Board determines that this would be in the interest of fairness or would assist in the performance of its functions. After an appeal has been filed, any other interested party may file with the Board a signed statement, together with four legible copies thereof, as to why the appeal should or should not be denied. Such statement and supporting evidence shall be mailed or delivered to the SBA Size Appeals Board within 5 days of receipt of appropriate notification of appeal or other action in the proceeding unless an extension is granted for cause by the Chairman of the Board. If the appellant is the concern whose size status is in question, the Board will provide copies of such statements and appropriate evidence submitted in connection with the appeal (or reconsideration thereof) to such appellant.

(4) The SBA Size Appeals Board will consider the appeal on the written submission of the parties. The Board, in its discretion, may also conduct an oral inquiry to assist it in arriving at the facts necessary for deciding the appeal. After consideration of all relevant information, the Board will promptly render a decision which will state the reason for such decision. The decision of the SBA Size Appeals Board will be predicated upon the entire record and the Board will state in writing the basis for its findings and conclusions. The Chairman of the Board will promptly notify, in writing, the appellant and other interested parties (including the contracting officer if a pending procurement is involved) of the Board's decision, together with the reasons therefor.

(5) Within no more than 5 working days following a decision in a size appeal case, any interested party may petition the SBA Size Appeals Board for reconsideration upon presentation of appropriate justification therefor. The request for reconsideration may be in any form, with an original and four legible copies. Grounds for reconsideration will be (i) a material error of fact in the original decision, or (ii) relevant information not previously considered by the Board or relevant information not previously available to any of the parties involved. When a request for reconsideration is made by any of the interested parties, such requesting party must demonstrate to the Board that the grounds for reconsideration involve facts or information which were not previously presented to the Board through no fault or omission of such party. The Board will notify all interested parties that a request for reconsideration has been received.

(6) The SBA Size Appeals Board will consider the request for reconsideration upon the statement and other evidence submitted by the petitioners and any other evidence which the Board, in its discretion, deems necessary. If the Board denies the request for reconsideration, it will notify all parties. If the request for reconsideration is granted, the Board will so notify all interested parties and will set forth a reasonable time within which the interested parties, if appropriate, may submit additional information. The Board may, in its discretion, provide interested parties with copies of

appropriate information submitted by other parties where it determines that this is necessary in the interest of fairness or to better assist the Board in its factfinding functions. Following its reconsideration of the matter, the Board will promptly render its decision in the same manner as provided in subparagraph (4) of this paragraph. Thereafter, the Board will notify all interested parties of its decision.

(g) The determination of the appropriate classification of a product or service establishing the small business definition to be used in a specific procurement shall be made by the contracting officer. The contracting officer's determination of the appropriate classification of a product or service shall be final unless appealed in the manner prescribed in paragraph (h) of this § 1–1.703–2.

(h) A written appeal from a product or service classification determination made by a contracting officer may be taken (1) not less than 10 working days before the bid opening date or closing date for submitting proposals or quotations when the bid opening date or closing date for the submission of proposals or quotations is more than 30 calendar days after the issuance of the invitation for bids or requests for proposals or quotations, or (2) not less than 5 working days before the bid opening date or closing date for submitting proposals or quotations when the bid opening date or closing date for the submission of proposals or quotations is 30 calendar days or less after the issuance of the invitation for bids or request for proposals or quotations. The appeal shall be addressed to the Chairman, Size Appeals Board, Small Business Administration, Washington, DC 20416. No particular form is prescribed for the notice of appeal. However, the appellant shall submit to the SBA Size Appeals Board an original and four legible copies of such notice of appeal and, to avoid time-consuming correspondence, the notice of appeal should include the following information: (i) The character of the determination from which the appeal is taken and its date; (ii) the number and date of the invitation for bids or request for proposals or quotations, and the name and address of the contracting officer; (iii) a concise and direct statement of the reasons why the determination of the contracting officer is alleged to be erroneous; (iv) documentary evidence to support such allegations; and (v) the action sought by the appellant. Following receipt of the appeal by the SBA Size Appeals Board, the appeal will be handled and the decision thereon will be rendered in accordance with the procedures set forth in paragraph (f) of this § 1–1.703–2.

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

Effective date. These regulations are effective September 30, 1971, but may be observed earlier.

Dated: August 18, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71–12405 Filed 8–24–71;8:48 am]

Title 49—TRANSPORTATION

Chapter I—Hazardous Materials Regulations Board, Department of Transportation

[Docket No. HM–1; Amdt. No. 170–1]

PART 170—RULE MAKING PROCEDURES OF THE HAZARDOUS MATERIALS REGULATIONS BOARD

Applicability

The purpose of this amendment to § 170.1 of the Hazardous Materials Regulations is to reflect (1) an updating of the Department of Transportation Order establishing the Board, (2) the transfer of the responsibility of the Assistant Secretary for Research and Technology in this area to the Assistant Secretary for Safety and Consumer Affairs, and (3) the fact that, in order to expedite rule-making activities of the Board, the Director of the Office of Hazardous Materials will issue all notices of proposed rule making relating to classification, packaging, labeling, shipping papers, compatibility (except with respect to matters solely applicable to a single mode of transportation), and general shipping requirements, after appropriate coordination with the operating administrations.

In view of the fact that these changes relate only to the internal procedures of the Department in carrying out its hazardous materials functions, the Board has determined that notice and public procedures are unnecessary and that the amendment may be made effective in less than 30 days. Therefore, this amendment becomes effective upon publication in the FEDERAL REGISTER (8–25–71).

In consideration of the foregoing, § 170.1 of Title 49 CFR is amended as follows:

In § 170.1 paragraph (b) first sentence, the words, "Department of Transportation Order 1100.11, dated July 27, 1967," are changed to read, "Department of Transportation Order 1120.10, dated August 6, 1971," and "Assistant Secretary for Research and Technology" is changed to read, "Assistant Secretary for Safety and Consumer Affairs." In paragraph (c) first sentence, the words, "Issuing a notice or" are deleted.

(Sec. 831–835, Title 18, United States Code; sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on August 19, 1971.

W. F. REA III,
Rear Admiral, Board Member, For the U.S. Coast Guard.

MAC E. ROGERS,
Board Member, for the Federal Railroad Administration.

ROBERT A. KAYE,
Board Member, for the Federal Highway Administration.

JAMES F. RUDOLPH,
Board Member, for the Federal Aviation Administration.

[FR Doc.71–12368 Filed 8–24–71;8:45 am]

Title 50—WILDLIFE AND FISHERIES

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

SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

PART 32—HUNTING

Seney National Wildlife Refuge, Mich.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (8–25–71).

§ 32.22 Special regulations; upland game, for individual wildlife refuge areas.

MICHIGAN

SENEY NATIONAL WILDLIFE REFUGE

The public hunting of Ruffed and Sharp-tailed Grouse, Snowshoe Hare, Gray and Black Squirrels, Coyote, Fox, Porcupine, Raccoon, Skunk, and Crow on the Seney National Wildlife Refuge is permitted only on the area designated as open to hunting. This open area, comprising 85,200 acres, is delineated on maps available at refuge headquarters, Seney, Mich., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be in accordance with all applicable State regulations governing the hunting of these species subject to the following special conditions:

(1) That portion of the refuge designated as Area A is closed to all hunting until November 15.

(2) Foxes and raccoons may not be taken at night.

(3) All motorized conveyances are prohibited from traveling on dikes or off established roads and trails. Motorized bikes, all-terrain vehicles and snowmobiles are not permitted on the refuge.

The provisions of this special regulation supplements the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through February 29, 1972.

JOHN E. WILBRECHT,
Refuge Manager,
Seney National Wildlife Refuge.

AUGUST 17, 1971.

[FR Doc.71–12404 Filed 8–24–71;8:48 am]

PART 32—HUNTING

Seney National Wildlife Refuge, Mich.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (8–25–71).

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

MICHIGAN

SENEY NATIONAL WILDLIFE REFUGE

Public hunting of deer and bear on the Seney National Wildlife Refuge is per-

mitted only on the area designated as open to hunting. The open area, comprising 85,200 acres, is delineated on a map available at the refuge headquarters, Seney, Mich., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of deer and bear subject to the following special conditions:

(1) Bow and arrow hunting is permitted only on 33,525 acres of the refuge designated as Area B, from October 1 through November 14; and on the 85,200 acres of the refuge designated as Area A and Area B, from December 1 through December 31.

(2) Bear may be taken by archers only from October 1 through November 14 and by gun hunters only from November 15 through November 30. Bear may not be taken with aid of dogs.

(3) Camping is permitted only west of the Driggs River during the gun season. A camp registration permit, obtainable at refuge headquarters, is required.

(4) All motorized conveyances are prohibited from traveling on dikes or off established roads and trails. Motorized bikes, all-terrain vehicles and snowmobiles are not permitted on the refuge.

The provisions of these special regulations supplement the regulations which govern hunting in wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through December 31, 1971.

JOHN E. WILBRECHT,
Refuge Manager,
Seney National Wildlife Refuge.

AUGUST 17, 1971.

[FR Doc.71-12403 Filed 8-24-71;8:48 am]

PART 32—HUNTING

PART 33—SPORT FISHING

Sequoyah National Wildlife Refuge, Okla.

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222; 16 U.S.C. 715), and the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927 as amended; 16 U.S.C. 668dd), that 50 CFR Parts 32 and 33 are amended by the addition of Sequoyah National Wildlife Refuge, Okla., to the list of areas open to the hunting of upland game, and migratory game birds, and sport fishing, as legislatively permitted.

It has been determined that regulated hunting of upland game, migratory game birds, and sport fishing may be permitted as designated on the Sequoyah National Wildlife Refuge without detriment to the objectives for which the area was established.

Since this amendment is solely to conform to the State of Oklahoma game and fish laws, we find that notice and public procedure in accordance with the Administrative Procedures Act (5 U.S.C. 553(b)(B)) are impracticable and unnecessary, and since this amendment benefits the public by relieving existing restrictions on hunting of migratory game birds, upland game, and sport fishing, it shall become effective upon publication in the FEDERAL REGISTER (8-25-71).

(Sec. 7, 80 Stat. 929, 16 U.S.C. 668dd(c)(d))

1. Section 32.11 is amended by the following addition:

§ 32.11 List of open areas; migratory game birds.

* * * * *

OKLAHOMA

Sequoyah National Wildlife Refuge.

2. Section 32.21 is amended by the following addition:

§ 32.21 List of open areas; upland game.

* * * * *

OKLAHOMA

Sequoyah National Wildlife Refuge.

3. Section 33.4 is amended by the following addition:

§ 33.4 List of open areas; sport fishing.

* * * * *

OKLAHOMA

Sequoyah National Wildlife Refuge.

* * * * *

M. A. MARSTON,
Acting Director, Bureau of Sport Fisheries and Wildlife.

AUGUST 20, 1971.

[FR Doc.71-12414 Filed 8-24-71;8:49 am]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter X—Oil Import Administration, Department of the Interior

[Oil Import Reg. 1 (Rev. 5); Amdt. 34]

OI REG. 1—OIL IMPORT REGULATION

Allocations to Refiners; Districts I–IV, District V

On May 8, 1971, a notice of proposed rule making to amend paragraph (c) of section 10 of Oil Import Regulation 1 (Revision 5), as amended, and paragraph (c) of section 11 of Oil Import Regulation 1 (Revision 5), as amended, was published in the FEDERAL REGISTER (36 F.R. 8587).

The proposal was that each of these paragraphs should be so amended as to implement suggestions received following the publication in the FEDERAL REGISTER of July 16, 1970 (35 F.R. 11405) of proposed amendments of these sections which would have terminated finished product import allocations based upon imports during the calendar year 1957. Comments received on the original proposal urged that some flexibility be afforded to importers in order to permit adjustments in special circumstances. The later proposal took these comments into account by providing that, with respect to section 10, paragraph (c) should be so amended as to provide, that, under an allocation made pursuant to paragraph (b) thereof, unfinished oils might be imported, but that imports of such oils should not exceed 15 percent of the allocation and that, within such 15 percent, a maximum quantity of imports, equal to 1 percent of the total allocation, might be imported in the form of finished products, subject, however, to prior written notification to the Administrator and that the entry of oils not to be further processed should be made only for extraordinary reasons of the nature therein set forth. With respect to section 11, the later proposal, taking into account the comments received regarding the earlier proposal mentioned above, was that paragraph (c) should be so amended as to provide that, under an allocation made pursuant to paragraph (b) thereof, unfinished oils might be imported, but that imports of such oils should not exceed 25 percent of the allocation and that, within such 25 percent, a maximum quantity of imports equal to 1 percent of the total allocation might be imported in the form of finished products, subject, however, to prior written notification to the Administrator and that the entry of oils not to be further processed should be made only for extraordinary reasons of the nature therein set forth.

Thirteen timely comments regarding the later proposal were received. A majority of them supported the proposal on the ground that it would afford greater flexibility and improve administrative efficiency without resulting in the exportation of a significant amount of refinery capacity. Some of the approving comments suggested that the right to import finished products should not be limited to the original license holder and that it ought not to be conditioned upon the occurrence of extraordinary circumstances. Objections to the proposal suggested that it would be only partially effective in other than coastal and border areas; that the determination as to whether extraordinary circumstances existed would present difficulties; and that the proposal would encourage the exportation of refinery capacity.

All comments have been considered with care. The provision conditioning imports of finished products upon the existence of extraordinary circumstances has been omitted; however, the nature and purpose of the change is to facilitate the importing of minimal quantities under extraordinary circumstances. Greater precision in the expression of the amount of finished products which may be imported has been achieved. Provisions forbidding the exchange of finished products thus imported have been added.

Accordingly, paragraph (c) of section 10 of Oil Import Regulation 1 (Revision 5), as amended, is hereby amended to read as follows:

Sec. 10 Allocations, refiners; Districts I–IV.

* * * * *

(c) Under an allocation made pursuant to paragraph (b) of this section, unfinished oils may be imported, but imports of such oils shall not exceed 15 percent of the allocation. Within such 15 percent, a maximum quantity of imports not exceeding 1 percent of the total allocation may be imported in the form of finished products, provided prior written notification is given to the Aministrator of each entry proposed to be made. Finished products imported pursuant to this paragraph may not be exchanged.

* * * * *

Paragraph (c) of section 11 of Oil Import Regulation 1 (Revision 5), as amended, is hereby amended to read as follows:

Sec. 11 Allocations; refiners; District V.

* * * * *

(c) Under an allocation made pursuant to paragraph (b) of this section, unfinished oils may be imported, but imports of such oils shall not exceed 25 percent of the allocation. Within such 25 percent, a maximum quantity of imports not exceeding 1 percent of the total allocation may be imported in the form of finished products, provided, that prior written notification is given to the Administrator of each entry proposed to be made. Finished products imported pursuant to this paragraph may not be exchanged.

* * * * *

WILLIAM T. PECORA,
Acting Secretary of the Interior.

I concur: August 20, 1971.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

[FR Doc.71-12506 Filed 8-23-71;12:35 pm]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Customs

[19 CFR Parts 8, 24]

ENTRY OF MERCHANDISE

Proposed Requirement for Reporting Owner of Merchandise Importer Number

Notice is hereby given that under the authority contained in section 301 of title 5 of the United States Code and section 484 of the Tariff Act of 1930, as amended (19 U.S.C. 1484), it is proposed to amend the Customs Regulations to provide for the filing of Customs Form 5106, notification of or application for importer's number, for the owner of merchandise submitted for entry and the reporting of the number of the owner of the merchandise on the entry record, Customs Form 5101. The proposed amendment in tentative form is set forth below:

In § 8.8, paragraph (c) is amended to read as follows:

§ 8.8 **Requirements on entry.**

* * * * *

(c) A copy of Customs Form 5101, Entry Record, shall be prepared and presented by the importer with each dutiable consumption, warehouse, appraisement, vessel repair, or drawback entry. The importer of record number and the number of the owner of merchandise shall be reported for each such entry filed other than a consolidated entry covering the shipment of several owners. When the importer of record and the owner of merchandise are one and the same, the importer number shall be entered in both spaces provided on Customs Form 5101. When a consolidated entry is filed the notation "consolidated" shall be entered in the space for the owner of merchandise number. If an importer of record desires to have refunds, bills or notices of liquidation pertaining to his entry mailed in care of his agent, the agent's importer number shall also be reported on the Customs Form 5101. In such a case, the importer of record shall file or shall have filed previously a Customs Form 4811 authorizing the mailing of refunds, bills, or notices of liquidation to the agent.

* * * * *

In § 24.5, paragraph (a) is amended to read as follows:

§ 24.5 **Filing identification number.**

(a) Each person, business firm, Government agency, or other organization shall file Customs Form 5106, notification of or application for importer's number or notice of change of name or address, with the first dutiable formal entry which he submits or the first request for services that will result in the issuance of a bill or a refund check upon adjustment of a cash collection. Notification of or application for importer's number, Customs Form 5106, shall also be filed for the owner of the merchandise for which such entry is being made.

* * * * *

Prior to the issuance of the proposed amendment, consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Washington, D.C. 20226, and received not later than 30 days from the date of publication of this notice in the FEDERAL REGISTER.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: August 16, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-12423 Filed 8-24-71;8:50 am]

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Consolidated Return Regulations

Notice is hereby given that the regulations proposed to be prescribed under section 1502 of the Internal Revenue Code of 1954 which were published in tentative form with a notice of proposed rule making in the FEDERAL REGISTER on April 17, 1968 (33 F.R. 5878), and the regulations proposed to be prescribed under sections 531 and 1502 of the Internal Revenue Code of 1954 which were published in tentative form with a notice of proposed rule making in the FEDERAL REGISTER on July 9, 1968 (33 F.R. 9830), are withdrawn.

Further notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by October 11, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by October 11, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in sections 1502 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 367, 917; 26 U.S.C. 1502, 7805).

[SEAL] HAROLD T. SWARTZ,
Acting Commissioner of Internal Revenue.

The Income Tax Regulations (26 CFR Part 1), under section 1502 of the Internal Revenue Code of 1954, are amended as follows:

PARAGRAPH 1. Section 1.1502-1(f)(2) is amended to read as follows:

§ 1.1502-1 **Definitions.**

(f) *Separate return limitation year.* * * *

(2) *Exceptions.* The term "separate return limitation year" shall not include—

(i) A separate return year of the corporation which is the common parent for the consolidated return year to which the tax attribute is to be carried (except as provided in § 1.1502-75(d)(2)(ii) and subparagraph (3) of this paragraph),

(ii) A separate return year of any corporation which was a member of the group for each day of such year, or

(iii) A separate return year of a predecessor of any member if such predecessor was a member of the group for each day of such year,

provided that an election under section 1562(a) (relating to the privilege to elect multiple surtax exemptions) was never effective (or is no longer effective as a result of a termination of such election) for such year. An election under section 1562(a) which is effective for a taxable year beginning in 1963 and ending in 1964 shall be disregarded.

* * * * *

PAR. 2. Section 1.1502-3 is amended by revising paragraph (a) (3) and (4) to read as follows:

§ 1.1502-3 **Consolidated investment credit.**

(a) *Determination of amount of consolidated credit.* * * *

(3) *Consolidated limitation based on amount of tax.* (i) Notwithstanding the amount of the consolidated credit earned for the taxable year, the consolidated credit allowed by section 38 to the group for the consolidated return year is limited to—

(*a*) So much of the consolidated liability for tax as does not exceed $25,000, plus

(*b*) For taxable years ending on or before March 9, 1967, 25 percent of the consolidated liability for tax in excess of $25,000, or

(*c*) For taxable years ending after March 9, 1967, 50 percent of the con-

solidated liability for tax in excess of $25,000.

The $25,000 amount referred to in the preceding sentence shall be reduced by any part of such $25,000 amount apportioned under § 1.46–1 to component members of the controlled group (as defined in section 46(a)(5)) which do not join in the filing of the consolidated return. For further rules for computing the limitation based on amount of tax with respect to the suspension period (as defined in section 48(j)), see section 46(a)(2). The amount determined under this subparagraph is referred to in this section as the "consolidated limitation based on amount of tax."

(ii) If an organization to which section 593 applies or a cooperative organization described in section 1381(a) joins in the filing of the consolidated return, the $25,000 amount referred to in subdivision (i) of this subparagraph (reduced as provided in such subdivision) shall be apportioned equally among the members of the group filing the consolidated return. The amount so apportioned equally to any such organization shall then be decreased in accordance with the provisions of section 46(d). Finally, the sum of all such equal portions (as decreased under section 46(d)) of each member of the group shall be substituted for the $25,000 amount referred to in subdivision (i) of this subparagraph.

(4) *Consolidated liability for tax.* For purposes of subparagraph (3) of this paragraph, the consolidated liability for tax shall be the income tax imposed for the taxable year upon the group by chapter 1 of the Code, reduced by the consolidated foreign tax credit allowable under § 1.1502–4. The tax imposed by section 56 (relating to minimum tax for tax preferences), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), and any additional tax imposed by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by chapter 1 of the Code. In addition, any increase in tax resulting from the application of section 47 (relating to certain dispositions, etc., of section 38 property) shall not be treated as tax imposed by chapter 1 for purposes of computing the consolidated liability for tax.

* * * * *

PAR. 3. Section 1.1502–11 is amended to read as follows:

§ 1.1502–11 Consolidated taxable income.

(a) *In general.* The consolidated taxable income for a consolidated return year shall be determined by taking into account—

(1) The separate taxable income of each member of the group (see § 1.1502–12 for the computation of separate taxable income);

(2) Any consolidated net operating loss deduction (see § 1.1502–21 for the computation of the consolidated net operating loss deduction);

(3) Any consolidated net capital gain (see § 1.1502–22 for the computation of the consolidated net capital gain);

(4) Any consolidated section 1231 net loss (see § 1.1502–23 for the computation of the consolidated section 1231 net loss);

(5) Any consolidated charitable contributions deduction (see § 1.1502–24 for the computation of the consolidated charitable contributions deduction);

(6) Any consolidated section 922 deduction (see § 1.1502–25 for the computation of the consolidated section 922 deduction);

(7) Any consolidated dividends received deduction (see § 1.1502–26 for the computation of the consolidated dividends received deduction); and

(8) Any consolidated section 247 deduction (see § 1.1502–27 for the computation of the consolidated section 247 deduction).

(b) *Disposition of stock of a subsidiary*—(1) *In general.* If there is a disposition (as defined in § 1.1502–19(b)) of stock (ignoring for this purpose stock which is limited and preferred as to dividends) of a subsidiary during the taxable year, the adjustments under § 1.1502–32 (b) with respect to such stock and the amount of gain or loss on disposition shall be determined in accordance with this paragraph, and the amounts taken into account in computing consolidated taxable income shall be limited as provided in this paragraph.

(2) *Determination of amount of gain or loss on disposition.* For the purpose of determining gain or loss on disposition—

(i) Consolidated taxable income or consolidated net operating loss (and earnings and profits or deficit in earnings and profits) for the taxable year shall be determined tentatively without regard to gain or loss on disposition,

(ii) The adjustments under § 1.1502–32(b) with respect to the stock disposed of shall be based upon the amounts determined under subdivision (i) of this paragraph, and

(iii) Gain (including any amount included in income under § 1.1502–19(a)) or loss on disposition shall be determined in accordance with such adjustments to basis.

(3) *Limitation on carryovers.* If this paragraph applies—

(i) The portion of any consolidated net capital or net operating loss carryover attributable to the subsidiary whose stock is disposed of, and

(ii) The portion of any net capital or net operating loss carryover from a separate return year of such subsidiary,

which may be carried to the taxable year shall not exceed the amount of any such carryover which could be carried to the taxable year if the tentative consolidated taxable income determined under subparagraph (2)(i) of this paragraph were consolidated taxable income for the year.

(4) *Limitation on loss.* If there is gain (including any amount included in income under § 1.1502–19(a)) on disposition—

(i) The amount of capital losses of the subsidiary whose stock is disposed of taken into account under § 1.1502–22 shall be reduced by an amount equal to the portion of any tentative consolidated net capital loss attributable to the subsidiary under § 1.1502–79(b)(2), and

(ii) The amount of the excess of deductions over gross income of such subsidiary taken into account under paragraph (a)(1) of this section and § 1.1502–21(f)(1) shall be reduced by an amount equal to the portion of any tentative consolidated net operating loss attributable to the subsidiary under § 1.1502–79(a)(3).

The amount of any loss or excess deductions not taken into account because of the limitations of subdivisions (i) and (ii) of this subparagraph shall be treated as a net capital or net operating loss sustained in the taxable year and shall be carried to those taxable years (consolidated or separate) to which a consolidated net capital or net operating loss could be carried under §§ 1.1502–21, 1.1502–22, and 1.1502–79, but the portion of such loss which may be carried to a prior year shall not exceed the portion of the tentative consolidated net capital or net operating loss attributable to the subsidiary which could be carried to such year if the tentative consolidated net capital or net operating loss determined under subparagraph (2)(i) of this paragraph were the consolidated net capital or net operating loss for the year.

(5) *Adjustments to stock not disposed of.* If some of the stock of a subsidiary is disposed of but the subsidiary remains a member, the adjustments under § 1.1502–32 with respect to stock not disposed of shall include an allocable portion of the amount treated as a net capital or net operating loss under subparagraph (4) of this paragraph which is not carried back and absorbed in a prior taxable year.

(6) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). (a) Assume that corporation P and its wholly owned subsidiary S, both incorporated on January 1, 1969, comprise an affiliated group and file a consolidated return for the taxable years 1969 and 1970. In 1969, the group has consolidated taxable income of $30 and a consolidated net capital loss of $100, of which $50 is attributable to S. On January 1, 1970, the adjusted basis of the S stock is $300. In 1970, P has a net capital gain of $20 (computed without regard to any capital loss carryover and without regard to gain from the disposition of the S stock) and ordinary income of $30, and S has a deficit of $100. On December 21, 1970, P sells all of the stock of S for 280.

(b) Tentative consolidated taxable income consists of (1) net capital gain of zero ($20 capital gain reduced by $20 of the net capital loss carryover, of which $10 is attributable to S), and (2) a net operating loss of $70, all of which is attributable to S and $30 of which may be carried back and absorbed in 1969.

(c) Under § 1.1502–32 (b) and (e) and subparagraph (2)(ii) of this paragraph there is a net negative adjustment to the basis of the S stock of $70 (negative adjustments of $100 for the deficit and $10 for the portion of the consolidated net

capital loss for 1969 attributable to S which is carried over and absorbed in the taxable year, and a positive adjustment of $40 for the portion of the consolidated net operating loss attributable to S which is not carried back and absorbed in 1969). Accordingly, the adjusted basis of the S stock is $230 and a gain of $50 is realized on the sale.

(d) Under subparagraph (3)(i) of this paragraph, the consolidated net capital loss carryover is limited to $60 (all of the portion attributable to P ($50), plus the amount attributable to S included in the tentative computation ($10) under subdivision (b)(1) of this example). Under subparagraph (4)(i) of this paragraph, the excess of deductions over income of S ($100) taken into account is reduced by an amount equal to the portion of the tentative consolidated net operating loss attributable to S ($70). Accordingly, consolidated taxable income for 1970 is computed as follows:

Consolidated net capital gain:		
Capital gain for 1970	$70 i.e., 50+20	
Capital loss carryover from 1969	60	$10
Income exclusive of capital gain:		
P	30	
S	(30) i.e. (100)−70	0
Consolidated taxable income		10

The amount by which the excess of deductions over income of S is reduced ($70) is treated as a net operating loss of S for the year; $30 of such amount is carried back and absorbed in 1969 and $40 may be carried over to a separate return year of S. In addition, S has a net capital loss carryover of $40 from 1969.

Example (2). (a) Assume that corporation P owns all 10 outstanding shares of corporation S and that P and S comprise an affiliated group which files a consolidated return for 1969, 1970, and 1971. Neither P nor S was in existence before January 1, 1969. In 1969, the group has consolidated taxable income of $100. On January 1, 1970, the adjusted basis of each of the 10 shares of S is $40. In 1970, P has a deficit of $80 (determined without regard to gain on the disposition of the S stock) and S has a deficit of $80. On December 31, 1970, P sells two shares of the S stock for $85 each.

(b) The tentative consolidated net operating loss for 1970 is $160 of which $80 is attributable to S. One hundred dollars of such tentative loss is carried back and absorbed in 1969 and of this amount the portion attributable to S is $50.

(c) Under § 1.1502-32 (b) and (e) and subparagraph (2)(ii) of this paragraph, there is a net negative adjustment to each of the two shares of S stock sold by P of $5, i.e., an allocable portion of an aggregate net negative adjustment of $50 (a negative adjustment of $80 for the deficit and a positive adjustment of $30 for the portion of the consolidated net operating loss attributable to S which is not carried back and absorbed in 1969). Accordingly, the adjusted basis of each of the two shares of S stock disposed of by P is $35 and a gain of $100 is realized on the sale of the two shares of stock.

(d) Under subparagraph (4)(ii) of this paragraph, the excess of deductions over income of S ($80) taken into account is reduced by an amount equal to the portion of the tentative consolidated net operating loss attributable to S ($80). Accordingly, consolidated taxable income for 1970 is computed as follows:

Consolidated net capital gain:		$100
Income exclusive of capital gain:		
P	($80)	
S	0 i.e. (80)−80	(80)
Consolidated taxable income		20

The amount by which the excess of deductions over income of S is reduced ($80) is treated as a net operating loss of S for the taxable year. Because of the limitation of subparagraph (4) of this paragraph, only $50 of such loss may be carried back and absorbed in 1969, since the portion of such loss which may be carried back to a prior year may not exceed the portion of the tentative consolidated net operating loss attributable to S which was carried back to the prior year in the tentative computation under subparagraph (2)(i) of this paragraph. The remaining $30 may be carried over to 1971 and subsequent years.

(e) Under § 1.1502-32 (b) and (e) and subparagraph (5) of this paragraph, there is a negative adjustment of $5 to the basis of each of the remaining eight shares of S owned by P, i.e., an allocable portion of an aggregate net adjustment of $50 (see subdivision (c) of this example).

Example (3). (a) Assume that corporations P and S comprise an affiliated group and file a consolidated return for 1969. There is no income for years prior to 1969. In 1969, P has capital gain of $100 (determined without regard to loss on the disposition of the S stock) and S has a capital loss of $60. In addition to the capital loss, S has a deficit of $200. On January 1, 1969, the basis of the S stock is $400. On December 31, 1969, P sells all of the stock of S for $140.

(b) Tentative consolidated taxable income consists of (1) net capital gain of $40, and (2) a net operating loss of $160, all of which is attributable to S.

(c) Under § 1.1502-32 (b) and (e) and subparagraph (2) (ii) of this paragraph, there is a net negative adjustment to the basis of the S stock of $100 (a negative adjustment of $260 for the deficit and a positive adjustment of $160 for the portion of the consolidated net operating loss attributable to S, none of which is carried back to a prior year). Accordingly, the adjusted basis of the S stock is $300 and P realizes a loss of $160 on the sale.

(d) Consolidated taxable income for 1969 is computed as follows:

Consolidated net capital loss:		
P	($60) i.e.,100−(160)	
S	(60)	($120)
Income exclusive of capital gain:		
P	0	
S	(200)	(200)
Consolidated net operating loss		(200)

Sixty dollars of the consolidated net capital loss is attributable to S and the entire consolidated net operating loss is attributable to S. Since S is no longer a member of the group, such amounts are apportioned to S under § 1.1502-79 (a) and (b) and may be carried to a subsequent separate return year of S.

PAR. 4. Section 1.1502-12 is amended by revising paragraph (g) to read as follows:

§ 1.1502-12 Separate taxable income.

* * * * *

(g) In the computation of the deduction under section 167, property shall not lose its character as new property as a result of a transfer from one member to another member during a consolidated return year if the transfer is a deferred intercompany transaction as defined in § 1.1502-13(a)(2), or if the basis of the property in the hands of the transferee is determined (in whole or in part) by reference to its basis in the hands of the transferor;

* * * * *

PAR. 5. Section 1.1502-13 is amended by revising paragraph (e)(2), by revising that part of paragraph (f)(1) which precedes subdivision (i), and by revising paragraph (f)(2). The revised provisions read as follows:

§ 1.1502-13 Intercompany transactions.

* * * * *

(e) *Restoration of deferred gain or loss for installment obligations and sales.* * * *

(2) *Installment sales.* If—

(i) Property acquired in a deferred intercompany transaction is disposed of outside the group, and

(ii) The purchasing member-vendor reports its income on the installment method under section 453,

then on each date on which the purchasing member-vendor receives an installment payment the selling member shall take into account an amount equal to the deferred gain or loss attributable to such property (after taking into account any prior redeductions under paragraph (d)(3) of this section) multiplied by a fraction, the numerator of which is the installment payment received and the denominator of which is the total contract price. If the deferred gain includes any ordinary income, the ordinary income shall be taken into account first.

* * * * *

(f) *Restoration of deferred gain or loss on dispositions, etc.*—(1) *General rule.* The remaining balance (after taking into account any prior reductions under paragraphs (d)(3) and (e)(3) of this section) of the deferred gain or loss attributable to property, services, or other expenditure shall be taken into account by the selling member as of the earliest of the following dates:

* * * * *

(2) *Exceptions.* (i) Subparagraph (1) of this paragraph shall not apply solely because of a termination of the group (hereinafter referred to as the "terminating group") resulting from—

(*a*) The acquisition by a nonmember corporation of (*1*) the assets of the common parent in a reorganization described in subparagraph (A), (C), or (D) (but only if the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met) of section 368(a)(1), or (2) stock of the common parent, or

(*b*) The acquisition (in a transaction to which § 1.1502-75(d)(3) applies) by a member of (*1*) the assets of a nonmember corporation in a reorganization referred to in (*a*) of this subdivision or (2) stock of a nonmember corporation,

if all the members of the terminating group (other than such common parent if its assets are acquired) immediately before the acquisition are members immediately after the acquisition of another group (hereinafter referred to as the "succeeding group") which files a consolidated return for the first taxable year ending after the date of acquisition. The members of the succeeding group shall succeed to any deferred gain or loss of members of the terminating group and to the status of such members as selling or purchasing members. This subdivision shall not apply with respect to acquisitions occurring before August 25, 1971.

(ii) Subparagraph (1)(iii) of this paragraph shall not apply in a case where—

(*a*) The selling member or the member which owns the property, as the case may be, ceases to be a member of the group by reason of an acquisition to which section 381(a) applies, and the acquiring corporation is a member, or

(*b*) The group is terminated, and immediately after such termination the corporation which was the common parent (or a corporation which was a member of the affiliated group and has succeeded to and become the owner of substantially all of the assets of such former parent) owns the property involved and is the selling member or is treated as the selling member under paragraph (c)(6) of this section.

Paragraphs (d) and (e) of this section and this paragraph shall apply to such selling member. Thus, for example, subparagraph (1)(iii) of this paragraph does not apply in a case where corporation P, the common parent of a group consisting of P and corporations S and T, sells an asset to S in a deferred intercompany transaction, and subsequently all of the assets of S are distributed to P in complete liquidation of S. Moreover, if, after the liquidation of S, P sold T, subparagraph (1)(iii) of this paragraph would not apply even though P ceased to be a member of the group.

* * * * *

PAR. 6. Section 1.1502–14 is amended by adding a new paragraph as follows:

§ 1.1502–14 Stock, bonds, and other obligations of members.

* * * * *

(f) *Acquisition of group.* Paragraphs (b)(3), (c), and (d)(2), (3), and (4)(ii) of this section shall not apply solely because of a termination of the group (hereinafter referred to as the "terminating group") resulting from—

(1) The acquisition by a nonmember corporation of (i) the assets of the common parent in a reorganization described in subparagraph (A), (C), or (D) (but only if the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met) of section 368(a)(1), or (ii) stock of the common parent, or

(2) The acquisition (in a transaction to which § 1.1502–75(d)(3) applies) by a member of (i) the assets of a nonmember corporation in a reorganization referred to in subparagraph (1) of this paragraph, or (ii) stock of a nonmember corporation.

if all the members of the terminating group (other than such common parent if its assets are acquired) immediately before the acquisition are members immediately after the acquisition of another group (hereinafter referred to as the "succeeding group") which files a consolidated return for the first taxable year ending after the date of acquisition. The members of the succeeding group shall succeed to any deferred gain or loss of members of the terminating group and to the status of such members as distributing or distributee corporations. This paragraph shall not apply with respect to acquisitions occurring before August 25, 1971.

PAR. 7. Section 1.1502–15 is amended by revising paragraph (a)(2), (3), and (4) to read as follows:

§ 1.1502–15 Limitations on certain deductions.

(a) *Limitation on built-in deductions.* * * *

(2) *Built-in deductions.* (i) For purposes of this paragraph, the term "built-in deductions" for a consolidated return year means those deductions or losses of a corporation which are recognized in such year, or which are recognized in a separate return year and carried over in the form of a net operating or net capital loss to such year, but which are economically accrued in a separate return limitation year (as defined in § 1.1502–1(f)). Such term does not include deductions or losses incurred in rehabilitating such corporation. Thus, for example, assume P is the common parent of a group filing consolidated returns on the basis of a calendar year and that P purchases all of the stock of S on December 31, 1966. Assume further that on December 31, 1966, S owns a capital asset with an adjusted basis of $100 and a fair market value of $50. If the group files a consolidated return for 1967, and S sells the asset for $30, $50 of the $70 loss is treated as a built-in deduction, since it was economically accrued in a separate return limitation year. If S sells the asset for $80 instead of $30, the $20 loss is treated as a built-in deduction. On the other hand, if such asset is a depreciable asset and is not sold by S, depreciation deductions attributable to the $50 difference between basis and fair market value are treated as built-in deductions.

(ii) In determining, for purposes of subdivision (i) of this subparagraph, whether a deduction or loss with respect to any asset is economically accrued in a separate return limitation year, the term "predecessor" as used in § 1.1502–1(f)(1) shall include any transferor of such asset if the basis of the asset in the hands of the transferee is determined (in whole or in part) by reference to its basis in the hands of such transferor.

(3) *Prior law.* If the assets which produced the built-in deductions were acquired (either directly or by acquiring a new member) by the group before April 17, 1968, and the separate return limitation year in which such deductions were economically accrued ended before such date, the provisions of § 1.1502–31A(b)(9) shall apply in lieu of the provisions of subparagraphs (1) and (2) of this paragraph.

(4) *Exceptions.* (i) Subparagraphs (1), (2), and (3) of this paragraph shall not limit built-in deductions in a taxable year with respect to assets acquired (either directly or by acquiring a new member) by the group if—

(*a*) The group acquired the assets more than 10 years before the first day of such taxable year, or

(*b*) Immediately before the group acquired the assets, the aggregate of the adjusted basis of all assets (other than cash, marketable securities, and goodwill) acquired from the transferor or owned by the new member did not exceed the fair market value of all such assets by more than 15 percent.

(ii) For purposes of subdivision (i)(*b*) of this subparagraph, a security is not a marketable security if immediately before the group acquired the assets—

(*a*) The fair market value of the security is less than 95 percent of its adjusted basis, or

(*b*) The transferor or new member had held the security for at least 24 months, or

(*c*) The security is stock in a corporation at least 50 percent of the fair market value of the outstanding stock of which is owned by the transferor or new member.

* * * * *

PAR. 8. Section 1.1502–18 is amended by revising paragraph (a) and by adding paragraph (c)(4). The revised and added provisions read as follows:

§ 1.1502–18 Inventory adjustment.

(a) *Definition of intercompany profit amount.* For purposes of this section, the term "intercompany profit amount" for a taxable year means an amount equal to the profits of a corporation (other than those profits which such corporation has elected not to defer pursuant to § 1.1502–13(c)(3) or which have been taken into account pursuant to § 1.1502–13(f)(1)(viii)) arising in transactions with other members of the group with respect to goods which are, at the close of such corporation's taxable year, included in the inventories of any member of the group. See § 1.1502–13(c)(2) with respect to the determination of profits. See the last sentence of § 1.1502–13(f)(1)(i) for rules for determining which goods are considered to be disposed of outside the group and therefore not included in inventories of members.

* * * * *

(c) *Recovery of initial inventory amount.* * * *

(4) *Acquisition of group.* For purposes of this section, a member of a group shall not become a nonmember or be considered as filing a separate return solely because of a termination of the group (hereinafter referred to as the "terminating group") resulting from—

(i) The acquisition by a nonmember corporation of (*a*) the assets of the common parent in a reorganization de-

scribed in subparagraph (A), (C), or (D) (but only if the requirements of subparagraphs (A) and (B) of section 354 (b)(1) are met) of section 368(a)(1), or (*b*) stock of the common parent, or

(ii) The acquisition (in a transaction to which § 1.1502–75(d)(3) applies) by a member of (*a*) the assets of a nonmember corporation in a reorganization referred to in subdivision (i) of this subparagraph, or (*b*) stock of a nonmember corporation,

if all the members of the terminating group (other than such common parent if its assets are acquired) immediately before the acquisition are members immediately after the acquisition of another group (hereinafter referred to as the "succeeding group") which files a consolidated return for the first taxable year ending after the date of acquisition. The members of the succeeding group shall succeed to any initial inventory amount and to any unrecovered inventory amount of members of the terminating group. This subparagraph shall not apply with respect to acquisitions occurring before August 25, 1971.

* * * * *

PAR. 9. Section 1.1502–19 is amended by revising paragraph (a)(3), by adding subparagraphs (5) and (6) to paragraph (a), by revising examples (1) and (2) of paragraph (c)(2), by revising paragraph (e), and by revising paragraph (g). The revised and new provisions read as follows:

§ 1.1502–19 Excess losses.

(a) *Recognition of income.* * * *

(3) *Cancellation or redemption.* If stock of a subsidiary is considered to be disposed of under paragraph (b)(1)(ii) of this section other than in complete liquidation of such subsidiary, any amount which would otherwise be included in the income of the disposing member under subparagraph (1) of this paragraph shall be deferred and taken into account at the time provided in § 1.1502–14(b)(3).

* * * * *

(5) *Foreign expropriation losses.* If there is a disposition of stock of a subsidiary, subparagraph (1) of this paragraph shall not apply to the excess loss account with respect to such stock to the extent such excess loss account is attributable to a foreign expropriation loss occurring in a taxable year beginning before January 1, 1966, which is absorbed as part of a consolidated net capital or net operating loss carryover in a taxable year ending before January 1, 1971, and the regulations applicable to taxable years beginning before January 1, 1966, shall apply to such disposition.

(6) *Election to reduce basis of other investment.* If there is a disposition (as defined in paragraph (b) of this section) of stock of a subsidiary, all or any part of the excess loss account with respect to such stock may be applied to reduce the basis of any other stock or obligations of the subsidiary (whether or not evidenced by a security) held by the disposing member immediately before the disposition. Only the excess loss account which remains after such application shall be included in income under this paragraph. If subparagraph (4) of this paragraph applies to part of the excess loss account, such parts must be applied to reduce the basis of stock or obligations under this subparagraph before the other part may be so applied.

* * * * *

(c) *Effect of chain ownership.* * * *

(2) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). (a) Assume that corporations P, S, T, and U first file a consolidated return for the taxable year beginning January 1, 1966. On that date, P owns all the stock of S with an adjusted basis of $15, S owns all the stock of T with an adjusted basis of $5, and T owns all the stock of U with an adjusted basis of $10. For the year 1966, the group has consolidated taxable income but U has a deficit in earnings and profits of $20. Under § 1.1502–32(b)(2), T reduces its basis with respect to the stock of U to zero and has an excess loss account of $10, S reduces its basis in T's stock to zero and has an excess loss account of $15, and P decreases its basis in S's stock to zero and has an excess loss account of $5.

(b) In 1967 the stock of U becomes worthless. T is considered as having disposed of such stock under paragraph (b) of this section and realizes income of $10. If the group has elected to adjust earnings and profits currently, T will have earnings and profits of $10 resulting from the disposition of the stock of U (see § 1.1502–33(c)(4)(ii)(b)); if the group has not so elected, T will have a deficit in earnings and profits of $10 resulting from the disposition (see § 1.1502–33(c)(4)(i)(b)). However, for purposes of the adjustment under § 1.1502–32(b) to the basis of stock owned by higher-tier members, T's earnings and profits on the disposition are $10 regardless of whether the group adjusts earnings and profits currently (see § 1.1502–32(d)(1)(i)). S's excess loss account with respect to T's stock will be reduced to $5 (see § 1.1502–32(b)(1)(i)). P's excess loss account with respect to S's stock will be reduced to zero and its basis for S's stock will be increased to $5 (see § 1.1502–32(b)(1)(i) or (iii)).

Example (2). Assume the same facts as in example (1) except that the stock of T, rather than the stock of U, becomes worthless and therefore S is considered as having disposed of its stock in T under paragraph (b) of this section and T is considered as having disposed of its stock in U. Since U is the lowest tier subsidiary, this section is applied first with respect to the excess loss account relating to the stock of U with the same result as in example (1). This section is then also applied with respect to the stock of T. Thus, in addition to the result in example (1), S will realize income of $5, and P's basis for S's stock will be increased by $5 to $10.

* * * * *

(e) *Nontaxable liquidations and reorganizations to which the subsidiary is a party.* If, in a consolidated return year, a member is the transferor or distributor corporation and another member is the acquiring corporation in a transaction to which section 381(a) applies, members owning stock in the transferor or distributor corporation shall not, by reason of such transaction (or by reason of an exchange under section 354 pursuant to such transaction), be considered for purposes of paragraph (b) of this section as having disposed of such stock. If the transaction is a distribution in liquidation to which section 334(b)(1) applies, the excess loss account in the stock of the distributor corporation shall be eliminated. If the transaction involves an exchange to which section 354 applies, the excess loss account in the stock of the transferor corporation surrendered in exchange shall be applied to reduce the basis (or to increase the excess loss account) of the stock received in the exchange or previously owned. If, immediately before a transfer described in section 381(a), the transferor corporation owned stock of the acquiring corporation, the excess loss account in such stock shall be eliminated. For example, assume that corporation P owns all of the stock of corporation S with an excess loss account of $20, and that S owns all of the stock of T with an excess loss account of $30. If S is merged into corporation U (another member) in a transaction described in section 368(a)(1)(A), P will apply the $20 excess loss account against and reduce the basis (or increase the excess loss account) of any stock of U which P owns or receives pursuant to the merger. However, if S is merged into T, the $30 excess loss account in the T stock is eliminated (and is not included in income), and the $20 excess loss account in the S stock becomes a $20 excess loss account in the T stock in the hands of P.

* * * * *

(g) *Acquisition of group*—(1) *In general.* Paragraph (b) of this section shall not apply solely because of a termination of the group (hereinafter referred to as the "terminating group") resulting from—

(i) The acquisition by a nonmember corporation of (*a*) the assets of the common parent in a reorganization described in subparagraph (A), (C), or (D) (but only if the requirements of subparagraphs (A) and (B) of section 354(b)(1) are met) of section 368(a)(1), or (*b*) stock of the common parent, or

(ii) The acquisition, in a transaction to which § 1.1502–75(d)(3) applies, by a member of (*a*) the assets of a nonmember corporation in a reorganization referred to in subdivision (i) of this subparagraph, or (*b*) stock of a nonmember corporation,

if all the members of the terminating group (other than such common parent if its assets are acquired) immediately before the acquisition are members immediately after the acquisition of another group (hereinafter referred to as the "succeeding group") which files a consolidated return for the first taxable year ending after the date of acquisition. The members of the succeeding group shall succeed to any excess loss accounts with respect to stock of members of the terminating group as of the date of acquisition. This paragraph shall not apply with respect to acquisitions occurring before August 25, 1971.

(2) *Adjustments*—(i) *In general.* If any stock of a member of the succeeding

group is disposed of under this section, a higher tier limitation member (as defined in subdivision (ii) of this subparagraph) owning stock in the disposing member shall, in making the adjustment under § 1.1502–32(b) with respect to stock of such disposing member, take into account the increase in earning and profits attributable to inclusion of the excess loss account in the income of such member only to the extent that the amount of such excess loss account exceeds the amount of any excess loss account with respect to the stock disposed of at the time of the acquisition. If there are intervening members between the member disposing of stock under this section and a higher tier limitation member, and if a member owning stock in the disposing member is not a higher tier limitation member, then solely for the purpose of the adjustment under § 1.1502–32(b) by the higher tier limitation member with respect to stock of a subsidiary, the adjustments under § 1.1502–32(b) for such intervening members shall be computed as if members owning stock in the disposing member were higher tier limitation members.

(ii) *Limitation member.* A higher tier member of the succeeding group is a "higher tier limitation member" unless such member (*a*) was a member immediately before the acquisition of the same group as the member with respect to the stock of which the excess loss account existed, or (*b*) acquired the assets of the common parent of such group in a reorganization described in subparagraph (1) of this paragraph.

(3) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). (a) Assume there are two affiliated groups, one comprising P, S, and T, and the other comprising X and Y, both of which file consolidated returns for the calendar year 1971. P owns all the stock of S with an adjusted basis of $100, and S owns all the stock of T with an adjusted basis of zero and an excess loss account of $30. X owns all the stock of Y with an adjusted basis of $200. On January 1, 1972, Y acquires all the assets of P in exchange for 20 percent of the stock of X in a reorganization to which section 368(a)(1)(C) applies. As a result of the acquisition of the assets of P by Y, the P-S-T group terminates. X, Y, S, and T file a consolidated return for the first taxable year ending after the date of the acquisition.

(b) Paragraph (b) of this section does not apply, merely because of the termination of the P group, to include in S's income its excess loss account with respect to the stock of T.

(c) If T has a deficit in earnings and profits of $10 for 1972, S would increase its excess loss account with respect to the stock of T to $40, Y would decrease the basis of its S stock (which is a carryover of P's basis) to $90, and X would decrease the basis of its Y stock to $190.

(d) Assume that the stock of T becomes worthless in 1973. S would include $40 in income. For purposes of the adjustments under § 1.1502–32(b), S would have earnings and profits of $40 resulting from the disposition of the stock of T (amount realized, $40, minus the adjusted basis of zero determined by taking into account the adjustments under § 1.1502–32(e)). If S had no other earnings and profits for the year, Y (which is not a higher tier limitation member) would adjust its basis for the stock of S under § 1.1502–32(b)(1)(i) by the full amount of S's earnings and profits, thus increasing the basis of the S stock to $130. The adjustment by Y with respect to the stock of S would ordinarily be reflected under § 1.1502–32(b)(1)(i) or (iii) in the adjustment by X with respect to the stock of Y. However, X is a higher tier limitation member, and, solely for the purpose of determining the adjustment by X with respect to the stock of Y, the adjustment by Y with respect to the stock of S must be recomputed by including only $10 (i.e., the amount by which S's excess loss account in the stock of T, $40, exceeds the excess loss account with respect to such stock at the time of the acquisition, $30) in the adjustment under § 1.1502–32(b)(1)(i). Thus, if there were no other adjustments under § 1.1502–32(b) with respect to the stock of S and Y, X would make a positive adjustment under § 1.1502–32(b)(1)(i) or (iii) and (e)(2) of $10 with respect to the stock of Y, increasing the basis of such stock to $200. The basis of the stock of S held by Y is not affected by the recomputation.

