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Title 7—AGRICULTURE

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SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 5]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-Cured Tobacco, 1970-71 and Subsequent Marketing Years

MISCELLANEOUS AMENDMENTS

This amendment to the tobacco allotment and marketing quota regulations is issued pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.).

The purposes of this amendment are as follows:

1. Paragraph (g) of § 725.51 makes an editorial correction in the definition of dealer or buyer.

2. Paragraph (o) of § 725.51 and paragraph (c) of § 725.94 are amended to establish a uniform percentage of 0.50 percent for computing maximum allowable floor sweepings. Prior to this amendment, two percentage rates were applicable, one for tied tobacco, the other for untied tobacco. Since very little flue-cured tobacco is marketed in tied form, and in view of the difficulty in administering two different rates, a single rate is considered justifiable.

3. Paragraph (b) of § 725.58, paragraph (b) of § 725.60 and paragraphs (a), (b), and (c) of § 725.73 are amended to eliminate references to insufficient cropland when determining effective farm acreage allotment, effective farm marketing quota and history acreage. These changes result from an overall change in policy and conform to changes already made in other regulations.

4. In § 725.72 paragraphs (i), (j), (p), and (q) are amended and paragraph (t) is added to clarify that any pooled allotment may be leased and transferred during the 3-year life of such pooled allotment; to expand on provisions prohibiting subleasing of quota to include other limitations; to expand on the conditions necessary for cancellation, dissolution or revision of transfer; and to clarify provisions for handling leased quota where farm is reconstituted after lease and transfer. This amendment also provides that allotment and marketing quota on land under restrictive lease shall not be eligible for lease and transfer.

5. Section 725.75 is amended to eliminate provisions for reducing tobacco allotment because of insufficient cropland on the farm. This is a comparison amendment to Amendment 3.

6. Paragraph (e) of § 725.92 is added to provide the rate of penalty for excess tobacco marketed during 1971-72 marketing season.

7. Paragraph (a) of § 725.98 is amended to specify that the farm yield is to be used in lieu of the farm's actual yield in determining amount of allotment reduction for false acreage certification.

8. Paragraph (d) of § 725.99 is amended to expand provisions for handling suspended sales and submitting data to Kansas City Data Processing Center.

Since the production of the 1971 crop is now under way, it is essential that this amendment be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the notice, public procedure and 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest and this amendment shall become effective upon filing of this document with the Director, Office of the Federal Register.

1. Paragraphs (g) and (o) of § 725.51 are amended to read as follows:

§ 725.51 Definitions.

(g) *Dealer or buyer.* A person who engages to any extent in acquiring or selling tobacco in the form normally marketed by producers.

(o) *Floor sweepings.* The actual quantity of scraps or leaves of tobacco which accumulate on the warehouse floor in the regular course of business: *Provided,* That floor sweepings above the pounds determined by multiplying 0.50 (fifteenths of 1 percent) percentage times the total first sales of tobacco at auction for the season for the warehouse, shall be deemed to be leaf account tobacco. Floor sweeping tobacco shall be kept separate from any other tobacco when sold.

2. Paragraph (b) (2) (ii) of § 725.58 is revised to read as follows:

§ 725.58 Determination of farm acreage allotments and effective farm acreage allotments.

(b) *Effective farm acreage allotment.*

(2) (ii) Subtract from the acreage computed under (i) of this subparagraph the (a) acreage obtained by dividing the pounds leased and transferred from the farm for the current year by the current year's farm yield for the lessor farm, and (b) acreage reduced because of a violation of the marketing quota regulations.

3. Paragraph (b) of § 725.60 is revised to read as follows:

§ 725.60 Determination of effective farm marketing quotas.

(b) *Downward adjustment.* The farm marketing quota, after adjustment, if any, under paragraph (a) of this section, shall be adjusted downward by subtracting (1) the pounds overmarketed in the preceding marketing year plus additional pounds overmarketed in any prior marketing year for which a reduction in quota has not been made, (2) the pounds reduced for violation of the tobacco marketing quota regulations for a prior year, and (3) the pounds leased and transferred from the farm for the current year.

4. In § 725.72, paragraph (i), (j), (p), and (q) are amended, and a new paragraph (t) is added, to read as follows:

§ 725.72 Lease and transfer of tobacco marketing quotas.

(i) *Pooled allotments.* Marketing quotas established for allotments in a pool pursuant to Part 719 may be eligible for lease and transfer during the 3-year life of the pooled allotment. An agreement to lease and transfer shall not serve to extend the life of such pooled allotment.

(j) *Subleasing and limitation on lease and transfer to and from a farm—*(1) *No subleasing.* No transfer shall be made from a farm receiving quota under a transfer agreement for the term of the transfer agreement.

(2) *Limitation on lease and transfer to and from a farm for the same crop year.* If a lease and transfer agreement is in effect for any farm, no transfer of quota shall be made (i) from such farm receiving quota by transfer or (ii) to such farm which had quota transferred from it.

(p) *Cancellation, dissolution, or revision of transfer—*(1) *Cancellation.* Any transfer of allotment and quota under this section which was approved by the county committee in error or on the basis of incorrect information furnished by the parties to the agreement shall be canceled by the county committee. Such cancellation shall be effective as of the date of approval for purposes of determining overmarketings and undermarketings from the farms, and for purposes of determining eligibility for price support and marketing quota penalties except that such cancellation shall not be effective for the current marketing year for price support and marketing quota penalty purposes if: (i) The transfer approval

was made in error or on the basis of incorrect information unknowingly furnished by the parties to the leasing agreement; and, (ii) the parties to the leasing agreement were not notified of the cancellation before the tobacco was planted.

(2) *Dissolution or revision.* A transfer agreement may be dissolved or minor revisions made where a request by all parties to the agreement is made in writing to the county committee. Such written notification shall be filed prior to planting the tobacco, except that dissolution or revision shall be effective if (i) the county committee, with approval of the State executive director, finds that it was agreed upon prior to planting the tobacco and (ii) the terms of the dissolution or revision in writing, are filed with the county committee no later than July 31 of the current year. In such a case, an official notice of the effective farm acreage allotment and effective farm marketing quota, reflecting the dissolution or revision, shall be issued by the county committee to each of the operators involved in the leasing agreement. If the request to dissolve or revise the lease is made after the applicable closing time for the current year, but prior to the last crop year for which the lease agreement is effective, the next allotment and quota established for the farm shall reflect the dissolution or revision.

(g) *Reconstitutions after lease and transfer.* Allotments for reconstituted farms shall be divided or combined in accordance with Part 719 of this chapter. For this purpose, the farm acreage allotment being divided or combined for a farm in the current year shall be the allotment after lease and transfer has been made. However, in the case of a division, the county committee may allocate, under Part 719 of this chapter, the leased quota involved to the tracts involved in the division as the parent farm owner and operator designate in writing. In the absence of a written designation, the county committee shall apportion the leased quota.

(t) *Allotment and marketing quota on land under restrictive lease.* If a farm is federally owned and a lease is in effect restricting the production of flue-cured tobacco, the quota established for such allotment shall not be eligible for lease and transfer.

5. Paragraphs (a) (1), (b), and (c) of § 725.73 are revised to read as follows:

§ 725.73 Determining tobacco history acreages.

(a) *Farm acreage allotment fully preserved.* * * *

(1) In the current year or either of the 2 preceding years (i) the sum of (a) the final tobacco acreage as determined under Part 718 of this chapter, (b) the acreage computed for pounds

leased and transferred from the farm under lease and transfer provisions, and (c) the acreage regarded as planted to tobacco under the conservation programs and practices determined pursuant to Part 719 of this chapter, was as much as 75 per centum of the farm's history allotment (basic allotment minus acreage reduced for (1) overmarketings and (2) violation of marketing quota regulations), or (ii) the farm acreage allotment is or was in the eminent domain allotment pool; or * * *

(b) *Computed history acreage.* If the farm acreage allotment is not fully preserved as tobacco history acreage under paragraph (a) of this section, the tobacco history acreage shall be the sum of the acreage (not to exceed the farm acreage allotment) as follows:

- (1) Final tobacco acreage.
- (2) Acreage computed for pounds leased and transferred from the farm.
- (3) Acreage regarded as planted to tobacco under the conservation programs and practices.

(c) *Adjustment of tobacco history acreage for abnormal weather or disease.* If the county committee determines (with the approval of a representative of the State committee) that for any year the sum of the final tobacco acreage, the acreage computed for pounds leased and transferred from the farm under the lease and transfer provisions, and the acreage regarded as planted to tobacco under the conservation programs and practices is less than 75 per centum of the farm acreage allotment (after any reduction for violation of the marketing quota regulations and adjustment for overmarketings) because of abnormal weather or disease, the tobacco history acreage for such year shall be adjusted to become the smaller of (1) the farm acreage allotment, or (2) the sum of the (i) final tobacco acreage for the farm, (ii) the acreage computed for pounds leased and transferred from the farm, (iii) the acreage regarded as planted to tobacco under the conservation programs and practices, and (iv) if the farm operator makes a written request of the county committee not later than August 1 of the crop year involved, the additional acreage which the county committee determines (with the approval of a representative of the State committee) would have been included in the final acreage if the weather had been normal, or there had been no disease. Any adjustment in tobacco history acreage because of abnormal weather or disease shall not be considered as acreage devoted to tobacco in determining whether or not 75 percent of the farm acreage allotment is planted.

§ 725.75 [Revoked]

6. Section 725.75, Reduction in farm allotment because of cropland limitation, is hereby repealed.

7. Section 725.92 is amended by adding paragraph (e) to read as follows:

§ 725.92 Rate of penalty.

(e) (1) *Average market price.* The average market price as determined by the Crop Reporting Board for the marketing year specified was:

AVERAGE MARKET PRICE	
Marketing year:	Cents per pound
1970-71 -----	72.0

(2) *Rate of penalty per pound.* The penalty per pound upon marketings of excess tobacco subject to marketing quotas during the marketing year specified shall be:

RATE OF PENALTY	
Marketing year:	Cents per pound
1971-72 -----	64

8. The last sentence of paragraph (c) of § 725.94 is amended to read as follows:

§ 725.94 Penalties considered to be due from warehousemen, dealers, buyers, and others excluding the producer.

(c) *Leaf account tobacco.* * * * The actual quantity of floor sweepings which the State executive director determines have been properly identified as floor sweepings and sold and reported as such by the warehouseman shall be considered acceptable proof that such marketings are not marketings of excess tobacco if the amount thereof for the warehouse does not exceed the maximum allowable floor sweepings for the season as determined by multiplying 0.50 percentage by producers' sales.

9. The next to the last sentence of paragraph (a) of § 725.98 is amended to read as follows:

§ 725.98 Producers' records and reports.

(a) *Failure to file reports or filing false reports.* * * * If the condition in subdivisions (i) and (ii) of this paragraph are not applicable, the next established allotment shall be reduced by the pounds computed as follows: The acreage falsely certified (difference between certified and measured acreage) shall, for the year of the violation, be multiplied by the farm yield. * * *

10. Paragraph (d) of § 725.99 is amended to read as follows:

§ 725.99 Warehouseman's records and reports.

(d) *Suspended sale record.* (1) Any tobacco sale bill covering a sale of tobacco for which a valid marketing card or dealer identification card was not presented shall be given to a marketing recorder who shall stamp such bills, "Suspended."

