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Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Action

Section 213.3359 is amended to show that one additional position of Chauffeur to the Director of Action is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (12-4-71), paragraph (b) of § 213.3359 is amended as set out below.

§ 213.3359 Action.

(b) Two Chauffeurs to the Director of Action.

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

UNITED STATES CIVIL SERVICE COMMISSION,

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

[FR Doc.71-17756 Filed 12-3-71;8:47 am]

PART 213—EXCEPTED SERVICE

Federal Communications Commission

In the FEDERAL REGISTER (F.R. Doc. 71-6607) of May 12, 1971, paragraph (a) of § 213.3138(a) was incorrectly stated. It should read as follows.

§ 213.3138 Federal Communications Commission.

(a) The Chief of each of the following Bureaus: Common Carrier and Safety and Special Radio Services.

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

UNITED STATES CIVIL SERVICE COMMISSION,

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

[FR Doc.71-17757 Filed 12-3-71;8:47 am]

Title 7—AGRICULTURE

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

[Lemon Reg. 510]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

§ 910.810 Lemon Regulation 510.

(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 section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 30, 1971.

(b) Order. (1) The quantity of lemons grown in California and Arizona which may be handled during the period December 5, 1971, through December 11, 1971, is hereby fixed at 200,000 cartons.

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

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

Dated: December 2, 1971.

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

[FR Doc.71-17824 Filed 12-3-71;8:51 am]

[Grapefruit Reg. 83]

PART 912—GRAPEFRUIT GROWN IN THE INDIAN RIVER DISTRICT IN FLORIDA

Limitation of Handling

§ 912.383 Grapefruit Regulation 83.

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 912, as amended (7 CFR Part 912), regulating the handling of grapefruit grown in the Indian River District in Florida, 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 Indian River Grapefruit 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 grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Indian River grapefruit, and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers

of such Indian River grapefruit; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on December 2, 1971.

(b) *Order.* (1) The quantity of grapefruit grown in the Indian River District which may be handled during the period December 6, 1971 through December 12, 1971, is hereby fixed at 137,500 standard packed boxes.

(2) As used in this section, "handled," "Indian River District," "grapefruit," and "standard packed box" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: December 2, 1971.

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

[FR Doc.71-17789 Filed 12-3-71; 11:28 am]

[Olive Reg. 1]

PART 944—FRUITS; IMPORT REGULATIONS

Grade and Size Requirements

Notice was published in the FEDERAL REGISTER issue of July 29, 1971 (36 F.R. 14004), that the Department was giving consideration to issuance of an import regulation, as hereinafter set forth, pursuant to the provisions of section 8e (7 U.S.C. 608e-1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674, as further amended by Public Law 91-670). Said regulation would govern the importation into the United States of canned ripe olives. As provided in said section 8e, imports of Spanish-style green olives are not affected. The regulation would prescribe grade and size requirements based on the applicable grade and size requirements in effect for canned ripe olives pursuant to the Federal marketing order for olives grown in California (Order No. 932; 7 CFR Part 932; 36 F.R. 16185, 19113). The regulation also would include a requirement that imports of canned ripe olives be inspected and certified by the Department in accordance with the regulations governing inspection and certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (7 CFR Part 52).

The notice provided a period of 60 days following publication during which interested persons could submit written data, views, or arguments for consideration in connection with the proposed regulation. During such period an exception was submitted by the Olive Administrative Committee, established pursuant to the provisions of said Marketing

Order No. 932 as the local agency to administer the terms and conditions thereof. Said exception cited the possible unwholesomeness of imported canned ripe olives because of the canning methods prevalent in some foreign countries which are possible sources of such olives. Inasmuch as the imported commodity also is subject to the applicable regulations in effect pursuant to the Federal Food, Drug, and Cosmetic Act the import regulation, as proposed and as hereinafter set forth, contains appropriate provisions notifying all potential importers of the applicability of regulations under said act as administered by the Federal Food and Drug Administration.

After consideration of all relevant matter presented, including that in the notice, it is hereby found that issuance of said regulation, as hereinafter set forth, is in accordance with the provisions of § 608e-1 of the Agricultural Marketing Agreement Act of 1937, as amended, and will tend to effectuate the declared policy of the act.

The regulation is as follows:

§ 944.401 Olive Regulation 1.

(a) Definitions: (1) "Canned ripe olives" means olives in hermetically sealed containers and heat sterilized under pressure, of the two distinct types "ripe" and "green-ripe" as defined in § 52.3752 of the U.S. Standards for Grades of Canned Ripe Olives (§§ 52.3751-3766 of this title 36 F.R. 16567). The term does not include Spanish-style green olives.

(2) "Spanish-style green olives" means olives packed in brine and which have been fermented and cured, otherwise known as "green olives."

(3) "Variety group 1" means the following varieties and any mutations, sports, or other derivations of such varieties: Aghizi Shami, Amellau, Ascolano, Ascolano dura, Azapa, Balady, Barouni, Carydolia, Cucco, Gigante di Cerignola, Gordale, Grosane, Jahlut, Polymorpha, Prunara, Ropades, Sevillano, St. Agostino, Tafahi, and Touffahi.

(4) "Variety group 2" means the following varieties and any mutations, sports, or other derivations of such varieties: Manzanillo, Mission, Nevadillo, Obliza, and Redding Picholine.

(5) "USDA inspector" means an inspector of the Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, or any other duly authorized employee of the Department.

(6) "Importation" means release from custody of the U.S. Bureau of Customs.

(b) On and after the effective date of this section the importation into the United States of any canned ripe olives is prohibited unless such olives are inspected and meet the following applicable requirements:

(1) Canned ripe olives shall grade at least U.S. Grade C;

(2) Canned whole ripe olives of variety group 1, except the Ascolano, Barouni, and St. Agostino varieties, shall be of such a size that the individual olives

in any lot weigh not less than $\frac{1}{25}$ pound (6.0 grams) each: *Provided*, That not more than 25 percent, by count, of the olives may weigh less than $\frac{1}{25}$ pound each except that not more than 10 percent, by count, of the olives may weigh less than $\frac{1}{32}$ pound (5.5 grams) each;

(3) Canned whole ripe variety group 1 olives of the Ascolano, Barouni, and St. Agostino varieties, shall be of such a size that the individual olives in any lot weigh not less than $\frac{1}{88}$ pound (5.1 grams) each: *Provided*, That not more than 25 percent, by count, of the olives may weigh less than $\frac{1}{88}$ pound each except that not more than 10 percent, by count, of the olives may weigh less than $\frac{1}{98}$ pound (4.6 grams) each;

(4) Canned whole ripe olives of variety group 2, except the Obliza variety, shall be of such a size that the individual olives in any lot weigh not less than $\frac{1}{40}$ pound (3.2 grams) each: *Provided*, That not more than 35 percent, by count, of the olives may weigh less than $\frac{1}{40}$ pound each except that not more than 7 percent, by count, of the olives may weigh less than $\frac{1}{60}$ pound (2.8 grams) each;

(5) Canned whole ripe variety group 2 olives of the Obliza variety, shall be of such a size that the individual olives in any lot weigh not less than $\frac{1}{21}$ pound (3.7 grams) each: *Provided*, That not more than 35 percent, by count, of the olives may weigh less than $\frac{1}{21}$ pound each except that not more than 10 percent, by count, of the olives may weigh less than $\frac{1}{35}$ pound (3.3 grams) each;

(6) Canned whole ripe olives not identifiable as to variety or variety group shall be of such a size that the individual olives in any lot weigh not less than $\frac{1}{10}$ pound (3.2 grams) each: *Provided*, That not more than 35 percent, by count, of the olives may weigh less than $\frac{1}{40}$ pound each except that not more than 10 percent, by count, of the olives may weigh less than $\frac{1}{60}$ pound (2.8 grams) each;

(7) Canned pitted ripe olives of variety group 1, except the Ascolano, Barouni, and St. Agostino varieties, shall be of such a size that the individual olives in any lot shall each measure at least 21 millimeters in diameter: *Provided*, That not more than 25 percent, by count, of the olives may measure less than 21 millimeters in diameter;

(8) Canned pitted ripe variety group 1 olives of the Ascolano, Barouni, and St. Agostino varieties, shall be of such a size that the individual olives in any lot shall each measure at least 19 millimeters in diameter: *Provided*, That not more than 25 percent, by count, of the olives may measure less than 19 millimeters in diameter;

(9) Canned pitted ripe olives of variety group 2, except the Obliza variety, shall be of such a size that the individual olives in any lot shall each measure at least 16 millimeters in diameter: *Provided*, That not more than 35 percent, by count, of the olives may measure less than 16 millimeters in diameter;

(10) Canned pitted ripe variety group 2 olives of the Obliza variety, shall be of such a size that the individual olives in any lot shall each measure at least 17

millimeters in diameter: *Provided*, That not more than 35 percent, by count, of the olives may measure less than 17 millimeters in diameter;

(11) Canned pitted ripe olives not identifiable as to variety or variety group shall be of such a size that the individual olives in any lot shall each measure at least 16 millimeters in diameter: *Provided*, That not more than 35 percent, by count, of the olives may measure less than 16 millimeters in diameter;

(c) The Processed Products Standardization and Inspection Branch, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade and size of canned ripe olives that are imported into the United States. Inspection by said inspection service with appropriate evidence thereof in the form of an official inspection certificate, issued by the service and applicable to the particular shipment of olives, is required on all imports of canned ripe olives. Such inspection and certification services will be available, upon application, in accordance with the applicable regulations governing the inspection and certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (Part 52 of this title). Application for inspection shall be made not less than 10 days prior to the time when the olives will be imported. Since inspectors are not located in the immediate vicinity of some of the small ports of entry, importers of canned ripe olives should make arrangements for inspection through one of the following offices at least 10 days prior to the time when the olives will be imported:

<i>Office</i>	<i>Telephone</i>
Eastern Regional Office, Room 0712, South Building, Processed Products Branch, Fruit & Vegetable Division, C&MS, USDA, Wash- ington, D.C. 20250.	(202) 388-7913 or 2088.
Central Regional Office, 1010 U.S. Custom House, 610 South Canal Street, Chicago, IL 60607.	(312) 353-6217 or 6218.
Western Regional Office, 390 Main Street, Room 7093, San Francisco, CA 94105.	(415) 556-4800.

(d) Inspection certificates shall cover only the quantity of canned ripe olives that is being imported at a particular port of entry by a particular importer.

(e) Inspection shall be performed by USDA inspectors in accordance with said regulations governing the inspection and certification of processed fruits and vegetables and related products (Part 52 of this title). The cost of each such inspection and related certification shall be borne by the applicant therefor. Applications for inspection shall be accompanied by, or there shall be submitted promptly thereafter, either (1) an "on board" bill of lading designating the lots to be entered as canned ripe olives, or

(2) a list of such lots and their identifying marks.

(f) Notwithstanding any other provisions of this regulation, any importation of canned ripe olives which, in the aggregate, does not exceed 100 pounds drained weight may be imported without regard to the requirements of this section.

(g) It is hereby determined, on the basis of the information currently available, that the grade and size requirements set forth in this regulation are comparable to those applicable to California canned ripe olives.

(h) No provisions of this section shall supersede the restrictions or prohibitions on canned ripe olives under the provisions of the Federal Food, Drug, and Cosmetic Act, or any other applicable laws or regulations or the need to comply with applicable food and sanitary regulations of city, county, State, or Federal agencies.

(i) The terms relating to grade and size, as used herein, shall have the same meaning as when used in the U.S. Standards for Grades of Canned Ripe Olives (§§ 52.3751-52.3766 of this title, 36 F.R. 16567).

(j) Each inspection certificate issued with respect to canned ripe olives to be imported into the United States shall set forth, among other things:

- (1) The date and place of inspection;
- (2) The name of the shipper or applicant;
- (3) The commodity inspected;
- (4) The quantity of the commodity covered by the certificate;
- (5) The principal identifying marks on the container;
- (6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and
- (7) The following statement if the facts warrant: Meets the U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

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

Dated November 30, 1971, to become effective 30 days after publication in the FEDERAL REGISTER.

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

[FR Doc.71-17733 Filed 12-3-71;8:45 am]

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

Product Outlets for Substandard Dates

The California Date Administrative Committee has unanimously recommended that § 987.156 of Subpart—Administrative Rules and Regulations (7 CFR 987.100-987.174; 36 F.R. 15036) be amended to permit substandard dates to be disposed of by handlers for use, or used by them, in the production of

specified date products for human consumption. Section 987.156 is effective pursuant to § 987.56 of the marketing agreement, as amended, and Order No. 987, as amended (7 CFR Part 987), regulating the handling of domestic dates produced or packed in Riverside County, Calif. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The California Date Administrative Committee (hereinafter referred to as the "Committee") met October 15 and November 9, 1971, to consider the date supply and demand outlook. The Committee believes that the 1971-72 supply of restricted and other marketable dates available to meet product needs, i.e., in the form of rings, chunks, pieces, butter, paste, macerated dates, and syrup (specified in § 987.155(b)) will not be adequate for such needs during the current crop year. The Committee further believes that the use during the 1971-72 crop year of substandard dates for products would aid in satisfying such product needs.

The Committee has indicated that a substantial quantity of substandard dates (suitable for human consumption) is available for use in the production of the additional date products. However, such dates presently can only be disposed of in non-human food outlets, which yield relatively low returns to producers, or for use in the production of table syrup (§ 987.156(a)). Therefore, the Committee concluded that the use through September 30, 1972, of substandard dates, inspected and certified as such, in specified products for human consumption would tend to effectuate the declared policy of the act, and made its recommendation accordingly.

The action taken herein would permit substandard dates to be used until October 1, 1972, in the production of date products in the form of rings, chunks, pieces, butter, paste, or macerated dates. Thus, an additional supply of dates would be made available for date products other than table syrup and provide an opportunity for higher returns to date producers.

Based on the foregoing, the unanimous recommendation of the Committee, the information submitted therewith, and other available information, it is hereby found that the use of substandard dates in the date products hereinafter specified for human consumption will tend to effectuate the declared policy of the act. Therefore, Subpart—Administrative Rules and Regulations (7 CFR 987.100-987.174; 36 F.R. 15036), is hereby amended by revising paragraph (a) of § 987.156 to read as follows:

§ 987.156 Disposition of substandard dates.

(a) *Specified product outlets.* Dates of any variety inspected and certified as substandard dates, as defined in § 987.15, may be disposed of by handlers for use, or used by them, in the production of table syrup. Dates of any variety that are inspected and certified as substandard dates, as defined in § 987.15, may be

disposed of during the period December 4, 1971, through September 30, 1972, by handlers for use, or used by them, in the production of date products for human consumption in the form of rings, chunks, pieces, butter, paste, or macerated dates.

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 until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Handlers have expressed the need to use substandard dates suitable for products as soon as possible to satisfy their current product needs; (2) in the absence of this action being made effective promptly, handlers would need to sort lots containing such dates, and thereby incur high sorting costs, so that the remainder of the dates would meet current quality requirements for products; (3) this action relieves current restrictions on handlers by permitting additional outlets for substandard dates and should become effective promptly to allow handlers to utilize these additional outlets thereby tending to maximize sales at the higher prices and thus tending to increase returns to producers as soon as possible; (4) this action was unanimously recommended by the Committee and handlers are aware of this recommendation arrived at in open meetings to consider the matter of using substandard dates for products for human consumption and were afforded the opportunity to present their views at these meetings and need no additional time or notice to adjust their operations thereto; and (5) no useful purpose would be served by postponing the effective time hereof. (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated November 30, 1971, to become effective upon publication in the FEDERAL REGISTER (12-4-71).

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

[FR Doc.71-17734 Filed 12-3-71;8:45 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

Disposal of Radioactive Wastes at Sea

Notice is hereby given of the amendment of the Atomic Energy Commission's regulation "Standards for Protection Against Radiation," 10 CFR Part 20.

In his April 15, 1970, message to the Congress, the President directed the Chairman of the Council on Environmental Quality (CEQ) to conduct a study

regarding ocean dumping of wastes, including the dumping of radioactive wastes. The President's message asked the Council to work with other Federal agencies and with State and local governments on a comprehensive study that would result in research, legislative, and administrative recommendations. The study led to the publication of "Ocean Dumping: A National Policy, a Report to the President prepared by the Council on Environmental Quality" in October 1970.

With respect to the dumping of radioactive waste, the CEQ report made the following findings and recommendations:

The current policy of prohibiting ocean dumping of high-level radioactive wastes should be continued. Low-level liquid discharges to the ocean from vessels and land-based nuclear facilities are, and should continue to be controlled by Federal regulations and international standards. The adequacy of such standards should be continually reviewed. Ocean dumping of other radioactive wastes should be prohibited. In a very few cases, there may be no alternative offering less harm to man or the environment. In these cases ocean disposal should be allowed only when the lack of alternatives has been demonstrated. Planning of activities which will result in production of radioactive wastes should include provisions to avoid ocean disposal.

The Atomic Energy Commission's policy since 1960 is consistent with the policy expressed in the CEQ report. The AEC has not permitted ocean disposal of high-level radioactive waste. The release of low-level liquid effluents to the ocean from vessels and land-based nuclear facilities, such as nuclear powerplants, is subject to Federal controls and continually reviewed.

In June 1960 the Commission placed a moratorium on the issuance of new licenses for sea disposal. Existing licenses authorizing sea disposal were permitted to remain in effect and licensees were permitted to continue waste disposal operations at sea. Early in 1960 the AEC also authorized licensees to use, on an interim basis, AEC land burial sites in Idaho Falls, Idaho, and Oak Ridge, Tenn. In September 1962 the first commercial land burial facility, located in Nevada, was licensed and became available for use by private organizations. Shortly thereafter, the AEC withdrew the use of the interim land burial sites by licensees. Since that time, licensed commercial land burial facilities have been established in the States of Kentucky, New York, Washington, Illinois, and South Carolina.

There has been very little interest in sea disposal in the last few years due primarily to the availability of land burial sites. At the time the moratorium became effective, there were seven commercial firms licensed by the AEC to collect radioactive waste from other persons and to dispose of the waste at sea. In addition, there were eight organizations licensed by the AEC to dispose of waste generated in their own laboratories. At present, there is one commercial organization authorized to dispose of radioactive waste at sea. This licensee is

not actively engaged in sea disposal at present. Since 1965, less than 200 curies of radioactive waste have been disposed of at sea. The last disposal at sea was made in June 1970.

The Atomic Energy Commission's existing policy to phase out sea disposal which is consistent with the spirit of the CEQ report, the alternative means available for disposal of radioactive waste, and the lack of impact on the nuclear industry of discontinuance of sea disposal of radioactive waste provide the basis for the amendment to 10 CFR Part 20. The adoption of this rule change does not mean that the Commission considers sea disposal of radioactive waste an unsafe practice. Rather, it applies to licensee operations a policy which already exists for the AEC's own operations and is consistent with the CEQ's recommendations with respect to sea disposal of radioactive waste. The provisions of § 20.302 do not presently, and will not under this amendment, apply to low levels of radioactive material in liquid effluents released from nuclear facilities in accordance with other provisions of the Commission's regulations.

Under the amendment to Part 20 set forth below, the Atomic Energy Commission would consider, on a case-by-case basis, applications for disposal of radioactive waste at sea. The applicant would be required to show that sea disposal offers less harm to man or the environment than other practical alternative methods of disposal.

Since the amendment merely codifies existing policy, the Commission has found that good cause exists for omitting notice of proposed rule making and public procedure thereon as unnecessary.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 20, is published as a document subject to codification, to be effective 30 days after publication in the FEDERAL REGISTER.

1. Section 20.302 of 10 CFR Part 20 is amended by designating all but the final sentence as paragraph (a); the final sentence as paragraph (b); and adding a new paragraph (c) to read as follows:

§ 20.302 Method for obtaining approval of proposed disposal procedures.

* * * * *

(c) The Commission will not approve any application for a license for disposal of licensed material at sea unless the applicant shows that sea disposal offers less harm to man or the environment than other practical alternative methods of disposal.

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

Dated at Germantown, Md., this 19th day of November 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc.71-17717 Filed 12-3-71;8:50 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Service,¹ Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 71-602]

PART 76—HOG CHOLERA AND OTHER COMMUNICABLE SWINE DISEASES

Areas Quarantined

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

In § 76.2, the reference to the State of New York in paragraph (f) is deleted, and paragraph (g) is amended by adding thereto the name of the State of New York.

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

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

The amendment deletes New York from the list of hog cholera eradication States in § 76.2(f), and the special provisions pertaining to the interstate movement of swine and swine products from or to such eradication States are no longer applicable to New York. Further, the amendment adds New York to the list of hog cholera free States in § 76.2(g), and the special provisions pertaining to the interstate movement of swine and swine products from or to such free States are applicable to New York.

Insofar as the amendment imposes certain further restrictions necessary to prevent the interstate spread of hog cholera, it must be made effective immediately to accomplish its purpose in the public interest. Insofar as it relieves restrictions, it should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department.

¹The functions prescribed in Part 76 of Chapter I, 9 CFR, have been transferred from the Agricultural Research Service, U.S. Department of Agriculture, to the Animal and Plant Health Service of the Department (36 F.R. 20707).

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

Done at Washington, D.C., this 1st day of December 1971.

F. J. MULHERN,
Acting Administrator,
Animal and Plant Health Service.

[FR Doc.71-17735 Filed 12-3-71;8:45 am]

Chapter II—Packers and Stockyards Administration, Department of Agriculture

PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

Registration, Bonding, and Posting

On July 29, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 14012) concerning amendments to §§ 201.5, 201.10(a), 201.10(b), 201.13, 201.27, 201.29(b), 201.30(a), 201.33, and 201.34 (9 CFR 201.5, 201.10(a), 201.10(b), 201.13, 201.27, 201.29(b), 201.30(a), 201.33, and 201.34) of the regulations under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. 181 et seq.). Interested persons were given an opportunity to submit written data, views, and arguments with respect to the proposed amendments.

After consideration of the data, views, and arguments submitted with respect to §§ 201.27, 201.29(b), 201.30(a), 201.33, and 201.34 of the proposed regulations, all involving bonding requirements, it has been determined that these sections of the proposed regulations will not be adopted until further consideration is given to additional modifications or revisions suggested by the comments received, relating to the time limit within which a bond claim may be filed.

After consideration of all other relevant matter submitted by interested persons with respect to the proposed amendments to §§ 201.5, 201.10(a), 201.10(b), and 201.13, it has been determined that these sections of the proposed regulations, as published in the FEDERAL REGISTER (36 F.R. 14012), should be adopted as proposed. Therefore, §§ 201.5, 201.10(a), 201.10(b), and 201.13, Part 201, Chapter II, Title 9 of the Code of Federal Regulations are hereby amended to read as follows:

§ 201.5 Investigation; notice and posting of stockyards.

After it has been determined as provided in section 302(b) of the Act, that a stockyard comes within the definition of that term as contained in section 302(a), the stockyard shall be given a number as its official designation under the Act and posting of the stockyard shall be accomplished by (a) giving no-

tice of such determination and official designation to the stockyard owner by certified mail or in person, and (b) giving notice thereof to the public by posting copies of such notice in at least three conspicuous places at such stockyard and by publication of the determination and official designation in the FEDERAL REGISTER. A stockyard so posted shall remain subject to the provisions of the Act and these regulations until the stockyard has been deposted, regardless of any change in the ownership or control of such stockyard or in the name of the stockyard or any market agencies operating at such stockyard.

§ 201.10 Requirements and procedures.

(a) Every person operating or desiring to operate as a market agency or dealer as defined in section 301 of the Act shall apply for registration under the Act by filing, on forms which will be supplied by the Administrator or any Area Supervisor on request, a properly executed application containing all the information, required by such forms, and shall, concurrently with the filing of such application, file the bond as required in §§ 201.27 through 201.34, and a financial statement listing all of the applicant's current assets and his current liabilities. The terms "current assets" and "current liabilities" are defined in section 203.10 of the Statements of General Policy under the Packers and Stockyards Act (9 CFR 203.10).

(b) Each application for registration shall be filed with the Area Supervisor, for the area in which the applicant proposes to operate, who shall mail it to the Administrator at Washington, D.C. If the financial statement required by these regulations shows that the applicant's current liabilities exceed his current assets or if the Administrator has reason to believe that the applicant is unfit to engage in the activity for which application has been made by reason of the fact that the applicant has within 2 years prior to filing the application engaged in activities constituting dishonest or fraudulent practices of the character prohibited by the Act which previously have not been the subject of a formal administrative proceeding under the Act resulting in the imposition of a sanction against the applicant, an administrative proceeding shall be promptly instituted in which the applicant will be afforded opportunity for full hearing in accordance with the rules of practice under the Act, for the purpose of showing cause why the application for registration should not be denied. In the event it is determined that the application should be denied, the applicant shall not be precluded as soon as conditions warrant from again applying for registration.

§ 201.13 Registrants to report changes in name, address, control or ownership; cancellation of registration.

(a) Whenever any change is made in the name or address or in the management or nature or in the substantial control or ownership of the business of a registrant, such registrant shall report

such change in writing to the Administrator, Washington, D.C., within 10 days after making such change.

(b) Registrations shall be canceled when (1) the registrant gives notice to the Administrator that he is no longer doing business as registered, or (2) the Administrator has reason to believe that the registrant has not operated in any capacity for which registration is required for a period of 1 year: *Provided, however,* That no registration shall be canceled if an administrative proceeding is pending against the registrant or if the Administrator is considering the institution of an administrative proceeding against the registrant. In the event a registration is canceled under the above provisions of this subsection, the registrant will be served notice of such cancellation by certified mail and such cancellation will become effective 15 days after service of such notice unless the registrant files with the Administrator a request that such registration be continued in which event the notice of cancellation will be automatically revoked upon receipt of such request by the Administrator. Registrations shall also be canceled if the Administrator receives notice or information establishing that the registrant has deceased.

The purpose of these amendments is to simplify the procedure for the posting of stockyards, to post stockyards by facility number rather than by name, make unnecessary the issuance of notices to the general public when changes are made in the names of stockyards, require all applicants for registration under the Act and regulations to make a showing of solvency prior to being granted authority to engage in business as market agencies and dealers in commerce, permit the Administration to cancel registrations of market agencies and dealers when (1) a registrant is deceased, (2) a registrant notifies the administration that he is no longer engaged in business as registered, and (3) a registrant has been inactive for a period of 1 year. Persons resuming their operations as a market agency or dealer without reapplying for registration and filing a bond or bond equivalent would be in violation of section 303 of the Act.

The amendments to §§ 201.5 and 201.13 shall become effective on January 1, 1972, as these amendments are basically changes in Administration recordkeeping procedures and do not place any undue burden on persons subject to the Act and regulations to immediately comply. However, since the changes made in §§ 201.10 (a) and 201.10(b) will require the filing of financial statements by new applicants for registration and will require the establishment of new procedures, such sections will not become effective until May 1, 1972.

NOTE: The reporting and recordkeeping requirements of the revised regulations have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D.C., this 26th day of November 1971.

ODIN LANGEN,
*Administrator, Packers and
Stockyards Administration.*

[FR Doc.71-17828 Filed 12-3-71;8:51 am]

Title 12—BANKS AND BANKING

Chapter VII—National Credit Union Administration

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

Minimum Bond Coverage Schedule; Technical Revision of Forms

Pursuant to the authority conferred by section 120, 73 Stat. 635, 12 U.S.C. 1766, § 701.20(c) is hereby amended as set forth below. This change reflects the addition of a new bond form and is purely technical in nature.

§ 701.20 [Amended]

1. In § 701.20(c), after the number "577", delete "and 578" and insert "578, and 579".

HERMAN NICKERSON, Jr.
Administrator.

NOVEMBER 29, 1971.

[FR Doc.71-17723 Filed 12-3-71;8:46 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 71-WE-24-AD; Amdt. 39-1352]

PART 39—AIRWORTHINESS DIRECTIVES

North American Rockwell Models NA-265, NA-265-20, NA-265-30, NA-265-40, NA-265-60, and NA-265-70

There has been fraying of the aileron control cables that resulted in degradation of the strength of the control cables below an acceptable level. This has occurred at the same time on both the left and right aileron control cables. To correct this condition, an airworthiness directive is being issued to require inspection and replacement, if necessary, of the aileron control cables.

Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection of the aileron control cables, P/N's 246-52324 (LH upper), 246-52325 (LH and RH lower), 246-52339 (RH upper), 276-523005-11 (stainless, LH upper), 276-523006-11 (stainless, LH and RH lower), and 276-523008-11 (stainless, RH upper)

for fraying of the cables, in the area which is in contact with the pulleys located on the wing rear spar at root ribs on NA-265, NA-265-20, NA-265-30, NA-265-40, NA-265-60, and NA-265-70 airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective on the date of publication in the FEDERAL REGISTER.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), section 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

NORTH AMERICAN ROCKWELL. Applies to Models NA-265, NA-265-20, NA-265-30, NA-265-40, NA-265-60, NA-265-70.

Compliance required as indicated.

To prevent failure of the aileron control cables, accomplish the following:

Within the next 100 hours time in service after the effective date of this AD, unless already accomplished within the last 500 hours time in service, and thereafter at intervals not to exceed 600 hours time in service or 12 months, whichever occurs first, inspect the aileron control cables and replace as necessary; provided however that, if as a result of any inspection, more than three wires are found to be broken, the repetitive inspection interval will be decreased, or replacement required, as follows:

(a) With four to six wires broken, repeat the inspection at intervals not to exceed 100 hours time in service.

(b) With more than six wires broken, or if an equivalent reduction to the cable cross section area is present due to wear, replace the cable with a new or serviceable cable before further flight.

Inspect the aileron control cables (P/N's 246-52324, 246-52325, 246-52339, 276-523005-11, 276-523006-11, 276-523008-11, as applicable) in accordance with the following instructions:

1. Remove aileron control cables from the aircraft and inspect per step 9 or follow steps 2 through 16.

2. Lower wing flaps.

3. Open main wheel well doors or remove both wheel well cover assemblies as applicable.

NOTE: Use normal safety precautions such as disconnecting the batteries to prevent inadvertent wing flap or landing gear wheel well door actuation.

4. In the left hand wheel well, disconnect the lower left hand aileron cable turnbuckle.

5. In the right hand wheel well, disconnect the upper left hand cable from the left hand aileron sector (P/N 246-52314).

6. Disconnect the left hand outboard aileron sector (P/N 246-52305-1), accessible through the left hand flap well, by removing the sector pivot bolt.

7. With the aileron sector pivot bolt removed disconnect the upper and lower left hand aileron cables from the sector.

8. Cable slack will now be available to allow pulling the upper left hand cable down into the landing gear strut well for inspection per step 9.

9. Clean the cable for a visual inspection. The cables must be bent in a "U" and inspected with a four power, or greater, magnifying glass in the area of pulley contact.

10. The lower left hand aileron control cable must be pulled inboard into the wheel well for inspection of the cable that passes over the pulley. Inspect per Step 9.

11. If the inspection of the left hand aileron control cables shows that they do not require replacing, reconnect and rig the left hand aileron control cables (see note, below).

12. Disconnect the lower right hand aileron cable turnbuckle located in the right hand wheel well.

13. Disconnect the upper cable at the aileron sector (P/N 246-52364) located in the right hand wheel well.

14. Pull the upper aileron cable down into the right hand main landing gear strut well and inspect per step 9.

15. Pull the lower aileron control cable into the right hand wheel well and inspect per step 9.

16. If the inspection of the two right hand cables reveals that they do not require replacing, reconnect and rig the aileron control system (see note, below).

NOTE: Instructions pertaining to the installation of new or serviceable cables and the rigging of the aileron control system are contained in the applicable maintenance documents.

This amendment becomes effective December 4, 1971.

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

Issued in Los Angeles, Calif., on November 23, 1971.

ROBERT C. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.71-17712 Filed 12-3-71;8:45 am]

[Docket No. 11572; Amdt. 785]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is pay-

able in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of \$125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.11 is amended by establishing, revising, or canceling the following L/MF-ADF(NDB)-VOR SIAP's, effective December 30, 1971.

Kodiak, Alaska—Kodiak Municipal Airport; VOR-1, Original; Canceled.

2. Section 97.21 is amended by establishing, revising, or canceling the following L/MF SIAP's, effective December 30, 1971.

Kodiak, Alaska—Kodiak Airport; LFR Runway 25, Original; Established.
Yakataga, Alaska—Yakataga Airport; LFR-A, Amdt. 13; Revised.

3. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective December 30, 1971.

Batavia, N.Y.—Genesee County Airport; VOR-1, Amdt. 1; Canceled.
Batavia, N.Y.—Genesee County Airport; VOR Runway 28, Original; Established.
Bennington, Vt.—Bennington State Airport; VOR-A, Amdt. 2; Revised.
Dallas, Tex.—Addison Airport; VOR Runway 33, Amdt. 11; Revised.
Eureka, Calif.—Murray Field; VOR-A, Original; Established.
Kodiak, Alaska—Kodiak Airport; VORTAC Runway 25, Original; Established.

4. Section 97.27 is amended by establishing, revising or canceling the following NDB/ADF SIAP's, effective December 30, 1971.

Heber Springs, Ark.—Heber Springs Municipal Airport; NDB Runway 5, Original; Established.
Montague, Calif.—Siskiyou County Airport; NDB-A, Amdt. 2; Revised.

5. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective December 30, 1971.

Colorado Springs, Colo.—Peterson Field; ILS Runway 35, Amdt. 24; Revised.
Salt Lake City, Utah—Salt Lake City International Airport; ILS Runway 34L, Amdt. 27; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a) (1))

Issued in Washington, D.C., on November 24, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 approved by the Director of the Federal Register on May 12, 1969 (35 F.R. 5610).

[FR Doc.71-17650 Filed 12-3-71;8:45 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-713; Amdt. 2]

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

Procedures for Authorizations of Wet Lease Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of October 1971.

In EDR-166¹ the Board issued a notice of proposed rule making to enact a new Part 218 of the economic regulations which would prohibit a foreign air carrier from furnishing an aircraft with crew ("wet lease") for the performance of air transportation operations of another foreign air carrier, unless the Board has issued the "lessor" a section 402 foreign air carrier permit authorizing such operations, or, upon application by the parties to the transaction, the Board has issued an order disclaiming jurisdiction. A disclaimer would be warranted only where the applicants overcame the presumption that the wet lease arrangement constituted a charter arrangement under which the lessor was engaged in foreign air transportation.

After comments were received on EDR-166, the Board issued EDR-193² proposing by amendment of Parts 212 and 214³ to enable foreign air carriers to conduct "wet lease" charters for other direct air carriers without the necessity of obtaining a section 402 foreign air carrier permit for such authority. Certain details of the proposal will be discussed subsequently, but it will be noted briefly here that it was proposed to amend Parts 212 and 214 so as to permit such charters to be performed pursuant to a Statement of Authorization, and the criteria which the Board would consider in passing on an application for a statement were specified in part. In the case of emergency charters no prior approval would be required.

Pursuant to the notice of rule making comments were received from a number

¹ June 13, 1969, 34 F.R. 9621 (Docket 21080).

² Nov. 9, 1970, 35 F.R. 17556 (Docket 22730).

³ "Charter trips by foreign air carriers" and "Terms, conditions, and limitations of foreign air carrier permits authorizing charter transportation only," respectively. In addition, an implementing amendment was proposed to Part 217—Reporting data pertaining to civil aircraft charters performed by foreign air carriers.

of air carriers and foreign air carriers.⁴ Two of the U.S. route carriers, Pan American and Seaboard, oppose adoption of the proposed rule; a third, TWA, expresses certain reservations regarding the proposal. The foreign route carriers raise objections to various features of the proposal, while the foreign charter carriers support, on the whole, the proposal.⁵

Upon consideration, the Board has determined to adopt the proposed amendments, as revised herein,⁶ and the tentative findings made in EDR-193 are incorporated by reference, except as modified.⁷ Since we are also adopting with modifications the proposal in EDR-166, the effect will be that a foreign air carrier may not wet lease an aircraft to another for operations in foreign air transportation in the absence of a section 402 permit authorizing such operations, a disclaimer of jurisdiction, or a statement of authorization under Part 212 or 214, as revised herein.

Various legal and policy objections to the proposed rule are advanced by Pan American.⁸ Citing ALM Dutch Antillean Airlines⁹ and Air Jamaica Ltd.¹⁰ Pan American contends that, unless such specific provisions are contained therein,

⁴ Route air carriers: Pan American World Airways; Seaboard World Airlines; and Trans World Airlines; supplemental air carriers: member carriers of the National Air Carrier Association and a separate comment by Trans International Airlines; route foreign air carriers: British Overseas Airways Corp.; Compagnie Nationale Air France; Compania Mexicana de Aviacion, S.A. (CMA), Lineas Aereas Constarricenses, S.A. (LACSA) and Venezolana Internacional de Aviacion, S.A. (VIASA), jointly; El Al Israel, Iberia, Linea Aerea Nacional de Chile, Viacao Aerea Rio-Grandense (VARIG) and Scandinavian Airlines System, jointly (referred to herein as El Al et al.); KLM Royal Dutch Airlines; Lufthansa German Airlines, Sabena Belgian World Airlines, and Swissair; foreign charter carriers: Caledonian Airways (Prestwick), Martin's Air Charter, and Spantax; and by the European Civil Aviation Conference.