Example (2). Assume the same facts as in example (1) except that the shareholders of P receive more than 50 percent of the stock of X so that the transaction is a reverse acquisition under § 1.1502–75(d)(3) with the X-Y group terminating and the P-S-T group surviving. The adjustments and limitations apply as in example (1).

Example (3). Assume the same facts as in example (1) except that subsequent to the acquisition T has earnings and profits of $100 in 1972 (thus eliminating the excess loss account with respect to the stock of T and increasing the basis of such stock to $70) and a deficit in earnings and profits of $110 in 1973, thereby decreasing the basis with respect to such stock to zero and creating an excess loss account of $40 which is included in S's income in 1973. The adjustments and limitations apply as in example (1).

PAR. 10. Section 1.1502–23 is amended to read as follows:

§ 1.1502–23 Consolidated section 1231 net gain or loss.

The consolidated section 1231 net gain or loss for the taxable year shall be determined by taking into account the aggregate of the gains and losses to which section 1231 applies of the members of the group for the consolidated return year. Section 1231 gains and losses on intercompany transactions shall be reflected as provided in § 1.1502–13. Section 1231 losses that are "built-in deductions" shall be subject to the limitations of §§ 1.1502–21(c) and 1.1502–22(c) as provided in § 1.1502–15(a).

PAR. 11. Section 1.1502–26(a) is amended to read as follows:

§ 1.1502–26 Consolidated dividends received deduction.

(a) *In general.* The consolidated dividends received deduction for the taxable year shall be the lesser of—

(1) The aggregate of the deductions of the members of the group allowable under sections 243(a)(1), 244(a), and 245 (computed without regard to the limitation provided in section 246(b)), or

(2) 85 percent of the consolidated taxable income computed without regard to the consolidated net operating loss deduction, consolidated section 247 deduction, the consolidated dividends received deduction, and any consolidated net capital loss carryback to the taxable year.

Subparagraph 2 of this paragraph shall not apply for any consolidated return year for which there is a consolidated net operating loss. (See paragraph (f) of § 1.1502–21 for the definition of a consolidated net operating loss.) If section 593 applies to one or more members and any member computes additions to the reserve for losses on loans for the taxable year under the percentage of income method provided by section 593(b)(2), the amount of the deduction under this section shall be reduced by an amount determined by multiplying the amount of the deduction under this section (determined without regard to this sentence) by the applicable percentage of the member with the highest applicable percentage (determined under subparagraphs (A) and (B) of section 593(b)(2)).

* * * * *

PAR. 12. Section 1.1502–31(b)(2)(ii) is amended to read as follows:

§ 1.1502–31 Basis of property.

* * * * *

(b) *Basis after liquidation or intercompany distributions with respect to stock.* * * *

(2) *Liquidations and redemptions.* * * *

(ii) The aggregate basis of all property acquired in a distribution in cancellation or redemption of stock (as defined in § 1.1502–14(b)(1)) by a member to another member, other than a liquidation to which section 332 applies, shall be the same as the adjusted basis of the stock exchanged therefor (adjusted in accordance with the rules prescribed in § 1.1502–32(a)), increased by the amount of any liabilities of the distributing corporation assumed by the distributee or to which the property acquired is subject, and reduced by the amount of cash received in the distribution. Such aggregate basis shall be allocated among the assets received (except cash) in proportion to the fair market values of such assets on the date received.

PAR. 13. Section 1.1502–32 is amended by revising paragraph (b)(1)(iii) and (2)(iv), by adding paragraph (c)(3), by revising paragraph (d)(1), (8), and (9), by adding paragraph (d)(10) and (11), by revising paragraph (f), by revising paragraph (g), and by deleting examples (3) and (4) in paragraph (j). The revised and added provisions read as follows:

§ 1.1502–32 Investment adjustment.

* * * * *

(b) *Stock which is not limited and preferred as to dividends*—(1) *Postive adjustment.* * * *

(iii) If such subsidiary owns stock in another subsidiary and § 1.1502–33(c)(4)(i) applies to the taxable year, an allocable part of the net positive adjustment made by the higher tier subsidiary for the taxable year with respect to its stock in such other subsidiary.

(2) *Negative adjustment.* * * *

(iv) If such subsidiary owns stock in another subsidiary and § 1.1502–33(c)(4)(i) applies to the taxable year, an allocable part of the net negative adjustment made by the higher tier subsidiary for the taxable year with respect to its stock in such other subsidiary.

(c) *Limited and preferred stock.* * * *

(3) *Exception.* The negative adjustment under subparagraph (2)(i) of this paragraph shall not exceed—

(i) The sum of the positive adjustments under subparagraph (1) of this paragraph for all prior years, minus

(ii) The sum of the negative adjustments under subparagraph (2)(i) of this paragraph for all prior years.

The amount by which the adjustment under subparagraph (2)(i) of this paragraph (determined without regard to this subparagraph) exceeds the amount of such adjustment determined with regard to this subparagraph shall be treated for purposes of paragraph (b)(2)(iii)(*a*) of this section as a distribution with respect to stock which is not limited and preferred as to dividends.

(d) *Operating rules.* For purposes of paragraphs (b) and (c) of this section—

(1) *Earnings and profits.* (i) The earnings and profits (or deficit in earnings and profits) of a member shall be determined under § 1.1502–33, except that—

(*a*) The earnings and profits of a member resulting from the disposition of stock of a subsidiary shall be determined in accordance with § 1.1502–33(c)(4)(ii)(*b*) whether or not such section otherwise applies,

(*b*) Section 1.1502–33(c)(4)(ii)(c)(*2*) and (*3*) shall not apply, and

(*c*) In computing the earnings and profits of a member resulting from the disposition of stock or an obligation to which § 1.1502–19(a)(6) applies, the adjusted basis of such stock or obligation shall be determined by taking into account any adjustments under § 1.1502–19(a)(6).

(ii) The undistributed earnings and profits for the taxable year shall first be allocated to all the outstanding stock (including the stock held by nonmembers) which is limited and preferred as to dividends in an amount equal to the excess, if any, of—

(*a*) The cumulative dividends in arrears (determined as of the last day of the subsidiary's taxable year) for all consolidated return years beginning after December 31, 1965, over

(*b*) The accumulated earnings and profits of the subsidiary as of the first day of the taxable year,

but such amount shall not exceed the accumulated earnings and profits of the subsidiary as of the last day of the taxable year. The balance, if any of the undistributed earnings and profits, and any net positive adjustment made by such subsidiary with respect to lower tier subsidiaries, for the taxable year shall be allocated among all the outstanding stock of such subsidiary (including stock held by nonmembers) which is not limited and preferred as to dividends.

* * * * *

(8) *Undistributed earnings and profits.* For purposes of this section, the term "undistributed earnings and profits for the taxable year" means earnings and profits for the taxable year after diminution by reason of distribution of dividends (as defined in § 1.1502–14(a)(1)).

(9) *Preaffiliation year.* The term "preaffiliation year" of a subsidiary means any taxable year which includes at least 1 day on which such subsidiary was not a member of the group, and each taxable year preceding such year.

(10) *Basis carryovers in certain acquisitions of stock of another corporation.* (i) If, as the result of the acquisition of stock of a corporation, (*a*) such corporation becomes a member of the group, and (*b*) the basis of stock possessing at least 80 percent of the voting power of all classes of stock and at least 80 percent of each class of nonvoting stock (other than stock which is limited and preferred as to dividends) of such corporation is determined (in whole or in part) by reference to the basis in the hands of the transferor, then distributions by such corporation which would otherwise be considered as out of earnings and profits accumulated in preaffiliation years of such corporation shall be considered as distributions not out of earnings and profits of preaffiliation years in a total amount not to exceed the amounts computed under subdivisions (ii) and (iii) of this subparagraph.

(ii) With respect to stock which is limited and preferred as to dividends, the amount referred to in subdivision (i) of this subparagraph is the excess of preaffiliation earnings and profits attributable to such stock held by members immediately after the corporation becomes a member over the aggregate of the basis of such stock at such time. The portion of preaffiliation earnings and profits attributable to such stock is the amount determined by multiplying the sum of the capital and preaffiliation earnings and profits (but not in excess of cumulative dividends in arrears) by a fraction, the numerator of which is the number of shares which are limited and preferred as to dividends owned by members immediately after the corporation becomes a member, and the denominator of which is the total number of such shares outstanding at such time. However, if any portion of the cumulative dividends in arrears at the time the corporation becomes a member is subsequently reduced other than by distribution of dividends, the amount under this subdivision shall be redetermined by substituting such reduced amount of cumulative dividends in arrears for the original such amount.

(iii) With respect to stock which is not limited and preferred as to dividends, the amount referred to in subdivision (i) of this subparagraph is the excess of preaffiliation earnings and profits attributable to such stock held by members immediately after the corporation becomes a member over the aggregate of the basis of such stock at such time. The portion of preaffiliation earnings and profits attributable to such stock is the amount determined by multiplying the sum of the capital and preaffiliation earnings and profits (reduced by the amount of cumulative dividends in arrears) by a fraction, the numerator of which is the number of shares which are not limited and preferred as to dividends owned by members immediately after the time the corporation becomes a member, and the denominator of which is the total number of such shares outstanding at such time.

(11) *Prior consolidated return years beginning after December 31, 1965.* The term "prior consolidated return years beginning after December 31, 1965" shall not include consolidated return years of a corporation which precede the most recent separate return year of such corporation. Thus, if P and its wholly owned subsidiary, S, filed a consolidated return for 1966, separate returns for 1967, and a consolidated return for 1968, P's basis in S's stock is not reduced under paragraph (b)(2)(iii) or (c)(2) of this section because of distributions by S after 1967 out of earnings and profits accumulated in 1966.

* * * * *

(f) *Special rules*—(1) *Transitional rules.* (i) If any subsidiary joined in filing (or was required to join in filing) a consolidated return for a taxable year beginning before January 1, 1966 (whether or not with the same group), then for purposes of determining the basis of stock of such subsidiary as of the first day of the first taxable year to which this section applies § 1.1502–34A (b)(2), and (c) shall be applied with respect to the stock (other than stock which is limited and preferred as to dividends) of such subsidiary owned by each member as if such stock were disposed of on such date. If the amount of deductions for losses availed of under § 1.1502–34A (b)(2) or (c)(2) exceeds the sum of the aggregate bases of such stock owned by all members, such excess shall be treated as an excess loss account with respect to such stock. See § 1.1502–19(a)(4) with respect to the treatment of such excess loss account.

(ii) No adjustments to the basis of a subsidiary's stock shall be made under paragraph (b)(2)(ii) of this section on account of losses sustained in taxable years beginning before January 1, 1966, to the extent that the basis of such stocks would have been higher as of the beginning of the first taxable year beginning after December 31, 1965, if this section had applied to taxable years beginning before January 1, 1966. For example, assume that subsidiary S was organized in 1961 with $100 capital by the parent of a group filing consolidated returns on a calendar year basis, that S earned $200 in 1961, had no income or losses in 1962 through 1964, and had a deficit of $225 in 1965 that was not absorbed by the parent in 1965 or prior years but was carried over to and absorbed in 1966. The basis of the S stock on January 1, 1966, is $100, but if § 1.1502–32 had applied for the years 1961 through 1965, the basis of the S stock on January 1, 1966, would have been $300. Therefore, to the extent of $200 there is no basis adjustment un-

der paragraph (b)(2)(ii) of this section on account of the absorption, and the adjustment is only $25 ($225 minus $200).

(2) *Deemed dividend.* If all the stock of a subsidiary is owned on each day of the subsidiary's taxable year by members, then at the election of the group, such subsidiary shall be treated for all tax purposes as having made a distribution on the first day of such taxable year in an amount equal to, and out of, its accumulated earnings and profits on the day preceding such day. Each member owning stock in such subsidiary shall be treated for all tax purposes as having received an allocable share of such distribution, and as having immediately contributed such allocable share to the capital of the subsidiary. The election shall be made by submitting a statement, on or before the due date (including any extensions of time) of the consolidated return for such year, to the district director with whom the group files such return.

(g) *Adjustment on disposition*—(1) *In general.* A member owning stock in a subsidiary shall, on the first day of the first separate return year of the member or of the subsidiary, whichever occurs first, decrease its basis for such stock by the excess, with respect to such stock, of

(i) The net positive adjustments under paragraph (e)(2) of this section for all consolidated return years, over

(ii) The net negative adjustments under paragraph (e)(1), plus any decreases under paragraph (f)(1), of this section, for all consolidated return years.

If the amount referred to in the preceding sentence exceeds the basis of such stock, the amount of the excess shall, as of the day immediately preceding such first day, be included in the income of such member as income described in § 1.1502–19(a).

(2) *Example.* Assume that in 1967 corporation P organizes corporation S, investing $500 for all of S's stock. For the taxable year 1967, S has earnings and profits of $100, thus increasing P's basis in S's stock to $600 on the last day of 1967. On December 31, 1967, P sells one-half of its stock in S to a nonmember for $370. P recognizes a gain of $70 on such sale, and on January 1, 1968, P's basis for its remaining stock in S is reduced by $50 to $250.

* * * * *

PAR. 14. Section 1.1502–33(c)(4) is amended to read as follows:

§ 1.1502–33 Earnings and profits.

* * * * *

(c) *Stock and obligations.* * * *

(4) *Investment adjustment*—(i) *Taxable years beginning before January 1, 1976.* Except as provided in subdivision (iii) of this subparagraph, for taxable years beginning before January 1, 1976—

(*a*) Adjustments made by a member under § 1.1502–32(e) (1) and (2), and (g) shall not be reflected in the earnings and profits of such member.

(*b*) For purposes of computing the earnings and profits of a member resulting from the disposition of stock of a subsidiary, the adjusted basis of such stock shall be—

(*1*) The adjusted basis determined without regard to adjustments under § 1.1502–32(e) (1) and (2), and (g), plus

(*2*) The amount of any excess loss account includible in income by such member under § 1.1502–19(a)(1) on such disposition.

(ii) *Taxable years beginning after December 31, 1975.* For taxable years beginning after December 31, 1975—

(*a*) There shall be reflected in the earnings and profits of each member for a taxable year an amount equal to any increase or decrease for such taxable year pursuant to § 1.1502–32(e) (1) and (2), and (g) in such member's basis or excess loss account for its stock in a subsidiary.

(*b*) For purposes of computing the earnings and profits of a member resulting from the disposition of stock of a subsidiary, the adjusted basis of such stock shall be determined by taking into account any adjustments under § 1.1502–32(e) (1) and (2), and (g).

(*c*) If subdivision (i) of this subparagraph applies for one or more taxable years before this subdivision applies—

(*1*) For purposes of computing the earnings and profits of a member resulting from the disposition of stock of a subsidiary, the adjusted basis of such stock shall be determined by taking into account any adjustments under § 1.1502–32(e) (1) and (2), and (g) for all consolidated return years;

(*2*) The negative adjustment applicable under § 1.1502–32(b)(2)(iii)(*a*) or (c)(2)(i) to distributions made in years for which this subdivision applies out of earnings and profits accumulated in years for which this subdivision did not apply shall be eliminated in computing earnings and profits; and

(*3*) The earnings and profits of a member disposing of stock of a subsidiary shall be (*i*) increased by an amount equal to the excess of the positive adjustments with respect to such stock under § 1.1502–32 (b)(1) or (c)(1) for all years for which this subdivision did not apply, over the sum of the negative adjustments under § 1.1502–32 (b)(2) or (c)(2) for all such years plus any adjustments under § 1.1502–32 (b)(2)(iii)(*a*) or (c)(2)(i) which are described in (*c*)(2) of this subdivision, or (*ii*) decreased by an amount equal to the excess of the sum of the negative adjustments with respect to such stock under § 1.1502–32 (b)(2) or (c)(2) for all years for which this subdivision did not apply plus any adjustments under § 1.1502–32(b)(2)(iii)(*a*) or (c)(2)(i) which are described in (*c*)(2) of this subdivision, over the positive adjustments with respect to such stock under § 1.1502–32 (b)(1) or (c)(1) for all years for which this subdivision did not apply.

(iii) *Election to adjust currently.* For any taxable year beginning before January 1, 1976, the group may elect to apply the provisions of subdivision (ii) of this subparagraph. Such election shall be made by submitting a statement, on or before the due date (including any extensions of time) of the consolidated return for the first taxable year for which the election is to apply, to the internal revenue officer with whom the group files such return. However, such election may be made for any taxable year beginning after December 31, 1965, within 60 days after July 3, 1968, if it is made in conjunction with an election under paragraph (d) of this section. If an election is made under this subdivision for any taxable year, it may not thereafter be revoked and shall apply for all subsequent taxable years beginning before January 1, 1976.

(iv) *Example.* The application of subdivisions (i) and (ii) of this subparagraph may be illustrated by the following example:

Example. (a) Corporation P forms a wholly owned subsidiary, S, on January 1, 1966, with a capital contribution of $100, and the P-S group files consolidated returns for calendar years 1966 and 1967. S earns $100 in 1966 and has no earnings and profits or deficit in 1967. During 1967 S distributes a $50 dividend to P. On December 31, 1967, P sells all of the stock of S for $150.

(b) If the group has not elected under subdivision (iii) of this subparagraph, the $100 earned by S is not reflected in P's earnings and profits in 1966. However, P's earnings and profits are increased by $50 in 1967, since the dividend is reflected in earnings and profits under paragraph (c)(1) of this section and the corresponding negative adjustment under § 1.1502–32(b)(2)(iii)(*a*) is not reflected in earnings and profits. P's earnings and profits are further increased by $50 on the sale of the S stock since, for purposes of computing earnings and profits, the basis of such stock is $100 (the original basis without regard to adjustments under § 1.1502–32(e) (1) and (2)).

(c) If the group has elected under subdivision (iii) of this subparagraph, for 1966, the $100 earned by S, a net positive adjustment under § 1.1502–32(e)(2), is reflected in the earnings and profits of P for 1966. No additional earnings and profits result from the distribution in 1967, since there is a $50 increase under paragraph (c)(1) of this section, and the corresponding $50 negative adjustment under § 1.1502–32(b)(2)(iii)(*a*) is reflected as a decrease in earnings and profits. The subsequent sale of the S stock for $150 does not affect P's earnings and profits since the basis is $150 ($100 original basis plus $100 earnings and profits, minus the $50 distribution out of earnings and profits accumulated in consolidated return years beginning after December 31, 1965).

(d) If the group first elected under subdivision (iii) of this subparagraph for 1967 (so that subdivision (i) was applicable for 1966), the $100 earned by S in 1966 is not reflected in P's earnings and profits in 1966. However, P's earnings and profits are increased by $50 in 1967, since the dividend is reflected in earnings and profits under paragraph (c)(1) of this section, and the corresponding negative adjustment under § 1.1502–32(b)(2)(iii)(*a*) is eliminated under subdivision (ii)(*c*) of this subparagraph in computing earnings and profits. P's earnings and profits are further increased by $50 on the sale of the S stock, the amount by which the positive adjustment ($100) under § 1.1502–32(b)(1) for years for which subdivision (ii) did not apply exceeds the sum of the negative adjustments under § 1.1502–32(b)(2) for such years (zero) and the negative adjustment ($50) under § 1.1502–32(b)(2)(iii)(*a*) for years for which subdivision (ii) did apply.

(v) *Transitional rule.* (*a*) Adjustments under § 1.1502–32(f)(1) shall not be reflected in earnings and profits.

(*b*) For purposes of computing the earnings and profits of a member on the disposition of stock (or an obligation to which § 1.1502–19(a)(4) applies) of a subsidiary, the adjusted basis of such stock (or obligation) shall be (*1*) the adjusted basis determined without regard to adjustments under §§ 1.1502–32(f)(1), plus (2) the amount of any excess loss account includable in income by such member under § 1.1502–19(a)(4) on such disposition.

(vi) *Stock or obligations with reduced basis.* (*a*) Adjustments under § 1.1502–19(a)(6) shall not be reflected in earnings and profits.

(*b*) For purposes of computing the earnings and profits of a member on the disposition of stock or an obligation to which § 1.1502–19(a)(6) applies, the adjusted basis of such stock or obligation shall be determined by taking into account any adjustments under § 1.1502–19(a)(6) except such adjustments which were made for a taxable year to which subdivision (i) of this subparagraph applies.

* * * * *

PAR. 15. There is inserted after § 1.1502–41 the following new section:

§ 1.1502–42 Mutual savings banks, domestic building and loan associations, and cooperative banks.

In the case of mutual savings banks, domestic building and loan associations and cooperative banks—

(a) In computing for purposes of section 593(b)(1)(B)(ii) total deposits or withdrawable accounts at the close of the taxable year, the total deposits or withdrawable accounts of other members shall be excluded, and

(b) For purposes of section 593(b)(2), a member's taxable income shall be the amount computed under § 1.1502–27(b).

PAR. 16. Section 1.1502–75 is amended by revising paragraph (d)(2)(ii), by adding subdivisions (iii) and (iv) to paragraph (d)(2), by adding a sentence at the end of subdivision (i) of paragraph (d)(3), by adding titles to subdivisions (ii) and (iii) of paragraph (d)(3), by adding subdivisions (iv), (v), and (vi) to paragraph (d)(3), by reserving paragraph (i), and by adding paragraph (j). The revised and added provisions read as follows:

§ 1.1502–75 Filing of consolidated returns.

* * * * *

(d) *When group remains in existence.* * * *

(2) *Common parent no longer in existence.* * * *

(ii) *Transfer of assets to subsidiary.* The group shall be considered as remaining in existence notwithstanding that the common parent is no longer in existence if the members of the affiliated group succeed to and become the owners of substantially all of the assets of such former parent and there remains one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation and which was a member of the group prior to the date such former parent ceases to exist. For purposes of applying paragraph (f)(2)(i) of § 1.1502–1 to separate return years ending on or before the date on which the former parent ceases to exist, such former parent, and not the new common parent, shall be considered to be the corporation described in such paragraph.

(iii) *Taxable years.* If a transfer of assets described in subdivision (ii) of this subparagraph is an acquisition to which section 381(a) applies and if the group files a consolidated return for the taxable year in which the acquisition occurs, then for purposes of section 381—

(*a*) The former common parent shall not close its taxable year merely because of the acquisition, and all taxable years of such former parent ending on or before the date of acquisition shall be treated as taxable years of the acquiring corporation, and

(*b*) The corporation acquiring the assets shall close its taxable year as of the date of acquisition, and all taxable years of such corporation ending on or before the date of acquisition shall be treated as taxable years of the transferor corporation.

(iv) *Exception.* With respect to acquisitions occurring before January 1, 1971, subdivision (iii) of this subparagraph shall not apply if the group, in its income tax return, treats the taxable year of the former common parent as having closed as of the date of acquisition.

(3) *Reverse acquisitions*—(i) *In general.* * * * For purposes of determining under (*a*) of this subdivision whether the second corporation becomes (or would become) a member of the group of which the first corporation is the common parent, and for purposes of determining whether the former stockholders of the second corporation own more than 50 percent of the outstanding stock of the first corporation, there shall be taken into account any acquisitions or redemptions of the stock of either corporation which are pursuant to a plan of acquisition described in (*a*) or (*b*) of this subdivision.

(ii) *Prior ownership of stock.* * * *

(iii) *Election.* * * *

(iv) *Transfer of assets to subsidiary.* This subparagraph shall not apply to a transaction to which subparagraph (2)(ii) of this paragraph applies.

(v) *Taxable years.* If, in a transaction described in subdivision (i) of this subparagraph, the first corporation files a consolidated return for the first taxable year ending after the date of acquisition, then—

(*a*) The first corporation, and each corporation which, immediately before the acquisition, is a member of the group of which the first corporation is the common parent, shall close its taxable year as of the date of acquisition, and each such corporation shall, immediately after the acquisition, change to the taxable year of the second corporation, and

(*b*) If the acquisition is a transaction described in section 381(a)(2), then for purposes of section 381—

(*1*) All taxable years ending on or before the date of acquisition, of the first corporation and each corporation which, immediately before the acquisition, is a member of the group of which the first corporation is a common parent, shall be treated as taxable years of the transfer corporation, and

(*2*) The second corporation shall not close its taxable year merely because of such acquisition, and all taxable years ending on or before the date of acquisition, of the second corporation and each corporation which, immediately before the acquisition, is a member of any group of which the second corporation is the common parent, shall be treated as taxable years of the acquiring corporation.

(vi) *Exception.* With respect to acquisitions occurring before April 17, 1968, subdivision (v) of this subparagraph shall not apply if the parties to the transaction, in their income tax returns, treat subdivision (i) as not affecting the closing of taxable years or the operation of section 381.

* * * * *

(i) [Reserved]

(j) *Statements and schedules for subsidiaries.* The statement of gross income and deductions and the schedules required by the instructions on the return shall be prepared and filed in columnar form so that the details of the items of gross income, deductions, and credits for each member may be readily audited. Such statements and schedules shall include in columnar form a reconciliation of surplus for each corporation, and a reconciliation of consolidated surplus. Consolidated balance sheets as of the beginning and close of the taxable year of the group, taken from the books of the members, shall accompany the consolidated return and shall be prepared in a form similar to that required for reconciliation of surplus.

PAR. 17. Section 1.1502–76(b) is amended by revising subparagraphs (1) and (5)(i) to read as follows:

§ 1.1502–76 Taxable year of members of group.

* * * * *

(b) *Income to be included in returns for taxable year*—(1) *Inclusion of income in consolidated return.* The consolidated return of a group must include the income of the common parent for that corporation's entire taxable year (excluding any portion of such taxable year for which its income is properly included in the consolidated return of another group) and, except as provided in subparagraph (5) of this paragraph, the income of each subsidiary for the portion of such taxable year during which it was a member of the group. If § 1.1502–75(d)(2)(ii) applies to a group, then for purposes of this paragraph, the former common parent shall be deemed to continue in existence and shall be regarded as the common parent for the entire taxable year in which the acquisition occurs. If

§ 1.1502–75(d)(3)(v) applies to a group, then for purposes of the application of this paragraph (other than to a group which ceases to exist as a result of the application of § 1.1502–75(d)(3)(i)), the second corporation (whether or not it remains in existence) shall be treated as the common parent for the entire taxable year of such corporation in which the acquisition occurs, and the first corporation shall be treated as a subsidiary for the portion of such taxable year subsequent to the acquisition.

* * * * *

(5) *Period of 30 days or less may be disregarded.* * * *

(i) If within a period of 30 days after the beginning of a corporation's taxable year (determined without regard to the required change to the parent's taxable year) it becomes a member of a group which files a consolidated return for a taxable year which includes such period, then such corporation may at its option be considered to have become a member of the group as of the beginning of the first day of such corporation's taxable year, or

* * * * *

PAR. 18. Section 1.1502–78 is amended by revising paragraphs (a) and (b)(1) to read as follows:

§ 1.1502–78 Tentative carryback adjustments.

(a) *General rule.* If a group has a consolidated net operating loss, a consolidated net capital loss, or a consolidated unused investment credit for any taxable year, then any application under section 6411 for a tentative carryback adjustment of the taxes for a consolidated return year or years preceding such year shall be made by the common parent corporation to the extent such loss or unused investment credit is not apportioned to a corporation for a separate return year pursuant to § 1.1502–79 (a), (b), or (c). In the case of the portion of a consolidated net operating loss or consolidated net capital loss or consolidated unused investment credit to which the preceding sentence does not apply, and in the case of a net capital or net operating loss or unused investment credit arising in a separate return year which may be carried back to a consolidated return year, the corporation or corporations to which any such loss or credit is attributable shall make any application under section 6411.

(b) *Special rules*—(1) *Payment of refund.* Any refund allowable under an application referred to in paragraph (a) of this section shall be made directly to and in the name of the corporation filing the application, except that in all cases where a loss is deducted from the consolidated taxable income or a credit is allowed in computing the consolidated tax liability for a consolidated return year, any refund shall be made directly to and in the name of the common parent corporation. The payment of any such refund shall discharge any liability of the Government with respect to such refund.

* * * * *

[FR Doc.71–12303 Filed 8–24–71;8:45 am]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Parts 245, 249]

ADJUSTMENT OF STATUS AND CREATION OF RECORDS OF LAWFUL ADMISSION

Notice of Proposed Rule Making

Pursuant to section 553 of title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed issuance of the following rules pertaining to the jurisdiction of district directors to adjudicate certain initially-filed applications for adjustment of status and for the creation of records of lawful admission for permanent residence. In accordance with section 553, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 757, 119 D Street NE., Washington, DC 20536, written data, views, or arguments, in duplicate, relative to the proposed rules. Such representations may not be presented orally in any manner. All relevant material received within 20 days following the date of publication of this notice will be considered.

Subparagraph (1) of paragraph (a) of § 245.2 is amended to read as follows:

§ 245.2 Application.

(a) *General*—(1) *Jurisdiction.* An application for adjustment of status under section 214(d) or 245 of the Act or section 1 of the Act of November 2, 1966, shall be submitted to the office of the Service having jurisdiction over the applicant's place of residence. The decision on any such application shall be made by the district director, unless it is a renewed application filed by the alien after he has been served with an order to show cause. The decision on a renewed application, filed after the alien has been served with an order to show cause and after a prior application for adjustment has been denied by the district director, shall be made only in proceedings under Part 242 of this chapter.

* * * * *

§ 249.2 [Amended]

The first and second sentences are amended and a new sentence is added following the existing second sentence of § 249.2 *Application* to read as follows: "An application for creation of a record of lawful admission for permanent residence under section 249 of the Act shall be submitted to the office of the Service having jurisdiction over the applicant's place of residence. The decision on the application shall be made by the district director, unless it is a renewed application filed by the alien after he has been served with an order to show cause. The decision on a renewed application, filed after the alien has been served with an order to show cause and after a prior application under section 249 of the Act has been denied by the district director, shall be made only in proceedings under Part 242 of this chapter."

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

Dated: August 19, 1971.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.71–12394 Filed 8–24–71;8:47 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 2800]

AREAS OF NATIONAL PARK SYSTEM

Right-of-Way Regulations

Pursuant to the authority contained in the Act of August 25, 1916 (39 Stat. 535, as amended, 16 U.S.C. 1, 3, 4), the Act of March 4, 1911 (36 Stat. 1253, as amended, 16 U.S.C. 5), the Act of February 15, 1901 (31 Stat. 790, as amended, 16 U.S.C. 79), and other authorities that may be applicable, it is proposed to amend the right-of-way regulations so that they will no longer be applicable to areas of the National Park System.

Revised regulations to be applicable to rights-of-way in areas of the National Park System, are being published as a notice of rule making, to become 36 CFR Part 14. This notice of rule making and the notice involving 36 CFR Part 14, are being published concurrently.

It is the policy of the Department of the Interior, whenever applicable, to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed regulations to the Director, National Park Service, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Dated: August 20, 1971.

WILLIAM T. PECORA,
Acting Secretary of the Interior.

Part 2800 of Title 43 is amended as follows:

Section 2800.0–1(a) is amended to read as follows:

§ 2800.0–1 Purpose.

(a) This part applies to all rights-of-way covered by §§ 2800.0–1 and 2800.0–5, Subparts 2801 and 2802, §§ 2810.0–3, 2810.0–5, Subparts 2811, 2821, 2881, 2882, and Parts 2850, 2860, 2870, and 2890 of this subchapter except rights-of-way over or through reservation lands administered by the Fish and Wildlife Service or by the National Park Service.

* * * * *

Section 2801.1–7 is amended to read as follows:

§ 2801.1–7 Areas of National Park System.

(a) Pursuant to any statute, including those listed in this subpart, applicable to reservation lands administered by the National Park Service, rights-of-way

over or through such lands will be issued by the Director, National Park Service, or his delegate, under the regulations in 36 CFR Part 14.

(b) [Deleted]

Section 2802.1–1 is amended to read as follows:

§ 2802.1–1 Form.

The application shall be prepared and submitted in accordance with the requirements of this section. It should be in typewritten form or legible handwriting. It must specify that it is made pursuant to the regulations in this part and that the applicant agrees that the right-of-way if approved, will be subject to the terms and conditions of the applicable regulations contained in this part. It should also cite the act to be invoked and state the primary purpose for which the right-of-way is to be used. Applications shall be filed in accordance with the provisions of § 1821.2 of this chapter, except that applications for rights-of-way over or through reservation lands administered by the National Park Service shall be filed with the Director of the National Park Service, Washington, D.C. 20240, in accordance with 36 CFR 14.3, and applications for rights-of-way over and through reservation lands administered by the Fish and Wildlife Service shall be filed with the appropriate Regional Director of the Bureau of Sport Fisheries and Wildlife in accordance with 50 CFR 29.21–2. If the right-of-way has been utilized without authority prior to the time the application is made, the application must state the date such utilization commenced and by whom, and the date the applicant alleges he obtained control of the improvements.

Section 2821.3–1 is amended to read as follows:

§ 2821.3–1 General.

Except where an application involves lands wholly within an Indian reservation, applications for rights-of-way and material sites under title 23, United States Code, for lands under the jurisdiction of the Department of the Interior, together with four copies of a durable and legible map shall be filed by the appropriate State Highway department in the manner prescribed in §§ 2802.1–1 and 2802.1–2 of this subchapter. Maps should accurately describe the land or interest in land desired, showing the survey of the right-of-way, properly located with respect to the public land surveys so that said right-of-way may be accurately located on the ground by any competent engineer or land surveyor. The map should comply with the requirements of § 2802.1–5(a) of this subchapter. Applications for lands wholly within an Indian reservation shall be filed in the office of the Superintendent of Indian Affairs agency which has jurisdiction over the lands, or for lands for which there is no agency, in the office of the Area Director who has jurisdiction over the lands. Applications for lands administered by the National Park Service shall be filed with the Director of the National Park Service, Washington, D.C. 20240, and applications for lands administered by the Fish and Wildlife Service shall be filed with the appropriate Regional Director of the Bureau of Sport Fisheries and Wildlife, both of whom shall process such applications and issue grants of rights-of-way in accordance with the regulations in 36 CFR Part 14 and 50 CFR Part 29, respectively. Applications for lands outside of the jurisdiction of the Department of the Interior shall be filed pursuant to the rules or regulations of the Department or agency having jurisdiction over the lands.

[FR Doc.71–12397 Filed 8–24–71;8:48 am]

National Park Service

[36 CFR Part 14]

AREAS OF NATIONAL PARK SYSTEM

Right-of-Way Regulations

Pursuant to the authority contained in the Act of August 25, 1916 (39 Stat. 535, as amended, 16 U.S.C. 1, 3, 4), the Act of March 4, 1911 (36 Stat. 1253, as amended, 16 U.S.C. 5), the Act of February 15, 1901 (31 Stat. 790, as amended, 16 U.S.C. 79), and 245 DM1 (27 F.R. 6395; as amended), and other authorities that may be applicable, it is proposed to establish right-of-way regulations applicable to areas of the National Park System, in Part 14 of Title 36. Present regulations applicable to rights-of-way in the National Park System are in 43 CFR Part 2800.

The purpose of the revision is to clarify and simplify the regulations and the right-of-way application procedure, and to strengthen the protection of park values in the administration of rights-of-way.

It is the policy of the Department of the Interior, whenever applicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections with respect to the proposed regulations to the Director, National Park Service, Washington, D.C. 20240, within 30 days of the date of publication of this notice in the FEDERAL REGISTER.

Dated: August 20, 1971.

WILLIAM T. PECORA,
Acting Secretary of the Interior.

Part 14 of Title 36 is added to read as follows:

PART 14—RIGHTS-OF-WAY WITHIN AREAS OF THE NATIONAL PARK SYSTEM

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AUTHORITY: The provisions of this Part 14 issued under 31 Stat. 790, 36 Stat. 1253, 39 Stat. 535, as amended, 41 Stat. 1063, 41 Stat. 1353, 49 Stat. 838, 16 U.S.C. 1–5, 79, 16 U.S.C. 796, et seq., 23 U.S.C. and other applicable statutes.

§ 14.1 Scope and definitions.

(a) *Scope.* The regulations in this part shall apply to rights-of-way within areas of the National Park System administered by the Secretary of the Interior through the Director of the National Park Service. A grant for the temporary use of park land which clearly does not involve the use of such land for more than 1 year in the entirety is not subject to these regulations and may be authorized by means of a revocable special use permit. Such special use permit grants shall be subject to necessary terms and conditions, including provisions of this Part 14, which may be incorporated into the special use permit by the Superintendent.

(b) *Definitions.* As used in this part the following definitions shall apply:

(1) "Secretary" means the Secretary of the Interior.

(2) "Director" means the Director of the National Park Service.

(3) "Regional Director" means the person in charge of a region of the National Park Service.

(4) "Superintendent" means the person in charge of an area of the National Park System or his duly authorized representative.

(5) "Park" means any federally owned or controlled land within an area of the National Park System.

(6) "Person" is an individual, association, corporation, or other entity.

(7) "Holder" is a person, association, corporation, or other entity that has been granted a right-of-way permit under this part.

(8) "Applicant" is a person, association, corporation, or other entity who has applied for a right-of-way under this part, and who has not become a holder.

(9) "Project" is the complete unit of improvement or development for which the right-of-way is requested.

(10) "Right-of-way" means any privilege or right of use of Federal land including but not limited to water, oil, gas, electrical energy, or sound transmission and the area occupied by structures associated therewith.

§ 14.2 Right-of-way permits, by whom granted.

Permits are issued by the Director, except that permits for hydroelectric powerplants and primary and secondary lines from such plants in park lands other than national parks and national monuments are issued by the Federal Power Commission under authority of the Act of June 20, 1920, as amended, 16 U.S.C. 796 and 797.

§ 14.3 Application requirements.

(a) The provisions of §§ 14.2 through 14.13, shall not apply to requests for

rights-of-way for Federal-aid highways.

(b) A person considering submission of an application involving park lands shall consult the Superintendent, prior to submission of such application, to ascertain whether use of such lands for right-of-way purposes is consistent with the park management program, and to ascertain what measures may be necessary to maintain park values. At the time of such consultation and in any application that may result, the person will be required:

(1) To demonstrate that there is no reasonable alternative to the use of park lands for the proposed right-of-way, and

(2) To demonstrate that physical developments will be planned and located so as to minimize their impact on park resources and visitor enjoyment of the natural or historic scene, and

(3) (i) To include a detailed environmental analysis with the application which shall, among other things, include information about the impact of the project on air and water quality, scenic and esthetic features, historical and archeological features, and wildlife, fish, and marine life. The analysis shall include, in addition to the above information, any other data needed so as to enable the Department of the Interior to prepare an environmental statement in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and the regulations and guidelines adopted pursuant thereto, when such statement is required of the Department. The National Park Service, in fulfilling the policy and directives of the National Environmental Policy Act of 1969 (83 Stat. 852), shall be guided by 516 DM1–3.

(ii) When the application involves an electric transmission system, the applicants' analysis shall also be consistent with the "Environmental Criteria For Electric Transmission Systems" issued jointly by the Department of the Interior and the Department of Agriculture in 1970, which document is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, as well as such other criteria and guidelines as the Department shall publish in the FEDERAL REGISTER.

(4) In cases where rights-of-way for utility lines are involved, to locate the lines underground, except when this would cause excessive damage to the natural ecological association of the park, or would impose an unreasonable cost burden on him.

(c) The application should be submitted to the Superintendent who shall forward it to the Regional Director with his comments and recommendations. The Regional Director shall forward the proposal to the Director with his comments and recommendations. The application should be typewritten or in legible handwriting and should be substantially in the format of Exhibit A of this part.

(d) Individuals and associations:

(1) An individual applicant shall state whether he is a native-born or naturalized citizen, and if naturalized, the date of naturalization, the court in which naturalized, and the number of the certificate, if known.

(2) An association shall submit a certificate copy of its articles of association, if any. If there are none, the application shall be submitted over the signature of each member of the association. Each member shall file evidence of citizenship where it would be required if he were applying individually.

(e) Private corporations: A private corporation, in addition to the other requirements of this section, shall file the following:

(1) A copy of the corporate charter or articles of incorporation duly certified by the appropriate State official of the State of incorporation, and

(2) A citation of the law under which the corporation was formed, and

(3) A copy of the resolution or bylaws authorizing the filing of the right-of-way application, and

(4) If a right-of-way is applied for in a State other than the State of incorporation, a certificate from the appropriate official of the State where the proposed right-of-way is located, to the effect that such foreign corporation is entitled to operate in such State.

(5) If the corporation has previously filed with the National Park Service the papers required by this paragraph, the requirements are met if, in making subsequent applications, specific reference is made to such previous filing by date, place, and case number.

(f) Public corporations: A corporation, other than a private corporation, shall file a copy of the law under which it was formed and due proof of organization under the same.

§ 14.4 Maps and other documents.

Each application shall be accompanied by a map that shows the details of the proposed development, the total acreage of the proposed right-of-way, and a survey of the right-of-way properly referenced to the public land surveys, or as otherwise provided under this section. The map should include the following:

(a) Initial and terminal points of the right-of-way survey accurately connected by course and distance to the nearest corner of the public land surveys, unless that corner is more than 6 miles distant, in which case the connection shall be made to some prominent natural object or permanent monument.

(b) At several points on the survey, the station number and plus distance to the point of intersection with a section line of the public-land surveys and the course and distance along the section line from said point of intersection to the nearest existing corner.

(c) All subdivisions of the public land surveys within the limits of the survey should be shown in their entirety, based upon the official subsisting plats, with the subdivisions, section, township, and range designations clearly marked.

(d) If the right-of-way is across or within park lands which are not covered by the public land surveys, the map shall be referenced to the boundary survey of the park to a comparable extent, as required above with respect to the public land surveys.

(e) Whenever a public land survey monument or reservation boundary monument will be destroyed or rendered inaccessible by the proposed development, at least two permanent marked witness monuments shall be established at suitable points, preferably on the public land survey lines. The map shall include a brief description of the witness monuments and show reference courses and distances to the original corner.

(f) Each copy of the map shall bear upon its face the signature of the engineer or surveyor who made the survey and the inclusive dates during which the survey was made. The map shall be prepared on standard 22" x 36" sheets and one reproducible and two prints of each page shall be included.

(g) For certain types of right-of-way, the following additional map data is required:

(1) *Canals, ditches, laterals, aqueducts.* Width at high-water line and the width of all other rights-of-way, with location and amount of changes in width. As applicable, height aboveground, vertical drop, and percentage and direction of fall.

(2) *Pipelines.* Diameter, type of construction, and pressure of the line. Invert flow line or depth below the grade, and direction of flow.

(3) *Communication structures and facilities.* (i) Platted outline of areas proposed to be occupied by structures and facilities, and location referenced by course and distance from a corner of the public land survey. Structures and facilities shall also be platted on a separate map at a scale sufficiently large to clearly show their dimensions and relative positions. When two or more such proposed structures are to be located near each other, it is sufficient to reference one of them to a corner of the public land survey provided each of the others is referenced to that structure by course and distance shown on the map.

(ii) The application shall state the proposed use of each structure, and shall clearly establish that each one is necessary for serving the intended purpose of the right-of-way. If the right-of-way is within park lands which are not covered by the public land surveys, the map shall be referenced to the boundary survey of the park.

(4) *Transmission lines.* An application shall include the following:

(i) A statement of whether the proposed line would be above or below ground, and a description of the proposed line support structures, including dimensions, type of construction, surfacing treatment, and color.

(ii) For overhead lines, a description of the transmission system of which the requested right-of-way is to form a part, covering in appropriate detail the points between which it will extend, its characteristics, purpose, and voltage, and including a plan profile drawing of the entire line within the park, and including one tower or line support structure beyond any park boundary.

(iii) For underground lines, a description of the transmission system of which the requested right-of-way is to form a part, covering in appropriate detail the points between which it will extend, its characteristics, purpose, and voltage, or other energy or capacity rating; also a plan profile drawing of the line and appurtenances within the park and extended 500 feet beyond the park boundaries showing all line support structures, existing and proposed, within such 500-foot distance.

(iv) (*a*) For both overhead and underground lines, whether the line is to serve a single customer, or a number of customers, or is intended to transmit power solely for the applicant's use. If the line is to serve a single customer or is for the applicant's own use, the nature of such use shall be stated (such as airway beacon, coal mine, irrigation pumps, etc.).

(*b*) The application and maps shall specify the width of the right-of-way desired. Rights-of-way for power lines are limited to 50 feet on each side of the centerline unless a greater width is authorized by law and sufficient justification is furnished.

(v) The "Environmental Criteria For Electric Transmission Systems" adopted by the U.S. Department of the Interior and the U.S. Department of Agriculture in 1970 is hereby incorporated by reference. An application for an electric transmission right-of-way should be prepared with appropriate references to the various paragraphs of the above mentioned environmental criteria and contain explanation as to how the proposed project is in accordance with, or deviates from, such criteria.

(vi) A transmission line shall be located at least 2,000 feet from the park, including highways, trails, and rivers, unless fully screened at all seasons of the year by intervening topography or ground cover, except that this does not apply at the minimum number of points at highways, trails, rivers, and other places where crossings are absolutely essential.

(h) Evidence of water right: If the project involves the storage, diversion or conveyance of water, the applicant shall file with the application a statement from the appropriate State official, or other evidence showing that he has a right to the use of the water. Where the State official requires an applicant to obtain a right-of-way as a prerequisite to the issuance of evidence of a water right, if all else be regular, a right-of-way may be granted conditioned only upon the applicant's filing the required evidence of water right from the State official within a specified reasonable time. The conditional right-of-way will expire if the evidence is not filed within the specified period.

§ 14.5 Application fees.

An application must be accompanied by a $10 fee, except where the permit will authorize use and occupancy of the land exclusively for irrigation projects, or nonprofit purposes, such as Rural Electrification Administration services, or where the use will be by a Federal or State agency. The fee is not refundable.

§ 14.6 Application approval.

(a) The Director may grant a right-of-way permit, provided

(1) The application is complete and conforms to statutory authority and the regulations of this part, and

(2) All required documents and supporting data have been furnished with the application, and

(3) The Director has determined that approval is compatible with the public interest and consistent with preservation of park values taking into account the natural, historic, or recreational category of the area affected, and, where applicable, after consideration of the "Environmental Criteria For Electric Transmission Systems," and

(4) That the beneficial purposes and effects of the project will not be outweighed by an adverse environmental impact.

§ 14.7 General terms and conditions.

An applicant receiving a right-of-way permit agrees to be bound by the following terms and conditions, excepting an applicant applying for a right-of-way under an Act of Congress that specifically exempts him from such terms and conditions, and excepting terms and conditions waived by the Director. The applicant agrees to:

(a) Comply with applicable State and Federal laws and regulations concerning his project on the lands included in the right-of-way,

(b) Manage the right-of-way lands, or clear and keep clear the lands, as directed by the Superintendent. Maintenance of vegetation control shall be performed annually if required by the Superintendent,

(c) Dispose of any materials cut, uprooted, or otherwise accumulated from construction and maintenance operations under the project, in such manner as to decrease the fire hazard, and the possible threat of insect infestation, in accordance with instructions that may be issued by the Superindendent,

(d) Apply soil and resource conservation and protection measures, including restoration of the land to a condition of stability, as the Superintendent may request,

(e) Comply with restrictions of Superintendent concerning the use of certain herbicides, insecticides, and other chemicals,

(f) Conduct construction work and right-of-way use in accordance with Federal and State air pollution emission standards, water quality and thermal pollution standards, and public health and safety standards affecting solid waste disposal and noise abatement,

(g) Remove or dispose of all waste generated in construction and operation, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment, in the manner specified by the Superintendent,

(h) Consider esthetic values in construction and operations and conform to esthetic specifications prescribed by the Superintendent,

(i) Notify Superintendent immediately of any archeological, paleontological, or historical finding during construction operations and suspend construction pending investigation and further instructions of Superintendent,

(j) Prevent and suppress fires within the right-of-way, both independently and upon request of an authorized employee of the United States Government, by every means reasonably available including the supplying of construction and/or maintenance forces as may be reasonably obtainable for suppression of such fires,

(k) Build and repair such roads, fences, and trails as may be destroyed or damaged by construction work and build and maintain necessary and suitable crossings for all roads and trails that intersect the right-of-way,

(l) Be absolutely liable to the United States for all damages to park lands and property caused by him or by his employees, contractors, or employees of the contractors,

(m) Indemnify and save and hold harmless the United States against liability for injury or damage to persons or property arising from the occupancy or use of the lands within the right-of-way. Exception: Where a right-of-way is granted to a governmental agency which has no legal power to assume such a liability with respect to property damages caused by it, if such agency in lieu thereof agrees to repair all such damages,

(n) Notify the Superintendent in advance of construction, of any timber which will be cut, removed, or destroyed in the construction and maintenance of the project, and to pay the United States through such Superintendent the full stumpage value of the timber. Such stumpage value is determined by the Superintendent, based on current market value, including the cost incurred in determining the stumpage value,

(o) Comply with other specified conditions within the scope of the applicable statute and lawful regulations thereunder, with respect to the occupancy and use of the lands as may be found necessary as a condition of approval of the right-of-way, including appropriate safety measures to protect the public.

(p) Upon revocation or termination of the right-of-way, restore the land to its original condition so far as is reasonably possible, to the satisfaction of the Superintendent,

(q) Notify Superintendent in advance of any work to be performed within the right-of-way so that the Superintendent or his representative may observe the work,

(r) Comply with applicable Federal Executive orders and statutes regarding nondiscrimination,

(s) Occupancy and use by the United States, its grantees, permittees, lessees, or the public, of any part of the right-of-way not actually occupied or required by the project,

(t) The express covenant that the right-of-way will be modified, adapted,

or discontinued, without liability or expense to the United States, if the Director deems such action necessary to prevent conflict with the use and occupancy of the land for any authorized works which may be hereafter constructed thereon under the authority of the United States,

(u)(1) File a performance bond with satisfactory surety payable to the Director, to fully insure compliance with these regulations and certain of the permit terms and conditions specified by the Superintendent, provided such performance bond is required by the Superintendent. In lieu of a performance bond, a permittee may elect to deposit cash or negotiable bonds of the U.S. Government in market value equal at least to the required sum of the bond,

(2) A Federal, State, or other governmental agency is not required to file a performance bond, however, a contractor performing functions for a governmental agency permittee is required to file a performance bond covering his functions.

(v) The further condition that the terms and conditions prescribed in this paragraph may be modified at any time by means of a supplemental right-of-way permit negotiated between the holder and the Director.