(2) When cleared, such suspended sale bill shall show suspended—cleared and date cleared. Such tobacco sale data shall be submitted to KCDPC after the sale is cleared. If a suspended sale is not

cleared by the last auction sale day for the warehouse for the season, it shall be considered a sale of excess tobacco and penalty at the full rate shall be remitted by the warehouseman.

(Secs. 313, 314, 316, 317, 373, 374, 375, 378, 379, 52 Stat. 47, as amended 48, as amended, 75 Stat. 496, as amended, 79 Stat. 66, 52 Stat. 65, as amended, 66, as amended, 72 Stat. 995, as amended, 79 Stat. 1211; 7 U.S.C. 1313, 1314, 1314b, 1314c, 1373, 1374, 1375, 1378, 1379)

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

Signed at Washington, D.C., on June 11, 1971.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.71-8453 Filed 6-15-71;8:49 am]

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

[Orange Reg. 67, Amdt. 10]

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

Limitation of Shipments

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown 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 of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, except Navel, Temple, and Murcott Honey oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the restrictions on the handling of varieties of oranges grown in Florida.

The recommendation by the Growers Administrative Committee for less restrictive grade and size limitations on fresh shipments of certain varieties of

oranges is consistent with the available supply of and current and prospective demand for such fruit by fresh market outlets. The lower grade regulation recommended for the period June 14, 1971, through June 20, 1971, and still lower grade and size regulations recommended for the period June 21, 1971, through September 12, 1971, reflect the seasonably progressive decline of the external appearance and size of such oranges. The recommended grade and size regulations are necessary to insure a continuous supply of good quality fruit to consumers and to improve overall returns to producers.

Order. In § 905.529 (Orange Reg. 67; 35 F.R. 18741, 19245, 19246; 36 F.R. 1522, 2860, 3194, 3460, 3884, 5494, 6493, 9129), the provisions of subdivisions (i) and (ii) of paragraph (a) (2) are amended to read as follows:

§ 905.529 Orange Regulation 67.

(a) * * *

(2) * * *

(i) Any oranges, except Navel, Temple, and Murcott Honey oranges, grown in the production area, which do not grade at least U.S. No. 2 Russet except that during the period June 14, 1971, through June 20, 1971, no handler shall ship oranges, other than Navel, Temple, and Murcott Honey oranges, grown in the production area, that grade less than U.S. No. 1 Golden;

(ii) Any oranges, except Navel, Temple, and Murcott Honey oranges, grown in the production area, which are of a size smaller than 2 $\frac{3}{16}$ inches in diameter except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Oranges and Tangelos: *Provided*, That during the period June 21, 1971, through September 12, 1971, any handler may ship oranges, except Navel, Temple, and Murcott Honey oranges, grown in the production area, that are not smaller than 2 $\frac{1}{16}$ inches in diameter except that a tolerance of 10 percent, by count, of oranges smaller than such minimum diameter shall be permitted which tolerance shall be applied in accordance with the provisions for the application of tolerances specified in the U.S. Standards for Florida Oranges and Tangelos: *Provided further*, That in determining the percentage of oranges in any lot which are smaller than the applicable minimum of 2 $\frac{3}{16}$ inches in diameter such percentage shall be based only on those oranges in such lot which are of a size 2 $\frac{1}{16}$ inches in diameter or smaller and in determining the percentage of oranges in any lot which are smaller than the applicable minimum of 2 $\frac{1}{16}$ inches in diameter such percentage shall be based only on those oranges in such

lot which are of a size 2 $\frac{1}{16}$ inches in diameter or smaller;

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

Dated, June 10, 1971, to become effective June 14, 1971.

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

[FR Doc.71-8416 Filed 6-15-71;8:46 am]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 615—MEN'S AND BOYS' CLOTHING AND RELATED PRODUCTS INDUSTRY IN PUERTO RICO

Wage Order; Correction

On May 22, 1971, wage order revising § 615.2 of Title 29, Code of Federal Regulations to be effective June 4, 1971, was published in the FEDERAL REGISTER at page 9294.

As section 8(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 208) provides that the recommendations of the industry committee shall take effect upon the expiration of 15 days after the date of publication, the effective date of this wage order is corrected from June 4, 1971, to June 7, 1971.

Signed at Washington, D.C., this 9th day of June 1971.

H. E. MENASCO,
Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.71-8436 Filed 6-15-71;8:48 am]

PART 697—INDUSTRIES IN AMERICAN SAMOA

Wage Order; Correction

On May 20, 1971, wage order revising §§ 697.1 and 697.3 of Title 29, Code of Federal Regulations to be effective June 2, 1971, was published in the FEDERAL REGISTER at pages 9134 and 9135.

As section 8(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 208) provides that the recommendations of the industry committee shall take effect upon the expiration of 15 days after the date of publication, the effective date of this wage order is corrected from June 2, 1971, to June 5, 1971.

Signed at Washington, D.C., this 9th day of June 1971.

H. E. MENASCO,
Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.71-8437 Filed 6-15-71;8:48 am]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department RULES OF PROCEDURE BEFORE THE JUDICIAL OFFICER

The Judicial Officer has revised the Rules of Procedure codified in Parts 951 through 957 of title 39, Code of Federal Regulations. Accordingly, Parts 951-957 are revised to read as hereinafter set out. The revision, which reflects enactment of the Postal Reorganization Act (Public Law 91-375), updates terminology and office designations used in the present rules, but does not change the substance of the rules. This document is effective July 1, 1971, the scheduled date for the commencement of operations of the United States Postal Service.

PART 951—PROCEDURE GOVERNING THE ELIGIBILITY OF PERSONS TO PRACTICE BEFORE THE POSTAL SERVICE

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AUTHORITY: The provisions of this Part 951 issued under 39 U.S.C. 204, 401.

§ 951.1 Authority for rules.

The Judicial Officer promulgates these rules pursuant to authority delegated by the Postmaster General.

§ 951.2 Eligibility to practice.

(a) Any individual who is a party to any proceeding before the Judicial Officer, the Board of Contract Appeals or a hearing examiner may appear for himself or by an attorney at law.

(b) The head of any department of the Postal Service may establish such special rules and regulations pertaining to eligibility to practice before such department as he may deem to be necessary or desirable.

(c) Generally, except as provided in § 951.3, any attorney at law who is a member in good standing of the Bar of the Supreme Court of the United States or of the highest court of any State, District, Territory, Protectorate or Possession of the United States, or of the District of Columbia, and is not under any order of any court or executive department of one of the foregoing governmental entities suspending, enjoining, restraining, disbaring, or otherwise restricting him in the practice of law may represent others before the U.S. Postal Service.

(d) When any person acting in a representative capacity appears in person or signs a paper in practice before the Postal Service his personal appearance or signature shall constitute a representation to the Postal Service that under

the provisions of this part and the law he is authorized and qualified to represent the particular party in whose behalf he acts. The Postal Service does not generally take formal action or issue any certificate to show that an individual is eligible to practice before it. (But see § 951.4.)

§ 951.3 Persons ineligible for admission to practice.

(a) No person disbarred from practice before the Postal Service or in any other executive department of any of the governmental entities mentioned in § 951.2

(c) will be eligible to practice before the Postal Service until said order of disbarment shall have been revoked.

(b) Any person who, subsequently to being admitted to practice before the Postal Service, is disbarred by any governmental entity mentioned in § 951.2(c) shall be deemed suspended from practice before the Postal Service during the pendency of said order or disbarment.

(c) No person who has been an attorney, officer, clerk, or employee in the Postal Service will be recognized as attorney for prosecuting before it or any office thereof any case or matter which he was in anywise connected while he was such attorney, officer, clerk, or employee.

(d) No person coming within the prohibitions of 18 U.S.C. 203, 205, or 207, will be recognized as attorney before the Postal Service or any office thereof.

§ 951.4 Authorization of appearance may be required.

The Judicial Officer, the head of any department of the Postal Service or any hearing examiner may require any person to present satisfactory evidence of his authority to represent the person for whom he appears.

§ 951.5 Complaint of misconduct.

(a) If the head of any department of the Postal Service has reason to believe, or if complaint be made to him, that any person is guilty of conduct subjecting him to suspension or disbarment, the head of such office shall report the same to the Judicial Officer.

(b) Whenever any person submits to the Judicial Officer a complaint against any person who has practiced, is practicing or holding himself out as entitled to practice before the Postal Service, the Judicial Officer may refer such complaint to the Chief Inspector for a complete investigation and report.

(c) At any time, the Judicial Officer may refer the complaint to the General Counsel for the preparation of formal charges to be lodged against and served upon the person against whom the complaint has been made.

§ 951.6 Censure, suspension or disbarment; grounds.

(a) The Judicial Officer may censure, suspend or disbar any person against whom a complaint has been made and upon whom charges have been served as provided in § 951.5 if he finds that such person:

(1) Does not possess the qualifications required by § 951.2;

(2) Has failed to conform to standards of ethical conduct required of practitioners at the Bar of any court of which he is a member;

(3) Represents, as an associate, an attorney who, known to him, solicits practice by means of runners or other unethical methods;

(4) By use of his name, personal appearance, or any device, aids or abets an attorney to practice during the period of his suspension or disbarment, such suspension or disbarment being known to him;

(5) Displays towards the Judicial Officer, Board of Contract Appeals or any hearing examiner assigned to the Postal Service, conduct which, if displayed toward any court of any State, the United States, any of its Territories or the District of Columbia, would be cause for censure, suspension or disbarment; or

(6) Is otherwise guilty of misconduct or lacking in character or professional integrity.

(b) Before any person shall be censured, suspended or disbarred, he shall be afforded an opportunity to be heard by the Judicial Officer on the charges made against him. The General Counsel or his designee shall prosecute such cases.

(c) In the event the Judicial Officer is unavailable for any reason, cases relating to the censure, suspension or disbarment of attorneys will be governed as herein provided, except that the hearing will be conducted by a hearing examiner appointed pursuant to the provisions of the Administrative Procedure Act or by some other disinterested member of the headquarters staff of the Postal Service who shall be appointed by the Deputy Postmaster General.

§ 951.7 Notice of disbarment; exclusion from practice.

Upon the disbarment of any person, notice thereof will be given to the heads of the departments of the Postal Service and to the other Executive Departments, and thereafter, until otherwise ordered, such disbarred persons will not be entitled to practice before the Postal Service or any department thereof.

PART 952—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO FALSE REPRESENTATION AND LOTTERY ORDERS

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AUTHORITY: The provisions of this Part 952 issued under 39 U.S.C. 204, 401.

§ 952.1 Authority for rules.

These rules of practice are issued by the Judicial Officer of the U.S. Postal Service (See § 952.26) pursuant to authority delegated by the Postmaster General.

§ 952.2 Scope of rules.

These rules of practice shall be applicable in all formal proceedings before the Postal Service, 39 U.S.C. §§ 3003 and 3005, including such cases instituted under prior rules of practice pertaining to these or predecessor statutes, unless timely shown to be prejudicial to the respondent.

§ 952.3 Informal dispositions.

These rules do not preclude the disposition of any matter by agreement between the parties either before or after the filing of a complaint when time, the nature of the proceeding, and the public interest permit.

§ 952.4 Office, business hours.