⁵ The NACA carriers take no position with respect to the basic scheme of the proposed regulations.

⁶ By ER-716, issued contemporaneously, we are also adopting with modifications, reflecting our action herein, the proposal in EDR-166.

⁷ El Al et al. request additional time in which to prepare further arguments in opposition and in which to notify their respective governments that the substantive issues raised in Docket 2108 (EDR-166) are also at issue herein so that those governments may, if they desire, express their views thereon to the appropriate U.S. governmental authorities. The request is dismissed as untimely since it comes after the time in which comments were due. In any event, the carriers have had ample time—from Nov. 9, 1970, until Jan. 15, 1971—in which to prepare comments and advise their governments. In addition, the request of El Al et al. and KLM to consolidate Dockets 21080 and this docket is denied, although, as indicated, action in both rule making proceedings is being taken contemporaneously. Since this rule is intended to liberalize the present regulations, there is no reason for further delay in implementing these provisions.

⁸ Seaboard's position is substantially the same as that of Pan American.

⁹ Order 69-2-5, Dec. 12, 1968.

¹⁰ Order E-23280, Jan. 19, 1966.

section 402 permits do not authorize a foreign air carrier to perform the operations of another carrier under a wet lease arrangement. Hence, it argues, there is no permit authority upon which the proposed Statement of Authorization procedure can be predicated. It adds that, as a matter of law, the Board would have to grant or amend section 402 permits to authorize "wet lease" operations, after hearing and Presidential approval, before it could implement the proposed rule, as was done in the Foreign Off-Route Charter Investigation.¹¹

The Board is not persuaded either that it lacks legal authority to adopt the regulations here involved without evidentiary hearings, or that they require the approval of the President. In the Foreign Off-Route Charter Investigation, the Board recognized that the linear route authorizations held by the foreign air carriers did not carry with them the incidental right enjoyed by citizen carriers to engage in charter trips and special services, and that a grant of additional authority in this area was required to permit so-called "off-route" charter services. The Board there emphasized its purpose of achieving uniformity insofar as practicable in the charter concepts and tests applied to the operations of the various carriers subject to the Board's jurisdiction, and to strike a balance in this respect between the charter operations of the foreign and citizen carriers. To that end, the Board amended the foreign air carrier permits then outstanding by authorizing the carriers to conduct charter trips subject to such other provisions of Part 212 and to terms, conditions, and limitations as might from time to time be prescribed by the Board. Moreover, Part 212 initially provided that a foreign air carrier could engage in the charter transportation of personnel and cargo or of "commercial traffic" in cases of emergency of a direct air carrier or surface carrier. The President approved the issuance of the permits then involved, together with the reservation of authority to prescribe future terms, conditions, and limitations. Subsequently, the regulation was amended by rule making proceedings in 1969 to permit foreign air carriers to perform such charters for other foreign air carriers.

In sum, what is here involved is merely a further definition of the charters which can be performed under the Board's regulations, with respect to a type of traffic encompassed within the general category of "charters" under their section 402 permits and under the original regulations. In our view, it does not represent such a change in the scope of operating authority as to constitute a technical amendment to the section 402 permits.

It has been urged that the designation as "off-route" of charter flights between points specified in section 402 permits is incongruous. However, the situation here is no different than that which exists with respect to passenger charter flights between certificated points by the cargo air carriers. The term "off-route" properly can be applied to those flights

authorized pursuant to section 401(e)(6) in the case of citizen carriers and those performed under comparable authority of Part 212 by the foreign air carriers.

These same considerations are equally applicable to and justify the amendments to Part 214. Again, our action does not constitute an amendment of the basic permits which authorize the carriers to engage in charter services, but rather a permissible definition of the term charter service under the reserved authority of the Board. Moreover, it is mistakenly asserted that the Board has attempted to confer cargo charter authority upon the Part 214 carriers; the proposed and actual revision in terms is restricted to "commercial passenger traffic."

Pan American also objects to EDR-193 on policy grounds.¹² It takes note of the finding in EDR-193 that the requirements of section 402 are burdensome for a potential foreign carrier wet lessor as compared to the U.S. carrier wet lessor. It states that the practical effect of this is that when a foreign air carrier serving the United States under a section 402 permit authorizing it and it alone to engage in such service finds that it is unable to do so, it turns generally to a U.S. carrier to meet such short-term requirements via wet lease. It further states that considering that the United States is under no obligation to permit any substitution of carriers at all, it sees nothing unreasonable in this result. Pan American adds that EDR-193 "fails to address the question of why, when such short-term requirements arise in foreign flag service to and from the United States, some third country should get the business rather than a U.S. carrier."

The Board, of course, did not propose the rule in order that "some third country should get the business rather than a U.S. carrier." The rationale behind the proposal was that the Board has issued permits to foreign air carriers on findings that the authorizations will be in the public interest; and that section 402 procedures place foreign air carriers at a disadvantage vis-a-vis U.S. carriers with respect to operating their services by impeding their ability through wet lease arrangements to efficiently utilize their equipment or their ability to utilize the equipment and crews of other foreign air carriers in times of need. In our view, the proposal commends itself as a matter of simple equity. Furthermore, the greater opportunities for flexibility and efficiency which will be available to foreign air carriers as a result of these amendments should ultimately result in benefits to the traveling public.

Pan American further argues that the Statement of Authorization procedures of Part 212 are designed to handle a high

¹² These objections are not shared by TWA, which recognizes that the foreign carriers, like the U.S. carriers, have in certain instances legitimate grounds for conducting wet lease operations which would be precluded by their operating permits. TWA also appreciates that a permit amendment for a wet lease under section 402 involves a time consuming procedure which may at times be unduly burdensome when a relatively short-term arrangement is contemplated and it is otherwise in the public interest.

¹¹ 27 C.A.B. 196 (1958).

volume of routine off-route charter applications filed on relatively short notice, and are not appropriate for the resolution of complex intercarrier arrangements between foreign air carriers serving the United States.¹³ The Board's experience in dealing with wet leases where the "wet lessor" is a U.S. carrier indicates that the typical arrangement does not raise complex factual questions which can only be resolved through the hearing process. In any event, should factual questions directly and materially bearing on the public interest be presented which cannot be resolved on the pleadings, the matter can, of course, be set down for an evidentiary hearing. Moreover, a protesting party is free to argue, in a particular case, that the application is of such scope as to require amendment of the foreign air carrier permit in accordance with section 402 procedures.

We now turn to comments directed at specific proposals.

The rules would provide that except for emergency charters, a foreign air carrier shall not perform any off-route charter trip unless specific authority in the form of a Statement of Authorization has been granted by the Board. Caledonian believes that a Statement of Authorization should not be required where (a) the chartering direct air carrier is a supplemental or foreign charter carrier and (b) both the chartering and operating carriers, i.e., the wet lessor and the wet lessee, possess authority under their outstanding certificates or permits to perform the charter transportation service in question.

We shall not adopt Caledonian's suggestion which, in essence, would permit unlimited wet leasing between charter carriers serving the same areas. It is true that the impact of such wet leases on U.S. scheduled services would be less direct than when the lessee is a scheduled airline using a wet lease for its scheduled traffic. However, a wet lease between charter carriers could have some impact, especially if a substantial number of flights were involved. Moreover, while the rule is intended to give foreign air carriers greater flexibility to wet lease, we believe some control over wet leasing between charter carriers is necessary to prevent unlimited operation of their services through another carrier's equipment and crews.

The rules would provide that applications for a Statement of Authorization be filed with the Board at least 45 days in advance of the date of the commence-

ment of the proposed flights. Sabena finds the 45-day notice provision too long and suggests not more than 30 days.¹⁴ We are not disposed to shorten the notice provision. The procedure and workload will be similar to those in exemption cases where a U.S. carrier is the lessor. Experience has shown that 1 month is ordinarily too short a time in which to process such exemption applications when a substantial quantum of service is involved. Where only one or a few flights are involved raising no substantive questions under the prescribed standards, later applications could be accepted on a showing of good cause under § 212.5(b).

The rules would also provide that a copy of each application shall be served upon the Federal Aviation Administration¹⁵ "and each scheduled U.S. air carrier which is authorized to serve the same general area in which the proposed charter trips are to be performed." Certain foreign air carriers object to the service requirement on scheduled U.S. air carriers. For example, El Al et al. submit that there is no reason why (particularly in view of the "very lengthy" advance filing period of 45 days) carriers who wish to file in support of or in opposition to an application would not have sufficient notice of its pendency from reading the weekly list of applications. This, according to the carriers, would not only ease the administrative burden and expense to the applicant but would eliminate the problem of determining each time what is meant by serving "the same general area."

It is quite clear to us that the U.S. scheduled carriers must be served not only to give them direct and early notice of the applications, but also to establish a definite time frame within which to require filing of memoranda in support of or in opposition to grant of an application.¹⁶ Furthermore, the administrative burden and expense with respect to serving applications on U.S. carriers would not be significant. Finally, we see no real problem for carriers in determining the U.S. carriers which serve the "same general area." Section 203.7(c) has for years had a similar requirement of service of Applications for Change in Approved Service Plan—Foreign Air Transportation, and we are aware of no problems which have developed in this regard.¹⁷

The NACA carriers and TIA urge that the rules be amended to require service

¹³ El Al et al. also object to the 45-day notice and believe 15 days would be more than adequate to enable persons opposing the application to file memoranda in opposition and to enable the Board to act.

¹⁴ El Al et al. and Sabena see no need to serve the FAA. The FAA has an interest, in view of the regulatory requirements governing operating specifications and airworthiness and registration certificates. (14 CFR 129.11 and 129.13.)

¹⁵ The rules require such memoranda to be filed within 7 days after service.

¹⁶ If the carriers are unclear as to which U.S. carriers are to be served, they may inquire of the Bureau of Operating Rights.

of an application for a Statement of Authorization on the supplemental carriers as well as the scheduled carriers which may be affected. Since the supplemental carriers could have an interest where the application is to provide nonscheduled service, and there might be cases where the supplemental carriers could have an interest in an application to provide scheduled service, we have determined to grant the request of the supplemental carriers.

Lufthansa and Swissair recommend that for wet leases to be completed in less than 45 days from the date of application, no service of copies of the application be made on any person, but receipt of the application by the Board's staff is sufficient. We shall not adopt the suggestion. A 30- or 40-day wet lease may well affect the same interests as a lease exceeding 45 days. Since emergency leases are not involved, there appear to be no reasons for not obtaining the comments of interested carriers regarding shorter term leases. Thus, we cannot accept the two carriers' view that all wet leases for less than 45 days could have "no conceivable impact on United States carriers."

Related to the above request is a recommendation that the Board adopt a policy statement in Part 399 which would recite that it is the policy of the Board to approve wet lease applications by holders of foreign air carrier permits under bilateral air transport agreements where the wet lease operation is to be over the route or routes of the lessee carrier and (a) where the wet lease agreement and operations under it are to be concluded in 45 days or less or (b) where the operation is to extend beyond 45 days, unless the Board (i) finds as a result of comments submitted to it that operation under the wet lease cannot be carried out without the likelihood of violating one or more terms of a bilateral air transport agreement to which the United States is a party and (ii) has incorporated such findings in a request for consultation thereon with the foreign aeronautical administration concerned.¹⁸

We shall not adopt the recommended policy statement. Reduced to simpler terms, the Board could only review a wet lease application involving carriers of the described category if it were to exceed 45 days and the Board finds it would likely violate a bilateral. The declaration of policy contained in section 102 of the Act will not permit us to take so narrow a view of our duties in considering the public interest.

Section 212.6(a) provides that if the Board finds that the proposed charter trip or trips meet the requirements of this part, that the foreign nation which is the domicile of the applicant grants a similar privilege with respect to

¹⁸ The policy statement would also provide that successive applications for wet leases of less than 45 days which have the effect of producing a continuing operation beyond such period will be treated as though they were for more than 45 days.

¹³ Pan American questions the reference in the explanatory statement (p. 4) to foreign carriers having "sought to enter into interchange" arrangements, particularly with respect to large capacity aircraft. It states that no foreign air carriers have ever sought Board approval for an interchange to the United States, and none, to its knowledge, is contemplated. The explanatory statement did not say that foreign air carriers have ever sought an interchange to the United States. What was stated was based on a representation contained by a foreign air carrier in comments filed in Docket 21080 as to the general uses of wet leases.

U.S. air carriers, and that such charter trip or trips are otherwise in the public interest, it will issue a Statement of Authorization. Section 212.6(b)(2) provides that in passing upon the requirements of the public interest the Board will consider certain specified factors, among others.¹⁹ These specified factors have been the subject of considerable comment, with commenting parties criticizing the propriety of the various standards enumerated. We have considered these objections, but find that they do not warrant any change in the standards except as indicated further herein. In our judgment the standards adopted are reasonable and appropriate guidelines. In this regard, we believe that the large amount of attention focused upon these standards results from misconceptions as to their significance. The standards which we enumerated in the proposed rule were, like any other standards which we might have suggested, intended merely to serve as guides as to what factors, among others, the Board might consider in determining the public interest. Naturally, the weight to be assigned to each factor would depend upon all the circumstances of the particular case at hand. Similarly, our enumeration of these several factors should not be taken to mean that we would not, in an appropriate case, consider other factors as well. Thus, we are not deleting any of the standards contained in the proposed rule.

In connection with the factor of whether the foreign air carrier or its agent or the charterer or its agent has previously violated any of the provisions of this part or of Part 218, we are not accepting suggestions that the references to violations by agents be deleted. It is argued that agents do not participate in wet lease arrangements between airlines; but where no agent is involved, the references to agents will of course be of no practical effect and should pose no difficulty. It is also argued that a carrier may suffer as a result of violations committed by agents in dealing with different carriers. However, the Board, in determining the weight to be assigned to the violation, would of course consider the extent to which the carrier itself was connected with the wrongdoing.

Three final matters remain to be noted. TWA has reservations regarding the possibility that under the amended rules

¹⁹ In substance, the specified factors are:

1. Whether the foreign air carrier or its agent or the charterer or its agent has previously violated any of the provisions of this part or of Part 218.
2. Whether operations under the charter will have a significant adverse competitive impact on any U.S. air carrier.
3. Whether the nature of the arrangement and the benefits to be realized are such that the authority sought should be the subject of a bilateral agreement with the applicant's government.
4. Whether grant of the application would result in violation of the capacity provisions of a bilateral air transport agreement between the United States and a foreign government.
5. Whether, and to what extent, the applicant owns and controls the charterer.

foreign charter carriers could operate cargo charters where they had no prime underlying authority to do so. We do not see how such a construction could be read into the rules. The wet lease authority was specifically confined to "commercial passenger traffic" (§§ 214.2(b)(1)(i) and 214.2(b)(2)(i)).²⁰ No foreign charter carrier is being authorized to operate a cargo charter by the amendments to Part 214 where it lacks underlying authority to do so in its permit.

Finally, we point out that, subsequent to the issuance of the proposed rule, the Board extensively revised Parts 212 and 214. Thus the final rule contains editorial changes to reflect these revisions.

In consideration of the foregoing, the Board hereby amends Part 212 of its Economic Regulations (14 CFR Part 212) effective January 19, 1972, as follows:

1. Amend the Table of Contents by adding a new § 212.14 as follows:

Sec.
212.14 Reports of emergency commercial charters for other direct air carriers.

2. Amend § 212.4 to read as follows:

§ 212.4 Limitation on the operation of off-route charter trips.

A foreign air carrier shall not perform any off-route charter trip unless specific authority in the form of a Statement of Authorization to conduct such charter trip has been granted by the Board; *Provided, however,* That no Statement of Authorization shall be required for the performance of a charter trip as provided in § 212.8(a)(4-4) of this part in cases of emergency; *Provided, also,* That emergency charters for commercial traffic shall be reported in accordance with § 212.14. An emergency charter within the meaning of this section shall not include such circumstances as cancellation of flights due to periodic overhaul of aircraft or delay in the delivery of newly acquired aircraft, and a foreign air carrier may not provide emergency charter trips on any day in each of three or more successive calendar weeks for any single direct air carrier without a Statement of Authorization.

3. Amend § 212.5 (a), (b), and (c) to read as follows:

§ 212.5 Statements of Authorization; application.

(a) Application for a Statement of Authorization shall be submitted on CAB Form 433 to the Civil Aeronautics Board, addressed to the attention of the Director, Bureau of Operating Rights. Upon a showing of good cause, such application may be transmitted by cablegram or telegram or may be made by telephone; *Provided, however,* That an application for the performance of a charter transporting commercial traffic for another direct air carrier or direct foreign air carrier (as provided in § 212.8(a)(4-a)) must be submitted on CAB Form 433,

²⁰ Emphasis added. In ER-662, adopted Jan. 29 and effective Apr. 6, 1971, the content of these sections was transferred to §§ 214.7(a) and 214.7(b), respectively.

and a copy thereof shall be served upon the Federal Aviation Administration, marked for the attention of Director, Flight Standards Service, and upon each certificated air carrier which is authorized to serve the same general area in which the proposed charter trips are to be performed. Each applicant shall keep on file with the Director, Bureau of Operating Rights, a copy of its current standard form of charter agreement. Each application shall contain an abstract of the charter agreement setting forth the names and addresses of the operator, the charterer, and their agents, if any; a description of the proposed operations; type aircraft to be flown; and, if reciprocity has not previously been established or if any changes have occurred since the previous Board finding thereon, documentation to establish the extent to which the nation which is the domicile of the applicant grants a similar privilege with respect to U.S. air carriers. A true copy of the charter agreement actually consummated shall be transmitted to the Director, Bureau of Operating Rights, as soon as practicable, but in no event later than fifteen (15) days after consummation.

(b) Applications shall be filed with the Board at least 5 days in advance of the date of the commencement of the proposed flight, except that applications for authority to conduct planeload cargo charters may be filed not less than 48 hours in advance of the proposed flight; *Provided, however,* That an application for the performance of a charter transporting commercial traffic for another direct air carrier or direct foreign air carrier (as provided in § 212.8(a)(4-a)) shall be filed with the Board at least 45 days in advance of the date of the commencement of the proposed flights. Upon a showing that good cause exists for failure to adhere to the above requirements and that waiver of these requirements is in the public interest, applications later submitted may be considered by the Board.

(c) Any party in interest may file a memorandum in support of or in opposition to the grant of an application within 7 days after service of the application. Such a memorandum shall set forth in detail the reasons why the party believes the application should be granted or denied and shall be accompanied by such data, including affidavits, which it is desired that the Board shall officially notice. Copies of the memorandum shall be served upon the foreign air carrier to whose application such memorandum is directed. Nothing in this subparagraph shall be deemed to preclude the Board from granting or denying an application when the circumstances so warrant without awaiting the filing of memorandum in support of or in opposition to the application.

4. Amend § 212.6(b) to read as follows:

§ 212.6 Issuance of Statement of Authorization.

(a) * * *

(b) In passing upon the requirements of the public interest the Board will consider the following factors, among others:

(1) Where the application concerns the performance of off-route charter trips (other than for another direct air carrier or direct foreign air carrier as provided in § 212.8(a) (4-a)):

(i) Whether the foreign air carrier has previously conducted similar flights on a regular and frequent basis in relation to the regularity and frequency of its on-route charter, scheduled, and nonscheduled operations.

(ii) Whether the off-route charter was generated as a result of solicitation of individual members of the traveling public.

(iii) Whether the foreign air carrier or its agent or the charterer or its agent has previously violated any of the provisions of this part.

(2) Where the application concerns the performance of a charter trip or trips for the transportation of commercial traffic for another direct air carrier or direct foreign air carrier (as provided in § 212.8(a) (4-a)):

(i) Whether the foreign air carrier or its agent or the charterer or its agent has previously violated any of the provisions of this part or of Part 218 of this subchapter.

(ii) Whether operations under the charter will have a significant adverse competitive impact on any U.S. air carrier. In making this determination, the Board will consider such factors as: the relative size and financial strength of the U.S. air carriers and the foreign air carriers operating on the route; and whether the proposed operation will render uneconomic any U.S. carrier operations over the route.

(iii) Whether the nature of the arrangement and the benefits to be realized are such that the authority sought should be the subject of a bilateral agreement with the applicant's government.

(iv) Whether the authority sought is covered by and consistent with pertinent bilateral air transport agreements to which the United States is party.

(v) Whether, and to what extent, the applicant owns and controls the charterer.

* * * * *
5. Amend § 212.8(a) to read as follows:
§ 212.8 Charter flight limitations.

* * * * *
(a) Where the entire * * *

* * * * *
(4) By a direct air carrier, direct foreign air carrier, or surface carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage or company property; or

(4-a) By a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of commercial traffic: *Provided, however,* That such flights may also carry the chartering carrier's own personnel and property;

* * * * *
6. Add a new § 212.14 to read as follows:

§ 212.14 Reports of emergency charters for other direct carriers.

(a) It shall be an express condition upon authority conferred in § 212.8(a) (4-a) that each foreign air carrier which performs an emergency charter transporting commercial passenger traffic for another direct carrier shall file a report with the Bureau of Operating Rights, within 30 days following each charter flight, containing the following information:

(1) Name of direct carrier performing the charter and the name of the direct carrier for which the charter was performed;

(2) Date of flight or flights;

(3) Points of origin and destination, and intermediate points, if any;

(4) Number of passengers transported;

(5) Description of circumstances creating the emergency;

(6) Date of initial contact by the chartering carrier regarding the charter;

(7) Reasons why the traffic in question was not or could not be carried by other carriers certificated to serve the particular market.

(Secs. 204(a) and 402 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

By the Civil Aeronautics Board.

Effective: January 19, 1972.

[SEAL] HARRY J. ZINK,
Secretary.

NOTE: The reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

[FR Doc.71-17752 Filed 12-3-71;8:50 am]

[Reg. ER-714; Amdt. 3]

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Procedures for Authorizations of Wet Lease Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of October 1971.

By EDR-193,¹ the Board proposed, inter alia, certain amendments to Part 214. For the reasons set forth in ER-713 (Part 212), published simultaneously herewith, the Board hereby amends Part 214 of the Economic Regulations (14 CFR Part 214), effective January 19, 1972, as follows:

1. Amend the Table of Contents by adding new §§ 214.9a and 214.9b. As amended, the Table of Contents will read in pertinent part:

- Sec. 214.9a Statements of Authorization; application.
- 214.9b Issuance of Statement of Authorization.

¹ Nov. 9, 1970, 35 F.R. 17556 (Docket 22730).

2. Amend § 214.7(a) to read as follows:

§ 214.7 Charter flight limitations.

* * * * *
(a) The entire capacity * * *

(1) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or of commercial passenger traffic);

* * * * *
3. Add a new § 214.9a to read as follows:

§ 214.9a Statement of Authorization: application.

(a) A foreign air carrier shall not perform any charter for the transportation of commercial passenger traffic for another direct air carrier or direct foreign air carrier (as provided in § 214.7(a) (1)) unless specific authority in the form of a Statement of Authorization to conduct such charter flights has been granted by the Board; *Provided, however,* That no Statement of Authorization shall be required for the performance of such charter flights in cases of emergency; *Provided, also,* That emergency charters shall be reported in accordance with § 214.5. An emergency charter within the meaning of this section shall not include such circumstances as cancellation of flights due to periodic overhaul of aircraft or delay in the delivery of newly acquired aircraft, and a foreign air carrier may not provide emergency charter trips on any day in each of three or more successive calendar weeks for any single direct carrier without a Statement of Authorization.

(b) Application for a Statement of Authorization shall be submitted on CAB Form 433 to the Civil Aeronautics Board, addressed to the attention of the Director, Bureau of Operating Rights. Upon a showing of good cause, such application may be transmitted by cablegram or telegram or may be made by telephone; *Provided, however,* That an application for the performance of a charter transporting commercial passenger traffic for another direct air carrier or direct foreign air carrier, as provided in § 214.7(a) (1), must be submitted on CAB Form 433 and a copy thereof shall be served upon the Federal Aviation Administration, marked for the attention of Director, Flight Standards Service, and each U.S. certificated air carrier which is authorized to serve the same general area in which the proposed charter trips are to be performed. Each applicant shall keep on file with the Director, Bureau of Operating Rights, a copy of its current standard form of charter agreement. Each application shall contain an abstract of the charter agreement setting forth the names and addresses of the operator, the charterer, and their agents, if any; a description of the proposed operations; type aircraft to be flown; and, if reciprocity has not previously been established or if any changes have

occurred since the previous Board finding thereon, documentation to establish the extent to which the nation which is the domicile of the applicant grants a similar privilege with respect to U.S. air carriers. A true copy of the charter agreement actually consummated shall be transmitted to the Director, Bureau of Operating Rights, as soon as practicable, but in no event later than 15 days after consummation.

(c) Applications shall be filed with the Board at least 45 days in advance of the date of the commencement of the proposed flights. Upon showing that good cause exists for failure to adhere to the above requirements and that waiver of these requirements is in the public interest, applications later submitted may be considered by the Board.

(d) Any party in interest may file a memorandum in support of or in opposition to the grant of an application within 7 days after service of the application. Such a memorandum shall set forth in detail the reasons why the party believes the application should be granted or denied and shall be accompanied by such data, including affidavits, which it is desired that the Board shall officially notice. Copies of the memorandum shall be served upon the foreign air carrier to whose application such memorandum is directed. Nothing in this subparagraph shall be deemed to preclude the Board from granting or denying an application when the circumstances so warrant without awaiting the filing of memoranda in support of or in opposition to the application.

(e) Except to the extent that the Board shall direct that such information be withheld from public disclosure as hereinafter specified, every application and its supporting documents filed pursuant to this section shall be open to public inspection, and notice thereof shall be published in the Board's Weekly List of Applications Filed. Any person may make written objection to the Board to the public disclosure of such information or any part thereof, stating the grounds for such objection. If the Board finds that disclosure of such information or part thereof would adversely affect the interests of such person and is not required in the interest of the public, it will order that such information or part be so withheld.

4. Add a new § 214.9b to read as follows:

§ 214.9b Issuance of Statement of Authorization.

(a) If the Board finds that the proposed charter trip or trips meet the requirements of this part, that the foreign nation which is the domicile of the applicant grants a similar privilege with respect to U.S. air carriers, and that such charter trip or trips are otherwise in the public interest, it will issue a Statement of Authorization for the conduct of the trip or trips set forth in the application. Such Statement of Authorization may be withheld, conditioned, or limited by the Board as the public interest may require.

(b) In passing upon the requirements of the public interest, the Board will consider the following factors, among others:

(i) Whether the foreign air carrier or its agent or the charterer or its agent has previously violated any of the provisions of this part or of Part 218 of this subchapter.

(ii) Whether operations under the charter will have a significant adverse competitive impact on any U.S. air carrier. In making this determination, the Board will consider such factors as: the relative size of and financial strength of the U.S. air carriers and the foreign air carriers operating on the route; and whether the proposed operation will render uneconomic any U.S. carrier's operations over the route.

(iii) Whether the nature of the arrangement and the benefits to be realized are such that the authority sought should be the subject of a bilateral agreement with the applicant's government.

(iv) Whether the authority sought is covered by and consistent with pertinent bilateral air transport agreements to which the United States is party.

(v) Whether, and to what extent, the applicant owns and controls the charterer.

(Secs. 204(a) and 402 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

By the Civil Aeronautics Board.

[SEAL]

HARRY J. ZINK,
Secretary.

JANUARY 19, 1972.

[FR Doc.71-17753 Filed 12-3-71;8:50 am]

[Reg. ER-715; Amdt. 2]

PART 217—REPORTING DATA PERTAINING TO CIVIL AIRCRAFT CHARTERS PERFORMED BY FOREIGN AIR CARRIERS

Reports of Wet Lease Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of October 1971.

By EDR-193,¹ the Board proposed certain amendments to Parts 212 and 214, and an implementing amendment to Part 217. Since the proposed amendments to Parts 212 and 214 are (with certain modifications) being adopted simultaneously herewith,² the amendment to Part 217 is being adopted substantially as proposed.

Accordingly, the Board hereby amends Part 217 of the Economic Regulations (14 CFR Part 217), effective January 19, 1972, as follows:

Amend § 217.6(b) by adding a new subparagraph (6), to read as follows:

§ 217.6 Reporting instructions.

(a) * * *

(b) Separate reports shall be filed for each of the below-named types of char-

¹ Nov. 9, 1970, 35 F.R. 17556 (Docket No. 22730).

² ER-718 and ER-714, respectively.

ters and the type shall be inserted opposite the caption "Type of Charter."

* * * * *

(6) Charter performed for another direct foreign air carrier, as provided in §§ 212.8(a)(4-a) and 214.7(a)(1), whichever is applicable, except emergency charters reported under § 212.14 or § 214.5.

(Secs. 204(a) and 402 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 757; 49 U.S.C. 1324, 1372)

By the Civil Aeronautics Board.

[SEAL]

HARRY J. ZINK,
Secretary.

NOTE: The reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

[FR Doc.71-17754 Filed 12-3-71;8:51 am]

[Reg. ER-716]

PART 218—LEASE OF AIRCRAFT WITH CREW BY FOREIGN AIR CARRIER OR OTHER FOREIGN PERSON

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 14th day of October 1971.

By notice of proposed rule making EDR-166,¹ the Board announced that it had under consideration adoption of a new Part 218 applicable to foreign air carriers and other persons not citizens of the United States who as lessors enter into so-called "wet leases" providing for the performance of foreign air transportation services of another foreign air carrier. Therein, the Board noted that where an aircraft is leased with crew, the operational control and ultimate safety responsibility for the flight will normally remain in the hands of the lessor. Accordingly, the Board has generally considered that a lease with crew is not a true lease of equipment but rather constitutes a charter or series of charters of the aircraft, and that to the extent the "wet lease" provides for the performance of services in foreign air transportation, the lessor will be engaged in foreign air transportation. In such cases, the Board has required that a foreign air carrier (or any other foreign person) which furnishes an aircraft with crew for the performance of air transportation services on behalf of another foreign air carrier, pursuant to a so-called "wet lease," must obtain a foreign air carrier permit pursuant to section 402 of the Act, specifically authorizing the lessor to engage in such foreign air transportation.

Although the Board took note of the fact that whether a particular arrangement constitutes a charter or a true lease turns upon the facts, there is a strong presumption that a lease of aircraft with crew constitutes a charter. The Board tentatively concluded that the public interest requires that, to the extent there exists a question whether a particular

¹ June 13, 1969, 34 F.R. 9621 (Docket 21080).

lease with a crew constitutes a charter under which the lessor will be engaged in foreign air transportation, the matter should be passed upon by the Board prior to commencement of operations. Accordingly, the Board proposed to prohibit the furnishing of an aircraft with crew for the performance of air transportation operations of another foreign air carrier, unless the Board has issued the "lessor" a section 402 permit authorizing such operation, or, upon application by the parties to the transaction, the Board has issued an order disclaiming jurisdiction. The Board explained that implementation of the proposed rule would avoid confusion as to the necessity for additional section 402 permit authority under so-called "wet lease" transactions; would minimize the performance of unauthorized operations by "wet lease" lessors and thereby simplify the Board's enforcement responsibilities; and should, as a result, avoid intergovernmental friction and misunderstandings that might otherwise arise from reliance upon the Board's enforcement procedures to ensure compliance with the requirements of the Act.

Pursuant to the notice, a number of comments have been received.² The foreign governmental authorities and the foreign air carriers³ filing comments oppose the rule proposed, while it has the support of the U.S. air carriers.

Upon consideration, the Board has decided to adopt Part 213 as proposed, with modification. Except as indicated herein, the tentative findings and conclusions set forth in EDR-166 are adopted and incorporated by reference.

EDR-166 provoked considerable objection from the foreign air carriers upon the ground that it would put them at a severe disadvantage vis-a-vis the U.S. air carriers with regard to wet leasing. That is, a U.S. carrier could obtain authority to wet lease by means of a section 416 exemption proceeding without hearing, while a foreign carrier would be com-

pelled to go through the far more burdensome and time-consuming procedure of seeking an amendment to its section 402 permit. In light of these comments, the Board issued an additional notice of proposed rule making⁴ in which the Board proposed to amend Parts 212 and 214 so as to authorize foreign air carrier wet lessors to conduct wet lease operations through application for and issuance of a Statement of Authorization, obviating in such cases a section 402 proceeding for permit amendment. By ER-713 and ER-714, issued contemporaneously, the Board is adopting the proposed amendments, with minor modifications. In implementation of this determination the rules proposed in EDR-166 are being revised to permit operations of leased aircraft with crew pursuant to an Operating Authorization under Parts 212 and 214.

In view of this revision, certain comment directed to alleged discriminatory treatment of foreign air carriers and the proposal to require permit amendment in all cases is no longer relevant. We shall pass therefore to discussion of comments concerning specific proposals.

Section 218.2, governing applicability of the part, provides, inter alia, that the part does not apply to charter operations for the transportation of company personnel or property, or, in cases of emergency, of commercial traffic, pursuant to the provisions of Part 212 or 214. Lufthansa and Swissair state that the provision in effect says that an off-route wet lease to another foreign carrier is permissible in cases of emergency, but if the operation is on-route, the exception does not apply. Surely, they add, if cases of emergency are to be exempted, the exemption should apply on-route as well as off. However, Part 212 has been reissued subsequent to the issuance of EDR-166, and, as amended, that part now governs both off-route and on-route charters.⁵ Accordingly, the exclusion will apply to both on-route and off-route charters in cases of emergency.

As revised, the rules provide that foreign air carriers and other non-U.S. citizens may not "lease an aircraft with crew" to a foreign air carrier unless the Board has issued the lessor an appropriate permit or Operating Authorization or has issued an order disclaiming jurisdiction. Section 218.3 provides that, for purposes of this part, an aircraft is considered to be leased with crew, if the pilot in command of the aircraft: (1) Is to be furnished by the lessor; (2) is employed by the lessor; (3) continues in the employ of the lessor in the operation of services other than those provided for in the agreement between the parties; or (4) has been employed by the lessor prior to the lease, and his employment by the lessee is coextensive with the period or periods for which the aircraft is available to the lessee under the lease agreement.

Lufthansa and Swissair state that the provisions appear to create an irrebut-

table presumption, and, while the various instances may be indicative of usual experience, they are not always so, and should be rebuttable. Some explanation on this point is warranted. If, under a wet lease arrangement, the status of the pilot in command meets any of the prescribed conditions, the prohibitions of the section become operative. However, the parties to the lease in seeking a disclaimer under § 218.5 would be free to show that, notwithstanding that the status of the pilot in command met the prescribed tests, the lessor was not in fact in control of the operation.

Some foreign route carriers contend that it is difficult to see why the employment of the captain should be the determinative factor; that the aircraft and crew are really both "equipment," and ownership and control of the equipment should be immaterial unless there is a question as to safety, misleading of passengers, or unless a carrier is using so much equipment not its own that its fitness and ability to mount its own service within the requirements of the bilateral air transport agreements is called into question.

It seems clear to us that the relationship of the pilot in command of the aircraft to the lessor is a critical factor in determining whether an aircraft is furnished "with crew."⁶ That control of the equipment is vital to determine the legal nature of an arrangement such as a wet lease has been long well-established in British and American law. In maritime law, what we have referred to as a "true lease," over which we have no jurisdiction under section 402 of the Act, is equivalent to a "demise" or "bare boat" charter; and the equivalent of a "charter," over which we do have jurisdiction, is a "contract of affreightment." In "Leary v. United States," 14 Wall. 607, 610 (1871), it was said:

If the charter-party let the entire vessel to the charterer with a transfer to him of its command and possession and consequent control over its navigation, he will generally be considered as owner for the voyage or service stipulated. But, on the other hand, if the charter party let only the use of the vessel, the owner at the same time retaining its command and possession, and control over its navigation, the charterer is regarded as a mere contractor for a designated service, and the duties and responsibilities of the owner are not changed. In the first case the charter-party is a contract for the lease of the vessel; in the other it is a contract for a special service to be rendered by the owner of the vessel.⁷

Accordingly, "the duties and responsibilities" of the owner or wet lessor are unchanged in the latter type of arrangement; the owner is engaged in foreign

⁶ Under the Federal Aviation Regulations the pilot in command of an aircraft is directly responsible for, and is the final authority as to, the operation of that aircraft. In an emergency situation requiring immediate action he may even deviate from prescribed rules to the extent required to meet the emergency. (14 CFR 91.3(a).)

⁷ See also *United States v. Hvoslef*, 237 U.S. 1, 16 (1914); *Bramble v. Culmer*, 78 Fed. 497, 501 (4th Cir., 1897).