(w) That the right-of-way hereby granted is subordinate to other uses of the land by the United States, or its licensees, lessees, permittees, or grantees, for federally supported programs or projects. This right-of-way is granted subject to the express condition and covenant that it will be modified, adopted, or discontinued if such modification, adaptation, or discontinuance is found by the Director of the National Park Service to be necessary in connection with the use or construction of a federally supported program or project, and that the grantee will comply at its own expense with any findings or requirements of the Director of the National Park Service, including any required readjustment, relocation, or removal of its facilities, and will hold the United States, its licensees, permittees, or grantees, free from all liability and expense in connection with such compliance. If the land over which this right-of-way is granted is transferred to another Federal or State agency, in conjunction with federally supported programs or projects and the right-of-way has not been modified, adapted, or discontinued by the Director of the National Park Service, then such Federal or State agency may require that the grantee will comply at its own expense with any findings or requirements of the Federal or State agency, including any required readjustment, relocation, or removal of its facilities, and the grantee will hold the United States, its licensees, permittees, or grantees, free from all liability and expense in connection with such compliance.

§ 14.8 Power transmission lines, additional terms, and conditions.

The contents of paragraph (a)(3) through (5) of 43 CFR 2851.1–1, are applicable.

§ 14.9 Appeals.

(a) Action taken by the Director is subject to appeal by an applicant or holder to the Secretary. Action taken by a Regional Director, on an appeal from a Superintendent's action is subject to appeal to the Director.

(b) An appeal shall be filed in writing within 30 days after receipt of notice respecting the action to which objection is taken. It shall be filed with the officer who took the action being appealed, and that officer will then transmit the appeal with the case record to the appropriate higher officer.

§ 14.10 Nature of interest.

(a) *Nature of interest granted; settlement on right-of-way; rights of ingress and egress.* (1) The right-of-way interest granted consists of a permit that conforms to the applicable statute.

(2)(i) The term hereunder granted shall not exceed the lesser of 50 years or the maximum term allowable by statute.

(ii) Right-of-way grants are revocable in the discretion of the Director if the applicable statutory authority provides for revocability.

(3) Unless a specific statute or the permit provides otherwise, the interest granted gives no right to take any park material, earth, or stone for construction or other purpose, but stone and earth necessarily removed from the right-of-way in the construction of a project may be used elsewhere along the same right-of-way in the construction of the same project within the park.

(b) *Additional rights-of-way.* The Director may grant, to a holder or applicant, an additional right-of-way for ingress and egress to the primary right-of-way. This may include the right to construct, operate, and maintain necessary facilities. An applicant for an additional right-of-way shall apply in the same manner as is set forth in this Part 14, for other right-of-way applications. He shall also present evidence that the additional right-of-way is necessary for the use, operation, or maintenance of the primary right-of-way.

§ 14.11 Payment required; exceptions; default; revision of charges.

(a) Except as provided in paragraphs (b) and (c) of this section, the charge for use and occupancy of lands under the regulations of this part will be the fair market value of the right-of-way, as determined by appraisal by the Director. The first periodic payment or lump-sum payment, either of which is payable not later than the effective date of permit issuance, will be required at the discretion of the Director;

(1) Upon voluntary relinquishment of a permit before term expiration, any payment made for an unexpired portion of the term will be returned to the payer, to the extent that the amount paid by holder covers one or more full right-of-way years after the formal relinquishment, if proper application for repayment is made: *Provided*, That the total rental retained by the Government shall not be less than $25. The amount to be so returned will be the difference between the total payments made and the value of the expired portion of the term calculated on the same basis as the original payments.

(b) Except as provided in paragraph (c) of this section, the charge for use and occupancy of lands under the regulations of this part shall not be less than $25 per 5-year permit period.

(c) No charge will be required by the Director for the use and occupancy of lands under the regulations of this part:

(1) Where the use and occupancy are exclusively for irrigation projects, municipally operated projects, Rural Electrification Administration or other nonprofit projects, or where the use is by a Federal or State agency, except as otherwise provided by law.

(2) Where the right-of-way involves Federal-aid highways or licenses issued by the Federal Power Commission.

(d) If a required charge is not paid when due, and default continues for 30 days after notice, the right-of-way permit may be canceled. After default has occurred, no structures, buildings, or other equipment may be removed from the servient lands except by written permission from the Superintendent.

(e) At any time not less than 5 years after either the grant of the right-of-way permit or the last revision of charges thereunder, the Director may review such charges and impose such new charges as may be reasonable and proper to commence with the ensuing charge year.

(f) The provisions of paragraph (e) of this section may not operate to change the rental rates or charges imposed for existing water power projects under rights-of-way previously approved by the Department of the Interior.

§ 14.12 Disposition of right-of-way.

(a) *Cancellation.* Rights-of-way approved pursuant to this part, are subject to cancellation by the Director for the violation of any of the provisions of this part or the terms and conditions of the right-of-way permit.

(b) *Change in jurisdiction; disposal of lands.* (1) A change of administrative jurisdiction over park lands from one Federal agency or bureau to another will not cancel a right-of-way permit involving such lands.

(2) The final disposal by the United States of any tract traversed by a right-of-way shall be deemed subject to such right-of-way grant until it is specifically cancelled.

(c) *Transfer of right-of-way.* (1) Any proposed transfer of a right-of-way permit granted by the Director shall be filed with the Director for approval; shall be accompanied by the same showing of qualifications of the proposed assignee as is required of applicants; and shall be supported by a stipulation that the assignee agrees to comply with the regulations of this part and the terms and conditions of the right-of-way permit. No assignment will be valid unless and until approved by the Director.

(2) A transfer proposal made pursuant to this section shall be accompanied by a $10 nonreturnable fee, to be paid by the proposed assignee: *Provided*, That such fee is waived if the assignee is a State or Federal agency.

(d) *Disposal of property on termination of right-of-way.* Upon the termination of a right-of-way permit, the holder shall remove all property and improvements of any kind placed thereon by him, except, at the discretion of the Director, any road and usable improvements thereto. If all monies due the United States have been paid, in absence of contrary agreement, a holder will be allowed 6 months or such reasonable additional time as may be granted by the Director in which to remove such property and improvements. Property and improvements not removed within the time allowed shall become the property of the United States.

§ 14.13 Project.

(a) *Commencement.* Upon approval of an application for a right-of-way permit, the Superintendent will designate a date for the commencement of construction or use.

(b) *Unauthorized entry.* Any unauthorized construction, use, or entry upon park lands in advance of the Director's notice of application approval and the Superintendent's designation of a construction or use commencement date is prohibited.

(c) *Time period for construction.* A 5-year period is allowed for project construction from date of issuance of a right-of-way permit, unless a different period is specified in the permit or provided by statute. Upon project completion, proof thereof shall be submitted in a certificate from the holder to the Superintendent. The certificate should be essentially in the format of Exhibit B of this part, but should be modified as appropriate to the authorizing act and the nature of the project.

(d) *Authorized deviations.* If, in construction, an approved deviation is made from the location shown on the original map, the holder shall file a relinquishment of the unused portion of the right-of-way accompanied by a map of the amended right-of-way for the project. The relinquishment may be prepared so as to become effective upon approval of the amended location. No deviation shall be made prior to the approval of the Director.

(e) *Abandonment, nonuse, or nonconstruction.* Unless otherwise provided by law, rights-of-way are subject to cancellation for abandonment, nonuse, or failure to complete construction within the period allowed, as well as for violation of the regulations of this part and the terms and conditions of the permit.

(f) *Permit renewals.* An application for permit renewal will be treated as an original application for a right-of-way.

§ 14.14 Federal-aid highways.

A person considering submission of a Federal-aid highway proposal involving park lands should consult with the Superintendent, prior to submission, to ascertain whether use of such lands for right-of-way purposes is consistent with the park management program, and to ascertain what measures may be necessary to maintain park values.

(a) An application for a right-of-way over park lands under title 23 U.S.C. and the following, will be filed by the appropriate State highway department with the Secretary of the Department of Transportation as required by such Secretary. The provisions of §§ 14.2 through 14.13 shall not apply to requests for Federal-aid highways.

(b) A preliminary determination will be made by the Department of Transportation as to whether, in its view, acquisition of park lands or interests in lands is reasonably necessary as part of a Federal-aid highway proposal, within the intent of 23 U.S.C. 107, 138, and 317, and 16 U.S.C. 470f. The provisions of section 102 of the National Environmental Policy Act of 1969 shall be complied with in consideration of a proposal. The Department of the Interior, as land administering agency under 23 U.S.C. 317, may agree to or reject a request for a right-of-way within four (4) months.

(c) Any right-of-way granted pursuant to 23 U.S.C. 317, shall include terms and conditions required by the Director, National Park Service. The Department of Transportation will issue the deed conveying park lands or interests in lands to the State highway department concerned.

(d) Additional rights-of-way within Federal-aid highway rights-of-way:

(1) Rights-of-way granted under the provisions of 23 U.S.C. shall be used for highway purposes only and the grantee shall not authorize any other uses. The Director, National Park Service, may as a term and condition of the grant, retain the right to grant additional rights-of-way within the highway right-of-way which do not conflict with highway purposes.

EXHIBIT A

APPLICATION FOR RIGHT-OF-WAY THROUGH LANDS OF THE NATIONAL PARK SYSTEM

1. I, _____, reside or do
Name of applicant
business at _____ (and if a corporation) the applicant corporation is duly organized under the laws of _____
State
_____, hereby request a right-of-way through lands of the United States within _____ an area of the National Park System, for the purpose of _____
_____
_____
in accordance with authority contained in _____
Cite legal authority

2. This application and the accompanying data which is a part thereof is submitted in accordance with and is subject to regulations contained in Part 14, Title 36, Code of Federal Regulations and, if granted, the applicant will adhere to all the regulations contained in that part and such special conditions as may be made a part of the right-of-way permit.

_____
Signature of applicant

EXHIBIT B

AFFIDAVIT OF HOLDER AS PROOF OF CONSTRUCTION

I, _____, certify that
(Holder)
I am the _____
Title (omit if holder is not a
_____, of the _____
corporation) Name of company
_____; that
(omit if holder is not a corporation)
the project authorized under Right-of-way Permit number _____, issued by the National Park Service, was actually constructed on the exact location represented on maps and in accordance with construction specifications approved by the National Park Service on the ____ day of _____, 19____; and that the holder has in all things complied with the requirements of law, regulations and the permit conditions.

[SEAL]
(If a corporation) _____
Signature of holder
_____
Title (If a corporation)
Attest: _____
Company (If a corporation)

EXHIBIT C

Permit Number _____
Permit Expires _____

UNITED STATES DEPARTMENT OF THE INTERIOR—NATIONAL PARK SERVICE RIGHT-OF-WAY PERMIT—(NAME OF NATIONAL PARK SERVICE AREA)

The _____ of _____ is hereby authorized during the period from _____, to _____, to the right-of-way described as follows:
_____
_____.
This right-of-way is granted under authority of _____ and is for the purpose of
_____
_____
Such right-of-way is subject to the terms and conditions set out in this permit and prescribed in Part 14 of Title 36, Code of Federal Regulations, and to the payment to the Government of the United States of the sum of _____ dollars ($_____), in advance _____ (monthly, semi-annually, etc.), or as follows: _____.
Issued at _____, this _____ day
(City and State)
of _____, 19 ____.

_____
Superintendent

The permittee hereby accepts the described right-of-way subject to the terms and conditions of this permit.

Two witnesses to signatures	Permittee (signature)
_____	_____
Name	Name
_____	_____
Address	Address
_____	_____
Name	Name
_____	_____
Address	Address

SPECIAL CONDITIONS OF RIGHT-OF-WAY PERMIT

1. No member of, or delegate to, Congress or Resident Commissioner shall be admitted to any share or part of this permit or to any benefit that may arise herefrom but this restriction shall not be construed to extend to this permit if made with a corporation or company for its general benefit.

2. Water rights perfected during the term of this contract shall be perfected in the name of the United States.

3. This permit may be terminated by the Director, upon breach of any of the conditions to which it is subject.

4. This permit may be terminated at the discretion of the Director, National Park Service. (Include this condition if the applicable statutory authority provides for such revocability).

5. That the right-of-way hereby granted is subordinate to other uses of the land by the United States, or its licensees, lessees, permittees, or grantees, for federally supported programs or projects. This right-of-way is granted subject to the express condition and covenant that it will be modified, adapted, or discontinued if such modification, adaptation or discontinuance is found by the Director of the National Park Service to be necessary in connection with the use or construction of a federally supported program or project, and that the grantee will comply at its own expense with any findings or requirements of the Director of the National Park Service, including any required readjustment, relocation, or removal of its facilities, and will hold the United States, its licensees, permittees, or grantees, free from all liability and expense in connection with such compliance. If the land over which this right-of-way is granted is transferred to another Federal or State agency, in conjunction with federally supported programs or projects and the right-of-way has not been modified, adapted or discontinued by the Director of the National Park Service, then such Federal or State agency may require that the grantee will comply at its own expense with any findings or requirements of the Federal or State agency, including any required readjustment, relocation, or removal of its facilities, and the grantee will hold the United States, its licensees, permittees, or grantees, free from all liability and expense in connection with such compliance.

[FR Doc.71-12396 Filed 8-24-71;8:48 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 931]

FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Proposed Limitation of Handling

Consideration is being given to the following proposal, which would limit the handling of fresh Bartlett pears by establishing grades, sizes, and packs of containers recommended by the Northwest Fresh Bartlett Pear Marketing Committee, established pursuant to the marketing agreement and Order No. 931 (7 CFR Part 931), regulating the handling of fresh Bartlett pears grown in Oregon and Washington. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

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

The recommendations of the committee reflect its appraisal of the crop and current and prospective market conditions. Shipments of Bartlett pears from the production area are currently being made subject to grade, size, and pack of container limitations which became effective August 9, 1971 (36 F.R. 14311). The grade and size requirements specified herein are the same as those in effect during the period August 9, through September 12, 1971. The committee reported that the continuation of such regulation, as herein specified, is necessary to prevent the handling on and after September 13, 1971, of any Bartlett pears of lower grades and smaller sizes than those herein specified, so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while maximizing returns to producers pursuant to the declared policy of the act.

Such proposal reads as follows:

§ 931.306 Bartlett Pear Regulation 6.

(a) Order: During the period September 13, 1971, through June 30, 1972, no handler shall handle any lot of Bartlett pears unless such pears meet the following applicable requirements, or are handled in accordance with subparagraph (4) or (5) of this paragraph:

(1) Minimum grade and size requirements: Such pears grade at least U.S. No. 1, and be of a size not smaller than 165 size when packed in the "standard western pear box", the "L.A. lug", or their carton equivalents, or in "tight-filled" containers, or be at least 2¼ inches in diameter when packed in the "western lug" or in containers containing at least 14 pounds, net weight, but not more than 15 pounds, net weight, of pears: *Provided*, That pears which grade at least U.S. No. 2 which are not smaller than the 120 size, or not smaller than the 150 size for the Red Bartlett variety, may be handled if they are packed in the "standard western pear box", the "L.A. lug", or their carton equivalents; or if they are not smaller than 2¼ inches in diameter they may be handled if packed in the "western lug" or in containers containing at least 14 pounds, net weight, but not more than 15 pounds, net weight, of pears.

(2) Pack of container requirements: Such pears are packed in the "standard western pear box", the "L.A. lug" or their carton equivalents, in "tight-filled" containers, in containers containing at least 14 pounds, net weight, but not more than 15 pounds, net weight, of pears, or in containers having a capacity equal to or greater than the "western lug".

(3) Special inspection requirements for minimum quantities: During the aforesaid period any handler may ship on any conveyance up to but not to exceed 200 containers (of those types specified herein) of pears without regard to the inspection requirements of § 931.55 under the following conditions: (i) Each handler desiring to make shipment of pears pursuant to this subparagraph shall first apply to the committee on forms furnished by the committee for permission to make such shipments. The application form shall provide a certification by the shipper that all shipments made thereunder during the marketing season shall meet the marketing order requirements, that he agrees such shipments shall be subject to spot check inspection, and that he agrees to report such shipments at time of shipment to the committee on forms furnished by the committee, showing the car or truck number and destination; and (ii) on the basis of such individual reports, the committee shall require spot check inspection of such shipments.

(4) Special purpose shipments: Notwithstanding any other provision of this section, any shipment of pears in gift packages may be handled without regard to the provisions of this paragraph, of § 931.41 (Assessments), and of § 931.55 (Inspection and certification).

(5) Notwithstanding any other provision of this section, any individual shipment of pears which meets each of the following requirements may be handled without regard to the provisions of this paragraph, of § 931.41 (Assessments), and of § 931.55 (Inspection and certification):

(i) The shipment consists of pears sold for home use and not for resale;

(ii) The shipment does not, in the aggregate, exceed 500 pounds, net weight, of pears; and

(iii) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(b) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; "U.S. No. 1," "U.S. No. 2," and "size" shall have the same meaning as when used in the U.S. Standards for Summer and Fall Pears (§§ 51.1260-51.1280 of this title); "120 size," "150 size," and "165 size" shall mean that the pears are of a size which, as indicated by the size number, will pack, in accordance with the sizing and packing specifications of a standard pack, as specified in said U.S. Standards, 120, 150, or 165 pears, respectively, in a standard western pear box (inside dimensions 18 inches long by 11½ inches wide by 8½ inches deep); the term "L.A. lug" shall mean a container with inside dimensions of 5¾ by 13½ by 16⅛ inches; the term "western lug" shall mean a container with inside dimensions of 7 by 11½ by 18 inches; and the term "tight-filled" shall mean that the pears in any container shall have been well settled by vibration, according to approved and recognized methods.

Dated: August 19, 1971.

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

[FR Doc.71-12386 Filed 8-24-71;8:47 am]

[7 CFR Part 966]

[Docket No. AO–265–A3]

TOMATOES GROWN IN FLORIDA

Revised Notice of Hearing on Proposed Amendment of Marketing Agreement and Order

A notice of a hearing with respect to proposed amendment of the Florida tomato marketing order was published in the FEDERAL REGISTER of April 28, 1971 (36 F.R. 7969). At the request of attorneys representing importers of tomatoes, the hearing was postponed (36 F.R. 9874). The aforesaid notice is hereby revised and amended to read as follows:

Notice is hereby given of a public hearing to be held in the Auditorium of the Florida Fruit and Vegetable Association, 4401 East Colonial Drive, Orlando, FL, beginning at 9 a.m., local time, October 4, 1971, with respect to proposed amendment of Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966), hereinafter referred to as the "order," regulating the handling of tomatoes grown in the production area. The hearing is called 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 formulation of marketing agreements and marketing orders, as amended (7 CFR Part 900).

The hearing will provide an opportunity to collect evidence with which to reevaluate the basis and method for regulating the handling of tomatoes differently for different stages of maturity. Such authority, now provided in § 966.52, has been used on a number of occasions in past seasons to impose different minimum size limitations on shipments of Florida grown mature green tomatoes than those imposed on tomatoes of more advanced maturity. On these occasions, identical minimum size limitations were imposed on imported tomatoes as required by section 608e–1 of the act. This hearing will allow all interested parties to present pertinent evidence so that all pertinent issues as they relate to the marketing order, the regulations issued pursuant thereto and the procedures utilized in recommending and issuing the regulations can be fully heard, considered, and resolved. The record of this hearing will also be available to the Secretary for consideration in connection with the issuance of future regulations under the act, the present order, or the order as it may be amended as a result of this hearing.

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

Proposal No. 1. Amend § 966.51 of the order as follows:

§ 966.51 Recommendations for regulations.

(a) The committee may recommend regulations to the Secretary pursuant to § 966.52 after consideration of the factors specified in paragraph (b) of this section.

(b) In making its recommendations the committee shall give due consideration to the following factors:

(1) Market prices for tomatoes by maturity, grades, and sizes for production area tomatoes and tomatoes from competing areas;

(2) Estimated supplies within the production area and from competing sources, by maturity, grades, and sizes;

(3) Estimated effect on shipments, assuming alternative maturity, grade, or size requirements, or combinations thereof; and

(4) Any other relevant factors which may influence tomato marketing or prices.

(c) Each recommendation for regulations as are provided for in § 966.52, together with the committee's reason and supporting data or other material for such recommendation, shall be promptly submitted to the Secretary.

Proposal No. 2. Amend § 966.52 of the order as follows:

§ 966.52 Issuance of regulations.

The Secretary shall limit the handling of tomatoes whenever he finds from the recommendation and information submitted by the committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such regulation may:

(a) Limit, in any or all portions of the production area, the handling of particular grades, sizes, qualities (including maturity as a factor of grade or quality), or packs of any or all varieties of tomatoes, during any period; or

(b) Limit the handling of particular grades, sizes, qualities, or packs of tomatoes differently for different varieties, for different stages of maturity (including lesser minimum size specifications for mature green tomatoes than for those of greater maturity), for different portions of the production area, for different containers, for different markets, and for different purposes specified in § 966.54, or any combination of the foregoing, during any period; or

* * * * *

Or in the alternative:

§ 966.52 Issuance of regulations.

The Secretary shall limit the handling of tomatoes whenever he finds from the recommendation and information submitted by the committee, or from other available information, that such regulation would tend to effectuate the declared policy of the act. Such regulation may:

(a) Limit, in any or all portions of the production area, the handling of particular grades, sizes, qualities (including maturity as a factor of grade or quality), or packs of any or all varieties of tomatoes, during any period; or

(b) Limit the handling of particular grades, sizes, qualities, or packs of tomatoes differently for different varieties, for different portions of the production area, for different containers, for different markets, and for different purposes specified in § 966.54, or any combination of the foregoing, during any period; or

* * * * *

Copies of this notice may be obtained from the Vegetable Branch, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, or from M. F. Miller, Field Representative, Fruit and Vegetable Division, Consumer and Marketing Service, Post Office Box 9, Lakeland, FL 33802.

Dated: August 19, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71–12435 Filed 8–24–71;8:51 am]

[7 CFR Part 981]

ALMONDS GROWN IN CALIFORNIA

Proposed Salable, Reserve, and Export Percentages for 1971–72 Crop Year

Notice is hereby given of a proposal to establish, for the 1971–72 crop year, which began July 1, 1971, salable, reserve, and export percentages of 55, 45, and 100 percent, respectively, applicable to California almonds. The proposed percentages would be established in accordance with the provisions of the marketing agreement as amended, and Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was unanimously recommended by the Almond Control Board.

All persons who desire to file 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, to be received not later than 8 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during official hours of business (7 CFR 1.27(b)).

The proposed percentages are based upon the following estimates (kernel weight basis) for the crop year beginning July 1, 1971:

(1) Production of 142 million pounds;

(2) Trade demand for domestic almonds of 71 million pounds (which is based on a total demand of 71.5 million pounds less 500,000 pounds of imports for consumption);

(3) Handler carryover of 29.4 million pounds on July 1, 1971;

(4) Desirable handler carryover of 36.5 million pounds on June 30, 1972;

(5) Trade demand and desirable handler carryover requirements for 1971 crop almonds of 78.1 million pounds (items 2 plus 4 minus 3);

(6) 63.9 million pounds of reserve almonds (item 1 minus item 5);

(7) Export requirements of 60 million pounds of reserve almonds;

(8) Reserve carryover of 5.6 million pounds on June 30, 1972, needed for export during the period July 1, 1972, through August 31, 1972 (minus 1.7 million pounds of reserve carry-in on June 30, 1971); and

(9) Total export requirements of 63.9 million pounds from 1971 crop (item 7 plus item 8).

On the basis of the foregoing estimates, salable, reserve, and export percentages of 55, 45, and 100 percent, respectively, appear to be appropriate for the 1971–72 season.

The proposal is as follows:

§ 981.221 Salable, reserve, and export percentages for almonds during the crop year beginning July 1, 1971.

The salable, reserve, and export percentages during the crop year beginning July 1, 1971, shall be 55, 45, and 100 percent, respectively.

Dated: August 19, 1971.

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

[FR Doc.71-12387 Filed 8-24-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

[Regs. No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Procedures, Notice of Right of Reconsideration and Waiver

Notice is hereby given, pursuant to the Administrative Procedure Act, as amended (5 U.S.C. 553) that amendments to regulations (20 CFR Part 404) as set forth below in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments would provide that: (1) Notice of the right to reconsideration will be given in all cases when an initial determination is made, and (2) all persons to whom payment of more than the correct amount has been made will be advised of the statutory provisions for waiver of adjustment or recovery.

Prior to final adoption of the proposed amendments, consideration will be given to any data, comments, objections, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, DC 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 3193, 330 Independence Avenue SW., Washington, DC 20201.

The proposed amendments are to be issued under the authority contained in sections 204, 205, 1102, 1870, and 1871; 53 Stat. 1368, as amended; 49 Stat. 647, as amended; 79 Stat. 331, as amended; section 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 404, 405, 1302, 1395gg, and 1395hh.

Dated: July 20, 1971.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: August 18, 1971.

JOHN C. VENEMAN,
Acting Secretary of Health, Education, and Welfare.

Regulations No. 4 of the Social Security Administration (20 CFR Part 404), are further amended as follows:

1. Section 404.907 is amended to read as follows:

§ 404.907 Notice of initial determination.

Written notice of an initial determination shall be mailed to the party to the determination at his last known address, except that no such notice shall be required in the case of a determination that a party's entitlement to benefits has ended because of such party's death (see § 404.905(d)). If the initial determination disallows, in whole or in part, the application or request of a party, or if the initial determination is to the effect that a husband, widower, or parent was not receiving the requisite support from an insured individual, or that a party's entitlement to benefits has ended, or that a reduction, deduction, or adjustment is to be made in benefits or a lump sum, or that a period of disability established for a party has terminated, the notice of the determination sent to the party shall state the basis for the determination. Such notice shall also inform the party of the right to reconsideration (see § 404.910). Where more than the correct amount of payment has been made, see § 404.502a.

2. A new § 404.502a is added to read as follows:

§ 404.502a Notice of right to waiver consideration.

Whenever an initial determination is made that more than the correct amount of payment has been made, notice of the provisions of sections 204(b) and 1870(c) of the Act regarding waiver of adjustment or recovery shall be sent to the overpaid individual and to any other individual against whom adjustment or recovery of the overpayment is to be effected (see § 404.506).

[FR Doc.71-12389 Filed 8-24-71;8:47 am]

[20 CFR Part 405]

[Regs. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED

Medicare Cost Reporting Periods and Due Dates

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 552 et seq.) that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments would require providers to align their Medicare cost reporting periods with their Internal Revenue Service income tax or informational return reporting periods and to adopt the Internal Revenue Service due dates as the due dates for filing Medicare cost reports. The proposed amendments would be effective for cost reporting periods beginning after December 31, 1971.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, DC 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 3193, 330 Independence Avenue SW., Washington, DC 20201.

The proposed regulations are to be issued under the authority contained in sections 1102, 1815, and 1871, 49 Stat. 647, as amended, 79 Stat. 296, 322, and 331, as amended; 42 U.S.C. 1302, 1395 et seq.

Dated: July 30, 1971.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: August 18, 1971.

JOHN G. VENEMAN,
Acting Secretary of Health, Education, and Welfare.

Regulations No. 5 of the Social Security Administration (20 CFR Part 405) are further amended as follows:

1. Paragraph (b) of § 405.406 is revised to read as follows:

§ 405.406 Financial data and reports.

* * * * *

(b) Cost reports will be required from providers on an annual basis. In the interpretation and application of the principles of reimbursement, the fiscal intermediaries will be an important source of consultative assistance to providers and will be available to deal with questions and problems on a day-to-day basis.

2. Section 405.453 is amended by adding paragraph (f) to read as follows:

§ 405.453 Adequate cost data and cost finding.

* * * * *

(f) *Cost reports.* For cost reporting purposes, the health insurance program requires each provider of services to submit periodic reports of its operations which generally cover a consecutive 12-month period of the provider's operations. Amended cost reports to revise cost report information which has been previously submitted by a provider may be permitted or required as determined by the Social Security Administration.

(1) *Cost reporting periods beginning before January 1, 1972.* For initial cost reporting periods beginning before January 1, 1972, the reporting period covered by a provider's cost report need not coincide with any reporting period the provider uses for other purposes. Subsequent reports for reporting periods beginning before January 1, 1972, must generally cover 12-month periods of operation which end as of the same date as the period covered by the initial cost report.

(2) *Cost reporting periods beginning after December 31, 1971.* For cost reporting periods beginning after December 31, 1971, a provider of services must employ for health insurance cost reporting purposes the same reporting period the provider uses in reporting its annual operations for income tax or informational purposes to the Internal Revenue Service, except that a provider which is not required to report annually to the Internal Revenue Service may continue to prepare its health insurance cost reports in accordance with subparagraph (1) of this paragraph.

(3) *Transitional cost reports.* A provider of services which must adjust its health insurance cost reporting period to coincide with its annual Internal Revenue Service reporting period, as required by subparagraph (2) of this paragraph, shall effectuate this adjustment by submitting a transitional cost report.

(4) *Cost reports—terminated providers and changes of ownership.* A provider which voluntarily or involuntarily ceases to participate in the health insurance program or experiences a change of ownership must file a cost report for that period under the program beginning with the first day not included in a previous cost reporting period and ending with the effective date of termination of its provider agreement or change of ownership.

(5) *Due dates for cost reports.* (i) Cost reports for cost reporting periods beginning before January 1, 1972, and cost reports from providers not required to file an annual report of their operations with the Internal Revenue Service are due on or before the last day of the third month following the close of the period covered by the report.

(ii) Cost reports for cost reporting periods beginning after December 31, 1971, from providers required to file an annual report of their operations with the Internal Revenue Service must be filed on or before the day on which the provider's annual report of operations is initially due with the Internal Revenue Service.

(iii) The cost report from a provider which voluntarily or involuntarily ceases to participate in the health insurance program or experiences a change of ownership is due no later than 45 days following the effective date of the termination of the provider agreement or change of ownership.

3. Paragraph (h) of § 405.454 is deleted.

§ 405.454 Payments to providers.

* * * * *

(h) [deleted]

[FR Doc.71-12388 Filed 8-24-71;8:47 am]

[20 CFR Part 405]

[Reg. No. 5]

FEDERAL HEALTH INSURANCE FOR THE AGED

Assets Transferred Between Governmental Agencies, and Assets Donated by One Provider to Another

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 552 et seq.) that the regulation set forth in tentative form below is proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulation relates to the depreciable basis for assets transferred from one governmental agency to another or used under the health insurance program by one provider and then donated to another.

Prior to final adoption of the proposed regulation, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, DC 20201, within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 3193, 330 Independence Avenue SW., Washington, DC 20201.

The proposed regulation is to be issued under the authority contained in sections 1102, 1814(b), 1861(v), 1871, 49 Stat. 647 as amended, 79 Stat. 296, 79 Stat. 322, 79 Stat. 331, 42 U.S.C. 1302, 1395 et seq.

Dated: July 22, 1971.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: August 18, 1971.

JOHN G. VENEMAN,
Acting Secretary of Health, Education, and Welfare.

Subpart D of Regulations No. 5 of the Social Security Administration (20 CFR 405.401 et seq.) is amended by adding paragraphs (i) and (j) to § 405.415, to read as follows:

§ 405.415 Depreciation: allowance for depreciation based on asset costs.

* * * * *

(i) *Intergovernmental transfer of facilities.* The basis for depreciation of assets transferred under appropriate legal authority from one governmental entity to another shall be as follows:

(1) The historical cost incurred by the present owner in acquiring the asset under a bona fide sale. The historical cost shall not exceed the lower of current reproduction cost adjusted for straight-line depreciation over the life of the asset to the time of the purchase or fair market value at the time of the purchase.

(2) The fair market value at the time of donation under a bona fide donation of the asset (subject to the limitations set forth under paragraph (j) of this section). An asset is considered donated when a governmental entity acquires the asset without assuming the functions for which the transferor used the asset or making any payment for it in the form of cash, property, or services.

(3) If neither subparagraph (1) nor (2) of this paragraph applies, e.g., the transfer was solely to facilitate administration or to reallocate jurisdictional responsibility or the transfer constituted a taking over in whole or in part of the function of one governmental entity by another governmental entity, the basis for depreciation shall be:

(i) With respect to an asset on which the transferor has claimed depreciation under the health insurance program, the transferor's basis under the health insurance program prior to the transfer. The method of depreciation used by the transferee for the transferred asset shall be the same as that used by the transferor.

(ii) With respect to an asset on which the transferor has not claimed depreciation under the health insurance program, the cost incurred by the transferor in acquiring the asset (not to exceed the basis that would have been recognized had the transferor participated in the health insurance program) less depreciation calculated on the straight-line basis over the life of the asset to the time of transfer.

(j) *Basis of assets used under the program and donated to a provider.* Where an asset that has been used or depreciated under the program is donated to a provider, the basis of depreciation for the asset shall be the lesser of the fair market value or the net book value of the asset in the hands of the owner last participating in the program. The net book value of the asset is defined as the depreciable basis used under the program by the asset's last participating owner less the depreciation recognized under the program.

[FR Doc.71-12390 Filed 8-24-71;8:47 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 32]

[Docket No. R-71-133]

ASSISTANCE FOR NEW COMMUNITIES

Notice of Proposed Rule Making; Correction

On July 31, 1971, at 36 F.R. 14205, the Department published a notice of proposed rule making in the above-styled proceeding. The preamble to that notice provided, at the end of the second paragraph, for public inspection of all comments received at the HUD Information Center.

The provision is being changed and all comments will be available for public inspection in the office of the Rules Docket Clerk, Office of General Counsel, Room 10256, Department of HUD, 451 Seventh Street SW., Washington, DC 20410, as otherwise provided in the preamble.

GEORGE ROMNEY,
Chairman, Community Development Corporation, Secretary of Housing and Urban Development.

[FR Doc.71-12376 Filed 8-24-71;8:46 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-SW-46]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Natchitoches, La.

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 Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days atfer publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the 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 Administration, Fort Worth, Tex. An informal docket will also be available for examination at the Office of the Chief, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

NATCHITOCHES, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Natchitoches Municipal Airport (latitude 31°44'30'' N., longitude 96°06'20'' W.) and within 3.5 miles each side of the 177° bearing from the Natchitoches, La., radio beacon, extending from the 5-mile-radius zone to 11.5 miles south of the radio beacon.

The proposed transition area will provide controlled airspace for aircraft executing the proposed approach procedure at Natchitoches, La.

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

Issued in Fort Worth, Tex., on August 12, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-12370 Filed 8-24-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-WE-42]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Riverside, Calif., transition area.

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

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

A review of the airspace requirements for the Orange County Airport and El Toro MCAS has revealed that additional 700-foot transition area is required. This airspace is necessary to provide more efficient use of radar vectoring procedures to the final courses for the ILS Rwy 19R and VOR Rwy 19R instrument approach procedures for Orange County and to provide for simultaneous operations at Orange County Airport and El Toro MCAS.

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

In §71.181 (36 F.R. 2140) the description of the Riverside, California transition area is amended as follows:

Delete the 700-foot portion of the transition area and substitute the following therefor "That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 34°10'00'' N., longitude 117°59'00'' W., to latitude 34°10'00'' N., longitude 117°01'-00'' W., to latitude 33°50'00'' N., longitude 117°01'00'' W., to latitude 33°42'30'' N., longitude 116°56'30'' W., to latitude 33°38'00'' N., longitude 117°09'00'' W., to latitude 33°51'00'' N., longitude 117°24'-30'' W., to latitude 33°46'00'' N., longitude, 117°45'00'' W., to latitude 33°56'-00'' N., longitude 117°53'00'' W., to latitude 33°56'00'' N., longitude 117°59'-00'' W., thence to point of beginning; * * *".

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

Issued in Los Angeles, Calif., on August 16, 1971.

ARVIN O. BASNIGHT,
Director, Western Region.

[FR Doc.71-12371 Filed 8-24-71;8:46 am]

Hazardous Materials Regulations Board

[49 CFR Part 179]

[Docket No. HM-90; Notice No. 71-24]

TRANSPORTATION OF HAZARDOUS MATERIALS

Specifications for Tank Cars

The Hazardous Materials Regulations Board is considering amendment of Part 179 of the Hazardous Materials Regulations to update tank car specification requirements and to add new tank car specifications. Suitable corresponding changes would be made to Part 173 for commodities when the amendment is published. These proposed amendments are almost entirely based on requests

submitted by the Association of American Railroads (AAR). These requests are based largely on experience gained under a very significant number of outstanding special permits.

These proposals are set forth in the type of detailed specifications that have been used for many years in this field. As has been mentioned frequently, it is the Board's intention in the future to prescribe minimum performance type requirements rather than detailed specification requirements. However, in view of the substantial amount of time and effort of both the industry and the Federal Railroad Administration that can be saved through the elimination of many special permits, it is desirable to issue this proposal in the traditional specification form rather than to let the existing situation stand while performance specifications are developed.

The major changes proposed are discussed in this preamble. Numerous editorial changes relating to clarification of text and updating of references are not specifically highlighted.

Section 179.2(a)(4) would be amended to indicate that "DOT" identifies the Department of Transportation. Section 179.5 would be revised to assure completeness of Bureau of Explosives and AAR Mechanical Division files. The Department does not maintain such records.

In § 179.6, reference would be made to Appendix R of the AAR Specifications for Tank Cars. Section 179.12–2(b) would permit a 20 percent reduction in carbon steel pipe, if welded, and would reflect provisions that have been incorporated in other tank car standards for many years.

Section 179.100, Pressure Tank Car Tanks, in addition to updating section cross-references and incorporating references to various appendices of the AAR Specifications for Tank Cars, would require, at subsection 4, that the jacket covering insulation be of a thickness not less than 11 gage. At subsection 6, more stringent requirements would be added to assure that tank plates are not reduced during forming below specification requirements. Also the welded joint efficiency factor change to 1.0 would recognize improvements in welding and weld inspection over the years in addition to the fact that all such tank welds are 100 percent radiographed. In subsection 7, the tables would be revised to update the requirements by deleting obsolete material specifications and by adding new specifications currently in use under special permits. In subsection 10, the phrase "postweld heat treatment" would be substituted for the phrase "stress relieving" to agree with terminology used in other codes such as the ASME Code. This change is also repeated later in the text. In subsection 12, minimum requirements would be added for the size and number of studs and the minimum thickness of material for dome housings. Subsection 13 would be amended by providing for the addition of a sump or siphon to the bottom of a tank. Subsection 14 would define more clearly the limitation on extreme projection of bottom outlets on cars. Paragraph (a)(5) would require a screw plug on closure which has been standard approved practice, but never specified heretofore. Subsection 15(a) would be changed to be consistent with § 179.100–1 which includes valve flow rating pressures for safety-relief valves. Subsection 15(b) would require the safety-relief valve on specification 105A500W tanks to be set for a start-to-discharge pressure of 360 p.s.i. in keeping with current practice. Subsection 16 would specify use of reinforcing pads to distribute stresses and to prevent punctures and tearing of a tank by attachments. Subsection 21 would require a water capacity stencil on a pressure tank to provide additional information to loading personnel to prevent overfilling.

Section 179.101 would provide for the construction of tank cars to new specification 114A400W. At the same time, provisions would be made for specifying valve flow rating pressure, for use of white paint in place of "reflecting paint", and for bottom outlets on certain cars.

Section 179.102 would be amended to include new requirements for cars in service transporting liquefied carbon dioxide, liquefied flammable gases, vinyl chloride, inhibited vinyl methyl ether, ethylene oxide, anhydrous hydrofluoric acid, inhibited acrolein, metallic sodium, stabilized sulfur trioxide, flammable liquids, n.o.s., and unsymmetrical dimethyl hydrazine. Provisions for the alternate setting of safety-relief valves on butadiene and vinyl chloride tank cars, for flow rating data, and for gasketing are included.

Section 179.103 is proposed to be amended to specify minimum requirements for a protective housing with cover, to eliminate the requirement for excess flow valves when the lading is nonflammable, and to broaden the application of § 179.103–4 to safety-relief devices and pressure regulators. Subsection 5 would be added to provide specific requirements for approved bottom outlet valves.

Section 179.200, general specifications applicable to nonpressure tank car tanks, would be amended to make substantive changes in subsections 3, 4, 6, 7, 8, 10, 15, 16, 17, 19, and 24. Subsection 4 would require insulation on tanks to be covered with a metal jacket not less than 11 gage. Subsection 6 would be clarified to assure that thickness of tank plate is not reduced during forming below specification requirements. Also the weld joint efficiency factor would be 1.0 for seamless heads of all tanks. In subsection 7, the tables would be revised to update the requirements by deleting obsolete material specifications and by adding new specifications currently in use under special permits. Subsection 8 would be amended to require 2:1 ellipsoidal heads for class 111A tank car tanks, except for internal compartment heads. Subsection 10 would specify that welding to certain fittings is not authorized. Subsection 15 would be amended to delete reference to AAR specification M–402, Grade 35018, malleable iron castings. Subsection 16 would require the application of shutoff valves at specific locations on the tank when top loading and discharge devices are installed, would set design parameters for sumps and siphon bowls, would provide protection for certain fittings, and would specify minimum requirements for protective housings. Subsection 17 would define more clearly the design criteria and a limitation on extreme projection of bottom outlets on cars with truck centers less than or greater than 60 feet 6 inches. Subsection 19 would specify use of reinforcing pads to distribute stresses and to prevent punctures and tearing of a tank by attachments. Subsection 24 would add a paragraph (b) to provide an abbreviated marking for class 111A tank car tanks by omitting the suffix numeral.

Section 179.201–1 would be amended to provide for the construction of tank cars to new specifications 111A100ALW, 111A60W2, 111A60W5, 117A340W, 120A300W, 111A60W1, 111A60ALW2, 111A100ALW1, 111A100ALW2, and 111A60W7. Subsection 3 would be changed to make distinct the requirements applying to rubber-lined tanks and tanks lined with material other than rubber. Subsections 4, 5, and 6 would be changed to adopt by reference the requirements specified in Appendix M of AAR Specifications for Tank Cars. Subsection 7 would require safety relief devices to comply with § 179.200–18. Subsection 9 would be amended to indicate that an excess flow valve is not needed if the gaging device does not allow passage of the lading when the device is in operation.

Section 179.202 is also proposed to be changed. Most revisions would be editorial in nature. Subsection 9 would be amended to add requirements for sodium chlorite. Subsections 12 would provide for a frangible disc to be made from other materials than lead. In subsection 14, authorization for use of Type 347 stainless steel would be deleted and addition of special safety valve requirements would be made. Subsection 18 would be amended to prohibit the use of copper or copper bearing alloys. Subsections 20, 21, and 22 would be added to provide special commodity requirements for hydrofluoric acid, nitric acid, and mixed acids.

In §§ 179.300–6 and 179.300–8 more stringent requirements would be added to assure that tank plates are not reduced during forming below specification requirements. In subsection 7 the table would be revised to update the requirements by deleting obsolete material specifications and by adding new specifications currently in use under special permits. In subsection 17 the tests for frangible discs of safety vents would be required to comply with Appendix A of the AAR Specifications for Tank Cars.

The change to § 179.302 would rearrange the commodities in alphabetical order and would consolidate the family of aluminum alkyls (pyroforic materials) under the generic description, "pyroforic liquid, n.o.s."

In consideration of the foregoing, it is proposed to amend 49 CFR Part 179 as follows:

(A) In Part 179 Table of Contents, Subpart C and §§ 179.200, 179.300, and 179.302 would be amended to read as follows:

Subpart C—Specifications for Pressure Tank Car Tanks (Classes DOT–105, 109, 112, and 114)

Secs.

179.200 General specifications applicable to nonpressure tank car tanks (Classes DOT–103, 104, 111).

179.300 General specifications applicable to multiunit tank car tanks designed to be removed from car structure for filling and emptying (Classes DOT–106, and 110).

179.302 Special commodity requirements for multiunit tank car tanks.

(B) In § 179.2, paragraph (a)(4) would be amended to read as follows:

§ 179.2 Definitions and abbreviations.

(a) * * *

(4) "DOT" and "Department" means Department of Transportation.

* * * * *

(C) Section 179.5 would be amended to read as follows:

§ 179.5 Certificate of construction.

(a) Except as provided in paragraph (b) of this section, before a tank car is placed in service, the party assembling the completed car shall furnish a Certificate of Construction, From AAR 4–2 to the owner, the Bureau of Explosives (as required by paragraph (d) of this section), and the Secretary, Mechanical Division, AAR, certifying that the tank, equipment, and car comply with all the requirements of the specification.

(b) Before a tank of Class DOT–106A, 107A, or 110A is placed in service, the builder must furnish a Certificate of Construction, Form AAR 4–2 to the owner, the Bureau of Explosives (as required by paragraph (d) of this section), and the Secretary, Mechanical Division, AAR, in addition to a Certificate of Inspector's Report as required in §§ 179.300–20 and 179.500–18 in prescribed form certifying that the tank and appurtenances comply with all the requirements of the specifications.

(c) If the owner elects to furnish the appurtenances such as valves and safety devices, the owner shall furnish to the Bureau of Explosives, and to the Secretary, Mechanical Division, AAR, a report in prescribed form, certifying that the appurtenances comply with all the requirements of the specifications.

(d) When cars or tanks which are covered on one application and are identical in all details are built in series, one certificate shall suffice for each series when submitted to the Secretary. One copy of the Certificate of Construction must be furnished to the Bureau of Explosives for each car number or consecutively numbered group or groups covered by the original application.

(D) Section 179.6 would be amended to read as follows:

§ 179.6 Repairs and alterations.

For procedure to be followed in making repairs or alterations, see Appendix R of the AAR Specifications for Tank Cars.

(E) In § 179.12–2, paragraph (b) would be amended to read as follows:

§ 179.12–2 Materials and dimensions.

* * * * *

(b) Piping must be not less than 2 inches IPS. Tubing must be not less than 2⅜ inches outside diameter and the wall thickness must be at least equivalent to the corresponding pipe size. Material specifications and nominal wall thickness must be as follows:

Material	Nominal thickness minimum [1]		Specifications ASTM
	2 inches	Over 2 inches	
Carbon steel	0.175	Schedule 40	A53–69a, A192–69, A178–70.
Alloy steel	Schedule 40S	Schedule 40S	A312–70, A269–69.
Aluminum	Schedule 80	Schedule 80	B241–69, B210–70, B221–69.
Nickel	Schedule 40	Schedule 40	B161.70.

[1] Thickness must be increased 25 percent or to next higher schedule, whichever is less, when threaded joints are used.

* * * * *

(F) Subpart C heading would be amended to read as follows:

Subpart C—Specifications for Pressure Tank Car Tanks (Classes DOT–105, 109, 112, and 114)

(G) In § 179.100–3 paragraph (a), the last sentence would be amended to read as follows: "Other openings in the tank are prohibited, except as provided in Part 173 of this chapter, §§ 179.100–14, 179.101–1(a) Table Note 11, § 179.102 or § 179.103." In § 179.100–4, paragraph (a) would be amended; in § 179.100–6, paragraph (a) would be amended; §§ 179.100–7 and 179.100–100 would be amended; in § 179.100–12, paragraphs (a) and (c) would be amended; in § 179.100–13, paragraph (e) would be added; in § 179.100–14, paragraphs (a) (1) and (3) would be amended, paragraph (a)(5) would be redesignated (a)(6), a new paragraph (a)(5) would be added; in § 179.100–15, paragraphs (a), (b), and (c) would be amended; in § 179.100–16, the heading would be amended, paragraph (a) would be redesignated paragraph (b), a new paragraph (a) would be added; in § 179.100–20 paragraph (a) table, the second entry would be amended to read: "Material _____ ASTM A515–70"; in § 179.100–21, paragraph (b) would be added to read as follows:

§ 179.100 General specification applicable to pressure tank car tanks.

§ 179.100–4 Insulation.

(a) If insulation is applied, the tank shell and manway nozzle must be insulated with an approved material. The entire insulation must be covered with a metal jacket of a thickness not less than 11 gage (0.1196 inch) nominal (manufacturers' standard gage) and flashed around all openings so as to be weathertight. The exterior surface of a carbon steel tank, and the inside surface of a carbon steel jacket must be given a protective coating except that a protective coating is not required when foam-in-place insulation that adheres to the tank or jacket is applied.

* * * * *

§ 179.100–6 Thickness of plates.

(a) The wall thickness after forming of the tank shell and heads must not be less than that specified in § 179.101, nor that calculated by the following formula:

$$t = \frac{Pd}{2SE}$$

where:

d = Inside diameter in inches;

E = 1.0 welded joint efficiency; except for heads with seams = 0.9;

P = Minimum required bursting pressure in p.s.i.;

S = Minimum tensile strength of plate material in p.s.i., as prescribed in § 179.100–7;

t = Minimum thickness of plate in inches after forming.

* * * * *

§ 179.100–7 Materials.

(a) *Steel plate.* Steel plate materials used to fabricate tank shell and manway nozzle must comply with one of the following specifications with the indicated minimum tensile strength and elongation in the welded condition. The maximum allowable carbon content must be 0.31 percent when the individual specification allows carbon greater than this amount. The plates may be clad with other approved materials.

Specifications	Minimum tensile strength (p.s.i.) welded condition [1]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM A 515–69, Gr. 55	55,000	28
ASTM A 515–69, Gr. 60	60,000	25
ASTM A 515–69, Gr. 65	65,000	20
ASTM A 515, 69, Gr. 70	70,000	20
ASTM A 285–69, Gr. A	45,000	29
ASTM A 285–69, Gr. B	50,000	20
ASTM A 285–60, Gr. C	55,000	20
ASTM A 516–70, Gr. 55	55,000	28
ASTM A 516–70, Gr. 60	60,000	25
ASTM A 516–70, Gr. 65	65,000	20
ASTM A 516–70, Gr. 70	70,000	20
AAR TC128–70, Gr. A and B	81,000	19
ASTM A 537–69, Gr. A	70,000	23
ASTM A 302–69a, Gr. A	80,000	20

[1] Maximum stresses to be used in calculations.

(b) *Aluminum alloy plate.* Aluminum alloy plate material used to fabricate tank shell and manway nozzle must be suitable for fusion welding and must comply with one of the following specifications with its indicated minimum tensile strength and elongation in the welded condition.

Specifications	Minimum tensile strength (p.s.i.) 0 temper, welded condition [3] [6]	Minimum elongation in 2 inches (percent) 0 temper, welded condition (longitudinal)
ASTM B 209-70, Alloy 5052 [1]	25,000	18
ASTM B 209-70, Alloy 5083 [2]	38,000	16
ASTM B 209-70, Alloy 5086 [1]	35,000	14
ASTM B 209-70, Alloy 5154 [1]	30,000	18
ASTM B 209-67, Alloy 5254 [1]	30,000	18
ASTM B 209-70, Alloy 5454 [1]	31,000	18
ASTM B 209-67, Alloy 5652 [1]	25,000	18
ASTM B 209-70, Alloy 6061 [4]	[5] 24,000	[5] 5

[1] For fabrication, the parent plate material may be 0, H112, or H32 temper, but design calculations must be based on minimum tensile strength shown.
[2] 0 temper only.
[3] Weld filler metal 5556 must not be used.
[4] Not authorized for tank shells, manways or domes.
[5] T6 temper only.
[6] Maximum stress to be used in calculations.