The offices of the officials mentioned in these rules are located at the headquarters of the U.S. Postal Service, 12th and Pennsylvania Avenue NW., Washington, DC 20260, and are open Monday through Friday from 8:45 a.m. to 5:15 p.m.

§ 952.5 Complaints.

When the General Counsel of the Postal Service or his designated representative believes that a person (1 U.S.C. 1) is using the mails in a manner requiring formal administrative action under 39 U.S.C. 3005 he shall prepare and file with the Docket Clerk a complaint which names the person involved; states the legal authority and jurisdiction under which the proceeding is initiated; states the facts in a manner sufficient to enable the person named therein to make answer thereto; and recommends the issuance of an appropriate order. The person so named in the complaint shall be known as the respondent.

§ 952.6 Interim impounding.

In preparation for or during the pendency of a proceeding initiated under 39 U.S.C. 3005, mail addressed to a respondent may be impounded upon obtaining

an appropriate order from a United States District Court, as provided in 39 U.S.C. 3007.

§ 952.7 Notice of hearing.

When a complaint is filed the Docket Clerk shall issue a notice of hearing stating the time and place of the hearing and the date for filing an answer which shall not exceed 15 days from the service of the complaint, and a reference to the effect of failure to file an answer or appear at the hearing. (See §§ 952.10 and 952.11.) Whenever practicable, the hearing date shall be within 30 days of the date of the notice.

§ 952.8 Service.

(a) The Docket Clerk shall cause a notice of hearing and a copy of the complaint to be transmitted to the postmaster at any office of address of the respondent or to the inspector in charge of any division in which the respondent is doing business, which shall be delivered to the respondent or his agent by said postmaster or a supervisory employee of his post office or a postal inspector. A receipt acknowledging delivery of the notice shall be secured from the respondent or his agent and forwarded to the Docket Clerk, U.S. Postal Service, Washington, DC 20260, to become a part of the official record.

(b) In the event no person can be found to accept service of the notice of hearing and complaint pursuant to paragraph (a) of this section, the notice may be delivered in the usual manner as other mail addressed to the respondent. A statement, showing the time and place of delivery, signed by the postal employee who delivered the notice of hearing shall be forwarded to the Docket Clerk and constitute evidence of service.

§ 952.9 Filing documents for the record.

(a) Each party shall file with the Docket Clerk pleadings, motions, orders and other documents for the record. The Docket Clerk shall cause copies to be delivered promptly to other parties to the proceeding and to the presiding officer.

(b) The parties shall submit four copies of all documents unless otherwise ordered by the presiding officer. One copy shall be signed as the original.

(c) Documents shall be dated and state the docket number and title of the proceeding. Any pleading or other document required by order of the presiding officer to be filed by a specified date shall be delivered to the Docket Clerk on or before such date. The date of filing shall be entered thereon by the Docket Clerk.

§ 952.10 Answer.

(a) The answer shall contain a concise statement admitting, denying, or explaining each of the allegations set forth in the complaint.

(b) Any facts alleged in the complaint which are not denied or are expressly admitted in the answer may be considered as proved, and no further evidence regarding these facts need be adduced at the hearing.

(c) The answer shall be signed personally by an individual respondent, or in the case of a partnership by one of the partners, or, in the case of a corporation or association, by an officer thereof.

(d) The answer shall set forth the respondent's address and the name and address of his attorney.

(e) The answer shall affirmatively state whether the respondent will appear in person or by counsel at the hearing.

(f) If the respondent does not desire to appear at the hearing in person or by counsel he may request that the matter be submitted for determination pursuant to paragraph (b) of § 952.11.

§ 952.11 Default.

(a) If the respondent fails to file an answer within the time specified in the notice of hearing, he shall be deemed in default, and to have waived hearing and further procedural steps. The Judicial Officer shall thereafter issue an order without further notice to the respondent.

(b) If the respondent files an answer but fails to appear at the hearing, the presiding officer shall receive complainant's evidence and render an initial decision.

§ 952.12 Amendment of pleadings.

(a) Amendments proposed prior to the hearing shall be filed with the Docket Clerk. Amendments proposed thereafter shall be filed with the presiding officer.

(b) By consent of the parties a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing and, provided that the amendment is reasonably within the scope of the proceeding initiated by the complaint, the presiding officer shall make such ruling on the motion as he deems to be fair and equitable to the parties.

(c) When issues not raised by the pleadings but reasonably within the scope of the proceedings initiated by the complaint are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments as may be necessary to make the pleadings conform to the evidence and to raise such issues shall be allowed at any time upon the motion of any party.

(d) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues made by the pleadings, but fails to satisfy the presiding officer that an amendment of the pleadings would prejudice him on the merits, the presiding officer may allow the pleadings to be amended and may grant a continuance to enable the objecting party to rebut the evidence presented.

(e) The presiding officer may, upon reasonable notice and upon such terms as are just, permit service of a supplemental pleading setting forth transactions, occurrences, or events which have happened since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 952.13 Continuances and extensions.

Continuances and extensions will not be granted by the presiding officer except for good cause shown.

§ 952.14 Hearings.

Hearings are held at the headquarters of the Postal Service, Washington, DC 20260, or other locations designated by the presiding officer.

§ 952.15 Change of place of hearings.

Not later than the date fixed for the filing of the answer, a party may file a request that a hearing be held to receive evidence in his behalf at a place other than that designated for hearing in the notice. He shall support his request with a statement outlining:

(a) The evidence to be offered in such place;

(b) The names and addresses of the witnesses who will testify;

(c) The reasons why such evidence cannot be produced at Washington, D.C. The presiding officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

§ 952.16 Appearances.

(a) A respondent may appear and be heard in person or by attorney.

(b) An attorney may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer. See Part 951 of this chapter.

(c) When a respondent is represented by an attorney, all pleadings and other papers subsequent to the complaint shall be mailed to the attorney.

(d) A respondent must promptly file a notice of change of attorney.

§ 952.17 Presiding officers.

(a) The presiding officer at any hearing shall be a Hearing Examiner qualified pursuant to the Administrative Procedure Act (5 U.S.C. 556) or the Judicial Officer (39 U.S.C. 204). The Chief Hearing Examiner shall assign cases to Hearing Examiners upon rotation so far as practicable. The Judicial Officer may, for good cause shown, preside at the reception of evidence in proceedings where expedited hearings are requested by either party.

(b) The presiding officer shall have authority to:

(1) Administer oaths and affirmations;

(2) Examine witnesses;

(3) Rule upon offers of proof, admissibility of evidence and matters of procedure;

(4) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;

(5) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;

(6) Require the filing of briefs or memoranda of law on any matter upon which he is required to rule;

(7) Order prehearing conferences for the purpose of the settlement or simplification of issues by the parties;

(8) Order the proceeding reopened at any time prior to his decision for the receipt of additional evidence;

(9) Render an initial decision, which becomes the final Agency decision unless a timely appeal is perfected: the Judicial Officer may issue a tentative or a final decision.

§ 952.18 Evidence.

(a) Except as otherwise provided in these rules, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern. However, such rules may be relaxed to the extent that the presiding officer deems proper to insure a fair hearing. The presiding officer shall exclude irrelevant, immaterial or repetitious evidence.

(b) Testimony shall be under oath or affirmation and witnesses shall be subject to cross-examination.

(c) Agreed statements of fact may be received in evidence.

(d) Official notice or knowledge may be taken of the types of matters of which judicial notice or knowledge may be taken.

(e) Authoritative writings of the medical or other sciences, may be admitted in evidence but only through the testimony of expert witnesses or by stipulation.

(f) Lay testimonials will not be received in evidence as proof of the efficacy or quality of any product or thing sold through the mails.

(g) The written statement of a competent witness may be received in evidence provided that such statement is relevant to the issues, that the witness shall testify under oath at the hearing that the statement is in all respects true, and, in the case of expert witnesses, that the statement correctly states his opinion or knowledge concerning the matters in question.

(h) A party who objects to the admission of evidence shall make a brief statement of the grounds for the objection. Formal exceptions to the rulings of the presiding officer are unnecessary.

§ 952.19 Subpoenas.

The Postal Service is not authorized by law to issue subpoenas requiring the attendance or testimony of witnesses.

§ 952.20 Witness fees.

The Postal Service does not pay fees and expenses for respondent's witnesses or for depositions requested by respondent.

§ 952.21 Depositions.

(a) Not later than 5 days after the filing of respondent's answer, any party may file application with the Docket Clerk for the taking of testimony by deposition. In support of such application the applicant shall submit under oath or affirmation a statement setting out the reasons why such testimony should be taken by deposition, the time and the place, and the name and address of the witness whose deposition is desired, the subject matter of the testimony of each witness, its relevancy, and the name and address of the person before whom the deposition is to be taken.

(b) If the application be granted, the order for the taking of the deposition will

specify the time and place thereof, the name of the witness, the person before whom the deposition is to be taken and any other necessary information.

(c) Each witness testifying upon deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. The questions and answers together with all objections, shall be reduced to writing and, unless waived by stipulation of the parties, shall be read to and subscribed by the witness in the presence of the deposition officer who shall certify it in the usual form. The deposition officer shall file the testimony taken by deposition as directed in the order. The deposition officer shall put the witness on oath. All objections made at the time of examination shall be noted by the deposition officer and the evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, a party may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim. Objections to relevancy or materiality of testimony, or to errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties and errors of any kind which might be obviated, cured or removed if promptly presented, are waived unless timely objection is made at the taking of the deposition.

(d) At the hearing any part or all of the deposition may be offered in evidence by any party who was present or represented at the taking of the deposition or who had notice thereof. If the deposition is not offered and received in evidence, it shall not be considered as a part of the record in the proceeding. The admissibility of depositions or parts thereof shall be governed by the rules of evidence.

(e) The party requesting the deposition shall pay all fees required to be paid to witnesses and the deposition officer, and shall provide an original and one copy of the deposition for the official record, and shall serve one copy upon the opposing party.

(f) Within the United States or within a territory or insular possession, subject to the dominion of the United States, depositions may be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held; within a foreign country, depositions may be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or any other person designated in the order for the taking of a deposition.

(g) Depositions may also be taken and submitted on written interrogatories in substantially the same manner as depositions taken by oral examination. When a deposition is taken upon written interrogatories and cross-interrogatories, none of the parties shall be present or represented, and no person, other than the witness, a stenographic reporter, and the officer shall be present at the examination of the witness, which fact shall

be certified by the officer, who shall propound the interrogatories and cross-interrogatories to the witness in their order and reduce the testimony to writing in the witness' own words.

§ 952.22 Transcript.

(a) Hearings shall be stenographically reported by a contract reporter of the Postal Service under the supervision of the assigned presiding officer. Argument upon any matter may be excluded from the transcript by order of the presiding officer. A copy of the transcript shall be a part of the record and the sole official transcript of the proceeding. Copies of the transcript shall be supplied to the parties to the proceeding by the reporter at rates not to exceed the maximum rates fixed by contract between the Postal Service and the reporter. Copies of parts of the official record other than the transcript may be obtained by the respondent from the reporter upon the payment to him of a reasonable price therefor.