² From the Government of Colombia, the Department of Transport and Power, Ireland, the Board of Civil Aviation of Sweden (concurrent in by the Danish and Norwegian Civil Aviation Authorities); Aerovias Nacionales de Colombia, S.A. (AVIANCA), Compania Mexicana de Aviacion (CMA), Lineas Aereas Costarricenses, S.A. (LACSA) and Venezolana Internacional de Aviacion, S.A. (VIASA) (jointly); Air France; All Nippon Airways; Sabena Belgian World Airlines (SABENA); El Al Israel Airlines, Iberia, Lineas Aereas de Espana, S.A., Linea Aerea Nacional-Chile, Empresa de Viacao Aerea Rio-Grandense (VARIG), and Scandinavian Airlines System (jointly); Ethiopian Airlines; Irish International Airlines; KLM Royal Dutch Airlines; Lufthansa German Airlines; Swiss Air Transport (Swissair); TACA International Airlines; Pan American World Airways; and World Airways.

³ Irish International Airlines is under the misapprehension that under the proposed Part 218 it was intended that a wet lease between two foreign air carriers both of whom hold permits authorizing them to provide air transportation between the points involved requires no further authorization from the Board. As all other parties filing comments recognize, the contrary is the case.

⁴ EDR-193, Nov. 9, 1970; 35 F.R. 17556.

⁵ ER-686, May 8, 1971.

air transportation as a carrier² to the same extent as he would be in the absence of a wet lease arrangement; and the role of the wet lessee is that of a charterer. As the court stated in "Overseas National Airways v. Civil Aeronautics Board"³ concerning a wet lease from an air carrier to a foreign air carrier: " * * * the foreign air carrier became the charterer rather than the 'Watch Tower Bible and Tract Society' or the 'American Rocket Society.' The holding that a carrier is to be viewed in the same light as any other charterer was correct."

Moreover, the terms of greater significance in the determination as to whether a charter amounts to a demise or a contract of affreightment are those which relate to the master and crew. "If they are appointed and paid by the owner, and are subject to his orders, the charter will ordinarily be construed as an affreightment contract, on the theory that through his master and crew the owner retains possession and control of the ship, even though the directions on which the ship shall proceed are given by the charterer."⁴ This principle has not been confined to maritime law. In cases decided under the Motor Carrier Act in which the question of the status created by a lease of equipment with driver by a carrier to a shipper is presented, the Interstate Commerce Commission has held that, in the absence of a showing to the contrary, the presumption arises that the transportation is performed by the carrier for compensation, in other words is for-hire transportation, and as such is subject to regulation.⁵ In a different context the Commission has indicated what we would call an unauthorized off-route charter to be an unauthorized lease of operating rights.⁶

However, it is not our intention to suggest that determination of the question of whether an aircraft is leased with crew requires the application of a rigid test revolving solely around the status of the pilot. For this reason, we have deter-

mined to modify § 218.3 so as to provide that an aircraft will be considered to be leased with crew if, regardless of the status of the pilot, a majority of the crew, other than cabin attendants, meets the same tests as are prescribed for the pilot. Moreover, since operating specifications are normally issued by the Federal Aviation Administration⁷ to the carrier whose crew is operating the aircraft, a provision is being incorporated into § 218.3 to the effect that an aircraft is considered to be leased with crew, for purposes of the requirement that a disclaimer of jurisdiction be obtained, if it is operated under operating specifications issued to the lessor.

A number of carriers also refer to the provision that: "Until the Board has acted upon the application no operations in foreign air transportation shall be performed pursuant to the agreement." They contend that the provision appears to be without authority, since if there is no jurisdiction in fact, there is no need to file an application for disclaimer of nonexistent jurisdiction.

The flaw in this argument is, as will be shown, that there is presumed jurisdiction in the Board, and foreign permits by specific provision are subject to such reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board. We consider it to be both reasonable and in the public interest for foreign air carriers which wet lease to other foreign carriers and which have no authority to engage in presumptively illegal operations to seek a disclaimer before performing the charter and we are further of the opinion that the requirement is fully within our rule making powers.⁸ Moreover, under § 218.4 of the rule as revised herein, compliance with this part shall be a condition upon the authority of the lessee foreign air carrier to perform the foreign air transportation in question. Clearly, the Board has jurisdiction to condition the operating authority of the lessee foreign air carrier in order to determine the status of presumptively illegal operations.

Certain carriers take issue with the presumption set forth in § 218.7 which appears in the margin.⁹ Lufthansa and Swissair state that the presumption of operational control appears reasonable,

²³ See 14 CFR Part 129.

²⁴ See *American Trucking Ass'n v. U.S.*, 344 U.S. 298 (1953).

²⁵ Section 218.7 *Presumption*. Whether under a particular lease agreement the lessor of the aircraft is engaged in foreign air transportation is a question of fact to be determined in the light of all the facts and circumstances. However, in circumstances where the lessor furnishes both the aircraft and the crew, there shall be established a presumption that true operational control and safety responsibility are exercised by the lessor, and that the agreement constitutes a charter arrangement under which the lessor is engaged in foreign air transportation. The burden shall rest upon the applicants for disclaimer of jurisdiction in each instance to demonstrate by an appropriate actual showing that the operation contemplated will not constitute foreign air transportation by the lessor.

provided the carrier is permitted to rebut the presumption. However, they state that the burden must always rest upon the government to establish "that a violation occurred and that the respondent committed it." They add that "this is not satisfied by purportedly placing the burden on the respondent in a preparatory case and then holding that commencement of operations without satisfying the preparatory burden is in itself a violation."¹⁰

The argument of the two carriers lacks merit. Assuming, arguendo, that the Board has the burden of showing that a particular arrangement does not constitute a true lease, the use of this presumption toward that end is nevertheless appropriate. Presumptions are rules of law requiring the assumption of one fact upon proof of another in the absence of satisfactory evidence. They place upon the adverse party the burden of offering further evidence, but do not affect the ultimate burden of proof.¹¹ "Presumptions of fact which the law recognizes must be immediate inferences from the facts proved and must be such as sensible men influenced by observation, experience, and reason, would draw from clearly established facts."¹² In the situation at hand, the presumption is in accord with Board experience; moreover, Lufthansa and Swissair concede that the presumption of operational control appears reasonable.

Furthermore, a disclaimer proceeding is not for the purpose of establishing "that a violation occurred and that the respondent committed it." The proceeding is to enable the parties to show that the wet lease arrangement, despite the contrary presumption, is a true lease that will not involve the lessor in foreign air transportation.

In light of the foregoing, the Board finds that Part 218 should be adopted as proposed, except as modified herein.

Accordingly, the Civil Aeronautics Board hereby adopts Part 218 of its Economic Regulations (14 CFR Part 218), effective January 19, 1972, as follows:

Sec.	
218.1	Definitions.
218.2	Applicability.
218.3	Prohibition against unauthorized operations employing aircraft leased with crew.
218.4	Condition upon authority of lessee.
218.5	Application for disclaimer of jurisdiction.
218.6	Issuance of order disclaiming jurisdiction.
218.7	Presumption.

¹⁰ It is contended that the rule on presumption is in derogation of the Administrative Procedure Act, section 556(d) providing that, except as otherwise provided by statute, "the proponent of a rule or order has the burden of proof." Section 556 does not apply unless rules are required by statute to be made on the record after opportunity for an agency hearing. Section 553(c). That is not the case here.

¹¹ *Sowizral v. Hughes*, 333 F. 2d 829, 833 (3d Cir., 1964).

¹² *Socony-Vacuum Oil Co. v. Oil City Refiners*, 136 F. 2d 470, 474 (8th Cir., 1943), cert. den., 320 U.S. 798, 64 S. Ct. 368.

² Cf. *United States v. Hvoslef*, supra.

³ 307 F. 2d 634, 636 (D.C. Cir., 1962).

⁴ See *The Steel Inventor*, 35 F. Supp. 986, 994 (D.C. Md., 1940).

⁵ *H. B. Church Truck Service Co. Com. Car. Application*, 27 M.C.C. 191 (1940); *Oklahoma Furniture Mfg. Co.—Investigation, Operations*, 79 M.C.C. 403, 410 (1959), aff'd, *United States v. Drum*, 368 U.S. 370 (1962); *Silver Line, Inc., Investigation and Revocation*, 96 M.C.C. 173, 176 (1964); *Motor Haulage Co., Inc., Contract Carrier Application*, 46 M.C.C. 107, 118 (1946), sust. *Motor Haulage Co. v. United States*, 70 F. Supp. 17 (E.D.N.Y. 1947); aff'd, 331 U.S. 784 (1946).

⁶ *Campbell Sixty-Six Exp., Inc. v. Frisco Transp. Co.*, 81 M.C.C. 53 (1959). The Frisco and M-A motor common carriers were authorized to operate between two points but over different routes. Frisco purportedly leased a trailer, with tractor and driver, to M-A, whose route was 98 miles shorter than Frisco's and equipment was operated over M-A's route. The ICC ruled that there was not a mere lease of equipment nor a valid interchange of equipment, but that M-A was improperly and without authority leasing its operating rights to Frisco.

AUTHORITY: The provisions of this Part 218 issued under sections 204(a) and 402 of the Federal Aviation Act of 1958, as amended, 72 stat. 743, 757; 49 U.S.C. 1324, 1372.

§ 218.1 Definitions.

For the purpose of this part the term "lease" shall mean an agreement under which an aircraft is furnished by one party to the agreement to the other party, irrespective of whether the agreement constitutes a true lease, charter arrangement, or some other arrangement.

§ 218.2 Applicability.

This part applies to foreign air carriers and other persons not citizens of the United States which, as lessors or lessees, enter into agreements providing for the lease of aircraft with crew to a foreign air carrier for use in foreign air transportation. For purposes of section 402 of the Act, the person who has operational control and safety responsibility is deemed to be the carrier, and is required to have appropriate operating authority. This part therefore provides, inter alia, that where aircraft leases involve the use of the lessor's crew, it is presumed that direction, control and responsibility are in the lessor, and operations under such leases may not be conducted in the absence of the issuance to the lessor of a foreign air carrier permit under section 402, a Statement of Authorization under Part 212 or 214 of this chapter, or a disclaimer of jurisdiction. This part does not apply to charters conducted in accordance with Part 212 or Part 214 of this chapter, (a) for the transportation of company personnel or company property, (b) in cases of emergency, of commercial traffic, or (c) to authorized foreign air freight forwarders or foreign tour operators.

§ 218.3 Prohibition against unauthorized operations employing aircraft leased with crew.

(a) No foreign air carrier, or other person not a citizen of the United States, shall lease an aircraft with crew to a foreign air carrier for use by the latter in performing foreign air transportation in the absence of the issuance to the lessor of a foreign air carrier permit pursuant to section 402 of the Act, or a Statement of Authorization pursuant to Part 212 or Part 214 of this chapter specifically authorizing the holder to engage in the foreign air transportation which will be conducted pursuant to the lease, unless, upon application by both parties to the lease, the Board has issued an order under § 218.6 disclaiming jurisdiction over the matter.

(b) For purposes of this part, an aircraft shall be considered to be leased with crew, if:

(1) The pilot in command or a majority of the crew of the aircraft, other than cabin attendants:

(i) Is to be furnished by the lessor;

(ii) Is employed by the lessor;

(iii) Continues in the employ of the lessor in the operation of services other than those provided for in the agreement between the parties; or

(iv) Has been employed by the lessor prior to the lease, and the employment of whom by the lessee is coextensive with the period or periods for which the aircraft is available to the lessee under the lease; or

(2) The aircraft is operated under operations specifications issued to the lessor by the Federal Aviation Administration.

§ 218.4 Condition upon authority of lessee.

In any case where a foreign air carrier leases from another foreign air carrier or other person not a citizen of the United States an aircraft with crew for use in performing foreign air transportation, it shall be a condition upon the authority of the lessee to perform such foreign air transportation that compliance be achieved with the requirements of this part.

§ 218.5 Application for disclaimer of jurisdiction.

The parties to a lease with crew as described in § 218.3(b) may apply to the Board for an order disclaiming jurisdiction over the matter. The application shall be filed jointly by both parties to the lease, and shall generally conform to the procedural requirements of Part 302, Subpart A, of this chapter. It shall be served upon any air carrier providing services over all or any part of the route upon which air transportation services will be provided pursuant to the agreement. The application should set forth in detail all evidence and other factors relied upon to demonstrate that true operational control and safety responsibility for the air transportation services to be provided are in the hands of the lessee rather than the lessor. A copy of the agreement and all amendments thereof, as well as a summary interpretation of its pertinent provisions, shall be included with the applications. Any interested person may file an answer to the application within 7 days after service hereof. Until the Board has acted upon the application, no operations in foreign transportation shall be performed pursuant to the agreement.

§ 218.6 Issuance of order disclaiming jurisdiction.

If the Board finds that true operational control and safety responsibility will be vested in the lessee and not in the lessor (i.e., that the lease transaction is in substance a true lease of aircraft rather than a charter or series of charters), and that the performance of the operations provided for in such lease will not result in the lessor's being engaged in foreign air transportation, it will issue an order disclaiming jurisdiction over the matter. Otherwise the application for disclaimer of jurisdiction will be denied.

§ 218.7 Presumption.

Whether under a particular lease agreement the lessor of the aircraft is engaged in foreign air transportation is a question of fact to be determined in the light of all the facts and circumstances. However, in circumstances where the lessor furnishes both the aircraft and the

crew, there is a presumption that true operational control and safety responsibility are exercised by the lessor, and that the agreement constitutes a charter arrangement under which the lessor is engaged in foreign air transportation. The burden shall rest upon the applicants for disclaimer of jurisdiction in each instance to demonstrate by an appropriate factual showing that the operation contemplated will not constitute foreign air transportation by the lessor.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-17755 Filed 12-3-71;8:51 am]

Title 19—CUSTOMS DUTIES

**Chapter I—Bureau of Customs,
Department of the Treasury**

[T.D. 71-287]

**PART 19—CUSTOMS WAREHOUSE
AND CONTROL OF MERCHANDISE
THEREIN**

Reimbursable Compensation

On August 5, 1971, there was published in the FEDERAL REGISTER (36 F.R. 14388) a notice of proposed rule making to amend § 19.5(b) of the Customs regulations (19 CFR 19.5(b)) to provide for obtaining reimbursement from bonded warehouse proprietors of the Government's contribution under the Federal Insurance Contributions Act and for employee uniform allowance made for intermittent when actually employed employees when services by such employees are performed on a reimbursable basis. Interested persons were given 30 days in which to submit in writing any data, views, or arguments pertaining to the proposed amendment.

No objections have been filed to the proposed amendment. Since the Government contributions under the Federal Insurance Contributions Act and for employee uniform allowances constitute part of the compensation of such officers reimbursable under section 555 of the Tariff Act of 1930, as amended (19 U.S.C. 1555), by the warehouse proprietor, the proposed amendment, therefore, is hereby adopted. Section 19.5(b) is amended to include the following sentence after the second full sentence of the paragraph.

§ 19.5 Customs warehouse officer; compensation of.

* * * * *

(b) * * * When services of a Customs warehouse officer or a Customs employee temporarily assigned to act as a Customs warehouse officer at a bonded warehouse are performed by an intermittent when-actually-employed employee, the charge for such services shall be computed at a rate per hour equal to 107 percent of the hourly rate of the regular pay of such employee to provide for reimbursement of the Government contribution under

the Federal Insurance Contributions Act and employee uniform allowance. * * *

(Secs. 555, 624, 46 Stat. 743, 759; 19 U.S.C. 1555, 1624)

This amendment shall become effective on the first day of the pay period beginning 30 days after publication of this amendment in the FEDERAL REGISTER.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved: November 16, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[FR Doc.71-17740 Filed 12-3-71;8:50 am]

[T.D. 71-289]

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

Refunds of Excessive Duties, Taxes, etc.

Notice was published in the FEDERAL REGISTER of July 15, 1971 (36 F.R. 13148), that it was proposed to amend § 24.36(b) of the Customs regulations to permit Customs to refund excessive duties and taxes resulting from the liquidation or reliquidation of an entry to a surety where the surety paid the amount originally determined to be due, upon default of the principal, on the entry. Interested persons were given 30 days to submit relevant data, views, or arguments in writing, regarding the proposed rule making.

No objection to the proposal has been received. Therefore, § 24.36(b) is amended as follows:

§ 24.36 Refunds of excessive duties, taxes, etc.*

(b) Refunds of excessive duties or taxes shall be certified for payment to the importer of record unless a transferee of the right to withdraw merchandise from bonded warehouse is entitled to receive the refund under section 557(b), Tariff Act of 1930, as amended, or an owner's declaration has been filed in accordance with section 485(d), Tariff Act of 1930, or a surety submits evidence of payment to Customs, upon default of the principal, of amounts previously determined to be due on the same entry or transaction. The certification of a refund for payment to a nominal consignee may be made prior to the expiration of the 90-day period within which an owner's declaration may be filed as prescribed in section 485(d) of the tariff act, provided the nominal consignee waives in writing his right to file such declaration. If an owner's declaration has been duly filed, the refund shall be certified for payment to the actual owner who executed the declaration, except that, irrespective of whether an owner's declaration has been filed, refunds shall be certified for payment to a transferee provided for in section 557(b), Tariff Act of 1930, as amended, if the moneys with

respect to which the refund was allowed were paid by such transferee. If a surety submits evidence of payment to Customs, upon default of the principal, for an amount previously determined to be due on an entry or transaction the refund shall be certified to that surety up to the amount paid by it or shall be applied to other obligations of the surety.

(R.S. 251, as amended, secs. 520, 624, 46 Stat. 739, as amended, 759; 19 U.S.C. 66, 1520, 1624)

Effective date. This amendment shall become effective 30 days after date of its publication in the FEDERAL REGISTER.

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

Approved: November 22, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary
of the Treasury.

[FR Doc.71-17741 Filed 12-3-71;8:50 am]

Title 21—FOOD AND DRUGS

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

[Docket No. FDC-79]

PART 14—CACAO PRODUCTS

PART 121—FOOD ADDITIVES

Cocoa With Diocetyl Sodium Sulfosuccinate for Manufacturing; Findings of Fact and Conclusions and Final Order Regarding Identity Standard and Food Additive Regulations

In the matter of establishing a standard of identity and food additive regulations for cocoa with diocetyl sodium sulfosuccinate for manufacturing:

HISTORY

1. In the FEDERAL REGISTER of December 24, 1968 (33 F.R. 19197), a notice was published proposing establishment of a standard of identity (§ 14.14) for cocoa with diocetyl sodium sulfosuccinate for manufacturing. The proposal was based on a food standard petition submitted by American Cyanamid Co., Fine Chemicals Department, Pearl River, N.Y. 10965. Also published December 24, 1968 (33 F.R. 19203), was a notice of filing of a food additive petition (FAP 6J2039) by the same firm proposing that food additive regulation § 121.1137 be amended to provide for safe use of diocetyl sodium sulfosuccinate as a dispersing agent in cocoa and proposing issuance of a new food additive regulation to provide for safe use of "cocoa with diocetyl sodium sulfosuccinate for manufacturing" in dry beverage bases.

2. The comments filed in response to the invitation in the notice were evaluated, and in the FEDERAL REGISTER of July 23, 1969 (34 F.R. 12177), a food standard order was published adding said standard of identity (§ 14.14) to Part 14.

The order, issued under sections 401 and 701 of the Federal Food, Drug, and Cosmetic Act, provided 30 days for filing objections and 60 days delay in effective date. Also published July 23, 1969 (35 F.R. 12178), was a food additive order acting on FAP 6J2039 by adding paragraph (e) to § 121.1137 and by adding § 121.1229 to Part 121. This order, issued under section 409 of the act, provided 30 days for filing objections but was effective on its date of publication.

3. In the FEDERAL REGISTER of December 3, 1969 (34 F.R. 19140), notice was given that the Chocolate Manufacturers Association of the United States of America, Washington, D.C. 20006, had filed objections to the orders published in this matter and had requested a public hearing. The Commissioner of Food and Drugs concluded that reasonable grounds had been given for a hearing on the issue of whether diocetyl sodium sulfosuccinate in cocoa would accomplish its intended effect; that is, to rapidly disperse cocoa in dry beverage bases when such bases are being mixed with water or milk. (The Commissioner rejected the Association's other objections because they were not supported by reasonable grounds.) Accordingly the effective date of §§ 14.14, 121.1137(e), and 121.1229 was stayed pending resolution of said issue at a public hearing.

4. In the FEDERAL REGISTER of March 31, 1970 (35 F.R. 5347), a notice was published scheduling the hearing to begin May 4, 1970, for the purpose of receiving evidence relevant and material to said issue, and also scheduling a prehearing conference for April 27, 1970, for stated purposes.

5. The prehearing conference began and was completed April 27, 1970; the public hearing began May 4, 1970, and was concluded May 5, 1970. Four expert witnesses were called by the petitioner (American Cyanamid Co.) and five were called by the objector (Chocolate Manufacturers Association).

6. On June 25, 1970, the Hearing Examiner, Mr. William E. Brennan, submitted his report in this matter to the Commissioner of Food and Drugs. The report is part of the public record, Docket No. FDC-79, on file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852.

7. The Commissioner of Food and Drugs published proposed findings of fact and conclusions and a tentative order in the FEDERAL REGISTER of January 30, 1971 (36 F.R. 1482). Interested persons whose appearance was filed at the hearing were allowed 30 days in which to file written exceptions. No exceptions were received.

Therefore, having considered the record of the public hearing, the Hearing Examiner's report dated June 25, 1970, and other relevant material, the Commissioner, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 409, 701, 52 Stat. 1046, 1055 as amended by 70 Stat. 919 and 72 Stat. 948, 72 Stat. 1785-88 as amended; 21 U.S.C. 341, 348, 371), under authority

delegated to him (21 CFR 2.120), and in accordance with 21 CFR 2.98, issues the following findings of fact, conclusions, and final order:

FINDINGS OF FACT¹

1. As regards the questions at issue in the hearing, the dispersibility of cocoa concerns the separation and distribution of the very fine particles of cocoa in water or milk to yield suspensions. Cocoa does not dissolve in these liquids to form a true solution. Suspensions have a tendency to "settle out" on standing whereas solutions do not. Agents that promote the wetting of particles of cocoa improve dispersibility. (Tr. 75-77.)

2. Witnesses made reference to several methods for improving the dispersibility of cocoa and described in some detail two methods that are currently in use. One of these methods involves treating the cocoa with lecithin. Cocoa so treated was referred to as "lecithinated cocoa." The other method involved treating beverage mixes containing cocoa, or lecithinated cocoa, by special procedures to cause the particles to clump together in loose agglomerates. Some witnesses referred to these procedures as "instantizing processes." (Tr. 87, 111, 124, 191-94, 223-26.)

3. Lecithin has been used as a wetting agent for cocoa by some members of the industry. Some of those using lecithin consider their methods for applying the lecithin to the cocoa as proprietary processes. Dioctyl sodium sulfosuccinate (DSS) is also a wetting agent. In cost per pound lecithin is cheaper than DSS, but this advantage is in part offset because a greater weight of lecithin than of DSS is required for treating a given weight of cocoa. The food standards for cocoa (21 CFR 14.3, 14.4, and 14.5) do not make provision for the use of lecithin as a permitted ingredient but lecithin may be used in non-standardized beverage mixes that contain cocoa. (Tr. 111-13, 191-96, 215-17, 227-28, 298, 330-31.)

4. Agglomeration refers to the clumping together of fine particles into loose aggregates. These heavier aggregated particles disperse in water or milk more readily because they break through the surface of the liquids and become wet more quickly than do separated fine particles. (Tr. 66, 78, 111, 143, 280.)

5. Instantizing is the most commonly used process for making cocoa beverage mixes more wettable. In this process the mixture of cocoa powder (which may be lecithinated), sugar, and (sometimes) milk solids is passed through a very humid atmosphere and then allowed to fall through a chamber in which there is hot air to dry it. This results in agglomeration of the individual particles of the mix. Instantizing is an expensive method that is not economically feasible for some smaller manufacturers. These smaller producers of beverage mixes have shown an interest in having cocoa

treated with DSS available. Members of the Chocolate Manufacturers Association have received many requests from customers for DSS-treated cocoa. If these customers find the DSS-treated cocoa to function acceptably it would enable them to better compete with those producers who are presently marketing instantized cocoa beverage mixes. (Tr. 87-88, 111-12, 114, 205, 208, 223-24, 245, 262, 265-66, 341-43.)

6. Several instantizing methods and methods of adding lecithin by the manufacturer are considered to be proprietary. At least one method is patented. (Tr. 215, 226.)

7. The wetting agent DSS has been approved for use as a food additive in several foods (21 CFR 121.1137) including certain gums in which it is used to promote wetting. (Tr. 253.)

8. Cocoa is treated with DSS by dissolving the DSS in an appropriate solvent and then distributing the solution over the cocoa by any of several means. The treated cocoa is thereafter dried to remove the solvent. (Tr. 53, 101, 162-63, 180-81, 235; P. 6.)

9. Tests have indicated that treating cocoa with solvent containing no DSS increases dispersibility to some degree. It was suggested that this effect may result from agglomeration of particles of cocoa or through the effect of the solvent on the cocoa fat. The increase of dispersibility from treating cocoa with solvent alone was not as great as from treating it with a solution of DSS in the solvent. The American Cyanamid Co. ran tests in which they remilled cocoa after the DSS treatment to eliminate agglomerates that might have been produced. These tests indicated that increased dispersibility was not accounted for by agglomeration alone. (Tr. 79-80, 107-8, 172-73, 290-92.)

10. Pressed cake is the cocoa cake left after extraction of a portion of the cocoa butter with a filter press. This process can reduce the fat content to as low as 8 to 10 percent. (Tr. 62-63, 110.)

11. Large cakes of cocoa, as they come from the filter presses, are not suitable for feeding into cocoa mills. Preliminary to milling, the large cakes are passed through a machine that breaks them up into coarse pieces, the dimensions of which range from one-fourth inch to 1 inch. This is called kibbling. One method for producing DSS treated cocoa is to spray the solution of DSS over the kibbled cocoa before final milling. (Tr. 62-63, 108, 286.)

12. Dutching is a procedure by which cocoa is treated with alkali to neutralize some of the acid constituents. This has an effect on the flavor and the color of the cocoa. The alkali treated cocoa is called "Dutch process cocoa." The cocoa used for some beverage mixes is Dutch process cocoa. (Tr. 130-31, 306.)

13. Cocoa with a very low fat content, for example as low as 1 percent, is readily dispersible by itself. (Tr. 57.)

14. "Complemix" (also known as "Complemix 100") is the trade name for the American Cyanamid Co.'s brand of DSS. "Complemix 50" is their brand of

DSS in a solution of 50 percent DSS and 50 percent food grade ethanol. DSS is the substance defined in the "National Formulary," XII Edition, page 138, and the "Food Chemicals Codex," page 238. (Tr. 156, 177, 202, 209; P. 1, 2, 6.)

15. The American Cyanamid Co. treated many samples sent to them by Chocolate Manufacturers Association members and other cocoa manufacturers and also treated cocoa for user-manufacturers with DSS. These included cocoas that had different fat contents, dutched and nondutched cocoas, and cocoas in kibbled and powdered forms. The tests were run on batches of up to 525 pounds. Testing by the American Cyanamid Co., by chocolate manufacturers, and by independent experts showed that in most cases the samples treated by the American Cyanamid Co. were more rapidly dispersible in water and milk than the nontreated controls. As cocoa is the major obstacle to the quick wetting of dry beverage mixes, results of tests showing rapid wetting of cocoa alone can be used as an indication of cocoa mix wettability. (Tr. 50-59, 60-61, 64-80, 87-88, 96, 123-24, 206-7, 292-93; O. 3, 6.)

16. Several tests were run by the American Cyanamid Co., chocolate manufacturers, and others on cocoa mixes containing cocoa treated with DSS by the American Cyanamid Co. The majority of results showed that the DSS-treated samples were more rapidly dispersible. (Tr. 60-61, 96, 106-8, 123, 129, 130-33, 147; P. 4.)

17. Tests were run at the plant of the U.S. Cocoa Co. with aid from American Cyanamid Co. employees. They treated both cocoa powder and kibbled pressed cake in runs of up to 525 pounds. The results were comparable to those obtained in the American Cyanamid Co.'s plant. The President of U.S. Cocoa Co. testified that these results could be duplicated in runs of up to 5,000 pounds. In 1964 the U.S. Cocoa Co., without aid from the American Cyanamid Co.'s representatives, treated cocoa and beverage mixes with DSS and produced very easily dispersible products. (Tr. 94-97.)

18. The size of a commercial run of cocoa may vary from 500 to 5,000 pounds. (Tr. 97, 314.)

19. In the majority of test runs on both cocoa mixes and cocoa alone the amount of DSS used did not exceed 0.4 percent by weight of the cocoa. (Tr. 57, 59, 79, 80, 87; O. 3, P. 4.)

20. Some members of the Chocolate Manufacturers Association investigated the use of DSS for treating cocoa. Although they were not successful in duplicating the significant improvements in wetting time achieved by the American Cyanamid Co. some of them were able to improve the dispersibility of their cocoas. For example, a witness from the Ambrosia Chocolate Co. testified about experiments in which they treated 20-pound batches of cocoa with "Complemix-50" in water. By their testing method they found a wetting time of about 6 minutes for the DSS-treated cocoa as compared with 14 minutes for

¹The abbreviations in the citations are: "Tr." for transcript pages of the hearing; "P" for exhibits introduced by the petitioner; and "O." for exhibits introduced by the objector.

FINAL ORDER

untreated controls. They also made a trial run using their production setup. This involved treating a 2,500 pound batch of cocoa. They achieved a decrease in wetting time as compared with the untreated control, but the improvement obtained was not better than they were able to accomplish with lecithin. The witness testified that he was interested in DSS and its wetting quality attributes. He looked forward to improvement in the technology for the use of DSS for treating cocoa. Another member of the Association, the Wilbur Chocolate Co., used "Complemix 100" dissolved in a food grade solvent in their investigations. They were able to achieve improvement in wetting time as compared with their untreated cocoa. (Tr. 71, 159, 165-167, 205-9, 216-19, 244, 247, 301-3, 314-15; O. 3.)

21. Tests were conducted by witnesses for both parties showing the use of ethanol, isopropanol, water, and an undisclosed natural food substance as the solvent for DSS. Alcohol 23A and isopropanol are comparable in their effectiveness as solvents for DSS. (Tr. 63, 74, 78, 86, 124, 156, 162-64, 208, 220-23, 236, 331; P. 2, 6.)

22. Alcohol 23A is denatured alcohol prepared to be suitable for use in food products. (TR 156.)

CONCLUSIONS

1. Diethyl sodium sulfosuccinate can be added to cocoa in conformity with the stayed regulations concerning cocoa with diethyl sodium sulfosuccinate for manufacturing (21 CFR 14.14, 121.1137(e), and 121.1229) so as to accomplish the intended effect of facilitating production of dry beverage bases with cocoa that will disperse rapidly in water or milk.

2. The standard of identity (21 CFR 14.14) established for cocoa with diethyl sodium sulfosuccinate for manufacturing (34 F.R. 122177) and stayed by order of the Commissioner (34 F.R. 19140) is reasonable and will promote honesty and fair dealing in the interest of consumers.

3. The food additive regulations (21 CFR 121.1137(e) and 121.1229) established concerning cocoa with diethyl sodium sulfosuccinate for manufacturing (34 F.R. 12178) and stayed by order of the Commissioner (34 F.R. 19140) permit use of the additive at levels that are safe and sufficient to accomplish the intended effect of the additive.

4. Safe use of the additive diethyl sodium sulfosuccinate as contemplated in conclusion 3 above includes dissolving it in a solvent generally recognized by properly qualified experts as safe for such use, or in a solvent used in conformity with food additive regulations (21 CFR Part 121), in an amount not greater than reasonably needed to facilitate applying the additive to the cocoa. (In some of the reported tests isopropyl alcohol was selected as the solvent; the food additive regulation for isopropyl alcohol (21 CFR 121.1043) does not cover such use.)

Therefore, on the basis of the foregoing findings of fact and conclusions of law drawn therefrom: *It is ordered*, That the stay of effective date of §§ 14.14, 121.1137(e), and 121.1229, which stay was promulgated December 3, 1969 (34 F.R. 19140), be ended.

Effective date. This order shall become effective 90 days from the date of its publication in the FEDERAL REGISTER.

(Secs. 401, 409, 701, 52 Stat. 1046, 1055 as amended by 70 Stat. 919 and 72 Stat. 948, 72 Stat. 1785-88 as amended; 21 U.S.C. 341, 348, 371)

Dated: November 26, 1971.

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

[FR Doc.71-17726 Filed 12-3-71;8:50 am]

PART 148k—NYSTATIN Nystatin Vaginal Tablets

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), § 148k.11 *Nystatin vaginal tablets* is amended in the third sentence of paragraph (a) (1) by changing "not more than 130 percent of the number of units" to read "not more than 140 percent of the number of units".

This order raises the upper limit of potency for the drug, allowing for a reasonable manufacturing and assay variability. It is nonrestrictive and noncontroversial in nature; therefore, notice and public procedure are not prerequisites to this promulgation.

Effective date. This order shall become effective 30 days after date of publication in the FEDERAL REGISTER.

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

Dated: November 21, 1971.

H. E. SIMMONS,
Director, Bureau of Drugs.

[FR Doc.71-17775 Filed 12-3-71;8:51 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 60—Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor

PART 60-2—AFFIRMATIVE ACTION PROGRAMS

On August 31, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 17444) with regard to amending Chapter 60 of Title 41 of the Code of Federal Regulations by adding a new Part 60-2, dealing with

affirmative action programs. Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed amendments.

Having considered all relevant material submitted, I have decided to, and do hereby amend Chapter 60 of Title 41 of the Code of Federal Regulations by adding a new Part 60-2, reading as follows:

Subpart A—General

- Sec.
60-2.1 Title, purpose and scope.
60-2.2 Agency Action.

Subpart B—Required Contents of Affirmative Action Programs

- 60-2.10 Purpose of affirmative action program.
60-2.11 Required utilization analysis.
60-2.12 Establishment of goals and timetables.
60-2.13 Additional required ingredients of affirmative action programs.
60-2.14 Compliance status.

Subpart C—Methods of Implementing the Requirements of Subpart B

- 60-2.20 Development or reaffirmation of the equal employment opportunity policy.
60-2.21 Dissemination of the policy.
60-2.22 Responsibility for implementation.
60-2.23 Identification of problem areas by organization unit and job classification.
60-2.24 Development and execution of programs.
60-2.25 Internal audit and reporting systems.
60-2.26 Support of action programs.

Subpart D—Miscellaneous

- 60-2.30 Use of goals.
60-2.31 Preemption.
60-2.32 Supersedure.

AUTHORITY: The provisions of this Part 60-2 issued pursuant to sec. 201, Executive Order 11246 (30 F.R. 12319).

Subpart A—General

§ 60-2.1 Title, purpose and scope.

This part shall also be known as "Revised Order No. 4." and shall cover non-construction contractors. Section 60-1.40 of this Chapter, Affirmative Action Compliance Programs, requires that within 120 days from the commencement of a contract each prime contractor or subcontractor with 50 or more employees and a contract of \$50,000 or more develop a written affirmative action compliance program for each of its establishments, and such contractors are now further required to revise existing written affirmative action programs to include the changes embodied in this order within 120 days of its publication in the FEDERAL REGISTER. A review of agency compliance surveys indicates that many contractors do not have affirmative action programs on file at the time an establishment is visited by a compliance investigator. This part details the agency review procedure and the results of a contractor's failure to develop and maintain an affirmative action program and then set forth detailed guidelines to be used by contractors and Government agencies in developing and judging these

programs as well as the good faith effort required to transform the programs from paper commitments to equal employment opportunity. Subparts B and C are concerned with affirmative action plans only.

Relief for members of an "affected class" who, by virtue of past discrimination, continue to suffer the present effects of that discrimination must either be included in the contractor's affirmative action program or be embodied in a separate written "corrective action" program. An "affected class" problem must be remedied in order for a contractor to be considered in compliance. Section 60-2.2 herein pertaining to an acceptable affirmative action program is also applicable to the failure to remedy discrimination against members of an "affected class."

§ 60-2.2 Agency action.

(a) Any contractor required by § 60-1.40 of this chapter to develop an affirmative action program at each of his establishments who has not complied fully with that section is not in compliance with Executive Order 11246, as amended (30 F.R. 12319). Until such programs are developed and found to be acceptable in accordance with the standards and guidelines set forth in §§ 60-2.10 through 60-2.32, the contractor is unable to comply with the equal employment opportunity clause.