(c) All attachments welded to tank shell must be of approved material which is suitable for welding to the tank.

§ 179.100–10 Postweld heat treatment.

(a) After welding is complete, steel tanks and all attachments welded thereto must be postweld heat treated as a unit in compliance with the requirements of AAR Specifications for Tank Cars, Appendix W.

(b) For aluminum tanks, postweld heat treatment is prohibited.

§ 179.100–12 Manway nozzle, cover and protective housing.

(a) Manway nozzles must be of approved design of forged or rolled steel for steel tanks or of fabricated aluminum alloy for aluminum tanks, with access opening at least 18 inches inside diameter, or at least 14 inches by 18 inches obround or oval. Nozzle must be welded to the tank and the opening reinforced in an approved manner in compliance with the requirements of AAR Specifications for Tank Cars, Appendix E, Figure E10.

* * * * *

(c) Except as provided in § 179.103, protective housing of cast, forged or fabricated approved materials must be bolted to manway cover with not less than twenty ¾-inch studs. The shearing value of the bolts attaching protective housing to manway cover must not exceed 70 percent of the shearing value of bolts attaching manway cover to manway nozzle. Housing must have steel sidewalls not less than three-fourths inch in thickness and must be equipped with a metal cover not less than one-fourth inch in thickness that can be securely closed. Housing cover must have suitable stop to prevent cover striking loading and unloading connections and be hinged on one side only with approved riveted pin or rod with nuts and cotters. Openings in wall of housing must be equipped with screw plugs or other closures.

§ 179.100–13 Venting, loading and unloading valves, measuring and sampling devices.

* * * * *

(e) Bottom of tank shell may be equipped with a sump or siphon bowl welded or pressed into the shell. Such sumps or siphon bowls, if applied, are not limited in size and must be made of cast, forged, or fabricated metal. Each sump or siphon bowl must be of good welding quality in conjunction with the metal of the tank shell. When the sump or siphon bowl is pressed in the bottom of the tank shell, the wall thickness of the pressed section must not be less than that specified for the shell. The section of a circular cross section tank to which a sump or siphon bowl is attached need not comply with the out-of-roundness requirement specified in AAR Specifications for Tank Cars, Appendix W, W14.06. Any portion of a sump or siphon bowl not forming a part of cylinder of revolution must have walls of such thickness and be so reinforced that the stresses in the walls caused by a given internal pressure are no greater than the circumferential stress which would exist under the same internal pressure in the wall of a tank of circular cross section designed in accordance with § 179.100–6(a). In no case less than that specified in § 179.101–1(a).

§ 179.100–14 Bottom outlets.

(a) * * *

(1) On newly built and empty cars with truck centers through 60 feet, 6 inches, the extreme projection of the bottom washout equipment must be at least 12 inches above the top of rail on level track. On cars with truck centers greater than 60 feet, 6 inches, the minimum rail clearance must be in accordance with the graph in Appendix E of the AAR Specifications for Tank Cars.

* * * * *

(3) If the bottom washout nozzle extends 6 inches or more from shell of tank, a "V" groove must be cut (not cast) in the upper part of the nozzle at a point immediately below the lowest part of inside closure seat or plug to a depth that will leave wall thickness of nozzle at the root of the "V" not over one-fourth inch. Where nozzle is not a single piece, provision must be made for the equivalent of the breakage groove. The nozzle must be of a thickness to insure that accidental breakage will occur at or below the "V" groove or its equivalent. On cars without continuous center sills, the breakage groove or its equivalent must not be more than 15 inches below the tank shell. On cars with continuous center sills, the breakage groove or its equivalent must be above the bottom of the center sill construction.

* * * * *

(5) The closure of the washout nozzle must be equipped with a ¾-inch solid screw plug. Plug must be attached by at least a ¼-inch chain.

(6) Joints between closures and their seats may be gasketed with suitable material.

§ 179.100–15 Safety relief valves.

(a) The tank must be equipped with one or more safety relief valves of approved design, made of metal not subject to rapid deterioration by the lading. The safety relief valve, or valves, must be mounted on manway cover, except as provided in § 179.103. The total valve discharge capacity must be sufficient to prevent building up pressure in tank in excess of 82½ percent of the tank test pressure or 10 p.s.i. above the start-to-discharge pressure, whichever is higher. The start-to-discharge and vapor-tight pressures must comply with § 179.101 and must not be affected by any auxiliary closure or other combination. For certain commodities, alternate pressures are permitted (see § 179.102–11). See AAR Specifications for Tank Cars, Appendix A, for formula for calculating discharge capacity.

(b) When a safety relief valve is used in combination with a breaking pin device, the breaking pin device must be designed to fail at a pressure of 75 percent of the tank test pressure and safety relief valve must be set for a start-to-discharge pressure of 71 percent of the tank test pressure. However, for spec. DOT–105A500W tanks, the start-to-discharge pressure must be 360 p.s.i.

(c) When a safety relief valve is used in combination with a frangible disc, the frangible disc must be designed to burst at a pressure of 75 percent of the tank test pressure and the safety relief valve must be set for a start-to-discharge pressure of 71 percent of the tank test pressure, as prescribed in § 179.101. Provisions must be made to prevent any accumulation of pressure between the frangible disc and safety relief valve.

§ 179.100–16 Attachments.

(a) Reinforcing pads must be used between external brackets and shells if the attachment welds exceed 6 linear inches of ¼-inch fillet or equivalent weld per bracket or bracket leg. When reinforcing pads are used, they must not be less than one-quarter inch in thickness, have each corner rounded to a 1 inch minimum radius, and be attached to the tank by continuous fillet welds except for venting provisions. The ultimate shear strength of the bracket-to-reinforcing pad weld must not exceed 85 percent of the ultimate shear strength of the reinforcing pad-to-tank weld.

* * * * *

§ 179.100–21 Stenciling.

* * * * *

(b) Water capacity stencil is required.

(H) In § 179.101–1 paragraph (a), the table would be amended in its entirety to read as follows:

§ 179.101 Individual specification requirements applicable to pressure tank car tanks.

§ 179.101–1 Individual specification requirements.

(a) * * *

DOT specifications	105A100ALW	105A100W	105A200ALW	105A200F	105A200W	105A300ALW	105A300W	105A400W	105A500W	105A600W
Material (see 179.100-7)	Al alloy	Steel	Al alloy	Steel	Steel	Al alloy	Steel	Steel	Steel	Steel
Insulation (see 179.100-4)	Required	Required	Required	Required	Required	Required	Required	Required	Required	Required
Bursting pressure, p.s.i. (see 179.100-5)	500	500	500		500	750	750	1,000	1,250	1,500
Minimum plate thickness, inches, shell and heads	5/8	[3] [5] 9/16	5/8	[5] 9/16	[3] [5] 9/16	5/8	[1] 11/16	[1] 11/16	[1] 11/16	[1] 11/16
Test pressure, p.s.i. (see 179.100-18)	100	100	200	See 179.104	200	300	300	400	500	600
Safety relief valves, p.s.i.: [6]										
Start-to-discharge Pressure, p.s.i.	75	75	150	150	150	225	225	300	375	450
Start-to-discharge Tolerance, p.s.i.	±3.0	±3.0	±4.5	±4.5	±4.5	±6.75	±6.75	±9.0	±11.25	±13.5
Vapor tight (minimum) Pressure, p.s.i.	60	60	120	120	120	180	180	240	300	360
Valve flow rating pressure (maximum p.s.i.)	85	85	165	165	165	247.5	247.5	330	412.5	495
Manway cover, thickness, inches (minimum)	[2] 2½	2¼	[2] 2½	2¼	2¼	[2] 2⅜	[9] 2¼	[9] 2¼	2¼	2¼
Special references	179.102-3	179.102-3	179.102-3	179.102-3	179.102-3	179.102-3	179.102-2	179.102-3	179.102-1	179.102-1
	179.102-12	179.102-6		179.102-17	179.102-6		179.102-3	179.102-17	179.102-2	179.102-3
		179.102-12		179.104	179.102-17		179.102-5		179.102-3	179.102-4
		179.102-17					179.102-6		179.102-9	179.102-9
		179.102-20					179.102-7		179.102-10	179.102-10
							179.102-8		179.102-14	179.102-17
							179.102-11		179.102-17	
							179.102-13		179.102-18	
							179-102-15			
							179.102-16			
							179-102-17			
Bottom washout	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited
Bottom outlet	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited

DOT specifications	109A100ALW	109A200ALW	109A300ALW	109A300W	112A200W	112A340W	112A400F [11]	112A400W	112A500W	114A340W	114A400W
Material (see 179.100-7)	Al alloy	Al alloy	Al alloy	Steel	Steel	Steel	Steel	Steel	Steel	Steel	Steel
Insulation (see 179.100-4)	Optional	Optional	Optional	Optional	[4] None	[4] None		[4] None	[4] None	[4] None	[4] None
Bursting pressure, p.s.i. (see 179.100-5)	500	500	750	750	500	850		1,000	1,250	850	1,000
Minimum plate thickness, inches, shell and heads	5/8	5/8	5/8	[1] 11/16	[3] [5] 9/16	[1] 11/16		[1] 11/16	[1] 11/16	[1] 11/16	[1] 11/16
Test pressure, p.s.i. (see 179.100-18)	100	200	300	300	200	340		400	500	340	400
Safety relief valves, p.s.i.: [6]											
Start-to-discharge Pressure, p.s.i.	75	150	225	225	150	255		300	375	255	300
Start-to-discharge Tolerance, p.s.i.	±3.0	±4.5	±6.75	±6.75	±4.5	±7.65		±9.0	±11.25	±7.65	±9.0
Vapor tight (minimum) Pressure, p.s.i.	60	120	180	180	120	204		240	300	204	240
Valve flow rating Pressure (maximum p.s.i.)	85	165	247.5	247.5	165	280.5		330	412.5	280.5	330
Manway cover, thickness, inches, (minimum)	[2] 2½	[2] 2½	[2] 2⅜	2¼	2¼	2¼		2¼	2¼	[7]	[7]
Special references					[10] 179.102-3	[10] 179.102-3		[10] 179.102-3	[10] 179.102-3	179.102-11	179.102-11
					179.102-17	179.102-11		179.102-6	179.102-17	179.103	179.103
						179.102-17		179.102-11			179.102-13
								179.102-13			
								179.102-17			
Bottom washout	Optional	Optional	Optional	Optional	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Optional	Optional
Bottom outlet	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited

[1] When steel of 65,000 to 81,000 p.s.i. minimum tensile strength is used, the thickness of plates shall be not less than 9/16 inch, and when steel of 81,000 p.s.i. minimum tensile strength is used, the minimum thickness of plate shall be not less than 9/16 inch.

[2] When approved material other than aluminum alloys are used, the thickness shall be not less than 2¼ inches.

[3] When steel of 65,000 p.s.i. minimum tensile strength is used, minimum thickness of plates shall be not less than ½ inch.

[4] At least the upper two-thirds of the exterior of the tank, manway nozzle and all appurtenances in contact with this area of the tank shall have a finish coat of white paint.

[5] For inside diameter of 87 inches or less, the thickness of plates shall be not less than ½ inch.

[6] See 179.102-11 for optional setting for certain commodities.

[7] See AAR specifications for tank cars, appendix E, E4.01 and 179.103-2.

[8] Purposely left blank.

[9] When the use of nickel is required by the lading, the thickness shall not be less than 2 inches.

[10] Each tank head may be equipped with not more than one opening for use in purging tank interior.

[11] Tanks converted to DOT-112A400F from existing forge-welded specification DOT-105A500 tanks by modification using conversion details complying with DOT-112A400W specification requirements, shall be stenciled by substituting the letter "F" for the letter "W" in the specification designation.

(I) In § 179.102–1, the introductory text of paragraph (a) and (a)(1) would be amended; in § 179.102–3, paragraph (a) would be amended; in § 179.102–5, the introductory text of paragraph (a) would be amended; in § 179.102–6, paragraph (a) would be amended; in § 179.102–7, the introductory text of paragraph (a) would be amended; in § 179.102–8, the heading and the introductory text of paragraph (a) would be amended; in §§ 179.102–9 and 179.102–10, the introductory text of paragraph (a) would be amended; § 179.102–11 would be amended; §§179.102–12 through 179.102–17 and 179.102–20 would be added to read as follows:

§ 179.102 Special commodity requirements for pressure tank car tanks.

* * * * *

§ 179.102–1 Liquefied carbon dioxide.

(a) Tank cars used to transport liquefied carbon dioxide must comply with the following special requirements:

(1) All plates for tank, manway nozzle, and anchorage of tanks used in the transportation of liquid carbon dioxide must be made of carbon steel complying with ASTM Specification A300–68, Class 1. Impact specimens must be Type A Charpy V-notch as shown in ASTM Specification A370–68 and must meet the impact requirements at minus 50° F. using steel meeting requirements of ASTM Specification A516–70, Grade 55, 60, 65, or 70, or AAR Specification TC128–70, Grade B. Production-welded test plates prepared as required by W4.00 of AAR Specifications for Tank Cars, Appendix W, must include impact test specimens of weld metal and heat-affected zone,

Type A Charpy V-notch, prepared and tested in accordance with W9.00 of AAR Specifications for Tank Cars, Appendix W, and these must meet the same impact requirements as the plate material at minus 50° F.

* * * * *

§ 179.102–3 Liquefied flammable gases.

(a) Any authorized tank car used to transport liquefied flammable gases must comply with the following special requirements:

(1) The interior pipes of the loading and unloading valves and sampling valves, also the gaging device when it provides a means for passage of the lading from the interior to the exterior of the tank, must be equipped with excess flow valves of an approved design.

(2) The protective housing cover must be provided with an opening above each safety relief valve which must be concentric with the discharge of the valve and have an area at least equal to the valve outlet area. Each opening must be provided with a weatherproof cover designed for vertical discharge.

(3) Gaskets for manway cover plates and for mounting of fittings must be asbestos type or approved high-temperature resistant equivalent.

§ 179.102–5 Nitrosyl chloride.

(a) Tank cars used to transport nitrosyl chloride must comply with the following special requirements:

* * * * *

§ 179.102–6 Vinyl chloride or vinyl methyl ether, inhibited.

(a) Tank cars used to transport vinyl chloride, or vinyl methyl ether, inhibited, must comply with the following special requirements:

(1) All parts of valves and safety relief devices in contact with the lading must be of a metal or other material suitably treated, if necessary, which will not cause formation of any acetylides.

(2) The interior pipes of the loading and unloading valves and sampling valve, also the gaging device when it provides a means for passage of the lading from the interior to the exterior of the tank, must be equipped with excess flow valves of an approved design.

(3) For vinyl chloride in specifications DOT–105A200W tank cars, openings in tank heads to facilitate nickel lining are authorized if closed in an approved manner.

(4) For alternate safety relief valve settings, see § 179.102–11.

(5) For gasket requirements, see § 179.102–11(b).

§ 179.102–7 Bromine.

(a) Tank cars used to transport bromine must comply with the following special requirements:

* * * * *

§ 179.102–8 Motor fuel antiknock compound.

(a) Tank cars used to transport motor fuel antiknock compounds must comply with the following special requirements:

* * * * *

§ 179.102–9 Nitrogen tetroxide or nitrogen tetroxide-nitric oxide mixtures.

(a) Tank cars used to transport nitrotetroxide or nitrogen tetroxide-nitric oxide mixtures must comply with the following special requirements:

* * * * *

§ 179.102–10 Hydrocyanic acid.

(a) Tank cars used to transport hydrocyanic acid must comply with the following special requirements:

* * * * *

§ 179.102–11 Liquefied petroleum gas, butadiene, anhydrous ammonia, methylacetylene-propadiene, stabilized, or vinyl chloride.

(a) Tank cars used to transport liquefied petroleum gas, butadiene, anhydrous ammonia, methylacetylene-propadiene, stabilized, or vinyl chloride may as an alternate comply with the following special requirements:

(1) Safety relief valves may be set to the following pressures, provided the total valve discharge capacity is sufficient to prevent building up pressure in the tank in excess of 90 percent of the tank test pressure.

Safety relief valves, p.s.i.	DOT specifications		
	105A300W	112A340W, 114A340W	112A400W, 114A400W
Start-to-discharge pressure	247.5	280.5	330
Start-to-discharge tolerance	±7.5	±8.4	±10
Vapor tight pressure (minimum)	196	224	264
Flow rating pressure	270	306	360

(b) Gaskets for manway covers and for mounting of fittings must be asbestos type or approved high-temperature resistant equivalent.

§ 179.102–12 Ethylene oxide.

Tank cars used to transport ethylene oxide must be registered and jackets stenciled DOT–105A100 or DOT–105A-100W and equipped with the safety relief valve required by such specifications. Tanks may have openings in the heads to facilitate nickel lining provided openings are closed in an approved manner. No copper or copper bearing alloys shall be used in any part of the tank or appurtenances if such part is normally in contact with ethylene oxide liquid or vapor. Tank jacket must be stenciled on both sides in letters not less than 1½ inches high "Ethylene Oxide Only".

§ 179.102–13 Hydrofluoric acid, anhydrous.

(a) Tank cars used to transport hydrofluoric acid, anhydrous, must comply with the following special requirements:

(1) Tanks must be equipped with valves and appurtenances approved for this particular service, made of metal not subject to rapid deterioration by the lading. For safety relief valves, see § 179.100–15(b) and (c).

(2) For specification DOT–114A400W tanks, valves and fittings must be located on the top of the tank.

(3) Bottom opening in tank prohibited.

§ 179.102–14 Acrolein inhibited.

Tank cars used to transport acrolein inhibited must be specification DOT–105A300W, or higher rated tanks registered and jackets stenciled DOT–105A-200W and must be equipped with the safety relief valve required by that specification. Jackets must be stenciled on both sides in letters not less than 1½ inches high "Acrolein Only".

§ 179.102–15 Sodium, metallic.

Tank cars used to transport metallic sodium must have exterior heater coils fusion welded to tank shell.

§ 179.102–16 Sulfur trioxide stabilized.

Tank cars used to transport sulfur trioxide stabilized must be equipped with safety relief valves of approved design. Tanks equipped with interior heating coils not permitted.

§ 179.102–17 Flammable liquids not specifically provided for.

Tank cars used to transport flammable liquids not specifically provided for may be equipped with openings in tank heads to facilitate application of lining provided openings are closed in an approved manner.

§ 179.102–20 Dimethyl hydrazine unsymmetrical.

Tank cars used to transport dimethyl hydrazine may have openings in the heads to facilitate nickel lining provided openings are closed in an approved manner. Class DOT–105AW tank cars used to transport dimethyl hydrazine unsymmetrical must be stenciled DOT–105A100W. Tanks must be equipped with steel or stainless steel safety relief valves of the type and size used on specification DOT–105A100W tank cars.

(J) In § 179.103–1, paragraph (f) would be added; in § 179.103–3 paragraphs (b) and (c) would be amended; § 179.103–4 would be amended; § 179.103–5 would be added to read as follows:

§ 179.103 Special requirements for class 114A * * * tank car tanks.

* * * * *

§ 179.103–1 Type.

* * * * *

(f) Class DOT–114 tank cars are uninsulated tank cars for the transportation of compressed gases as authorized in § 173.314 of this chapter.

§ 179.103–3 Venting, loading and unloading valves, measuring and sampling devices.

* * * * *

(b) These valves and appurtenances must be grouped in one location and, except as provided in § 179.103–5, must be equipped with a protective housing with cover, or may be recessed into tank shell with cover. An additional set grouped in another location may be provided. Protective housing with cover, when used, must have steel sidewalls not less than three-fourths inch in thickness and a metal cover not less than one-

fourth inch in thickness that can be securely closed. Underframe sills are an acceptable alternate to the protective housing cover, provided the arrangement is of approved design. For fittings recessed into tank shells, protective cover must be metal and not less than one-fourth inch in thickness.

(c) When tank car is used to transport liquefied flammable gasses, the interior pipes of the loading, unloading, and sampling valves must be equipped with excess flow valves of approved design except when quick closing internal valves of approved design are used. When the interior pipe of the gaging device provides a means for the passage of lading from the interior to the exterior of the tank, it must be equipped with an excess flow valve of approved design or with an orifice not exceeding a No. 54 drill size.

§ 179.103–4 Safety relief devices and pressure regulators.

(a) Safety relief devices and pressure regulators must be located on top of the tank near the center of the car on a nozzle, mounting plate or recess in the shell. Through or stud bolts, if used, must not enter the tank.

(b) Metal guard of approved design must be provided to protect safety relief devices and pressure regulators from damage.

§ 179.103–5 Bottom outlets.

(a) In addition to or in place of the venting, loading, and unloading valves, measuring and sampling devices as prescribed in § 179.103–3, tanks may be equipped with approved bottom outlet valves. If applied, bottom outlet valves must meet the following requirements:

(1) When external bottom outlet valve without interior pipes is used in liquefied flammable gas service, the valve opening must be closed with an internal bolted or self-energizing closure of approved design. Protective housing is not required. On cars with center sills, a ball valve may be welded to the outside bottom of the tank or mounted on a pad or nozzle with a tongue and groove or male and female flange attachment, but in no case shall the breakage groove or equivalent extend below the bottom flange of the center sill. On cars without continuous center sills, a ball valve may be welded to the outside bottom of the tank or mounted with a tongue and groove or male and female flange attachment on a pad attached to the outside bottom of the tank. The mounting pad must have a maximum thickness of 2½ inches measured on the longitudinal centerline of the tank. The valve operating mechanism must be provided with a suitable locking arrangement to insure positive closure during transit.

(2) When internal bottom outlet valve is used in liquefied flammable gas service, the outlet of the valve must be equipped with an excess flow valve of approved design, except when a quick-closing internal valve of approved design is used. Protective housing is not required.

(3) Bottom outlet valve must be equipped with a liquid tight closure at its lower end.

(b) Bottom outlet equipment must be of approved design and must meet the following requirements:

(1) On newly built empty cars with truck centers through 60 feet, 6 inches, the extreme projection of the bottom outlet equipment must be at least 12 inches above the top of rail on level track. On cars with truck centers greater than 60 feet, 6 inches, the minimum rail clearance must be in accordance with the graph in Appendix E of the AAR Specifications for Tank Cars. All bottom outlet reducers and closures and their attachments must be secured to car by at least ⅜-inch chain or its equivalent, except that outlet closure plugs may be attached by ¼-inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection to the valve must be closed by a plug, cap, or approved quick-coupling device.

(2) Bottom outlet must be provided with a liquid tight closure at its lower end.

(3) The valve operating mechanism must be provided with a suitable locking arrangement to insure positive closure during transit.

(4) If outlet nozzle extends 6 inches or more from shell of tank, a breakage groove or its equivalent must be provided immediately below the lowest part of the valve. Breakage groove, if used, must consist of a "V" groove cut (not cast) in the nozzle to depth that will leave thickness of nozzle wall at the root of the "V" not over one-fourth inch. On cars without continuous center sills, the breakage groove or its equivalent must not be more than 15 inches below the tank shell. On cars with continuous center sills, the breakage groove or its equivalent must be above the bottom of the center sill construction.

(5) The valve body must be of a thickness which will insure that accidental breakage of the outlet nozzle will occur at or below the "V" groove, or its equivalent, and will not cause distortion of the valve seat or valve.

(K) The heading of § 179.104–1 would be amended to read as follows:

§ 179.104 Special requirements for spec. 105A200F tank car tanks.

§ 179.104–1 Tanks built under these specifications must meet the requirements of §§ 179.100, 179.101, and when applicable, §§ 179.102 and 179.104.

(L) In §§ 179.200 and 179.200–1, the headings would be amended; in § 179.200–3, paragraph (a) would be amended; in § 179.200–4 paragraph (a) would be amended; in § 179.200–6, paragraphs (a), (b), (c), (d), (e), and (f) would be amended, paragraph (g) would be added; § 179.200–7 would be amepded, in § 179.200–8, paragraphs (a) and (b) would be amended, paragraph (c) would be canceled; in § 179.200–9, paragraph (a) would be amended; in § 179.200–10 paragraph (b) would be added; § 179.200–11 would be amended; in § 179.200–13, the introductory text of paragraph (d) would be amended; in § 179.200–14, subparagraph (e)(3) would be amended; in § 179.200–15, paragraph (c) would be amended; in § 179.200–16, paragraphs (c) and (e) would be amended, paragraphs (f) and (g) would be added; in § 179.200–17, paragraphs (a) and (b)(1), (3), and (4) would be amended, paragraph (b)(5) would be redesignated (b)(6), a new paragraph (b)(5) would be added; in §179.200–19, paragraph (b) would be added; in § 179.200–24, paragraph (b) would be added to read as follows:

§ 179.200 General specifications applicable to non-pressure tank car tanks (Classes DOT–103, 104, and 111).

§ 179.200–1 Tanks built under these specifications must meet the requirements of §§ 179.200, 179.201, and when applicable § 179.202.

§ 179.200–3 Type.

Tanks built under these specifications must be circular in cross section, with formed heads designed convex outward. When specified in § 179.201–1, the tank must have at least one manway or one expansion dome with manway, and such other external projections as are prescribed herein. When the tank is divided into compartments, each compartment must be treated as a separate tank.

§ 179.200–4 Insulation.

(a) If insulation is applied, the tank shell and expansion dome when used must be insulated with an approved material. The entire insulation must be covered with a metal jacket of a thickness not less than 11 gage (0.1196 inch) nominal (manufacturer's standard gage) and flashed around all openings so as to be weathertight. The exterior surface of a carbon steel tank and the inside surface of a carbon steel jacket must be given a protective coating, except that protective coating is not required when foam-in-place insulation that adheres to the tank or jacket is applied.

* * * * *

§ 179.200–6 Thickness of plates.

(a) The wall thickness after forming of the tank shell, dome shell, and of 2:1 ellipsoidal heads must be not less than specified in § 179.201–1, nor that calculated by the following formula:

$$t = \frac{Pd}{2SE}$$

where:

d = Inside diameter in inches;
E = 0.9 welded joint efficiency; except E = 1.0 for seamless heads;
P = Minimum required bursting pressure in p.s.i.;
S = Minimum tensile strength of plate material in p.s.i. as prescribed in § 179.200–7;
t = Minimum thickness of plate in inches after forming.

(b) The wall thickness after forming of 3:1 ellipsoidal heads must be not less than specified in § 179.201–1, nor that calculated by the following formula:

$$t=\frac{Pd}{2SE}\times 1.83$$

where:

d=Inside diameter in inches;
E=0.9 welded joint efficiency; except E=1.0 for seamless heads;
P=Minimum required bursting pressure in p.s.i.;
S=Minimum tensile strength of plate material in p.s.i. as prescribed in § 179.200–7;
t=Minimum thickness of plate in inches after forming.

(c) The wall thickness after forming of a flanged and dished head must be not less than specified in § 179.201–1, nor that calculated by the following formula:

$$t=\frac{5PL}{6SE}$$

where:

E=0.9 welded joint efficiency; except E=1.0 for seamless heads;
L=Main inside radius to which head is dished, measured on concave side in inches;
P=Minimum required bursting pressure in p.s.i.;
S=Minimum tensile strength of plate material in p.s.i. as prescribed in § 179.200–7;
t=Minimum thickness of plate in inches after forming.

(d) If plates are clad with material having tensile strength properties at least equal to the base plate, the cladding may be considered a part of the base plate when determining thickness. If cladding material does not have tensile strength at least equal to the base plate, the base plate alone must meet the thickness requirements.

(e) For a tank constructed of longitudinal sections, the minimum width of bottom sheet of the tank must be 60 inches measured on the arc, but in all cases the width must be sufficient to bring the entire width of the longitudinal welded joint, including welds, above the bolster.

(f) For a tank built of one-piece cylindrical sections, the thickness specified for bottom sheet must apply to the entire cylindrical section.

(g) See § 179.200–9 for thickness requirements for a compartmented tank.

§ 179.200–7 Materials.

(a) Plate material used to fabricate the tank and, when used, expansion dome or manway nozzle material, must meet one of the following specifications with the indicated minimum tensile strength and elongation in the welded condition.

(b) Carbon steel plate: The maximum allowable carbon content must be 0.31 percent when the individual specification allows carbon content greater than this amount. The plates may be clad with other approved materials:

Specifications	Minimum tensile strength (p.s.i.) welded condition [1]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM A 515-69, Gr. 55	55,000	28
ASTM A 515-69, Gr. 60	60,000	25
ASTM A 515-69, Gr. 65	65,000	20
ASTM A 515-69, Gr. 70	70,000	20
ASTM A 285-69, Gr. A	45,000	20
ASTM A 285-69, Gr. B	50,000	20
ASTM A 285-69, Gr. C	55,000	20
ASTM A 516-70, Gr. 55	55,000	28
ASTM A 516-70, Gr. 60	60,000	25
ASTM A 516-70, Gr. 65	65,000	20
ASTM A 516-70, Gr. 70	70,000	20
AAR TC128-70, Gr. A and B	81,000	19

[1] Maximum stresses to be used in calculations.

(c) Aluminum alloy plate: Aluminum alloy plate must be suitable for welding and comply with one of the following specifications:

Specifications	Minimum tensile strength (p.s.i.) 0 temper welded condition [3] [6]	Minimum elongation in 2 inches (percent) 0 temper welded condition (longitudinal)
ASTM B 209-70, Alloy 5052 [1]	25,000	18
ASTM B 209-70, Alloy 5083 [2]	38,000	16
ASTM B 209-70, Alloy 5086 [1]	35,000	14
ASTM B 209-70, Alloy 5154 [1]	30,000	18
ASTM B 209-67, Alloy 5254 [1]	30,000	18
ASTM B 209-70, Alloy 5454 [1]	31,000	18
ASTM B 209-67, Alloy 5652 [1]	25,000	18
ASTM B 209-70, Alloy 6061 [4]	[5] 24,000	[5] 5

[1] For fabrication, the parent plate material may be 0, H112, or H32 temper, but design calculations must be based on minimum tensile strength shown.
[2] 0 temper only.
[3] Weld filler metal 5556 must not be used.
[4] Not authorized for tank shells, manways or domes.
[5] T6 temper only.
[6] Maximum stresses to be used in calculations.

(d) High alloy steel plate: [1] High alloy steel plate must comply with one of the following specifications:

[1] High alloy steel materials used to fabricate tank and expansion dome, when used, must be tested in accordance with the following procedures in ASTM Specification A 262–68 titled, "Recommended Practices for Detecting Susceptibility to Intergranular Attack in Stainless Steels," and must exhibit corrosion rates not exceeding the following:

Test procedure	Material	Corrosion rate i.p.m.
Practice B	Types 304, 304L, 316, and 316L.	0.0040
Practice C	Type 304L	.0020
Practice C	Type 430A	.0060

Type 304L and Type 316L test specimens must be given a sensitizing treatment prior to testing. (A typical sensitizing treatment is 1 hour at 125° F.)

Specification	Minimum tensile strength (p.s.i.) welded condition [1] [2]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM A 240-70, Type 304	75,000	30
ASTM A 240-70, Type 304L	70,000	30
ASTM A 240-70, Type 316	75,000	30
ASTM A 240-70, Type 316L	70,000	30
ASTM A 240-70, Type 430A	65,000	22

[1] Maximum stresses to be used in calculations.
[2] High alloy steel materials used to fabricate tank and expansion dome, when used, must be tested in accordance with the following procedures in ASTM Specification A 262–68 titled, "Recommended Practices for Detecting Susceptibility to Intergranular Attack in Stainless Steels," and must exhibit corrosion rates not exceeding the following:

Test procedure	Material	Corrosion rate i.p.m.
Practice B	Types 304, 304L, 316, and 316L.	0.0040
Practice C	Type 304L	.0020
Practice C	Type 430A	.0060

Type 304L and Type 316L test specimens must be given a sensitizing treatment prior to testing. (A typical sensitizing treatment is 1 hour at 125° F.)

(e) Nickel plate: [1] Nickel plate must comply with the following specification:

Specification	Minimum tensile strength (p.s.i.) welded condition [1]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM B 162-69	40,000	20

[1] Maximum stresses to be used in calculations.

(f) Manganese-molybdenum steel plate: Manganese-molybdenum steel plate must be suitable for fusion welding and comply with the following specification:

Specifications	Minimum tensile strength (p.s.i.) welded condition [1]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM A 302-69a, Gr. B	80,000	20

[1] Maximum stresses to be used in calculations.

(g) All parts and items of construction in contact with the lading must be made of material compatible with plate material and not subject to rapid deterioration by the lading, or be coated or lined with suitable corrosion resistent material.

(h) All external projections which may be in contact with the lading and

[1] When used as cladding for carbon steel plate, low-carbon nickel is required.

all castings, forgings, or fabrications used for fittings or attachments to tank and expansion dome, when used, in contact with lading must be made of material to an approved specification. See AAR Specifications for Tank Cars, Appendix M, M4.05 for approved material specifications for castings for fittings.

§ 179.200–8 Tank heads.

(a) All external tank heads must be an ellipsoid of revolution in which the major axis must equal the diameter of the shell and the minor axis must be one-half the major axis.

(b) Internal compartment tank heads may be 2:1 ellipsoidal, 3:1 ellipsoidal, or flanged and dished to thicknesses as specified in § 179.200–6. Flanged and dished heads must have main inside radius not exceeding 10 feet, and inside knuckle radius must not be less than 3¾ inches for steel, alloy steel, or nickel tanks, and not less than 5 inches for aluminum alloy tanks.

(c) [Canceled]

§ 179.200–9 Compartment tanks.

(a) When a tank is divided into compartments, by inserting interior heads, interior heads must be inserted in accordance with AAR Specifications for Tank Cars, Appendix E, E7.00, and must comply with the requirements specified in § 179.201–1. Voids between compartment heads must be provided with at least one tapped drain hole at their lowest point, and a tapped hole at the top of the tank. Top hole must be closed, and the bottom hole may be closed, with not less than three-fourths of an inch nor more than 1½ inches solid pipe plugs having NPT threads.

* * * * *

§ 179.200–10 Welding.

* * * * *

(b) Welding is not permitted on or to ductile iron or malleable iron fittings.

§ 179.200–11 Postweld heat treatment.

After welding is complete, postweld heat treatment must be in compliance with the requirements of AAR Specifications for Tank Cars, Appendix W, when specified in § 179.201.1.

§ 179.200–13 Manway ring or flange, safety relief device flange, bottom outlet nozzle flange, bottom washout nozzle flange and other attachments and openings.

* * * * *

(d) Rivets, if used, must comply with AAR Specification M–110–64 or its equivalent, must be compatible with plate material, and must meet the following additional requirements:

* * * * *

§ 179.200–14 Expansion capacity.

* * * * *

(e) * * *

(3) The dome head, if dished, must be dished to a radius not exceeding 96 inches. Thickness of dished dome head must be calculated by the formula in § 179.200–6(c).

* * * * *

§ 179.200–15 Closures for manways.

* * * * *

(c) Manway covers must be of approved cast, forged or fabricated metals. Malleable iron, if used, must comply with ASTM A47–68, Grade 35018. Cast iron manway covers must not be used.

* * * * *

§ 179.200–16 Gaging devices, top loading and unloading devices, venting and air inlet devices.

* * * * *

(c) A tank may be equipped with a vacuum relief valve of an approved design. Protective housing is not required.

* * * * *

(e) Bottom of tank shell may be equipped with a sump or siphon bowl welded or pressed into the shell. Such sumps or siphon bowls, if applied, are not limited in size and must be made of cast, forged or fabricated metal. Each sump or siphon bowl must be of good welding quality in conjunction with the metal of the tank shell. When sump or siphon bowl is pressed in the bottom of the tank shell, the wall thickness of the pressed section must not be less than that specified for the shell. The section of a circular cross section tank to which a sump or siphon bowl is attached need not comply with the out-of-roundness requirement specified in Appendix W, W14.06, of the AAR Specifications for Tank Cars. Any portion of a sump or siphon bowl not forming a part of a cylinder of revolution must have walls of such thickness and be so reinforced that the stresses in the walls caused by a given internal pressure are not greater than the circumferential stress which would exist under the same internal pressure in the wall of a tank of circular cross section designed in accordance with § 179.200–6 (a) and (d). In no case shall the wall thickness be less than that specified in § 179.201–1(a).

(f) When top loading and discharge devices, or venting and air inlet devices are installed with exposed piping to a removed location, shut-off valves must be applied directly to reinforcing pads or nozzles at their communication through the tank shell, and must be enclosed in a protective housing with provision for a seal. The piping must include breakage grooves, and suitable bracing. Relief valves must be applied to liquid lines for protection in case lading is trapped. Provision must be made to insure closure of the valves while the car is in transit.

(g) Protective housing, when required, must be fabricated of approved material and have cover and sidewalls not less than 0.119 inch in thickness.

§ 179.200–17 Bottom outlets.

(a) If indicated in § 179.201–1, tank may be equipped with bottom outlet. Bottom outlet, if applied, must comply with the following requirements:

(1) On newly built empty cars with truck centers through 60 feet, 6 inches, the extreme projection of the bottom outlet equipment must be at least 12 inches above the top of rail on level track. On cars with truck centers greater than 60 feet, 6 inches, the minimum rail clearance must be in accordance with the graph in Appendix E of the AAR Specifications for Tank Cars. All bottom outlet reducers and closures and their attachments must be secured to car by at least ⅜-inch chain or its equivalent, except that outlet closure plugs may be attached by ¼-inch chain. When the bottom outlet closure is of the combination cap and valve type, the pipe connection to the valve must be closed by a plug, cap, or approved quick coupling device.

(2) Bottom outlet must be of approved construction, and be provided with a liquid-tight closure at its lower end.

(3) On cars with center sills, a ball valve may be welded to the outside bottom of the tank or mounted on a pad or nozzle with a tongue and groove or male and female flange attachment. In no case shall the breakage groove or equivalent extend below the bottom flange of the center sill. On cars without continuous center sills, a ball valve may be welded to the outside bottom of the tank or mounted with a tongue and groove or male and female flange attachment on a pad attached to the outside bottom of the tank. The mounting pad must have a maximum thickness of 2½ inches measured on the longitudinal centerline of the tank. The valve operating mechanism must be provided with a suitable locking arrangement to insure positive closure during transit.

(4) The valve operating mechanism for valves applied to the interior of the tank, and outlet nozzle construction must insure against the unseating of the valve due to stresses or shocks incident to transportation.

(5) Bottom outlet nozzle of interior valves and the valve body of exterior valves, must be of cast, fabricated or forged metal. If welded to tank, they must be of good weldable quality in conjunction with metal of tank.

(6) To provide for the attachment of unloading connections, the bottom of the main portion of the outlet nozzle or valve body of exterior valves, or some fixed attachment thereto, must be provided with threaded cap closure arrangement or bolted flange closure arrangement having minimum 1 inch threaded pipe plug or approved quick-coupling device. When two-piece quick-coupling devices (i.e., adapter and dust cap) are used on bottom outlet extensions, an inline auxiliary valve must be applied between the bottom outlet valve and the quick-coupling closure. The quick-coupling closure (dust cap) or outlet nozzle wall must be fitted with a minimum 1-inch threaded plug. The auxiliary valve and dust cap may be omitted when the quick-coupling adapter is threaded internally and fitted with a minimum 1-inch plug.

(7) If outlet nozzle extends 6 inches or more from shell of tank, a "V" groove must be cut (not cast) in the upper part of outlet nozzle at a point immediately below lowest part of valve to a depth that will leave thickness of nozzle wall at the root of the "V" not over one-fourth inch. The outlet nozzle on in-

terior valves or the valve body on exterior valves may be steam jacketed, in which case the breakage groove or its equivalent must be below the steam chamber but above the bottom of center sill construction. If outlet nozzle is not a single piece, or if exterior valves are applied, provision must be made for the equivalent of the breakage groove. On cars without continuous center sills, the breakage groove or its equivalent must be not more than 15 inches below the tank shell. On cars with continuous center sills the breakage groove or its equivalent must be above the bottom of the center sill construction.

(8) The flange on the outlet nozzle or the valve body of exterior valves must be of a thickness which will prevent distortion of the valve seat or valve by any change in contour of the shell resulting from expansion of lading, or other causes, and which will insure that accidental breakage of the outlet nozzle will occur at or below the "V" groove, or its equivalent.

(9) The valve must have no wings or stem projecting below the "V" groove or its equivalent. The valve and seat must be readily accessible or removable for repairs, including grinding.

(10) The valve operating mechanism on interior valves must have means for compensating for variation in the vertical diameter of the tank produced by expansion, weight of the liquid contents, or other causes, and may operate from the interior of the tank, but in the event the rod is carried through the dome, or tank shell, leakage must be prevented by packing in stuffing box or other suitable seals and a cap.

(b) * * *

(1) On newly built empty cars with truck centers through 60 feet, 6 inches, the extreme projection of the bottom washout equipment must be at least 12 inches above the top of rail on level track. On cars with truck centers greater than 60 feet, 6 inches, the minimum rail clearance must be in accordance with the graph in Appendix E of the AAR Specifications for Tank Cars.

* * * * *

(3) If washout nozzle extends 6 inches or more from shell of tank, a "V" groove must be cut (not cast) in the upper part of the nozzle at a point immediately below the lowest part of inside closure seat or plug to a depth that will leave wall thickness of nozzle at the root of the "V" not over one-fourth inch. Where nozzle is not a single piece, provision must be made for the equivalent of the breakage groove. The nozzle must be of a thickness to insure that accidental breakage will occur at or below the "V" groove or its equivalent. On cars without continuous center sills, the breakage groove or its equivalent must not be more than 15 inches below the tank shell. On cars with continuous center sills the breakage groove or its equivalent must be above the bottom of the center sill construction.

(4) The closure plug and seat must be readily accessible or removable for repairs, including grinding.

(5) The closure of the washout nozzle must be equipped with a ¾-inch solid screw plug. Plug must be attached by at least a ¼-inch chain.

(6) Joints between closures and their seats may be gasketed with suitable material.

§ 179.200–19 Reinforcements, when used, and appurtenances not otherwise specified.

* * * * *

(b) Reinforcing pads must be used between external brackets and shells if the attachment welds exceed 6 lineal inches of ¼-inch fillet or equivalent weld per bracket or bracket leg. When reinforcing pads are used, they must not be less than one-fourth inch in thickness, have each corner rounded to a 1-inch minimum radius, and be attached to the tank by continuous fillet welds except for venting provisions. The ultimate shear strength of the bracket to reinforcing pad weld must not exceed 85 percent of the ultimate shear strength of the reinforcing pad to tank weld.

§ 179.200–24 Stamping.

* * * * *

(b) On Class DOT–111 tank cars, the last numeral of the specification number may be omitted from the stamping; for example, DOT–111A100W.

(M) In § 179.201–1 paragraph (a), the entire table would be amended; in § 179.201–2 paragraph (a), the sentence preceding the table would be amended; in § 179.201–3, paragraphs (a), (b), and (c) would be amended; (d), (e), (f), and (g) would be added; § 179.201–4 would be amended; §§ 179.201–5 and 179.201–6 would be amended; in § 179.201–7, paragraph (a) would be amended; § 179.201–9 would be amended to read as follows:

§ 179.201 Individual specification requirements applicable to nonpressure tank car tanks.

§ 179.201–1 Individual specifications requirements.

(a) * * *

DOT specifications	103A–ALW	103AW	103ALW	103ANW	103BW	103CW	103DW	103EW
Material (see 179.200–7)	Al alloy	Steel	Al alloy	Nickel	Steel	Alloy steel	Alloy steel	Alloy steel.
Insulation (see 179.200–4)	Optional	Optional	Optional	Optional	Optional	Optional	Optional	Optional.
Bursting pressure p.s.i. (See 179.200–5)	240	240	240	240	240	240	240	240.
Minimum Plate thickness inches								
Shell (see 179.200–6)	½	179.201–2	½	179.201–2	179.201–2	179.201–2	179.201–2	179.201–2.
Heads (see 179.200–6) and 179.200–8)	½	179.201–2	½	179.201–2	179.201–2	179–201.2	179–201.2	179.201–2.
Dome	Required	Required	Required	Required	Required	Required	Required	Required.
Minimum expansion capacity (see 179.200–14)	1 percent in dome.	1 percent in dome.	2 percent in dome.	1 percent in dome.	1 percent in dome.	1 percent in dome.	2 percent in dome.	1 percent in dome.
Test pressure p.s.i. (see 179.200–22)	60	60	60	60	60	60	60	60.
Safety relief devices (see 179.200–18)	Valve or vent	179.201–7	Valve or vent	179.201–7	Vent	Valve	Valve or vent	Valve or vent.
Valve start-to-discharge pressure p.s.i. (±3 p.s.i.).	35	35	35	35		35	35	35.
Valve vapor tight pressure (minimum p.s.i.)	28	28	28	28		28	28	28.
Valve flow rating pressure (maximum p.s.i.)	45	45	45	45		45	45	45.
Vent bursting pressure (maximum p.s.i.)	45	45	45	45	45		45	45.
Gaging devices (see 179.200–16)	Optional	Optional	Optional	Optional	Optional	Optional	Optional	Optional.
Top loading and unloading devices (see 179.200–16).	Required (valves optional).	Required (valves optional).	Optional	Required (valves optional).	Required (valves optional).	Required (valves optional).	Optional	Required (valves optional).
Bottom outlet (see 179.200–17(a))	Prohibited	Prohibited	Optional	Prohibited	Prohibited	Prohibited	Optional	Prohibited.
Bottom washout (see 179.200–17(b))	Optional	Optional	Optional	Optional	Prohibited	Prohibited	Optional	Optional.
Closure for manway (see 179–200–15)			179.201–6(a)	179.201–6(d)	179.201–6(b)	179.201–6(e)	179.201–6(a) 179.201–6(c).	179.201–6(c).
Postweld heat treatment (HT) (see 179.200–11)	Prohibited	HT	Prohibited	Not required	HT	HT 179.201–5	HT 179.201–5	HT 179.201–5.
Special references	179.202–10	179.202–7	179.202–1	179.202–8	179.201–3	179.201–4	179.201–4	179.201–4.
	179.202–15	179.202–8	179.202–21	179.202–11	179.202–9	179.202–14	179.202–1	179.202–11.
	179.202–21	179.202–11		179.202–17		179.202–19		179.202–15.
		179.202–12				179.202–21		
		179.202–13						
		179.202–16						
		179.202–17						

DOT specifications	103W	104W	111A60ALW1	111A60ALW2	111A60W1 [1]	111A60W2	111A60W5	111A60W7
Material (see 179.200-7)	Steel	Steel	Al alloy	Al alloy	Steel	Steel	Steel	Alloy steel.
Insulation (see 179.200-4)	Optional	Required	Optional	Optional	Optional	Optional	Optional	Optional.
Bursting pressure p.s.i. (see 179.200-5)	240	240	240	240	240	240	240	240.
Minimum plate thickness inches:								
Shell (see 179.200-6)	179.201-2	179.201-2	½	½	7/16	7/16	7/16	7/16.
Heads (see 179.200-6 and 179.200-8)	179.201-2	179.201-2	½	½	7/16	7/16	7/16	7/16.
Dome	Required	Required	None	None	None	None	None	None.
Minimum expansion capacity (see 179.200-14)	2 percent in dome.	2 percent in dome.	2 percent in tank.	1 percent in tank.	2 percent in tank.	1 percent in tank.	1 percent in tank.	1 percent in tank.
Test pressure p.s.i. (see 179.200-22)	60	60	60	60	60	60	60	60.
Safety relief devices (see 179.200-18)	Valve or vent.	Valve or vent.	Valve or vent.	Valve or vent.	Valve or vent.	179.201-7	Vent	Valve or vent.
Valve start-to-discharge presssure p.s.i. (±3 p.s.i.)	35	35	35	35	35	35		35.
Valve vapor tight pressure (minimum p.s.i.)	28	28	28	28	28	28		28.
Valve flow rating pressure (maximum p.s.i.)	45	45	45	45	45	45		45.
Vent bursting pressure (maximum p.s.i.)	45	45	45	45	45	45	45	45.
Gaging devices (see 179.200-16)	Optional	Optional	Required	Required	Required	Required	Required	Optional.
Top loading and unloading devices (see 179.200-16).	Optional	Optional	Optional	Required (valves optional).	Optional	Required (valves optional).	Required (valves optional).	Required (valves optional.)
Bottom outlet (see 179.200-17(a))	Optional	Optional	Optional	Prohibited	Optional	Prohibited	Prohibited	Prohibited.
Bottom washout (see 179.200-17(b))	Optional	Optional	Optional	Optional	Optional	Optional	Prohibited	Prohibited.
Closure for manway (see 179.200-15)	179.201-6(a)	179.201-6(a)	179.201-6(a)		179.201-6(a)		179.201-6(b)	179.201-6(c).
Postweld heat treatment (HT) (see 179.200-11)	HT	HT	Prohibited	Prohibited	HT	HT	HT	HT 179.201-5.
Special references	179.202-1	179.202-1	179.202-1	179.202-15	179.202-2		179.201-3	179.201-4.
	179.202-2			179.202-21	179.202-3			179.202-21.
	179.202-3				179.202-5			
	179.202-4				179.202-6			
	179.202-5							
	179.202-6							
	179.202-19							

DOT specifications	111A100ALW1	111A100ALW2	111A100W1 [1]	111A100W2 [1]	111A100W3	111A100W4	111A100W5	111A100W6	111A60F1, [1] 111A100F1, [1] 111A100F2, [1]
Material (see 179.200-7)	Al alloy	Al alloy	Steel	Steel	Steel	Steel	Steel	Alloy steel	
Insulation (see 179.200-4)	Optional	Optional	Optional	Optional	Required	Required (179.201-11).	Optional	Optional	
Bursting pressure p.s.i. (see 179.200-5).	500	500	500	500	500	500	500	500	
Minimum plate thickness inches:									
Shell (see 179.200-6)	5/16	5/16	7/16	7/16	7/16	7/16	7/16	7/16	
Heads (see 179.200-6 and 179.200-8).	5/16	5/16	7/16	7/16	7/16	7/16	7/16	7/16	
Dome	None	None	None	None	None	None	None	None	
Minimum expansion capacity (see 179.200-14).	2 percent in tank.	1 percent in tank.	2 percent in tank.	1 percent in tank.	2 percent in tank.	173.314(c)	1 percent in tank.	2 percent in tank.	
Test pressure p.s.i. (see 179.200-22).	100	100	100	100	100	100	100	100	
Safety relief devices (see 179.200-18).	Valve or vent.	Valve or vent.	Valve or vent.	179.201-7	Valve or vent.	Valve	Vent	Valve or vent.	
Valve start-to-discharge pressure p.s.i. (±3 p.s.i.)	75	75	75	75	75	75		75	
Valve vapor tight pressure (minimum p.s.i.).	60	60	60	60	60	60		60	
Valve flow rating pressure (maximum p.s.i.).	85	85	85	85	85	85		85	
Vent bursting pressure (maximum p.s.i.).	75	75	75	75	75		75	75	
Gaging devices (see 179.200-16).	Required	Required	Required	Required	Required	Required (179.201-9).	Required	Required	
Top loading and unloading devices (see 179.200-16).	Optional	Required (valves optional).	Optional	Required (valves optional).	Optional (if used, valves required).	Required (valves required).	Required (valves optional).	Optional (if used, valves required).	
Bottom outlet (see 179.200-17(a)).	Optional	Prohibited	Optional	Prohibited	Optional	Prohibited	Prohibited	Optional	
Bottom washout (see 179.200-17(b)).	Optional	Optional	Optional	Optional	Optional	Prohibited	Prohibited	Optional	
Closure for manway (see 179.200-15).	179.201-6(a)		179.201-6(a)		179.201-6(a)	179.201-6(a)	179.201-6(b)	179.201-6(a), 179.201-6(c).	
Postweld heat treatment (HT) (see 179.200-11).	Prohibited	Prohibited	HT	HT	HT	HT	HT	HT 179.201-5.	
Special references		179.202-21	179.202-1	179.202-7	179.202-1	179.201-8	179.201-3	179.201-4	
			179.202-2	179.202-8		179.201-10	179.202-9	179.202-1	
			179.202-5	179.202-11		179.202-1		179.202-14	
			179.202-6	179.202-12		179.202-18			
				179.202-13					
				179.202-16					
				179.202-17					
				179.202-20					
				179.202-22					

[1] Tanks converted to DOT-111A series from existing forge-welded specification. DOT-105A300, 400, or 500 tanks, by modification using conversion details complying with DOT-111A specification requirements, shall be stenciled by substituting the letter "F" for the letter "W" in the specification designation.