(b) Changes in the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. No physical changes shall be made in or upon the official transcript, or copies thereof, which have been filed with the record. Within 10 days after the receipt by any party of a copy of the official transcript, or any part thereof, he may file a motion requesting correction of the transcript. Opposing counsel shall, within such time as may be specified by the presiding officer, notify the presiding officer in writing of his concurrence or disagreement with the requested corrections. Failure to interpose timely objection to a proposed correction shall be considered to be concurrence. Thereafter, the presiding officer shall by order specify the corrections to be made in the transcript. The presiding officer on his own initiative may order corrections to be made in the transcript with prompt notice to the parties of the proceeding. Any changes ordered by the Hearing Examiner other than by agreement of the parties shall be subject to objection and exception.

§ 952.23 Proposed findings and conclusions.

(a) Each party to a proceeding, except one who fails to answer the complaint or having answered, either fails to appear at the hearing or indicates in the answer that he does not desire to appear, may, unless at the discretion of the presiding officer such is not appropriate, submit proposed findings of fact, conclusions of law and supporting reasons either in oral or written form in the discretion of the presiding officer. The presiding officer may also require parties to any proceeding to submit proposed findings of fact and conclusions of law with supporting reasons. Unless given orally the date set for filing of proposed findings of fact and conclusions of law shall be within 15 days after the delivery of the official transcript to the Docket Clerk who shall notify both parties of the date of its receipt. The filing date for proposed findings shall be the same for both parties. If

not submitted by such date, or unless extension of time for the filing thereof is granted, they will not be included in the record or given consideration.

(b) Except when presented orally before the close of the hearing, proposed findings of fact shall be set forth in serially numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits supporting the proposed findings. Each proposed conclusion shall be separately stated.

§ 952.24 Decisions.

(a) *Initial decision by hearing examiner.* A written initial decision shall be rendered with all due speed. The initial decision shall include findings and conclusions, with the reasons therefor, upon all the material issues of fact or law presented on the record, and the appropriate order or denial thereof. The initial decision shall become the final Agency decision unless an appeal is perfected in accordance with § 952.25.

(b) *Tentative or final decision by the Judicial Officer.* When the Judicial Officer presides at the hearing he shall issue a final or a tentative decision. Such decision shall include findings and conclusions, with the reasons therefor, upon all the material issues of fact or law presented on the record, and the appropriate order or denial thereof. The tentative decision shall become the final Agency decision unless exceptions are filed in accordance with § 952.25.

(c) *Oral decisions.* The presiding Officer may render an oral decision (an initial decision by a hearing examiner, or a tentative or final decision by the Judicial Officer) at the close of the hearing when the nature of the case and the public interest warrant. A party who desires an oral decision shall notify the presiding officer and the opposing party at least 5 days prior to the date set for the hearing. Either party may submit proposed findings and conclusions either orally or in writing at the conclusion of the hearing.

§ 952.25 Exceptions to initial decision or tentative decision.

(a) A party in a proceeding presided over by a hearing examiner, except a party who failed to file an answer, may appeal to the Judicial Officer by filing exceptions in a brief on appeal within 15 days from the receipt of the examiner's initial decision.

(b) A party in a proceeding presided over by the Judicial Officer, except one who has failed to file an answer, may file exceptions within 15 days from the receipt of the Judicial Officer's tentative decision.

(c) If an initial or tentative decision is rendered orally by the presiding officer at the close of the hearing, he may then orally give notice to the parties participating in the hearing of the time limit within which an appeal must be filed.

(d) Upon receipt of the brief on appeal from an initial decision of a hearing examiner, the docket clerk shall

promptly transmit the record of the proceedings to the Judicial Officer. The date for filing the reply to an appeal brief or to a brief in support of exceptions to a tentative decision by the Judicial Officer is 10 days after the receipt thereof. No additional briefs shall be received unless requested by the Judicial Officer.

(e) Briefs upon appeal or in support of exceptions to a tentative decision by the Judicial Officer shall be filed in triplicate with the Docket Clerk and contain the following matter in the order indicated:

(1) A subject index of the matters presented, with page references; a table of cases alphabetically arranged; a list of statutes and texts cited with page references.

(2) A concise abstract or statement of the case.

(3) Numbered exceptions to specific findings and conclusions of fact or conclusions of law of the presiding officer.

(4) A concise argument clearly setting forth points of fact and of law relied upon in support of each exception taken, together with specific references to the parts of the record and the legal or other authorities relied upon.

(f) Unless permission is granted by the Judicial Officer no brief shall exceed 50 printed or 100 typewritten pages double spaced.

(g) The Judicial Officer will extend the time to file briefs only upon written application for good cause shown. The Docket Clerk shall promptly notify the applicant of the decision of the Judicial Officer on the application. If the appeal brief or brief in support of exceptions is not filed within the time prescribed, the defaulting party will be deemed to have abandoned the appeal or waived the exceptions, and the initial or tentative decision shall become the final Agency decision.

§ 952.26 Judicial Officer.

The Judicial Officer is authorized (a) to act as presiding officer at hearings, (b) to render tentative decisions, (c) to render final Agency decisions, (d) to issue Postal Service orders for the Postmaster General, (e) to refer the record in any proceeding to the Postmaster General or the Deputy Postmaster General for final Agency decision and (f) to revise or amend these rules of practice. The entire official record will be considered before a final Agency decision is rendered. Before rendering a final Agency decision, the Judicial Officer may order the hearing reopened for the presentation of additional evidence by the parties.

§ 952.27 Motion for reconsideration.

Within 10 days from the date thereof, or such longer period as may be fixed by the Judicial Officer, either party may file a motion for reconsideration of a final Agency decision. Each motion for reconsideration shall be accompanied by a brief clearly setting forth the points of fact and of law relied upon in support of said motion.

§ 952.28 Orders.

If an order is issued which prohibits delivery of mail to a respondent it shall be incorporated in the record of the proceeding. The Docket Clerk shall cause the order to be published in the Postal Bulletin and transmitted to such postmasters and other officers and employees of the postal service as may be required to place the order into effect.

§ 952.29 Modification or revocation of orders.

A party against whom an order has been issued may file an application for modification or revocation thereof. The Docket Clerk shall transmit a copy of the application to the General Counsel, who shall file a written reply. A copy of the reply shall be sent to the applicant by the Docket Clerk. Thereafter an order granting or denying such application will be issued by the Judicial Officer.

§ 952.30 Supplemental orders.

When the General Counsel or his designated representative shall have reason to believe that a person is evading or attempting to evade the provisions of any such order by conducting the same or a similar enterprise under a different name or at a different address he may file a petition with accompanying evidence setting forth the alleged evasion or attempted evasion and requesting the issuance of a supplemental order against the name or names allegedly used. Notice shall then be given by the Docket Clerk to the person that the order has been requested and that an answer may be filed within 10 days of the notice. The Judicial Officer, for good cause shown, may hold a hearing to consider the issues in controversy, and shall, in any event, render a final decision granting or denying the supplemental order.

§ 952.31 Computation of time.

A designated period of time under these rules excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or legal holiday, in which event the period runs until the close of business on the next business day.

§ 952.32 Official record.

The transcript of testimony together with all pleadings, orders, exhibits, briefs and other documents filed in the proceeding shall constitute the official record of the proceeding.

§ 952.33 Public information.

The Law Librarian of the Postal Service maintains for public inspection in the Law Library copies of all initial, tentative and final Agency decisions. The Docket Clerk maintains the complete official record of every proceeding.

PART 953—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO MAILABILITY

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AUTHORITY: The provisions of this Part 953 issued under 39 U.S.C. 204, 401.

§ 953.1 Authority for rules.

These rules of practice are issued by the Judicial Officer of the U.S. Postal Service pursuant to authority delegated by the Postmaster General.

§ 953.2 Limitation.

The rules shall be applicable only to cases where the matter offered for mailing shall be of substantial value or quantity. The initial determination of this question by the General Counsel may be appealed to the Judicial Officer.

§ 953.3 Initiation.

Upon receipt of mail matter of doubtful mailability under the provisions of 18 U.S.C. 1302, 1461, 1463, 1717 or 1718 (see also 39 U.S.C. 3001) submitted by a postmaster pursuant to § 123.8(b) of this chapter, the General Counsel shall: (a) File a complaint with the Docket Clerk of the Postal Service or (b) instruct the postmaster to accept such matter for mailing.

§ 953.4 Complaint.

The complaint shall: (a) State statutory and/or regulatory authority for withholding the matter from the mails; (b) specify the character or content of the matter which the Complainant believes to be nonmailable; and (c) request the issuance of a notice of hearing by the Docket Clerk.

§ 953.5 Notice of hearing; service.

Upon receipt of the complaint the Docket Clerk shall issue a notice setting the time and place for the hearing. The date set for the hearing shall be within ten days of the date of the filing of the complaint. The notice, together with copies of the complaint and these rules, shall be sent promptly to the postmaster at the place of mailing to be served upon the mailer or his agent. A receipt therefor shall be obtained and forwarded immediately to the Docket Clerk. If personal service cannot be made, the notice of hearing shall be deposited in the mails for delivery in the regular course which shall constitute valid service. A report of such delivery shall be promptly forwarded to the Docket Clerk.

§ 953.6 Compromise and informal dispositions.

The mailer may request a conference with the Complainant to consider infor-

mal disposition of any question of mailability or apply to the Complainant for the withdrawal of the matter from the mails. When such a request is received, the scheduled hearing date will be postponed for such period of time as may be necessary but in no event longer than 5 days unless specifically requested by the mailer. If no agreement is reached, the proceeding shall promptly be rescheduled for hearing.

§ 953.7 Answer.

The mailer may file an answer to the complaint and appear in person or by counsel at the hearing. The answer shall contain a reply to each allegation in the complaint and shall be filed in triplicate with the Docket Clerk, U.S. Postal Service, Washington, DC 20260, at least 3 days prior to the date set for the hearing. Each allegation not answered shall be deemed admitted.

§ 953.8 Default.

If no answer to the complaint is filed, the mailer shall be deemed in default and the Judicial Officer shall instruct the postmaster of the disposition to be made of the matter in accordance with § 953.17. If the mailer files an answer but fails to appear at the hearing, the Hearing Examiner shall receive the evidence of the Complainant and render an initial decision pursuant to § 953.13.

§ 953.9 Hearing.

Unless otherwise ordered by the presiding officer, the hearing shall be held at the headquarters of the Postal Service, 12th and Pennsylvania Avenue NW., Washington, DC 20260, on the date set in the notice.

§ 953.10 Change of place of hearing.

Not later than the date fixed for the filing of the answer, a party may file a request that a hearing be held to receive evidence in his behalf at a place other than that designated for hearing in the notice. He shall support his request with a statement outlining: (a) The evidence to be offered in such place; (b) the names and addresses of the witnesses who will testify; (c) the reasons why such evidence cannot be produced at Washington, D.C. The presiding officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

§ 953.11 Presiding officers.

The presiding officer at any hearing shall be a Hearing Examiner qualified pursuant to the Administrative Procedure Act (5 U.S.C. 556) or the Judicial Officer (39 U.S.C. 204). The Chief Hearing Examiner shall assign cases to Hearing Examiners upon rotation so far as practicable. The Judicial Officer may, for good cause shown, preside at the reception of evidence in proceedings where expedited hearings are requested by either party.

§ 953.12 Proposed findings of fact.

Unless otherwise ordered, proposed findings of fact and conclusions of law shall be submitted orally or in writing at the conclusion of the hearing.

§ 953.13 Initial decision.