(b) If, in determining such contractor's responsibility for an award of a contract it comes to the contracting officer's attention, through sources within his agency or through the Office of Federal Contract Compliance or other Government agencies, that the contractor has not developed an acceptable affirmative action program at each of his establishments, the contracting officer shall notify the Director and declare the contractor-bidder nonresponsible unless he can otherwise affirmatively determine that the contractor is able to comply with his equal employment obligations or, unless, upon review, it is determined by the Director that substantial issues of law or fact exist as to the contractor's responsibility to the extent that a hearing is, in his sole judgment, required prior to a determination that the contractor is nonresponsible: *Provided*, That during any pre-award conferences every effort shall be made through the processes of conciliation, mediation and persuasion to develop an acceptable affirmative action program meeting the standards and guidelines set forth in §§ 60-2.10 through 60-2.32 so that, in the performance of his contract, the contractor is able to meet his equal employment obligations in accordance with the equal opportunity clause and applicable rules, regulations, and orders: *Provided further*, That when the contractor-bidder is declared nonresponsible more than once for inability to comply with the equal employment opportunity clause a notice setting a timely hearing date shall be issued concurrently with the second nonresponsibility determination in accordance with the provisions of § 60-1.26 proposing to declare such contractor-

bidder ineligible for future contracts and subcontracts.

(c) Immediately upon finding that a contractor has no affirmative action program or that his program is not acceptable to the contracting officer, the compliance agency representative or the representative of the Office of Federal Contract Compliance, whichever has made such a finding, shall notify officials of the appropriate compliance agency and the Office of Federal Contract Compliance of such fact. The compliance agency shall issue a notice to the contractor giving him 30 days to show cause why enforcement proceedings under section 209(b) of Executive Order 11246, as amended, should not be instituted.

(1) If the contractor fails to show good cause for his failure or fails to remedy that failure by developing and implementing an acceptable affirmative action program within 30 days, the compliance agency, upon the approval of the Director, shall immediately issue a notice of proposed cancellation or termination of existing contracts or subcontracts and debarment from future contracts and subcontracts pursuant to § 60-1.26(b), giving the contractor 10 days to request a hearing. If a request for hearing has not been received within 10 days from such notice, such contractor will be declared ineligible for future contracts and current contracts will be terminated for default.

(2) During the "show cause" period of 30 days every effort shall be made by the compliance agency through conciliation, mediation, and persuasion to resolve the deficiencies which led to the determination of nonresponsibility. If satisfactory adjustments designed to bring the contractor into compliance are not concluded, the compliance agency, with the prior approval of the Director, shall promptly commence formal proceedings leading to the cancellation or termination of existing contracts or subcontracts and debarment from future contracts and subcontracts under § 60-1.26(b) of this chapter.

(d) During the "show cause" period and formal proceedings, each contracting agency must continue to determine the contractor's responsibility in considering whether or not to award a new or additional contract.

Subpart B—Required Contents of Affirmative Action Programs

§ 60-2.10 Purpose of affirmative action program.

An affirmative action program is a set of specific and result-oriented procedures to which a contractor commits himself to apply every good faith effort. The objective of those procedures plus such efforts is equal employment opportunity. Procedures without effort to make them work are meaningless; and effort, undirected by specific and meaningful procedures, is inadequate. An acceptable affirmative action program must include an analysis of areas within which the contractor is deficient in the utilization of minority groups and women, and further, goals and timetables to which the contractor's good faith efforts must be directed to cor-

rect the deficiencies and, thus to increase materially the utilization of minorities and women, at all levels and in all segments of his work force where deficiencies exist.

§ 60-2.11 Required utilization analysis.

Based upon the Government's experience with compliance reviews under the Executive order programs and the contractor reporting system, minority groups are most likely to be underutilized in departments and jobs within departments that fall within the following Employer's Information Report (EEO-1) designations: officials and managers, professionals, technicians, sales workers, office and clerical and craftsmen (skilled). As categorized by the EEO-1 designations, women are likely to be underutilized in departments and jobs within departments as follows: officials and managers, professionals, technicians, sales workers (except over-the-counter sales in certain retail establishments), craftsmen (skilled and semi-skilled). Therefore, the contractor shall direct special attention to such jobs in his analysis and goal setting for minorities and women. Affirmative action programs must contain the following information:

(a) An analysis of all major job classifications at the facility, with explanation if minorities or women are currently being underutilized in any one or more job classifications (job "classification" herein meaning one or a group of jobs having similar content, wage rates and opportunities). "Underutilization" is defined as having fewer minorities or women in a particular job classification than would reasonably be expected by their availability. In making the work force analysis, the contractor shall conduct such analysis separately for minorities and women.

(1) In determining whether minorities are being underutilized in any job classification the contractor will consider at least all of the following factors:

- (i) The minority population of the labor area surrounding the facility;
- (ii) The size of the minority unemployment force in the labor area surrounding the facility;
- (iii) The percentage of the minority work force as compared with the total work force in the immediate labor area;
- (iv) The general availability of minorities having requisite skills in the immediate labor area;
- (v) The availability of minorities having requisite skills in an area in which the contractor can reasonably recruit;
- (vi) The availability of promotable and transferable minorities within the contractor's organization;
- (vii) The existence of training institutions capable of training persons in the requisite skills; and
- (viii) The degree of training which the contractor is reasonably able to undertake as a means of making all job classes available to minorities.

(2) In determining whether women are being underutilized in any job classification, the contractor will consider at least all of the following factors:

(l) The size of the female unemployment force in the labor area surrounding the facility;

(ii) The percentage of the female workforce as compared with the total workforce in the immediate labor area;

(iii) The general availability of women having requisite skills in the immediate labor area;

(iv) The availability of women having requisite skills in an area in which the contractor can reasonably recruit;

(v) The availability of women seeking employment in the labor or recruitment area of the contractor;

(vi) The availability of promotable and transferable female employees within the contractor's organization;

(vii) The existence of training institutions capable of training persons in the requisite skills; and

(viii) The degree of training which the contractor is reasonably able to undertake as a means of making all job classes available to women.

§ 60-2.12 Establishment of goals and timetables.

(a) The goals and timetables developed by the contractor should be attainable in terms of the contractor's analysis of his deficiencies and his entire affirmative action program. Thus, in establishing the size of his goals and the length of his timetables, the contractor should consider the results which could reasonably be expected from his putting forth every good faith effort to make his overall affirmative action program work. In determining levels of goals, the contractor should consider at least the factors listed in § 60-2.11.

(b) Involve personnel relations staff, department and division heads, and local and unit managers in the goal setting process.

(c) Goals should be significant, measurable and attainable.

(d) Goals should be specific for planned results, with timetables for completion.

(e) Goals may not be rigid and inflexible quotas which must be met, but must be targets reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work.

(f) In establishing timetables to meet goals and commitments, the contractor will consider the anticipated expansion, contraction and turnover of and in the work force.

(g) Goals, timetables and affirmative action commitments must be designed to correct any identifiable deficiencies.

(h) Where deficiencies exist and where numbers or percentages are relevant in developing corrective action, the contractor shall establish and set forth specific goals and timetables separately for minorities and women.

(i) Such goals and timetables, with supporting data and the analysis thereof shall be a part of the contractor's written affirmative action program and shall be maintained at each establishment of the contractor.

(j) Where the contractor has not established a goal, his written affirma-

tive action program must specifically analyze each of the factors listed in 60-2.11 and must detail his reason for a lack of a goal.

(k) In the event it comes to the attention of the compliance agency or the Office of Federal Contract Compliance that there is a substantial disparity in the utilization of a particular minority group or men or women of a particular minority group, the compliance agency or OFCC may require separate goals and timetables for such minority group and may further require, where appropriate, such goals and timetables by sex for such group for such job classifications and organizational units specified by the compliance agency or OFCC.

(l) Support data for the required analysis and program shall be compiled and maintained as part of the contractor's affirmative action program. This data will include but not be limited to progression line charts, seniority rosters, applicant flow data, and applicant rejection ratios indicating minority and sex status.

(m) Copies of affirmative action programs and/or copies of support data shall be made available to the compliance agency or the Office of Federal Contract Compliance, at the request of either, for such purposes as may be appropriate to the fulfillment of their responsibilities under Executive Order 11246, as amended.

§ 60-2.13 Additional required ingredients of affirmative action programs.

Effective affirmative action programs shall contain, but not necessarily be limited to, the following ingredients:

(a) Development or reaffirmation of the contractor's equal employment opportunity policy in all personnel actions.

(b) Formal internal and external dissemination of the contractor's policy.

(c) Establishment of responsibilities for implementation of the contractor's affirmative action program.

(d) Identification of problem areas (deficiencies) by organizational units and job classification.

(e) Establishment of goals and objectives by organizational units and job classification, including timetables for completion.

(f) Development and execution of action oriented programs designed to eliminate problems and further designed to attain established goals and objectives.

(g) Design and implementation of internal audit and reporting systems to measure effectiveness of the total program.

(h) Compliance or personnel policies and practices with the Sex Discrimination Guidelines (41 CFR Part 60-20).

(i) Active support of local and national community action programs and community service programs, designed to improve the employment opportunities of minorities and women.

(j) Consideration of minorities and women not currently in the workforce having requisite skills who can be recruited through affirmative action measures.

§ 60-2.14 Compliance status.

No contractor's compliance status shall be judged alone by whether or not he reaches his goals and meets his timetables. Rather, each contractor's compliance posture shall be reviewed and determined by reviewing the contents of his program, the extent of his adherence to this program, and his good faith efforts to make his program work toward the realization of the program's goals within the timetables set for completion. There follows an outline of examples of procedures that contractors and Federal agencies should use as a guideline for establishing, implementing, and judging an acceptable affirmative action program.

Subpart C—Methods of Implementing the Requirements of Subpart B

§ 60-2.20 Development or reaffirmation of the equal employment opportunity policy.

(a) The contractor's policy statement should indicate the chief executive officers' attitude on the subject matter, assign overall responsibility and provide for a reporting and monitoring procedure. Specific items to be mentioned should include, but not limited to:

(1) Recruit, hire, train, and promote persons in all job classifications, without regard to race, color, religion, sex, or national origin, except where sex is a bona fide occupational qualification. (The term "bona fide occupational qualification" has been construed very narrowly under the Civil Rights Act of 1964. Under Executive Order 11246 as amended and this part, this term will be construed in the same manner.)

(2) Base decisions on employment so as to further the principle of equal employment opportunity.

(3) Insure that promotion decisions are in accord with principles of equal employment opportunity by imposing only valid requirements for promotional opportunities.

(4) Insure that all personnel actions such as compensation, benefits, transfers, layoffs, return from layoff, company sponsored training, education, tuition assistance, social and recreation programs, will be administered without regard to race, color, religion, sex, or national origin.

§ 60-2.21 Dissemination of the policy.

(a) The contractor should disseminate his policy internally as follows:

(1) Include it in contractor's policy manual.

(2) Publicize it in company newspaper, magazine, annual report and other media.

(3) Conduct special meetings with executive, management, and supervisory personnel to explain intent of policy and individual responsibility for effective implementation, making clear the chief executive officer's attitude.

(4) Schedule special meetings with all other employees to discuss policy and explain individual employee responsibilities.

(5) Discuss the policy thoroughly in both employee orientation and management training programs.

(6) Meet with union officials to inform them of policy, and request their cooperation.

(7) Include nondiscrimination clauses in all union agreements, and review all contractual provisions to ensure they are nondiscriminatory.

(8) Publish articles covering EEO programs, progress reports, promotions, etc., of minority and female employees, in company publications.

(9) Post the policy on company bulletin boards.

(10) When employees are featured in product or consumer advertising, employee handbooks or similar publications both minority and nonminority, men and women should be pictured.

(11) Communicate to employees the existence of the contractor's affirmative action program and make available such elements of his program as will enable such employees to know of and avail themselves of its benefits.

(b) The contractor should disseminate his policy externally as follows:

(1) Inform all recruiting sources verbally and in writing of company policy, stipulating that these sources actively recruit and refer minorities and women for all positions listed.

(2) Incorporate the Equal Opportunity clause in all purchase orders, leases, contracts, etc., covered by Executive Order 11246, as amended, and its implementing regulations.

(3) Notify minority and women's organizations, community agencies, community leaders, secondary schools and colleges, of company policy, preferably in writing.

(4) Communicate to prospective employees the existence of the contractor's affirmative action program and make available such elements of his program as will enable such prospective employees to know of and avail themselves of its benefits.

(5) When employees are pictured in consumer or help wanted advertising, both minorities and nonminority men and women should be shown.

(6) Send written notification of company policy to all subcontractors, vendors and suppliers requesting appropriate action on their part.

§ 60-2.22 Responsibility for implementation.

(a) An executive of the contractor should be appointed as director or manager of company Equal Opportunity Programs. Depending upon the size and geographical alignment of the company, this may be his or her sole responsibility. He or she should be given the necessary top management support and staffing to execute the assignment. His or her identity should appear on all internal and external communications on the company's Equal Opportunity Programs. His or her responsibilities should include, but not necessarily be limited to:

(1) Developing policy statements, affirmative action programs, internal and external communication techniques.

(2) Assisting in the identification of problem areas.

(3) Assisting line management in arriving at solutions to problems.

(4) Designing and implementing audit and reporting systems that will:

(i) Measure effectiveness of the contractor's programs.

(ii) Indicate need for remedial action.

(iii) Determine the degree to which the contractor's goals and objectives have been attained.

(5) Serve as liaison between the contractor and enforcement agencies.

(6) Serve as liaison between the contractor and minority organizations, women's organizations and community action groups concerned with employment opportunities of minorities and women.

(7) Keep management informed of latest developments in the entire equal opportunity area.

(b) Line responsibilities should include, but not be limited to, the following:

(1) Assistance in the identification of problem areas and establishment of local and unit goals and objectives.

(2) Active involvement with local minority organizations, women's organizations, community action groups and community service programs.

(3) Periodic audit of training programs, hiring and promotion patterns to remove impediments to the attainment of goals and objectives.

(4) Regular discussions with local managers, supervisors and employees to be certain the contractor's policies are being followed.

(5) Review of the qualifications of all employees to insure that minorities and women are given full opportunities for transfers and promotions.

(6) Career counseling for all employees.

(7) Periodic audit to insure that each location is in compliance in area such as:

(i) Posters are properly displayed.

(ii) All facilities, including company housing, which the contractor maintains for the use and benefit of his employees, are in fact desegregated, both in policy and use. If the contractor provides facilities such as dormitories, locker rooms and rest rooms, they must be comparable for both sexes.

(iii) Minority and female employees are afforded a full opportunity and are encouraged to participate in all company sponsored educational, training, recreational and social activities.

(8) Supervisors should be made to understand that their work performance is being evaluated on the basis of their equal employment opportunity efforts and results, as well as other criteria.

(9) It shall be a responsibility of supervisors to take actions to prevent harassment of employees placed through affirmative action efforts.

§ 60-2.23 Identification of problem areas by organizational units and job classifications.

(a) An in-depth analysis of the following should be made, paying particular attention to trainees and those categories listed in § 60-2.11(d).

(1) Composition of the work force by minority group status and sex.

(2) Composition of applicant flow by minority group status and sex.

(3) The total selection process including position descriptions, position titles, worker specifications, application forms, interview procedures, test administration, test validity, referral procedures, final selection process, and similar factors.

(4) Transfer and promotion practices.

(5) Facilities, company sponsored recreation and social events, and special programs such as educational assistance.

(6) Seniority practices and seniority provisions of union contracts.

(7) Apprenticeship programs.

(8) All company training programs, formal and informal.

(9) Work force attitude.

(10) Technical phases of compliance, such as poster and notification to labor unions, retention of applications, notification to subcontractors, etc.

(b) If any of the following items are found in the analysis, special corrective action should be appropriate.

(1) An "underutilization" of minorities or women in specific work classifications.

(2) Lateral and/or vertical movement of minority or female employees occurring at a lesser rate (compared to work force mix) than that of nonminority or male employees.

(3) The selection process eliminates a significantly higher percentage of minorities or women than nonminorities or men.

(4) Application and related preemployment forms not in compliance with Federal legislation.

(5) Position descriptions inaccurate in relation to actual functions and duties.

(6) Tests and other selection techniques not validated as required by the OFCC Order on Employee Testing and other Selection Procedures.

(7) Test forms not validated by location, work performance and inclusion of minorities and women in sample.

(8) Referral ratio of minorities or women to the hiring supervisor or manager indicates a significantly higher percentage are being rejected as compared to nonminority and male applicants.

(9) Minorities or women are excluded from or are not participating in company sponsored activities or programs.

(10) De facto segregation still exists at some facilities.

(11) Seniority provisions contribute to overt or inadvertent discrimination, i.e., a disparity by minority group status or sex exists between length of service and types of job held.

(12) Nonsupport of company policy by managers, supervisors or employees.

(13) Minorities or women underutilized or significantly underrepresented in training or career improvement programs.

(14) No formal techniques established for evaluating effectiveness of EEO programs.

(15) Lack of access to suitable housing inhibits recruitment efforts and employment of qualified minorities.

(16) Lack of suitable transportation (public or private) to the work place inhibits minority employment.

(17) Labor unions and subcontractors not notified of their responsibilities.

(18) Purchase orders do not contain EEO clause.

(19) Posters not on display.

§ 60-2.24 Development and execution of programs.

(a) The contractor should conduct detailed analyses of position descriptions to insure that they accurately reflect position functions, and are consistent for the same position from one location to another.

(b) The contractor should validate worker specifications by division, department, location or other organizational unit and by job category using job performance criteria. Special attention should be given to academic, experience and skill requirements to insure that the requirements in themselves do not constitute inadvertent discrimination. Specifications should be consistent for the same job classification in all locations and should be free from bias as regards to race, color, religion, sex, or national origin, except where sex is a bona fide occupational qualification. Where requirements screen out a disproportionate number of minorities or women such requirements should be professionally validated to job performance.

(c) Approved position descriptions and worker specifications, when used by the contractor, should be made available to all members of management involved in the recruiting, screening, selection, and promotion process. Copies should also be distributed to all recruiting sources.

(d) The contractor should evaluate the total selection process to insure freedom from bias and, thus, aid the attainment of goals and objectives.

(1) All personnel involved in the recruiting, screening, selection, promotion, disciplinary, and related processes should be carefully selected and trained to insure elimination of bias in all personnel actions.

(2) The contractor shall observe the requirements of the OFCC Order pertaining to the validation of employee tests and other selection procedures.

(3) Selection techniques other than tests may also be improperly used so as to have the effect of discriminating against minority groups and women. Such techniques include but are not restricted to, unscored interviews, unscored or casual application forms, arrest records, credit checks, considerations of marital status or dependency or minor children. Where there exist data suggesting that such unfair discrimination or exclusion of minorities or women exists, the contractor should analyze his unscored procedures and eliminate them if they are not objectively valid.

(e) Suggested techniques to improve recruitment and increase the flow of minority or female applicants follow:

(1) Certain organizations such as the Urban League, Job Corps, Equal Opportunity Programs, Inc., Concentrated Em-

ployment Programs, Neighborhood Youth Corps, Secondary Schools, Colleges, and City Colleges with high minority enrollment, the State Employment Service, specialized employment agencies, Aspira, LULAC, SER, the G.I. Forum, the Commonwealth of Puerto Rico are normally prepared to refer minority applicants. Organizations prepared to refer women with specific skills are: National Organization for Women, Welfare Rights Organizations, Women's Equity Action League, Talent Bank from Business and Professional Women (including 26 women's organizations), Professional Women's Caucus, Intercollegiate Association of University Women, Negro Women's sororities and service groups such as Delta Sigma Theta, Alpha Kappa Alpha, and Zeta Phi Beta; National Council of Negro Women, American Association of University Women, YWCA, and sectarian groups such as Jewish Women's Groups, Catholic Women's Groups and Protestant Women's Groups, and women's colleges. In addition, community leaders as individuals shall be added to recruiting sources.

(2) Formal briefing sessions should be held, preferably on company premises, with representatives from these recruiting sources. Plant tours, presentations by minority and female employees, clear and concise explanations of current and future job openings, position descriptions, worker specifications, explanations of the company's selection process, and recruiting literature should be an integral part of the briefings. Formal arrangements should be made for referral of applicants, followup with sources, and feedback on disposition of applicants.

(3) Minority and female employees, using procedures similar to subparagraph (2) of this paragraph, should be actively encouraged to refer applicants.

(4) A special effort should be made to include minorities and women on the Personnel Relations staff.

(5) Minority and female employees should be made available for participation in Career Days, Youth Motivation Programs, and related activities in their communities.

(6) Active participation in "Job Fairs" is desirable. Company representatives so participating should be given authority to make on-the-spot commitments.

(7) Active recruiting programs should be carried out at secondary schools, junior colleges, and colleges with predominant minority or female enrollments.

(8) Recruiting efforts at all schools should incorporate special efforts to reach minorities and women.

(9) Special employment programs should be undertaken whenever possible. Some possible programs are:

(i) Technical and nontechnical co-op programs with predominately Negro and women's colleges.

(ii) "After school" and/or work-study jobs for minority youths, male and females.

(iii) Summer jobs for underprivileged youth, male and female.

(iv) Summer work-study programs for male and female faculty members of the predominantly minority schools and colleges.

(v) Motivation, training and employment programs for the hard-core unemployed, male and female.

(10) When recruiting brochures pictorially present work situations, the minority and female members of the work force should be included, especially when such brochures are used in school and career programs.

(11) Help wanted advertising should be expanded to include the minority news media and women's interest media on a regular basis.

(f) The contractor should insure that minority and female employees are given equal opportunity for promotion. Suggestions for achieving this result include:

(1) Post or otherwise announce promotional opportunities.

(2) Make an inventory of current minority and female employees to determine academic, skill and experience level of individual employees.

(3) Initiate necessary remedial, job training and workstudy programs.

(4) Develop and implement formal employee evaluation programs.

(5) Make certain "worker specifications" have been validated on job performance related criteria. (Neither minority nor female employees should be required to possess higher qualifications than those of the lowest qualified incumbent.)

(6) When apparently qualified minority or female employees are passed over for upgrading, require supervisory personnel to submit written justification.

(7) Establish formal career counseling programs to include attitude development, education aid, job rotation, buddy system and similar programs.

(8) Review seniority practices and seniority clauses in union contracts to insure such practices or clauses are non-discriminatory and do not have a discriminatory effect.

(g) Make certain facilities and company-sponsored social and recreation activities are desegregated. Actively encourage all employees to participate.

(h) Encourage child care, housing and transportation programs appropriately designed to improve the employment opportunities for minorities and women.

§ 60-2.25 Internal audit and reporting systems.

(a) The contractor should monitor records of referrals, placements, transfers, promotions and terminations at all levels to insure nondiscriminatory policy is carried out.

(b) The contractor should require formal reports from unit managers on a schedule basis as to degree to which corporate or unit goals are attained and timetables met.

(c) The contractor should review report results with all levels of management.

(d) The contractor should advise top management of program effectiveness

and submit recommendations to improve unsatisfactory performance.

§ 60-2.26 Support of action programs.

(a) The contractor should appoint key members of management to serve on Merit Employment Councils, Community Relations Boards and similar organizations.

(b) The contractor should encourage minority and female employees to participate actively in National Alliance of Businessmen programs for youth motivation.

(c) The contractor should support Vocational Guidance Institutes, Vestibule Training Programs and similar activities.

(d) The contractor should assist secondary schools and colleges in programs designed to enable minority and female graduates of these institutions to compete in the open employment market on a more equitable basis.

(e) The contractor should publicize achievements of minority and female employees in local and minority news media.

(f) The contractor should support programs developed by such organizations as National Alliance of Businessmen, the Urban Coalition and other organizations concerned with employment opportunities for minorities or women.

Subpart D—Miscellaneous

§ 60-2.30 Use of goals.

The purpose of a contractor's establishment and use of goals is to insure that he meet his affirmative action obligation. It is not intended and should not be used to discriminate against any applicant or employee because of race, color, religion, sex, or national origin.

§ 60-2.31 Preemption.

To the extent that any State or local laws, regulations or ordinances, including those which grant special benefits to persons on account of sex, are in conflict with Executive Order 11246, as amended, or with the requirements of this part, we will regard them as preempted under the Executive order.

§ 60-2.32 Supersedure.

All orders, instructions, regulations, and memoranda of the Secretary of Labor, other officials of the Department of Labor and contracting agencies are hereby superseded to the extent that they are inconsistent herewith, includ-

ing a previous "Order No. 4" from this Office dated January 30, 1970. Nothing in this part is intended to amend 41 CFR 60-3 published in the FEDERAL REGISTER on October 2, 1971 or Employee Testing and Other Selection Procedures or 41 CFR 60-20 on Sex Discrimination Guidelines.

Effective date. This part shall become effective on the date of its publication in the FEDERAL REGISTER (12-4-71).

Signed at Washington, D.C., this 1st day of December 1971.

J. D. HODGSON,
Secretary of Labor.

HORACE E. MENASCO,
*Acting Assistant Secretary
for Employment Standards.*

JOHN L. WILKS,
*Director, Office of
Federal Contract Compliance.*

[FR Doc.71-17789 Filed 12-3-71;8:51 am]

**Title 43—PUBLIC LANDS:
INTERIOR**

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5145]

[Anchorage 6295]

ALASKA

**Modification of Public Land Order
No. 4582, as Amended**

By virtue of the authority vested in the President by section 1 of the Act of June 25, 1910, 36 Stat. 847, as amended, 43 U.S.C. § 141 (1970), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

Public Land Order No. 4582 of January 17, 1969, as amended by Public Land Order No. 4962 of December 8, 1970, and Public Land Order No. 5081 of June 17, 1971, withdrawing all unreserved public lands in Alaska for the determination and protection of the rights of Native Aleuts, Eskimos, and Indians of Alaska, is hereby modified to the extent necessary to permit the issuance of rights-of-way under appropriate authority to permit installation, maintenance, and use of microwave radio equipment, and related facilities by the RCA Alaska Communi-

cations at 13 repeater sites located as follows:

Location	Latitude	Longitude
Bonaslla Dome.....	60°55'00"	161°26'00"
Great Ridge.....	60°01'12"	160°56'18"
Hill (986).....	61°33'02"	160°18'10"
Hill (1142).....	62°20'53"	163°33'06"
Kuzilvak Mountain.....	62°00'10"	164°35'34"
Kwigillingok.....	59°52'00"	163°08'25"
North Yoke Mountain.....	59°30'40"	161°37'27"
Pilcher Mountain.....	61°55'54"	161°53'42"
S.E. Aghaluk Mountain.....	61°30'25"	158°09'00"
Tern Mountain.....	60°05'00"	164°17'00"
Hill 139 (Near Tuluksak).....	60°57'30"	160°55'12"
Ugchirnak Mountain.....	60°36'00"	165°13'00"
Red Mountain.....	61°35'22"	157°15'31"

HARRISON LOESCH,
Assistant Secretary of the Interior.

NOVEMBER 26, 1971.

[FR Doc.71-17718 Filed 12-3-71;8:46 am]

**Title 50—WILDLIFE AND
FISHERIES**

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

PART 33—SPORT FISHING

**Buffalo Lake National Wildlife
Refuge, Tex.**

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (12-4-71).

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

TEXAS

BUFFALO LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Buffalo Lake National Wildlife Refuge, Tex., is suspended for the 1972 season. Following total loss of impounded water, due to a prolonged drought, the lake has refilled to a level affording reintroduction of game fish species. In the interim, until the reintroduced game fish grow to sufficient size to provide quality fishing opportunities, fishing will be temporarily suspended in all waters of the refuge.

PAUL E. FERGUSON,
*Refuge Manager, Buffalo Lake
National Wildlife Refuge, Um-
barger, Tex.*

NOVEMBER 29, 1971.

[FR Doc.71-17727 Filed 12-3-71;8:46 am]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Office of Oil and Gas

[32A CFR Ch. X I

[Oil Import Reg. 1 (Rev. 5)]

ALLOCATIONS OF IMPORTS OF CRUDE OILS AND UNFINISHED OILS BASED ON EXPORTS OF PETROCHEMICALS AND ON THE CONVERSION OF HEAVY LIQUIDS TO PETROCHEMICALS

Notice of Proposed Rule Making

By a press release of August 12, 1971, the Director, Office of Emergency Preparedness, announced general plans to make allocations of imports of crude oil and unfinished oils to the petrochemical industry on the basis of exports of petrochemicals and to increase allocations of imports of crude and unfinished oils for the conversion of heavy liquid feedstocks into petrochemicals. To implement these plans, it is proposed to add to Oil Import Regulation 1 (Revision 5) new sections 9A and 9B, reading as set forth below. Both sections would apply to Districts I-IV and to District V.

Section 9A as proposed would provide for allocations of imports of crude oil and unfinished oils to persons operating petrochemical plants based on the quantities of "eligible petrochemicals" (as defined) which these persons manufacture and export. Such "eligible petrochemicals" might be manufactured in a plant other than a petrochemical plant as defined in section 22 of the regulation. Under section 9A, such allocations would be made quarterly. Allocations under sections 9A would be in addition to the "regular" allocations made under section 9 of Oil Import Regulation 1 (Revision 5).

Section 9B as proposed would provide for allocations of imports of crude oil and unfinished oils to operators of plants which utilize "heavy liquid feedstock" in the production of "hydrocarbon intermediates" or in the production of "petrochemicals," or both.

The program proposed under section 9B would come into effect when not less than 400,000 barrels of heavy liquid feedstock had been processed by a heavy liquid plant, the construction of which was begun after August 12, 1971.

Final action upon the proposed amendments is subject to the concurrence of the Director, Office of Emergency Preparedness.

Interested persons are invited to submit written comments upon the proposed new sections to the Director, Office of Oil and Gas, Department of the Interior, Washington, D.C. 20240. Comments on section 9A as proposed (the export-import program) should be submitted by January 3, 1972. Comments on section 9B

as proposed (the heavy liquids program) should be submitted before February 1, 1972. Each person who submits comments is asked to provide fifteen (15) copies.

GENE P. MORRELL,
Director,
Office of Oil and Gas.

1. A new section 9A, reading as follows, would be added to Oil Import Regulation 1 (Revision 5):

Sec. 9A Allocations based on exports.

(a) For the purposes of this section:

(1) "Eligible petrochemicals" means materials falling into the following trade classifications, as specified, of Schedule B of the Department of Commerce Statistical Classifications of Domestic and Foreign Commodities Exported from the U.S.

<i>Trade classification</i>	<i>Description</i>
Schedule B number:	
231.2 -----	Synthetic Rubber & Rubber Substitutes except compounded, semiprocessed, and manufactures; e.g., SBR Type Rubber, Butyl Rubber.
266.2 & 266.3..	Manmade Organic Fibers suitable for spinning, except Glass; e.g., Nylon Staple, Polyester Staple.
512 -----	Chemical Elements and Compounds—
512 -----	Organic Chemicals; e.g., Ethylene Glycol, Acetic Acid.
513.27 -----	Carbon Black.
521.4024 -----	Ortho Xylene.
521.4025 -----	Para Xylene.
521.4027 -----	Mixed Xylenes.
554.2022 -----	Detergents, Synthetic Organic, Bulk.
554.2024 -----	Detergents, Synthetic Organic, Bulk.
554.2026 -----	Detergents, Synthetic Organic, Bulk.
581.1005- .1055, 581.- 2002-2058.	Plastic Materials and Artificial Resins; e.g., Polyamide, Phenolic, Polyethylene.

(2) Each quarter of a particular allocation period (e.g., January, February, March) shall constitute a "base period."

(b) A person who holds an allocation of imports into Districts I-IV or into District V for a particular allocation period under section 9 of this regulation shall also be entitled to receive under this section 9A an allocation of imports of crude oil into Districts I-IV or into District V (as the case may be) based on his exports of eligible petrochemicals during a base period within that allocation period.

(c) An application for an allocation under this section must be filed with the Director no later than 20 days after the last day of the base period to which the application relates. An application must be in such form as the Director may prescribe.

(d) No license issued under an allocation made pursuant to this section shall be valid for a period longer than 6 months following the day on which the license is issued.

(e) An allocation of imports of crude oil under this section shall be computed as follows:

(1) The Director shall determine the total weight of eligible petrochemicals (i) which were produced by chemical reaction in the applicant's facilities in Districts I-IV or in District V, and (ii) which were exported by the applicant from the customs territory of the United States during a base period.

(2) The Director shall ascertain the total hydrogen and carbon content of that part of the total weight of the eligible petrochemicals determined pursuant to subparagraph (1) of this paragraph (e) which was derived from crude oil or unfinished oils produced or manufactured in Districts I-IV or in District V or imported pursuant to an allocation.

(3) That part of the total hydrogen and carbon content of eligible petrochemicals ascertained pursuant to subparagraph (2) of this paragraph, to have been derived from crude oil or unfinished oils produced or manufactured in Districts I-IV or in District V or imported pursuant to an allocation shall be divided by the average density, expressed in pounds per barrel, of all petrochemical plant inputs upon which the applicant's allocation under section 9 for the particular allocation period is based. The applicant shall receive an allocation of barrels of imports of crude oil equal to the resulting quotient.

(f) A shipment of eligible petrochemicals from Districts I-IV or from District V to a foreign country or to the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands constitutes an export for the purposes of this section. A shipment of eligible petrochemicals from Districts I-IV or from District V to Puerto Rico or to a foreign trade zone shall not constitute an export for the purposes of this section. If eligible petrochemicals are returned after having been exported without having been advanced in value or improved in condition by any process of manufacturer or other means while abroad, the total weight of such eligible petrochemicals so returned shall either be excluded or deducted as appropriate, from the applicant's base in computing an allocation under paragraph (e) of this section.

(g) An allocation made pursuant to this section shall entitle a person to a license or licenses which will allow the importation of unfinished oils in an amount not exceeding, in the aggregate, 15 percent of the person's allocation. However, the Director shall permit a person holding such an allocation to import unfinished oils in an amount up to 100

percent of such person's allocation upon certification by him to the Director that such imported unfinished oils will not be exchanged, that such unfinished oils will be processed entirely in the person's petrochemical plants, and that more than 50 percent by weight of the yields from such unfinished oils will be converted into petrochemicals or that more than 75 percent by weight of recovered product output will consist of petrochemicals.

(h) No allocation made pursuant to this section may be sold, assigned, or otherwise transferred.

(i) This section 9A shall be effective for the allocation period January 1, 1972, through December 31, 1972, and succeeding allocation periods.

2. A new section 9B, reading as follows, would be added to Oil Import Regulation 1 (Revision 5):

Sec. 9B Allocations of Imports of Crude Oil and Unfinished Oils for Conversion of Heavy Liquid Feedstocks to Petrochemicals—Districts I-IV and District V.

(a) For the purpose of this section:

(1) The term "heavy liquid feedstock" means (i) a stream of crude oil or (ii) a stream which was derived from crude oil or natural gas products, which consisted predominantly of paraffinic hydrocarbons, which contained hydrocarbon compounds having a content of not less than C₈, and which was produced in Districts I-IV or in District V or imported pursuant to an allocation.

(2) The term "petrochemicals" means any of those items listed in column 1 of the schedule set forth in paragraph (k) of this section insofar as they conform to the notations contained in columns 2 and 3 of such schedule.

(3) The term "hydrocarbon intermediates" means any or all of the following items which were produced by chemical reaction in a heavy liquid plant from feedstock streams and which were processed in a petrochemical unit: hydrogen, methane, ethane, propane, butane, olefins C₂-C₄, diolefins C₂-C₄ (or C₂-C₄ in the event their purity falls below 90 percent by weight), acetylenes C₂-C₄ (or C₂-C₄ in the event their purity falls below 90 percent by weight), benzene, toluene, and xylene, or combinations thereof.

(4) The term "heavy liquid plant" means a facility or plant complex (including associated downstream product recovery units or equipment) which is located in Districts I-IV or District V, which is not comprised within or a part of a person's refinery capacity as that term is defined in section 22, to which at least one heavy liquid feedstock stream was charged during the base period, and in which more than 30 percent by weight of each of its feedstock streams during the base period were converted by chemical reaction (k) directly into petrochemicals, or (ii) indirectly into petrochemicals by the chemical conversion of hydrocarbon intermediates or of heavy liquid feedstocks which were subsequently fed to a heavy liquid plant and

converted to petrochemicals or to hydrocarbon intermediates which were subsequently converted to petrochemicals, or (iii) into petrochemical plant inputs as defined in section 22.

(5) The term "petrochemical unit" refers to equipment (including associated downstream product recovery equipment or units), located in Districts I-IV or District V, in which the weight percent yield of hydrocarbon intermediates in each separate feedstock stream converted by chemical reaction into petrochemicals exceeds the weight percent of other recovered organic compounds that are not petrochemicals.

(6) The term "base period" means the period of 12 months ending on September 30 preceding the allocation period for which an application for an allocation under this section 9B is filed.

(b) Except as provided in paragraph (1) of this section, allocations under this section shall be made for periods of 12 months beginning January 1.

(c) (1) Applications for allocations under paragraphs (e) and (f) of this section must be filed within the time prescribed by section 5 of this regulation.

(2) An application shall be in such form the Director may prescribe, and an applicant shall furnish such additional information as the Director shall require. All information supplied by an applicant shall be subject to such verification as the Director may deem appropriate, including inspection of the applicant's heavy liquid plant or plants, the applicant's petrochemical unit or units, and the petrochemical unit or units of persons to whom hydrocarbon intermediates have been sold by the applicant. In the case of an application for an allocation based, in whole or in part, upon the sale by the applicant of hydrocarbon intermediates to be processed into petrochemicals, the application shall be accompanied by certificates from the buyers as to the weight of such hydrocarbon intermediates and as to such buyers' disposition thereof. Such verification may include examination of the records of all plants participating in the production of petrochemicals which are claimed by an applicant as a basis for an allocation.