§ 179.201–2 Minimum plate thickness.

(a) The minimum plate thickness after forming must be as follows:

* * * * *

§ 179.201–3 Lined tanks.

(a) Rubber-lined tanks:

(1) Each tank or each compartment thereof must be lined with acid-resistant rubber or other approved rubber compound vulcanized or bonded directly to the metal tank, to provide a nonporous laminated lining, at least 5/32-inch thick, except overall rivets and seams formed by riveted attachments the lining must be double thickness. The rubber lining must overlap at least 1½ inches at all edges which must be straight and be beveled to an angle of approximately 45°, or butted edges of lining must be sealed with a 3-inch minimum strip of lining having 45° beveled edges.

(2) As an alternate method, the lining may be joined with a skived butt seam then capped with a separate strip of lining 3 inches wide having 45° beveled edges. An additional rubber reinforcing pad at least 4½ feet square and at least ½-inch thick must be applied by vulcanizing to the lining on bottom of tank

directly under the manway opening. The edges of the rubber pad must be beveled to an angle of approximately 45°. An opening in this pad for sump is permitted. No lining must be under tension when applied except due to conformtaion over rivet heads. Interior of tank must be free from scale, oxidation, moisture, and all foreign matter during the lining operation.

(3) Other approved lining materials may be used provided the material is resistant to the corrosive or solvent action of the lading in the liquid or gas phase and is suitable for the service temperatures.

(b) Before a tank car tank is lined with rubber, or other rubber compound, a report certifying that the tank and its equipment have been brought into compliance with specification DOT–103B, 103W, 111A60W5 or 111A100W5 must be furnished by car owner to the party who is to apply the lining. A copy of this report in approved form, certifying that tank has been lined in compliance with all requirements of one of the above specifications, must be furnished by party lining tank to car owner. Reports of the latest lining application must be retained by the car owner until the next relining has been accomplished and recorded.

(c) All rivet heads on inside of tank must be buttonhead, or similar shape, and of uniform size. The under surface of heads must be driven tight against the plate. All plates, castings and rivet heads on the inside of the tank must be calked. All projecting edges of plates, castings and rivet heads on the inside of the tank must be rounded and free from fins and other irregular projections. Castings must be free from porosity.

(d) All surfaces of attachments or fittings and their closures exposed to the lading must be covered with at least ⅛-inch acid-resistant material. Attachments made of metal not affected by the lading need not be covered with rubber or other acid resistant material.

(e) Hard rubber or polyvinyl chloride may be used for pressure retaining parts of safety vents provided the material is resistant to the corrosive or solvent action of the lading in the liquid or gas phase and is suitable for the service temperatures.

(f) Polyvinyl chloride lined tanks. Tank car tanks or each compartment thereof may be lined with elastomeric polyvinyl chloride having a minimum lining thickness of three-thirty-seconds of an inch.

(g) Polyurethane lined tanks. Tank car tanks or each compartment thereof may be lined with elastomeric polyurethane having a minimum lining thickness of one-sixteenth of an inch.

§ 179.201–4 Material.

All fittings, tubes and castings and all projections and their closures, except for protective housing, must also meet the requirements specified in AAR Specifications for Tank Cars, Appendix M, M3.03(b) and M4.05(d).

§ 179.201–5 Postweld heat treatment and corrosion resistance.

(a) Tanks and attachments welded directly thereto must be postweld heat treated as a unit at the proper temperature except as indicated below. Tanks and attachments welded directly thereto fabricated from ASTM A240–70 Type 430A, Type 304, and Type 316 materials must be postweld heat treated as a unit and must be tested to demonstrate that they possess the corrosion resistance specified in AAR Specifications for Tank Cars, Appendix M, M3.03(b). Tanks and attachments welded directly thereto, fabricated from ASTM A240–70 Type 304L or Type 316L materials are not required to be postweld heat treated.

(b) Tanks and attachments welded directly thereto, fabricated from ASTM A240–70 Type 304L and Type 316L materials must be tested to demonstrate that they possess the corrosion resistance specified in AAR Specifications for Tank Cars, Appendix M, M3.03(b).

§ 179.201–6 Manways and manway closures.

(a) The manway cover for specification DOT 103ALW, 103DW, 103W, 104W, 111A60ALW1, 111A60W1, 111A100ALW1, 111A100W1, 111A100W3, or 111A100W6 must be designed to make it impossible to remove the cover while the interior of the tank is subjected to pressure.

(b) The manway cover for specification DOT 103BW, 111A60W5, or 111A100W5 must be made of a suitable metal. The top, bottom and edge of manway cover must be acid resistant material covered as prescribed in § 179.201–3. Through bolt holes must be lined with acid resistant material at least ⅛-inch in thickness. Cover made of metal not affected by the lading need not be acid resistant material covered.

(c) The manway ring and cover for specification DOT–103CW, 103DW, 103EW, 111A60W7 or 111A100W6 must be made of the metal specified in AAR Specifications for Tank Cars, Appendix M, M3.03(b).

(d) The manway ring for DOT 103ANW must be made of cast, forged or fabricated nickel and be a good weldable quality in conjunction with the metal of the dome. Manway cover must be made of nickel.

§ 179.201–7 Safety relief devices.

(a) Each tank or compartment must be equipped with a safety vent unless characteristics of the lading require a safety relief valve. These devices must comply with § 179.200–18.

* * * * *

§ 179.201–9 Gaging device.

A gaging device of an approved design must be applied to permit determining the liquid level of the lading. The gaging device must be made of materials not subject to rapid deterioration by the lading. When the interior pipe of the gaging device provides a means for passage of the lading from the interior to the exterior of the tank, it must be equipped with an excess flow valve of an approved design. The gaging device must be provided with a protective housing.

(N) In §§ 179.202–1, 179.202–2, and 179.202–3, paragraph (a) would be amended; in § 179.202–4, paragraph (a) would be amended by deleting "Specification 103–W" at the beginning of the paragraph: in §§ 179.202–5, 179.202–6, 179.202–7, and 179.202–8, paragraph (a) would be amended; in § 179.202–9, the Heading and paragraph (a) would be amended, paragraph (b) would be added; in § 179.202–10, paragraph (a) would be amended; § 179.202–11 would be amended; in § 179.202–12, paragraph (a) would be amended, paragraph (b) would be added; in § 179.202–13, paragraph (a) would be amended; in § 179.202–14, paragraphs (a) and (b) would be amended, paragraph (c) would be canceled; in §§ 179.202–15, 179.202–16, 179.202–17, 179.202–18, and 179.202–19, paragraph (a) would be amended; §§ 179.202–20, 179.202–21, and 179.202–22 would be added to read as follows:

§ 179.202 Special commodity requirements for non-pressure tank car tanks.

* * * * *

§ 179.202–1 Flammable liquids not specifically provided for.

Tank cars used to transport flammable liquids not specifically provided for must have manway closures so designed that pressure will be released automatically by starting the operation of removing the manway cover. Openings in tank heads to facilitate application of lining are authorized and must be closed in an approved manner. Specifications ARA–III, ARA–IV and ICC–103, DOT–103W, 103ALW, 104, 104W, 111A60ALW1 or 111A100W3, used to transport flammable liquids not specifically provided for, having a vapor pressure exceeding 27 pounds per square inch absolute at 100° F. but not exceeding 40 p.s.i.a. at 100° F., must have their manway closures equipped with approved safeguards making removal of closures from the manway opening practically impossible while car interior is subjected to vapor pressure of lading. These cars must be stenciled on each side of dome in line with the ladders, and in a color contrasting to the color of the dome with the identification mark as prescribed in AAR Specifications for Tank Cars, Appendix C.

§ 179.202–2 Dimethyl dichlorosilane, ethyl dichlorosilane, ethyl trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, vinyl trichlorosilane, methyl dichlorosilane and trichlorosilane.

Tank cars used to transport dimethyl dichlorosilane, ethyl dichlorosilane, ethyl trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, vinyl trichlorosilane, methyl dichlorosilane, and Trichlorosilane, must be equipped with bottom discharge outlet.

§ 179.202–3 Amyl mercaptan, Butyl mercaptan, Ethyl mercaptan, Isopropyl mercaptan, Propyl mercaptan, and Aliphatic mercaptan mixtures.

Tank cars used to transport amyl mercaptan, butyl mercaptan, ethyl mercaptan, isopropyl mercaptan, propyl mercaptan, and aliphatic mercaptan mixtures must have bottom outlets effectively sealed. Bottom washout permitted.

§ 179.202–5 Phosphorus, white or yellow.

Tank cars used to transport phosphorus, white or yellow, must be equipped with approved dome fittings, external heater systems and with insulation at least 4 inches in thickness, except that thickness of insulation may be reduced to 2 inches over external heater coils. Bottom washout nozzle of approved design may be applied. Bottom outlet for discharge of lading prohibited.

§ 179.202–6 Cumene hydroperoxide, Diisopropylbenzene hydroperoxide and Paramenthane hydroperoxide.

Tank cars used to transport cumene hydroperoxide of strength not exceeding 90 percent in a nonvolatile solvent. Paramenthane hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent and diisopropylbenzene hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent, must have bottom outlets effectively sealed from the inside.

§ 179.202–7 Titanium tetrachloride, anhydrous.

Tank cars used to transport titanium tetrachloride, anhydrous, must be equipped with safety relief valves. Safety vents not permitted.

§ 179.202–8 Chloracetyl chloride.

Tank cars used to transport chloracetyl chloride must have a nickel cladding of 1/16-inch minimum thickness. Nickel cladding in tanks must have a minimum nickel content of at least 99 percent pure nickel. Specification DOT–103ANW tank cars used to transport chloracetyl chloride must be of solid nickel at least 99 percent pure and all cast metal parts of the tank in contact with the lading must have a minimum nickel content of 96.7 percent.

§ 179.202–9 Hydrochloric (muriatic) acid, hydrochloric (muriatic) acid mixtures, hydrochloric (muriatic) acid solution, inhibited; sodium chlorite solution (not exceeding 42 percent sodium chlorite), and cleaning compounds, liquid, containing hydrochloric (muriatic) acid.

(a) For acids not over 38 percent strength by weight, except hydrochloric (muriatic) acid of not over 22° Baume strength, tank cars may be equipped with safety vent of approved design having a frangible disc with 1/8-inch breather hole in the center, or a safety vent of approved design using carbon discs permitting continuous venting.

(b) Sodium chlorite solution: Specification DOT–103CW tank cars having tanks of Type 304L stainless steel authorized for sodium chlorite solution not exceed 42 percent sodium chlorite only.

§ 179.202–10 Hydrogen peroxide solution in water exceeding 52 percent by weight.

Tank cars used to transport hydrogen peroxide solution in water exceeding 52 percent by weight, must be equipped with a venting arrangement approved by the Bureau of Explosives.

§ 179.202–11 Phosphorus oxybromide, phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.

Specification DOT–103ANW tank cars used to transport phosphorus oxybromide, phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride must be solid nickel at least 99 percent pure and all cast metal parts of the tank in contact with the lading have a minimum nickel content of approximately 96.7 percent. Specification DOT–103A tank cars used to transport phosphorus trichloride must be lead-lined steel, or made of steel at least 10 percent nickel clad. Specification DOT–103AW, 111A100F2, or 111A100W2 tank cars used to transport phosphorus trichloride must be lead-lined steel or made of steel with a minimum thickness of nickel cladding of one-sixteenth inch. Nickel cladding in tanks must have a minimum nickel content of at least 99 percent pure nickel. Specification DOT–103EW tank cars used to transport phosphorus trichloride and thiophosphoryl chloride must have tanks fabricated from Type 316 stainless steel. Unlined specification DOT–103A, 103AW, 111A100F2, or 111A100W2 tank cars authorized for phosphorus trichloride only.

§ 179.202–12 Sulfuric acid of concentrations 65.25 percent (approximately 1.559 specific gravity) (52° Baume) or greater.

(a) Specification DOT–103A, 103AW, 111A100F2, or 111A100W2 tank cars used for this service may be equipped with safety vent of approved design having a frangible disc with 1/8-inch breather hole in the center.

(b) Specification DOT–103A, 103AW, 111A100F2, or 111A100W2 tank cars used in oleum and other fuming acids must be equipped with safety vent of approved design. Breather hole in frangible disc prohibited. Safety valve prohibited.

§ 179.202–13 Sulfur trioxide, stabilized.

Tank cars used to transport sulfur trioxide stabilized must be equipped with safety relief valves of approved design. Tanks equipped with interior heating coils not permitted.

§ 179.202–14 Anhydrous hydrazine and hydrazine solutions containing 50 percent or less of water.

(a) Tank cars used to transport anhydrous hydrazine or hydrazine solutions containing 50 percent or less water, must have tanks fabricated of Type 304L stainless steel with molybdenum content not exceeding one-half of 1 percent. Specification DOT–111A100W6 tanks must not be equipped with bottom outlet.

(b) Safety relief valves for specifications DOT–103A–ALW and 103CW tank cars used to transport anhydrous hydrazine may have a start-to-discharge pressure of 45 p.s.i. with a tolerance of plus or minus 3 p.s.i. and a vapor tight pressure of 36 p.s.i. Refer to AAR Specifications for .Tank Cars Appendix A, A8.05.

(c) [Canceled]

§ 179.202–15 Formic acid and Formic acid solutions.

Tank cars used to transport formic acid and formic acid solutions must be stenciled "Formic Acid Only". Specification DOT–103EW tank car tanks must be fabricated from Type 316 stainless steel.

§ 179.202–16 Monochloroacetic acid, liquid.

Tank cars used to transport monochloroacetic acid, liquid, must have tanks nickel clad at least 20 percent.

§ 179.202–17 Benzyl chloride.

Tank cars used to transport benzyl chloride, stabilized, must be 10 percent nickel clad. Specification DOT–103ANW tank cars used to transport benzyl chloride must have all cast metal parts in contact with the lading made from metal having a minimum nickel content of 96.7 percent.

§ 179.202–18 Ethylene oxide.

Specifications ARA–IVA and DOT–111A100W4 tank cars used to transport ethylene oxide may have openings in the heads to facilitate nickel lining provided openings are closed in an approved manner. No copper or copper bearing alloys must be used in any part of the tank or appurtenances if such part is normally in contact with ethylene oxide liquid or vapor. Tank jacket must be stenciled on both sides in letters not less than 1½ inches high "Ethylene Oxide Only".

§ 179.202–19 Dimethylhydrazine, unsymmetrical.

Tank cars used to transport dimethylhydrazine, unsymmetrical, must be equipped with steel safety valves of approved design. Specification DOT–103W tank cars must not be equipped with bottom outlets.

§ 179.202–20 Hydrofluoric acid.

Breather hole in frangible disc prohibited.

§ 179.202–21 Nitric acid.

(a) Tank cars used to transport nitric acid must comply with the following requirements.

(1) Bottom washout or bottom outlet is prohibited unless effectively sealed with an approved arrangement to prevent use during loading and unloading of acid.

(2) Safety vent is prohibited.

§ 179.202–22 Mixed acid (nitric and sulfuric acid) (nitrating acid).

Specifications DOT–103A, 103AW, 111A100F1, or 111A100W2 tank cars used in nitrating and other fuming acids service must be equipped with safety vent of approved design. Breather hole in frangible disc prohibited. Safety valve prohibited.

(O) In § 179.300, the heading would be amended; in § 179.300–6, the text in paragraph (a) preceding the formula and line "t" of the formula's explanation would be amended; § 179.300–7 would be amended; in § 179.300–8, paragraph (b) would be amended; in § 179.300–9, paragraphs (a) and (b) would be amended; § 179.300–10 would be amended; in § 179.300–14, paragraph (a) would be amended; in § 179.300–16, the first sentence of paragraph (a) would be amended by substituting "postweld heat treatment" for "stress relieving" in the first line; in § 179.300–17, paragraph (b) would be amended; in § 179.300–20, paragraph (b) would be amended to read as follows:

§ 179.300 General specifications applicable to multiunit tank car tanks designed to be removed from car structure for filling and emptying. (Classes DOT–103, 104, and 111.)

§ 179.300–6 Thickness of plates.

(a) For class DOT–110A tanks the wall thickness after forming of the cylindrical portion of the tank must not be less than that specified in § 179.301 nor that calculated by the following formula:

* * * * *

t=Minimum thickness of plate material in inches after forming.

* * * * *

§ 179.300–7 Materials.

(a) Carbon steel plate material used to fabricate tanks having heads fusion welded to tank shell must comply with the following specifications with the indicated minimum tensile strength and elongation in the welded condition. The maximum allowable carbon content must be 0.31 percent when the individual specification allows carbon content greater than this amount. The plates may be clad with other approved materials.

Specifications	Minimum tensile strength (p.s.i.) welded condition [1]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM A 285–69 Gr. A	45,000	29
ASTM A 285–69 Gr. B	50,000	29
ASTM A 285–69 Gr. C	55,000	29
ASTM A 515–69 Gr. 65	65,000	29
ASTM A 515–69 Gr. 70	70,000	29

[1] Maximum stresses to be used in calculations.

(b) Carbon steel plate material used to fabricate tanks with forge welded heads must comply with the following specifications:

Specifications	Minimum tensile strength (p.s.i.) welded condition [1]	Minimum elongation in 2 inches (percent) welded condition (longitudinal)
ASTM A 285–69 Gr. A	45,000	29

[1] Maximum stresses to be used in calculations.

(c) All plates must have their heat number and the name or brand of the manufacturer legibly stamped on them at the rolling mill.

§ 179.300–8 Tank heads.

(b) Class DOT–106A tanks must have forged-welded heads, formed convex to pressure. Heads for forge welding must be torispherical with an inside radius not greater than the inside diameter of the shell. They must be one piece, hot formed in one heat so as to provide a straight flange at least 4 inches long. They must have snug drive fit into the shell for forge welding. The wall thickness after forming must be sufficient to meet the test requirements of § 179.300–16 and to provide for adequate threading of openings.

§ 179.300–9 Welding.

(a) Longitudinal joints must be fusion welded. Head-to-shell joints must be forge welded on class DOT–106A tanks and fusion welded on class DOT–110A tanks. Welding procedures, welders and fabrication must be approved in accordance with AAR Specifications for Tank Cars, Appendix W.

(b) Fusion-welded joints must be in compliance with the requirements of AAR Specifications for Tank Cars, Appendix W, except that circumferential welds in tanks less than 36 inches inside diameter need not be radiotaped.

* * * * *

§ 179.300–10 Postweld heat treatment.

After welding is complete, steel tanks and all attachments welded thereto, must be postweld heat treated as a unit in compliance with the requirements of AAR Specifications for Tank Cars, Appendix W.

§ 179.300–14 Attachments not otherwise specified.

Siphon pipes and their couplings on the inside of the tank head and lugs on the outside of the tank head for attaching the valve protective housing must be fusion-welded in place prior to postweld heat treatment. All other fixtures and appurtenances, except as specifically provided for, are prohibited.

§ 179.300–17 Tests of safety relief devices.

* * * * *

(b) Frangible discs of safety vents must be tested as prescribed in AAR Specifications for Tank Cars, Appendix A, A5.03.

* * * * *

§ 179.300–20 Reports.

* * * * *

(b) For builder's Certificate of Construction, see § 179.5 (b), (c), and (d).

(P) In § 179.301 paragraph (a), the table would be amended by adding "p.s.i." after the following entries.

"Start-to-discharge, or burst maximum p.s.i."
"Vapor-tight, minimum p.s.i."

* * * * *

(Q) Section 179.302 would be amended to read as follows:

§ 179.302 Special commodity requirements for multi-unit tank car tanks.

(a) In addition to §§ 179.300 and 179.301, the following requirements are applicable:

Commodity	Safety relief device	Valve protective housing	Miscellaneous
Chlorine trifluoride	Prohibited [1]		
Chlorpicrin	Prohibited [1]	Gas tight [2]	
Hydrofluoric acid	Prohibited [1]	Gas tight [2]	
Hydrogen sulfide	Prohibited [1]		[3]
Methyl mercaptan	Prohibited [1]		
Nitrogen dioxide liquid	Prohibited [1]	Gas tight [2]	
Nitrogen peroxide liquid	Prohibited [1]	Gas tight [2]	
Nitrogen tetroxide liquid	Prohibited [1]	Gas tight [2]	
Nitrogen tetroxide-nitric oxide mixtures	Prohibited [1]	Gas tight [2]	
Nitrosyl chloride	Fusible plugs required		[4]
Phosgene	Prohibited [1]	Gas tight [2]	
Pyroforic liquid, n.o.s	Valve required		
Titanium tetrachloride (anhydrous)	Prohibited [1]		
Vinyl chloride			[3]
Vinyl methyl ether			[3]

[1] When safety relief devices are prohibited, containers may be equipped with solid steel plugs in the safety device openings.
[2] The detachable protective housing for the loading and unloading valves must withstand tank test pressure without leakage and must be approved by the Bureau of Explosives.
[3] All parts of valves and safety relief devices in contact with the lading must be of a metal or other material, suitably treated if necessary, which will not cause formation of any acetylides.
[4] Tanks for nitrosyl chloride must be nickel-clad.
[5] Valve outlets must have gas tight plugs or caps applied.

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before October 5, 1971, will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board,

both before and after the closing date for comments.

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

Issued in Washington, D.C., on August 16, 1971.

W. F. REA III,
Rear Admiral, Board Member, for the U.S. Coast Guard.

MAC E. ROGERS,
Board Member, for the Federal Railroad Administration.

[FR Doc.71-12212 Filed 8-24-71;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 71-18; Notice 1]

TIRES FOR MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, BUSES, TRAILERS, AND MOTORCYCLES

Proposed Motor Vehicle Safety Standard; Correction

In F.R. Doc. 71-11091 appearing at page 14392 in the issue of Thursday, August 5, 1971, the following changes should be made in the text of proposed Motor Vehicle Safety Standard No. 119 in § 571.21:

1. The word "minimum" appearing in the fourth line of S6.4(c) on page 14395 should read "maximum".

2. The ZIP code specified as "20591" in the seventh line of S7.3 on page 14395 should read "20590".

This notice of correction is issued under the authority of sections 102, 112, 113, 114, 119, and 201 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1401, 1402, 1403, 1407, 1421), and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on August 18, 1971.

ROBERT L. CARTER,
Acting Associate Administrator, Motor Vehicle Programs.

[FR Doc.71-12444 Filed 8-24-71;8:50 am]

CIVIL AERONAUTICS BOARD

[14 CFR Part 249]

[Docket No. 23736; EDR-210]

PRESERVATION OF AIR CARRIER ACCOUNTS, RECORDS AND MEMORANDA

Optional Use of Records on Microfilm and/or Microfiche as Original Records

AUGUST 19, 1971.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Part 249 of its economic regulations (4 CFR Part 249) which would permit air carriers the option to retain data on microfilm and/or microfiche as an acceptable record in lieu of computer-prepared hard copy reports, listings, etc.

The principal features of the proposed amendment are described in the explanatory statement below and the proposed amendment is set forth in the proposed rule. The amendment is proposed under the authority of sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before September 24, 1971, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, DC upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

Explanatory statement. Part 249 of the Board's economic regulations (14 CFR Part 249) governs the preservation of records of air carriers and permits the microfilming of original documents in specific instances. When a carrier chooses to microfilm one of the original documents specified under the regulation, the microfilm copy is then accepted in lieu of the original document. Under the present Part 249, original documents consist of paper records such as printed matter, correspondence, memoranda, working sheets, tabulating equipment listings, etc.

In a letter dated March 23, 1971, the Corporate Accounting Committee (Committee) of the Airline Finance and Accounting Conference of the Air Transportation Association of America requested that the Board amend Part 249 so as to permit the optional retention of data on microfilm and/or microfiche as an acceptable record in lieu of computer-prepared hard copy reports, listings, etc. The Committee points out that some air carriers are presently using microfilm systems which are capable of rapid retrieval of information directly from magnetic tape. These systems provide the carrier with the means to preserve and store vast quantities of information within a minimum of space by eliminating the computer production of paper records. The Committee says, however, that the full operating and economic advantages from such systems cannot be realized under the Board's present record-retention provisions.

In order to alleviate this situation by updating the rules to reflect current technological improvements, the Board herewith proposes to alter the definition of "records" in Part 249 to include punched cards, computer-produced listings, microfilm, microfiche, or magnetic storage media (i.e., magnetic tapes, disks). A related proposed change would require each air carrier to accompany each nonreadable form of media with a statement clearly indicating the type of data included in the media and certifying that the information contained therein is complete and accurate. It is further proposed that the air carrier be required to maintain a capability for reading and reproducing the data in printed form from the storage media.

Proposed rule. It is proposed to amend Part 249 of the economic regulations (14 CFR Part 249) as follows:

1. Amend the definition of "Records" in § 249.2 to read:

§ 249.2 Definitions.

* * * * *

"Records" means original documents [1] constituting integral links in developing the history of, or facts regarding, financial transactions or physical operations. The term "records" embraces not only accounting records in a limited technical sense but all other evidentiary accounts of events such as memoranda, correspondence, working sheets tabulating equipment listings, punched cards, computer produced listings, microfilm, and magnetic storage media (i.e., magnetic tapes, disks). The term "records" also encompasses microfilm reproductions of original documents made as authorized herein. In addition, the term "records" includes any material coming into the possession of the air carrier through merger, consolidation, succession, transfer, or other acquisition.

* * * * *

2. Delete the definition of "Microfilms" in § 249.2, and in its place substitute the following:

The term "microfilm" includes microfiche.

3. Designate existing § 249.3 as § 249.3 (a) and add new paragraph (b) as follows:

§ 249.3 Preservation of records.

(a) * * *

(b) Each nonreadable form of media, such as punched cards, magnetic tapes and disks, shall be accompanied by a statement clearly indicating the type of data included in the media and certifying that the information contained therein is complete and accurate. Also, each air carrier shall maintain capability for reading and reproducing the data on printed form from storage media.

[FR Doc.71-12422 Filed 8-24-71;8:50 am]

[14 CFR Part 373]

[Docket No. 23739; SPDR-24]

STUDY GROUP CHARTERS

Definition of Study Group

AUGUST 20, 1971.

Notice is hereby given that the Civil Aeronautics Board has under considera-

[1] Relating to a particular segment, operating division, or entire system of the carrier's operations.

tion an amendment to Part 373 of its special regulations (14 CFR Part 373), which would liberalize the definition of "study group" therein contained.

The purpose of the proposed amendment is described in the explanatory statement below, and the proposed amendment is set forth in the proposed rule. The amendment is proposed under the authority of sections 101(3), 101(33), 204(a), 401, and 402 of the Federal Aviation Act of 1958, as amended, 72 Stat. 737, 743, 754, and 757; 49 U.S.C., 1301, 1324, 1371, and 1372.

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before September 27, 1971, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, DC, upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

Explanatory statement. Part 373 of the Board's special regulations (14 CFR Part 373) authorizes, subject to conditions, study group charters by study group charterers with the air transportation portion thereof provided by direct air carriers and foreign air carriers. "Study group" is presently defined as a charter group comprised solely of bona fide participants in a formal academic course of study abroad which is of at least 4 weeks' duration, and in which (1) the charterer is an educational institution or (2) such a study course is conducted at one or more foreign educational institutions abroad and, on or after September 1, 1971, includes a minimum of 15 hours of classroom instruction per week for the first 4 weeks of such study course.

The Board is of the tentative view that the present definition of study group is unduly restrictive, inasmuch as it requires that the requisite hours of classroom instruction be conducted in the first 4 weeks of the course. This might unnecessarily limit the freedom of the study group charterer to structure the program, with its mix of classroom instruction and travel, in a manner most beneficial to the students. Moreover, it should be considered that the first day or two of the program must usually be spent in traveling to the locale of the classroom instruction, and this problem could be aggravated in cases in which the study course is conducted at more than one foreign educational institution. Thus, we are of the tentative view that an amendment to permit the 4 weeks of classroom instruction to be scheduled anytime during the study course would provide the study group charterers with increased flexibility, without altering the concept of the study group charter.

Proposed rule. It is proposed to amend Part 373 of the Special Regulations (14 CFR Part 373), as follows:

Amend the definition of "study group" in § 373.2 to read as follows:

§ 373.2 Definitions.

* * * * *

"Study group" means a charter group comprised solely of bona fide participants in a formal academic course of study abroad which is of at least 4 weeks' duration, and in which (1) the charterer is an educational institution or (2) such a study course is conducted at one or more foreign educational institutions abroad and, on or after September 1, 1971, includes a minimum of 15 hours of classroom instruction per week for 4 weeks of such study course: *Provided, however,* That nothing contained herein shall preclude a study group charterer from utilizing any unused space on an aircraft chartered by it pursuant to this part for the transportation, on a free or reduced-rate basis, of such charterer's employees, directors, and officers, and the parents and immediate families of such persons, subject to the provisions of Part 223 of this chapter.

[FR Doc.71-12421 Filed 8-24-71;8:50 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 222]

[Reg. Y]

BANK HOLDING COMPANIES

Interests in Nonbanking Activities

On May 27, 1971, the Board of Governors announced the initial implementation of its regulatory authority under section 4(c)(8) of the Bank Holding Company Act to permit holding companies to engage directly or through a subsidiary in activities that are "so closely related to banking or managing or controlling banks as to be a proper incident thereto" (36 F.R. 10777).

One of the activities the Board determined to be closely related to banking is "acting as investment or financial adviser, including (i) serving as the advisory company for a mortgage or a real estate investment trust and (ii) furnishing economic or financial information". In announcing that determination the Board indicated that acting as investment adviser to an open-end investment company is not regarded by the Board as within the description of this activity. The Board stated that it was considering whether to propose expanding such activity to include acting in that capacity.

The Board has considered such action in the light of the U.S. Supreme Court's decision in "Investment Company Institute v. Camp" (401 U.S. 617). It has concluded that such decision does not affect the Board's authority to permit holding companies to provide advisory services to open-end or closed-end investment companies.

Accordingly, the Board proposes to amend § 222.4(a) of Regulation Y to permit bank holding companies, subject to the procedures of § 222.4(b), to serve as an investment adviser to an investment company. The text of the proposed amendment reads as follows:

§ 222.4 Nonbanking activities.

(a) *Activities closely related to banking or managing or controlling banks.* * * * The following activities have been determined by the Board to be so closely related to banking or managing or controlling banks as to be a proper incident thereto:

* * * * *

(5) Acting as investment or financial adviser, including (i) serving as the advisory company for a mortgage or a real estate investment trust; (ii) serving as investment adviser to an investment company registered under the Investment Company Act of 1940; and (iii) furinterested persons are also given opportion.

* * * * *

To aid in the consideration by the Board of this matter, interested persons are invited to submit relevant data, views, or arguments. In accordance with the provisions of section 4(c)(8) of the Act, interested persons are also given opportunity to request a hearing on this matter. Any comments or requests for hearing should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 24, 1971. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

By order of the Board of Governors, August 12, 1971.

[SEAL] ELIZABETH L. CARMICHAEL,
Assistant Secretary.

[FR Doc.71-12377 Filed 8-24-71;8:46 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release 34-9288]

MINIMUM NET CAPITAL REQUIREMENTS FOR BROKER-DEALERS

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to amend its Rule 15c3-1 (17 CFR 240.15c3-1) under the Securities Exchange Act of 1934 (Exchange Act). This rule now provides that brokers or dealers engaged in the general securities business have a net capital ratio of 20 to 1 and maintain a minimum net capital of $5,000. The proposed amendments which would be adopted under the provisions of the Exchange Act and particularly sections 15c(3) and 23(a) thereof would impose an initial net

capital ratio of 8 to 1 on all brokers and dealers for the first 12 months of their existence and an increased capital requirement of $25,000 except for those whose businesses are limited as specified in clauses (A), (B), and (C) of paragraphs (a)(2).

The hardships as well as financial losses faced in recent years by customers respecting their securities and cash in the possession of brokers or dealers who became insolvent have highlighted the inadequacy of the present capital requirements of brokers and dealers. It is accordingly imperative that increased net capital requirements be applied to brokers and dealers so that as going businesses they can meet all of their current obligations to transmit funds and securities to customers. In this connection, the Commission has recently cooperated with the New York Stock Exchange in its revision of the Exchange's net capital rule. One of the changes achieved thereby was to increase minimum net capital requirements to $100,000 for member firms which carry customer accounts.

Rule 15c3–1 (17 CFR 240.15c3–1) provides that brokers or dealers, with certain exceptions, must have and maintain a net capital of not less than $5,000. This minimum amount was established by an amendment to the rule which became effective on December 1, 1965.[1] Prior to that date no minimum was required. The $5,000 minimum was imposed in part because of the findings of the special study [2] that a significant proportion of firms with low capital have a tendency to incur net capital difficulties under the Commission's ratio rule and to become subject to revocation proceedings. The recent Committee Staff Study for a Special Subcommittee of the House Committee on Interstate and Foreign Commerce noted the following:

> Our review of broker-dealers recently involved in liquidation proceedings or adjudged bankrupt, disclosed that many of these firms were relatively newly organized firms and had small initial capitalization ranging from the minimum of $5,000 to as much as $250,000. The small capitalization tended to produce a rapid and a relatively serious deterioration in financial stability during the period of market decline in 1969 and 1970.[3]

[1] See Securities Exchange Act Release No. 7611 (May 26, 1965) and the FEDERAL REGISTER of June 2, 1965, 30 F.R. 7276.

[2] See Report of Special Study of Securities Markets, Pt. I, pp. 83–93, 152–153, and 160–162.

[3] Review of SEC Records of the Demise of Selected Broker-Dealers, Staff Study for the Special Subcommittee on Investigations of the Committee on Interstate and Foreign Commerce, House of Representatives, 92d Congress, first sess., pp. 26–27 (July 1971).

This study also suggested that attention be directed to the need for increasing the minimum net capital provisions of brokers and dealers "particularly those just entering the securities industry." [4] The Commission concurs with this conclusion and is proposing an amendment to paragraph (a) of 15c3–1 (17 CFR 240.15c3–1) which would require brokers and dealers to have and maintain a minimum net capital of not less than $25,000 except those brokers and dealers who are now required to have a minimum net capital of $2,500 by reason of their limited operations as specified in clauses (A), (B), and (C) of paragraph (a)(2) of Rule 15c3–1 (17 CFR 240.15c3–1). Moreover, the Commission is also proposing another amendment to paragraph (a) of the rule which would require brokers or dealers upon entry into the securities business to initially have, and to maintain for a period of 12 months thereafter, an aggregate indebtedness not in excess of 800 percent of net capital. This initial ratio requirement will help assure that new brokers or dealers will be able to meet their current obligations to transmit funds and securities to customers.

All brokers or dealers now in operation would be required to have a minimum net capital of $15,000 not later than 6 months after the effective date of the proposed amendment to the rule and $25,000 within 12 months after the amendment goes into effect. If the amendment is adopted, all brokers or dealers who commence business on or after the date of this release will be required to have the initial net capital ratio requirement of 8 to 1 and a minimum net capital of $25,000 within 30 days after the effective date of the proposed amendment.

Rule 17a–3(b) (17 CFR 240.17a–3(b)) in effect prohibits brokers or dealers who are not members of a national securities exchange from acting as clearing firms or from introducing customer accounts on a fully disclosed basis to other firms. The Commission is considering the advisability of issuing a later release respecting an amendment to permit over-the-counter brokers or dealers to introduce accounts on a fully disclosed basis and to carry customer accounts for other brokers or dealers, and to impose greater net capital requirements on the firms which carry customer accounts. All interested persons are invited to submit their views and comments on this proposal.

[4] Id. at 33.

The proposed amendments of Rule 15c3–1 (17 CFR 240.15c3–1) are indicated below.

Paragraph (a) and subparagraph (2) of paragraph (b) of § 240.15c3–1 of Chapter II of Title 17 of the Code of Federal Regulations would be amended as follows:

§ 240.15c3–1 Net capital requirements for brokers and dealers.

(a) * * *

(1) His aggregate indebtedness to all other persons shall not exceed 2,000 per centum of his net capital; except that when a person first becomes a broker or dealer on and after _____ and for 12 months after he first becomes a broker or dealer his aggregate indebtedness to all other persons on and after _____ shall not exceed 800 per centum of his net capital, and

(2) He shall have and maintain net capital of not less than $15,000 on and after _____. He shall have and maintain net capital of not less than $25,000 on and after _____:

Provided, however, That every person who becomes a broker or dealer on and after _____ shall have and maintain net capital of not less than $25,000 on and after _____; and the minimum net capital to be maintained by a broker or dealer meeting all of the following conditions shall be $2,500:

* * * * *

(b) *Exemptions.* * * *

(2) * * * This exemption shall not be available to the members of any exchange whose capital rules fail to provide for a minimum net capital of not less than that provided in subparagraphs (1) and (2) of paragraph (a) of this section.

* * * * *

All interested persons are invited to submit their views and comments on the above proposal, in writing, to the Securities and Exchange Commission, Washington, D.C. 20549 on or before September 17, 1971. All such communications will be available for public inspection.

By the Commission, August 13, 1971.

[SEAL] RONALD F. HUNT,
Acting Associate Secretary.

[FR Doc.71–12406 Filed 8–24–71;8:48 am]

Notices

SECURITIES AND EXCHANGE COMMISSION

[File No. 24SF-3705]

CEM-COTE, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

AUGUST 7, 1971.

I. Cem-Cote, Inc. (Issuer), 120 East Flamingo Road, Suite 450, Las Vegas, NV 89109, was incorporated in Nevada on August 28, 1969 to engage in the manufacturing of Cem-Cote "an entirely new product which is a surfacing coating substance which will add new beauty and longer life to wall surfaces with decorative concrete facing for exterior and interior walls."

On April 16, 1971, Issuer filed with the San Francisco Regional Office a Notification and offering circular pursuant to Regulation A for the sale of 200,000 shares of common stock at an offering price of $0.01 per share and 225,900 shares of preferred common stock at an offering price of $2 per share for a total offering of $453,800. The offering further purports to cover 40,200 unregistered shares of preferred common stock which were sold within 1 year prior to the filing of the Notification for $1 per share under a claimed exemption from registration pursuant to section 4(2) of the Securities Act of 1933, as amended.

II. The Commission, on the basis of information reported to it by its staff, has reasonable cause to believe that:

A. The offering would be made in violation of section 17 of the Securities Act of 1933 in that:

(1) The Notification and offering circular omit to state material facts necessary in order to make the statements made, in the light of circumstances under which they were made, not misleading in that:

a. Issuer fails to disclose that commissions on sales of the securities being offered would accrue to officers and directors of Issuer.

b. Issuer makes unsubstantiated claims for its product's durability, toughness, and appearance.

c. The offering circular states that G. W. Barnes, the Issuer's president, was a real estate salesman and president of G. W. Barnes Investment Co., but omits to state that during part of the period referred to G. W. Barnes' principal occupation was as a gasoline service station operator, and for a part of the period he was manager of a golf driving range.

d. Issuer omits to state advantages that could accrue to officers and directors should they purchase for the nominal cost of $2,000 the 200,000 common shares included in the offering. The per share book value of these common shares would increase substantially as a result of the offering, while the shares of preferential common stock would be offered at $2 per share with a liquidation value of $1.25, a substantial decrease benefitting the common shareholders.

e. Issuer fails to disclose that use of the name Cem-Cote for its product could give rise to an action against it for infringement of trademark (owned by another company).

(2) Issuer is and would be engaging in acts, practices, and courses of business which would operate as a fraud and deceit upon the purchasers of the securities being offered in that the adoption of the term "Cem-Cote" as part of its corporate name and as the brand name of the wall coating which it proposes to manufacture, is misleading and deceptively similar to a registered trade mark "Kem" which is widely used as a prefix to nationally advertised brands of paint manufactured and sold under such names as Kem-Tone, Kem-Glo, and other like combinations by a large paint manufacturer.

B. The terms and conditions of Regulation A have not been complied with in that:

(1) Issuer includes in its offering 40,200 preferential common shares which were sold prior to the filing of the Notification.

(2) Issuer failed to list G. W. Barnes Investment Co. as an affiliate of Issuer, as required by the Notification, Form 1-A.

(3) Issuer does not include a reasonably itemized statement of the purposes for which the net cash proceeds to the Issuer from the sale of the securities are to be used.

(4) Issuer failed to state the location and general character of its plant; and, if none, failed to state its plans for such and failed to allocate funds for such.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the Issuer under Regulation A be temporarily suspended.

It is ordered, Pursuant to Rule 261(a) of the General Rules and Regulations under the Securities Act of 1933, as amended, that the exemption of Cem-Cote, Inc. under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the Issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having an interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the 30th day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will be promptly given by the Commission.

By the Commision.

[SEAL] RONALD F. HUNT,
Acting Associate Secretary.

[FR Doc.71-12408 Filed 8-24-71;8:49 am]

[24 SF-3621]

LOV'N LEATHER, INC.

Order Permanently Suspending Exemption

AUGUST 16, 1971.

Lov'n Leather, Inc., 1169 Cushman Street, San Diego, CA, a Nevada corporation, filed with the Commission a notification and offering circular for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933 (Act) pursuant to section 3(b) thereof and regulation A thereunder, with respect to a public offering of 5,000 shares of its common stock at $1 per share.

On June 8, 1971, the Commission issued an order, pursuant to rule 261 of regulation A, temporarily suspending the exemption. The order alleged that the notification and offering circular contained untrue and misleading statements of material facts in that, among other things, they failed to disclose that four individuals who purchased the entire 5,000 shares being offered were underwriters of the offering; the States in which the offering was intended to be made; and the issuer's intent to increase the number of shares outstanding by 500 for 1 stock split. The temporary suspension order further alleged that the terms and conditions of regulation A were not complied with in that the company failed to state the method by which the shares were to be offered and its report on Form 2-A was false and misleading in stating that the offering was completed on October 21, 1970, and in misstating the offering price to the public and the proceeds accruing to the underwriters; and that the offering was made in violation of section 17(a) of the Act.

The order specified that if no hearing was requested within 30 days on the issue

whether the suspension order should be vacated or made permanent, and if none was ordered by the Commission, the temporary suspension would become permanent. The issuer filed a response containing denials of the allegations in the temporary suspension order, but thereafter, without admitting or denying those allegations, the issuer stated that it did not desire to have and it did not request a hearing, and further stated that it understood that as a result of that decision on its part the suspension will become permanent.

In view of the foregoing, it is appropriate to enter an order permanently suspending the exemption.

Accordingly, it is ordered, Pursuant to rule 261 of regulation A under the Securities Act of 1933, that the exemption from registration with respect to the offering of securities by Lov'n Leather, Inc. be, and it hereby is, permanently suspended.

For the Commission, by the Office of Opinions and Review, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Acting Associate Secretary.

[FR Doc.71-12407 Filed 8-24-71;8:48 am]

FEDERAL TRADE COMMISSION

MODERN ADVERTISING PRACTICES

Notice of Public Hearing and Opportunity to Submit Data or Views

Notice is hereby given that the Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41, et seq., will conduct open hearings designed to explore modern advertising practices and their impact on consumers, with special attention to television advertising.

The hearings will involve neither review nor evaluation of specific advertising representations or claims in terms of their possible violation of the law. Individual questions of advertising deception or misrepresentation will continue to be dealt with by complaint or rulemaking procedures. The hearings will attempt to elicit empirical information from a wide variety of authorities regarding a number of aspects of advertising. The Commission's current primary interests are the following:

Children. As a class, children have always been the subject of the special protection of law. Underlying this proposition is a recognition of the vulnerability of children to suggestion, and their immaturity of judgment. This special protection afforded for children includes protecting them as consumers or television viewers. The unique aspects of television may provide compelling reasons for arguments that special standards should be developed in the regulation of advertising addressed to children. In order to better acquaint itself with the considerations involved in developing such standards, the Commission desires to explore how children learn, perceive, and make decisions.

Advertising themes. The Commission desires to inform itself about the extent to which some advertising may appeal to such fears or anxieties as social acceptance or personal well-being.

Technical aspects. The Commission desires to inform itself about whether and how certain photographic and other techniques used in making TV and other commercials may make use of nonverbal persuasion which may not be recognized by viewers.

Physical, emtiondl and psychological responses. New methods of advertising may be causing effects in viewers different from those customarily generated by advertising. The Commission desires to learn about consumers' physical, psychological, and emotional responses to advertising.

The hearings will be for informational purposes only and will not be geared to the adoption of a rule or other form of guideline. Whether future Commission action will result from the information developed will depend on the facts obtained from the record of these hearings.

All interested persons, including the consuming public, having information based upon empirical data or other expertise, are hereby notified that they may file written data or views concerning modern advertising practices with the Director, Bureau of Consumer Protection, Federal Trade Commission, Pennsylvania Avenue and Sixth Street NW., Washington, DC 20580. To the extent practicable, persons wishing to file written presentations in excess of two pages should submit 20 copies.

All interested parties are also given notice of opportunity to present data or views orally at the public hearings to be held 10 a.m., October 20, 21, and 26, 1971, in Room 532 of the Federal Trade Commission Building, Washington, D.C.

Any person desiring to present his views orally at the hearing should so inform the Attorney-Advisor to the Chairman not later than September 15, 1971, and state the estimated time required for his oral presentation. Reasonable limitations upon the length of time alloted to any person may be imposed. In addition, all parties desiring to deliver a prepared statement at the hearing should file such statement with the Director, Bureau of Consumer Protection, on or before October 1, 1971.

NOTES: (1) Depending on the geographical location of those persons desiring to present views or data orally, the Commission will consider holding hearings in locations other than Washington, D.C. Notice of hearings scheduled for locations other than Washington, D.C., will appear in the FEDERAL REGISTER. (2) Because the duration of the hearings is contingent on the number of persons wishing to express views or data orally, the public record in this proceeding will remain open until further notice appears in the FEDERAL REGISTER.

The data or views presented at the hearings or filed for the record will be available for examination by interested parties at the Office of the Assistant Secretary for Legal and Public Records, Federal Trade Commission, Washington, D.C.

By direction of the Commission dated August 17, 1971.

[SEAL] PAUL M. TRUEBLOOD,
Acting Secretary.

[FR Doc.71-12415 Filed 8-24-71;8:49 am]

TARIFF COMMISSION

[TEA-I-22]

CERAMIC ARTICLES, INCLUDING DINNERWARE

Notice of Change in Scope of Investigation and Rescheduling of Hearing

Following receipt of communications filed by the American Dinnerware Emergency Committee and the American Fine China Guild on August 17 and 19, respectively, the U.S. Tariff Commission, on August 19, 1971, amended the scope of investigation No. TEA-I-22 under section 301(b) of the Trade Expansion Act of 1962 (36 F.R. 11617).

The investigation, as amended, is to determine whether, as a result in major part of concessions granted under trade agreements—

articles chiefly used for preparing, serving, or storing food or beverages, or food or beverage ingredients, all the foregoing of fine-grained earthenware, of fine-grained stoneware, of chinaware, or of subporcelain, and provided for in items 533.14 through 533.77 of the Tariff Schedules of the United States, inclusive, but excluding item 533.51 thereof,

are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the domestic industry or industries producing articles which are like or directly competitive with the imported articles. Notice of the investigation was published in the FEDERAL REGISTER of June 16, 1971 (36 F.R. 11617).

Public hearing rescheduled. The public hearing ordered to be held beginning September 14, 1971 (36 F.R. 14682), is rescheduled to begin at 10 a.m., e.s.t., on November 30, 1971, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, DC. Appearances at the hearing should be entered in accordance with § 201.13 of the Tariff Commission's rules of practice and procedure.

Requests to appear must contain a careful estimate of the aggregate time desired for presentation of oral testimony by all witnesses for whose appearances the request is filed.

Issued: August 20, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-12410 Filed 8-24-71;8:49 am]

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 71-218]

CUSTOMS DISTRICT OFFICES

List of Addresses

AUGUST 16, 1971.

Rule 3.4 of the rules of the U.S. Customs Court requires that with respect to each denied protest included in a summons, the address of the district director for the Customs district in which the protest was denied shall be set forth.