Unless given orally at the conclusion of the hearing, the Hearing Examiner shall render an initial decision as expeditiously as practicable following the conclusion of the hearing, and the receipt of the proposed findings, if any. The initial decision shall become the decision of the Postal Service if an appeal is not perfected.

§ 953.14 Appeal.

Either party may file exceptions in a brief on appeal to the Judicial Officer within 5 days after receipt of the initial decision unless additional time is granted. A reply brief may be filed within 5 days after the receipt of the appeal brief by the opposing party.

§ 953.15 Final Agency decision.

The Judicial Officer shall render a final Agency decision or refer the matter to the Postmaster General for decision. The decision shall be served upon the parties and the postmaster.

§ 953.16 Expedition.

For the purposes of further expedition the parties may, with the concurrence of the Judicial Officer, agree to waive any of these procedures. When the Judicial Officer presides at the hearing, he shall render a tentative or final decision after the conclusion of the hearing. Exceptions may be filed to a tentative decision in accordance with § 953.14.

§ 953.17 Disposition.

Matter found to be nonmailable shall be held at the post office where detained for a period of 15 days from the date of the Postal Service decision, unless extended by the Judicial Officer. During that time the mailer may make application for the withdrawal of the matter. The Judicial Officer shall order the matter returned to the mailer or otherwise disposed of in accordance with 39 U.S.C. 3001(b).

PART 954—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE DENIAL, SUSPENSION OR REVOCATION OF SECOND-CLASS MAIL PRIVILEGES

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Sec.

- 954.24 Official record.
- 954.25 Public information.

AUTHORITY: The provisions of this Part 954 issued under 39 U.S.C. 204, 401.

§ 954.1 Authority for rules.

These rules of practice are issued by the Judicial Officer of the U.S. Postal Service pursuant to authority delegated by the Postmaster General.

§ 954.2 Scope of rules.

The rules of practice shall apply to all Postal Service proceedings concerning applications, denials, suspensions and revocations of second-class mailing privileges arising under former title 39 U.S.C. 4351, 4352, 4353, 4354, 4355, 4356, and 4369 as continued by sec. 3 of the Postal Reorganization Act (Public Law 91-315).

§ 954.3 Informal dispositions.

These rules do not preclude the informal dispositions of second-class mailing privilege matters before or after institution of proceedings.

§ 954.4 Office, business hours.

The offices of the officials mentioned in these rules are located at the U.S. Postal Service, 12th and Pennsylvania Avenue NW, Washington, DC 20260, and are open Monday through Friday from 8:45 a.m. to 5:15 p.m.

§ 954.5 Application.

A publisher may file an application for second-class mailing privileges. (See Part 132 of this chapter.) An authorized administrative official of the Postal Service (hereinafter called "the Director") rules upon all applications. If he denies the application he shall notify the publisher specifying the reasons for his denial and attaching a copy of these rules. Before taking action on an application, the Director may call upon the publisher for additional information or evidence to support or clarify the application. Failure of the publisher to furnish such information or evidence may be cause for the Director to deny the application as incomplete or, on its face, not fulfilling the requirements for entry.

§ 954.6 Revocation or suspension.

When the Director determines that a publication is no longer entitled to second-class mailing privileges, he shall issue a ruling of suspension or revocation to the publisher at the last known address of the office of publication stating the reasons and attaching a copy of these rules.

§ 954.7 Failure to appeal proposed action.

A ruling of the Director shall become final upon failure of the publisher to file a petition in accordance with the requirements of § 954.8(b).

§ 954.8 Pleading.

(a) *Place of filing.* Parties shall file documents of record in triplicate, unless otherwise ordered by the presiding officer after intervention pursuant to § 954.10 with the Docket Clerk of the

Postal Service, who shall cause copies to be delivered to the other parties and to the presiding officer. The Docket Clerk shall maintain a docket and the files in all proceedings.

(b) *Petition.* A publisher may appeal from a ruling of the Director by filing a petition within 15 days of the receipt of the ruling unless the time is extended by the Director. The petition shall state the reasons why the publisher believes the ruling of the Director is erroneous. The petition shall also allege facts showing compliance with each provision of law or regulation on which the publisher's claim to second-class mail privileges is based. The publisher shall attach to his petition a copy of the letter of the Director denying, suspending or revoking second-class mail privileges.

(c) *Notice of hearing.* Upon receipt of the petition the Docket Clerk shall set a date for the hearing and issue a notice of hearing to the parties stating the time and place of the hearing, the date for filing an answer, and the name of the presiding officer.

(d) *Answer.* The Director shall answer the petition within 15 days after filing and admit or deny each allegation of the petition.

(e) *Amendment.* An amendment of a pleading may be offered by any party at any time prior to the close of the hearing. If the presiding officer deems it appropriate to permit the amendment of a pleading, he may impose such conditions, by way of continuance of the hearing date or otherwise, as he considers necessary to assure a fair hearing.

§ 954.9 Default.

If a publisher fails to appear at the hearing, the presiding officer may: (a) Dismiss the petition; (b) order the petitioner to show cause within 30 days from the date of the order why an order of dismissal should not be entered, and thereafter enter such order as the presiding officer deems to be appropriate. If the petition is dismissed by order of a Hearing Examiner, the dismissal may be appealed to the Judicial Officer within 15 days from the date of the order.

§ 954.10 Intervention or other participation.

To intervene or otherwise participate in a proceeding, any person may file a timely application in accordance with § 954.8(a). A timely application is one which will not unduly delay the proceeding. The application shall state whom the potential intervenor represents, his interest, the extent to which he desires to participate, and the evidence he seeks to introduce. The presiding officer shall fix the time within which the parties shall answer the application. The presiding officer shall grant or deny the application on such terms and conditions as he deems appropriate. In so doing the presiding officer will consider, among other things, whether intervention or other participation is consistent with the timely and proper adjudication of the rights of the original parties.

[31 F.R. 5198, Mar. 31, 1966. Redesignated at 31 F.R. 16270, Dec. 20, 1966]

§ 954.11 Hearings.

Hearings are held at the headquarters of the Postal Service, Washington, DC 20260, or other locations designated by the presiding officer.

§ 954.12 Change of place of hearing.

Not later than the date fixed for the filing of the answer, a party may file a request that a hearing be held to receive evidence in his behalf at a place other than that designated for hearing in the notice. He shall support his request with a statement setting forth:

(a) The evidence to be offered in such place;

(b) The names and addresses of the witnesses who will testify;

(c) The reasons why such evidence cannot be produced at Washington, D.C.

The presiding officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

§ 954.13 Appearances.

(a) The General Counsel of the Postal Service or a member of his staff designated by him shall represent the Director.

(b) A publisher or intervenor may appear and be heard in person or by attorney. Attorneys may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer. See Part 951 of this chapter.

(c) An attorney representing a publisher or intervenor shall file a written authorization from the publisher or intervenor before he may participate in the proceeding. The publisher or intervenor must promptly file a notice of change of attorneys.

(d) When a publisher or intervenor is represented by an authorized attorney all subsequent pleadings shall be served upon the attorney.

§ 954.14 Presiding officers.

(a) The Chief Hearing Examiner shall assign a case to a Hearing Examiner, so far as practical in rotation, to preside over the hearing. The Hearing Examiner shall be qualified pursuant to the Administrative Procedure Act (5 U.S.C. 3105).

(b) The presiding officer shall have authority to:

(1) Administer oaths and affirmations;

(2) Examine witnesses;

(3) Rule upon matters of evidence and procedure;

(4) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;

(5) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;

(6) Require the filing of briefs on any matter upon which he is required to rule;

(7) Order prehearing conferences for the settlement or simplification of issues by consent of the parties;

(8) Order the proceeding reopened at any time prior to his decision for the receipt of additional evidence;

(9) Render an initial decision.

§ 954.15 Judicial Officer.

The Judicial Officer is authorized (a) to act as presiding officer at hearings and (b) to render a final Postal Service Decision for the Postmaster General. On appeal from an Initial Decision of a Hearing Examiner, the Judicial Officer will consider the entire record including the initial decision and the exceptions to that decision. Before any final agency decision has been rendered, the Judicial Officer may order the hearing reopened for the presiding officer to take additional evidence.

§ 954.16 Procedure.

(a) *Evidence.* The general rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States apply. The rules may be relaxed to the extent that the presiding officer may deem proper to insure an adequate and fair hearing. The presiding officer may exclude irrelevant or repetitious evidence.

(b) *Subpoenas.* The Postal Service is not authorized to issue subpoenas.

(c) *Fees.* The Postal Service does not pay fees and expenses for witnesses of, or depositions requested by, the publisher or intervenor.

(d) *Depositions.* Depositions may be taken as follows:

(1) Not later than 5 days after the filing of Director's answer, any party may file application with the presiding officer for the taking of testimony by deposition. In support of such application the applicant shall submit under oath or affirmation a statement setting out the reasons why such testimony should be taken by deposition, the time and the place, and the name and address of the witness whose deposition is desired, the subject matter of the testimony of each witness, its relevancy, and the name and address of the person before whom the deposition is to be taken.

(2) If the application is granted, the order for the taking of the deposition will specify the time and place thereof, the name of the witness, the person before whom the deposition is to be taken and any other necessary information.

(3) Each witness testifying upon deposition shall be duly sworn by the deposition officer and the adverse party shall have the right to cross-examine. The questions and answers together with all objections, shall be reduced to writing and, unless waived by stipulation of the parties, shall be read to and subscribed by the witness in the presence of the deposition officer who shall certify it in the usual form. The deposition officer shall file the testimony taken by deposition as directed in the order. All objections made at the time of examination shall be noted by the deposition officer and the evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, a party may transmit written interrogatories to the deposition officer, who shall propound them to the witness and record the answers verbatim. Objections to relevancy or materiality of testimony, or to errors and irregularities occurring at the oral examination in the

manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties and errors of any kind which might be obviated, cured or removed if promptly presented, are waived unless timely objection is made at the taking of the deposition.

(4) At the hearing any part or all of the deposition may be offered in evidence by any party who was present or represented at the taking of the deposition or who had notice thereof. If the deposition is not offered and received in evidence, it shall not be considered as a part of the record in the proceeding. The admissibility of depositions or parts thereof shall be governed by the rules of evidence.

(5) The party requesting the deposition shall pay all fees required to be paid to witnesses and the deposition officer, and shall provide an original and one copy of the deposition for the official record, and shall serve one copy upon the opposing party.

(6) Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions may be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held; within a foreign country, depositions may be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or any other person designated in the order for the taking of a deposition.

(7) Depositions may also be taken and submitted on written interrogatories in substantially the same manner as depositions taken by oral examination. When a deposition is taken upon written interrogatories and cross-interrogatories, none of the parties shall be present or represented, and no person, other than the witness, a stenographic reporter, and the deposition officer shall be present at the examination of the witness, which fact shall be certified by the officer, who shall propound the interrogatories and cross-interrogatories to the witness in their order and reduce the testimony to writing in the witness' own words.

§ 954.17 Transcript.

(a) A contract reporter of the Postal Service under the supervision of the presiding officer shall report hearings. The reporter shall supply the parties with copies of the transcript at rates not to exceed those fixed by contract between the Postal Service and the reporter.