(d) A person who receives an allocation under this section 9B may not receive an allocation pursuant to section 9 based on any feed stock stream processed in the person's heavy liquid plant or plants. Hydrocarbon materials upon which an allocation under section 9 or section 9A of this regulation is based will not qualify as a basis for an allocation under this section 9B. Hydrocarbon materials upon which an allocation under this section 9B is based will not qualify as a basis for an allocation under section 9 or section 9A of this regulation. No hydrocarbon materials upon which an allocation under this section 9B is based may serve as a basis for another allocation under this section 9B.

(e) To be eligible under this paragraph (e) for an allocation of imports of crude oil and unfinished oils into Districts I-IV or into District V, a person must have a heavy liquid plant in the respective districts and have produced hydrocarbon

intermediates during the base period. For a particular allocation period, each such eligible applicant shall be entitled to receive an allocation of imports of crude oil and unfinished oils into Districts I-IV or into District V, as appropriate, computed as follows:

(1) The Director shall determine the weight of hydrocarbon intermediates which were produced by each of the applicant's heavy liquid plants during the base period and which were processed in a petrochemical unit or units by the applicant during the base period. The Director shall deduct from the weight so determined the hydrocarbon content of any organic compounds that were not petrochemicals and that were produced by the applicant from the hydrocarbon intermediates and recovered for commercial disposition or use. For the purposes of this subparagraph, CO and CO₂ shall not be regarded as organic compounds.

(2) The Director shall determine the weight of hydrocarbon intermediates (i) which were produced by each of the applicant's heavy liquid plants during the base period, and (ii) which the applicant certifies were sold by him to another to be processed into petrochemicals, and (iii) respecting which the applicant has furnished certificates from the buyers as to the weight and disposition of the hydrocarbon intermediates purchased and processed in a petrochemical unit or units during the base period. The Director shall deduct from the weight so determined the hydrocarbon content of any organic compounds that were not petrochemicals and that were produced by the buyers from the hydrocarbon intermediates and recovered for commercial disposition or use. For the purposes of this subparagraph, CO and CO₂ shall not be regarded as organic compounds.

(3) The Director shall determine the total weight of feedstocks charged to each of the applicant's heavy liquid plants during the base period. The Director shall deduct from the weight so determined the weight of all hydrocarbon intermediates produced from such feedstocks and the hydrocarbon content of any other organic compounds that were not petrochemicals and that were produced by the applicant from the total feedstocks and recovered for commercial disposition or use. For the purposes of this subparagraph, CO and CO₂ shall not be regarded as organic compounds.

(4) The Director shall divide the net weight of hydrocarbon materials determined for each of the applicant's heavy liquid plants pursuant to subparagraphs (1) through (3) of this paragraph (e), by the weight of the total feedstock charged to each such plant during the base period and multiply the quotient thus obtained by the quantity (expressed in barrels per day) of heavy liquid feedstocks charged to each such plant. The product resulting from each such multiplication shall be termed a "plant quota." The applicant shall receive an allocation of imports of crude oil and unfinished oils in a quantity equal to the sum of the applicant's plant quotas as determined by the Director.

PROPOSED RULE MAKING

(f) (1) With respect to a heavy liquid plant which is scheduled to come on stream during a particular allocation period, an applicant who has filed an application within the time prescribed in section 5 of this regulation shall be entitled to an allocation for that plant for that allocation period. The allocation shall be computed as provided in paragraph (e) of this section, except that estimated data on the operations of that plant by the applicant during the allocation period shall be substituted for data on actual operations during the base period.

(2) With respect to a heavy liquid plant which has come on stream during the allocation period immediately preceding a particular allocation period, an applicant who has filed an application within the time prescribed in section 5 of this regulation shall be entitled to an allocation for that plant for the particular allocation period. The allocation shall be computed as provided in paragraph (e) of this section, except that actual and estimated data on the operations of that plant by the applicant during a period of 12 months shall be substituted for data on actual operations during the base period. The period of 12 months shall run from the day on which the plant began operations.

(3) If an allocation based in whole or in part on estimated data on operations is made under this section, allocations made to the applicant under this section in succeeding allocation periods will be adjusted upward or downward to compensate for the difference between the allocation based in whole or in part on estimates and the allocation which the applicant would have received if the allocation had been based on actual data.

(4) If an allocation based in whole or in part on estimates exceeds by more than 5 percent the allocation which the applicant would have received if the allocation had been based on actual data, the reduction of the applicant's allocations in succeeding allocation periods required by subparagraph (3) of this paragraph shall be doubled.

(5) The Director shall make an allocation pursuant to this paragraph (f) only if he is satisfied that the applicant's heavy liquid plant constitutes a bona fide business venture. The Director shall not issue a license under an allocation made pursuant to this paragraph until the heavy liquid plant has been on stream for not less than 60 days and until an on-the-spot evaluation of the plant has been conducted by authorized representatives of the Office of Oil and Gas and a determination has been made that the facility has the actual operational capacity which the applicant has certified in his application. Licenses issued under allocations made pursuant to this paragraph shall expire on the last day of the allocation period.

(g) Licenses issued under allocations of imports of crude oil and unfinished oils into Districts I-IV shall permit the importation of such crude oil and unfinished oils only into Districts I-IV. Licenses issued under allocations of imports of crude oil and unfinished oils into

District V shall permit the importation of such crude oil and unfinished oils only into District V.

(h) An allocation made pursuant to this section shall entitle a person to a license or licenses which will allow the importation of unfinished oils in an amount not exceeding, in the aggregate, 15 percent of the person's allocation. However, the Director shall permit a person holding such an allocation to import unfinished oils in an amount up to 100 percent of each of such person's "plant quotas" upon certification by him to the Director that such imported unfinished oils will not be exchanged, that such unfinished oils will be processed entirely in the petitioner's heavy liquid plants, that the person will not charge to any of his plants a quantity of such unfinished oils in excess of the plant quota, and that more than 30 percent by weight of the yields from such unfinished oils will be converted directly or indirectly into petrochemicals or petrochemical plant inputs. The Director may, in special circumstances, permit a person holding such an allocation to import up to 100 percent of his allocation in the form of unfinished oils and to exchange such imports for like domestic material to be run entirely in the petitioner's heavy liquid plants in amounts equal to the "plant quotas" of such plants.

(i) A person who imports crude oil or unfinished oils under an allocation made under this section may, except as provided in paragraph (h) of this section, exchange his imported crude oil either for domestic crude oil or for domestic unfinished oils or exchange his imported unfinished oils for domestic crude oil. All such exchanges shall be governed by the provisions of subparagraphs (2), (3), (4), (5), and (6) of paragraph (b) of section 17 of this regulation.

(j) No allocation made pursuant to this section may be sold, assigned or otherwise transferred.

(k) Each item listed in column 1 of the following schedule is a petrochemical if, and only if, it conforms to any notation opposite the item in column 2 and to the condition specified opposite the item in column 3. The conditions specified are as follows:

- A—Petrochemical must be recovered in a state of 90 percent purity.
- B—Petrochemical must be recovered in a state of 95 percent purity.
- C—Petrochemical must be recovered in a state of 98 percent purity (with respect to formaldehyde the percent stated is exclusive of water).
- D—Carbon atoms per average molecule must be greater than 30.

ALIPHATIC DERIVATIVES

(1) Petrochemical	(2) Limitations	(3) Condition
Acetaldehyde.....		B
Acetic Acid.....		A
Acetone.....		B
Acetonitrile.....		A
Acetylene.....		A
Acrolein.....		A
Acrylic Acid.....		A

ALIPHATIC DERIVATIVES—Continued

(1) Petrochemical	(2) Limitations	(3) Condition
Acrylonitrile.....		A
Alkyl Benzenes (Example, Dodecylbenzene).....		A
Alkyl Phenols (Example, Nonyl Phenol).....		A
Allyl Chloride.....		A
Allyl Alcohol.....		A
Butadiene.....		A
Butyl Alcohol.....		A
Butylbenzene.....		A
Butyl Ether.....		A
Butylene Glycol.....		A
Butylene Oxide.....		A
Butylphenol.....		A
Butyl Rubber.....	Only the content derived from butylene.	D
Butyraldehyde.....		A
Butyric Acid.....		A
Carbon Disulfide.....		A
Chloroform.....		A
Cumene.....		C
Cyclopentadiene.....		A
Decanol.....		A
Dichloropropene.....		A
Diethyl Ketone.....		A
Diisopropylbenzene.....		A
Dipropylene Glycol.....		A
Dodecanol.....		A
Ethanol.....		A
Ethyl Benzene.....		C
Ethylene Chlorohydrin.....		A
Ethyl Chloride.....		A
Ethyl Bromide.....		A
Ethylene Dibromide.....		A
Ethylene Dichloride.....		A
Ethyleneimine.....		A
Ethylene Oxide.....		D
Ethylene/Propylene Rubber.....	Must be a polymer; only the content derived from ethylene and propylene.	D
Ethyl Ether.....		A
2-Ethylhexanol.....		C
Ethyl Toluene.....		C
Formaldehyde.....		C
Hexanol-1.....		A
Hexadecanol-1.....		A
Hydrogen Cyanide.....		A
Isobutyraldehyde.....		A
Isobutyl Alcohol.....		A
Isooctyl Alcohol.....		A
Isoprene.....		A
Isopropyl Alcohol.....		A
Isopropyl Ether.....		C
Methanol.....		A
Methylacetylene.....		A
Methyl Chloride.....		A
Methylene Chloride.....		A
Methylcyclopentadiene.....		A
Methylethyl Ketone.....		A
Neo Acids (Example, Neopentanoic Acid).....		A
Nitrothane.....		A
Nitromethane.....		A
Nitropropane.....		A
Octanol.....		A
Oxo Alcohols.....		A
Propyl.....		
Amyl.....		
Hexyl.....		
Heptyl.....		
Octyl.....		
Nonyl.....		
Decyl.....		
Tridecyl.....		
Hexadecyl.....		
Polydecyl.....		
Perchloroethylene.....		A
Polybutylene, Polybutene.....	Only the content derived from butylene.	D
Polyethylene.....	Only the content derived from ethylene.	D
Polyisobutylene.....	Only the content derived from isobutylene.	D
Polyisoprene.....	Only the content derived from isoprene.	D
Polybutadiene.....	Only the content derived from butadiene.	D
Polypropylene.....	Only the content derived from propylene.	D
Propadiene.....		A
Propionic Acid.....		A
Propionaldehyde.....		A
Propylene Chlorohydrin.....		A
Propylene Dichloride.....		A

ALIPHATIC DERIVATIVES—Continued

(1) Petrochemical	(2) Limitations	(3) Con- dition
Propylene Oxide.....		A
Sec-Butyl Alcohol.....		B
Thermal Diene Resins.....	Only the content derived from C ₄ to C ₁₄ diolefins.	D
Tert-Butyl Paracresol.....		A
Tetradecanol.....		A
Trichloroethane.....		A
Trichloroethylene.....		A
Trimethylbenzene.....		C
Urea.....		A
Valeraldehyde.....		A
Vinyl Acetate.....		A
Vinyl Chloride.....		A

AROMATIC DERIVATIVES

Benzaldehyde.....	A
Benzyl Chloride.....	A
Benzyl Dichloride.....	A
Benzene Hexachloride.....	A
Benzene Sulfonic Acid.....	A
Benzole Acid.....	A
Benzotrifluoride.....	A
Benzoylbenzole Acid.....	A
Benzoyl Chloride.....	A
Butylbenzene.....	C
Butylphenol.....	A
Chlorobenzene.....	A
Chlorotoluene.....	A
Cumene.....	C
Cyclohexane.....	C
Dichlorobenzene.....	A
Dimethylterephthalate.....	A
Diphenyl.....	A
Dodecylbenzene (and other alkylated benzenes).....	A
Ethylbenzene.....	C
Ethyltoluene.....	C
Fumaric Acid.....	A
Isophthalic Acid.....	A
Maleic Anhydride.....	A
Methyl Cyclohexane.....	C
Naphthalene.....	A
Nitrobenzene:	
Mono.....	A
Di.....	A
Tri.....	A
Nitroxyline.....	A
Para-Tert-Butyltoluene.....	A
Para-Xylene Sulfonic Acid.....	A
Phthalic Anhydride.....	A
Sodium Benzene Sulfonate.....	A
Terphthalic Acid.....	A
Tetrachlorobenzene.....	A
Toluene Dithiocyanate.....	A
Toluene Sulfonic Acid.....	A
Toluene Sulfonyl Chloride.....	A
Toluic Acid.....	A
Vinyl Toluene.....	B

the FEDERAL REGISTER and shall fix a time within which applications must be filed. The provisions of subparagraph (2) of paragraph (c) of this section shall be applicable to such applications. The provisions of paragraph (e) of this section shall be applicable with respect to eligibility for, and computation of, such allocations, except that the base period shall be the period of 6 months ending March 31 of the calendar year in which the allocations are to be made.

(3) In the event that allocations are to be made for the last 6 months of a calendar year pursuant to subparagraph (1) of this paragraph, applicants who file applications within the time fixed by the Director shall be entitled to an allocation for the period of 6 months with respect to a heavy liquid plant which is scheduled to go on stream within that period or which came on stream before July 1. An allocation shall be computed as provided in paragraph (f) of this section, except that the estimated data on operations referred to in subparagraph (1) of paragraph (f) of this section shall pertain to the last 6 months of the calendar year and the actual and estimated data on operations referred to in subparagraph (2) of paragraph (f) of this section shall pertain to a period of 6 months beginning on the date on which the plant commenced operations. The provisions of subparagraphs (3), (4), and (5) of paragraph (f) of this section shall be applicable to allocations made under this subparagraph (3) of this paragraph (1).

[FR Doc.71-17820 Filed 12-2-71;11:24 am]

DEPARTMENT OF AGRICULTURE
Consumer and Marketing Service
[7 CFR Part 1040]
MILK IN SOUTHERN MICHIGAN
MARKETING AREA

Notice of Proposed Suspension of a Provision of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of a provision of the order regulating the handling of milk in the Southern Michigan marketing area is being considered for the months of January through June 1972.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provision proposed to be suspended is "yogurt" in § 1040.12. This section defines a "fluid milk product".

The suspension would result in yogurt being classified during the January-June 1972 period as a Class III product rather than as a Class I product. A similar suspension now in effect will expire on December 31, 1971.

Several handlers in the Southern Michigan market have requested that the present suspension be continued for 6 months beyond the December 31 expiration date. These parties allege that the marketing conditions prompting the earlier suspension action have not changed materially. They maintain that unless the suspension is continued Southern Michigan handlers will be unable to compete for yogurt sales with handlers in neighboring markets who pay a minimum price for milk in such use that is substantially less than the Southern Michigan Class I price.

In requesting the proposed suspension the handlers urged that a hearing in the Southern Michigan market to consider the appropriate classification to be accorded milk used to produce yogurt be held after a final decision is issued on a uniform plan of milk classification for seven Midwest markets and a recommended decision is issued on a similar plan for an additional 33 Midwest and Southern milk orders. A recommended decision for the seven Midwest orders was issued June 4, 1971. A hearing on the 33 additional orders was completed November 18, 1971. These orders include several in which Michigan handlers are distributing yogurt.

Signed at Washington, D.C., on December 1, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-17786 Filed 12-3-71;8:49 am]

[9 CFR Parts 301, 312, 327]

MEAT INSPECTION REGULATIONS

Proposal Regarding Import Inspection Establishments

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553 that pursuant to the Federal Meat Inspection Act, as amended by the Wholesome Meat Act (21 U.S.C. 601 et seq.), the Consumer and Marketing Service proposes to amend Parts 301, 312 and 327 of the Federal meat inspection regulations (9 CFR Parts 301, 312, and 327, 35 F.R. 15552, as amended) as set forth below.

Statement of considerations. The proposed amendments to the regulations would require that import inspection of meat products under the act be performed only in official establishments or at other approved facilities which provide adequate sanitation and facilities for such inspections.

Over 1½ billion pounds of meat products are imported into the United States annually. All these meat products are

subject to inspection by Department of Agriculture inspectors before being released for distribution in domestic commerce. The products presented for inspection come in various forms ranging from carcasses to canned goods. Representative samples of each lot of meat or meat products must be made available and ready for inspection.

The proposed amendments intend to facilitate inspections and insure a sanitary environment in which inspections can be properly performed. Recent studies have shown the need for improving the facilities provided for such inspections.

Import inspections would be carried out only in plants with Federal meat inspection grants, or in facilities designated as "official import inspection establishments" by the Administrator. An application would be a prerequisite before any facility could be so designated.

Certain classes of applicants would be required to submit drawings showing essential sanitary features and equipment. Those meeting the specified requirements as a condition of their eligibility would secure approval as official import inspection establishments.

Product passed for entry would be marked with inspection legends showing the number assigned to the official establishment or to the official import inspection establishment, as appropriate.

1. In Part 301, a new paragraph would be added to § 301.2 to read as follows:
§ 301.2 Definitions.

(iii) *Official import inspection establishment.* This term means any establishment, other than an official establishment as defined in paragraph (i) of this section, where inspections are authorized to be conducted as prescribed in § 327.6 of this subchapter.

2. Section 312.7 would be amended to read:

§ 312.7 Official import inspection marks and devices.

(a) When import inspections are performed in official import inspection establishments, the official inspection legend, required by Part 327 of this subchapter, to be applied to imported meat and meat food products shall be in the appropriate form and size¹ as hereinafter specified:



FOR APPLICATION TO CARCASSES, PRIMAL PARTS OF A CARCASS, AND CUTS THEREFROM

¹ The number I-38 is given as an example only. The establishment number of the official import inspection establishment where the product is inspected shall be used in lieu thereof.



FOR APPLICATION TO THE OUTSIDE CONTAINER

(b) When import inspections are performed in official establishments, the official inspection legend, required by Part 327 of this subchapter, to be applied to imported meat and meat food products shall be the appropriate form as specified in § 312.2 of this Part.

(c) When products are refused entry into the United States, the official mark, required by Part 327 of this subchapter, to be applied to the products refused entry shall be in the following form:



(d) Devices for applying such marks will be furnished to Program inspectors by the Department.

3. Section 327.5 would be amended to read:

§ 327.5 Importer to make application for inspection of products for importation; information required.

(a) Each importer shall apply for inspection of any product for importation to the officer in charge, if one is stationed at the port where such product is to be offered for entry. Otherwise, application for inspection shall be made to the Administrator, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

(b) The application should be made as long as possible in advance of the anticipated arrival of each consignment, except in case of consignments of products expressly exempted from inspection by §§ 327.16 and 327.17.

(c) Each application shall state the approximate date on which the consignment is due to arrive at such port in the United States, the name of the ship or other carrier transporting it, the name of the country from which the product

was, or is to be, shipped, the place where inspection is desired in accordance with § 327.6, the quantity and kind of product, and whether it is fresh, cured, canned or otherwise prepared. In case of consignments arriving in the United States by water, the application shall also state the port of first arrival in the United States.

4. In § 327.6, paragraphs (b) through (j) would be deleted, the section heading would be amended, and new paragraphs (b) through (h) would be issued to read, respectively:

§ 327.6 Products for importation; program inspection, time and place; application for approval of facilities as official import inspection establishment; refusal or withdrawal of approval; official numbers.

(b) All products, required by this part to be inspected, shall be inspected only at an official establishment or at an official import inspection establishment approved by the Administrator as provided in this section. Such approved official import inspection establishments will be listed in the Directory of Meat and Poultry Inspection Program Establishments, Circuits and Officials, published by the Consumer and Marketing Service. The listing will categorize the kind or kinds of product² which may be inspected at each official import inspection establishment, based on the adequacy of the facilities for making such inspections and handling such products in a sanitary manner.

(c) Owners or operators of facilities, other than official establishments, who want to have import inspections made at their facilities, shall apply to the Administrator for approval of their facilities for such purpose. Application shall be made on a form furnished by the Program, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C., and shall include all information called for by that form.

(d) Each applicant seeking approval of his facilities for import inspections shall submit to the Administrator necessary drawings with specifications to determine compliance with the requirements of this section. Approval shall be sought in accordance with § 304.2(a) of this subchapter. Submission of drawings is not required if the applicant's facilities are operated under a State inspection program in a State not listed in § 331.2 of this subchapter.

(e) Owners or operators of establishments at which import inspections of product are to be made shall furnish adequate sanitary facilities and equipment for examination of such product. The requirements of §§ 304.2(e), 307.1, 307.2 (b), (d), (f), (h), (k), and (l) and 308.3, 308.4, 308.5, 308.6, 308.7, 308.8, 308.9, 308.11, 308.13, 308.14, and 308.15 of this subchapter shall apply as conditions for approval of facilities as official import inspection establishments to the same extent and in the same manner as

² For example: Canned product, boneless meat, or carcasses and cuts.

they apply with respect to official establishments.

(f) The Administrator is authorized to approve any facility as an official import inspection establishment provided that an application has been filed and drawings have been submitted in accordance with the requirements of paragraphs (c) and (d) of this section and he determines that such facility meets the requirements under paragraph (e) of this section. If he determines that the facility does not meet such requirements, he is authorized, in accordance with applicable rules of practice, to refuse approval of the facility as an official import inspection establishment. A written notice, specifying the premises to which the approval applies, shall be given to each applicant granted approval. When approval is refused for any such reason, the applicant shall be informed of the action and the reason therefor. Approval may also be refused in accordance with § 401 of the act and applicable rules of practice.

(g) The Administrator may withdraw approval from an official import inspection establishment in accordance with applicable rules of practice if he determines that the sanitary conditions are such that the product is rendered adulterated, that such action is authorized by section 21(b) of the Federal Water Pollution Control Act, as amended (84 Stat. 91), or that the requirements of paragraph (e) of this section were not complied with.

(h) A special official number shall be assigned to each official import inspection establishment. Such number shall be used to identify all products inspected and passed for entry at the establishment.

5. In § 327.7, paragraph (g) would be amended to read:

§ 327.7 Products for importation; movement prior to inspection; sealing; handling; bond; facilities and assistance.

(g) The consignee or his agent shall provide such assistance as Program inspectors may require for the handling and marking of product offered for entry.

Any interested persons who desire to present any views, arguments, or data concerning the proposed amendments of the regulations set forth above may do so by filing their comments in writing, in duplicate, with the Office of the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, within 60 days after publication hereof in the FEDERAL REGISTER. All such written submissions will be made available for public inspection at said office during regular office hours in a manner convenient to the public business (7 CFR 1.27(b)). Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C. on November 30, 1971.

RICHARD E. LYG, Assistant Secretary.

[FR Doc.71-17674 Filed 12-3-71;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Imposition of Tax on Nonresident Alien Individuals, Return Requirements, and Declarations of Estimated Income Tax

Correction

In F.R. Doc. 71-14520 appearing at page 19371 in the issue of Tuesday, October 5, 1971, the following changes should be made:

1. In the 17th line of § 1.871-8(d), the citation reading "section 371(a)" should read "section 871(a)".

2. Under example (3) of § 1.871-13(e), the space in the computation tables under deductions for personal exemptions following the entry for wife and three children should reflect a deduction of "\$1,750", so that the total of the taxpayer's deduction of "\$650" and the deduction for a wife and three children would total the "\$2,400" allowable deduction.

FEDERAL POWER COMMISSION

[18 CFR Part 141]

[Docket No. R-432]

MONTHLY REPORT OF COST AND QUALITY OF FUELS FOR STEAM-ELECTRIC PLANT

Notice of Proposed Rule Making

NOVEMBER 26, 1971.

Notice is hereby given that, pursuant to 5 U.S.C. 553 and sections 202, 301, 304(a), 309, and 311 of the Federal Power Act (49 Stat. 848, 849, 854, 755, 856, 858, 859; 67 Stat. 461; 16 U.S.C. 824a 825, 825c (a), 825h, 825j) the Commission proposed to amend Part 141—Statements and Reports (Schedules) in Subchapter D—Approved Forms, Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations, by adding a new § 141.61 prescribing collection of monthly fuel costs and quality determinants of fuel received at steam generating plants of electric utilities through proposed FPC Form No. 423.

The reasons for promulgation of the proposed Form No. 423 are: (a) To provide monthly information on the availability and cost of fossil fuels to electric utility companies for use in current analyses of the energy and fuel supply situation and the effects on the cost of electric power; (b) to provide timely data on a comparable basis for each type of fuel by quality determinants, thus facilitating the evaluation of developments in fuel supply which may affect the reliability of electric service, emergency preparedness, and the environmental improvement programs for the different air quality control regions in the United States; and (c) to assist the Commission

generally in the proper administration of the Federal Power Act.

Preparatory to issuance of the proposed FPC Form No. 423 for comment, OMB after public notice held a meeting attended by representatives of OEP, EPA, and other interested persons respecting the need for and usefulness of the information which would be collected on the proposed form.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than December 27, 1971, data, views, comments or suggestions in writing concerning all or part of the amendment proposed herein. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C. 20426, during regular business hours. The Commission will consider all such written submittals before acting on the matters herein proposed. An original and 14 conformed copies should be filed with the Secretary of the Commission. In addition, interested persons wishing to have their comments considered in the clearance of the proposed FPC Form No. 423 pursuant to 44 U.S.C. 3501-3511 may, at the same time, submit a conformed copy of their comments directly to the Clearance Officer, Office of Statistical Policy, Office of Management and Budget, Washington, D.C. 20503. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposal should be addressed, and whether the person filing them requests a conference with the staff of the Federal Power Commission to discuss the proposed amendment. The staff, in its discretion, may grant or deny requests for conference.

The proposed amendment to Part 141—Statements and Reports (Schedules), prescribing new FPC Form No. 423 would be issued under authority granted the Federal Power Commission by the Federal Power Act as amended, particularly sections 202, 301, 304(a), 309, and 311 (49 Stat. 848, 849, 854, 855, 856, 858, 859; 67 Stat. 461; 16 U.S.C. 824a, 825, 824c (a), 825h, 825j).

Accordingly, it is proposed to amend Part 141—Statements and Reports (Schedules) in Subchapter D—Approved Forms, Federal Power Act, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 141.61 prescribing new FPC Form No. 423, Monthly Report of Cost and Quality of Fuel for Steam-Electric Plant, in the form set out in Attachment A hereto.¹ New § 141.61 will read:

§ 141.61 Form No. 423, Monthly Report of Cost and Quality of Fuel for Steam-Electric Plant.

Form No. 423 is designed to obtain monthly data on the cost and quality of fuels received at steam-electric generating plants. A separate form is to be completed by each electric power producer for each of its steam-electric generating plants with a capacity of 25

¹ Filed as part of the original.

PROPOSED RULE MAKING

megawatts or greater during the reporting month. The completed form is due the 35th day after the close of the reference month. Forms No. 423 submitted by public utilities and any other information obtained by staff audit of said forms shall be confidential information not available to the public or any other agency of Government except insofar as may be directed by the Commission or by a court. The provisions of section 301(b) of the Federal Power Act (16 U.S.C. 825) and section 3 of the Freedom of Information Act (5 U.S.C. 552(b) (4)) shall control. The data received on

Forms 423 may be composited and made available to the public and other agencies of Government in a manner that will not compromise the confidentiality of the individual Form No. 423 or all Forms No. 423 filed by a public utility.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17772 Filed 12-3-71;8:49 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 71-286]

EXCESS COST OF PRECLEARANCE OPERATIONS

Reimbursable Services

NOVEMBER 26, 1971.

Notice is hereby given that pursuant to § 24.18(d), Customs regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning November 14, 1971.

Installation	Biweekly excess cost
Montreal, Canada.....	\$3,855
Toronto, Canada.....	5,328
Kindley Field, Bermuda.....	2,336
Nassau, Bahama Islands.....	3,678
Vancouver, Canada.....	1,462
Winnipeg, Canada.....	764

[SEAL] **MYLES J. AMBROSE,**
Commissioner of Customs.

[FR Doc.71-17739 Filed 12-3-71;8:50 am]

Fiscal Service

[Dept. Circ. 570, 1971 Rev., Supp. No. 6]

LEATHERBY INSURANCE COMPANY

Surety Company Acceptable on Federal Bonds

A Certificate of Authority as an acceptable surety on Federal bonds has been issued by the Secretary of the Treasury to the following company under sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of \$410,000.00 has been established for the company.

Name of company, location of principal executive office, and State in which incorporated:

Leatherby Insurance Company
Fullerton, California
New York

Certificates of Authority expire on June 30 each year, unless sooner revoked, and new Certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the Circular, when issued, may be obtained from the Treasury Department,

Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: November 30, 1971.

[SEAL] **JOHN K. CARLOCK,**
Fiscal Assistant Secretary.

[FR Doc.71-17738 Filed 12-3-71;8:47 am]

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

AMPHETAMINES AND METHAMPHETAMINE

Notice of Proposed Aggregate Production Quotas

On April 24, 1971, § 303.42 of the regulations implementing the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.) was published in the FEDERAL REGISTER (36 F.R. 7789). This section required that all persons requesting a 1972 procurement quota, according to § 308.12 of the regulations, or a 1972 individual manufacturing quota, according to § 303.22 of the regulations, for basic classes of controlled substances listed in §§ 308.11 (schedule I) and 308.12 (schedule II) of the regulations, file an appropriate application with the Bureau by September 1, 1971.

On July 7, 1971, a final order was published in the FEDERAL REGISTER (36 F.R. 12734) transferring all amphetamines and methamphetamine into schedule II of the Act. Thus, all persons manufacturing or procuring, for compounding and formulating, amphetamines and methamphetamine prior to the rescheduling, who desired to continue to do so in 1972, were required to submit their quota requests to the Bureau by September 1, 1971.

On August 12, 1971, the Distribution Audit Branch of the Bureau mailed to all manufacturers of schedule I and II controlled substances, including those manufacturing or procuring, for compounding or formulating, amphetamines and methamphetamine, a letter of explanation of the quota procedure. Also enclosed were the appropriate Bureau forms (BND-250 or BND-189) and a comprehensive list of all the controlled substances included within schedules I and II. The date for submission to the Bureau of the quota applications was extended until September 10, 1971.

In view of the failure of a majority of those who in 1971 manufactured or procured, for compounding or formulating, amphetamines and methamphetamine to file the necessary applications to obtain their 1972 quotas, on October 15, 1971,

the Bureau published a notice in the FEDERAL REGISTER (36 F.R. 20038) extending the time within which to submit the appropriate quota applications to October 29, 1971.

In determining amphetamine and methamphetamine aggregate production quotas for 1972, which are adequate to provide for the

(1) Estimated medical, scientific, research and industrial needs of the United States;

(2) Lawful export requirements; and

(3) Establishment and maintenance of reserve stocks, the Bureau has considered the following as required by section 306 of the CSA (21 U.S.C. 826) and § 303.11 of Title 21 of the Code of Federal Regulations:

(1) Total net disposal by manufacturers during the current and preceding 2 years and trends in the national rate of net disposal, which indicate a substantial decrease over the past 3-year period and a significant downward trend;

(2) Total actual (or estimated) inventory of amphetamine and methamphetamine and of all substances manufactured from them and trends in inventory accumulation, which also indicate a substantial decrease in inventory accumulation over the past 3-year period and a significant downward trend;

(3) Projected demand as indicated by procurement quotas requested pursuant to § 303.12 of Title 21 of the Code of Federal Regulations; and

(4) Other relevant factors affecting the medical, scientific, research and industrial needs in the United States and lawful export requirements, including:

(a) Changes in currently accepted medical use in treatment with amphetamines and methamphetamine or substances which are manufactured from them, as follows:

(i) Voluntary restrictions upon prescribing, administering, and dispensing of amphetamines and methamphetamine, except for highly limited and selective indications such as narcolepsy and hyperkinesia, adopted by an ever increasing number of medical and pharmacy associations and societies throughout the United States;

(ii) The American Medical Association's support for stronger controls over amphetamine and methamphetamine as indicated by its House of Delegates' adoption of a resolution supporting the Bureau's transfer of these substances to Schedule II resulting in increased restrictions, including production quotas, and urging all physicians to limit their use of these substances to specific well-recognized medical indications; and

(iii) The Food and Drug Administration's order published in the FEDERAL REGISTER of August 8, 1970 by which it

severely curtailed the prescribing, administering or dispensing of amphetamine and methamphetamine for exogenous obesity;

(b) Economic and physical availability of raw materials for use in manufacturing and for inventory purposes;

(c) Yield and stability problems;

(d) Potential disruptions to production; and

(e) Unforeseen emergencies.

The final factor considered by the Bureau was the estimate by Health, Education, and Welfare of legitimate needs in the United States for 1972. HEW recommended that 1972 legitimate needs in the United States could be met by a 40 percent reduction in the 1971 consumption level of amphetamines and methamphetamine in the United States.

Based upon consideration of the above factors, the Director, Bureau of Narcotics and Dangerous Drugs, under the authority vested in the Attorney General by section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, proposes that the aggregate production quotas for 1972 for amphetamines and methamphetamine, expressed in kilograms as the anhydrous alkaloid, be established as follows:

Basic class	Produced —1971	Requested	Granted
Amphetamine.....	9,356	19,956	5,870
Methamphetamine....	4,926	8,941	2,782

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Room 611, 1405 Eye Street NW., Washington, DC 20537, and must be received by January 3, 1972.

Dated: December 2, 1971.

JOHN FINLATOR,
Acting Director, Bureau of
Narcotics and Dangerous Drugs.

[FR Doc.71-17854 Filed 12-3-71;8:52 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management CALIFORNIA

Notice of Proposed Withdrawal and Reservations of Lands

NOVEMBER 29, 1971.

The Bureau of Reclamation, U.S. Department of the Interior has filed an application, Serial No. R 4558, for the withdrawal of lands described below from all forms of appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, subject to valid existing rights. The applicant desires the land for control of the Colorado River and for recreational uses in

connection with the Colorado River Front Work and Levee System.

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, Department of the Interior, 1414 University Avenue, Post Office Box 723, Riverside, CA 92502.

The Department's regulations, 43 CFR 2351.4(c), provide 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 need, to provide for the maximum concurrent utilization of the lands for purposes other 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 or not 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:

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 8 N., R. 23 E.,
Sec. 10, lot 6.

Containing 17.55 acres in San Bernardino County, Calif.

WALTER F. HOLMES,
Assistant Land Office Manager.

[FR Doc.71-17719 Filed 12-3-71;8:46 am]

Geological Survey

[Power Site Cancellation 273]

GUNNISON RIVER, COLO.

Notice of Power Site Cancellation

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classifications 102 and 441 are hereby canceled to the extent that they affect the following described land:

Power Site Classification 102 of May 14, 1925:

NEW MEXICO PRINCIPAL MERIDIAN

T. 51 N., R. 1 E.,
Sec. 11, lots 1 and 2;
Sec. 13, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 14, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 23, SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 27, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$.

SIXTH PRINCIPAL MERIDIAN

T. 15 S., R. 83 W.,
Sec. 1, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
Sec. 2, lots 1 to 4, inclusive, S $\frac{1}{2}$ N $\frac{1}{2}$, and S $\frac{1}{2}$;
Sec. 3, S $\frac{1}{2}$;
Sec. 4, SE $\frac{1}{2}$;
Sec. 8, lots 1 to 5, inclusive;
Sec. 9, lots 1 to 7, inclusive, N $\frac{1}{2}$ N $\frac{1}{2}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 10;
Sec. 11, N $\frac{1}{2}$;
Sec. 17, lots 1 and 2.
T. 15 S., R. 84 W.,
Sec. 13, S $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 22, SE $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 23, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, and S $\frac{1}{2}$;
Sec. 24, NW $\frac{1}{4}$;
Sec. 27, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$;
Sec. 28, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$;
Sec. 29, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 31, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 32, N $\frac{1}{2}$ and SW $\frac{1}{4}$;
Sec. 33, N $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ NW $\frac{1}{4}$.
Area—5,932.96 acres.
Power Site Classification 441 of January 23, 1958:

SIXTH PRINCIPAL MERIDIAN

T. 15 S., R. 84 W.,
Sec. 21, E $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 22, NW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 26, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 27, SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$;
Sec. 29, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 30, E $\frac{1}{2}$ NE $\frac{1}{4}$ and NW $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 31, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 32, N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 33, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 34, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 35, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$.
Area—1,480.00 acres.

The total area described aggregates about 7,413 acres.

Dated: November 26, 1971.

W. A. RADLINSKI,
Acting Director.

[FR Doc.71-17720 Filed 12-3-71;8:46 am]

[Power Site Classification 462]

NORTH FORK PAYETTE RIVER, IDAHO

Notice of Power Site Classification

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, the following described land is hereby classified as power sites insofar as title thereto remains in the United States and subject to valid existing rights; and this classification shall have full force and effect under the provisions of sec. 24 of the Act of June 10, 1920, as amended by sec. 211 of the Act of August 26, 1935 (16 U.S.C. 818):

BOISE MERIDIAN

T. 11 N., R. 3 E.,
All unsurveyed islands of the North Fork Payette River located in secs. 10, 14, 15, 22, and 23.

The area described aggregates about 6 acres.