There is published below for information and guidance a listing of the addresses of all Customs district offices.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

ADDRESSES OF CUSTOMS DISTRICT OFFICES

440 Fifth Avenue, Suite 1, Cache Building, Anchorage, AK 99501.
103 South Gay Street, Appraiser's Stores Building, Baltimore, MD 21202.
2 India Street, U.S. Customhouse, Boston, MA 02109.
120 Middle Street, Main Post Office Building, Bridgeport, CT 06609.
121 Ellicott Street, Room 304, Federal Building, Buffalo, NY 14203.
200 East Bay Street, U.S. Customhouse, Charleston, SC 29401.
610 South Canal Street, Room 217, Chicago, IL 60607.
1240 East Ninth Street, Room 1465, Cleveland, OH 44199.
243 West Congress Street, Detroit, MI 48226.
515 West First Street, 203 Federal Building, Duluth, MN 55802.
Building B., Room 134, Cordova Bridge, Post Office Box 9516, EL PASO, TX 79985.
17 and Strand Street, U.S. Customhouse, Galveston, TX 77550.
215 First Avenue North, Room 238, Federal Building, Post Office Box 791, Great Falls, MT 59401.
850 Iwilei Road, Post Office Box 1641, Honolulu, HI 96806.
701 San Jacinto, U.S. Customhouse, Post Office Box 52790, Houston, TX 77052.
1000 Zaragoza, La Posada Motor Hotel Basement, Post Office Box 758, Laredo, TX 78040.
300 South Ferry Street, San Pedro, CA 90731.
160 Northeast Fourth Street, Wilmo Building, Room 200, Miami, FL 33132.
628 East Michigan Street, Milwaukee, WI 53202.
110 South Fourth Street, 137 U.S. Courthouse, Minneapolis, MN 55401.
Water and State Streets, Room 218, International Trade Center, Mobile, AL 36602.
423 Canal Street, Room 230, Customhouse Building, New Orleans, LA 70130.
Bowling Green, U.S. Customhouse, Room 220. New York, NY 10004.
U.S. Post Office Building, Post Office Box 670, Nogales, AZ 85621.
101 East Main Street, U.S. Customhouse, Norfolk, VA 23510.
127 North Water Street, U.S. Customhouse, Ogdensburg, NY 13669.
Post Office Building, Pembina, N. Dak. 58271.
Second and Chestnut Streets, U.S. Customhouse, Room 102, Philadelphia, PA 19106.
Fifth and Austin Avenue, Customhouse and Federal Building, Post Office Box 1029, Port Arthur, TX 77640.
312 Fore Street, U.S. Customhouse, Portland, ME 04111.
701 Northwest Glisan Street, Federal Building, Room 198, Portland, OR 97209.
24 Weybosset Street, U.S. Customhouse, Providence, RI 02903.
Main and Stebbins Streets, Post Office and Customhouse Building, Post Office Box 111, St. Albans, VT 05478.
1114 Market Street, St. Louis, MO 63101.
U.S. Customhouse, Room 205, Post Office Box 510, St. Thomas, VI 00801.
2262 Columbia Street, San Diego, CA 92101.
555 Battery Street, Post Office Box 2450, San Francisco, CA 94126.
Post Office Box 2112, San Juan, PR 00903.
1 East Bay Street, U.S. Customhouse, Savannah GA 31401.
First and Marion Streets, Room 2039, Seattle, WA 98104.
500 Zack Street, Federal Office Building, Post Office Box 30, Tampa, FL 33602.
3180 Bladensburg Road NE., Washington, DC 20018.
2800 Burnett Boulevard, Room 102, Wilmington, NC 28401.

[FR Doc.71-12395 Filed 8-24-71;8:47 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

AUGUST 16, 1971.

The Bureau of Customs, Department of the Treasury, has filed an application, serial number F-13962, for the withdrawal of the lands described herein from all forms of appropriation except the mineral leasing laws. The land is to be used jointly by the Bureau of Customs and the Immigration and Naturalization Service as the site for a border inspection station to aid in the enforcement of the customs and immigration laws. The Bureau proposes to construct upon the land an inspection station and a residence to accommodate a staff of aproximately four persons. The proposed withdrawal is subject to a 60-foot withdrawal along the Alaska-Canada border, established by Presidential proclamations of June 15, 1908 (35 Stat. 2189) and May 3, 1912 (37 Stat. 1741).

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, 555 Cordova Street, Anchorage, AK 99501.

The Department's regulation, 43 CFR 2351.4(c), provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are described as follows:

Beginning at the intersection of the Alaska-Canada international boundary with the centerline of the road between boundary, Alaska and Dawson, Yukon Territory, at approximate latitude 64°05.1' N., longitude 141°00' W.; thence 330 feet south along the international boundary to corner No. 1; thence at a right angle west 660 feet to corner No. 2; thence at a right angle north 660 feet to corner No. 3; thence at a right angle east 660 feet to corner No. 4; thence at a right angle south 330 feet along the international boundary to the point of beginning.

Containing approximately 10 acres at Poker Creek on the Boundary-Dawson Highway.

CURTIS V. MCVEE,
Acting State Director.

[FR Doc.71-12402 Filed 8-24-71;8:48 am]

Bureau of Reclamation

DESCHUTES NATIONAL FOREST, OREG.

Order of Transfer of Administrative Jurisdiction of Land at Wickiup Reservoir

By virtue of the authority vested in the Secretary of the Interior by section 7(c) of the Act of July 9, 1965 (79 Stat. 217), and his delegation of authority to the Commissioner of Reclamation dated February 25, 1966, published March 4, 1966 (31 F.R. 3426), jurisdiction over the following described lands, aggregating some 1,412.79 acres which lie within or adjacent to exterior boundaries of the Deschutes National Forest, Oreg., and which were acquired by the Bureau of Reclamation in the development of the Wickiup Reservoir, Deschutes Project, is hereby transferred to the Secretary of Agriculture for recreational and other National Forest System purposes:

WILLAMETTE MERIDIAN

T. 21 S., R. 8 E.,
Sec. 34, S½SW¼SE¼SW¼, SE¼SE¼SW¼, SW¼SW¼SE¼.
T. 22 S., R. 8 E.,
Secs. 2 and 3, all lands in H.E.S. 225;
Sec. 3, lots 3, 7, 8, W½SW¼NE¼NE¼, S½NW¼NE¼, S½NW¼NW¼, NE¼SW¼NW¼, NW¼SE¼NW¼;
Sec. 12, E½SW¼SE¼, NW¼SE¼SE¼, S½SE¼SE¼;
Sec. 13, NE¼NE¼, E½NW¼NE¼, NE¼SW¼NE¼, N½SE¼NE¼;
Sec. 25, E½E½NE¼NE¼.

T. 22 S., R. 9 E.,
Sec. 7, lot 1, NE¼, NE¼NW¼, E½E½SW¼ SW¼, SE¼SW¼, W½SE¼, W½SW¼ SE¼SE¼;
Sec. 17, S½NW¼NW¼;
Sec. 18, S½NE¼NE¼NE¼, W½NE¼NE¼, SE¼NE¼NE¼, NE¼NE¼NW¼, W½ NE¼NW¼, E½NW¼NW¼, SW¼NW¼ NW¼, NW¼SW¼NW¼;
Sec. 19, lot 7, all;
Sec. 30, lots 1, 2, 5, W½E½NW¼NE¼, W½ W½NE¼, NE¼NW¼, W½W½SE¼ NW¼, W½NW¼SE¼, W½W½SW¼ SE¼;
Sec. 31, W½SW¼NW¼NE¼, S½NE¼SW¼ NE¼, W½SW¼NE¼, SE¼SW¼NE¼, SE¼NW¼, NE¼SW¼, E½SE¼SW¼, W½NW¼NE¼SE¼, W½SE¼.

The lands above described aggregate 1,412.79 acres, more or less.

Pursuant to said section 7(c) of the aforesaid Act of July 9, 1965, the above lands shall become National Forest lands provided that all lands and waters within the Wickiup Reservoir area needed or used for the operation of the project or for other Reclamation purposes shall continue to be administered by the Commissioner of Reclamation to the extent he determines to be necessary for such operation.

This order shall be effective upon publication in the FEDERAL REGISTER (8–25–71).

Dated: August 17, 1971.

W. H. KEATING,
Acting Commissioner of Reclamation.

[FR Doc.71–12365 Filed 8–24–71;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 23(71)–15]

SEUROLEC S.A. AND ALBERT ROLLAND

Order Temporarily Denying Export Privileges

In the matter of Seurolec S.A. (Societe Europeene Electronique S.A.), and Albert Rolland, 39–41 rue de l'Est, 92 Boulogne-sur-Seine, France, and 41 East 42d Street, New York, NY 10017, respondents; File No. 23(71)–15.

The Director, Investigations Division, Office of Export Control, Bureau of International Commerce, pursuant to § 388.11 of the Export Control Regulations, has applied to the Compliance Commissioner for an order against the above respondents temporarily denying all U.S. export privileges. The Compliance Commissioner has reviewed the application and the evidence presented in support thereof and has submitted his report, together with a recommendation that the application be granted and that a temporary denial order be issued for 90 days.

On the evidence presented there is reasonable basis to believe the following: The respondent Seurolec S.A., whose full name is Societe Europeene Electronique S.A., is a dealer and distributor of electric measuring instruments and testing equipment and also of electronic accessories and components; the company has a place of business in Boulogne-sur-Seine near Paris, France; the respondent, Albert Rolland, is president of the company and is its chief executive officer; the said Rolland participated in the transactions hereinafter described on behalf of Seurolec; in July 1970 Rolland ordered U.S.-origin strategic equipment from the French distributor of a U.S. manufacturer; in order to effect the exportation Rolland represented to the U.S. Government that the equipment was for Seurolec's own use in its manufacturing activities; the equipment was exported to Seurolec in France and on its arrival Rolland turned the equipment over to one Roland Hagn. There is also reason to believe that Rolland ordered the equipment to fill a previous order from said Hagn and at all times intended to turn the equipment over to Hagn. Further, the evidence does not show that the ultimate destination of the equipment was one that would have been authorized by the Office of Export Control. There is also reason to believe that Rolland has been purchasing equipment in the United States and exporting same without the required validated export licenses.

The investigation relating to respondents' participation in transactions involving U.S.-origin commodities is continuing. I find that it is reasonably necessary to protect the public interest pending final disposition of the investigation to issue an order against respondents denying all U.S. export privileges for a period of 90 days.

Accordingly, it is hereby ordered:

I. All outstanding validated export licenses in which respondents appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. The respondents, their assigns, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the Export Control regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control document; (d) in the carrying on of negotiations with respect to or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data in whole or in part exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. This order shall become effective forthwith and shall remain in effect for a period of 90 days unless it is hereafter extended, modified, or vacated in accordance with the provisions of the U.S. Export Control Regulations.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents, or whereby the respondents may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for any respondent, or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. A copy of this order shall be served on respondents.

VII. In accordance with the provisions of § 388.11(c) of the Export Control Regulations, the respondents may move at any time to vacate or modify this temporary denial order by filing with the Compliance Commissioner, Bureau of International Commerce, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the Compliance Commissioner, at Washington, D.C., at the earliest convenient date.

Dated: August 19, 1971.

RAUER H. MEYER,
Director, Office of Export Control.

[FR Doc.71–12411 Filed 8–24–71;8:49 am]

Office of the Secretary

[Dept. Organization Order 10–8, Amdt. 2]

ASSISTANT SECRETARY FOR MARITIME AFFAIRS

Organization and Functions

The following amendment to the order was issued by the Acting Secretary of Commerce on August 10, 1971. This material further amends the material appearing at 36 F.R. 1223 of January 26, 1971; and 36 F.R. 5921 of March 31, 1971.

Department Organization Order 10–8, effective October 21, 1970, is hereby further amended as follows:

In section 3, subparagraph .01a(5) *Delegations of Authority to the Assistant Secretary,* is amended to read:

(5) The Merchant Marine Act, 1936, as amended (46 U.S.C. 1101 et seq.), except the authority delegated to the Administrator of the National Oceanic and Atmospheric Administration relating to the establishment of capital construction fund agreements and the adoption of regulations pursuant thereto for vessels operating in the fisheries of the United States under section 607 thereof; and * * *

Effective date: August 10, 1971.

LARRY A. JOBE,
Assistant Secretary for Administration.

[FR Doc.71–12362 Filed 8–24–71;8:45 am]

[Dept. Organization Order 25–5A, Amdt. 2]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Authority and Functions

The following amendment to the order was issued by the Acting Secretary of Commerce on August 10, 1971. This material further amends the material appearing at 35 F.R. 16600 of October 24, 1970; and 36 F.R. 8065 of April 29, 1971.

Department Organization Order 25–5A, dated October 9, 1970, is hereby further amended as follows:

In section 3, *Delegation of Authority,* a new subparagraph .01s is added to read:

s. The functions in section 607 of the Merchant Marine Act, 1936, as amended by the Merchant Marine Act of 1970 (46 U.S.C. 1177), which relate to capital construction funds for those owning or leasing vessels which are operated in the fisheries of the United States, including, but not limited to, the adoption of regulations, and the preparation and signing of all necessary forms or agreements.

Effective date: August 10, 1971.

LARRY A. JOBE,
Assistant Secretary for Administration.

[FR Doc.71–12363 Filed 8–24–71;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

OFFICE OF THE DEPUTY ASSISTANT SECRETARY (MANAGEMENT PLANNING AND TECHNOLOGY)

Statement of Organization and Functions

Chapter 1–G Assistant Secretary (Planning and Evaluation), is amended to delete from 1–G .20–G Deputy Assistant Secretary (Program Systems), the function "* * * the development of systems designed to measure the Nation's progress toward its stated goal." This function is transferred to the Assistant Secretary for Administration and Management and assigned to a newly created Office of the Deputy Assistant Secretary for Management Planning and Technology.

1U06.00 *Mission.* The Office of the Deputy Assistant Secretary (Management Planning and Technology), under the general direction of the Assistant Secretary for Administration and Management serves as the Secretary's principal staff for developing and operating the overall management and control system for the Department, including the development of major performance indicators and the coordination and policy direction over the statistical and program information activities of the Department.

The functions of the office are built around the Department's Operational Planning System which insures that budgeted resources are applied in accordance with the strategy for attaining the specified short-term objectives through:

A. The communications of the Secretary's program priorities.

B. The management planning within budget resources to achieve these measurable objectives.

C. Monitoring of progress in achieving these objectives.

D. Identifying needs for corrective action and following up on these actions to insure their application.

E. Encouraging cooperation and coordination among agencies and regional offices.

F. The personal involvement by the Secretary and top managers by timely reporting and through a dialogue between agencies and the Secretary at regularly scheduled management conferences.

1U06.10 *Organization.* The Office of the Deputy Assistant Secretary (Management Planning and Technology), is organized into the following components:

A. Operational Planning Staff.

B. Management Science Staff.

C. Statistical and Program Information Staff.

1U06.20 *Functions.* A. The Operational Planning Staff provides leadership and guidance in the development and operation of a management by objective system for measuring program performance in its relationship to the goals and objectives laid down by the Secretary.

B. The Management Science Staff provides leadership and guidance in the design, development, and implementation of systems and methods for evaluating program operations. Conducts cost-benefit, cost-effectiveness, and similar studies and analyses in the application of advanced management and operations research techniques to improve work and management methods.

C. The Statistical and Program Information Staff works closely with the other Office of the Secretary components and the Agencies and provides technical guidance and policy supervision over the Department's vast statistical and program reporting systems. This includes the development plans for data collection, statistical standards, reports clearance, and the relationships between program information and other management information sources. Its efforts are directed toward the provision of timely, pertinent, and comprehensive consolidated information about the conditions of health, education, and social welfare of the country.

Dated: August 18, 1971.

RONALD BRAND,
Deputy Assistant Secretary for Management.

[FR Doc 71–12392 Filed 8–24–71;8:47 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D–71–123]

ACTING FEDERAL INSURANCE ADMINISTRATOR

Designation

The Assistant Administrator for Program Development, the Assistant Administrator for Special Programs, and the Assistant Administrator for Flood Insurance, in the order named, are hereby designated to serve as Acting Federal Insurance Administrator during the absence of the Federal Insurance Administrator, with all the powers, functions, and duties delegated or assigned to the Administrator.

This designation supersedes the delegation published at 35 F.R. 12360, effective July 22, 1970.

(Secretary's delegations of authority effective Feb. 27, 1969 (34 F.R. 2680, Feb. 27, 1969))

Effective date. This designation shall be effective as of Friday, August 13, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71–12413 Filed 8–24–71;8:49 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-293]

BOSTON EDISON CO.

Notice of Prehearing Conference

In the matter of Boston Edison Co. (Pilgrim Nuclear Power Station).

On July 12, 1971 the AEC issued a notice of hearing on a facility operating license in the above-entitled matter. (36 F.R. 13287) The notice authorized the Atomic Safety and Licensing Board designated therein to set the date and place of a Prehearing Conference.

Pursuant to this authorization, notice is hereby given that a Prehearing Conference in the above-entitled proceeding will be held at 10 a.m. on Wednesday, October 6, 1971, in the:

Probate Courtroom, Registry Building, Russell Street, Plymouth, Mass. 02360.

Dated this 19th day of August 1971 at Washington D.C.

ATOMIC SAFETY AND LICENSING BOARD,
NATHANIEL H. GOODRICH,
Chairman.

[FR Doc.71-12372 Filed 8-24-71;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23627; Order 71-8-82]

BUCKEYE AIR SERVICE, INC.

Order to Show Cause

Issued under delegated authority August 18, 1971.

The Postmaster General filed a notice of intent July 19, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 62.41 cents per great circle aircraft mile for the transportation of mail by aircraft between Traverse City, Lansing, Saginaw, and Detroit, Mich., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Postal Service and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beechcraft S-18 or equivalent twin-engine aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Buckeye Air Service, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 62.41 cents per great circle aircraft mile between Traverse City, Lansing, Saginaw, and Detroit, Mich., based on five round trips per week flown with Beechcraft S-18 or equivalent twin-engine aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f):

It is ordered, That:

1. Buckeye Air Service, Inc., the Postmaster General, North Central Airlines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Buckeye Air Service, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served on Buckeye Air Service, Inc., the Postmaster General, North Central Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-12419 Filed 8-24-71;8:49 am]

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

[Docket No. 23651; Order 71-8-80]

BUCKEYE AIR SERVICE, INC.

Order To Show Cause

Issued under delegated authority August 18, 1971.

The Postmaster General filed a notice of intent July 23, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 71 cents per great circle aircraft mile for the transportation of mail by aircraft between Detroit, Mich., and Columbus, Ohio, based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Postal Service and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Beech S-18 or equivalent twin-engine aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order [1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Buckeye Air Service, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 71 cents per great circle aircraft mile between Detroit, Mich., and Columbus, Ohio, based on five round trips per week flown with Beech S-18 or equivalent twin-engine aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f):

It is ordered, That:

1. Buckeye Air Service, Inc., the Postmaster General, Delta Air Lines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Buckeye Air Service, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served on Buckeye Air Service, Inc., the Postmaster General, Delta Air Lines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-12420 Filed 8-24-71;8:50 am]

[Docket No. 23428, etc.]

EASTERN AIR LINES, INC.

Order Denying Petition for Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of August 1971.

In the matter of Eastern Air Lines, Inc., conditional reservation rule; Dockets 23428, 23454, 23458, 23461, 23462, 23466.

By Order 71-6-120, dated June 24, 1971, the Board dismissed complaints of various carriers and permitted Eastern Air Lines, Inc. (Eastern), to establish a conditional reservation rule effective July 1, 1971. A subsequent petition for reconsideration was denied by Order 71-6-164 dated June 30, 1971.

Northwest Airlines, Inc. (Northwest) has petitioned for reconsideration of Order 71-6-120, requesting inter alia that the Board (1) institute an investigation of Eastern's conditional reservation rule; (2) establish a number of reporting requirements; (3) impose a 6-month expiry-date on the rule; and (4) order Eastern to cease and desist certain advertising practices used in publicizing the rule.

Eastern has filed an answer in opposition to Northwest's petition alleging that the petition is in essence a successive petition for reconsideration which is barred by the Board's rules of practice. It states that if the Board decides to entertain the petition it should be denied on the merits.

The Board finds that Northwest's petition sets forth no facts showing why the Board should depart from its position, originally expressed in Order 71-6-120 and subsequently reaffirmed in Order 71-6-164, that an investigation of the conditional reservation rule at this time is not warranted. As we indicated in Order 71-6-120 the subject rule represents a novel approach to the "no-show" problem whose feasibility should be determined by practical experience. Now that Delta, Northeast, National, and the petitioner itself have joined Eastern in publishing the subject rule, the experimental value of the proposal will be enhanced in that we shall have the benefit of results from several carriers in addition to Eastern. An investigation at this stage would be particularly inappropriate in light of the pendency of intercarrier discussions which we authorized in Order 71-7-99 dated July 19, 1971.

Nor is the Board persuaded by Northwest's request that reporting requirements should be formally established. The Board has decided to permit a 9-month experiment and we do not believe that interim results would be of sufficient usefulness to the Board to warrant the administrative effort which would be involved in Northwest's request. Of course, Eastern will be required to justify any request for extension of the plan beyond its present 9-month experimental period with detailed data of its experience.

To the extent that Northwest requests us to shorten the trial period from 9 months to 6 months, even if we possessed legal authority to change the date in an already effective tariff, we find no persuasive reason in the instant petition why the shorter period is more preferable or more justifiable than the longer one. On the contrary, a 6-month experiment would exclude the development of data for the peak winter months when the "no-show" problem is most severe.

The aspect of the instant petition dealing with Eastern's alleged advertising practices with regard to the subject rule will be dealt with in Docket 23587.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof:

It is ordered, That:

1. The request by Northwest Airlines, Inc., for reconsideration of Order 71-6-120 is denied; and

2. Copies of this order will be served upon the Aviation Consumer Action Project, Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., National Airlines, Inc., Northeast Airlines, Inc., and Northwest Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-12417 Filed 8-24-71;8:49 am]

[Docket No. 17665]

REOPENED WASHINGTON/BALTIMORE HELICOPTER SERVICE INVESTIGATION

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on September 22, 1971, at 10 a.m., e.d.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Prehearing Conference Report and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 20, 1971.

[SEAL] WILLIAM F. CUSICK,
Hearing Examiner.

[FR Doc.71-12416 Filed 8-24-71;8:49 am]

[Docket No. 23626; Order 71-8-87]

SEDALIA, MARSHALL, BOONVILLE STAGE LINE, INC.

Order to Show Cause

Issued under delegated authority August 18, 1971.

The Postmaster General filed a notice of intent July 19, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of 77 cents per great circle aircraft mile for the transportation of mail by aircraft between Columbus, Ohio and Chicago, Ill., based on 10 one-way trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Postal Service and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with two twin-engine Beechcraft, Model S-18, or equivalent aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon con-

sideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Sedalia, Marshall, Boonville Stage Line, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 77 cents per great circle aircraft mile between Columbus, Ohio and Chicago, Ill., based on 10 one-way trips per week flown with two twin-engine Beechcraft, Model S–18 or equivalent aircraft.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16 (f):

[1] As this Order to Show Cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

It is ordered, That:

1. Sedalia, Marshall, Bonnville Stage Line, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Sedalia, Marshall, Boonville Stage Line, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objections is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served on Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General, Allegheny Airlines, Inc., American Airlines, Inc., Delta Air Lines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–12418 Filed 8–24–71;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[Canadian List No. 281]

CANADIAN BROADCAST STATIONS

Notification List

JULY 30, 1971.

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

Call letters	Location	Power kw.	Antenna	Schedule	Class	Antenna height (feet)	Ground system		Proposed date of commencement of operation
							Number of radials	Length (feet)	
CFUN (change in call letters)	Newcastle, New Brunswick, N. 47°00′32″, W. 65°33′01″.	*790 kHz* 1	DA-1	U	III				
(New)	Port aux Choix, Newfoundland, N. 50°42′00″, W. 57°24′00″.	*790 kHz* 1	DA-1	U	III				E.I.O. 7.30.72.
(New) (delete assignment immediately).	Cornerbrook, Newfoundland, N. 48°55′40″, W. 57°53′50″,	*790 kHz* 10	DA-1	U	III				
CFFB (Vide 1210 kHz)	Frobisher, Northwest Territory, N. 63°43′47″, W. 68°32′34″.	*1200 kHz* 0.25	ND-180	U	II	150	90	260	
CFFB (PO 1200 kHz)	Frobisher, Northwest Territory, N. 63°43′47″, W. 68°32′34″.	*1210 kHz* 0.25	ND-180	U	II	150	90	260	
CJCS (correction to antenna radiation).	Stratford, Ontario, N. 43°-20′35″, W. 81°00′40″.	*1240 kHz* 0.5D/0.25N	ND-174	U	IV	132	120	318	

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
HAROLD G. KELLEY,
Assistant Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc.71–12446 Filed 8–24–71;8:52 am]

[Docket No. 19154; FCC 71–826]

BROADCAST RENEWAL APPLICANTS

Formulation of Policies; Further Notice of Inquiry

In the matter of formulation of policies relating to the broadcast renewal applicant, stemming from the comparative hearing process.

1. We have just issued an order extending the filing dates in this proceeding (FCC 71–425). This Further Notice deals with substance and is called for in light of the recent decision of the U.S. Court of Appeals for the District of Columbia Circuit in Citizens Communications Center v. FCC, Case No. 24,471, decided June 11, 1971.

2. The essence of that decision is that in a comparative hearing involving a regular renewal applicant, the Communications Act and Ashbacker Radio Corp. v. FCC, 326 U.S. 327 (1945), require a single full hearing in which the parties may develop evidence and be adjudged on all relevant criteria. The Court for this reason held invalid the Commission's "Policy Statement Concerning Comparative Hearings Involving Regular Renewal Applicants," 22 FCC 2d 424 (1970), which provided a full comparison of incumbent

and challenger only where in an initial stage of the hearing the incumbent could not demonstrate a past record of substantial service without serious deficiencies. Only with a single comparative hearing, the Court ruled, would all matters material to the public interest judgment in the particular case be fully developed.

3. The Court's decision does not obviate the need for this proceeding. On the contrary, it reinforces it. For, the Court stressed that "* * * incumbent licensees should be judged primarily on their records of past performance * * *," and that "[i]nsubstantial past performance should preclude renewal of a license * * * [while] [a]t the same time, superior performance should be a plus of major significance in renewal proceedings" (Sl. Op. 25). Further, the Court states that it "* * * recognizes that the public itself will suffer if incumbent licensees cannot reasonably expect renewal when they have rendered superior service" (Sl. Op. 25, fn. 35). It urges the Commission to strive to clarify in rulemaking proceedings what constitutes superior service, and notes "with approval that such rule making proceedings may soon be underway. News Notes, 39 U.S.L. Week 2513 (March 16, 1971)" (Sl. Op. 26, fn. 35). The proceedings referred to are, of course, the instant proceedings in this Docket.

4. We believe that while the Court disapproved the procedure set up in the Renewal Policy Statement, and emphasized the need for a more flexible weighing of the good and bad points of both the renewal applicant and the new applicant, it did not intend to overturn the policy that "a plus of major significance" should be awarded to a renewal applicant whose past record warrants it or to undercut the purpose of the present proceeding to seek out and quantify, at least in part, that degree of performance. We therefore continue to propose for the comment of interested persons the percentage guidelines set forth in our prior Notice. It appears to us that they would prima facie indicate the type of service warranting a "plus of major significance" in the comparative hearing. That is the standard at whose recognition we are directing our efforts. We recognize that particular labels can be misleading. Thus, we used the term "substantial service" in the sense of "strong, solid" service—substantially above the mediocre service which might just minimally warrant renewal (see 22 FCC 2d at p. 425, n. 1).[1] We believe that the Court may have read this use of "substantial" service as meaning minimal service meeting the public interest standard (Sl. Op. 20), and therefore employed the term "superior" service to make clear that it had in mind a contrast with mediocre service—as it put it (Sl. Op. 26, fn. 35), a "lapse into mediocrity, to seek the protection of the crowd."[2] In short, we believe that it is unnecessary to further refine the label. What rather counts are the guidelines actually adopted to indicate the "plus of major significance"—the type of service which, if achieved, is of such nature that one can "* * * reasonably expect renewal" (Sl. Op. 25, fn. 35). Interested parties should therefore address themselves to the appropriateness in this respect of the percentages set forth in the prior Notice.

5. Parties may also advance other proposals. Thus, the Court raised for consideration the criterion of "whether and to what extent the incumbent has reinvested the profit on his license to the service of the viewing and listening public." (Sl. Op. 26, fn. 35.) We had previously considered the possible use of a guideline directed to the relationship between revenues and program expenditures but had tentatively concluded that this matter should be left to exploration as appropriate in the hearing process. Parties may of course address themselves to this and other possible guidelines. The issue is whether in any proposed area a guideline is appropriate or whether the matter is one best left to the full hearing where its significance can be adjudged in the particular circumstances.

6. Thus, the important factor of diversification of control of media of mass communications is one which must be evaluated on the facts of each case. This, we think, is the thrust of the Court's statement that, "Diversification is a factor properly to be weighed and balanced with other important factors, including the renewal applicant's prior record, at a renewal hearing." (Sl. Op. 27, fn. 36.) While generally a renewal licensee who had performed in the meritorious manner described above could "reasonably expect renewal" (Sl. Op. 25, fn. 36), the full hearings could adduce facts that change the picture. Thus, where a large multiple owner or newspaper licensee was involved in a hearing, it might win renewal based on defects in its opponent's comparative case, but to gain renewal on its own record, it might have to make a strong public interest showing as to its past broadcast record. It is, we think, impossible to formulate any general standard here since, as the Court has indicated, the matter turns upon the facts of the diversification issue and the renewal applicant's record. Finally, we add our belief that the Court is not seeking to have the ownership patterns of the broadcast industry restructured through the renewal process. This would be chaotic in the extreme and administratively a horror. If overall restructuring is to be considered—and there are more substantial issues on this score—it should be in the context of an appropriate rule making, with a reasonable opportunity for all parties to comment fully on the proposed rules; Notice of Proposed Rule Making in FCC Docket No. 18110, 33 F.R. 5315; 35 F.R. 5948 (22 FCC 2d 396); cf. Hale & Wharton v. FCC, 425 F.2d 556, 560 (C.A.D.C., 1970); and, if rules requiring restructuring are subsequently adopted, they should fairly apply to all and should allow reasonable periods for divestment or other appropriate arrangements.

7. The Court indicated serious doubt as to the Commission's procedures in adopting the Policy Statement (Sl. Op. 7, fn. 5). This proceeding affords full opportunity for all interested persons to set forth their views on the formulation of appropriate policies in this important area. Such views must of course be consistent with the Court's essential holding of the necessity for a full hearing.

8. In view of the foregoing, we shall also revise the timetable for comments in this proceeding, with comments due on or before November 1, 1971 and reply comments on or before December 1, 1971.

Adopted: August 4, 1971.

Released: August 20, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[3]

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

[FR Doc.71-12447 Filed 8-24-71;8:52 am]

[1] We there stated: We wish to stress that we are not using the term "substantially" in any sense of partial performance in the public interest. On the contrary, as the discussion within makes clear, it is used in the sense of "solid," "strong," etc. (see p. 3, supra) performance as contrasted with a service only minimally meeting the needs and interests of the area. In short, we would distinguish between two types of situations—one where the licensee has served the public interest but in the least permissible fashion still sufficient to get a renewal in the absence of competing applications (defined herein as minimal service) and the other where he has done so in an ample, solid fashion (defined herein as substantial service).

[2] Here again confusion can arise, since the term "superior" is sometimes used comparatively, and it is a quantum of service to the public—not a comparison—which is the essence of the matter. That the matter is not of a comparative nature may be shown by assuming that every licensee improved its performance 100 percent or 200 percent, or 300 percent, in the categories denoted in our prior Notice. Under a comparative approach, only the top would continue to warrant the "plus." Further, while it is critical to the public interest to have "strong," or "solid," or "superior," or "meritorious," service in these categories (whatever the appropriate label may be), it does not serve the public interest artificially to require ever advancing amounts, to the detriment of what the public reasonably wants in light of other interests.

[3] Commissioner Houser absent; concurring statements of Commissioner Robert T. Bartley and Commissioner Nicholas Johnson filed as part of the original documents.

[FCC 71-863]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

AUGUST 19, 1971.

The following application was tendered July 21, 1971, seeking the identical facilities of former station WCFV, Clifton Forge, Va. The application (BR-2540) of Image Radio, Inc., for renewal of license of station WCFV was denied on May 27, 1971, and the call letters were deleted July 20, 1971. Accordingly, we have waived the provisions of note 2 to § 1.571 of the Commission's rules and accepted this application for filing. Similarly, we will accept any other application for consolidation which proposses essentially the same facilities.

NEW, Clifton Forge, Va.
James R. Reese, Jr.
Req.: 1230 kc., 250w., 1 kw.-LS, U.

Pursuant to the provisions of §§ 1.227 (b)(1), 1.591(b) and note 2 to § 1.571 of the Commission's rules, an application, in order to be considered with this application must be in direct conflict and tendered no later than October 5, 1971.

The attention of any party in interest desiring to file pleadings concerning this application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for the provisions governing the time of filing and other requirements relating to such pleadings.

Action by the Commission August 18, 1971.[1]

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

[FR Doc.71-12448 Filed 8-24-71;8:52 am]

[Dockets Nos. 19168-19170; FCC 71-823]

COWLES FLORIDA BROADCASTING, INC., AND CENTRAL FLORIDA ENTERPRISES, INC.

Order Regarding Policy Statement

In regard applications of Cowles Florida Broadcasting, Inc. (WESH-TV), Daytona Beach, Fla., for renewal of license, Docket No. 19168, File No. BRCT-354; Cowles Florida Broadcasting, Inc. (WESH-TV), Daytona Beach, Fla., for modification of authorized facilities, Docket No. 19169, File No. BPCT-4158; Central Florida Enterprises, Inc., Daytona Beach, Fla., for a construction permit, Docket No. 19170, File No. BPCT-4346.

1. The Commission has under consideration: (1) Its order (FCC 71-237, released March 10, 1971), designating the above applications for hearing in a consolidated comparative renewal proceeding and stating that the proceeding would be governed by the Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released January 15, 1970;[2] and (2) the decision of the U.S. Court of Appeals for the District of Columbia Circuit in Citizens Communications Center, et al., v. FCC, et al. (Case Nos. 24, 471, decided June 11, 1971), ordering that the Policy Statement, "being contrary to law, shall not be applied by the Commission in any pending or future comparative renewal hearings," and directing the Commission to redesignate all comparative renewal hearings to which the Policy Statement was deemed applicable to reflect the Court's judgment.[3]

2. We note that the only references to the Policy Statement in our above designation order are contained in paragraph 20, which states that the renewal applicant's program service and operation will be scrutinized in the light of the provisions of the Policy Statement, and in the last two sentences of paragraph 26, which state that the proceeding will be governed by the Policy Statement and that prehearing discovery for the purposes of making a comparative evaluation of the competing applications should await a determination under the Policy Statement. Paragraph 20 and the last two sentences of paragraph 26 should be deleted from our order and the order will be modified accordingly, thus making clear that the Policy Statement is not applicable to this proceeding.

3. Our designation order contains a standard comparative issue (No. 3), "To determine which of the proposals would better serve the public interest." We believe that, with the elimination of all reference to the Policy Statement, the comparative issue as presently framed properly provides for a full comparative hearing.

4. This comparative renewal proceeding is now pending before the Hearing Examiner. The Examiner and, where appropriate, the Review Board are directed to take any steps necessary to conform the conduct of the proceeding to this order.

5. *Accordingly, it is ordered,* That our order designating the above applications for hearing (FCC 71-237, released March 10, 1971) is amended by the deletion of the references to the Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released January 15, 1970); and that the Policy Statement shall not be applied to this comparative renewal proceeding.

6. *It is further ordered,* That the Hearing Examiner and, where appropriate, the Review Board, are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

Adopted: August 4, 1971.

Released: August 20, 1971.

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

[FR Doc.71-12450 Filed 8-24-71;8:52 am]

[Dockets Nos. 18401, 18402; FCC 71-815]

KBLI, INC., AND EASTERN IDAHO TELEVISION CORP.

Order Regard Policy Statement

In regard applications of KBLI, Inc. (KTLE), Pocatello, Idaho, for renewal of broadcast license, Docket No. 18401, File No. BRCT-485; Eastern Idaho Television Corp., Pocatello, Idaho, for construction permit for new television broadcast station, Docket No. 18402, File No. BPCT-4156.

1. The Commission has under consideration (1) its Order (FCC 68-1187, adopted December 12, 1968),[4] designating the above applications for hearing in a consolidated comparative renewal proceeding; (2) its Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released January 15, 1970),[2] providing that the policy was applicable to pending proceedings; and (3) the decision of the U.S. Court of Appeals for the District of Columbia Circuit in Citizens Communications Center, et al., v. FCC, et al. (Case Nos. 24,471 and 24,491, decided June 11, 1971), ordering that the Policy Statement, "being contrary to law, shall not be applied by the Commission in any pending or future comparative renewal hearings," and directing the Commission to redesignate all comparative renewal hearings to which the Policy Statement was deemed applicable to reflect the Court's judgment.[3]

2. Our designation order in this proceeding, which was adopted prior to the release of the Policy Statement, contains a standard comparative issue (No. 3) "To determine which of the proposals would better serve the public interest." Since we are expressly ordering herein that the Policy Statement shall not be applied to this proceeding, we believe that the comparative issue as presently framed provides for a full comparative hearing.

3. This proceeding is now pending before the Hearing Examiner. The Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

4. *Accordingly, it is ordered,* That the Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released January 15, 1970) shall not be applied to this comparative renewal proceeding; and that the Hearing Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

Adopted: August 4, 1971.

Released: August 20, 1971.

FEDERAL COMMUNICATIONS, COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary,

[FR Doc.71-12451 Filed 8-24-71;8:52 am]

[Docket No. 19275, etc.; FCC 71-679]

MOBILE RADIO SYSTEM OF VENTURA, INC., ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues; Correction

In regard applications of Mobile Radio System of Ventura, Inc., Ventura, Calif., Docket No. 19275, File No. 2142-C2-P-69; Orange County Radiotelephone Service, Inc., Santa Ana, Calif., Docket No. 19276,

[1] Commissioners Burch (Chairman), Bartley, Robert E. Lee, Johnson, Wells, and Houser.
[2] 22 FCC 2d 424, 18 RR 2d 1901 (1970).
[3] Slip Opinion, 8 p. 29.
[3] Commissioner Houser absent.
[4] 15 FCC 2d 709 (1968).
[2] 22 FCC 2d 424; 18 RR 2d 1901 (1970).
[3] Slip Opinion, p. 29.
[4] Commissioner Houser absent.

File No. 3031–C2–P–69; Mobilfone, Inc., Los Angeles, Calif., Docket No. 19277, File No. 3397–C2–P–69; American Mobile Radio, Inc., Long Beach, Calif., Docket No. 19278, File No. 3465–C2–P–69; Intrastate Radio Telephone, Inc., of Los Angeles, Burbank, Calif., Docket No. 19279, File No. 3556–C2–P–69; for construction permits to establish new facilities in the Domestic Public Land Mobile Radio Service on 152.24 MHz.

1. On June 30, 1971, the Commission released a Memorandum Opinion and Order (FCC 71–679) in the above-captioned matter (36 F.R. 13054). The name of the applicant in Docket 19279 was incorrectly described as "Intrastate Radio Telephone, Inc." The purpose of this Erratum is to strike the incorrect name and insert the correct name, which is "Intrastate Radio Telephone, Inc., of Los Angeles."

Released: August 18, 1971.

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

[FR Doc.71–12452 Filed 8–24–71;8:53 am]

[Dockets Nos. 19157–19159; FCC 71R–252]

PETTIT BROADCASTING CO. ET AL.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Claud M. Pettit and Margaret E. Pettit, doing business as Pettit Broadcasting Co., Brush, Colo., Docket No. 19157, File No. BP–18125; A. V. Bamford, Colorado Springs, Colo., Docket No. 19158, File No. BP–18467; Enid C. Peppard and Dona B. West doing business as Brocade Broadcasting Co., Boulder, Colo., Docket No. 19159, File No. BP–18470; for construction permits.

1. The mutually exclusive applications of Pettit Broadcasting Co., A. V. Bamford (Bamford), and Brocade Broadcasting Co., (Brocade) for a new standard broadcast station in Brush, Colorado Springs, and Boulder, Colo., respectively, were designated for hearing by Commission Order, FCC 71–189, 36 F.R. 4634, published March 10, 1971. Subsequently, by Memorandum Opinion and Order, FCC 71R–200, ____ FCC 2d ____, 22 RR 2d 251, the Review Board added, inter alia, a § 1.65 issue against Bamford. Presently before the Review Board is a petition to enlarge issues, filed March 25, 1971, by Brocade, seeking the addition of several issues inquiring into the qualifications of Bamford.[1]

ENGINEERING ISSUES

2. Brocade requests the addition of issues to determine whether Bamford can provide coverage to Colorado Springs as required by § 73.188(b)(1) of the rules, whether Bamford's proposed transmitter site is sufficient to effectuate his proposal, and whether Bamford will be able to maintain his directional antenna array. Brocade's engineer contends that although, based on the conductivity depicted on FCC Figure M–3,[2] the 25 mv/m contour of the Bamford proposal adequately covers the city of Colorado Springs, his study of measured ground conductivities made for other purposes and at various other times indicates that the actual ground conductivities in the area around the Bamford site and between the site and Colorado Springs are lower than shown on Figure M–3, and that, consequently, the Bamford 25 mv/m contour may not adequately cover Colorado Springs. Brocade's engineer further alleges that, based on his personal inspection, there is a question about the suitability of Bamford's proposed site, alleging that (a) there is a lack of level ground in the area surrounding the site, although the site itself is on a relatively level, high dry mesa, which normally has low conductivity; (b) very high mountains are located close to the west and southwest, with mountains or hills in several other directions, which are apt to cause reduced coverage and could adversely affect the directional operation; (c) the lack of roads would make the adjustment and maintenance of the array difficult; and (d) reradiation and interference could result from railroad tracks and accompanying communications lines located near the site. Thus, Brocade contends, a further question is raised as to whether Bamford can effectuate his proposal and whether he would be able to maintain his proposed directional antenna system.

3. In opposition, Bamford submits his engineer's statement wherein he states that the low conductivity values found by Brocade were determined by the inverse application of measurement data, which is not a commonly accepted practice. Further, Bamford contends that Brocade's assertion that the ground conductivity between the Bamford site and Colorado Springs is substantially lower than the value depicted on the Commission's Figure M–3 is not based on actual studies on a pertinent radial made according to the rules, and is therefore invalid. Noting that Brocade concedes that the site itself is relatively level, Bamford states that the mountains cited by Brocade are located more than 2 miles from the site, sufficiently removed so as not to interfere with the broad nulls of the proposed pattern; that secondary roads are available for establishing monitoring points, and that close-in measurements out to about 2 miles will be taken by the standard method of walking the radials; and that the railroad tracks and communications lines can be easily avoided in the selection of monitoring points. Thus, asserts Bamford, there is no apparent reason why he can not maintain his proposed directional array within the specified values.

4. The Broadcast Bureau opposes addition of the requested issues. Asserting that the engineering measurements relied upon by Brocade cannot be accepted, the Bureau contends that the distance between Bamford's site and those from which the measurements were taken is too great; that those measurements are at best reciprocals of the path from the Bamford site to Colorado Springs, and such application of measurements has not been accepted in practice; and that Brocade's generalized contentions lack the specificity required for a threshold showing warranting addition of issues relating to the sufficiency of Bamford's site, and his ability to maintain his directional array.

5. In its reply, Brocade reiterates the allegations that the area does not have a sufficiently high conductivity and that Bamford will be unable to adequately maintain his directional antenna. Brocade also argues, inter alia, that reciprocity in the use of measurement data for this area was accepted by the Commission in 1965 when measurements for Station KOSI, Aurora, Colo., were made to confirm conductivity indicated by an inverse analysis. Also, petitioner cites measurements made on Station KBOL, Boulder, Colo., on radials located 3½ and 5½ miles from the Bamford site, which indicate lower conductivity. Therefore, in view of its showing, Brocade urges addition of the requested engineering issues.

6. It is well established that the inverse application of measurement data (reciprocity of ground conductivity determined by field strength measurements) is not an acceptable practice. See Cosmopolitan Enterprises, Inc., 4 FCC 2d 265, 8 RR 2d 325 (1966); and North Atlanta Broadcasting Co., FCC 63R–35, 24 RR 939, and cases cited therein. Contrary to the assertion of Brocade's engineer, the ground conductivity measurements made on Station KOSI are insufficient to establish that inverse direction conductivity measurements have provided evidence of the effective conductivity in the vicinity of Colorado Springs. As the Commission explained to Station KOSI in its October 28, 1964, letter,[3] since reciprocity in the use of measurement data does not always depict the same attenuation in signal characteristics, the inverse application of field strength measurements is not acceptable. Thus, contrary to the contention of Brocade's engineer, the single instance of conductivity measurements made on one radial and its reciprocal from Station KOSI are insufficient to establish conductivity in the vicinity of Colorado Springs. Further invalidating Brocade's contentions are the facts that the KOSI measurements were made at locations in the vicinity of Denver, Colo., more than 25 miles north of Bamford's proposed site and that Brocade concedes that the KOSI measurements were taken over terrain less rocky than that involved in the path from KVOR, Colorado Springs (measurements

[1] Also before the Review Board are: (a) opposition, filed May 10, 1971 by A. V. Bamford; (b) comments, filed May 10, 1971, by the Broadcast Bureau; and (c) reply, filed June 2, 1971, by Brocade.

[2] Figure M–3, the Commission's Map of Estimated Effective Ground Conductivities in the United States, indicates the conductivity in the area to be 15 mmhos/m.

[3] A copy of this letter is in the Station KOSI application file at the Commission.

on KVOR were used by Brocade in an inverse direction), to Bamford's proposed site. Next, the Board agrees with the Bureau that Brocade has not made the necessary threshold showing to warrant inclusion of a site suitability and directional antenna adjustment and maintenance issues. The site photographs in the Bamford application depict the site area as being relatively level—a fact conceded by Brocade. Although Brocade describes mountains as being close-by to the west and southwest, Brocade does not dispute Bamford's responsive statement in his opposition that such mountains rise more than two miles to the west of his proposed site and are well outside the proposed 1 mv/m contour. In addition, Brocade's very general statements concerning the railroad tracks and communication lines, possible reduced coverage and reflections lack the specificity required by § 1.229(c). No study has been submitted in support of such allegations which delineates the alleged problems and their possible effect on the type of directional operation proposed by Bamford. Brocade's allegation that the lack of roads may present a problem in the adjustment and maintenance of Bamford's proposed array constitute inadequate generalizations, which, as noted by the Bureau, are undermined by Brocade's engineering showing—which establishes that at least three sets of measurements (two by Brocade's engineer) have at least partially been taken over the same terrain. In view of all of the foregoing, the Review Board is of the opinion that Brocade has failed to set forth sufficient factual data to warrant addition of the requested engineering issues.

SITE AVAILABILITY AND § 1.65 ISSUES

7. Brocade's request for site availability and § 1.65 issues has its genesis in Bamford's action on June 15, 1970, when he advised the Commission that the option agreement submitted in his application for the purchase of land was not renewed and that its proposed site was unavailable. Subsequently, after an amendment changing the location of the transmitter site,[4] Bamford again amended his application to specify the original site.[5] Under these circumstances, petitioner insists, Bamford has the duty to update its application to reveal the new option or other arrangement for obtaining the land as well as the cost of the land, and, absent such information, an issue should be added to determine the availability of the land and the financial ability of Bamford to implement its proposal. The above-described events, Brocade maintains, also raise a substantial question as to whether Bamford has kept the Commission fully informed of a matter of decisional significance. Bamford, incorporating in the instant petition his opposition to a petition to enlarge issues, filed April 9, 1971, by the Broadcast Bureau,[6] simply contends that since the first site specified in the application is now being used, the cost information has already been furnished and therefore no issue is warranted.

8. Brocade's request for a site availability issue will be granted. The Commission has long held that while an applicant need not demonstrate absolute assurance of site availability, it must show that it has reasonable assurance the site will be available. See, e.g., El Camino Broadcasting Corp., 23 FCC 2d 173, 19 RR 2d 53 (1970); and North American Broadcasting Co., 15 FCC 2d 984, 15 RR 2d 367 (1969). Originally, Bamford's option agreement provided reasonable assurance that its proposed site was available. However, when the option expired and was not renewed, Bamford conceded that the site was no longer available; therefore, when Bamford again specified the site, it was, in our view, incumbent on that applicant to show that he had reasonable assurance that the site was again available. No such showing has been made. Thus, under the circumstances, a substantial question has been raised as to the availability of Bamford's site, and therefore an appropriate issue is warranted. Petitioner's requests for 1.65 and financial issues will be denied. Brocade has not supported these requests with specific allegations of fact as required by § 1.229. However, if evidence adduced under the site availability issue indicates that there have been substantial changes in the underlying basis of Bamford's assurance of site availability[7] which may be of decisional significance, or that such changes might materially effect Bamford's financial showing, petitioner can renew its requests.

9. *Accordingly, it is ordered,* That the petition to enlarge issues, filed March 25, 1971, by Brocade Broadcasting Co., is granted to the extent indicated herein, and is denied in all other respects; and

10. *It is further ordered,* That the issues in the instant proceeding are enlarged to include the following issues: To determine whether A. V. Bamford has reasonable assurance of the availability of his proposed antenna site; and

11. *It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof under the issue added herein shall be upon A. V. Bamford.

Adopted: August 16, 1971.

Released: August 18, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[8]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-12449 Filed 8-24-71;8:52 am]

[4] This amendment was filed on July 22, 1970.

[5] This amendment was filed on January 27 1971.

[6] In its petition, the Bureau also raised a question relating to Bamford's proposed site. See Pettit Broadcasting Co., FCC 71R-200, supra.

[7] See Media, Inc., 23 FCC 2d 729, 19 RR 2d 268 (1970).

[8] Review Board Member Berkemeyer absent.

[Dockets Nos. 18759-18761; FCC 71-818]

RKO GENERAL, INC., ET AL.

Order Regarding Policy Statement

In regard applications of RKO General, Inc. (WNAC-TV), Boston, Mass., for renewal of broadcast license, Docket No. 18759, File No. BRCT-63; Community Broadcasting of Boston, Inc., Boston, Mass., Docket No. 18760, File No. BPCT-4198; The Dudley Station Corp., Boston, Mass., Docket No. 18761, File No. BPCT-4277; for construction permit for new television broadcast station.

1. The Commission has under consideration: (1) its order (FCC 69-1335, released December 11, 1969),[1] designating the above applications for hearing in a consolidated comparative renewal proceeding; (2) its Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released January 15, 1970),[2] providing that the policy was applicable to pending proceedings; and (3) the decision of the U.S. Court of Appeals for the District of Columbia Circuit in Citizens Communications Center, et al., v. FCC, et al. (Cases Nos. 24,471 and 24,491, decided June 11, 1971), ordering that the Policy Statement, "being contrary to law, shall not be applied by the Commission in any pending or future comparative renewal hearings", and directing the Commission to redesignate all comparative renewal hearings to which the Policy Statement was deemed applicable to reflect the Court's judgment.[3]

2. Our designation order in this proceeding, which was adopted prior to the release of the Policy Statement, contains a standard comparative issue (No. 4) "To determine which of the proposals would best serve the public interest." Since we are expressly ordering herein that the Policy Statement shall not be applied to this proceeding, we believe that the comparative issue as presently framed provides for a full comparative hearing.

3. This proceeding is now pending before the Hearing Examiner. The Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

4. *Accordingly, it is ordered,* That the Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released January 15, 1970), shall not be applied to this comparative renewal proceeding; and that the Hearing Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

Adopted: August 4, 1971.

Released: August 20, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-12453 Filed 8-24-71;8:53 am]

[1] 20 FCC 2d 846 (1969).

[2] 22 FCC 2d 424, 18 RR 2d 1901 (1970).