(b) Changes in the official transcript may be made only when they involve substantial errors. A party may file a motion for correction of the official transcript within 10 days after his receipt of the transcript or any part thereof. Other parties shall, within such time as may be specified by the presiding officer, notify the presiding officer in writing if they object to the requested corrections. Failure of a party to interpose timely objection to a proposed correction may be considered by the presiding officer to be concurrence. The presiding officer shall then specify the corrections to be made in the transcript. He may on his

own initiative order corrections in the transcript after notice to the parties subject to their objection.

§ 954.18 Proposed findings and conclusions.

(a) A party to a proceeding may submit proposed findings of fact and conclusions of law to the presiding officer. The presiding officer shall determine whether they shall be oral or written. The presiding officer may require parties to a proceeding to submit proposed findings of fact and conclusions of law with supporting reasons. When the proposed findings and conclusions are not submitted orally they shall be filed within 15 days after delivery of the official transcript to the Docket Clerk. The Docket Clerk shall notify the parties of the filing date which shall be the same for both parties. If not submitted by that date, the findings and conclusions will not be considered or included in the record.

(b) Except when presented orally, proposed findings of fact and conclusions of law shall be set forth in numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits relied upon to support the conclusions proposed. Each proposed conclusion shall be separately stated.

§ 954.19 Initial decision.

(a) Upon request of either party the presiding officer may render an oral initial decision at the close of the hearing when the nature of the case and the public interest warrant. If a party desires an oral initial decision he shall notify the presiding officer and the opposing party at least 5 days prior to the date set for hearing. Parties may then submit proposed findings and conclusions orally or in writing at the conclusion of the hearing.

(b) If an oral initial decision is not rendered, the presiding officer shall render a written initial decision with all due speed after the parties have submitted all posthearing material. The initial decision shall become the final agency decision unless it is appealed.

(c) The initial decision shall include findings upon all material issues of fact and law presented on the record and the reasons for those findings.

§ 954.20 Appeal and final decision.

(a) A party may appeal to the Judicial Officer from an initial decision by filing exceptions in a brief on appeal within 15 days from the receipt of a written or oral initial decision.

(b) Upon receipt of the appeal brief the Judicial Officer shall set the date for the filing of the reply brief. No additional briefs shall be received unless requested by the Judicial Officer.

(c) Appeal briefs shall contain the following matter in the order indicated:

- (1) A subject index of the matters presented with page references;
- (2) A table of cases alphabetically arranged;

(3) A list of statutes and texts cited with page references;

(4) A concise abstract or statement of the case;

(5) Numbered exceptions to the findings and conclusions of the presiding officer and the reasons for the exceptions.

§ 954.21 Motion for reconsideration.

Within 10 days from the date thereof, or such longer period as may be fixed by the Judicial Officer, either party may file a motion for reconsideration of a final Agency decision.

§ 954.22 Continuances.

For good cause shown, continuances or extensions may be granted by the presiding officer. Similar action may be taken by the Judicial Officer when the proceeding is on appeal.

§ 954.23 Computation of time.

A designated period of time under these rules excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or holiday, in which event the period runs until the close of business on the next working day.

§ 954.24 Official record.

The pleadings, orders, exhibits, transcript of testimony, briefs, decisions and other documents filed in the proceeding constitute the official record of the proceeding.

§ 954.25 Public information.

The Law Librarian of the Postal Service maintains for public inspection in the Law Library copies of all initial and final Agency decisions. The Docket Clerk of the Postal Service maintains a complete official record of every proceeding. A person may examine a record upon authorization by the Judicial Officer.

PART 955—RULES OF PRACTICE BEFORE THE BOARD OF CONTRACT APPEALS

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AUTHORITY: The provisions of this Part 955 issued under 39 U.S.C. 204, 401.

§ 955.1 Authority, membership, and jurisdiction of the Board.

(a) The Board of Contract Appeals is the authorized representative of the Postmaster General to hear and decide appeals from decisions of contracting officers when and to the extent such appeals are expressly authorized by the terms of any contract to which the United States is a party. The Chairman of the Board of Contract Appeals is authorized to promulgate rules of procedure for the Board of Contract Appeals. These duties shall be performed by the members of the Board of Contract Appeals in addition to their other duties.

(b) The Board of Contract Appeals for the Postal Service generally consists of three members. The Board is composed of the Judicial Officer, as Chairman, the Chief Hearing Examiner and one other Hearing Examiner designated by the Chairman.

(c) The Board has the authority to conduct hearings, dismiss proceedings, take official notice of appropriate facts and decide all questions of fact and law raised by the appeal. There is no further administrative appeal from the decision of the Board. The Chairman of the Board may assign or reassign an appeal to one or more members for all purposes, except that any final decision must be by a majority of the Board. References hereinafter to the Board, except with respect to Board decisions, shall be understood to refer to the presiding member or members where such assignment has been made.

(d) When an appeal is taken pursuant to a disputes clause in a contract which limits appeals to disputes concerning questions of fact, the Board may in its discretion hear, consider, and decide all questions of law necessary for the complete adjudication of the issue. In the consideration of an appeal, should it appear that a claim is involved which is not cognizable under the terms of the contract, the Board may make findings of fact with respect to such a claim without expressing an opinion on the question of liability.

(e) Emphasis is placed upon the sound administration of these rules in specific cases, because it is impracticable to articulate a rule to fit every possible circumstance which may be encountered. These rules will be interpreted so as to

secure a just and inexpensive determination of appeals without unnecessary delay.

(f) Preliminary procedures are available to encourage full disclosure of relevant and material facts, and to discourage unwarranted surprise.

(g) All time limitations specified for various procedural actions are computed as maximums, and are not to be fully exhausted if the action described can be accomplished in a lesser period. These time limitations are similarly eligible for extension in appropriate circumstances, on good cause shown.

(h) Whenever reference is made to contractor, appellant, contracting officer, respondent, and parties, this shall include respective counsel for the parties, as soon as appropriate notices of appearance have been filed with the Board.

PRELIMINARY PROCEDURES

§ 955.2 Appeals, how taken.

Notice of an appeal must be in writing, and the original, together with three copies, may be filed with the contracting officer from whose decision the appeal is taken. The notice of appeal must be mailed or otherwise filed within 30 days of the receipt of such decision unless otherwise provided in the contract.

§ 955.3 Contents of notice of appeal.

A notice of appeal should indicate that an appeal is thereby intended, and should identify the contract (by number), the Postal Service department cognizant of the dispute, and the decision from which the appeal is taken. The notice of appeal should be signed personally by the appellant (the contractor making the appeal), or by an authorized officer of the appellant corporation or member of the appellant firm, or by the contractor's duly authorized representative or attorney. The complaint referred to in § 955.7 may be filed with the notice of appeal, or the appellant may designate the notice of appeal as a complaint, if it otherwise fulfills the requirements of a complaint.

§ 955.4 Forwarding of appeals.

When a notice of appeal in any form has been received by the contracting officer, he shall endorse thereon the date of mailing (or date of receipt, if otherwise conveyed) and within 10 days shall forward said notice of appeal to the Board. Following receipt by the Board of the original notice of an appeal (whether through the contracting officer or otherwise), the contractor and contracting officer will be promptly advised of its receipt, and the contractor will be furnished a copy of these rules.

§ 955.5 Duties of the contracting officer and of Postal Service Counsel.

(a) Fifteen days after receipt of a notice of appeal the contracting officer shall compile and transmit to the Postal Service Counsel copies of all documents pertinent to the appeal, including the following:

(1) The findings of fact and the decision from which the appeal is taken, and the letter or letters or other documents

of claim in response to which the decision was issued;

(2) The contract, and pertinent plans, specifications, amendments, and change orders;

(3) Correspondence between the parties and other data pertinent to the appeal;

(4) Transcripts of any testimony taken during the course of proceedings, and affidavits or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board.

(5) Such additional information as may be considered material.

(b) Upon receipt of the foregoing compilation, Postal Service Counsel shall prepare therefrom an appeal file, shall notify the appellant, provide him with a reasonably descriptive index or listing of its contents, and advise him that he may examine the appeal file at the office of Postal Service Counsel for the purpose of satisfying himself as to the contents, and furnishing or suggesting any additional documentation deemed pertinent to the appeal.

(c) Documents contained in the appeal file are considered, without further action by the parties, as before the Board as though they had been received in evidence at a formal hearing, unless a party files a written objection to the consideration of a particular document. Such written objection shall be filed in advance of settling the record if there is no hearing on the appeal or, if there is a hearing, then by written or oral objection as soon as practicable and, in any event, before the end of such hearing. If objection to a document is made, the Board will treat the document as having been offered in evidence and rule on its admissibility in accordance with § 955.21.

§ 955.6 Dismissal for lack of jurisdiction.

Any motion addressed to the jurisdiction of the Board shall be promptly filed. Hearing on the motion shall be afforded on application of either party, unless the Board determines that its decision on the motion will be deferred pending hearing on both the merits and the motion. The Board shall have the right at any time and on its own motion to raise the issue of its jurisdiction to proceed with a particular case, and shall do so by an appropriate order, affording the parties an opportunity to be heard thereon.

§ 955.7 Pleadings.

(a) Within 30 days after receipt by the Board of the notice of appeal, the appellant shall file with the Board an original and three copies of a complaint setting forth simple, concise and direct statements of each of his claims, alleging the basis with appropriate reference to contract provisions for each claim, and the dollar amount claimed. This pleading shall fulfill the generally recognized requirements of a complaint, although no particular form or formality is required. Upon receipt thereof, the Recorder of the Board (Docket Clerk) shall serve a copy upon the respondent. Should the com-

plaint not be received within 30 days, the Board may, if it finds that the notice of appeal sufficiently defines the issues before the Board, treat the notice of appeal as a complaint. In such case the Board shall notify both parties of its decision.

(b) Within 30 days from receipt of said complaint, or the aforesaid notice from the Recorder of the Board, respondent shall prepare and file with the Board an original and three copies of an answer thereto, setting forth simple, concise, and direct statements of respondent's defenses to each claim asserted by appellant. This pleading shall fulfill the generally recognized requirements of an answer, and shall set forth any affirmative defenses or counterclaims, as appropriate. Upon receipt thereof, the Recorder shall serve a copy upon appellant. Should the answer not be received within 30 days, the Board may, in its discretion, enter a general denial on behalf of the Government, and the appellant shall be so notified. The appeal file shall be filed with the answer.

(c) The Board may consider any timely motion:

(1) To dismiss an appeal for want of jurisdiction;

(2) To dismiss for failure to prosecute an appeal;

(3) To make a pleading more definite and certain;

(4) For discovery, interrogatories to a party, or the taking of depositions;

(5) To reconsider a decision or reopen a hearing;

(6) For any other appropriate order or relief.

Response, if any, by the opposite party to a motion shall be made within 10 days of his receipt of a copy thereof, unless the Board otherwise directs. The Board may permit oral hearing or argument and briefs in support of any motion.

§ 955.8 Amendments of pleadings or record.

(a) The Board upon its own initiative or upon application by a party may, in its discretion, order a party to make a more definite statement of the complaint or answer, or to reply to an answer.

(b) The Board may, in its discretion, and within the proper scope of the appeal, permit either party to amend his pleading upon conditions just to both parties. When issues within the proper scope of the appeal, but not raised by the pleadings or the documentation described in § 955.5, are tried by express or implied consent of the parties, or by permission of the Board, they shall be treated in all respects as if they had been raised therein. In such instances motions to amend the pleadings to conform to the proof may be entered, but are not required. If evidence is objected to at a hearing on the ground that it is not within the issues raised by the pleadings or the § 955.5 documentation (which shall be deemed part of the pleadings for this purpose), it may be admitted within the proper scope of the appeal, provided, however, that the objecting party may be granted a continuance if necessary to enable him to meet such evidence.