Dated: November 24, 1971.

W. A. RADLINSKI,
Acting Director.

[FR Doc.71-17721 Filed 12-3-71;8:46 am]

[Power Site Cancellation 250]

SIUSLAW RIVER, OREG.**Notice of Power Site Cancellation**

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and 220 Departmental Manual 6.1, Power Site Classification 41 of June 7, 1922, is hereby canceled to the extent that it affects the following described land:

WILLAMETTE MERIDIAN

T. 20 S., R. 6 W.,
Sec. 3, lots 14 and 16.
T. 17 S., R. 9 W.,
Sec. 34, SE $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 17 S., R. 10 W.,
Sec. 22, SW $\frac{1}{4}$ NE $\frac{1}{4}$.

The area described aggregates about 172 acres.

Dated: November 24, 1971.

W. A. RADLINSKI,
Acting Director.

[FR Doc.71-17722 Filed 12-3-71;8:46 am]

DEPARTMENT OF AGRICULTURE**Agricultural Stabilization and Conservation Service****PUERTO RICO****Notice of Hearing on Proportionate Shares for 1972-73 Crop**

Notice is hereby given that the Secretary of Agriculture acting pursuant to the Sugar Act of 1948, as amended, is preparing to conduct a public hearing to receive views and recommendations from all interested persons on the possible need for establishing proportionate shares for the 1972-73 sugarcane crop in Puerto Rico.

In accordance with the provisions of paragraph (1), subsection (b) of section 302 of the Sugar Act of 1948, as amended, the Secretary must determine for each crop year whether the production of sugar from any crop of sugarcane in Puerto Rico will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination may be made only after due notice and opportunity for an informal public hearing.

The hearing on this matter will be conducted in Room 4711, South Building, U.S. Department of Agriculture, Washington, D.C., beginning at 10:00 a.m. on December 22, 1971.

Views and recommendations are desired on all phases of the proportionate share program. They may be submitted in writing, in triplicate, at the hearing, or may be mailed to the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250,

postmarked not later than January 7, 1972. Interested persons will be given the opportunity at the hearing to appear and submit orally data, views and arguments in regard to the establishment of proportionate shares.

Restrictions on the marketing of sugarcane in Puerto Rico have not been in effect since the 1955-56 crop. The area has not marketed all of its mainland basis sugar quota in recent years. Prospects for the 1971-72 crop indicate that production will again fall short of the area's mainland basic quota.

All written submissions made pursuant to this notice will be made available for public inspection at such times and places in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on November 30, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-17736 Filed 12-3-71;8:46 am]

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[Docket No. B-526]

WARREN C. APEL, JR.**Notice of Loan Application**

DECEMBER 2, 1971.

Warren C. Apel, Jr., 161 Ocean Avenue, East Keansburg, NJ 07734, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new steel vessel, about 42-foot in length, to engage in the fishery for lobsters, whiting, hake, and cod.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.71-17840 Filed 12-3-71;8:52 am]

[Docket No. Sub-B-69]

NEW ATLANTIC, INC.**Notice of Supplemental Hearing**

DECEMBER 2, 1971.

On September 25, 1970, the Presiding Officer approved the application of North Atlantic Marine Enterprises, Inc., for a construction differential subsidy in connection with the construction of a 92-foot length overall steel stern trawler to engage in the fishery for groundfish (cod, cusk, haddock, hake, ocean perch, and pollock), flounders, industrial fish, herring, scallops, swordfish, tuna, shrimp, crabs, scup, and lobsters. On or about August 23, 1971, North Atlantic Marine Enterprises, Inc., was merged into New Atlantic, Inc., a Delaware corporation. As a result of said merger a supplemental hearing is required with respect to certain determinations.

Notice is hereby given pursuant to the provisions of the U.S. Fishing Fleet Improvement Act (Public Law 88-498) and notice and hearing on subsidies (50 CFR Part 257) that a hearing in the above-entitled proceedings will be held on January 5, 1972, at 10 a.m., e.s.t., in Room 730, 1325 G Street NW., Washington, DC, to determine whether (a) New Atlantic, Inc., is a citizen of the United States within the meaning of the aforesaid Act and related regulations and (b) it possesses the ability, experience, resources and other qualifications necessary to enable it to construct, operate, and maintain its proposed fishing vessel. Any person desiring to intervene must file a petition of intervention with the Director, National Marine Fisheries Service, as prescribed in 50 CFR Part 257, at least 10 days prior to the date set for the hearing. If such petition of intervention is granted, the place of the hearing may be changed to a field location. Telegraphic notice will be given to the parties in the event of such a change, along with the new location.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.71-17837 Filed 12-3-71;8:51 am]

[Docket No. Sub-B-70]

NEW ATLANTIC, INC.**Notice of Supplemental Hearing**

DECEMBER 2, 1971.

On September 25, 1970, the Presiding Officer approved the application of North Atlantic Marine Enterprises, Inc., for a construction differential subsidy in connection with the construction of a 92-foot length overall steel stern trawler to engage in the fishery for groundfish (cod, cusk, haddock, hake, ocean perch, and pollock), flounders, industrial fish, herring, scallops, swordfish, tuna, shrimp, crabs, scup, and lobsters. On or about August 23, 1971, North Atlantic Marine Enterprises, Inc., was merged into New Atlantic, Inc., a Delaware corporation. As a result of said merger a supplemental

hearing is required with respect to certain determinations.

Notice is hereby given pursuant to the provisions of the U.S. Fishing Fleet Improvement Act (Public Law 88-498) and notice and hearing on subsidies (50 CFR Part 257) that a hearing in the above-entitled proceedings will be held on January 5, 1972, at 10 a.m., e.s.t., in Room 730, 1325 G Street NW., Washington, DC, to determine whether (a) New Atlantic, Inc., is a citizen of the United States within the meaning of the aforesaid Act and related regulations and (b) it possesses the ability, experience, resources and other qualifications necessary to enable it to construct, operate, and maintain its proposed fishing vessel. Any person desiring to intervene must file a petition of intervention with the Director, National Marine Fisheries Service, as prescribed in 50 CFR Part 257, at least 10 days prior to the date set for the hearing. If such petition of intervention is granted, the place of the hearing may be changed to a field location. Telegraphic notice will be given to the parties in the event of such a change, along with the new location.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.71-17838 Filed 12-3-71;8:51 am]

[Docket No. Sub-B-71]

NEW ATLANTIC, INC.

Notice of Supplemental Hearing

DECEMBER 2, 1971.

On September 25, 1970, the Presiding Officer approved the application of North Atlantic Marine Enterprises, Inc., for a construction differential subsidy in connection with the construction of a 92-foot length overall steel stern trawler to engage in the fishery for groundfish (cod, cusk, haddock, hake, ocean perch, and pollock), flounders, industrial fish, herring, scallops, swordfish, tuna, shrimp, crabs, scup, and lobsters. On or about August 23, 1971, North Atlantic Marine Enterprises, Inc., was merged into New Atlantic, Inc., a Delaware corporation. As a result of said merger a supplemental hearing is required with respect to certain determinations.

Notice is hereby given pursuant to the provisions of the U.S. Fishing Fleet Improvement Act (Public Law 88-498) and notice and hearing on subsidies (50 CFR Part 257) that a hearing in the above-entitled proceedings will be held on January 5, 1972, at 10 a.m., e.s.t., in Room 730, 1325 G Street, NW Washington, DC, to determine whether (a) New Atlantic, Inc., is a citizen of the United States within the meaning of the aforesaid Act and related regulations and (b) it possesses the ability, experience, resources and other qualifications necessary to enable it to construct, operate, and maintain its proposed fishing vessel. Any per-

son desiring to intervene must file a petition of intervention with the Director, National Marine Fisheries Service, as prescribed in 50 CFR Part 257, at least 10 days prior to the date set for the hearing. If such petition of intervention is granted, the place of the hearing may be changed to a field location. Telegraphic notice will be given to the parties in the event of such a change, along with the new location.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.71-17839 Filed 12-3-71;8:52 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ARGUS CHEMICAL CORP.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348(b) (5)), notice is given that a petition (FAP 2B2747) has been filed by Argus Chemical Corp., 633 Court Street, Brooklyn, N.Y. 11231, proposing that § 121.2566 *Antioxidants and/or stabilizers for polymers* (21 CFR 121.2566) be amended to provide for the safe use of 4,4'-isopropylidenediphenol alkyl (C₁₂-C₁₅) phosphite as a stabilizer in the manufacture of rigid vinyl chloride plastics intended for food-contact use.

Dated: November 24, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-17778 Filed 12-3-71;8:51 am]

WELLS LABORATORIES, INC.

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786; 21 U.S.C. 348(b) (5)), notice is given that a petition (FAP 2B2749) has been filed by Wells Laboratories, Inc., 25 Lewis Avenue, Jersey City, N.J. 07306 proposing that § 121.2526 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 121.2526) be amended to provide for the safe use of dimethyl glutarate, in the preparation of polyamide-epichlorohydrin water-soluble thermosetting resins intended for use in the manufacture of paper and paperboard in contact with aqueous and fatty foods.

Dated: November 24, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-17779 Filed 12-3-71;8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA-Petition No. 17]

ALGERS, WINSLOW & WESTERN
RAILWAY CO.

Petition for Exemption From 14-Hours-of-Service Limitation

By petition filed November 22, 1971, the Algiers, Winslow & Western Railway Co. asks that its exemption from the 14-hours-of-service limitation in Public Law 91-169 be renewed for an additional 1-year period.

The purpose of this notice is to inform the general public of the pendency of the petition and to invite comments or views. Such comments or views should be filed with the Docket Clerk, Office of Hearings and Proceedings, Federal Railroad Administration, RA-30, 400 Seventh Street SW., Washington, DC 20590, on or before December 21, 1971.

Issued this 30th day of November 1971 in Washington, D.C.

ROBERT R. BOYD,
Director, Office of Hearings and Proceedings and Hearing Examiner.

[FR Doc.71-17785 Filed 12-3-71;8:49 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-348, 50-364]

ALABAMA POWER CO.

Supplementary Notice of Hearing on Application for Construction Permits

On July 23, 1971, a notice of hearing on application for construction permits was published by the Atomic Energy Commission (the Commission) in the FEDERAL REGISTER (36 F.R. 13699) in the captioned proceeding. That notice designated an Atomic Safety and Licensing Board (Board) to conduct the hearing, specified the issues to be determined by the Board, provided an opportunity to intervene with respect to the issues specified in such notice to persons whose interests may be affected by the proceeding and provided an opportunity to make a limited appearance to other persons who wished to make a statement in the proceeding but who did not wish to intervene.

On September 9, 1971, the Commission published a revision of its regulations in 10 CFR Part 50, Appendix D, Implementation of the National Environmental Policy Act of 1969 (36 F.R. 18071), to set forth an interim statement of Commission policy and procedure for

implementation of the National Environmental Policy Act of 1969 (NEPA).¹ The revised regulations require the consideration of additional matters in applicants' environmental reports and in detailed statements of environmental considerations and provide for determination by the presiding Atomic Safety and Licensing Boards in pending proceedings of specified issues in addition to and different from those previously in issue in AEC licensing proceedings.

Notice is hereby given, pursuant to 10 CFR Part 2, Rules of Practice, and Appendix D of 10 CFR Part 50, Licensing of Production and Utilization Facilities, that in the conduct of the captioned proceeding, the Atomic Safety and Licensing Board will, in addition to considering and determining the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the notice of hearing in this proceeding published on July 23, 1971, consider and make determinations, pursuant to the National Environmental Policy Act of 1969, on the matters set forth below:

1. In the event that this proceeding is not a contested proceeding as defined by 10 CFR 2.4(n) of the Commission's rules of practice, the Board will determine whether the environmental review conducted by the Commission's regulatory staff pursuant to Appendix D of 10 CFR Part 50 has been adequate.

2. In the event that this proceeding is or becomes a contested proceeding, the Board will decide all matters in controversy among the parties with respect to matters within the scope of Appendix D of 10 CFR Part 50, and will consider and decide whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the construction permits should be issued as proposed.

3. Regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (a) determine whether the requirements of section 102(2) (C) and (D) of NEPA and Appendix D of 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; (b) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view toward determining the appropriate action to be taken; (3) determine whether the construction permits should be granted, denied or appropriately conditioned to protect environmental values.

This notice supersedes the Notice of Hearing published on July 23, 1971, with respect to the matters which may be raised under paragraph A.11 of Appendix D of 10 CFR Part 50, but does not affect the status of any person previously ad-

mitted as a party to this proceeding or provide an additional opportunity to any person to intervene on the basis of, or to raise matters encompassed within, the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the prior above-referenced notice of hearing.

As they become available, any new or supplemental environmental report, and any new or supplemental detailed statement required by Appendix D of 10 CFR Part 50 will be placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public. Copies of these documents will also be made available at the George S. Houston Memorial Library, 212 West Vurdeshaw Street, Dothan, AL, for inspection by members of the public during regular business hours. A copy of any new or supplemental detailed statement prepared and, to the extent of supply, a copy of any new or supplemental environmental report filed, may be obtained, when available, by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified in this Notice, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

Any person whose interest may be affected by the proceeding who does not wish to make a limited appearance and who wishes to participate as a party in the proceeding with respect to the issues set forth in this notice must file a petition for leave to intervene.

Petitions for leave to intervene, pursuant to the provisions of 10 CFR 2.714 of the Commission's rules of practice, must be received in the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. The petitions shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner in reasonably specific detail. A petition which sets forth contentions relating to matters outside of the issues specified in this notice will be denied. A petition for leave to intervene which is not timely will be

denied unless, in accordance with 10 CFR 2.714, the petitioner shows good cause for failure to file it on time.

A person permitted to intervene becomes a party to the proceeding, and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, or an amended answer with respect to the issues specified in this notice, must be filed by the applicant, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER. Parties already participating in this proceeding as intervenors with respect to the issues specified in the notice of hearing dated July 23, 1971, must also file an answer with respect to the issues specified in this notice not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER, in accordance with the requirements of 10 CFR 2.705 of the Commission's rules of practice.

Answers and petitions required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

The date and place of further hearings will be set by subsequent order of the Board and notice thereof will be provided to the parties, including persons granted leave to intervene on issues set forth in this notice, and will be published in the FEDERAL REGISTER. In setting these dates, due regard will be had for the convenience and necessity of the parties or their representatives, as well as Board members.

Dated at Germantown, Md., this 29th day of November 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc.71-17730 Filed 12-3-71;8:46 am]

[Dockets Nos. 50-329, 50-330]

CONSUMERS POWER CO.

Supplementary Notice of Hearing on Application for Construction Permits

On October 29, 1970, a notice of hearing on application for construction permits was published by the Atomic Energy

¹The Commission adopted certain minor amendments to revised Appendix D which were published in the FEDERAL REGISTER on Sept. 30, 1971 (36 F.R. 19158). The Commission adopted certain additional amendments to revised Appendix D with respect to proceedings subject to section D thereof which were published in the FEDERAL REGISTER on Nov. 11, 1971 (36 F.R. 21579).

Commission (the Commission) in the FEDERAL REGISTER (35 F.R. 16749) in the captioned proceeding. That notice designated an Atomic Safety and Licensing Board (Board) to conduct the hearing, specified the issues to be determined by the Board, provided an opportunity to intervene with respect to the issues specified in such notice to persons whose interests may be affected by the proceeding and provided an opportunity to make limited appearances to other persons who wished to make a statement in the proceeding but who did not wish to intervene.

On September 9, 1971, the Commission published a revision of its regulations in 10 CFR Part 50, Appendix D, Implementation of the National Environmental Policy Act of 1969 (36 F.R. 18071), to set forth an interim statement of Commission policy and procedure for implementation of the National Environmental Policy Act of 1969 (NEPA).¹ The revised regulations require the consideration of additional matters in applicants' environmental reports and in detailed statements of environmental considerations and provide for determination by the presiding Atomic Safety and Licensing Boards in pending proceedings of specified issues in addition to and different from those previously in issue in AEC licensing proceedings.

Notice is hereby given, pursuant to 10 CFR Part 2, Rules of Practice, and Appendix D of 10 CFR Part 50, Licensing of Production and Utilization Facilities, that in the conduct of the captioned proceeding, the Atomic Safety and Licensing Board will, in addition to considering and determining the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the notice of hearing in this proceeding published on October 29, 1970, consider and make determinations, pursuant to the National Environmental Policy Act of 1969, on the matters set forth below.

1. In the event that this proceeding is not a contested proceeding as defined by 10 CFR 2.4(n) of the Commission's rules of practice, the Board will determine whether the environmental review conducted by the Commission's regulatory staff pursuant to Appendix D of 10 CFR Part 50 has been adequate.

2. In the event that this proceeding is or becomes a contested proceeding, the Board will decide any matters in controversy among the parties with respect to matters within the scope of Appendix D of 10 CFR Part 50, and will consider and decide whether in accordance with the requirements of Appendix D of 10 CFR Part 50, the construction permits should be issued as proposed.

¹ The Commission adopted certain minor amendments to revised Appendix D which were published in the FEDERAL REGISTER on Sept. 30, 1971 (36 F.R. 19158). The Commission adopted certain additional amendments to revised Appendix D with respect to proceedings subject to section D thereof which were published in the FEDERAL REGISTER on Nov. 11, 1971 (36 F.R. 21579).

3. Regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (a) determine whether the requirements of section 102(2) (C) and (D) of NEPA and Appendix D of 10 CFR Part 50 of the Commission's regulations have been complied with in this proceeding; (b) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view toward determining the appropriate action to be taken; (3) determine whether the construction permits should be granted, denied or appropriately conditioned to protect environmental values.

This notice supersedes the notice of hearing published on October 29, 1970, with respect to the matters which may be raised under paragraph A.11 of Appendix D of 10 CFR Part 50, but does not affect the status of any person previously admitted as a party to this proceeding or provide an additional opportunity to any person to intervene on the basis of, or to raise matters encompassed within, the issues pertaining to radiological health and safety and the common defense and security specified for hearing in the prior above-referenced notice of hearing.

As they become available, any new or supplemental environmental report, and any new or supplemental detailed statement required by Appendix D of 10 CFR Part 50 will be placed in the Commission's Public Document Room at 1717 H Street NW., Washington, DC, where they will be available for inspection by members of the public. Copies of those documents will also be made available at the Grace Dow Memorial Library, 1710 West St. Andrews Road, Midland, MI, for inspection by members of the public between the hours of 9 a.m. and 9 p.m. weekdays, and 9 a.m. and 5 p.m. Saturdays. A copy of any new or supplemental detailed statement prepared and, to the extent of supply, a copy of any new or supplemental environmental report filed, may be obtained, when available, by request to the Director of the Division of Reactor Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Any person who wishes to make an oral or written statement in this proceeding setting forth his position on the issues specified in this notice, but who does not wish to file a petition for leave to intervene, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER.

Any person whose interest may be affected by the proceeding who does not wish to make a limited appearance and

who wishes to participate as a party in the proceeding with respect to the issues set forth in this notice must file a petition for leave to intervene.

Petitions for leave to intervene, pursuant to the provisions of 10 CFR 2.714 of the Commission's rules of practice, must be received in the Office of the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or the Commission's Public Document Room, 1717 H Street NW., Washington, DC, not later than thirty (30) days from the date of publication of this notice in the FEDERAL REGISTER. The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner in reasonably specific detail. A petition which sets forth contentions relating to matters outside of the issues specified in this notice will be denied. A petition for leave to intervene which is not timely will be denied unless, in accordance with 10 CFR 2.714, the petitioner shows good cause for failure to file it on time.

A person permitted to intervene becomes a party to the proceeding, and has all the rights of the applicant and the regulatory staff to participate fully in the conduct of the hearing. For example, he may examine and cross-examine witnesses. A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified in the issues set out above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

An answer to this notice, or an amended answer with respect to the issues specified in this notice, must be filed by the applicant, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER. Parties already participating in this proceeding as intervenors with respect to the issues specified in the notice of hearing dated October 29, 1970, must also file an answer with respect to the issues specified in this notice not later than twenty (20) days from the date of publication of this notice in the FEDERAL REGISTER, in accordance with the requirements of 10 CFR 2.705 of the Commission's rules of practice.

Answers and petitions required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

The date and place of further hearings will be set by subsequent order of the Board and notice thereof will be provided to the parties, including persons granted leave to intervene on issues set forth in this notice, and will be published in the FEDERAL REGISTER. In setting these dates, due regard will be had for the convenience and necessity of the parties or their representatives, as well as Board members.

Dated at Germantown, Md., this 29th day of November 1971.

For the Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc.71-17731 Filed 12-3-71;8:46 am]

[Docket No. 50-334]

DUQUESNE LIGHT CO. ET AL.

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

Duquesne Light Co., Ohio Edison Co., and Pennsylvania Power Co. (the licensees) are the holders of Construction Permit No. CPPR-75 (the construction permit), issued by the Atomic Energy Commission on June 26, 1970. The construction permit authorizes the licensees to construct a pressurized water nuclear power reactor designated as the Beaver Valley Power Station, Unit No. 1 on the applicants' site on the south bank of the Ohio River in Beaver County, Pa., approximately 1 mile from Midland, Pa. The facility is designed for initial operation at approximately 2,652 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensees have furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permit should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensees' submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Beaver Valley Power Station, Unit No. 1 authorized pursuant to CPPR-75 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Beaver Valley Power Station, Unit No. 1, Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company, AEC Docket No. 50-334, November 22, 1971."

Pending completion of the full NEPA review, the holders of Construction Permit No. CPPR-75 proceed with construction at their own risk. The determination herein and the discussion and findings referred to above do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying, or terminating the construction permit or from appropriately conditioning the permit to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensees, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensees' statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Beaver Valley Power Station, Unit No. 1, Duquesne Light Company, Ohio Edison Company, and Pennsylvania Power Company, AEC Docket No. 50-334, November 22, 1971," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Beaver Area Memorial Library, 100 College Avenue, Beaver, PA 15009. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director of Reactor Licensing.

Dated at Bethesda, Md., this 23d day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17714 Filed 12-3-71;8:49 am]

[Dockets Nos. 50-250, 50-251]

FLORIDA POWER & LIGHT CO.

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

Florida Power & Light Co. (the licensee) is the holder of Provisional Construction Permits Nos. CPPR-27 and CPPR-28 (the provisional construction permits) issued by the Atomic Energy Commission on March 24, 1969. The provisional construction permits authorize

the licensee to construct two pressurized water nuclear power reactors designated as the Turkey Point Nuclear Generating Units Nos. 3 and 4, at a site in Dade County, Fla., approximately 25 miles south of Miami, Fla. Each facility is designated for initial operation at approximately 2,200 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the provisional construction permits should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Turkey Point Nuclear Generating Units Nos. 3 and 4 authorized pursuant to CPPR-27 and CPPR-28 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Provisional Construction Permits for the Turkey Point Nuclear Generating Units Nos. 3 and 4, Florida Power & Light Company, AEC Docket Nos. 50-250 and 50-251, November 24, 1971."

Pending completion of the full NEPA review, the holder of Provisional Construction Permits Nos. CPPR-27 and CPPR-28 proceeds with construction at its own risk. The determination herein and the discussion and findings referred to above do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permits or from appropriately conditioning the permits to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such a request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permits should not be suspended pending completion of the NEPA environmental

review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permits for the Turkey Point Nuclear Generating Units Nos. 3 & 4, Florida Power & Light Company, AEC Docket Nos. 50-250 and 50-251, November 24, 1971," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Lily Lawrence Row Public Library, 212 Northwest First Avenue, Homestead, FL 33030. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 26th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17715 Filed 12-3-71;8:49 am]

[Dockets Nos. 50-327, 50-328]

TENNESSEE VALLEY AUTHORITY

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

Tennessee Valley Authority (the licensee) is the holder of Provisional Construction Permits Nos. CPPR-72 and CPPR-73 (the construction permits) issued by the Atomic Energy Commission on May 27, 1970. The provisional construction permits authorize the licensee to construct two pressurized water nuclear power reactors designated as the Sequoyah Nuclear Plant Units 1 and 2, at a site in Hamilton County, Tenn., approximately 12 miles northeast of Chattanooga, Tenn. Each facility is designed for initial operation at approximately 3,411 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensee has furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permits should not be suspended, in whole or in part, pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensee's submission in light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Sequoyah Nuclear Plant authorized pursuant to CPPR-72 and CPPR-73 should not be suspended

pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Provisional Construction Permits for the Sequoyah Nuclear Plant Units 1 and 2, Tennessee Valley Authority, AEC Docket Nos. 50-327 and 50-328, November 23, 1971."

Pending completion of the full NEPA review, the holder of Provisional Construction Permits Nos. CPPR-72 and CPPR-73 proceeds with construction at its own risk. The determination herein and the discussion and findings referred to above do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permits or from appropriately conditioning the permits to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensee, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensee's statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permits should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission Relating to Considerations of Suspension Pending NEPA Environmental Review of the Provisional Construction Permits for the Sequoyah Nuclear Plant Units 1 and 2, Tennessee Valley Authority, AEC Docket Nos. 50-327 and 50-328, November 23, 1971," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Chattanooga Public Library, 601 McCalley Street, Chattanooga, TN 37403. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 29th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17716 Filed 12-3-71;8:49 am]

[Docket No. 50-346]

TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO.

Determination Not To Suspend Construction Activities Pending Completion of NEPA Environmental Review

The Toledo Edison Co. and the Cleveland Electric Illuminating Co. (the licensees), are the holders of Construction Permit No. CPPR-80 (the construction permit), issued by the Atomic Energy Commission on March 24, 1971. The construction permit authorizes the licensees to construct a pressurized water nuclear power reactor designated as the Davis-Besse Nuclear Power Station at the licensees' site in Ottawa County, Ohio. The facility is designed for initial operation at approximately 2,633 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensees have furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permit should not be suspended, in whole or in part, pending completion of the NEPA environmental review. This statement of reasons was furnished to the Commission on October 15, 1971. In addition, intervenors in the construction permit proceeding, Coalition for Safe Nuclear Power and Living in a Finer Environment (LIFE), have submitted a "Request for Suspension of Construction Permit No. CPPR-80" dated November 19, 1971, in which they contend in substance that construction of the Davis-Besse Nuclear Power Station should be halted pending completion of the NEPA environmental review.

The Director of Regulation has considered the licensees' submission in light of the criteria set out in section E.2 of Appendix D and the submission of the intervenors, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Davis-Besse Nuclear Power Station authorized pursuant to CPPR-80 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Davis-Besse Nuclear Power Station, Docket No. 50-346."

Pending completion of the full NEPA review, the holders of Construction Permit No. CPPR-80 proceed with construction at their own risk. The determination herein and the discussion and findings hereinabove referred to do not preclude

the Commission, as a result of its ongoing environmental review, from continuing, modifying, or terminating the construction permit or from appropriately conditioning the permit to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensees, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such a request shall set forth the matters, with reference to the factor set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensees' statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, the intervenors' "Request for Suspension of Construction Permit No. CPPR-80," dated November 19, 1971, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Davis-Besse Nuclear Power Station, Docket No. 50-346," are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Ida Rupp Public Library, Port Clinton, Ohio 43452. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 30th day of November 1971.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-17724 Filed 12-3-71;8:50 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23766]

BALAIR AG

Issuance of Foreign Air Carrier Permit; 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 January 5, 1972, at 10 a.m. (local time), in Room 503, Universal Building, 1825 Connecticut Avenue NW., before the undersigned examiner.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the Prehearing Conference Report,

served November 10, 1971, 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., December 2, 1971.

[SEAL] RICHARD M. HARTSOCK,
Hearing Examiner.

[FR Doc.71-17749 Filed 12-3-71;8:47 am]

[Docket No. 20993; Order 71-11-104]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority November 26, 1971.

Agreement adopted by the Joint Conferences of the International Air Transport Association relating to specific commodity rates, Docket 20993, Agreement CAB 22332, R-47 through R-49.

By Order 71-11-20, dated November 3, 1971, action was deferred, with a view toward eventual approval, on an agreement adopted by the International Air Transport Association (IATA), relating to specific commodity rates. In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action.

No petitions have been received within the filing period, and the tentative conclusions in Order 71-11-20 will herein be made final.

Agreement CAB 22332, R-47 through R-49, be and it hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-17750 Filed 12-3-71;8:47 am]

[Docket No. 22628; Order 71-11-113]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Inaugural Flights

Issued under delegated authority November 30, 1971.

Agreement adopted by Traffic Conference 1 of the International Air Transport Association relating to inaugural flights, Docket 22628, Agreement CAB 22741.

By Order 71-10-129, dated October 28, 1971, action was deferred, with a view toward eventual approval, on an agreement adopted by Traffic Conference 1 of the International Air Transport Association (IATA). The agreement would permit BWIA to postpone to a date not later than November 30, 1971, the performance of its inaugural flights for

new service between Antigua and St. Lucia.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period; however, by letter dated November 24, 1971, IATA has requested a withdrawal of the agreement inasmuch as a subsequent investigation has revealed that the sectors involved, Antigua and St. Lucia, are cabotage and do not therefore require IATA action.

Pursuant to authority duly delegated by the Board in the Board's regulations 14 CFR 385.23, the request of IATA for withdrawal of Agreement CAB 22741 will herein be granted.

Accordingly, it is ordered, That:

The request of the International Air Transport Association for withdrawal of Agreement CAB 22741 be and hereby is granted.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-17751 Filed 12-3-71;8:47 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 572]

COMMON CARRIER SERVICES INFORMATION¹

Domestic Public Radio Services Applications Accepted for Filing²

NOVEMBER 29, 1971.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by

¹ All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

² The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (Part 21 of the rules).

the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of

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

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

- 3002-C2-P-(3)-72—Waco Communications, Inc. (KKJ453), for additional facilities to operate on 454.05 and 454.10 MHz at location No. 2: Off Highway No. 81, approximately 5 miles south of Waco, Tex.
- 3031-C2-P-72—AAA Answerphone, Inc.—Jackson (New), for a new 2-way station to be located at 1 mile south of State Line, 3 miles east of Highway No. 51, Southaven, Miss. to operate on 152.03 MHz.
- 3032-C2-ML-72—Kern Radio Dispatch (KMD988), location No. 1: Felato Peak, Mount Pinos Road, 10 miles south of Maricopa, Calif., change repeater frequency to 72.18 MHz.
- 3034-C2-P-72—Radlocall, Inc. (KUA482), for additional facilities to operate on 158.70 MHz at 1270 Queen Emma Street, Honolulu, HI.
- 3035-C2-P-72—Airsignal International, Inc. (KKG411), for additional facilities to operate on 152.15 MHz at Fidelity Union Tower, Pacific and Akard Streets, Dallas, TX.
- 3084-C2-AP/AL-(2)-72—Lafayette Radiofone, consent to assignment of license from Billie White doing business as Lafayette Radiofone, Assignor, to Jay Menard doing business as Lafayette Radiofone, Assignee. Stations: KKO352 and KLF621 (1-way) Lafayette, LA.
- 3127-C2-AL-72—Curtin Call Communications, Inc., consent to assignment of license from Curtin Call Communications, Inc., Assignor, to: RAM Broadcasting of Missouri, Inc., Assignee. Station: KFQ940 Clayton, Mo.
- 3128-C2-AL-72—Poulsbo Rural Telephone Association, consent to assignment of license from Poulsbo Rural Telephone Association, Assignor, to United Telephone Co. of the Northwest. Assignee. Station: KJU703 Poulsbo, Wash.
- 3129-C2-AL-72—Radio Page of Michiana, Inc., consent to assignment of license from Radio Page of Michiana, Inc., Assignor, to William L. Eisele, doing business as Lake Shore Communications, Assignee. Station KQZ707 South Bend, Ind.
- 3120-C2-P-72—Tel-Illinois, Inc. (New), for a new 1-way station to be located at the Water Tower, Belleville, Ill., to operate on 43.58 MHz.
- 3121-C2-P-72—Tel-Illinois, Inc. (New), for a new 1-way station to be located at Alton Box Board Building, Alton, Ill., to operate on 43.22 MHz.
- 3132-C2-P-(2)-72—James L. Munch (KOP307), change the antenna system and relocate facilities operating 152.03 MHz base and 454.10 MHz control at location No. 2 to: 814 Fifth Street, Great Falls, MT.
- 5008-C2-P-71—Answering Unlimited (New), C.P. application returned to pending status Nov. 17, 1971, for a new station to be located at 6211 West Northwest Highway, Dallas, TX to operate on 43.22 MHz.

Correction

- 233-C2-P-72—Airsignal International, Inc. (KIE985), correct to read: Major Amendment to 7227-C2-P-71, for additional facilities to operate on 35.58 MHz at location No. 3: Atlanta, Ga. See Public Notices dated June 28, 1971 and July 26, 1971.
- 828-C3-P-72—Tel-Page Corp. (New), correct to read: (KRE631) for additional facilities to operate on frequency 35.22 MHz. See Public Notice dated Aug. 23, 1971, Report No. 559.

INFORMATIVE: It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference. Frequency 43.22 MHz.

TEXAS

Answering Unlimited (New), 5008-C2-P-71.
Morrison Radio Relay Corp. (KKJ460), 6744-C2-P-71.
RAM Broadcasting of Texas, Inc. (New), 6745-C2-P-(8)-71.

It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reason of potential electrical interference. Frequency 43.58 MHz.

TEXAS

RAM Broadcasting of Texas, Inc. (New), 6745-C2-P-(8)-71.
Forester Radiofone, Inc. (KKO344), 612-C2-P-72.
Airsignal International, Inc. (New), 654-C2-P-(3)-72.

INFORMATIVE: It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference. Frequency 35.22 MHz.

NEW YORK

Alfred Menter, doing business as Menter Radio Service (New), 7088-C2-P-71.
Tel-Page Corp. (KRE631), 825-C2-P-72.

RURAL RADIO SERVICE

- 3084-C2-C1-AL-72—Lafayette Radiofone, consent to assignment of license from Billie White, doing business as Lafayette Radiofone, Assignor, to: Jay Menard, doing business as Lafayette Radiofone, Assignee. Station: KJU560 Temp-Fixed.
- 3110-C1-P-72—The Mountain States Telephone & Telegraph Co. (New), for a new rural subscriber station to be located at 8.3 miles southwest of Granite, Wyo., to operate on 157.95 MHz.
- 3111-C1-P-72—Southern Bell Telephone & Telegraph Co. (New), for a new rural subscriber station to be located at approximately 9.5 miles southeast of Miami, Fla. (Biscayne Bay), to operate on 459.375, 459.400, 459.425, 459.450, 459.475, 459.500, and 459.525 MHz, communicating with Station KIC345, Miami, Fla.