[3] Slip Opinion, p. 29.

[4] Commissioner Houser absent.

[Dockets Nos. 18906, 18907; FCC 71-821]

SOUTHERN BROADCASTING CO. AND FURNITURE CITY TELEVISION CO., INC.

Order Amending Order Designating Applications for Hearing

In regard applications of Southern Broadcasting Co. (WGHP-TV), High Point, N.C., for renewal of broadcast license, Docket No. 18906, File No. BRCT-574; Furniture City Television Co., Inc., High Point, N.C., for construction permit for new television broadcast station, Docket No. 18907, File No. BPCT-4302.

1. The Commission has under consideration: (1) its Order (FCC 70-706, released July 8, 1970), designating the above applications for hearing in a consolidated comparative renewal proceeding and stating that the proceeding would be governed by the Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released January 15, 1970);[1] and (2) the decision of the U.S. Court of Appeals for the District of Columbia Circuit in Citizens Communications Center, et al., v. FCC, et al. (Cases Nos. 24,471 and 24,491, decided June 11, 1971), ordering that the Policy Statement, "being contrary to law, shall not be applied by the Commission in any pending or future comparative renewal hearings," and directing the Commission to redesignate all comparative renewal hearings to which the Policy Statement was deemed applicable to reflect the Court's judgment.[2]

2. We note that the only reference to the Policy Statement in our above designation order is contained in the last sentence of paragraph 3, which states that the proceeding will be governed by the Policy Statement, and in footnote 2, which states, in effect, that prehearing discovery for the purposes of making a comparative evaluation of the competing applications should await a determination under the Policy Statement. This sentence and footnote 2 should be deleted from our order and the order will be modified accordingly, thus making clear that the Policy Statement is not applicable to this proceeding.

3. Our designation order contains a standard comparative issue (No. 1) "To determine which of the proposals would better serve the public interest." We believe that, with the elimination of all reference to the Policy Statement, the comparative issue as presently framed properly provides for a full comparative hearing.

4. This comparative renewal proceeding is now pending before the Hearing Examiner. The Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

5. *Accordingly, it is ordered,* That our order designating the above applications for hearing (FCC 70-706, released July 8, 1970) is amended by the deletion of the references to the Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released January 15, 1970); and that the Policy Statement shall not be applied to this comparative renewal proceeding.

6. *It is further ordered,* That the Hearing Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

Adopted: August 4, 1971.

Released: August 20, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[3]

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

[FR Doc.71-12454 Filed 8-24-71;8:53 am]

[1] 22 FCC 2d 424, 18 RR 2d 1901 (1970).

[2] Slip Opinion, p. 29.

[3] Commissioner Houser absent.

[Dockets Nos. 19122-19125; FCC 71-822]

STAR STATIONS OF INDIANA, INC., ET AL.

Order Amending Order Designating Applications for Hearing

In regard applications of Star Stations of Indiana, Inc., for renewal of license of WIFE and WIFE-FM, Indianapolis, Ind., Docket No. 19122, File Nos. BR-1144, BRH-1276; Indianapolis Broadcasting, Inc., for a construction permit for a standard broadcast station, Indianapolis, Ind., Docket No. 19123, File No. BP-18706; Central States Broadcasting, Inc., for renewal of license of KOIL and KOIL-FM, Omaha, Nebr., Docket No. 19124, File Nos. BR-516, BRH-992; Star Broadcasting, Inc., for renewal of license of KISN, Vancouver, Wash., Docket No. 19125, File No. BR-1027.

1. The Commission has under consideration: (1) its designation order (FCC 70-1256, released as corrected December 15, 1970) in the above consolidated proceeding, stating that the WIFE renewal-new applicant aspect of the proceeding[1] would be governed by the Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released January 15, 1970)[2]; and (2) the decision of the U.S. Court of Appeals for the District of Columbia Circuit in Citizens Communications Center, et al. v. FCC, et al (Cases Nos. 24,471 and 24,491, decided June 11, 1971), ordering that the Policy Statement, "being contrary to law, shall not be applied by the Commission in any pending or future comparative renewal hearings," and directing the Commission to redesignate all comparative renewal hearings to which the Policy Statement was deemed applicable to reflect the Court's Judgment.[3]

2. The evidentiary hearing in this proceeding has not yet commenced. We note that the only reference to the Policy Statement in our above designation order is contained in paragraph 5 which states that the renewal-new applicant aspect of the proceeding will be governed by the Policy Statement and that prehearing discovery for the purposes of making a comparative evaluation of the competing applications should await a determination of the renewal applicant's basic qualifications and a determination of its program service and operation under the Policy Statement. This paragraph should be deleted from our order and the order will be modified accordingly, thus making clear that the Policy Statement is not applicable to this proceeding.

3. Our designation order contains a standard comparative issue (No. 24) "To determine which of the mutually exclusive applications for a standard broadcast station in Indianapolis, Ind., would better serve the public interest, convenience and necessity." We believe that, with the elimination of all reference to the Policy Statement, this comparative issue as presently framed properly provides for a full comparative hearing.

4. This proceeding is now pending before the Hearing Examiner. The Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

5. *Accordingly, it is ordered,* That our order designating the above applications for hearing (FCC 70-1256, released as corrected December 15, 1970) is amended by the deletion of paragraph 5 and all reference to the Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released January 15, 1970); and that the Policy Statement shall not be applied to the comparative renewal aspects of this proceeding.

6. *It is further ordered,* That the Hearing Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

Adopted: August 4, 1971.

Released: August 20, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[4]

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

[FR Doc.71-12455 Filed 8-24-71;8:53 am]

[1] The renewal-new applicant aspect of this proceeding involves the application of Star Stations of Indiana, Inc. for renewal of license of Station WIFE and the mutually exclusive new application of Indianapolis Broadcasters, Inc. for a construction permit for the same facility.

[2] 22 FCC 2d 424; 18 RR 2d 1901 (1970).

[3] Slip Opinion, p. 29.

[4] Commissioner Houser absent.

[Docket No. 18559, etc.; FCC 71-816]

UNITED TELEVISION CO., INC., ET AL.

Order Regarding Policy Statement

In regard applications of United Television Company, Inc. (WFAN-TV), Washington, D.C., for renewal of license, Docket No. 18559, File No. BRCT-585; United Television Co., Inc. (WFAN-TV), Washington, D.C., for construction permit, Docket No. 18561, File No. BPCT-3917; United Broadcasting Co., Inc. (WOOK), Washington, D.C., for renewal of license, Docket No. 18562, File No. BR-1104; Washington Community Broadcasting Co., Washington, D.C., for construction permit for new standard broadcast station, Docket No. 18563, File No. BP-17416.

1. The Commission has under consideration (1) its designation order (FCC 69-618, released June 13, 1969) in the above consolidated comparative renewal proceeding;[1] (2) its Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released January 15, 1970),[2] providing that the policy was applicable to pending proceedings; and (3) the decision of the U.S. Court of Appeals for the District of Columbia Circuit in Citizens Communications Center, et al., v. FCC, et al. (Case Nos. 24,471 and 24,491, decided June 11, 1971), ordering that the Policy Statement, "being contrary to law, shall not be applied by the Commission in any pending or future comparative renewal hearings," and directing the Commission to redesignate all comparative renewal hearings to which the Policy Statement was deemed applicable to reflect the Court's judgment.[3]

2. Our designation order in this proceeding, which was adopted prior to the release of the Policy Statement, contains a standard comparative issue (No. 5) "To determine which of the mutually exclusive applications for a license to operate on 1340 kc in Washington, D.C., would better serve the public interest, convenience and necessity." Since we are expressly ordering herein that the Policy Statement shall not be applied to this proceeding, we believe that the comparative issue as presently framed provides for a full comparative hearing.

3. This proceeding is now pending before the Hearing Examiner. The Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

4. *Accordingly, it is ordered,* That the Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released January 15, 1970) shall not be applied to this comparative renewal proceeding; and that the Hearing Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

Adopted: August 4, 1971.

Released: August 20, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[4]

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

[FR Doc.71-12456 Filed 8-24-71;8:53 am]

[1] 18 FCC 2d 363; 16 RR 2d 621 (1969).
[2] 22 FCC 2d 424; 18 RR 2d 1901 (1970).
[3] Slip Opinion, p. 29.

[Dockets Nos. 18805, 18806; FCC 71-820]

WHCN, INC., AND COMMUNICOM MEDIA

Order Amending Order Designating Applications for Hearing

In regard applications of WHCN, INC. (WHCN (FM)), Hartford, Conn., for renewal of license, Docket No. 18805, File No. BRH-24; Kenneth W. Sasso, W. Francis Pingree, and Lawrence H. Buck, doing business as Communicom Media, Berlin, Conn., Requests: 105.9 mcs, No. 290; 7 kw.; 758 feet, for construction permit, Docket No. 18806, File No. BPH-6806.

1. The Commission has under consideration: (1) its designation order (FCC 70-211, released March 4, 1970), in the above consolidated comparative renewal proceeding, stating that the proceeding would be governed by our Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released January 15, 1970)[1]; and (2) the decision of the U.S. Court of Appeals for the District of Columbia Circuit in Citizens Communications Center, et al., v. FCC, et al. (Cases Nos. 24,471 and 24,491, decided June 11, 1971), ordering that the Policy Statement, "being contrary to law, shall not be applied by the Commission in any pending or future comparative renewal hearings," and directing the Commission to redesignate all comparative renewal hearings to which the Policy Statement was deemed applicable to reflect the Court's judgment.[2]

2. The evidentiary hearing in this proceeding has not yet commenced. We note that the only reference to the Policy Statement in our above designation order is contained in the last sentence of paragrap 5 which states that this proceeding will be governed by the Policy Statement. This sentence should be deleted from our order and the order will be modified accordingly, thus making clear that the Policy Statement is not applicable to this proceeding. Our designation order contains a standard comparative issue (No. 5) "To determine which of the proposals would, on a comparative basis, better serve the public interest". We believe that, with the elimination of all reference to the Policy Statement, the comparative issue as presently framed properly provides for a full comparative hearing.

3. This proceeding is now pending before the Hearing Examiner. The Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

4. *Accordingly, it is ordered,* That our order designating the above applications for hearing (FCC 70-211, released March 4, 1970) is amended by the deletion of the reference to the Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released January 15, 1970); and that the Policy Statement shall not be applied to this comparative renewal proceeding.

5. *It is further ordered,* That the Hearing Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

Adopted: August 4, 1971.

Released: August 20, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[4]

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

[FR Doc.71-12457 Filed 8-24-71;8:53 am]

[4] Commissioner Houser absent.
[1] 22 FCC 2d 424; 18 RR 2d 1901 (1970).
[2] Slip Opinion, p. 29.

[Dockets Nos. 18711, 18712; FCC 71-817]

WPIX, INC., AND FORUM COMMUNICATIONS, INC.

Order Regarding Policy Statement

In regard applications of WPIX, INC. (WPIX), New York, N.Y., for renewal of broadcast license, Docket No. 18711, File No. BRCT-98; Forum Communications, Inc., New York, N.Y., for construction permit for new television broadcast station, Docket No. 18712, File No. BPCT-4249.

1. The Commission has under consideration: (1) its order (FCC 69-1162, released October 28, 1969),[1] designating the above applications for hearing in a consolidated comparative renewal proceeding; (2) its Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70-62, released January 15, 1970),[2] providing that the policy was applicable to pending proceedings; and (3) the decision of the U.S. Court of Appeals for the District of Columbia Circuit in Citizens Communications Center, et al., v. FCC, et al. (Case Nos. 24,471 and 24,491, decided June 11, 1971), ordering that the Policy Statement, "being contrary to law, shall not be applied by the Commission in any pending or future comparative renewal hearings," and directing the Commission to redesignate all comparative renewal hearings to which the Policy Statement was deemed applicable to reflect the Court's judgment.[3]

2. Our designation order in this proceeding, which was adopted prior to the release of the Policy Statement, contains a standard comparative issue (No. 3) "To determine which of the proposals

[4] Commissioner Houser absent.
[1] 20 FCC 2d 298, 17 RR 2d 782 (1969).
[2] 22 FCC 2d 424, 18 RR 2d 1901 (1970).
[3] Slip Opinion, p. 29.

would better serve the public interest." Since we are expressly ordering herein that the Policy Statement shall not be applied to this proceeding, we believe that the comparative issue as presently framed provides for a full comparative hearing.

3. This proceeding is now pending before the Hearing Examiner. The Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

4. *Accordingly, it is ordered,* That the Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70–62, released January 15, 1970), shall not be applied to this comparative renewal proceeding; and that the Hearing Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

Adopted: August 4, 1971.

Released: August 20, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[4]

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

[FR Doc.71–12458 Filed 8–24–71;8:53 am]

[Dockets Nos. 18791, 18792; FCC 71–819]

WTAR RADIO–TV CORP. AND HAMPTON ROADS TELEVISION CORP.

Order Amending Order Designating Applications for Hearing

In regard applications of WTAR Radio-TV Corp. (WTAR–TV), Norfolk, Va., for renewal of broadcast license, Docket No. 18791, file No. BRCT–54; Hampton Roads Television Corp.; Norfolk, Va., for construction permit for new television broadcast station, Docket No. 18792, File No. BPCT–4281.

1. The Commission has under consideration: (1) its designation order (FCC 70–97, released January 27, 1971), in the above consolidated comparative renewal proceeding, stating that the proceeding would be governed by our Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70–72, released January 15, 1970)[1]; and (2) the decision of the U.S. Court of Appeals for the District of Columbia Circuit in Citizens Communications Center, et al., v. FCC, et al. (Case Nos. 24,471 and 24,491, decided June 11, 1971), ordering that the Policy Statement, "being contrary to law, shall not be applied by the Commission in any pending or future comparative renewal hearings," and directing the Commission to redesignate all comparative renewal hearings to which the Policy Statement was deemed applicable to reflect the Court's judgment.[2]

2. The evidentiary hearing in this proceeding has not yet commenced. We note that the only reference to the Policy Statement in our above designation order is contained in the last sentence of paragraph 5 which states that this proceeding will be governed by the Policy Statement. This sentence should be deleted from our order and the order will be modified accordingly, thus making clear that the Policy Statement is not applicable to this proceeding. Our designation order contains a standard comparative issue (No. 2) "To Determine which of the proposals would better serve the public interest." We believe that, with the elimination of all reference to the Policy Statement, the comparative issue as presently framed provides for a full comparative hearing.

3. This proceeding is now pending before the Hearing Examiner. The Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

4. *Accordingly, it is ordered,* That our order designating the above applications for hearing (FCC 70–97, released January 27, 1970) is amended by the deletion of the reference to the Policy Statement on Comparative Hearings Involving Regular Renewal Applicants (FCC 70–62, released January 15, 1970); and that the Policy Statement shall not be applied to this comparative renewal proceeding.

5. *It is further ordered,* That the Hearing Examiner and, where appropriate, the Review Board are directed to take any further steps necessary to conform the conduct of the proceeding to this order.

Adopted: August 4, 1971.

Released: August 20, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[3]

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

[FR Doc.71–12459 Filed 8–24–71;8:53 am]

FEDERAL MARITIME COMMISSION

COMMON CARRIERS BY WATER

Transportation Charges

AUGUST 18, 1971.

To all Common Carriers by water in the Foreign Commerce of the United States, Conferences of such Carriers, Terminal Operators and Carriers in the United States Domestic Offshore Trades.

On August 15, 1971, by virtue of the power vested in him by the Constitution and statutes of the United States, President Richard M. Nixon ordered, among other things, as follows:

SECTION 1. (a) Prices, rents, wages, and salaries shall be stabilized for a period of 90 days from the date hereof at levels not greater than the highest of those pertaining to a substantial volume of actual transactions by each individual, business, firm or other entity of any kind during the 30-day period ending August 14, 1971, for like or similar commodities or services. If no transactions occurred in that period, the ceiling will be the highest price, rent, salary, or wage in the nearest preceding 30-day period in which transactions did occur. No person shall charge, assess, or receive, directly or indirectly, in any transaction prices or rents in any form higher than those permitted hereunder, and no person shall, directly or indirectly, pay or agree to pay in any transaction wages or salaries in any form, or to use any means to obtain payment of wages and salaries in any form, higher than those permitted hereunder, whether by retroactive increase or otherwise.

In an official briefing concerning President Nixon's Directive, the Commission was informed that transportation charges are included within the meaning of the order. Therefore, effective August 15, 1971, through November 12, 1971, no collection may be made of any transportation charge which results in an increase in cost to shippers except as noted in section 1 above. The order applies notwithstanding the fact that proposed increases in rates or charges may otherwise have been lawfully filed pursuant to the provisions of the Shipping Act, 1916, the Intercoastal Shipping Act, 1933, and various Commission Orders. The order also applies whether or not increases in certain charges are under the control of the carrier.

It is to be particularly noted that the United States of America dollar has not been devalued and, therefore, various clauses published in conference and independent tariffs may not be put into effect, and, further, such clauses when requiring the payment of additional charges are contrary to the order.

In an effort to be of assistance to common carriers by water in the foreign commerce of the United Staes and conferences of such carriers and terminal operators, it is suggested that supplements be filed to existing tariffs providing tariffs providing therein postponement to November 13, 1971, of any change in rates, rules, or regulations resulting in an increase in cost to shippers which would have become effective during the period August 15, 1971, through November 12, 1971.

Common carriers in the domestic offshore commerce of the United States are hereby granted under blanket Special Permission No. 5380 authority to file supplements to their tariffs postponing increases for the period of time noted in the preceding paragraph. The order, it should be noted, applies to increases in rates suspended by the Commission prior to August 15 and which otherwise become effective during the period August 15, 1971, through November 12, 1971.

Failure to adopt the procedures outlined above will require amendment of each tariff page on which an increase is published to be effective during the period August 15, 1971, through November 12, 1971.

It is incumbent upon each carrier and conference publishing increases for the period noted in the order to promptly revise its tariff.

[4] Commissioner Houser absent.

[1] 22 FCC 2d 424; 18 RR 2d 1901 (1970).

[2] Slip Opinion, p. 29.

[3] Commissioner Houser absent.

Section 7(a) of the order provides that: "Whoever willfully violates this Order or any order or regulation issued under authority of this Order shall be fined not more than $5,000 for each such violation."

The staff is prepared to be of assistance should such be required by you. Any questions, including questions of the applicability of or exceptions from these provisions, should be directed to the Federal Maritime Commission.

Sincerely,

HELEN DELICH BENTLEY,
Chairman.

[FR Doc.71-12436 Filed 8-24-71;8:51 am]

[Docket No. 71-77]

DILLINGHAM LINES, INC.

Order of Investigation and Suspension Regarding Increases in Rates on All Commodities in U.S. Pacific Coast/Hawaii Trade

Dillingham Lines, Inc., has filed with the Federal Maritime Commission various pages (see Appendix A [1]) to its Hawaii Freight Tariff No. 2, FMC-F No. 3 to become effective August 23, 1971. These pages increase rates by 90 cents per ton on all commodities to cover Marine Insurance between Hawaiian Ports and U.S. Pacific Coast Ports.

Upon consideration of said tariff pages the Commission is of the opinion that the above-designated tariff matter may be unjust, unreasonable, or otherwise unlawful and that a public investigation and hearing should be instituted to determine its lawfulness under section 18(a) of the Shipping Act, 1916, and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933, and good cause appearing therefore:

It is ordered, That pursuant to the authority of section 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of said matter, published on the tariff pages listed in Appendix A [1] with a view to making such findings and orders in the premises as the facts and circumstances warrant. In the event the matter hereby placed under investigation is further changed, amended or reissued, such matter will be included in this investigation.

It is further ordered, That pursuant to section 3, Intercoastal Shipping Act, 1933, the pages listed in Appendix A are suspended and the use thereof deferred to and including December 22, 1971, unless otherwise ordered by this Commission;

It is further ordered, That there shall be filed immediately with the Commission by Dillingham Lines, Inc., a consecutively numbered supplement to the aforesaid tariff which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspended matter is described and shall state that the aforesaid matter is suspended and may not be used until December 23, 1971, unless otherwise authorized by the Commission; and the rates and charges or other provisions heretofore in effect, and which were to be changed by the suspended matter shall remain in effect during the period of suspension, and neither the matter suspended, nor the matter which is continued in effect as a result of such suspension, may be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission;

It is further ordered, That copies of this order shall be filed with the said tariff schedule in the Bureau of Compliance of the Federal Maritime Commission;

It is further ordered, That Dillingham Lines, Inc. be named respondent in this proceeding;

It is further ordered, That the provisions of Rule 12 of the Commission's rules of practice and procedure which require leave of the Commission to take testimony by deposition or by written interrogatory if notice thereof is served within 20 days of the commencement of the proceeding, are hereby waived for this proceeding inasmuch as the expeditious conduct of business so requires. The provision of Rule 12(h) which requires leave of the Commission to request admissions of fact and genuineness of documents of notice thereof is served within 10 days of commencement of the proceeding, is similarly waived;

It is further ordered, That this proceeding be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners and that the hearing be held at a date and a place to be determined and announced by the presiding examiner;

It is further ordered, That (I) a copy of this order shall be forthwith served upon the respondent and published in the FEDERAL REGISTER; and (II) the said respondent be duly served with notice of time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) with a copy to all parties to this proceeding.

By the Commission.

[SEAL] JOSEPH C. POLKING,
Assistant to the Secretary.

[FR Doc.71-12441 Filed 8-24-71;8:52 am]

[1] Filed as part of the original document.

FLOREX FORWARDING CO. ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders, pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Guillermo A. Flores, doing business as Florex Forwarding Co., 521 Flagami Boulevard, Miami, FL 33148.

Alex A. Bastidas, 97-20 82d Street, Woodhaven, N.Y. 11416.

Robert Eugene Davis, 1211 Southeast Union Avenue, Portland, OR 97214.

Donald B. Tyson, 2005 West Lunt Avenue, Chicago, IL 60645.

BLG Swisstrans, Inc., 90 West Street, New York, N.Y. 10006.

Officers:

Dr. Darius Weber, President.
Vincent B. Pellegrino, Vice President.
Gerald Spring, Vice President.
Edward J. Esposito, Vice President.
Rudolf Fischer, Vice President.
John F. Jaisli, Secretary.

Andrew P. Aquino, Road No. 1, Tuxedo Park, N.Y. 10987.

ICS Freight Services, Inc., 555 Fifth Avenue, New York, N.Y. 10017.

Officers and Directors:

James P. Thrasher, President/Director.
Richard A. Strouce, Vice President/Director.
Robert E. Budorick, Director.

Federal Freight Forwarding, Inc., 1130 U.S. Highway No. 1, Elizabeth, N.J. 07201.

Officers and Directors:

Alfred diResta, President/Director.
John F. Havey, Vice President.
Charles J. Gossner, Secretary/Treasurer.
J. Russell Clune, Director.
John D. Barone, Director.

John Cleophas Stowe doing business as, John C. Stowe & Co., Post Office Box 3745, Honolulu, HI 96812.

Pacheco International Corp., 11101 South La Cienega Boulevard, Los Angeles, CA 90045.

Officers:

Ramon J. Pacheco, President.
James A. Barnhart, First Vice President.
John R. Nairn, Second Vice President.
Florence M. Pacheco, Secretary/Treasurer.

Dated: August 20, 1971.

JOSEPH C. POLKING,
Assistant to the Secretary.

[FR Doc.71-12439 Filed 8-24-71;8:51 am]

[Docket No. 71-49; Special Permission 5377]

GULF PUERTO RICO LINES, INC.

General Increases in Rates in the U.S. Gulf Puerto Rico Trade; Fourth Supplemental Order

By the Original Order in this proceeding served April 30, 1971, the Commission placed under investigation a general rate increase of the subject carrier, and suspended to and including September 1, 1971, supplement No. 7 and various pages to Tariff FMC-F No. 1. The Commission's order prohibits changes in tariff matter held in effect by reason of suspension,

during the period of suspension, unless otherwise ordered by the Commission.

By Special Permission Application No. 57 authority is sought to depart from the terms of Rule 20(c) of Tariff Circular No. 3 and the terms of the Original Order in this proceeding to permit the filing, upon not less than 5 days' notice, to make changes in rates and provisions held in effect by reason of suspension in said docket, but only to the extent that such changes will result in the filing of reduced rates on plastic household utensils previously rejected by the Commission.

A full investigation of the matters involved in the application having been made, which application is hereby referred to and made a part thereof:

It is ordered, That:

1. Authority to depart from Rule 20 (c) of Tariff Circular No. 3 and the terms of the Order in Docket No. 71–49 to make the changes in rates and provisions as set forth in Special Permission Application No. 57, said changes to become effective on not less than 5 days' notice, is hereby granted.

2. The authority granted hereby does not prejudice the right of this Commission to suspend any publications submitted pursuant thereto, either upon receipt of protest or upon the Commission's own motion under section 3 of the Intercoastal Shipping Act, 1933.

3. Publications issued and filed under this authority shall bear the following notation: "Issued under authority of Fourth Supplemental Order in Docket No. 71–49 and Federal Maritime Commission Special Permission No. 5377."

4. This special permission does not modify any outstanding formal orders of the Commission except insofar as it allows the aforementioned changes, nor waive, except as herein authorized, any of the requirements of its rules relative to the construction and filing of tariff publications.

By the Commission.

[SEAL] JOSEPH C. POLKING,
Assistant to the Secretary.

[FR Doc.71–12440 Filed 8–24–71;8:52 am]

[Docket No. 71–79]

PUERTO RICAN FORWARDING CO., INC.

Order of Investigation and Suspension Regarding General Increases in Rates in U.S. Atlantic and Puerto Rico Trade

Puerto Rican Forwarding Co., Inc., has filed with the Federal Maritime Commission Supplements Nos. 8, 9, 10, and 11 to its Tariff FMC–F No. 3 to become effective August 26, 1971. These supplements generally increase the rates and charges in the subject trade.

Upon consideration of said supplements, the Commission is of the opinion that the above-designated tariff matter may be unjust, unreasonable, or otherwise unlawful and that a public investigation and hearing should be instituted to determine its lawfulness under section 18(a) of the Shipping Act, 1916, and/or sections 3 and 4 of the Intercoastal Shipping Act, 1933; and good cause appearing, therefore:

One of the cost factors which Puerto Rican Forwarding has submitted to the Commission as justification for its proposed increase in rates is the 18 percent cost increase in the purchase of transportation from its underlying water carriers effective August 25, 1971, which has been postponed until November 13, 1971, by the Commission Circular letter of August 18, 1971.

It is ordered, That pursuant to the authority of section 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, and investigation is hereby instituted into the lawfulness of said increased rates and charges with a view to making such findings and orders in the premises as the facts and circumstances warrant. In the event the matter hereby placed under investigation is further changed, amended or reissued, such matter will be included in this investigation;

It is further ordered, That pursuant to section 3, Intercoastal Shipping Act, 1933, Supplements Nos. 8, 9, 10, and 11 to Tariff FMC–F No. 3 is suspended and the use thereof deferred to and including December 25, 1971, unless otherwise ordered by this Commission;

It is further ordered, That there shall be filed immediately with the Commission by Puerto Rican Forwarding Co., Inc., a consecutively numbered supplement to the aforesaid tariff which supplement shall bear no effective date, shall reproduce the portion of this order wherein the suspended matter is described and shall state the aforesaid matter is suspended and may not be used until December 26, 1971, unless otherwise authorized by the Commission; and the rates and charges heretofore in effect, and which were to be changed by the suspended matter shall remain in effect during the period of suspension, except as hereinbefore provided, and neither the matter suspended, nor the matter which is continued in effect as a result of such suspension may be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission: *Provided, however,* That changes in rates and provisions held in effect by reasons of suspension in this docket but only to the extent that such changes will result in a reduction in rates or charges, upon lawful notice, are hereby authorized.

It is further ordered, That the granted authority to effect reductions in rates or charges does not prejudice the right of the Commission to suspend any publications submitted pursuant thereto, either upon receipt of protests or upon the Commission's own motion, and that publications issued and filed pursuant to such authority shall bear the notation: "Authority granted by the Federal Maritime Commission in its Order of Investigation and Suspension in Docket No. 71–79 to make changes in rates and provisions held in effect by reason or suspension in said Docket, but only to the extent that such departure will result in a reduction of rates or charges."

It is further ordered, That copies of this order shall be filed with the said tariff schedules in the Bureau of Compliance of the Federal Maritime Commission;

It is further ordered, That the provisions of Rule 12 of the Commission's rules of practice and procedure which require leave of the Commission to take testimony by deposition or by written interrogatory if notice thereof is served within 20 days of the commencement of the proceeding, are hereby waived for this proceeding inasmuch as the expeditious conduct of business so requires. The provision of Rule 12(h) which requires leave of the Commission to request admissions of fact and genuineness of documents if notice thereof is served within 10 days of commencement of the proceeding, is similarly waived;

It is further ordered, That Puerto Rican Forwarding Co., Inc., be named as respondent in this proceeding;

It is further ordered, That this proceeding be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners and that the hearing be held at a date and a place to be determined and announced by the presiding examiner;

It is further ordered, That (I) a copy of this order shall forthwith be served on the respondent herein, the petitioner, Commonwealth of Puerto Rico, and published in the FEDERAL REGISTER; and (II) the said respondent and petitioner, be duly served with notice of time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rules 5(l) of the Commission's rules of practice and procedure (46 CFR S 502.72), with a copy to all parties to this proceeding.

By the Commission.

[SEAL] JOSEPH C. POLKING,
Assistant to the Secretary.

[FR Doc.71–12443 Filed 8–24–71;8:52 am]

SHAW SAVILL & ALBION CO., LTD.

Notice of Issuance of Performance Certificate

Security for the protection of the public; indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (80 Stat. 1357, 1358), and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Shaw Savill & Albion Co., Ltd., Lloyd's Building, 14–19 Leadenhall Street, London, E.C.3, England.

Dated: August 20, 1971.

JOSEPH C. POLKING,
Assistant to the Secretary.

[FR Doc.71–12437 Filed 8–24–71;8:51 am]

SHAW SAVILL & ALBION CO., LTD.

Notice of Issuance of Casualty Certificate

Security for the protection of the public financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89–777 (80 Stat. 1356, 1357), and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Shaw Savill & Albion Co., Ldt., Lloyd's Building, 14–19 Leadenhall Street, London, E.C.3, England.

Dated: August 20, 1971.

JOSEPH C. POLKING,
Assistant to the Secretary.

[FR Doc.71–12438 Filed 8–24–71;8:51 am]

[Docket No. 71–78]

WEST COAST OF ITALY, SICILIAN, AND ADRIATIC PORTS NORTH ATLANTIC RANGE CONFERENCE

Order of Investigation and Hearing Regarding Modification

The Commission has before it the application of The West Coast of Italy, Sicilian, and Adriatic Ports North Atlantic Range Conference, Agreement No. 2846–13, as amended, to modify Article 1, paragraph 9 of the basic agreement by redefining the term "Conference Freights" and listing exceptions to which the definition does not apply. Said paragraph would read as follows:

> The term "Conference Freights" means the rates and conditions of freight as adopted by the Conference, which, unless otherwise stipulated hereunder, are applicable on all cargo loaded at W.I.N.A.C. loading ports and discharged at W.I.N.A.C. unloading ports irrespective of the origin and destination named in the bill of lading.
>
> The only exceptions are:
>
> (A) Cargo of non-Italian origin loaded at ports outside of the W.I.N.A.C. loading range in transshipment by water at W.I.N.A.C. loading ports and covered by a W.I.N.A.C. member bill of lading issued at and covering transportation from the port of origin.
>
> (B) Cargo discharged at a W.I.N.A.C. port of destination but moving on a thru bill of lading issued by a W.I.N.A.C. member to points outside of U.S.A. or, by water, to any U.S.A. seaport outside the W.I.N.A.C. range of discharging ports.
>
> which is excluded from W.I.N.A.C. jurisdiction.

The Conference has not furnished us with any justification for such a radical change in its basic rate concept. Further, it appears that the proposed modification could impose an unreasonable restraint on through intermodal movements, thereby creating a detriment to the foreign commerce of the United States.

It is therefore ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, as amended, an investigation and hearing be instituted to establish a record showing the impact of the subject modification upon the foreign commerce of the United States to enable the Commission to determine whether the subject modification should be approved, disapproved or modified; and

It is further ordered, That the parties listed in appendix A hereto, are hereby made respondent in this proceeding; and

It is further ordered, That this matter be assigned for public hearing before an examiner of the Commission's Office of Hearing Examiners and that the hearing be held at a date and place to be determined and announced by the presiding examiner; and

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and that a copy thereof and notice of hearing be served upon respondents; and

It is further ordered, That any person, other than respondents, who desires to become a party to this proceeding and participate therein, shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in accordance with Rule 5(1) (46 CFR 502.72) of the Commission's rules of practice and procedure.

And it is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notices of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] JOSEPH C. POLKING,
Assistant to the Secretary.

APPENDIX A

G. Ravera, Secretary, West Coast of Italy, Sicilian, and Adriatic Ports/North Atlantic Range Conference, Post Office Box 1070, 16100, Genoa, Italy.
American Export Isbrandtsen Lines, Inc., 26 Broadway, New York, NY 10004.
Concordia Line, Boise-Griffin Steamship Co., General Agents, 90 Broad Street, New York, NY 10004.
Constellation Line, Constellation Navigation Inc., General Agents, 30 Church Street, New York, NY 10007.
Costa Line, Via G. d'Ammungio, 16121 Genoa, Italy.
Fabre Line, Columbus Line, General Agents, 26 Broadway, New York, NY 10004.
Fassio Line, 2 Via E. De Amicis. 2, 16122 Genoa, Italy.
Flota Lauro Naples, Via C. Colombo, 45 (Palazzo Lauro), 80133 Napoli, Italy.
Hansa Line, Schlachte 6, Bremen, Germany.
Hellenic Lines Ltd., 39 Broadway, New York, NY 10006.
Italian Line, Piazza de Ferrari, 16121 Genova, Italy.
Prudential Grace Lines, Inc., One Whitehall, New York, New York 10004.
Sea Land Service, Inc., Post Office Box 1050, Elizabeth, NJ 07207.
Turkish Cargo Lines, D. B., Charrier, McAteer & Fettig, Agents, 1776 K Street NW., Suite 601, Washington, DC 20006.
Yugoslav Line, Post Office Box 379, Rijeka, Yugoslavia.
Zim Israel Navigation Co. Ltd., America Israel Shipping Co., 42 Broadway, New York, NY 10004.

[FR Doc.71–12442 Filed 8–24–71;8:52 am]

FEDERAL POWER COMMISSION

[Docket No. RP72–21]

EASTERN SHORE NATURAL GAS CO.

Notice of Proposed Changes in FPC Gas Tariff To Establish New Policies Regarding Curtailment and Interruption of Deliveries

AUGUST 20, 1971.

Take notice that on August 1, 1971, Eastern Shore Natural Gas Co. (Eastern Shore) tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1,[1] to be effective September 10, 1971, for the purpose of establishing procedures to govern curtailments of service in case of a gas shortage resulting either from curtailment of deliveries by Eastern Shore's interstate supplier or from other causes. Eastern Shore also asks that its filing of a prior curtailment proposal in Docket No. RP71–121 be withdrawn. The tariff sheets filed in Docket No. RP71–121 were suspended by the Commission's order issued June 7, 1971, in that docket and have not become effective by reason of Eastern Shore's election not to file a motion to make those provisions effective.

The basic provisions of Eastern Shore's proposed curtailment plan are set forth on Original Sheet Nos. 32A, 32B, 32C, and 32D which would revise section 13 of the General Terms and Conditions of its tariff. Section 13.1 provides for curtailments of service when there is a gas supply deficiency. In such cases, interruptible service, including sales to direct pipeline customers and interruptible consumers served by resale customers, will be proportionately reduced until all such sales are entirely discontinued. Thereafter, direct firm pipeline customers will be curtailed along with transportation service to direct industrial customers if such curtailment is necessary to maintain sufficient pressure to provide adequate service to firm resale customers. Then firm industrial service,

[1] Original Sheet Nos. 9G, 12A, 32A, 32B, 32C, and 32D; First Revised Sheet Nos. 6, 7A, 9A, 9C, 9D, 9E, 9F, 12, 32, and 33; Second Revised Sheet Nos. 7 and 10; Third Revised Sheet No. 4; Eighth Revised Sheet No. 9B; and 25th Revised Sheet Nos. 5 and 8 to its FPC Gas Tariff, Original Volume No. 1.

including firm sales made by resale customers, will be proportionately curtailed until all firm industrial sales are completely curtailed except industrial customers whose daily requirements are 100 Mcf or less. The final curtailment step will be to reduce firm service to resale customers purchasing under Rate Schedules CD–1, CD–E, and G–1 in proportion to the total daily contract demand of all customers, including industrial customers, including industrial customers using 100 Mcf or less per day.

In making the curtailments provided for in section 13.1, Eastern Shore will give its customers as much notice as possible and will specify the percentage of their contractual volumes they are entitled to take during a specific curtailment period.

Section 13.2 sets forth Eastern Shore's curtailment procedures in cases of gas shortages arising from force majeure causes or resulting from repairs, modifications, etc., of Eastern Shore's pipeline system. Curtailments under such circumstances will be made exactly as specified in section 13.1 described above, except that transportation services will be curtailed at the same time and in the same proportion as firm industrial service even if such curtailment would not be necessary in order to maintain operating pressures to protect firm service to resale customers. Additionally, section 13.2 specifically provides for highest priority to be given to service rendered under Eastern Shore's Rate Schedules GSS–1 (General Storage Service) and PS–1 (Peaking Service) Rate Schedules.

The remaining proposed tariff changes would modify the provisions of Rate Schedules CD–1, CD–E, and G–1 to recognize that they are subject to the revised changes in curtailment procedures as set forth in sections 13.1 and 13.2.

Eastern Shore's filing indicates that it was served upon its customers and interested State Commissions.

In view of the fact that any comments should be submitted prior to the requested effective date of September 10, 1971, good cause exists to shorten the notice period with respect to Eastern Shore's filing.

Any person desiring to be heard or to make any protest with reference to the proposed tariff changes hereinbefore described should on or before August 31, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. Eastern Shore's proposed tariff sheets, submitted in response to Order No. 431, are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71–12470 Filed 8–24–71;8:53 am]

FEDERAL RESERVE SYSTEM

FIRST NATIONAL CITY CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First National City Corp., which is a bank holding company located in New York, N.Y., for prior approval by the Board of Governors of the acquisition by applicant of 100 percent of the voting shares (less directors' qualifying shares) of Citibank, N.A., Islip, N.Y., a proposed new bank.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, August 18, 1971.

[SEAL] NORMAND BERNARD,
Assistant Secretary.

[FR Doc.71–12379 Filed 8–24–71;8:46 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 71–8]

CERTAIN FINAL ENVIRONMENTAL IMPACT STATEMENTS

Availability

Notice is hereby given of the public availability of final Environmental Impact Statements with respect to the following installations of the National Aeronautics and Space Administration:

(a) Ames Research Center, Moffett Field, Calif.

(b) Flight Research Center, Edwards, Calif.

(c) Langley Research Center, Hampton, Va.

(d) Lewis Research Center, Cleveland, Ohio.

Each of these separate Installation Statements describes the respective installation, its mission, and operations.

Comments on the draft Environmental Statements for the above installations were previously solicited from State and local agencies and members of the public through notices in the FEDERAL REGISTER of March 3, 1971 and March 18, 1971.

Copies of the draft statements were sent to the Office of Management and Budget, the Council on Environmental Quality, and the Environmental Protection Agency.

Copies of the final statements are being furnished to the Council on Environmental Quality and the Office of Management and Budget.

Copies of the final statements may be purchased (price $1 each), or examined at any of the following locations:

(a) National Aeronautics and Space Administration, Public Documents Room (Room 126), Independence Avenue SW., Washington, D.C. 20546.

(b) Ames Research Center, NASA (Building 201, Room 17), Moffett Field, Calif. 94035.

(c) Flight Research Center, NASA (Building 4800, Room 1017), Post Office Box 273, Edwards, CA 93523.

(d) Goddard Space Flight Center, NASA (Building 8, Room 150), Greenbelt, Md. 20771.

(e) John F. Kennedy, Space Center, NASA (Headquarters Building, Room 1207), Kennedy Space Center, Fla. 32899.

(f) Langley Research Center, NASA (Building 1219, Room 304), Hampton, Va. 23365.

(g) Lewis Research Center, NASA (Administration Building, Room 120), 21000 Brookpark Road, Cleveland, OH 44135.

(h) Manned Spacecraft Center, NASA (Building 1, Room 136), Houston, Tex. 77058.

(i) George C. Marshall Space Flight Center, NASA (Building 4200, Room G–11), Hunstville, Ala. 35812.

(j) Mississippi Test Facility, NASA (Building 1100, Room A–213), Bay St. Louis, Miss. 39520.

(k) NASA Pasadena Office (Jet Propulsion Laboratory, Building 180, Room 600), 4800 Oak Grove Drive, Pasadena, CA 91103.

(l) Wallops Station, NASA (Library Building, Room E–105), Wallops Island, Va. 23337.

Done at Washington, D.C., this 17th day of August 1971.

By direction of the Administrator.

HOMER E. NEWELL,
Associate Administrator, National Aeronautcis and Space Administration.

[FR Doc.71–12401 Filed 8–24–71;8:48 am]

[Notice 71–7]

PIONEER F/G PROGRAM

Availability of Draft Environmental Impact Statement

Notice is hereby given of the public availabilty of the draft Environmental Impact Statement on the NASA Pioneer F/G Program.

The Pioneer F and G spacecraft are the sixth and seventh of an on-going series of planetary and interplanetary space exploration missions which will be launched by Atlas-Centaur launch vehicles from Cape Kennedy, Fla., to the vicinity of the planet Jupiter in 1972 and 1973.

Comments on the draft Environmental Statement and on matters set forth therein are solicited from and may be submitted by State and local agencies and members of the public. Such comments should be submitted to the Associate Administrator, National Aeronautics and Space Administration, Washington, D.C. 20546. All comments must be received within 60 calendar days of the publication of this Notice in the FEDERAL REGISTER in order to be considered in the preparation of the final Environmental Statement and in the ultimate program or activity reassessment.

Copies of the draft statement may be purchased (price $1 each) or examined at any of the following locations:

(a) National Aeronautics and Space Administration, Public Documents Room (Room 126), Independence Avenue SW., Washington, DC 20546.

(b) Ames Research Center, NASA (Building 201, Room 17), Moffett Field, Calif. 94035.

(c) Flight Research Center, NASA (Building 4800, Room 1017), Post Office Box 273, Edwards, CA 93523.

(d) Goddard Space Flight Center, NASA (Building 8, Room 150), Greenbelt, Md. 20771.

(e) John F. Kennedy Space Center, NASA (Headquarters Building, Room 1207), Kennedy Space Center, Fla. 32899.

(f) Langley Research Center, NASA (Building 1219, Room 304), Hampton, Va. 23365.

(g) Lewis Research Center, NASA (Administration Building, Room 120), 21000 Brookpark Road, Cleveland, OH 44135.

(h) Manned Spacecraft Center, NASA (Building 1, Room 136), Houston, Tex. 77058.

(i) George C. Marshall Space Flight Center, NASA (Building 4200, Room G–11), Huntsville, Ala. 35812.

(j) Mississippi Test Facility, NASA (Building 1100, Room A–213), Bay St. Louis, Miss. 39520.

(k) NASA Pasadena Office (Jet Propulsion Laboratory, Building 180, Room 600), 4800 Oak Grove Drive, Pasadena, CA 91103.

(l) Wallops Station, NASA (Library Building, Room E–105), Wallops Island, Va. 23337.

Done at Washington, D.C., this 17th day of August 1971.

By direction of the Administrator.

HOMER E. NEWELL,
Associate Administrator, National Aeronautics and Space Administration.

[FR Doc.71–12400 Filed 8–24–71;8:48 am]

OFFICE OF EMERGENCY PREPAREDNESS

[OEP Economic Stabilization Order 1]

SECRETARY OF THE TREASURY

Delegation of Authority

By virtue of the authority vested in the Director of the Office of Emergency Preparedness by section 5 of Cost of Living Council Order No. 1, it is hereby ordered as follows:

SECTION 1. *Purpose.* The purpose of this order is to delegate to the Secretary of the Treasury, hereinafter referred to as the Secretary, certain administrative and operating functions relating to the implementation of the program providing for stabilization of prices, rents, wages, and salaries pursuant to Executive Order 11615 of August 15, 1971. The Secretary shall, in carrying out said functions, provide by redelegation or otherwise for their performance.

SEC. 2. *Functions delegated.* There is hereby delegated to the Secretary the responsibility and authority for the establishment, operation and maintenance of local service and compliance centers established in support of the economic stabilization program in Standard Metropolitan Statistical Areas and such other places as the Secretary may determine. The functions to be exercised through these centers will include but not be limited to the following:

a. Dissemination of information and guidance to the public;

b. Receipt, analysis, and evaluation of complaints received with respect to program violations;

c. Subject to the general policy guidance and coordination of the Director of the Office of Emergency Preparedness, or his designee, the investigation, compliance, and enforcement of the stabilization of prices, rents, wages and salaries as directed by section 1(a) of Executive Order No. 11615.

Sec. 3. *Effective date.* This Order is effective the date of issuance.

Dated: August 19, 1971.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

[FR Doc.71–12557 Filed 8–24–71;9:13 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 840; Class B]

RHODE ISLAND

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of July 1971, because of the effects of certain disasters damage resulted to business property located in the State of Rhode Island;

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 Associate Administrator for Operations and Investment 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 Lederer Building, Stewart and Conduit Streets, Providence, RI, suffered damage or destruction resulting from fire on July 28, 1971.

OFFICE

Small Business Administration District Office, 57 Eddy Street, Providence, RI 02903.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to February 29, 1972.

Dated: August 9, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71–12367 Filed 8–24–71;8:45 am]

RULE MAKING PROCEDURES

Policy on Public Participation

Effective in 30 days from publication of this notice, the Small Business Administration intends to be governed by the public participation provisions of the Administrative Procedure Act, 5 U.S.C. section 553, notwithstanding the exemptions given by such section 553 for matters relating to agency management or personnel, or to public property, loans, grants, benefits, or contracts. Where, as provided by 5 U.S.C. section 553, it is determined that such public participation procedures would be impracticable, unnecessary, or contrary to the public interest, a specific finding to this effect shall be published with the rules or regulations in question. Such exceptions from public participation procedures are not to be favored and will be used sparingly, as for example, in emergencies and in

instances where public participation would be useless or wasteful because proposed amendments to regulations cover minor technical matters.

In connection with any notice of proposed rule making, written material or suggestions submitted will be available for public inspection during regular business hours at the office indicated in such notice.

Dated: August 18, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-12366 Filed 8-24-71;8:45 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

AUGUST 20, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 134915 Sub 2, Southwest Refrigerated Distributing, Inc., doing business as Refrigerated Distributing, now assigned September 16, 1971, at Jefferson City, Mo., postponed indefinitely.

MC 61592 Sub 199, Jenkins Truck Line, Inc., assigned September 21, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 106398 Sub 308, National Trailer Convoy, Inc., assigned September 27, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 682 Sub 11, Burnham Van Service, Inc., assigned for continued hearing September 21, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 135413, Henry's Transfer, Inc., assigned September 20, 1971, in Room 1510, Federal Building, 51 Southwest First Avenue, Miami, FL.

MC-F-10960, Briggs Transportation Co.—Purchase (Portion)—Ringsby Truck Lines, Inc., and MC 52709 Sub 313, Ringsby Truck Lines, Inc., assigned October 4, 1971, in Room 15036, Federal Building, 1961 Stout Street, Denver, CO.

MC 115092 Sub 14, Weiss Trucking, Inc., assigned September 30, 1971 in Room 314, Federal Annex Building, 135 South State Street, Salt Lake City, UT.

MC 115904 Sub 24, Louis Grover, assigned September 27, 1971, in Room 314, Federal Annex Building, 135 South State Street, Salt Lake City, UT.

MC 133496 Sub 3, Diehl Lumber Transportation Co., assigned September 29, 1971, in Room 314, Federal Annex Building, 135 South State Street, Salt Lake City, UT.

MC 120098 Sub 19, Uintah Freightways, assigned October 4, 1971, in Room 284, Post Office Building, 1823 Stout Street, Denver, CO.

MC 115826 Sub 21, W. J. Digby, Inc., assigned for continued hearing October 12, 1971, in Room 15036, Federal Building, 1961 Stout Street, Denver, CO.

MC 121162 Sub 8, Morton John Kavanaugh, Jr., d.b.a. Kavanaugh Motor Freight, assigned for continued hearing October 4, 1971, in Room 55, U.S. Post Office and Courthouse, 424 Texas Street, Shreveport, LA.

MC-F-11074, Point Transfer, Inc.—Purchase—The Coraopolis Transfer and Storage Co., assigned September 27, 1971, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-11093, C & H Transportation Co., Inc.—Purchase (Portion)—Equipment Transport, Inc., assigned September 23, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-7220, Chemical Leaman Tank Lines, Inc., Matlack, Inc., and M & M Trucking Company, a corporation—Investigation of Practices, assigned September 22, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 83539 Sub 305, C & H Transportation Co., Inc., assigned September 20, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 115841 Sub 397, Colonial Refrigerated Transportation, Inc., assigned September 22, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 117574 Sub 197, Daily Express, Inc., assigned September 22, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 112304 Sub 45, Ace Doran Hauling & Rigging Co., assigned October 7, 1971, in Room 183, Federal Building, 600 Federal Place, Louisville, KY.

MC 112304 Sub 46, Ace Doran Hauling & Rigging Co., assigned October 8, 1971, in Room 183, Federal Building, 600 Federal Place, Louisville, KY.

MC 118831 Sub 79, Central Transport, Inc., assigned October 12, 1971, in Room 183, Federal Building, 600 Federal Place, Louisville, KY.

MC 127834 Sub 59, Cherokee Hauling & Rigging, Inc., assigned October 4, 1971, in Room 183, Federal Building, 600 Federal Place, Louisville, KY.

MC 133633 Sub 5, Highway Express, Inc., assigned October 18, 1971, in Room 403, Sun-N-Sand Motel, North Lamar Street, Jackson, Miss.

FD 26409, Atlas Van Lines, Inc. Investigation of Practices, FD 26654, Atlas Van Lines, Inc. Agreement of Subordinated Participation, assigned October 13, 1971, in Room 183, Federal Building, 600 Federal Place, Louisville, KY.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-12434 Filed 8-24-71;8:51 am]

[No. MC-C4; Sub-No. 1]

LOS ANGELES HARBOR COMMERCIAL ZONE

Notice of Filing of Petition Regarding Boundaries

AUGUST 20, 1971.

No. MC-C 4 (Sub-No. 1) (Notice of filing of petition for clarification of a portion of the northern boundary of the Los Angeles Harbor Commercial Zone at Compton, Calif.), filed August 10, 1971.