§ 955.9 Elections as to hearings.

Within 15 days after the parties' receipt of notification from the Recorder of the Board that the Government's answer has been filed or the entrance of a general denial by the Board on behalf of the Government, they shall notify the Board whether they desire an oral hearing on the appeal. In the event either party requests an oral hearing, the Board will schedule the same as hereinafter provided. In the event both parties waive an oral hearing, the Board, unless it directs an oral hearing, will decide the appeal on the record before it, supplemented as it may permit or direct. (See § 955.14.) A party failing to elect an oral hearing within the 15-day time limitation may be deemed to have submitted its case on the record.

§ 955.10 Prehearing briefs.

Based on an examination of the documentation described in § 955.5, the pleadings, and a determination of whether the arguments and authorities addressed to the issues are adequately set forth therein, the Board may in its discretion require the parties to submit prehearing briefs in any case in which a hearing has been elected pursuant to § 955.9. In the absence of a Board requirement therefor, either party may in its discretion, and upon appropriate and sufficient notice to the other party, furnish a prehearing brief to the Board. In any case where a prehearing brief is submitted, it shall be furnished so as to be received by the Board at least 5 days prior to the date set for hearing, and a copy shall simultaneously be furnished to the other party as previously arranged.

§ 955.11 Prehearing or presubmission conference.

(a) Whether the case is to be submitted pursuant to § 955.12, or heard pursuant to §§ 955.18 through 955.26, the Board may upon its own initiative or upon the application of either party, call upon the parties to appear before a member of the Board for a conference to consider:

- (1) The simplification or clarification of the issues;
- (2) The possibility of obtaining stipulations, admissions, agreements on documents, understandings on matters already of record, or similar agreements which will avoid unnecessary proof;
- (3) The limitation of the number of expert witnesses, or avoidance of similar cumulative evidence, if the case is to be heard;
- (4) The possibility of agreement disposing of all or any of the issues in dispute;
- (5) Such other matters as may aid in the disposition of the appeal.

(b) The results of the conference shall be reduced to writing by the Board member within 5 business days after the close of the conference, and this writing shall thereafter constitute part of the record.

§ 955.12 Submission without a hearing.

Either party may elect to waive a hearing and to submit his case upon the

Board record, as settled pursuant to § 955.14. In the event of such election to submit, the submission may be supplemented by oral argument and by briefs, arranged in accordance with §§ 955.14 and 955.24.

§ 955.13 Optional accelerated procedure.

The parties may elect to process any appeal under this section, except that the Board's consent thereto shall also be required in any appeal exceeding \$2,500 in amount. In the event of such election, the Board will decide the appeal under an accelerated procedure, pursuant to which the decision will be based upon the pleadings, or other written statements in lieu of pleadings, and on such other evidence and argument as the Board may require.

§ 955.14 Settling of the record.

(a) A case submitted on the record pursuant to § 955.12 shall be ready for decision when the parties are so notified by the Board. A case which is heard shall be ready for decision upon receipt of transcript, or upon receipt of briefs when briefs are to be submitted. At any time prior to the date that a case is ready for decision, either party, upon notice to the other, may supplement the record with documents and exhibits deemed relevant and material by the Board. The Board upon its own initiative may call upon either party, with appropriate notice to the other, for evidence deemed by it to be relevant and material. The weight to be attached to any evidence of record will rest within the sound discretion of the Board. Either party may at any stage of the proceeding, within the discretion of the Board, on notice to the other party, raise objection to material in the record or offered into the record, on the grounds of relevancy and materiality.

(b) The Board record shall consist of documentation described in § 955.5, and any additional material, pleadings, prehearing briefs, record of prehearing or presubmission conferences, depositions, interrogatories, admissions, transcripts of hearing, hearing exhibits, and post-hearing briefs, as may thereafter be developed pursuant to these rules.

(c) This record will at all times be available for inspection by the parties at the office of the Board. In the interest of convenience, prior arrangements for inspection of the file should be made with the Recorder of the Board. Copies of material in the record may, if practicable, be furnished to appellant at the cost of reproduction.

§ 955.15 Depositions.

(a) *By whom and before whom to be taken.* Depositions upon oral examination or upon written interrogatories may be taken by either party and used as evidence at the hearing when relevant and material to the case. Depositions may be taken before any person authorized by laws of the United States or by the laws of the place where they are taken to administer oaths.

(b) *Procedure for taking.* Either party may take a deposition of a witness by giving the opposite party at least 10 days

notice in writing of the time and place where such deposition will be taken. The notice shall contain: The name, address and official title of the officer before whom it is proposed to take the deposition; the name of the witness and the address; whether the deposition will be taken on oral examination or written interrogatories. The parties may stipulate in writing the requirements of the notice in which case the notice can be dispensed with. If the deposition is to be taken on written interrogatories, two copies thereof should accompany the notice or stipulation. The opposing party may serve cross interrogatories to be propounded to the witness within 10 days after receipt of the interrogatories, by forwarding them to the officer designated to take the deposition and simultaneously forwarding a copy to his opponent. Disputes in regard to the taking of depositions may be submitted to the Board for resolution.

(c) *Use as evidence.* No testimony taken by deposition shall be considered as part of the evidence in the hearing of an appeal unless and until such testimony is offered and received in evidence at such hearing. It will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. In such instance, however, the deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases otherwise heard on the record, the Board may, on motion of either party and in its discretion, receive depositions as evidence in supplementation of that record.

(d) *Expenses.* All expenses of taking the deposition of any person shall be borne by the party taking that deposition, except that the other party shall be entitled to copies of the transcript of the deposition only upon paying therefor.

§ 955.16 Inspection of documents and admission of facts.

For good cause shown, the Board may require a party to produce and permit inspection and copying or photographing of designated documents relevant to the appeal, or permit the serving on the opposing party of a request for admission of facts. Such Board action will be taken and orders entered as are consistent with the objective of securing just and inexpensive determination of appeals without unnecessary delay.

§ 955.17 Service of papers.

(a) Service of papers in all proceedings pending before the Board may be made personally, or by mailing the same in a sealed envelope, registered, or certified, postage prepaid, addressed to the party upon whom service shall be made and the date of delivery as shown by return receipt shall be the date of service. Waiver of the service of any papers may be noted thereon or on a copy thereof or on a separate paper, signed by the parties and filed with the Board.

(b) Any papers filed with the Board, with the exception of exhibits received in a hearing, shall be filed in quadruplicate, unless the Board shall otherwise direct.

HEARINGS

§ 955.18 Where held.

Hearing will ordinarily be held in Washington, D.C., except that upon request seasonably made and upon good cause shown, the Board may in its discretion set the hearing at another location.

§ 955.19 Notice of hearings.

The parties shall be given at least 10 days notice of the time and place set for hearings. In scheduling hearings, the Board will give due regard to the desires of the parties, and to the requirement for just and inexpensive determination of appeals without unnecessary delay. Notices of hearing shall be promptly acknowledged by the parties. A party failing to acknowledge a notice of hearing shall be deemed to have consented to the indicated time and place of hearing.

§ 955.20 Unexcused absence of a party.

The unexcused absence of a party at the time and place set for hearing will not be occasion for delay. In the event of such absence, the hearing will proceed and the case will be regarded as submitted by the absent party as provided in § 955.12. The Board shall notify the absent party of the proceedings had and shall advise him that he has 5 days from the receipt of such notification within which to show cause why the appeal should not be decided on the record made.

§ 955.21 Nature of hearings.

Hearings shall be as informal as may be reasonable and appropriate under the circumstances. Appellant and respondent may offer at a hearing on the merits such relevant evidence as they deem appropriate and as would be admissible under the generally accepted rules of evidence applied in the courts of the United States in nonjury trials, subject however, to the sound discretion of the Board in supervising the extent and manner of presentation of such evidence. In general, admissibility will hinge on relevancy and materiality. Letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the generally accepted rules of evidence, may be admitted in the discretion of the Board. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by the parties may be regarded and used as evidence at the hearing. The parties may stipulate the testimony that would be given by a witness if the witness were present. The Board may in any case require evidence in addition to that offered by the parties.

§ 955.22 Examination of witnesses.

Witnesses before the Board will be examined orally under oath or affirma-

tion, unless the facts are stipulated, or the Board shall otherwise order. If the testimony of a witness is not given under oath the Board may, if it seems expedient, warn the witness that his statements may be subject to the provisions of title 18, United States Code, §§ 287 and 1001, and any other provisions of law imposing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof.

§ 955.23 Copies of papers.

When books, records, papers, or documents have been received in evidence, a true copy thereof or of such part thereof as may be material or relevant may be substituted therefor, during the hearing or at the conclusion thereof.

§ 955.24 Posthearing briefs.

Posthearing briefs may be submitted upon such terms as may be agreed upon by the parties and the Board at the conclusion of the hearing.

§ 955.25 Transcript of proceedings.

Testimony and argument at hearings shall be reported verbatim, unless the Board otherwise orders. Transcripts of the proceedings shall be supplied to the parties at such rates as may be fixed by contract between the Board and the reporter. If the proceedings are reported by an employee of the Government, the appellant may receive transcripts upon payment to the Government at the same rates as those set by contract between the Board and the independent reporter.

§ 955.26 Withdrawal of exhibits.

After a decision has become final the Board may, upon request and after notice to the other party, in its discretion permit the withdrawal of original exhibits, or any part thereof, by the party entitled thereto. The substitution of true copies of exhibits or any part thereof may be required by the Board in its discretion as a condition of granting permission for such withdrawal.

§ 955.27 The appellant.

An individual appellant may appear before the Board in person, a corporation by an officer thereof, a partnership or joint venture by a member thereof, or any of these by an attorney at law duly licensed and in good standing in any State, Commonwealth, Territory, or in the District of Columbia, pursuant to the Rules Governing the Eligibility of Persons to Practice Before the Postal Service (§ 951.1 of this chapter, et seq.).

§ 955.28 The respondent.

Postal Service Counsel designated by the General Counsel will represent the interests of the Government before the Board. They shall file notices of appearance with the Board, and notice thereof will be given appellant or his attorney in the form specified by the Board from time to time.

§ 955.29 Settlement.

Whenever at any time it appears that appellant and Postal Service Counsel are in agreement as to disposition of the controversy, the Board may suspend further processing of the appeal in order to permit reconsideration by the contracting officer: *Provided, however,* That if the Board is advised thereafter by either party that the controversy has not been disposed of by agreement, the case shall be restored to the Board's calendar.

DECISIONS

§ 955.30 Service and availability of Board decisions.

Decisions of the Board will be made in writing and authenticated copies thereof will be forwarded simultaneously to both parties. The rules of the Board and all final orders and decisions, except those to which the provisions of section 552 of title 5, United States Code (sec. 3 of the Administrative Procedure Act, as amended), do not apply, shall be open for public inspection at the offices of the Board in Washington, D.C. Decisions of the Board will be made upon the record as described in § 955.14.

§ 955.31 Dismissal without prejudice.