Major Amendments

- 6125-C1-P-71—Western States Telephone Co., Inc. (New), change rural subscriber station frequency to 157.83 MHz. All other particulars same as reported on Public Notice dated May 10, 1971.
- 6126 through 6128-C1-P-71—Western States Telephone Co. (New), additional frequency of 157.95 MHz to be used. All other particulars are to remain as reported on Public Notice dated May 10, 1971.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

- 2990-C1-P/L-72—The Mountain States Telephone & Telegraph Co. (KKU83), location: 706 11th Street, Wheeland, WY. Latitude 42°03'19" N., longitude 104°57'19" W. To reinstate the license which has expired. Frequencies: 6019.3 and 6137.9 MHz toward Wendover, Wyo.
- 3088-C1-P-72—The Chesapeake & Potomac Telephone Co. of Maryland (WAD23), location: Gwynbrook State Game Farm, 1.6 miles north of Owings Mills, Md. Latitude 39°27'01" N., longitude 76°46'37" W. Frequency 10,915 MHz toward Randallstown, Md., added.
- 3089-C1-P-72—The Chesapeake & Potomac Telephone Co. of Maryland (WAX95), location: 1.2 miles south of Randallstown, Md. Latitude 39°21'03" N., longitude 76°47'56" W. Frequency 11,365 MHz toward Owings Mills, Md., added.
- 3090-C1-P-72—The Chesapeake & Potomac Telephone Co. of Maryland (New), a new station 7.5 miles southeast of Frederick, Md. (Monrovia). Latitude 39°20'55" N., longitude 77°-18'51" W. Frequency 6034.2 MHz toward Lombs Knoll, Md.
- 3091-C1-P-72—The Chesapeake & Potomac Telephone Co. of Maryland (New), a new station 4.4 miles west of Middletown, Md. (Lombs Knoll). Latitude 39°26'53" N., longitude 77°-37'34" W. Frequency 6315.9 MHz toward Monrovia, Md. and 6286.2 MHz toward Fairview Mountain, Md.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—continued

- 3092-C1-P-72—The Chesapeake & Potomac Telephone Co. of Maryland (New), a new station Fairview Mountain, 2.5 miles west of Clearspring, Md. Latitude 39°39'04" N., longitude 77°58'15" W. Frequency 6063.8 MHz toward Lambs Knoll, Md. and 11,245 MHz toward Hagerstown, Md.
- 3093-C1-P-72—The Chesapeake & Potomac Telephone Co. of Maryland (New), a new station Board of Education, Commonwealth Avenue, Hagerstown, Md. Latitude 39°37'38" N., longitude 77°42'41" W. Frequency 10,795 MHz toward Fairview Mountain, Md.
- 3121-C1-P-72—The Mountain States Telephone & Telegraph Co. (KOV63), location: 228 West Adams Street, Phoenix, AZ. Latitude 33°26'58" N., longitude 112°04'35" W. To add frequency 6345.5 MHz toward Shaw Butte, Ariz.
- 3122-C1-P-72—The Mountain States Telephone & Telegraph Co. (KPX35), location: Shaw Butte, 10 miles north of Phoenix, Ariz. Latitude 33°35'38" N., longitude 112°05'09" W. To add frequency 6093.5 MHz toward Phoenix and Mount Ord, Ariz.
- 3123-C1-P-72—The Mountain States Telephone & Telegraph Co. (KPX68), location: Mount Ord, 23 miles south-southwest of Payson, Ariz. Latitude 33°54'18" N., longitude 111°24'28" W. To add frequency 6345.5 MHz toward Strawberry and Shaw Butte, Ariz.
- 3124-C1-P-72—The Mountain States Telephone & Telegraph Co. (KPC67), location: 24 West Aspen Street. Latitude 35°11'57" N., longitude 111°38'57" W. To add frequency 6093.5 MHz toward Mormon Mountain, Ariz.
- 3125-C1-P-72—The Mountain States Telephone & Telegraph Co. (New), a new station 1.9 miles northeast of Strawberry, Ariz. Latitude 34°25'51" N., longitude 111°30'13" W. Frequency: 6093.5 MHz toward Mount Ord, and Mormon Mountain, Ariz.
- 3126-C1-P-72—The Mountain States Telephone & Telegraph Co. (New), a new station Mormon Mountain, 17.8 miles southeast of Flagstaff, Ariz. Frequency: 6345.5 MHz toward Strawberry and Flagstaff, Ariz.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

The following applicants propose to establish omnidirectional facilities for the provision of common carrier "Subscriber-Programmed" television service.

- 3085-C1-P-72—Eastern Microwave, Inc. (New), a new station located at Xerox Square, Rochester, N.Y. Latitude 43°09'17" N., longitude 77°36'15" W. Frequencies: 2150.20 MHz (aural) and 2152.325 MHz (visual) toward various receiving points of system and 2154.00 MHz (aural) and 2158.50 MHz (visual) toward various receiving points of system.
- 3086-C1-P-72—Eastern Microwave, Inc. (New), a new station at 14 Lafayette Street, Buffalo, N.Y. Latitude 42°53'10" N., longitude 78°52'26" W. Frequencies: 2150.20 MHz (aural) and 2152.325 MHz (visual) toward various receiving points of system and 2154.0 MHz (aural) and 2158.50 MHz (visual) toward various receiving points of system.
- 3087-C1-P-72—Eastern Microwave, Inc. (New), a new station 1.7 miles northwest of New Salem, N.Y. (Helderberg). Latitude 42°38'12" N., longitude 73°59'45" W. Frequencies: 2150.20 MHz (aural) and 2152.325 MHz (visual) toward various receiving points of system and 2154.00 MHz and 2158.50 MHz (visual) toward various receiving points of system. This application proposes to service the Albany, N.Y., area.
- 3133-C1-P-72—Answer Inc. of San Antonio (New), a new station, KWEX-TV Tower, 111 Martinez Street, San Antonio, TX. Latitude 29°25'03" N., longitude 98°29'26" W. Frequencies 2158.500 MHz (visual) and 2154.000 MHz (aural) toward various receiving points of system and 2152.325 MHz (visual) and 2150.200 MHz (aural) toward various receiving points of system.

INFORMATIVE: It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference.

CALIFORNIA

- Microband Corp. of America (New), File No. 1432-C1-P-72.
Microwave Transmission Corp. (New), File No. 2818-C1-P-72.

NEW YORK

- Eastern Microwave, Inc. (New), File No. 3085-C1-P-72.
Microband Corp. of America (New), File No. 2125-C1-P-72.
Eastern Microwave, Inc. (New), File No. 3086-C1-P-72.
Microband Corp. of America (New), File No. 1978-C1-P-72.

TEXAS

- Answer Inc. of San Antonio (New), File No. 3133-C1-P-72.
Multi-Point Distribution Systems, Inc. (New), File No. 2937-C1-P-72.

Correction

- 2938-C1-P-72—Multi-Point Distribution Systems, Inc. (New), Fort Worth, Tex. Correct applicants name to read: Paul E. Taft, doing business as Taft Broadcasting Co. All other terms same as indicated in Report No. 571, dated Nov. 22, 1971.

[FR Doc.71-17679 Filed 12-3-71;8:45 am]

FEDERAL MARITIME COMMISSION

[Docket No. 71-92]

C. E. TOLONEN CO., INC.

Order To Show Cause

On August 5, 1971, C. E. Tolonen Co., Inc., was issued independent ocean freight forwarder license FMC No. 1347.

The approval of a license was predicated on the facts contained in the Federal Maritime Commission's independent ocean freight forwarder application form FMC-18 and a subsequent field investigation into the applicant's fitness, willingness and ableness to properly conduct such a business. This form was signed by Clarence E. Tolonen, president of C. E. Tolonen Co., Inc.

Part 3 of form FMC-18 pertains to the "fitness" of the applicant. Among the questions posed under that part of the application form is the following question:

2. Has applicant or any of its officers or directors ever filed or been involved in bankruptcy proceedings?

The applicant answered that question negatively. This question is relevant to the finding of the applicant's "fitness" in accordance with the statutes. Subsequent information revealed that Mr. C. E. Tolonen, the licensee's president, filed a petition in bankruptcy on December 2, 1966, in the U.S. District Court of the Central District of California and was duly adjudged a bankrupt by that Court on March 15, 1967.

Section 510.9 of the Commission's General Order 4 provides that a license be revoked, suspended, or modified after notice in hearing for any of the following reasons: * * * "(c) making any willfully false statement to the Commission in connection with an application for a license or its continuance in effect."

There is reason to believe that the licensee willfully made a false statement to the Commission in connection with its application in order to secure an independent ocean freight forwarder license.

Therefore, it is ordered. That pursuant to section 44 and section 22 of the Shipping Act, 1916, C. E. Tolonen Co., Inc., is hereby made a respondent in this proceeding and is directed to show cause why it should not have its license as an independent ocean freight forwarder, revoked or suspended for making a willfully false statement to the Commission in connection with its application for a license as an independent ocean freight forwarder.

It is further ordered. That this proceeding shall be limited to the submission of affidavits of fact and memorandum of law, replies, and oral argument. Should any party feel that an evidentiary hearing be required, that party may accompany such a request for hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavit. Request for hearing shall be filed on or before December 21, 1971. Affidavits of fact and memorandum of law shall be filed by respondent and served upon all parties no later than the close of business December 21, 1971. Reply affidavits and memorandum shall be filed by the Commission's Bureau of Hearing Counsel and Intervenor, if any, no later than the close of business January 7, 1972. Oral argument will be scheduled at a later date if requested and/or deemed necessary by the Commission.

It is further ordered. That a notice of order be published in the FEDERAL REGISTER and that a copy thereof be served upon respondent.

It is further ordered. That persons other than those already party to this proceeding who desire to become parties to this proceeding and to participate therein, shall file a petition to intervene

pursuant to Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) no later than the close of business December 10, 1971.

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-17758 Filed 12-3-71;8:48 am]

[Docket No. 71-93]

**VIKING IMPORTRADE INC., AND
BERNARD LANG & CO., INC.**

Order of Investigation and Hearing

The Commission has become aware that certain shipments consigned to Viking Importrade, Inc. (Viking), during the period of August 2, 1969, through December 29, 1969, see Attachment A for a list of the shipments, appear to have been misclassified resulting in the assessment of incorrect ocean freight charges. The bills of lading involved described the seven shipments as "Toys" or "Novelties", whereas the custom papers, shippers invoices, and packing lists and inspections disclosed that the shipments consisted of commodities other than "Toys" or "Novelties" which in most cases were subject to higher freight rates. The difference between the rate for the actual items shipped and the rate for "Toys" or "Novelties" for each shipment is also set forth in Attachment A.

Bernard Lang & Co., Inc. (Bernard Lang), acted as the customhouse broker for the inbound shipments to Viking. Bernard Lang & Co., Inc., is a licensed ocean freight forwarder holding FMC License No. 209. The Commission is continuously concerned with any and all activities of a licensed ocean freight forwarder which may detract from its fitness, willingness and/or ability to carry on the business of forwarding as required by the Shipping Act. If a customhouse broker were found to have acted illegally on behalf of import clients it may not be "fit" to assume the fiduciary responsibilities required of a freight forwarder. The firm handled various documents which properly identified the commodities, and in at least four instances paid the ocean freight charges for Viking.

Section 16 of the Shipping Act 1916 provides in part: "That it shall be unlawful for any shipper consignor, consignee, forwarder, broker, or other person, or other officer, agent, or employee thereof, knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighting, false report of weight, or by any other unjust or unfair device or means to obtain or attempt to obtain transportation by water for property at less than the rates or charges which would otherwise be applicable."

Therefore it is ordered, Pursuant to section 22 of the Shipping Act, 1916, that a proceeding is hereby instituted to determine whether Viking Importrade, Inc., and/or Bernard Lang & Co., Inc., violated section 16 of the Shipping Act, 1916, by knowingly and willfully, directly or indirectly, by means of false classification, or by any other unjust or unfair device or means obtained or attempted to obtain transportation by water for property at less than the rates or charges which would otherwise be applicable.

It is further ordered, That it be determined whether, because of the alleged activities of respondent, Bernard Lang & Co., Inc., said respondent continues to qualify to be licensed as an ocean freight forwarder or whether its license should be revoked or suspended pursuant to § 44 of the Shipping Act, 1916 and §§ 510.9 (a) and (e) of the Commission's rules of practice and procedure, 46 CFR 510.9.

It is further ordered, That Viking Importrade, Inc., and Bernard Lang & Co., Inc., be made respondents in this proceeding and that the matter be assigned for hearing before an Examiner of the Commission's Office of Hearing Examiners at a date and place to be announced by the Presiding Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and a copy thereof and notice of hearing be served upon respondents.

It is further ordered, That any person, other than respondents, who desire to become a party to this proceeding and to participate therein shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573 with copies to respondents.

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
Secretary.

ATTACHMENT A

1. Sea-Land Waybill No. 905-438097, 8-2-69, declared 311 cartons of "Toys." The cargo was inspected and found to consist of commodities other than toys, with different tariff rates. The difference between the proper rate and the rate for "Toys" totaled \$72.85.

2. Sea-Land Waybill No. 905-438502, 8-23-69, declared 275 cartons of "Toys." The cargo was inspected and found to consist of commodities other than toys, with different tariff rates. The difference between the proper rate and the rate for "Toys" totaled \$46.35.

3. Sea-Land Waybill No. 987-411723, 9-28-69, declared 270 cartons of "General Merchandise (Toys & Novelties)." The cargo was inspected and found to consist of commodities other than toys and novelties. The difference between the proper rate and the rate for "Toys" totaled \$82.95.

4. Sea-Land Waybill No. 905-401438, 10-4-69, declared 207 cartons of "Toys." The cargo was inspected and found to consist of commodities other than toys, with different tariff rates. The difference between the proper rate and the rate for "Toys" totaled \$49.64.

5. Sea-Land Waybill No. 905-904202, 12-11-69, declared 104 cartons of "Toys." The cargo was inspected and found to consist of commodities other than toys, with different tariff rates. The difference between the proper rate and the rate for "Toys" totaled \$44.64.

6. Sea-Land Waybill No. 905-410092, 12-28-69, declared 1,228 cartons of "Novelties, Toys, Earthen Ware, Stone Ware, Ironstone Ware, Bone China, Porcelain Ware." The cargo was inspected and found to consist of commodities other than toys and novelties, with different tariff rates. The difference between the proper rate and the rate assessed totaled \$196.78.

7. Sea-Land Waybill No. 937-414890, 12-29-69, declared 534 cartons of "Wood Novelty." The cargo was inspected and found to consist of commodities other than wood novelties, with different tariff rates. The difference between the proper rate and the rate assessed totaled \$266.75.

Total difference between the correct rates and the rates actually assessed is \$739.78.

[FR Doc.71-17759 Filed 12-3-71;8:48 am]

**DEUTSCHE DAMPFSCIFFFAHRTS-
GESELLSCHAFT "HANSA" AND
VILLAIN & FASSIO E CAMPAGNIA
INTERNAZIONALE DE GENOVA
SOCIETA RIUNITE DI NAVIGAZIONE
S.P.A.**

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Stanley O. Sher, Esq., Bebechick, Sher & Kushnick, 919 18th Street NW., Washington, DC 20006.

Agreement No. 9958-1 modifies the basic agreement of the above named carriers by adding Compagnie Fabre Societe

Generale de Transports Maritimes as a party. The basic agreement creates a container operating company entitled "Atlantica S.p.A."

Dated: December 1, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-17763 Filed 12-3-71;8:48 am]

HANSA LINE ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Richard W. Kurrus, Kurrus and Jacobi,
2000 K Street NW., Washington, DC 20006.

Hansa Line, Fassio Line, Fabre Line,
Mediterranean Marine Lines Inc., and
Sea-Land Service Inc.

Agreement No. 9972, among the above-named common carriers by water, provides for the exchange of information and cooperation in developing information relating to the carriage of cargo in intermodal containers between U.S. Atlantic ports and Mediterranean ports for the purpose of determining whether uniform and agreed rules, practices, and procedures are needed to improve the benefits of container services for both shippers and carriers.

Dated: November 30, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-17764 Filed 12-3-71;8:48 am]

MEDCHI FREIGHT POOL

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Eric G. Brown, Secretary, Mediterranean-U.S.A. Great Lakes Westbound Freight Conference, 10, Place de la Joliette, Marseilles, France.

Agreement No. 9020-15 modifies the basic agreement by extending the cutoff date for giving notice of resignation for the 1973 season to July 15, 1972.

Dated: December 1, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-17765 Filed 12-3-71;8:48 am]

FEDERAL POWER COMMISSION

[Docket No. CP71-289]

COLUMBIA LNG CORP. AND CONSOLIDATED SYSTEM LNG CO.

Notice of Amendment to Application

NOVEMBER 29, 1971.

Take notice that on November 8, 1971, Columbia LNG Corp. (Columbia LNG), 20 Montchanin Road, Wilmington, DE 19807, and Consolidated System LNG Co. (Consolidated LNG), 445 West Main Street, Clarksburg, VA 26301, filed in Docket No. CP71-289 an amendment to their pending application filed pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience

and necessity authorizing the construction and operation of liquefied natural gas (LNG) facilities and the transportation of regasified LNG, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Specifically, Columbia LNG and Consolidated are amending their application to reflect an increase in the volumes of LNG which are proposed to be received, regasified and transported to Loudoun, Va., by means of the facilities proposed herein. Consolidated proposes to increase the deliveries at Loudoun of regasified LNG to the approximate equivalent of 350,000 Mcf per day. Alternatively, Columbia and Consolidated each propose to deliver at Loudoun, Va., the approximate equivalent of 500,000 Mcf per day, but only upon the occurrence of certain conditions precedent with respect to availability of LNG supply.

Columbia LNG proposes to sell the volumes delivered at Loudoun to its affiliate, Columbia Gas Transmission Corp. Consolidated proposes to sell the volumes so delivered at Loudoun to its affiliate, Consolidated Gas Supply Corp.

Applicants state that the total design, operation, estimated capital costs and operating costs of the proposed facilities are not changed by the proposed amendments.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 13, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). Any person who has heretofore been permitted to participate as a party in this proceeding need not file again. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17767 Filed 12-3-71;8:48 am]

[Docket No. CP71-153]

CONSOLIDATED SYSTEM LNG CO.

Notice of Amendment to Application

NOVEMBER 29, 1971.

Take notice that on November 8, 1971, Consolidated System LNG Co. (applicant), 445 West Main Street, Clarksburg, WV 26301, filed in Docket No. CP71-153 an amendment to the pending application filed pursuant to section 3 of the Natural Gas Act on November 25, 1970, for an order of the Commission authorizing the importation of an increased volume of liquefied natural gas (LNG) from Algeria to the United States, all as more fully set forth in the

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

The application of November 25, 1970, requested authorization for the importation of a total annual quantity of LNG the equivalent of approximately 200,000 Mcf of natural gas daily. The LNG to be imported is to be purchased from El Paso Algeria Corp. (El Paso Algeria).

Applicant states that it has entered into an agreement with El Paso Algeria providing for an increase in the amount of LNG to be purchased and that this increase will result in a total equivalent of approximately 350,000 Mcf per day of natural gas. As an alternative to the aforementioned agreement, applicant states that it has entered into an agreement with El Paso Algeria for the purchase of LNG the equivalent of approximately 500,000 Mcf of natural gas per day, if an agreement for the sale and purchase of LNG between El Paso Algeria and Southern Energy Co. is terminated. Therefore, applicant requests authorization for the importation of increased volumes of LNG from Algeria into the United States.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 13, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Any person who has heretofore been permitted to participate as a party in this proceeding need not file again. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17768 Filed 12-3-71;8:48 am]

[Docket No. CP71-290]

CONSOLIDATED SYSTEM LNG CO.
Notice of Amendment to Application
NOVEMBER 29, 1971.

Take notice that on November 8, 1971, Consolidated System LNG Co. (applicant), 445 West Main Street, Clarksburg, WV 26301, filed in Docket No. CP71-290 an amendment to a pending application filed pursuant to section 7(c) of the Natural Gas Act on June 4, 1971, for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and the transportation and sale of natural gas to Consolidated Gas Supply Corp. (Consolidated), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

The application of June 4, 1971, requested authorization for the construction and operation of approximately 190.2 miles of 30-inch pipeline extending from Loudoun County, Va., to a point of interconnection with the facilities of Consolidated near the Leidy Storage Pool in Clinton County, Pa., and for the transportation and sale of 200,000 Mcf of regasified liquefied natural gas (LNG) per day to Consolidated. Applicant states that it has pending before the Commission an application pursuant to section 3 of the Natural Gas Act for authorization to import LNG into the United States. The LNG to be imported would be purchased from El Paso Algeria Corp. (El Paso Algeria) and the volume thereof would be equivalent to 200,000 Mcf per day after regasification.

Applicant states that it has entered into an agreement with El Paso Algeria providing for an increase in the amount of LNG to be purchased and that this increase will result in a total equivalent of approximately 350,000 Mcf of natural gas per day. Applicant states that this regasified LNG will be transported through the proposed facilities and sold to Consolidated. To provide for this transportation, applicant proposed to construct in 1976, and operate, in addition to the facilities hereinbefore described, a 6,800 horsepower compressor unit to be located on the proposed 30-inch pipeline near Doylesburg, Pa. The estimated cost of the compressor station proposed herein is \$4,496,000.

As an alternative to the aforementioned agreement, applicant states that it has entered into a contract with El Paso Algeria for the purchase of LNG the equivalent of approximately 500,000 Mcf of natural gas per day, if an agreement for the sale and purchase of LNG between El Paso Algeria and Southern Energy Co. is terminated. If this contract is terminated and applicant is able to purchase the additional volumes of LNG, then applicant will be required to construct the aforementioned Doylesburg Compressor Station in 1975, and proposes to construct during 1976, a second 6,800 horsepower compressor station on the 30-inch line. This station will be constructed near Leesburg, Va., at an estimated cost of \$4,361,550.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 15, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). Any person who has heretofore been permitted to participate as a party in this proceeding need not file again. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a pe-

tion to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17743 Filed 12-3-71;8:47 am]

[Docket No. RP71-98]

PACIFIC GAS TRANSMISSION CO.

Notice of Motion for Approval of Stipulation and Agreement

NOVEMBER 29, 1971.

Take notice that Pacific Gas Transmission Co. (PGT) on November 8, 1971, filed a motion for approval of a proposed stipulation and agreement, certified to the Commission by the Presiding Examiner in this proceeding on November 11, 1971, which resolves all issues in this proceeding and provides for reduced rates and refunds.

The stipulation and agreement provides, inter alia, for a reduction in rates below those which may become effective subject to refund in this proceeding, and requires refunds by PGT of any excess charges which may have been collected above the rates set forth in the agreement. The proposed agreement provides for computation of rates based upon a 7 $\frac{7}{8}$ percent rate of return and for a change in the specified depreciation method from a straight-line basis to one which more closely relates the annual depreciation expense to the actual use of the pipeline facilities.

Copies of the motion together with the stipulation and agreement were served upon all parties to this proceeding.

Answers or comments relating to the stipulation and agreement may be filed with the Federal Power Commission, Washington, D.C. 20426; on or before December 6, 1971.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17744 Filed 12-3-71;8:47 am]

[Docket No. RP72-71]

SOUTHWEST GAS CORP.

Notice of Proposed Changes in Rates and Charges

NOVEMBER 29, 1971.

Take notice that Southwest Gas Corp. (Southwest) on November 18, 1971, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1,¹ to become effective December 18, 1971. The proposed rate changes would increase jurisdictional revenues by \$217,721 annually based on volumes for the 12-month period ended September 30, 1971, as adjusted.

Southwest in its filing states that the proposed changes in rates are designed to recoup only an increase in its cost of gas purchased from El Paso Natural Gas Co. (El Paso) resulting from the latter's rate filing in Docket No. RP71-137. The Commission, by its Order No. 437A-1, issued November 19, 1971, permitted El

¹ Fourth Revised Sheets Nos. 4 and 10A.

Paso's proposed rate increase in Docket No. RP71-137 to become effective, subject to refund with interest, as of November 14, 1971.

Copies of this filing were served on Southwest's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 7, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17745 Filed 12-3-71;8:47 am]

[Docket No. CP71-151]

SOUTHERN ENERGY CO.

Notice of Amendment to Application

NOVEMBER 29, 1971.

Take notice that on November 11, 1971, Southern Energy Co. (Applicant), Post Office Box 2563, Birmingham, AL 35202, filed in Docket No. CP71-151 an amendment to its pending application pursuant to section 3 of the Natural Gas Act for an order of the Commission authorizing Applicant to import liquefied natural gas (LNG) from Algeria into the United States, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that it has entered into an Amended LNG Purchase Agreement with El Paso Algeria Corp. which provides for a base price for LNG delivered at Savannah of 68.60 cents per million B.t.u. and reduces the annual volumes of LNG which Applicant originally proposed to import from 205,312,500 million B.t.u. per year (the approximate equivalent of 500,000 Mcf per day) to 143,718,750 million (an equivalent of approximately 350,000 Mcf per day).

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 13, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Any person who has heretofore been permitted to participate as a party in this proceed-

ing need not file again. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17769 Filed 12-3-71;8:48 am]

[Docket No. CP71-276]

SOUTHERN NATURAL GAS CO.

Notice of Amendment to Application

NOVEMBER 29, 1971.

Take notice that on November 5, 1971, Southern Natural Gas Co. (Applicant), Post Office Box 2563, Birmingham, AL 35202, filed in Docket No. CP71-276 an amendment to its pending application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas pipeline facilities to transport regasified liquefied natural gas (LNG), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Specifically, the amendment reflects a reduction in the volumes of gas which Applicant proposes to purchase from Southern Energy Co. from approximately 475,000 Mcf of regasified LNG per day to approximately 335,000 Mcf of regasified LNG per day. Applicant states that the amendment reflects certain changes to be made to the facilities proposed in the application which result in a reduction in the cost of said facilities from \$27,862,790 to \$24,598,820.

Applicant also makes other appropriate amendments to its application where necessitated by the reduced volumes of regasified LNG it proposes to purchase from Southern Energy Co.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 13, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). Any person who has heretofore been permitted to participate as a party in this proceeding need not file again. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition

to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17771 Filed 12-3-71;8:49 am]

[Docket No. CP71-264]

SOUTHERN ENERGY CO.

Notice of Amendment to Application

NOVEMBER 29, 1971.

Take notice that on November 11, 1971, Southern Energy Co. (applicant), Post Office Box 2563, Birmingham, AL 35202, filed in Docket No. CP71-264 an amendment to its pending application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for the receipt, storage, regasification and sale of liquefied natural gas (LNG), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant states that the reduced volumes of LNG it proposes to import (in Docket No. CP71-151) require certain amendments to be made to its proposed facilities resulting in a reduction in the cost of said facilities from \$71,425,217 to \$63,021,956.

Applicant also makes other appropriate amendments to its application where necessitated by the reduced volumes of LNG.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 13, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). Any person who has heretofore been permitted to participate as a party in this proceeding need not file again. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17770 Filed 12-3-71;8:48 am]

NATIONAL GAS SURVEY EXECUTIVE ADVISORY COMMITTEE

Order Designating Member

NOVEMBER 29, 1971.

The Federal Power Commission by order issued April 6, 1971 established

the Executive Advisory Committee of the National Gas Survey.

1. Membership. Mr. E. D. Brockett has resigned his membership in the Executive Advisory Committee. A new member to the Executive Advisory Committee, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

B. R. Dorsey, Chairman, Gulf Oil Co.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17766 Filed 12-3-71;8:48 am]

[Docket No. R-427; Order No. 437A-4]

SOUTHERN LOUISIANA AREA RATE PROCEEDING ET AL.

Fourth Supplementary Order to Amended Statement of Policy and Order

NOVEMBER 29, 1971.

Southern Louisiana Area Rate Proceeding, AR61-2, et al. 69-1; Texas Gulf Coast Area Rate Proceeding, AR64-2 et al.; Other Southwest Area Rate Proceeding, AR67-1 et al.; Initial Rates in the Rocky Mountain Area, R-389, R-389A.

On August 18, 1971, we issued Order No. 437, Statement of Policy, implementing the Economic Stabilization Act of 1970 and Executive Order No. 11615. On November 16, 1971, we issued Order No. 437A, amending our prior policy statement, which provided in part that (mimeo at p. 5):

* * * increases in rates or charges in orders heretofore issued containing a provision that they are subject to the policy announced in Order No. 437 will be reviewed for consistency with the purposes of the Economic Stabilization Act of 1970, as amended. After such review, increases in rates or charges approved as being consistent with such purposes will be reported as supplements to this order and shall be effective as of 12:01 a.m., November 14, 1971.

Among the opinions and orders subject to Order No. 437 were our determinations respecting rates for jurisdictional sales of natural gas by independent producers, specifically in the Southern Louisiana,¹ Texas Gulf Coast,² Other Southwest,³ and the Rocky Mountain⁴ areas. For the reasons stated herein, we find that the rates and other provisions of those opinions and orders shall become effective as of 12:01 a.m., November 14, 1971.

¹ Opinion No. 598, July 16, 1971, and Opinion No. 598A, Sept. 9, 1971. Dockets Nos. AR61-2 et al. and AR69-1.

² Opinion No. 595, May 6, 1971; orders of May 17, July 1, and July 29, 1971; and Opinion No. 595A, Oct. 18, 1971. Docket No. AR64-2 et al.

³ Opinion No. 607, Oct. 29, 1971. Docket No. AR67-1 et al.

⁴ Order No. 435, July 15, 1971, and order of Sept. 9, 1971. Dockets Nos. R-389 and R-389A.

We have determined that our rate determinations in the Southern Louisiana,⁵ Texas Gulf Coast, Other Southwest, and Rocky Mountain areas are consistent with the economic goals in Executive Order No. 11615, as superseded by Executive Order No. 11627. Moreover, those economic goals are not inconsistent with the Commission's regulatory functions and responsibilities under the Natural Gas Act.

This Commission has been confronted with conclusive evidence demonstrating a gas supply shortage. Every indication is that such a shortage will continue into the near future. The actions which we have taken in these recent opinions are designed to reverse this trend and to augment the Nation's dwindling gas reserves. To this extent the rates and other provisions in those determinations have used price as a tool to bring gas to the marketplace; in other words, to obtain for the public service the needed amount of gas. We have attempted to provide the proper economic climate to stimulate exploratory and developmental efforts in order to provide adequate service to the consumer at the lowest reasonable rate. An important policy consideration which we cannot ignore is the substantial burden which would fall upon the consumer if higher priced alternative energy supplies are required to alleviate the gas shortage. It is imperative that adequate sources of energy, including natural gas, be available to sustain the Nation's economic growth. Thus, we have balanced our regulatory responsibilities under the Natural Gas Act with the President's economic goals, and find they are not inconsistent.

The Commission orders:

(A) The opinions and orders in Dockets Nos. AR61-2 et al., AR69-1, AR64-2 et al., AR67-1 et al., and the initial rates in the Rocky Mountain area, Dockets Nos. R389 and R-389A (herein "orders"), were effective pursuant to the terms of each respective order when issued, and, to the extent, if any, that the effective date of any provisions of any orders were deferred pursuant to Executive Order 11627 until 12 a.m. on November 13, 1971, the orders shall be effective in their entirety as of 12:01 a.m. November 14, 1971.

(B) Those provisions of our orders in Dockets Nos. AR61-2 et al., AR69-1, AR64-2 et al., and AR67-1 et al., permitting pipelines to file rate increase applications to track producer rate increases are consistent with the purposes of the Economic Stabilization Act of 1970, as amended, and such applications which have been filed and were to become effective during the period August 15, 1971, to November 13, 1971, may become effective as of 12:01 a.m., November 14, 1971.

⁵ On Oct. 27, 1970, we issued Order No. 413, wherein the moratorium contained in Opinion No. 546 was lifted. On Dec. 24, 1970, on rehearing, Order No. 413 was modified so as to permit increased rate filings in southern Louisiana up to 22.375 cents per Mcf onshore for contracts dated prior to Oct. 1, 1968, and 26 cents per Mcf for contracts dated on or after Oct. 1, 1968.

(C) This order shall constitute the certification of consistency with the purposes of the Economic Stabilization Act of 1970, as amended, as required by § 300.016 (a) and (b) of Chapter III, Title 6, of the Code of Federal Regulations.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17742 Filed 12-3-71;8:47 am]

[Docket No. RP72-74]

SOUTHERN NATURAL GAS CO.

Notice of Filing of Proposed Curtailment Plan

DECEMBER 1, 1971.

Take notice that, on November 26, 1971, Southern Natural Gas Co. (Southern) submitted for filing revised tariff sheets¹ constituting its curtailment plan pursuant to Order No. 431. Southern requests that the tariff sheets be made effective December 25, 1971, or, if suspended, that the period of suspension be limited to 1 day.

Southern proposed curtailment plan is divided into two parts, one applicable for the storage injection season (April 1 through October 31) and the other applicable to the heating season (November 1 through March 31). Generally, the storage injection plan involves the following curtailment steps: (1) Curtailment of deliveries of gas in excess of the contract demand of a resale customer at each delivery point, or in excess of the firm requirements of direct consumers, where the gas is used or sold as fuel for electric generation in a plant where generation of electricity for sale represents the primary function of such plant; (2) curtailment of deliveries of gas in excess of the contract demand of a resale customer at each delivery point, or in excess of the firm requirements of direct consumers, where the gas is used or sold for interruptible use; (3) curtailment of remaining electric generation fuel requirements; (4) curtailment of remaining interruptible use requirements; (5) curtailment of firm industrial requirements; and (6) curtailment of remaining requirements.

The heating season curtailment plan is similar to the storage injection curtailment plan except that (1) following the initial curtailment of gas used as fuel for electric generation on an individual delivery point basis, the remaining curtailment steps are on a group basis; and (2) systemwide conjunctive billing is permitted a multiple delivery point customer during the heating season when

¹ The tariff sheets are identified as First Revised Sheets Nos. 8C, 11K, 15C, 26C, 38, 40, and 40A; Second Revised Sheets Nos. 10, 11, 11G, 11I, 17, 18, 28, and 29; Fourth Revised Sheet No. 39; Tenth Revised Sheet No. 11J; Eleventh Revised Sheets Nos. 8A, 8D, 11H, 15A, 15D, 26A, and 26D; Fifteenth Revised Sheets Nos. 9, 16, and 27; and Original Sheets Nos. 40B, 40C, 40D, 40E, 40F, 40G, 40H, 40I, and 40J to Sixth Revised Volume No. 1 of Southern's FPC Gas Tariff.

such customer is limited to or below contract demand or maximum delivery obligation and the forecast mean temperature at Birmingham, Ala. is 35° Fahrenheit or lower.

The above recitation describes, in part, Southern's proposed curtailment plan. The full proposal is on file with the Commission and is available for public inspection.

Southern states that copies of its filing have been mailed to its customers and State Commissions shown on its service list. Additionally, Southern states that its filing is being made available at its offices in Birmingham, Ala.

Any person desiring to be heard or to make any protest with reference to this filing should on or before December 15, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as parties in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Any order issued in this proceeding will be subject to the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38) and Executive Order 11615 including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-17808 Filed 12-3-71;8:51 am]

FEDERAL RESERVE SYSTEM

ASSOCIATED BANK CORP.

Order Approving Action To Become a Bank Holding Company

In the matter of the application of Associated Bank Corp., Des Moines, Iowa, for approval of action to become a bank holding company through acquisition of 55 percent or more of the voting shares of Iowa Trust & Savings Bank, Estherville, Iowa.

There has come before the Board of Governors, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Associated Bank Corp., Des Moines, Iowa, for the Board's prior approval of action whereby applicant would become a bank holding company through the acquisition of 55 percent or more of the voting shares of Iowa Trust & Savings Bank, Estherville, Iowa (Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Iowa Superintendent of Banking and requested his

views and recommendation. The Superintendent recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on August 21, 1971 (36 F.R. 16536), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the banks concerned, and the convenience and needs of the communities to be served, and finds that:

Applicant is a recently organized corporation. Upon consummation of this proposal, applicant will control \$14.3 million in deposits, representing 0.2 percent of total commercial deposits in Iowa. (All banking data are as of December 31, 1970.) Bank, the second largest of three banks in the Emmet County banking market, controls 40.6 percent of the commercial deposits in that market. Applicant was recently organized for the purpose of consummating this proposal and has no present operations or subsidiaries. Therefore, consummation of this proposal would eliminate neither existing nor potential competition, nor does it appear that there would be any adverse effects on any bank in the market.

Applicant's financial condition and future prospects are dependent on those of Bank. The financial and managerial resources and future prospects of Bank are generally satisfactory and consistent with approval of the application. Although consummation of the proposal would not have any immediate effects on the convenience and needs of the community, considerations related to these factors are consistent with approval. It is the Board's judgment that consummation of the proposal would be in the public interest and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,¹
November 30, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-17725 Filed 12-3-71;8:45 am]

¹ Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer and Sherrill. Absent and not voting: Governor Robertson.

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

HAZEL DELL COAL CORP. AND PEERLESS EAGLE COAL CO.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard specified in the Federal Coal Mine Health and Safety Act of 1969 have been received as follows:

ICP Docket No. 3045 000, Hazel Dell Coal Corp., USBM ID No. 11 00567 0, New Windsor, Mercer County, Ill., ICP Permit No. 3045 004 (Joy Shuttle Car, Ser. No. ET2612). ICP Docket No. 3062 000, Peerless Eagle Coal Co., Mine No. 2A, USBM ID No. 46 01616 0, Summersville, Nicholas County, W. Va., ICP Permit No. 3062 001-R-1 (S&S Machinery Mine Tractor, Ser. No. 4-4-66-2654), ICP Permit No. 3062 003-R-1 (Joy Coal Cutter, Ser. No. 15380), ICP Permit No. 3062 006-R-1 (Shop Built Coal Drill, Ser. No. Co. No. 5). ICP Docket No. 3063 000, Peerless Eagle Coal Co., Mine No. 1, USBM ID No. 46 01476 0, Summersville, Nicholas County, W. Va., ICP Permit No. 3063 001-R-1 (Joy Coal Cutter, Ser. No. 15865), ICP Permit No. 3063 002-R-1 (Joy Coal Cutter, Ser. No. 15917).

In accordance with the provisions of section 305(a)(7) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR, Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

Copies of renewal applications are available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Eighth Floor, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

NOVEMBER 30, 1971.

[FR Doc.71-17747 Filed 12-3-71;8:50 am]

IMPERIAL SMOKELESS COAL CO.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard specified in the Federal Coal Mine Health and Safety Act of 1969 have been received as follows:

ICP Docket No. 3080 000, Imperial Smokeless Coal Co., Quinwood Mine No. 7, USBM ID No. 46 01474 0, Leivasy, Nicholas County, W. Va., ICP Permit No. 3080 002 (Joy Loader, Ser. No. 9111), ICP Permit No. 3080 008 (Joy Cutting Machine, Ser. No. 17429), ICP Permit No. 3080 015 (Galis Roof Drill, Ser. No. 1171204), ICP Permit No. 3080 022 (Joy Shuttle Car, Ser. No. ET8973), ICP Permit No. 3080 024 (Joy Shuttle Car, Ser. No. ET8974).