Petitioner: Cabot, Cabot & Forbes Los Angeles Industrial Center, Inc., Compton, Calif.

Petitioner's representatives: William H. Allen, Richard D. Copahen, 888 16th Street NW., Washington, DC 20006.

Petitioner's industrial center is located south of the former corporate limits of Compton, Calif. The Los Angeles Harbor commercial zone limits are described in part as including that area south of the corporate limits of Compton. Since defining the limits of the Los Angeles Harbor commercial zone in 51 M.C.C. 676, Compton has expanded its corporate limits in a southerly direction to include the area encompassing petitioner's industrial center. By the instant petition, petitioner requests that the Commission interpret the present Los Angeles Harbor commercial zone limits so as not to exclude petitioner's industrial center from the commercial zone now that its industrial center is north of the new southern corporate limits of Compton. Redefinition of the limits of the Los Angeles Harbor commercial zone (49 CFR 1048.5) may be required. No oral hearing is contemplated at this time, but any person (including petitioner), wishing to make representations in favor of, or against, the above-proposed clarification or possible redefinition of the Los Angeles Harbor commercial zone, limits at Compton, may do so by the submission of written data, views, or arguments. An original and seven copies of such data, views, or arguments shall be filed with the Commission on or before September 20, 1971. Each such statement should include a statement of position with respect to the proposed revision, and copy thereof should be served upon petitioner's representative.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register. Written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution, Washington, DC, during regular business hours.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-12425 Filed 8-24-71;8:50 am]

[Notice 24]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

AUGUST 20, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised

Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

NO. MC-1515 (Deviation No. 591), GREYHOUND LINES, INC. (Western Division), 371 Market Street, San Francisco, CA 94106, filed August 10, 1971. 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 Roseville, Calif., over Sunrise Boulevard to junction Greenback Lane, thence over Greenback Lane to Folsom, Calif., 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 pertinent service routes as follows: (1) From the point where Interstate Highway 80 intersects the Nevada-California State line over Interstate Highway 80 to Sacramento, Calif., (connects with Nevada Route 1), and (2) from the point where U.S. Highway 50 intersects the Nevada-California State line over U.S. Highway 50 to junction unnumbered highway southeast of Folsom (East Folsom Junction), thence over unnumbered highway via Folsom and Nimbus to junction U.S. Highway 50, thence over U.S. Highway 50 to Sacramento, Calif. (connects with Nevada Route 4), and return over the same routes.

No. MC-109780 (Deviation No. 37), CONTINENTAL TRAILWAYS, INC. (Central Division), 300 South Broadway Avenue, Wichita, KS 67201, filed August 9, 1971. 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 Chicago, Ill., over city streets to junction Interstate Highways 94 and 57 (city of Chicago), thence over Interstate Highway 57 to Onarga, Ill., 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 Chicago, Ill., over U.S. Highway 41 to Hammond, Ind., thence over U.S. Highway 6 to Harvey, Ill. (also from Hammond over Sibley Boulevard to Harvey), thence over U.S. Highway 54 via Kankakee, Ill., to junction Illinois Highway 115, thence over Illinois Highway 115 to junction U.S. Highway 54, thence over U.S. Highway 54 to Fullerton, Ill., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-12427 Filed 8-24-71;8:50 am]

[Notice 29]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

AUGUST 20, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-8600 (Deviation No. 9), WERNER CONTINENTAL, INC., Post Office Box 3609, St. Paul, MN 55101, filed August 6, 1971. 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. Highways 66 and 12 (near Hodgkins, Ill.), over U.S. Highway 12 to junction Interstate Highway 294, thence over Interstate Highway 294 to junction Interstate Highway 80 (near Hazel Crest, Ill.), thence over Interstate Highway 80 to junction Interstate Highway 71 (near Cleveland, Ohio), thence over Interstate Highway 71 through Cleveland, Ohio, to junction Interstate Highway 90 (near Cleveland, Ohio), thence over Interstate Highway 90 to Albany, 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 Chicago, Ill., over U.S. Highway 12 to junction U.S. Highway 41, thence over U.S. Highway 41 to junction U.S. Highway 30, thence over U.S. Highway 30 to junction U.S. Highway 30S (Near Delphos, Ohio), thence over U.S. Highway 30S to junction U.S. Highway 30 (near Mansfield, Ohio), thence over U.S. Highway 30 to Pittsburgh, Pa., thence over U.S. Highway 22 to Newark, N.J., thence over city streets and connecting highways to New York, N.Y., thence over U.S. Highway 9 to Albany, N.Y., and return over the same route.

No. MC-33641 (Deviation No. 25), IML FREIGHT, INC., Post Office Box 2277, Salt Lake City, UT 84110, filed August 10, 1971. Carrier proposes to operate as a *common carrier* by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Reading, Pa., over U.S. Highway 222 to junction Pennsylvania Turnpike Northeast Extension, near Wescosville, Pa., thence over the Pennsylvania Turnpike Northeast Extension to junction U.S. Highway 22 (Interstate Highway 78), thence over U.S. Highway 22 (Interstate Highway 78) to junction Pennsylvania Highway 512 near Bethlehem, Pa., thence over Pennsylvania Highway 512 to junction Pennsylvania Highway 115 near Wind Gap, Pa., thence over Pennsylvania Highway 115 to junction U.S. Highway 611, thence over U.S. Highway 611 to junction U.S. BR Highway 209 near Stroudsburg, Pa., thence over U.S. BR Highway 209 to junction U.S. Highway 209, thence over U.S. Highway 209 to junction Interstate Highway 84 near Milford, Pa., thence over Interstate Highway 84 to junction Interstate Highway 87 near Newburgh, N.Y., thence over Interstate Highway 87 to Albany, 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 pertinent service routes as follows: (1) from Harrisburg, Pa., over U.S. Highway 422 to Philadelphia, Pa., thence over the Delaware River Bridge to Camden, N.J., thence over U.S. Highway 130 to junction U.S. Highway 1, thence over U.S. Highway 1 to New York, N.Y., and (2) from New York, N.Y., over U.S. Highway 9 to Albany, N.Y., and return over the same routes.

No. MC-42487 (Deviation No. 91), CONSOLIDATED FREIGHT WAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94015, filed August 10, 1971. Carrier's representative: V. R. Oldenburg, Post Office Box 5138, Chicago, IL 60680. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over deviation routes as follows: (1) From Salem, Ill., over Illinois Highway 37 to Mt. Vernon, Ill., thence over U.S. Highway 460 to Evansville, Ind., and (2) from junction U.S. Highway 50 and Interstate Highway 57, at or near Salem, Ill., over Interstate Highway 57 to junction U.S. Highway 460, at or near Mt. Vernon, Ill., thence over U.S. Highway 460 to Evansville, Ind., 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 a pertinent service route

as follows: from Salem, Ill., over U.S. Highway 50 to Vincennes, Ind., thence over U.S. Highway 41 to Evansville, Ind., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-12428 Filed 8-24-71;8:50 am]

[Notice 66]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

AUGUST 20, 1971.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 134542 (Sub-No. 4) (Amendment), filed August 3, 1970, published in the FEDERAL REGISTER issue of August 27, 1970, and republished as amended, this issue. Applicant: QUICK-LIVICK, INC., 708 C Street, Staunton, VA 24401. Applicant's representative: John R. Sims, Jr., Suite 605, 711 14th Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations, from points in Rockbridge and Allegheny Counties, Va., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Massachusetts, Maryland, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Vermont, West Virginia, Wisconsin, and the District of Columbia, and return. NOTE: The purpose of this republication is to (1) add the District of Columbia to the territorial scope of the application, and (2) reflect that pursuant to order of the Commission, Review Board No. 4, served July 27, 1971, the application is to be assigned for oral hearing at a time and place to be fixed later, subject to republication of this notice showing the scope of the application as amended.

No. MC 105369 (Sub-No. 11) (Republication), filed August 10, 1970, published in the FEDERAL REGISTER issue of September 3, 1970, and republished this issue. Applicant: N.Y. & N.J. FREIGHTWAYS, INC., 31-07 Starr Avenue, Long Island City, NY 11101. Applicant's representative: Arthur J. Piken, 160-16 Jamaica Avenue, Jamaica, NY 11432. A Report and Order of the Commission, Review Board No. 3, decided July 22, 1971, and served August 12, 1971, 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 dental supplies, hospital supplies, textbooks, science laboratory apparatus and supplies, business machines, business machine equipment and supplies, cleaning compounds (except in bulk), printed matter (except newspapers and magazines), office supplies and equipment, office furniture, and photographic equipment and supplies, between New York, N.Y., and points in Hudson County, N.J., on the one hand, and, on the other, points in New Jersey (except points in Essex, Union, Hudson, Bergen, Passaic, Morris, and Middlesex Counties, N.J.). Because it is possible that other persons who may have relied upon the notice of the application as published in the FEDERAL REGISTER may have an interest in and would be prejudiced by the lack of proper notice, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 125826 (Sub-No. 8) (Republication), filed March 11, 1971, published in the FEDERAL REGISTER issue of April 8, 1971, and republished this issue. Applicant: BARTLESON BROTHERS, INC., Courses Landing Road, Penns Grove, NJ 08069. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. An Order of the Commission, Operating Rights Board, dated July 23, 1971, and served August 17, 1971, finds; that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of solidified carbon dioxide, from the plantsite of Cardox Division of Chemetron Corp., at Delaware City, Del., to points in Ohio, Virginia, West Virginia, the District of Columbia, Maryland, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, and Massachusetts, under continuing contract with Cardox Division of Chemetron Corp., will be consistent with the public interest and the national transportation policy. 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 of this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate pleading setting forth in precise detail the manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 114989 (Sub-No. 6) (Notice of Filing of Petition To Change Shipper), filed August 2, 1971. Petitioner: KENTUCKY WESTERN TRUCK LINES, INC., Post Office Box 623, Hopkinsville, KY 42240. Petitioner's representative: Richard D. Gleaves, 833 Stahlman Building, Nashville, Tenn. 37201. Petitioner states it is authorized in No. MC 114989 (Sub-No. 6) to transport malt beverages, from Peoria, Ill., to Hopkinsville, Ky., for John and William Higgins, doing business as Hopkinsville Beverage Co. By the instant petition, petitioner requests permission to substitute the name of Loyd W. Ford, doing business as Ford Beer Distributors, in lieu of John and William Higgins, doing business as Hopkinsville Beverage Co. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 126450 (Sub-No. 2), (Notice of filing of petition for modification of certificate), filed August 12, 1971. Petitioner: W. C. WINTER, INC., Atlanta, Ga. Petitioner's representative: Monty Schumacher, 2045 Peachtree Road NE., Suite 310, Atlanta, GA 30309. Petitioners states it holds a certificate in MC 126450 (Sub-No. 2), authorizing the transportation of: *Scrap metal* and *scrap ingots*, and *green or salted hides and casings*, over irregular routes, between points in Georgia, on the one hand, and, on the other, points in Alabama, Kentucky, Ohio, Tennessee, North Carolina, South Carolina, Pennsylvania, Missouri, Indiana, Illinois, Virginia, Michigan, Connecticut, Massachusetts, New York, New Jersey, Maryland, Wisconsin, and Texas. Restriction: The operations authorized herein are restricted against the transportation of (1) scrap metal and scrap ingots from Marietta, Ga., to Kansas City or St. Louis, Mo., and (2) green or salted animal hides and casings from points in Georgia to points in North Carolina, Pennsylvania, Virginia, Connecticut, Massachusetts, New York, New Jersey, and Maryland, and from points in Texas to points in Georgia. By the instant petition, petitioner requests that the modifying word "scrap" as it pertains to ingots be removed from the certificate. Any interested person desiring to participate may send an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 128648 (Sub-No. 3) (Notice of filing of petition for modification of permit to add a contract shipper), filed August 12, 1971. Petitioner: TRANS-

UNITED, INC., Torrance, Calif. Petitioner's representative: William J. Lippman, 1819 H Street NW., Washington, DC 20006. Petitioner states that it holds a permit in No. MC 128648 (Sub-No. 3), authorizing the transportation of: *Candy*, in vehicles equipped with mechanical refrigeration, from points in Alabama, Colorado, Georgia, Illinois, Indiana, Iowa, Massachusetts, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Texas, and Virginia, to points in California, with no transportation from compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Customer Warehouse Co., of Maywood, Calif. By the instant petition, petitioner seeks to add the name of Pangburn Co., Inc., as a contract shipper. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 129572 (Sub-No. 1) (Notice of filing of petition for modification of permit), filed August 9, 1971. Petitioner: ANDICO, INC., Magna, Utah. Petitioner's representative: Irene Warr, Suite 419 Judge Building, Salt Lake City, Utah 84111. Petitioner holds a permit in No. MC 129572 Sub 1 authorizing the transportation, over irregular routes, of: "Pipe and pipe valves and fittings, tubing, beams, bar stock, and sheet and plate metals (except oilfield and pipeline commodities as defined in *Mercer Extension-Oil Field Commodities*, 74 M.C.C. 459), and equipment, materials, and supplies used in the machining or installation of the above-described commodities, between points in Utah, Idaho, Wyoming, Montana, Colorado, Arizona, New Mexico, Nevada, and California, under continuing contract, or contracts, with Tubular Service Corp., of Salt Lake City, Utah" (now known as Keystone Tubular Service Corp.). By the instant petition, petitioner seeks to amend the territorial description to read: "Between points in Utah, Idaho, Wyoming, Montana, Colorado, Arizona, New Mexico, Nevada, California, Washington, and Oregon." Any interested persons desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 133211 (Sub-No. 1) (Notice of filing of petition to add name of shipper), filed August 12, 1971. Petitioner: JERSEY FURNITURE WAREHOUSE & TRUCKING CO., INC., North Bergen, N.J. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Petitioner states that it holds a permit in No. MC 133211 (Sub-No. 1) authorizing the transportation of furniture, from the storage facilities of Arbed Co. at North Bergen, N.J., to points in Nassau, Suffolk, Westchester, Orange, and Rockland Counties, N.Y., and points in New Jersey, under continuing contract with Arbed Co. of North Bergen, N.J. By the instant petition, petitioner desires to add to this the names of The Pilliod Cabinet Co. and Chromcraft, Inc., as additional contracting shippers. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 2253 (Sub-No. 46), filed June 22, 1971. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, Post Office Box 697, Cherryville, NC 28021. Applicant's representative: James E. Wilson, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in North Carolina on and east of U.S. Highway 21, and on and west and north of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 258 to Kinston, N.C., thence along North Carolina Highway 11 to junction North Carolina Highway 41 near Wallace, N.C., thence along North Carolina Highway 41 to Lumberton, N.C., thence along U.S. Highway 301 to the North Carolina-South Carolina State line. Note: the instant application is a matter directly related to No. MC–F 11202 published in the FEDERAL REGISTER issue of June 23, 1971. Applicant states that the requested authority could be tacked with its existing authority at numerous points in North Carolina. If a hearing is deemed necessary, applicant requests it be held at Charlotte, Raleigh, or Greensboro, N.C.

No. MC 116254 (Sub-No. 126), filed July 21, 1971. Applicant: CHEM-HAULERS, INC., Post Office Drawer M, Sheffield, AL 35660. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid acids and chemicals, and other liquids* (except petroleum and petroleum products), but to include *coal tar and coal tar products, wood tar and wood tar products, creosote and molasses*, in bulk, (1) between points in Bedford, Cannon, Cheatham, Clay, Coffee, Davidson, DeKalb, Dickson, Fentress, Franklin, Giles, Grundy, Hickman, Houston, Humphreys, Jackson, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Montgomery, Moore, Overton, Perry, Pickett, Putnam, Robertson, Rutherford, Sequatchie, Smith, Sumner, Stewart, Trousdale, Van Buren, Warren, Wayne, White, Williamson, and Wilson Counties, Tenn., and (2) from points in the counties specified in (1) above, to points in Tennessee. NOTE: The instant application is a matter directly related to No. MC–F 11248, published in the FEDERAL REGISTER issue of August 4, 1971. Applicant states that the requested authority represents the conversion of certain authority held by Waverly Transfer Co,. Inc., pursuant to a certificate of registration, and that the requested authority will be tacked with its existing authority under MC 116254 (Sub-Nos. 20, 52, 79, 99, and 105), but does not identify the points or territories which can be served through tacking. Applicant further states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn, or Birmingham, Ala.

No. MC 128944 (Sub-No. 9), filed July 16, 1971. Applicant: RELIABLE TRUCK LINES, INC., 402 Maplewood Avenue, Nashville, TN 37210. Applicant's representative: Clarence Evans, 1800 Third National Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, household goods as defined by the Commission, commodities in bulk, dangerous explosives and commodities requiring special equipment, between Birmingham, Ala., and points within 15 miles thereof, on the one hand, and, the following points, to wit: Tuscumbia and Sheffield, Ala., on the other hand. NOTE: Applicant states it will tack at Sheffield and/or Tuscumbia with its basically regular route authority; through such joinder would reach Memphis and Nashville, Tenn., and also Florence, Athens, Decatur, Huntsville, etc., in North Alabama. This application is a matter directly related to MC–F–11133, published in the FEDERAL REGISTER issues of April 14 and May 5, 1971. If a hearing is deemed necessary, applicant requests it be held at Memphis and Nashville, Tenn., or Birmingham, Ala.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1100.240).

MOTOR CARRIERS OF PROPERTY

Finance Docket No. 26737. (Correction) (KATY INDUSTRIES, INC.—Control—CENAC TOWING CO., INC.), published in the August 11, 1971, issue of the FEDERAL REGISTER on page 14792. Prior notice should have read: Any person wishing to object to the applicant's proposal should file its protest with the Secretary of the Interstate Commerce Commission within *30* days from the date of this publication.

No. MC–F–11221. (Correction) (ALLEGHANY CORPORATION, doing business as JONES MOTOR—Control—R. F. POST, INC.), published in the July 14, 1971, issue of the FEDERAL REGISTER on page 13121. Previous notice read *in truck loads only*, notice should have shown: *NOTE: *Truckload restriction removed in ex-parte M68 6–19–68.* This correction will not alter in any way the date for filing of protest which was August 16, 1971.

No. MC–F–11235 (Correction) (MACHINERY TRANSPORTS, INC.—Purchase (Portion)—L. J. WELLENHOFER TRANSFER CO.), published in the July 28, 1971, issue of the FEDERAL REGISTER on page 13962. Prior notice should be modified to show that the authority sought to be acquired covered the transportation of *heavy machinery and property of unusual weight, length, and width, to or from any point or points,* in lieu of *general commodities.*

No. MC–F–11263. Authority sought for purchase by PARAMOUNT MOVING & STORAGE CO., INC., 3 Commercial Avenue, Garden City, NY 11530, of the operating rights of CHARLES D. STRANG, INC., 360 Coney Island Avenue, Brooklyn, NY 11218, and for acquisition by BERNARD J. KURLANDER and JOSEPH VERDERBER, both also of 3 Commercial Avenue, Garden City, NY 11530, of control of such rights through the purchase. Applicants attorneys: Alvin Altman and Robert J. Gallagher, 1776 Broadway, New York, NY 10019. Operating rights sought to be transferred: *Household goods,* as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, as a common carrier, over irregular routes, between points in New York in the New York, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 665, and certain specified points in New Jersey, on the one hand, and, on the other, points in Pennsylvania, Massachusetts, Connecticut, Delaware, Maryland, Virginia, West Virginia, and New Jersey, between points in the New York, N.Y., commercial zone, as defined by the Commission in 1 M.C.C. 665, and those outside certain specified points in New Jersey, on the one hand, and, on the other, points in Maine, Rhode Island, Ohio, Indiana, Illinois, North Carolina, South Carolina, Alabama, Georgia, Florida, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in New York, Vermont, Massachusetts, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11264. Authority sought for purchase by HELEN H. SCHAEFFER and EDWARD P. SCHAEFFER, 5200 W. Bethany Home Road, Glendale, AZ 85001, of a portion of the operating rights of VINCENT J. HERZOG, 200 Delaware Street, Honesdale, PA 19431, and for acquisition by HELEN H. SCHAEFFER and EDWARD P. SCHAEFFER, both of Glendale, Ariz. 85001, of control of such rights through the purchase. Applicants' attorney: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Operating rights sought to be transferred: *General commodities,* except those of unusual value, class A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over irregular routes, between New York, N.Y., and points in Orange County, N.Y., on the one hand, and, on the other, points in Sussex County, N.J. Vendee is authorized to operate as a *common carrier* in Massachusetts, New Hampshire, Vermont, New York, Pennsylvania, Ohio, Illinois, New Jersey, Connecticut, California, Maine, Nevada, Arizona, Washington, Oregon, Georgia, Michigan, Indiana, Minnesota, Missouri, Texas, Oklahoma, New Mexico, and Colorado. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11265. Authority sought for purchase by J. J. SCHILLING, doing business as SUPERIOR EXPRESS, 210 West Third Street, Waterloo, IL 62298, of the operating rights of L. C. FRICK, CO., INC., 1060 Route 460, Belleville, IL Applicants' attorney: Delmar O. Koebel, 107 West St. Louis Street, Lebanon, IL 62254. Operating rights sought to be transferred: *General commodities,* except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier* over regular routes, serving points in St. Louis County, Mo., within 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, and 2 M.C.C. 285, as off-route points, in connection with carrier's regular route operations authorized herein between Belleville, Ill., and St. Louis, Mo.; *general commodities,* except those of unusual value, high explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Belleville, Ill., and St. Louis, Mo., serving all intermediate points except East St. Louis, Ill., and the off-route points of Scott Field and Monsanto, Ill. Vendee is authorized to operate as a *common carrier* in Illinois, Indiana, and Missouri. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11266. Authority sought for purchase by REDWING REFRIGERATED, INC., 2939 Orlando Drive, Post Office Box 1698, Sanford, FL 32771, of a portion of the operating rights of STEVENS TRUCK LINES, INC. (INTERNAL REVENUE SERVICE-SUCCESSOR-IN-INTEREST), 893 Ridge Road, East Webster, NY 14580, and for acquisition by REDWING CARRIERS, INC., Post Office Box 426, Tampa, FL 33601, of control of such rights through the purchase. Applicants' attorney: David C. Venable, 711 Washington Building, 15th and New York Avenue NW., Washington, DC 20005. Operating rights sought to be transferred: *Frozen foods,* as a *common carrier* over irregular routes, from points in Genesee, Livingston, Ontario, Oswego, and Orleans Counties, N.Y., to points in Maryland; *frozen fruits, frozen berries and frozen vegetables,* from points in New York on and west of a line beginning at Oswego and extending along New York Highway 57 to Syracuse, including Syracuse, and thence along U.S. Highway 11 to the New York-Pennsylvania State Line, to Baltimore, Md., Linden, N.J., New York, N.Y., Cincinnati, Ohio, and Pittsburgh, Philadelphia and Altoona, Pa.; *preserved foodstuffs,* from LeRoy, Mount Morris, and Oakfield, N.Y., to Baltimore, Md., and the District of Columbia; canned and *preserved foodstuffs,* from Batavia, N.Y., to Baltimore, Md., and Washington, D.C. Vendee is authorized to operate as a *common carrier* in Maryland, Mississippi, New York, Pennsylvania, Alabama, Florida, New Jersey, North Carolina.

No. MC–F–11267. Authority sought for purchase by TRANSPORT SERVICE CO., Post Office Box 50272, Chicago, IL 60650, of a portion of the operating rights and certain property of REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, OH 43616, and for acquisition by JOHN V. CROWE, Post Office Box 50272, Chicago, IL 60650, of control of such rights and certain property through the purchase. Applicants' attorneys: Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC 20036, and John Andrew Kundtz, National City Bank Building, Cleveland, Ohio 44114. Operating rights sought to be transferred: *Phosphoric acid,* in bulk, in tank vehicles, as a *common carrier* over irregular routes, from Chicago Heights, Ill., to points in Indiana, Iowa, Kentucky, Michigan, Minnesota, Ohio, and Wisconsin; *paint,* in bulk, in tank vehicles, from Chicago, Ill., to certain specified points in Michigan, Minneapolis, Minn., and St. Louis, Mo.; *liquid chemicals,* in bulk, in tank vehicles, from Chicago, Ill., to points in Indiana, Michigan, Minnesota, Missouri, Ohio, Wisconsin, and Iowa, from Illiopolis, Ill., to points in Colorado, Indiana (except Wabash), Kansas, Michigan (except Kalamazoo, Grand Rapids, and ports of entry on the United States-Canada Boundary line on shipments to Canada), Missouri, Ohio, Pennsylvania (except Bloomsburg and New Carlyle), Texas (except Houston and points within 50 miles of Houston), and Wisconsin, from the plantsite of Stepan Chemical Co., at or near Millsdale, Ill., to points in Alabama, Arizona, California, Colorado, Delaware, Florida, Idaho, Iowa, Kansas (except Kansas City and points in its commercial zone as defined by the Commission), Louisiana, Maine, Minnesota, Mississippi, Montana, Nebraska, Nevada,

New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Virginia, and points in that part of Tennessee on and west of U.S. Highway 27, from the plantsite of Reichhold Chemicals, Inc., in Grundy County, Ill., to points in the United States (except Alaska, Hawaii, North Carolina, South Carolina, Georgia, points in that part of Tennessee on and east of U.S. Highway 27, and points in Harris County, Tex.), with restrictions; *acetone, Ethyl Acetate, Alcohol, Vodka, Gin, Proprietary Antifreeze preparations, and Choline Chloride* in bulk, in tank vehicles, from Peoria, Ill., and Terre Haute, Ind.

To points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin; *liquid chemicals*, in bulk, from the plantsite of the Hawkeye Chemical Company, at or near Clinton, Iowa, to points in Illinois, Minnesota, Missouri, Ohio, Nebraska, Wisconsin, Michigan, Indiana, and Kentucky; *acids and chemicals*, in bulk, in tank or hopper type vehicles, from the plantsite of the Stauffer Chemical Co., Victor Division, at Chicago Heights, Ill., to points in Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, and Wisconsin; *acids and chemicals*, dry, in bulk, in tank and hopper type vehicles, from the plantsite of Stauffer Chemical Co., Victor Division, at Chicago, Ill., to points in Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Ohio, and Wisconsin, with restriction; *liquid chemicals, and linseed, soybean, copra, and safflower oils* when moving in mixed loads with liquid chemicals, in bulk in tank vehicles, from Carpentersville, Ill., to points in Alabama, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin, with restriction; *chemicals and washing compounds*, in bulk, in tank vehicles, from the plantsite of Stepan Chemical Co., at or near Millsdale, Ill., to points in Connecticut, Indiana, Kentucky, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, West Virginia, Wisconsin, Valley Park, Mo., the commercial zones of St. Louis and Kansas City, Mo., and Kansas City, Kans., with restriction; and *chemicals* in bulk, in tank vehicles, from the plantsite of Reichhold Chemicals, Inc., in Grundy County, Ill., to points in the United States (except Alaska, Hawaii, North Carolina, South Carolina, Georgia, points in that part of Tennessee on and east of U.S. Highway 27, and points in Harris County, Tex., with restriction). Vendee is authorized to operate as a *common carrier* in all States in the United States (except Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11268. Authority sought for control and merger by COMMERCIAL MOTOR FREIGHT, INC., OF INDIANA, 2141 South High School Road, Indianapolis, IN 46214, of the operating rights and property of MATHIS MOTOR SERVICE, INC., 1001 Cedar Street, South Bend, IN 46617, and for acquisition by GLENN R. GIERHART, also of Indianapolis, Ind. 46241, of control of such rights and property through the transaction. Applicants' attorney: John E. Lesow, 3737 North Meridian Street, Indianapolis, IN 46208. Operating rights sought to be controlled and merged: Under a certificate of registeration in Docket No. MC–28778 Sub-2, covering the transportation of general commodities, as a common carrier in interstate commerce, within the State of Indiana. COMMERCIAL MOTOR FREIGHT, INC., OF INDIANA, is authorized to operate as a *common carrier* in Indiana, Illinois, Ohio, and Kentucky. Application has been filed for temporary authority under section 210a(b). NOTE: MC–20824 Sub 30 is a matter directly related.

No. MC–F–11269. Authority sought for purchase by STRICKLAND TRANSPORTATION CO., INC., 3011 Gulden Lane, Post Office Box 5689, Dallas, TX 75222, of a portion of the operating rights of SAIA MOTOR FREIGHT LINES, INC., Post Office 10157, Station 1, Houma, LA 70360, and for acquisition by HILL-ELLIOTT, INC., 2100 Mercantile Bank Building, Dallas, Tex., of control of such rights through the purchase. Applicants' attorneys: Leroy Hallman, 4555 First National Bank Building, Dallas, Tex. 75202, and Harold D. Miller, Jr., Suite 700, Petroleum Building, Post Office Box 22567, Jackson, MS 39205. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Ragely, La., and Kinder, La., between Lake Charles, La., and Shreveport, La., serving all intermediate points, with restriction. Vendee is authorized to operate as a *common carrier* in Arkansas, Connecticut, Illinois, Indiana, Louisiana, Massachusetts, Kentucky, Michigan, Mississippi, Missouri, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Rhode Island, Delaware, Maryland, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11270. Authority sought for purchase by TRANSCON LINES, 1206 South Maple Avenue, Los Angeles, CA 90015, of the operating rights of COAST DRAYAGE, 615 Cedar Street, Berkeley, CA. Applicants' attorneys: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO 64105, and Marvin Handler, 405 Montgomery Street, San Francisco, CA 94104. Operating rights sought to be transferred: Under a certificate of registration in Docket No. MC–120619 Sub 2, and No. MC–120619 Sub 3, covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of California. Vendee is authorized to operate as a *common carrier* in Missouri, Illinois, Kansas, Indiana, Oklahoma, New Mexico, California, Texas, Arizona, Arkansas, Tennessee, Alabama, Georgia, Mississippi, Ohio, Nebraska, Iowa, Michigan, Pennsylvania, Maryland, New York, New Jersey, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b). NOTE: No. MC–110325 Sub-No. 50, is a matter directly related.

No. MC–F–11271. Authority sought for purchase by EXPRESS S.D.Z., 73 Apollo Street, Brooklyn, NY 11222, of a portion of the operating rights of CAMBEIS TRUCKING COMPANY, INC., 312 Third Avenue, Brooklyn, NY 11215, and for acquisition by JOSEPH V. SICILIANO and AUGUSTINE PARIS, JR., both also of 73 Apollo Street, Brooklyn, NY 11222. Applicants' attorney: William Biederman, 280 Broadway, New York, NY 10007. Operating rights sought to be transferred: *General commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household goods, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, as a *common carrier* over irregular routes between the New York commercial zone, between Middlesex, Union, Essex, Passaic, Hudson, and Bergen Counties, N.J. on the one hand, and, on the other, Nassau and Suffolk Counties, N.Y. Vendee is authorized to operate as a *common carrier* in New York, New Jersey, and Connecticut. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11272. Authority sought for control by WELLS FARGO ARMORED SERVICE CORPORATION (DELAWARE), 210 Baker Street NW., Atlanta, GA 30313, of ARMORED CAR SERVICE, INC., 4064 South Four Mile Drive, Arlington, VA 22306, and for acquisition by BAKER INDUSTRIES, INC., Eight Ridgedale Avenue, Cedar Knolls, NJ 07927, of control of ARMORED CAR SERVICE, INC., through the acquisition by WELLS FARGO ARMORED SERVICE CORPORATION (DELAWARE). Applicants' attorney: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. Operating rights sought to be controlled: *Currency and coins*, in armored car service, as a *contract carrier*, over irregular routes, between Washington, D.C., and certain specified points in Virginia; *currency, coins*, and *checks* moving therewith, in armored car service, between Rockville, Md., and Washington, D.C. WELLS FARGO ARMORED SERVICE CORPORATION (DELAWARE), is authorized to operate as a *contract carrier* in Massachusetts, New York, Pennsylvania, District of Columbia, New Jersey, Delaware, Connecticut, Louisiana, Florida, Colorado, New Mexico, Texas, Arizona, Wyoming, Montana, North Dakota, South Dakota, Illinois, Missouri, Kentucky, Minnesota, Nebraska, Oklahoma, Oregon, Utah, Washington, California, Idaho, and Arkansas. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11273. Authority sought for purchase by THRUWAY TRANSFER,

INC., 100 Warwick Street, New Haven, CT 06513, of the operating rights of LOUIS T. BENTON, III, doing business as L. T. BENTON TRANSPORT (THE HAMDEN NATIONAL BANK—SUCCESSOR-IN-INTEREST), 2992 Dixwell Avenue, Hamden, CT and for acquisition by HENRY D. SCHMAELZLE, JR., also of New Haven, Conn. 06513, of control of such rights through the purchase. Applicants' attorneys: Reubin Kaminsky, Post Office Box 17–067, 342 North Main Street, West Hartford, CT 06117, and Robert S. Evans, 900 Chapel Street, New Haven, CT 06507. Operating rights sought to be transferred: *Junk* as a *common carrier* over irregular routes, between points in Connecticut on the one hand, and, on the other, points in Massachusetts, New York and New Jersey; *nonferrous scrap metals,* loose (and not in containers), from New Haven, Conn., to Philadelphia, Pa. Vendee is authorized to operate as a *common carrier* in Connecticut, New York, and New Jersey. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11274. Authority sought for merger into SANBORN'S MOTOR EXPRESS, INC., 550 Forest Avenue, Portland, ME 04101, of the operating rights and property of J. A. GARVEY TRANSPORTATION, INC., 550 Forest Avenue, Portland, ME 04101, and for acquisition by HOWARD L. SANBORN, H. BLAINE SANBORN, and DWIGHT L. SANBORN, all of Portland, Maine, of control of such rights and property through the transaction. Applicant's attorney: Mary E. Kelley, 11 Riverside Avenue, Medford, MA 02155. Operating rights sought to be merged: *General commodities,* excepting among others, classes A and B explosives, household goods and commodities in bulk, as a *common carrier,* over regular routes, from Sanford, Maine, to Boston, Mass., serving certain intermediate and off-route points in New Hampshire, from Boston, Mass., to Limerick, Maine, serving certain intermediate and off-route points in New Hampshire and Maine, between Boston, Mass., and Milford, Mass., serving all intermediate points and certain off-route points, between Milford, Mass., and New York, N.Y., serving the intermediate and off-route points in Massachusetts within 12 miles of Milford and those in the New York, N.Y., commercial zone, as defined by the Commission, between Boston, Mass., and Providence, R.I., serving all intermediate points, and certain off-route points, between New York, N.Y., and Boston, Mass., serving the intermediate point of Providence, R.I., intermediate and off-route points within 20 miles of Boston, and certain off-route points in New Jersey, between Boston, Mass., and West Medway, Mass., serving all intermediate points, over two alternate routes for operating conveniences only; *general commodities,* excepting among others, classes A and B explosives, household goods, and commodities in bulk, over irregular routes. Between Portsmouth, N.H., on the one hand, and, on the other, points within 25 miles of Portsmouth in Maine, New Hampshire, and Massachusetts, between Boston, Mass., on the one hand, and, on the other, points in Essex County, Mass., and points in Massachusetts within 25 miles of the State house, Boston, Mass., between points in the New York, N.Y., commercial zone as defined by the Commission, between certain specified points in Massachusetts, between Freehold, N.J., and points in New Jersey within 30 miles of Freehold, N.J., on the one hand, and, on the other, Newark and Jersey City, N.J., New York, N.Y., and Philadelphia, Pa., between New York, N.Y., and Philadelphia, Pa.; *rubber products* (except in bulk), from Milford, Mass., to New York, N.Y., and points in New Jersey within 25 miles of New York; *materials and supplies,* used in the manufacture of rubber products (except in bulk), from New York, N.Y., and points in New Jersey within 25 miles of New York, to Milford, Mass.; and *agricultural* commodities, between points in York County, Maine, on the one hand, and, on the other, certain specified points in New Hampshire. SANBORN'S MOTOR EXPRESS, INC., is authorized to operate as a *common carrier* in Maine, New Hampshire, and Massachusetts. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–12429 Filed 8–24–71;8:50 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

AUGUST 20, 1971.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. 37,262M, Route No. 3517, filed July 26, 1971. Applicant: DONALD L. HERBS AND NEAL J. LOVIN, doing business as C AND R TRUCK LINE, 703 North Fifth Street, Salina, KS 67401. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, KS 66603. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, between Talmadge, Kans., and Clay Center, Kans., serving all intermediate points. From Talmage north and west over an unnumbered county road to Manchester; thence north over an unnumbered county road through Longford to Oakhill; thence east over an unnumbered county road to Kansas Highway No. 15; thence north over Kansas Highway No. 15 to Clay Center, Kans., serving the intermediate points of Manchester, Longford, Oakhill, and all other intermediate points, and return over the same route. The above described authority to be tacked with existing authority. Also, between Oakhill, Kans., and Clay Center, Kans. From Oakhill west over an unnumbered county road approximately 7 miles; thence north over an unnumbered county road to Miltonvale; thence over Kansas Highway No. 189 to its intersection with U.S. Highway No. 24; thence east over U.S. Highway No. 24 to Clay Center; serving the intermediate point of Miltonvale and all other intermediate points and Idana as an off-route point; and return over the same route. The above described authority to be tacked with existing authority. Also, between Clay Center, Kans., and Abilene, Kans. From Clay Center south over Kansas Highway No. 15 to Abilene and return, serving all intermediate points, and serving industry as an off-route point, and return over the same route. The above described authority to be tacked with existing authority. Also, between Chapman, Kans., and Clay Center, Kans. From Chapman north over an unnumbered county road through Upland to Wakefield; thence west over Kansas Highway No. 82 to its intersection with Kansas Highway No. 15; thence north to Clay Center, serving the intermediate points of Upland, Wakefield, and all other intermediate points and return over the same route. The above described authority to be tacked with existing authority. Both interstate and intrastate authority sought. HEARING: Tuesday, Sepember 28, 1971 at Trails End Motel, Intersection Highway 70 and K–15, Abilene, Kans. Requests for procedural information including the time for filing protests concerning this application should be addressed to the State Corporation Commission, Transportation Division, Fourth Floor, State Office Building, Topeka, Kans. 66612 and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–12426 Filed 8–24–71;8:50 am]

[Notice 352]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 19, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 4483 (Sub-No. 16 TA), filed August 12, 1971. Applicant: MONSON DRAY LINE, INC., Route 1, Red Wing, MN 55066. Applicant's representative: Robert Monson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Newsprint paper*, from the port of entry on the international boundary line between the United States and Canada at or near Grand Portage, Minn., to Bloomington, Carlton, Duluth, Madelia, Mankato, Minneapolis, Rochester, St. Cloud, and St. Paul, Minn., and Grand Forks, N. Dak., for 180 days. Supporting shippers: The Great Lakes Paper Co., Ltd., Thunder Bay, Ontario, Canada; Domtar Limited, 395 de Maisonneuve Blvd., West, Montreal, PQ, Canada. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 60667 (Sub-No. 3 TA), filed August 12, 1971. Applicant: WILLIAM P. HALEY, 4 India Street, Portland, ME 04111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, between Portland, Maine, on the one hand, and points in Maine, on the other, for 180 days. NOTE: Applicant states it does not intend to interline with other carriers of household goods under MC 60667. Supporting shipper: Department of the Army, Office of the Judge Advocate General, Washington, D.C. 20310. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Post Office Box 167, PSS, Portland, ME 04112.

No. MC 110420 (Sub-No. 639 TA), filed August 12, 1971. Applicant: QUALITY CARRIERS, INC., Post Office Box 186, Pleasant Prairie, WI 53158. Office: I94 County Highway C, Bristol Kenosha County Wis. 53104. Applicant's representative: Allan B. Torhorst (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Coloring syrup*, in bulk, from Louisville, Ky., to Detroit, Mich., and Stanley, Wis., for 180 days. Supporting shipper: D. D. Williamson & Co., Inc., Post Office Box 6001, Louisville, KY 40206, (G. Richard Jones, Plant Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 112822 (Sub-No. 207 TA), filed August 12, 1971. Applicant: BRAY LINES INCORPORATED, Post Office Box 1191, 1401 North Little Street, Cushing, OK 74023. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* and *dog food*, from points in Crawford County, Ark., to points in Alabama, Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shipper: Allen Canning Co., Delbert E. Allen, Jr., President, Post Office Box 250, Siloam Springs, Ark. 72761. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 115212 (Sub-No. 20 TA), filed August 12, 1971. Applicant: H. M. H. MOTOR SERVICE, Route 130, Cranbury, NJ 08512. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plantain chips and dry plantain soup*, from Clair Mei City, Fla., to New York, Mt. Vernon, New Hyde Park, White Plains, and New Rochelle, N.Y., Union City and West New York, N.J., Philadelphia, Pa., Waldorf, Md., Washington, D.C., Charlotte, N.C., and Atlanta, Ga., for 180 days. Supporting shipper: Plaintain Products Co., 7110 East Causeway Boulevard, Tampa, FL 33619. Send protests to: District Supervisor Robert S. H, Vance, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, NJ 07102.

No. MC 119762 (Sub-No. 3 TA), filed August 12, 1971. Applicant: KIMBERLAIN TRUCKING, INC., 5307 Cynthia Lane, Racine, WI 53406. Applicant's representative: James O. Kimberlain (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fermented malt beverages*, from South Bend, Ind., to Kenosha, Wis., and Racine, Wis., and to transport *empty containers or other such incidental facilities* used in transporting said commodity, from Racine and Kenosha, Wis., to South Bend, Ind., for 180 days. Supporting shippers: Triangle Wholesale Co., Inc,. 2119 82d Street, Kenosha, WI 53140; Rapids Beer Distributors, Inc., 2924 Rapids Drive, Racine, WI 53404. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 127028 (Sub-No. 10 TA), filed August 12, 1971. Applicant: BREDE-HOEFT PRODUCE COMPANY, INC., Decatur, Ark. 72722. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat poducts, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier certificates* 61 M.C.C. 209 and 766, from Greeley, Colo., to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Virginia, and the District of Columbia, for 180 days. Supporting shipper: Monfort of Colorado (Monfort Packing Co.) Box 1407, Greeley, CO 80631. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 127028 (Sub-No. 11 TA), filed August 12, 1971. Applicant: BREDE-HOEFT PRODUCE COMPANY, INC., Decatur, Ark. 72722. Applicant's representative: Edward T. Lyons, Jr., 420 Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and dog food*, from points in Crawford County, Ark., to points in Alabama, Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shipper: Allen Canning Co., 305 East Main Street, Post Office Box 250, Siloam Springs, AR 72761. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 135282 (Sub-No. 1 TA), filed August 12, 1971. Applicant: JOSEPH E. DAVIS, U.S. Route 309, Mountaintop, Pa. 18707. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Pittsburgh, Pa., to Albany, and Rochester, N.Y., for 150 days. Supporting shipper: Western Packers Co., Herrs Island, Pittsburgh, Pa. 15222. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 135874 TA, filed August 12, 1971. Applicant: LTL PERISHABLES, INC., 120 Main Street, Lamoni, IA 50140. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from Omaha, Nebr., to points in South Dakota, Minnesota, Iowa, Illinois, Missouri, and Kansas, for 180 days. Supporting shippers: Lipsey Meats, 1204 Jones Street, Omaha, NE 68102; Coast Packing Co., 1202 Jones Street, Omaha, NE 68102; Morton Meats of Omaha, Inc., 1211 Howard Street, Omaha, NE 68102; Swift & Co. 9100 F Street, Omaha, NE 68127; L & B Corp., doing business as Millard Warehouse, 132 Q Street, Omaha, NE 68107; H. J. Heinz Co., 108 East Renfro Circle, Omaha, NE 68137. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines. Iowa 50309.

No. MC 135875 TA, filed August 12, 1971. Applicant: CLARENCE R. BERGER, 651 80th Avenue NE., Minneapolis, MN 55432. Applicant's representative: Earl Hacking, 503 11th Avenue South, Minneapolis, MN 55415. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* in containers (1) from Milwaukee, Wis., to Hastings and Long Lake, Minn.; (2) from Monroe, Wis., to Long Lake, Minn.; (3) from La-Crosse, Wis., to Long Lake, Minn.; (4) from Minneapolis, Minn., to Sparta, Wis.; (5) *empty containers* from the above destinations on return, for 180 days. Supporting shippers: Bottled Beverage, Inc., Sparta, Wis.; Day Distributing Co., Long Lake, Minn.; W. W. Beverage Co., Hastings, Minn. Send protests to: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-12430 Filed 8-24-71;8:51 am]

[Notice 737]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 20, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR, Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72938. By order of August 18, 1971, the Motor Carrier Board, on reconsideration, approved the transfer to Allied Delivery System, Inc., Detroit, Mich., of portion of the Certificate of Registration No. MC-121341 (Sub-No. 1), issued December 20, 1965, to City Messenger Co., a corporation, Detroit, Mich., of a portion which relates to that portion of certificate No. L-670 issued prior to October 15, 1962, and currently renewed, by the Michigan Public Service Commission authorizing the transportation of restaurant and store fixtures, office equipment, printing machinery and supplies, janitor supplies, and salvage materials, between Detroit and various Michigan points. Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226, attorney for applicants.

No. MC-FC-72940. By order of August 18, 1971, the Motor Carrier Board approved the transfer to Ira L. Erwin doing business as Erwin Trucking, Omaha, Nebr., of a portion of the operating rights set forth in Certificate No. MC-61231 and of all of the operating rights set forth in Certificate No. MC-61231 (Sub-No. 20), issued by the Commission April 28, 1971, and June 4, 1968, respectively, to Ace Lines, Inc., Des Moines, Iowa, authorizing the transportation of packinghouse products from Omaha, Nebr., to Chicago, Ill., and Whiting, Ind.; and meats, meat products, meat byproducts and articles distributed by meat packinghouses from the plantsite of American Beef Packers, Inc., in Pottawattamie County, Iowa, to Chicago, Ill. William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309, attorney for applicants.

No. MC-FC-73035. By order of August 17, 1971, the Motor Carrier Board approved the transfer to James Fleming Trucking, Inc., Suffield, Conn., of portion of the operating rights in Permit No. MC-65106 (Sub-No. 4) issued August 3, 1965, to M. E. Flemming & Sons, Inc., Brooklyn, N.Y., authorizing the transportation of groceries, between New York, N.Y., on the one hand, and, on the other, points in Connecticut within 100 miles of New York, N.Y. Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117, attorney for transferee. Martin Werner, 2 West 45th Street, New York, NY 10036; attorney for transferor.

No. MC-FC-73043. By order of August 18, 1971, the Motor Carrier Board approved the transfer to Eagle Trans. Co., Inc., Charlton, Mass., of Certificate of Registration No. MC-99167 (Sub-No. 1), issued September 21, 1964, to L. A. Lajois, Jr., doing business as Eagle Trans. Co., Oakham, Mass., evidencing a right to engage in transportation in interstate commerce as described in Route Common Carrier Certificate No. 4530 dated June 3, 1963, issued by the Massachusetts Department of Public Utilities. Kenneth B. Williams, 111 State Street, Boston, MA 02109, attorney for applicants.

No. MC-FC-73054. By order of August 17, 1971, the Motor Carrier Board approved the transfer to Richard S. Swanson, doing business as Swanson Boat Transport, New Rochelle, N.Y., of the operating rights in Certificate No. MC-98953 (Sub-No. 1), issued August 26, 1960 to Boat Hauling Corp., Lindenwold, N.J., authorizing the transportation of boats and boat accessories between points in Massachusetts, Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New York, and New Jersey. William D. Traub, 10 East 40th Street, New York, NY 10016, representative for transferee. Joseph A. Maressa, 201 North South Street, Camden, NJ 08102, attorney for transferor.

No. MC-FC-73060. By order of August 18, 1971, the Motor Carrier Board approved the transfer to T & R Transport, Inc., Cherry Hill, N.J., of the operating rights in Permit No. MC-102583 and MC-102583 (Sub-No. 1) issued May 5, 1961, and May 23, 1969, respectively, to Abe Perlstein, Philadelphia, Pa., authorizing the transportation of new furniture and parts, between Philadelphia, Pa., on the one hand, and, on the other, Wilmington, Del., New York, N.Y., Baltimore, Md., points within 15 miles of Baltimore, points on Long Island, N.Y., within 120 miles of Philadelphia, Pa., and those in New Jersey; new furniture and parts, from Philadelphia, Pa., to points in 12 States and the District of Columbia, and furniture parts, from points in 12 States and the District of Columbia to Philadelphia, Pa. Robert B. Einhorn, 1540 Philadelphia Saving Fund Building, 12 South 12th Street, Philadelphia, PA 19107, attorney for applicants.

No. MC–FC–73069. By order of August 18, 1971, the Motor Carrier Board approved the transfer to Henry J. Dornisch, Inc., Philadelphia, Pa., of the operating rights in Certificate No. MC–46625 issued June 7, 1949 to Henry J. Dornisch, Philadelphia, Pa., authorizing the transportation of new and used furniture between Philadelphia, Pa., on the one hand, and, on the other, points in a described area of New Jersey, and household goods between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey, Delaware, and Maryland. Raymond A. Thistle, Jr., Suite 1012, Four Penn Center Plaza, Philadelphia, Pa., 19103, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–12431 Filed 8–24–71;8:51 am]

[Notice 737–A]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 20, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR, Part 1132), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–72835. By order of August 3, 1971, Division 3 approved the transfer to Kern Trucking, Inc., Bedford, Ind., of the operating rights in Permit Nos. MC–119815 (Sub-No. 3) and MC–119815 (Sub-No. 6) issued December 14, 1965 and February 9, 1967, respectively, to Interstate Highway Express, Inc., Bedford, Ind., authorizing the transportation of building materials as described in 61 M.C.C. 209, and gypsum products from the plantsite of the National Gypsum Co. located 3 miles east of Shoals (Martin County), Ind., to St. Louis, Mo., and points in Illinois, Kentucky, Ohio, Tennessee, West Virginia, and those in specified Missouri counties and return; and to points in the Lower Peninsula of Michigan. Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–12432 Filed 8–24–71;8:51 am]

[Notice 737–B]

MOTOR CARRIER TRANSFER PROCEEDINGS

AUGUST 20, 1971.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR, Part 1132:

No. MC–FC–72987. By application filed August 18, 1971, MONIOWCZAK TRANSIT COMPANY, Post Office Box 123, Bark River, MI 49807, seeks temporary authority to lease the operating rights of JOHN SWANSON, doing business as SWANSON TRUCKING COMPANY (Estate of John Swanson by William J. Swanson, Special Administrator of the Estate of John G. Swanson, Deceased), 110 Pearl Street, Manistique, MI 49854, under section 210a(b). The transfer to MONIOWCZAK TRANSIT COMPANY, of the operating rights of JOHN SWANSON, doing business as SWANSON TRUCKING COMPANY (Estate of John Swanson by William J. Swanson, Special Administrator of the Estate of John G. Swanson, Deceased), is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–12433 Filed 8–24–71;8:51 am]

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