In accordance with the provisions of section 305(a)(7) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR, Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

Copies of renewal applications are available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Eighth Floor, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

NOVEMBER 29, 1971.

[FR Doc.71-11748 Filed 12-3-71;8:50 am]

SMALL BUSINESS ADMINISTRATION

[Application 04/05-5103]

FLORIDA CROWN MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT CO.

Notice of Application for a License as a Minority Enterprise Small Business Investment Company

An application for a license to operate as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Florida Crown Minority Enterprise Small Business Investment Co. (applicant) with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1971)).

The officers, directors, and principal stockholders (10 percent or more) of the applicant are as follows:

Lawrence W. McIntosh, 350 Ponte Vedra Boulevard, Ponte Vedra Beach, FL 32082. President and Director.
Roland S. Kennedy, 4614 Arlon Lane, Jacksonville, FL 32210. Vice President and Director.
Alan D. Hetzel, 3500 Townsend Boulevard, Apt. 233, Jacksonville, FL 32211. Secretary and Director.

Thomas E. Weaver, 2131 Redfern Road, Jacksonville, FL 32207. Treasurer and Director.
Carl L. Hasty, 5349 Contina Avenue, Jacksonville, FL 32211. Assistant Secretary—Treasurer and Director.

Judson S. Whorton, 5443 John Reynolds Drive, Jacksonville, FL 32211. Director.
The Atlantic National Bank of Jacksonville, 121 Hogan Street, Jacksonville, FL 32202. 21 percent.

Barnett Bank of Jacksonville, 100 Laura Street, Jacksonville, FL 32202. 21 percent.
The Independent Life & Accident Insurance Co., 233 West Duval Street, Jacksonville, FL 32202. 21 percent.

Jacksonville National Bank, 51 West Forsyth Street, Jacksonville, FL 32202. 21 percent.

The applicant, a Florida corporation, with its principal place of business located at 604 Hogan Street, Jacksonville, FL 32202, will begin operations with \$475,000 of paid-in capital, consisting of 4,750 shares of common stock.

Applicant will not concentrate its investments in any particular industry. According to the company's stated investment policy, its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Any interested person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed MESBIC. Any such communication should be addressed to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Jacksonville, Fla.

Dated: November 23, 1971.

A. H. SINGER,
Associate Administrator for
Operations and Investment.

[FR Doc.71-17728 Filed 12-3-71;8:45 am]

KENT CAPITAL CORP.

Notice of Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the regulations governing small business investment companies (13 CFR 107.701 (1971)) for transfer of con-

trol of Kent Capital Corp. (Kent). License No. 02/02-0251, 530 Morgan Avenue, Brooklyn, NY 11222, a Federal Licensee under the Small Business Investment Act of 1958, as amended.

Kent was licensed on June 26, 1964, with a paid-in capital and surplus of \$154,000. Its present capital and surplus is \$154,000. It has 7,700 shares of issued and outstanding common stock held by three stockholders.

The stockholders of Small Business Electronics Investment Corporation (SBEIC), License No. 02/02-0026, 120 Broadway, Lynbrook, NY 11563, a Federal Licensee under the Small Business Investment Act of 1958, as amended, propose to purchase individually all of the outstanding stock of Kent presently held by Messrs. Joseph DiVito, Anthony Frank DiVito, and Raymond Anthony DiVito, in proportion to their stock ownership in SBEIC as an interim step in the merger of the two SBICs. The surviving licensee will be SBEIC.

The names and address of the officers, directors, and stockholders of SBEIC are as follows:

Name and address	Title	Percent owned of outstanding stock
Leonard Randell, 99 North Cambridge St., Malverne, NY 11665.	President and director	44.414
Selig Beckman, 47 Tillrose Ave., Malverne, NY 11665.	Treasurer and director.	5.555
Louis Yormack, 554 Kirby Dr., Elmont, NY 11003.	Secretary and director.	11.111
Albert Sayer, 100 North Cambridge St., Malverne, NY 11665.		5.556
Leo Beckman, 116-45 71st Rd., Forest Hills, NY 11375.		5.556
Peri C. Crown, 157 Hempstead Ave., Lynbrook, NY 11563.		11.111
Seymour Kaplan, 169 Westwood Circle, Roslyn, NY 11576.		5.556
Stanley Meisels, 1345 Noel Ave., Hewlett, NY 11557.	Assistant secretary	5.555
Walter Kovler, 1655 Flatbush Ave., Brooklyn, NY 11210.		5.555

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed new owners, and the probability of successful operation of the company under their control and management in accordance with the Act and regulations.

Notice is further given that any interested person may submit comments on the proposed transfer of control to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416, within 15 days after date of publication of this notice.

A similar notice shall be published by the proposed purchasers in a newspaper of general circulation in Brooklyn, N.Y.

Dated: November 23, 1971.

A. H. SINGER,
Associate Administrator for
Operations and Investment.

[FR Doc.71-17729 Filed 12-3-71;8:45 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

DECEMBER 1, 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.

No. 35085, Edward S. Watts et al. v. Missouri-Kansas-Texas Railroad Co., assigned December 6, 1971, canceled and reassigned for hearing February 28, 1972, at Dallas, Tex., in a hearing room to be later designated.

MC 101186 Sub 11, Arledge Transfer, Inc., now assigned December 6, 1971, at Des Moines, Iowa, is postponed indefinitely.

MC 107299 Sub 8, Roberts Cartage Co., now assigned January 17, 1972, at Chicago, Ill., postponed indefinitely.

MC-C 7409, City Dray Line v. Roadway Express, Inc. et al., now being assigned hearing January 18, 1972, at Harrisburg, Pa., in a hearing room to be later designated.

MC 133327 Sub 2, Melburn Truck Lines Co., Ltd., now being assigned January 31, 1972, at New York, N.Y., in a hearing room to be later designated.

MC-F 11262, Consolidated Freightways Corp. of Delaware—Purchase (Portion)—Lewisburg Transfer Co., Inc., now assigned December 7, 1971, at Washington, D.C., canceled and transferred to Modified Procedure.

MC-F 11102, the Aetna Freight Lines, Inc.—Control and Merge—Watson Bros. Van Lines and Heavy Hauling Co., now assigned February 2, 1972, at Chicago, Ill., is canceled and transferred to Modified Procedure.

MC 113267 Sub 259, Central & Southern Truck Lines, now assigned December 9, 1971, at Kansas City, Ill., canceled and application dismissed.

MC 127450 Sub 7, T. G. Garland, doing business as B & W Freight Lines, now being assigned hearing February 7, 1972, at Oklahoma City, Okla., in a hearing room to be designated later.

MC 134542 Sub 4, Quick-Livick, Inc., assigned for hearing January 31, 1972, at Lexington, Va., canceled and reassigned for hearing on January 24, 1972, at Lexington, Va., in Room 517, Doremus Gym, Washington & Lee University, Lexington, Va.

Investigation and Suspension Motor 25305, Bus Passenger Fares, Rockland Coaches, Inc., now being assigned hearing on January 19, 1972, at New York, N.Y., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 71-17784 Filed 12-3-71; 8:49 am]

[Notice 404]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 30, 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 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 MOTOR CARRIERS OF PROPERTY transmitted.

No. MC 7228 (Sub-No. 41 TA), filed November 19, 1971. Applicant: COAST TRANSPORT, INC., 1906 Southeast 10th Avenue, Portland, OR 97214. Applicant's representative: Mick I. Goyak, 404 Oregon National Building, 610 Southwest Alder Street, Portland, OR 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Seattle, Wash., to points in Oregon and Washington, for 180 days. Supporting shipper: Chiquita Brands, Inc. 1250 Broadway, New York, NY 10001. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 southwest Pine Street, Portland, OR 97204.

No. MC 17829 (Sub-No. 15 TA), filed November 19, 1971. Applicant: DR SILVA TRANSPORTATION, INC., 42 Middlesex Avenue, Somerville, MA 02145. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business (except in bulk, in tank vehicles), from Marlboro, Mass., to Concord, N.H., points in that part of Maine south of a line beginning at the Maine-New Hampshire State line, near Porter, Maine, and extending east along Maine Highway 25 through Cornish,

North Limington, Standish, Gorham, and Portland, Maine, to the Atlantic Ocean, points in that part of Connecticut and Massachusetts, west of a line beginning at New Haven, Conn., and extending north through Hamden, West Cheshire, Southington, Plainville, Farmington, and West Granby, Conn., and Westhampton, Shelburne, and Colrain, Mass., to the Massachusetts-Vermont State line, and points in New York and New Jersey, *returned or damage shipments* of the above-described commodities, from the above-described destination points to Marlboro, Mass., for 180 days. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Stop & Shop, Inc. Supporting shipper: The Stop & Shop Cos., Inc., 393 D Street, Boston, MA 02110. Send protests to: District Supervisor Max Gorenstein, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Federal Building, Room 2211B, Government Center, Boston, Mass. 02203.

No. MC 66562 (Sub-No. 2344 TA), filed November 24, 1971. Applicant: REA EXPRESS, INC., 219 East 42d Street, New York, NY 10017. Applicant's representatives: Theodore Polydoroff, 1140 Connecticut Avenue NW., Washington, DC 20036, and Arthur M. Wisehart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, uncrated used household goods and commodities which because of size and weight require special equipment), in express service, between points in the United States, subject to the following restrictions: (1) no service shall be rendered in the transportation of any piece weighing more than 1,000 pounds; (2) no service shall be rendered in the transportation of any shipment weighing more than 10,000 pounds; and (3) service shall be limited to traffic moving between those points in the United States which are listed in REA tariffs published and on file with the Interstate Commerce Commission as of November 15, 1971, for 180 days. Supported by: Filed with this application are letters and telegrams of support from approximately 1,000 shippers and associations. These statements along with the application may be examined at the following offices of the Commission—Boston, Mass. Philadelphia, Pa., Atlanta, Ga., Chicago, Ill., Fort Worth, Tex., San Francisco, Calif., and Washington, D.C., office of the Commission. Send protests to: Stephen P. Tomany, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, Room 1807, New York, NY 10007.

No. MC 66753 (Sub-No. 7 TA), filed November 18, 1971. Applicant: CHAIN HAULAGE, INC., 15 Hastings Road,

Lexington, MA 02173. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business (except in bulk, in tank vehicles), from Marlboro, Mass., to points in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New York, and New Jersey, *returned or damaged shipments* of the above-described commodities, from the above-described destination points to Marlboro, Mass. Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or contracts with Stop & Shop, Inc., for 180 days. Supporting shipper: Stop & Shop Cos., Inc., 393 D Street, Boston, MA 02110. Send protests to: Assistant Regional Director James F. Martin, Jr., Bureau of Operations, Interstate Commerce Commission, John F. Kennedy Federal Building, Government Center, Boston, Mass. 02203.

No. MC 82101 (Sub-No. 12 TA), filed November 19, 1971. Applicant: WESTWOOD CARTAGE, INC., 62 Everett Street, Westwood, MA 02090. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise*, as is dealt in by wholesale, retail and chain grocery and food business houses and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business (except in bulk, in tank vehicles), from Marlboro, Mass., to Concord, N.H., points in that part of Maine south of a line beginning at the Maine-New Hampshire State line near Porter, Maine, and extending east along Maine Highway 25 through Cornish, North Limington, Standish, Gorham, and Portland, Maine, to the Atlantic Ocean, points in that part of Connecticut and Massachusetts west of a line beginning at New Haven, Conn., and extending north through Hamden, West Cheshire, Southington, Plainville, Farmington, and West Granby, Conn., and Westhampton, Shelburne, and Colrain, Mass., to the Massachusetts-Vermont State line, and points in New York and New Jersey, *returned or damaged shipments* of the above-described commodities, from the above-described destination points to Marlboro, Mass. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts with Stop & Shop, Inc., for 180 days. Supporting shipper: The Stop & Shop Cos., Inc., 393 D Street, Boston, MA 02110. Send protests to: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Federal Building, Room 211-B, Government Center, Boston, Mass. 02203.

No. MC 95304 (Sub-No. 14 TA), filed November 23, 1971. Applicant: NORTH-ERN NECK TRANSFER, INC., Montross, Va. 22520. Applicant's representative: L. C. Major, Jr., 421 King Street, Alexandria, VA 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, lumber, treated piles, and piling*; (1) between points in Westmoreland County, Va., on the one hand, and, on the other, points in that portion of Virginia on and east of a line extending from the West Virginia-Virginia State line over U.S. Highway 11 to its junction with U.S. Highway 220, at or near Roanoke, Va., and thence over U.S. Highway 220 to its junction with the Virginia-North Carolina State line, south of Martinsville, Va.; and (2) from Warsaw, Va., to points in Connecticut, Massachusetts, New Hampshire, Vermont, Maine, and Rhode Island, for 180 days. Note: Applicant intends to tack item No. 1 with its existing authority to transport "Building materials" between points in Northumberland, Lancaster, Westmoreland, and Richmond Counties, Va., and points in that part of King George County, Va., on and east of U.S. Highway 301, on the one hand, and, on the other, Washington, D.C., and points in North Carolina, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, and New York. Supporting shippers: Byrd & Son, Inc., East Walpole, Mass.; DeJarnette Lumber Corp., Milford, Va.; Brawley-Clarke Lumber Co., Warsaw, Va.; Webster Brick Co., Inc., Roanoke, Va.; Wood Preservers, Inc., Warsaw, Va.; The Celotex Corp., Tampa, Fla.; Philip Carey Co., Perth Amboy, N.J.; Roper Bros. Lumber Co., Inc., Petersburg, Va.; Aylett Lumber Co., Inc., Aylett, Va. Send protests to: Robert W. Waldron, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 10-502 Federal Building, Richmond, Va. 23240.

No. MC 107295 (Sub-No. 572 TA), filed November 19, 1971. Applicant: PRE-FAB TRANSIT COMPANY, 100 South Main Street, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Finished and unfinished plywood*, from New Orleans, La., to points in Alabama, Tennessee, Georgia, Mississippi, Indiana, and Florida, for 180 days. Supporting shipper: J. D. Prince, President, Plywood Panels, Inc., Post Office Box 15435, New Orleans, LA 70115. Send protests to: Harold C. Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 107496 (Sub-No. 828 TA), filed November 19, 1971. Applicant: RUAN TRANSPORT CORPORATION, Keosauqua Way at Third Street (Post Office Box 855, 50304), Des Moines, IA 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magna flux oil*, in bulk, in tank vehicles, from Cyril, Okla., to Portage, Wis., and Dayton, Ohio, for 150 days. Supporting shipper: Ashland Chemical Co., 2854 Springboro Pike, Dayton, OH 45439. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 108393 (Sub-No. 54 TA), filed November 19, 1971. Applicant: SIGNAL DELIVERY SERVICE, INC., 930 North York Road, Room 214, Hinsdale, IL 60521. Applicant's representative: Eugene L. Cohn, 1 North La Salle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts of electrical and gas appliances, and equipment, materials, and supplies* used in the manufacture, distribution, and repair of electrical or gas appliances, for the account of Whirlpool Corp. from Muncie, Ind., to Findlay, Ohio, for 180 days. Supporting shipper: Carl R. Anderson, Director of Corporate Traffic, Whirlpool Corp., Benton, Mich. 49022. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 109637 (Sub-No. 383 TA), filed November 23, 1971. Applicant: SOUTHERN TANK LINES, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphur hexafluoride*, in bulk, in shipper-owned trailers, from Metropolis, Ill., to Emmaus, Pa., for 180 days. Supporting shipper: Allied Chemical Corp., Post Office Box 1087R, Morristown, NJ 07960. Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 110988 (Sub-No. 281 TA), filed November 15, 1971. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, WI 54956. Applicant's representative: David A. Petersen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand such as chrome sand and zircon sand; and foundry sand additives consisting of clay ground coal, wood flour or other binding or treating ingredients*, in bulk, in hopper-type vehicles, from Columbus, Ohio, to points in Indiana, for 180 days. Supporting shipper: American Colloid Co., 5100 Suffield Court, Skokie, IL 60067 (Ronald Williamson, Assistant Traffic Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 111045 (Sub-No. 87 TA), filed November 19, 1971. Applicant: RED-WING CARRIERS, INC., Post Office Box 426, 7809 Palm Road, Tampa, FL 33601. Applicant's representative: J. V. McCoy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten sulphur*, from points in Escambia County, Ala.; Escambia and Santa Rosa Counties, Fla., to points in Louisiana, Mississippi, Alabama, Georgia, and Florida, for 180 days. Supporting shipper: Freeport Sulphur Co., 161 East 42d Street, New York, NY 10017. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 111729 (Sub-No. 326 TA), filed November 19, 1971. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, and audit and accounting media of all kinds*, between Syracuse, N.Y., on the one hand, and, on the other; (a) Paulsboro, N.J., and points in Bergen County, N.J.; Bucks, Dauphin, and York Counties, Pa.; (b) between Philadelphia, Pa., Burtonsville and Waldorf, Md., and Culpeper, Va.; (c) between Paramus, N.J., on the one hand, and, on the other, Binghamton, Elmsford, and Melville, N.Y.; (d) between Allentown, Pa., on the one hand, and, on the other, New York, N.Y., Fairfield, N.J., and Washington, D.C.; (e) between Warren, Ohio, on the one hand, and, on the other, points in Michigan; (2) *small office machine parts*, restricted against the transportation of packages or articles weighing in the aggregate of more than 75 pounds from one consignor to one consignee on any one day, between Paramus, N.J., on the one hand, and, on the other, Binghamton, Elmsford, and Melville, N.Y.; (3) *proofs, cuts, copy, manuscripts, art work, and mechanicals*, between Allentown, Pa., on the one hand, and, on the other, New York, N.Y., Fairfield, N.J., and Washington, D.C.; (4) *clinical pathology, consisting of: blood samples, PAP smears, tissue cultures, urine specimens; and supplies such as test tubes, slides, test kits and needles*, between Warren, Ohio, on the one hand, and, on the other, points in Michigan; (5) *microfilm*, exposed, unexposed, and processed, between Paramus, N.J., on the one hand, and, on the other, Binghamton, Elmsford, and Melville, N.Y.; (6) *radiopharmaceuticals, radioactive drugs and medical isotopes*, between points in Texas on traffic having an immediately prior or subsequent movement by air; and (7) *new and used small replacement parts for agricultural machinery*, between Coldwater, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, New York, and Pennsylvania, for 180 days. Supporting shippers: Simtab Inc., 6563 Rid-

ings Road, Syracuse, N.Y.; Harbisons Dairies, Kensington and Huntington Park Avenues, Philadelphia, PA 19124; 3 M Co., St. Paul, Minn. 55101; Physicians Billing Service, 210 Scott Street, Warren, Ohio; Boise Cascade Corp., Post Office Box 7747, Boise, Idaho 83707; Abbott Laboratories, Abbott Park, North Chicago, Ill. 60064; AVCO New Idea Farm Equipment Division, Coldwater, Ohio 45828. Send protests to: Anthony Chiusano, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 129870 (Sub-No. 6 TA), filed November 18, 1971. Applicant: GAS INCORPORATED, 95 East Merrimack Street, Lowell, MA 01853. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid methane*, in bulk, from Carlstadt, N.J., to Holbrook, N.Y., for 180 days. Supporting shipper: Long Island Lighting Co., 250 Old Colony Road, Mineola, N.Y. 11501. Send protests to: James F. Martin, Jr., Assistant Regional Director, Bureau of Operations, Interstate Commerce Commission, Boston, Mass. 02203.

No. MC 136153 (Sub-No. 1 TA), filed November 18, 1971. Applicant: FRANKLIN A. MILLER, doing business as FRANKLIN A. MILLER TRUCKING, 49 North Sixth West, St. Anthony, ID 83445. Applicant's representative: Dennis M. Olsen, 485 E Street, Idaho Falls, ID 83401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated buildings* in sections, knocked down flat, and the *fittings and component parts thereof*, including but not limited to air ducts, fans, air conditioning units, refrigeration units, heating units and similar items; also lumber, laminated beams, laminated wooden shapes, particle board and similar items, from points in Fremont County, Idaho, to points in Grant, Franklin, Benton, and Walla Walla Counties, Wash., and points in Illinois, Oregon, Colorado, Montana, and Wisconsin; and Box Elder, Cache, Weber, Utah, and Salt Lake Counties, Utah; (2) *iron and steel* used in construction and manufacture of buildings, from points in California, Illinois, and Washington to points in Fremont County, Idaho; (3) *insulating materials*, in blocks, sheets, or other forms and shapes, backed or not backed with paper or foil, also loose in packages, from points in California and Washington to points in Fremont County, Idaho; and (4) *lumber*, from points in Montana to points in Fremont County, Idaho, for 180 days. Supporting shipper: Timber Span Buildings, 805 West Third North Street, St. Anthony, ID 83445. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 455 Federal Building and U.S. Court House, 550 West Fort Street, Boise, ID 83702.

No. MC 136172 TA, filed November 22, 1971. Applicant: DICK BELL TRUCKING, INC., 16036 Valley Boulevard, Fon-

tana, CA 92335. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Polyester fiber*, weighing less than 1 pound per cubic foot, from Oakland, Calif., to points in Oregon and Washington; (2) *urethane foam*, weighing 4 pounds or less per cubic foot, from Sacramento, Calif., to points in Arizona, Idaho, Nevada, Oregon, Utah, and Washington; (3) *polystyrene products* (expanded plastic articles), weighing 4 pounds or less, per cubic foot from Pico Rivera, Calif., to points in Arizona, Texas, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington; (4) *polystyrene products* (expanded plastic articles), weighing 2 pounds or less per cubic foot, from Napa, Calif., to points in Idaho, Oregon, Utah, and Washington; (5) *fiber drums, and their closures and ends*, from Bell and La Palma, Calif., to points in Arizona; (6) *cans, can closures, and can ends*, from San Francisco, Calif., to points in Nevada, Oregon, Utah, and Washington; and (7) *returned rejected, and refused commodities* described in (1) through (6) above, from the respective origins shown above, for 180 days. Supporting shippers: Burkart, 2320 Livingston Street, Oakland, CA 94606; Owens/Corning Fiberglas Corp., Construction Services Division, Post Office Box F, Sacramento, CA 95813; Dolco Packaging Corp., 10850 Riverside Drive, North Hollywood, CA 91602; American Flotation Corp., 3406 Solano Avenue, Napa, CA 94558; The Greif Bros. Co., West Coast Division, 5145 Eastern Avenue, O Building S-346, Bell, CA 90201; Western Can Co., 1849 17th Street, San Francisco, CA 94103. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17781 Filed 12-3-71; 8:49 am]

[Notice 405]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 1, 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 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 11722 (Sub-No. 28 TA), filed November 24, 1971. Applicant: BRADER HAULING SERVICE, INC., Post Office Box 655, Zillah, WA 98953. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper such as cartons and containers*, knocked down flat, not corrugated, from Benton, Wash., to Paterson, Modesto, Turlock, Santa Clara, and Watsonville, Calif., for 180 days. Supporting shipper: Container Corp. of America, 2800 De La Cruz Boulevard, Santa Clara, CA 95050. Send protests to: District Supervisor W. J. Huetic, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 20722 (Sub-No. 23 TA), filed November 18, 1971. Applicant: M & G CONVOY, INC., Post Office Box 104, 590 Elk Street, 14210, Buffalo, NY 14240. Applicant's representative: Eugene C. Ewald, Suite 1700, One Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiat automobiles*, in secondary movements, in truckaway service, from Sharon, Vt., to points in Maine, New Hampshire, Vermont, Massachusetts, New York, Connecticut, Rhode Island, New Jersey, and Pennsylvania, for 150 days. Supporting shipper: Fiat-Roosevelt Motors, Inc., 532-540 Sylvan Avenue, Englewood Cliffs, N.J. 07632. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, NY 14203.

No. MC 25869 (Sub-No. 110 TA), filed November 22, 1971. Applicant: NOLTE BROS. TRUCK LINES, INC., Post Office Box 7184, 4734 South 27th Street, Omaha, NE 68107. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Kitchens of Sara Lee, Inc., at or near Deerfield and Chicago, Ill., to points in Colorado, Connecticut, Delaware, District of Columbia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and West Virginia, for 180 days. Supporting shipper: Kitchens of Sara Lee, Inc., Deerfield, Ill. Sent protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Opera-

tions, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 52657 (Sub-No. 688 TA), filed November 19, 1971. Applicant: ARCO AUTO CARRIERS, INC., 2140 West 79th Street, Chicago, IL 60620. Applicant's representative: S. J. Zangri (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Imported foreign-made automobiles and trucks* in secondary truckaway service, restricted to traffic having a prior movement by rail, from the site of the St. Louis-San Francisco Railway Co. Freight Yard, Kansas City, Mo., to Independence, Joplin, Kansas City, Liberty, Raytown, St. Joseph, Sedalia, and Springfield, Mo., Dodge City, Hutchinson, Kansas City, Lawrence, Merriam, Salina, Topeka, and Wichita, Kans., and McCook and North Platte, Nebr., for 180 days. Supporting shipper: D. Rodman, Traffic Manager, Southern Service Co. (a subsidiary of Amco, Inc.), 10750 West Grand Avenue, Franklin Park, IL 60131. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn, Room 1086, Chicago, IL 60604.

No. MC 92733 (Sub-No. 3 TA), filed November 19, 1971. Applicant: WALLACE TRANSPORT CO. LIMITED, 198 Willard Street, Port Colborne, ON Canada. Applicant's representative: William J. Hirsch, 35 Court Street, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Classes A and B explosives*, between Buffalo and Niagara Falls, N.Y., on the one hand, and, on the other, ports of entry on the international boundary between the United States and Canada on the Niagara River, for 150 days. Note: Applicant intends to tack with all concurring parties to Niagara Frontier Tariff Bureau participating carriers tariff. Supporting shippers: Standard Chemical Ltd., 60 Titan Road, Toronto 18, ON Canada; Harrisons & Crosfield (Canada) Ltd., 4 Banigan Drive, Toronto 17, ON Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 612 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

No. MC 94842 (Sub-No. 6 TA), filed November 22, 1971. Applicant: ROBERT CROCKET, INC., 102 Crescent Avenue, Chelsea, MA 02150. Applicant's representative: Frank J. Weiner, 6 Beacon Street, Boston, MA 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in containers, having a prior or subsequent movement by water carrier and motor carrier, from ports of entry on the international

boundary line between the United States and Canada at or near Highgate Center, Vt., to points in Connecticut, Massachusetts, New York, New Jersey, and Pennsylvania, returned empty containers, from the above described destination points to the above described origin points, for 150 days. Supporting shipper: Mediterranean Agencies, a division of American, Israeli Shipping Co., Inc., 42 Broadway, New York, NY 10004. Send protests to: Max Gorenstein, District Supervisor, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Building, Government Center, Boston, Mass. 02203.

No. MC 104523 (Sub-No. 47 TA), filed November 22, 1971. Applicant: HUSTON TRUCK LINE, INC., Friend, Nebr. 68359. Applicant's representative: David R. Parker, 605 South 14 Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tile, cove, adhesives, and accessories* used in the installation of the foregoing, from Houston, Tex., to Los Angeles, Calif., and Kearny, N.J., and their respective commercial zones, for 180 days. Supporting shipper: Uvalde Rock Asphalt, Post Office Box 531, San Antonio, TX 78206. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 113666 (Sub-No. 61 TA), filed November 19, 1971. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Applicant's representative: Daniel R. Smetanick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed ingredients*, in bulk, from Willow Island, W. Va., to Garden City, Kansas City, and Muncie, Kans., and Des Moines, Iowa, for 180 days. Supporting shipper: American Cyanamid Co., Wayne, N.J. 07470. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 117255 (Sub-No. 1 TA), filed November 19, 1971. Applicant: IOWA REFRIGERATED EXPRESS, INC., Post Office Box 3145, Des Moines, IA 50316. Office: 5300 Hubbell, Altoona, IA 50009. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, 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 (except hides and commodities in bulk), from the plantsite of Tama Meat Packing Corp., near Tama, Iowa, to points in Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, South Dakota, and Wisconsin, for 180 days. Supporting

shipper: Tama Meat Packing Corp., Tama, Iowa 52339. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 124327 (Sub-No. 2 TA), filed November 18, 1971. Applicant: BYFORD CONTRACT CARRIER CORPORATION, Post Office Box 261, Selmer, TN 38375. Applicant's representative: Walter Harwood, Suite 1822, Parkway Towers, 404 James Robertson Parkway, Nashville, TN 37219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salad dressings*, moving in insulated trailers, from Nashville, Tenn., to points in Arizona, California, Oklahoma, and Texas; and (2) *canned tomato products*, from points in California to Nashville, Tenn., for 180 days. Supporting shipper: Mike Rose Foods (Mike Rose, President) 1000 Jo Johnston Avenue, Nashville, TN 37202. Send protest 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 126276 (Sub-No. 61 TA), filed November 19, 1971. Applicant: FAST MOTOR SERVICE, INC., 12855 South Ponderosa Drive, Palos Heights, IL. Applicant's representative: Albert A. Andrin, 29 South LaSalle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and metal container ends*, from the plantsite of the American Can Co. at St. Louis, Mo., to Memphis, Tenn., for 150 days. Supporting shipper: William A. Frazier, Transportation Coordinator, American Can Co., 200 South Michigan Avenue, Chicago, IL 60604. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 126276 (Sub-No. 62 TA), filed November 19, 1971. Applicant: FAST MOTOR SERVICE, INC., 12855 South Ponderosa Drive, Palos Heights, IL. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container ends, and closures*, in mixed loads, between the plantsites of Crown Cork & Seal Co., Inc., at North Bergen, N.J.; Philadelphia, Pa.; Baltimore and Fruitland, Md.; Winchester, Va.; Orlando and Bartow, Fla.; Atlanta, Ga.; Birmingham, Ala.; and Spartanburg, S.C., for 180 days. Supporting shipper: Edward H. Fehskens, General Traffic Manager, Crown Cork & Seal Co., Inc., 3501 West 31st Street, Chicago, IL 60623. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 127505 (Sub-No. 49 TA), filed November 22, 1971. Applicant: RALPH H. BOELK, doing business as BOELK TRUCK LINES, Route No. 2, Mendota, IL 61342. Applicant's representative: Walter Kobos (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel pallet rack assemblies and parts thereof*, from Mendota and Streator, Ill., to Fort Madison, Iowa, for 180 days. Supporting shipper: Conco, Inc., Mendota, Ill. 61342. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 128355 (Sub-No. 8 TA), filed November 22, 1971. Applicant: HURLIMAN TRUCKING COMPANY, Post Office Box 17204, Portland, OR 97217. Applicant's representative: David C. White, Farley Building, 2400 Southwest Fourth Avenue, Portland, OR 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in mechanically refrigerated vehicles, for the account of Rich Products Corp., between points in the United States except Arkansas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, North Carolina, South Carolina, and Florida, for 180 days. Supporting shipper: Rich Products Corp., 1145 Niagara Street, Buffalo, NY 14213. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 129643 (Sub-No. 8 TA), filed November 22, 1971. Applicant: GEORGE SMITH, doing business as GEORGE SMITH TRUCKING CO., 433 Mountain Avenue, Winnipeg, MB Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Seattle, Wash., to ports of entry located on the international boundary line at or near Eastport, Idaho (restricted to traffic destined to Manitoba and Saskatchewan, Canada) for 180 days. Supporting shipper: Chiquita Brands Ltd., 147 Old Mill Road, Winnipeg 12, MB Canada. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, ND 58102.

No. MC 129972 (Sub-No. 4 TA), filed November 18, 1971. Applicant: GERALD D. WRIGHT, 1303 10th Street SE., Jamestown, ND 58401. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and malt beverage containers and cartons, bottle and can openers, advertising matters, and brewery products* when moving therewith, from Olympia, Wash., to points in North Dakota; and (2) *empty containers and cartons, advertising matter, spoiled malt beverages,*

pallets and brewery materials, supplies, and ingredients, from points in North Dakota to Olympia, Wash., for 180 days. Supporting shipper: Olympias Brewing Co., Post Office Box 947, Olympia, WA 98501. Send protests to: J. H. Ambs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Post Office Box 2340, Fargo, ND 58102.

No. MC 134201 (Sub-No. 2 TA), filed November 22, 1971. Applicant: JAMES V. PALMER, doing business as JIM PALMER TRUCKING, 1618 Humble Road, Missoula, MT 59801. Applicant's representative: Jerome Anderson, 404 North 31st Street, Billings, MT 59101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood products*, from points in Beaverhead, Flathead, Lake, Missoula, Ravalli, and Sanders Counties, Mont., to points in North Dakota, South Dakota, Nebraska, Minnesota, Iowa, and Wisconsin, for 180 days. Supporting shipper: P & M Sales Co., Inc., Post Office Box 1208, Missoula, MT 59801. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 134910 (Sub-No. 5 TA), filed November 22, 1971. Applicant: CALLIS TRUCKING, INC., Box 25, Clay and Market Streets, Centerton, IN 46116. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Processed clay* (mortar mix or admixture) in bags, palletized, or in containers, from points in Boone County, Iowa, to points in the State of Indiana, for 180 days. Supporting shipper: Architectural Brick Sales, 7172 North Keystone Avenue, Indianapolis, IN. Send protests to: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Penn Street, Indianapolis, IN 46204.

No. MC 135877 (Sub-No. 2 TA), filed November 24, 1971. Applicant: RONALD R. BRADER, doing business as SPECIALIZED TRUCKING SERVICE, 1508 South Fourth Avenue, Yakima, WA 98902. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles and jars, covers, stoppers and tops; and fiberboard boxes*, knocked down flat, when in mixed shipments with the above commodities, from Portland, Ore., to points in Monterey County, Calif., for 180 days. Supporting shipper: Owens-Illinois, Glass Container Division, 1700 South El Camino Real, San Mateo, CA 94402. Send protests to: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 136164 (Sub-No. 1 TA), filed November 18, 1971. Applicant: OHIO REFRIGERATED TRANSPORT, INC., 27 South Perry Street, New Riegel, OH

NOTICES

44853. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products* (except commodities in bulk), from Carey and Riegel, Ohio, to Atlanta, Ga., and points in Connecticut, Florida, Maryland, District of Columbia, Massachusetts, New Hampshire, New Jersey, New York, and Pennsylvania, restricted to service performed under continuing contracts with Riegel Provision Co. and Donelson Packing Co., Inc., for 180 days. Supporting shippers: Riegel Provision Co., New Riegel, Ohio (Seneca County); Donelson Packing Co., Inc., Carey, Ohio (Wyandot County). Send protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5234 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 136169 TA, filed November 18, 1971. Applicant: CHARLIE PHILLIPS, doing business as CHARLIE PHILLIPS TRUCKING, Post Office Box 222, Alvarado, TX 76009. Applicant's representative: Jerry C. Prestridge, Post Office Box 1148, Austin, TX 78767. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum rock*, from points in Oklahoma to the plantsite of Gifford-Hill Portland Cement Co. at or near Midlothian, Tex., for 150 days. Supporting

shipper: Gifford-Hill Portland Cement Co., Post Office Box 520, Midlothian, TX 76065. Send protests to: H. C. Morrison, Sr., Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 136170 TA, filed November 22, 1971. Applicant: HUBERT WM. HENRY, SR., HUBERT WM. HENRY, JR., AND RICHARD M. HENRY, a partnership doing business as HENRY TRUCKING COMPANY, 11221 Cadigan Drive, St. Louis, MO 63138. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Carpeting*, from Calhoun, Ga., to St. Louis, Mo., by Interstate Highway 75 north from Calhoun, Ga., to Interstate Highway 24 at Chattanooga, Tenn., north to Interstate Highway 65 at Nashville, Tenn., north to Highway 80 at Hopkinsville, Ky., west to Highway 121 at Mayfield, Ky., west to Highway 51 at Wickliffe, Ky., north to Highway 3 at Cairo, Ill., north to Highway 146, west to Interstate Highway 55 at Cape Girardeau, Mo., north to St. Louis, Mo., for 180 days. Supporting shippers: Standard Floor Covering, Inc., 11721 Dunlap Industrial Boulevard, Maryland Heights, MO 63042; Camelot Carpets, Ltd., 2328 Grissom Drive, St. Louis, MO 63141. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room

1465, 210 North 12th Street, St. Louis, MO 63101.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17782 Filed 12-3-71;8:49 am]

[Notice 791]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 1, 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-73336. By application filed November 26, 1971, SCHUYLER W. JACKSON, Suite 122, 440 East-West Highway, Bethesda, MD 20014, seeks temporary authority to lease the operating rights of RACHEL O. COFFEY, surviving partner, RAE'S TRUCKING COMPANY, 8808 Sudley Road, Manassas, VA 22110, under Section 210a(b). The transfer to SCHUYLER W. JACKSON, of the operating rights of RACHEL O. COFFEY, surviving partner, RAE'S TRUCKING COMPANY, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-17783 Filed 12-3-71;8:49 am]

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