In certain cases, appeals docketed before the Board are required to be placed in a suspense status and the board is unable to proceed with disposition thereof for reasons not within the control of the Board. In any such case where the suspension has continued, or it appears that it will continue, for an inordinate length of time, the Board may in its discretion dismiss such appeals from its docket without prejudice to their restoration when the cause of suspension has been removed.

§ 955.32 Remands from courts.

Whenever any matter is remanded to the Board from any court for further proceedings, the parties shall, within 20 days of such remand, submit a report to the Board indicating what procedures they think necessary to comply with the court's order. The Board will enter special orders governing the handling of matters remanded to it for further proceedings by any court. To the extent the court's directive and time limitations will permit, these orders will conform to these rules.

PART 956—DEBARMENT AND SUSPENSION REGULATIONS

Sec.	
956.1	Purpose and scope.
956.2	Definitions.
956.3	Establishment and maintenance of list.
956.4	Treatment to be accorded firms or individuals and their affiliates in debarred status.
956.5	Causes and conditions for debarment.
956.6	Period of debarment.
956.7	Procedural requirements relating to the imposition of debarment.

- Sec. 956.8 Suspension.
- 956.9 Notice of suspension.
- 956.10 Restrictions on suspended persons and firms.

AUTHORITY: The provisions of this Part 956 issued under 39 U.S.C. 204, 401.

§ 956.1 Purpose and scope.

(a) This part implements and supplements Postal Service Procurement Regulations.

(b) This part prescribes the terms and conditions under which firms and individuals may be debarred or suspended from contracting with the Postal Service.

(c) It is declared to be the policy of the Postal Service to invoke the provisions of this part when necessary to protect the interests of the Government.

§ 956.2 Definitions.

(a) The term "Department" means the head of any department of the Postal Service or his representative for the purpose of carrying out the provisions of this part.

(b) The term "General Counsel" includes his authorized representative.

(c) The term "Judicial Officer" includes the Acting Judicial Officer.

(d) "Debarment" means, in general, an exclusion from Government contracting and subcontracting for a reasonable, specified period of time commensurate with the seriousness of the offense or failure, or the inadequacy of performance.

(e) "Suspension" means a disqualification from Government contracting and subcontracting for a temporary period of time because a concern or individual is suspected upon adequate evidence of engaging in criminal, fraudulent, or seriously improper conduct.

(f) "Placement in ineligibility status" means a disqualification from Government contracting and subcontracting pending the elimination of the circumstances which constitute the basis for the imposition of the disqualification.

(g) A "debarment list" or "debarred bidders list" means a list of names of concerns or individuals against whom any or all of the measures referred to in this section have been invoked.

(h) "Affiliates." Business concerns are affiliates of each other when either directly or indirectly one concern or individual controls or has the power to control another, or when a third party controls or has the power to control both.

§ 956.3 Establishment and maintenance of list.

(a) The Assistant Postmaster General, Administration Department, shall establish and maintain a consolidated list of firms and individuals to whom contracts will not be awarded and from whom bids or proposals will not be solicited.

(b) The list shall show as a minimum the following information:

(1) The names of those firms or individuals debarred, suspended or placed in ineligibility status (in alphabetical order) with appropriate cross references where more than one name is involved in a single action;

(2) The basis of authority for each action;

(3) The extent of restrictions imposed; and

(4) The termination date for each debarred and suspended listing.

(c) The list shall contain the names of all firms and individuals debarred, suspended, or declared ineligible by action of the Postal Service and also the names of all firms and individuals debarred, suspended, or declared ineligible by the Comptroller General or other Governmental agencies and departments.

(d) Each Department Head shall report to the Assistant Postmaster General, Administration Department, in the manner directed by him, each action taken to debar, suspend, or declare ineligible a firm or individual, or to remove a debarment, suspension, or ineligibility designation. The Judicial Officer shall transmit to the Assistant Postmaster General, Administration Department, or his designated representative, a copy of each order by the Judicial Officer, debarring, suspending, or declaring ineligible a contractor or removing a debarment or suspension or declaration of ineligibility previously issued against a contractor. The Assistant Postmaster General, Administration Department, shall cause the various Postal Service departments and all field facilities exercising contractual functions to receive each change made in the list as it occurs.

§ 956.4 Treatment to be accorded firms or individuals and their affiliates in debarred status.

(a) A firm or individual may be listed as debarred, suspended, or ineligible for any of several reasons. The treatment to be accorded a firm or individual listed is as follows:

(1) When a statute, Executive order or controlling regulation of another Government agency prescribes the treatment to be accorded a firm or individual and their affiliates in a debarred, suspended, or ineligible status, the Postal Service will conform to the requirements of such statute, Executive order or regulation.

(2) In all other cases, bids, and proposals shall not be accepted or solicited from such listed firms or individuals and their affiliates.

(3) Where a firm or individual listed as debarred, suspended, or ineligible is proposed as a subcontractor, the Contracting Officer shall decline to approve any subcontracting with such firm or individual in any instance in which consent is required of the Government before the contract is made.

(4) Notwithstanding any provisions of this part, if the awarding of a contract or a subcontract to a firm or individual listed as debarred, suspended, or ineligible is determined by the Department Head having cognizance of the contract or subcontract to be in the best interest of the Government, such Department Head, after submitting his reasons therefor in writing to the Assistant Postmaster General, Administration Department, and after receiving his consent, may authorize the making of a

contract with such listed contractor or subcontractor.

(5) All known affiliates of a firm or individual may be included in the order of debarment but only after due consideration is given by the acting authority to all relevant facts and circumstances.

(6) The debarment, suspension, or declaration of ineligibility of a firm or individual does not of itself affect the rights and obligations of the parties to any existing contract.

§ 956.5 Causes and conditions for debarment.

(a) A Department Head is authorized with the concurrence of the General Counsel to debar a firm or individual in the public interest in accord with procedures set forth in this part for any of the causes and under the conditions following.

(b) Causes:

(1) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract.

(2) Conviction under the Federal Anti-trust Statutes arising out of the submission of bids or proposals.

(3) Violations of a nature set forth in this part in connection with a Postal Service contract which are regarded by the Postal Service to be of so serious a nature as to justify debarment action:

(i) Willful failure to perform a Postal Service contract in accordance with the specifications or within the time limit provided in the contract;

(ii) A record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more Postal Service contracts: *Provided*, That such failure or unsatisfactory performance has occurred within a reasonable period of time preceding the determination to debar, and that failure to perform or unsatisfactory performance caused by acts beyond the control of the firm or individual as a contractor shall not be considered to be a basis for debarment;

(iii) Violation of a contractual provision against contingent fees;

(iv) Acceptance of a contingent fee which is paid in violation of a contractual provision against contingent fees.

(4) Any other cause of such serious and compelling nature, affecting responsibility as a Government contractor, as may be determined by the Postal Service, to warrant debarment.

(5) Debarment by some other Executive agency or department.

(c) Conditions:

(1) The existence of any of the causes set forth in paragraph (b) of this section does not necessarily require that a firm or individual be debarred. In each instance, whether the offense, failure, or inadequacy of performances, be of a criminal, fraudulent, or serious nature, the decision to debar shall be made within the discretion of the Department Head and shall be rendered in the best interest of the Government. Likewise, all

mitigating factors may be considered in determining the seriousness of the offense, failure, or inadequacy of performance, and in deciding whether debarment is warranted.

(2) The existence of a cause set forth in paragraph (b) (1) or (2) of this section shall be established by criminal conviction in a court of competent jurisdiction. In the event that an appeal taken from such conviction results in a reversal of the conviction, the debarment shall be removed upon the request of the bidder, unless other causes for debarment exist.

(3) The existence of a cause set forth in paragraph (b) (3) or (4) of this section shall be established by evidence which the Postal Service determines to be clear and convincing in nature.

(4) Debarment for the cause set forth in paragraph (b) (5) of this section (debarment by another agency) shall be properly provided that one of the causes for debarment set forth in paragraph (b) (1) through (4) of this section was the basis for debarment by the original debarring agency.

§ 956.6 Period of debarment.

Where statutes, Executive orders, or controlling regulations of other agencies provide a specific period of debarment, they shall be controlling. In other cases, debarment by the Postal Service shall be for a reasonable, definite, stated period of time, commensurate with the seriousness of the offense or the failure or inadequacy of performance. As a general rule, a period of debarment shall not exceed 3 years. However, when debarment for an additional period is deemed necessary, notice of the proposed additional debarment shall be furnished to the firm or individual as in the case of original debarment. Except as provided herein or as precluded by statute, Executive order or controlling regulations of another agency, debarment may be removed or the period therefor may be reduced by the Department Head who initiated the initial debarment, upon a submission of an application by the debarred firm or individual supported by documentary evidence, setting forth appropriate grounds for the granting of relief, such as newly discovered material evidence, reversal of a conviction, bona fide change of ownership or management, or the elimination of the causes for which debarment was imposed. Except as provided herein, the Department Head may, in his discretion, deny any application for removal of debarment or for reduction of its period or may refer the same to the Judicial Officer for hearing and final agency determination. In any case in which a debarment is removed or the period thereof is reduced, the Department Head approving the removal or reduction shall, within 10 days from the date thereof, transmit to the Judicial Officer, for filing, a notice thereof together with a statement of the reasons for the removal of the debarment or the reduction of the period of debarment.

§ 956.7 Procedural requirements relating to the imposition of debarment.

(a) The Department Head shall initiate a debarment proceeding by sending to

the firm or individual proposed to be debarred a written notice of proposed debarment. Such notice shall be served in any manner sufficient to establish the giving thereof, as for example, by sending it to the last known address of the firm or individual by certified mail, return receipt requested. The notice shall state: (1) That debarment is being considered; (2) the reasons for the proposed debarment; (3) the period of debarment and the proposed effective date thereof; (4) that the debarment will not become effective until after a hearing if such hearing is requested within 20 days following the receipt of the notice of the proposed debarment; and (5) that the request for a hearing is to be accompanied by a statement setting forth the grounds upon which the proposed debarment will be contested. If no hearing is requested, the action of the Department Head shall become the final Agency determination.

(b) A firm or individual who is served with a notice of proposed debarment may request a hearing by addressing such request to the Judicial Officer through the Department Head who initiated the debarment proceeding. Such hearing shall be governed by rules of procedure as set forth by the Judicial Officer. Except as provided in paragraph (c) of this section, the Judicial Officer or Acting Judicial Officer shall hear the matter and determine on the basis of the record established before him whether the proposed debarment action should be sustained. The criminal, fraudulent, or seriously improper conduct of an individual may be imputed to the firm with which he is connected where such grave impropriety was accomplished within the course of his official duty or was effected by him with the knowledge or approval of that firm. Likewise, where a firm is involved in criminal, fraudulent, or seriously improper conduct, any person who was involved in the commission of the grave impropriety may be debarred. The decision of the Judicial Officer shall be the final agency decision. The Department Head initiating the debarment proceeding shall be represented by the Law Department.

(c) (1) The Judicial Officer shall make rules of procedure to govern hearings conducted by him under these provisions.

(2) When a Department Head proposes to debar a firm or individual already debarred by another Government agency for a term concurrent with such debarment, the debarment proceedings before the Postal Service may be based entirely upon the record of facts obtained from such other agency or upon such facts and additional other facts. In such cases the facts obtained from the other agency shall be considered as established, but the party to be debarred shall have opportunity to present information to the Judicial Officer and to explain why the debarment by the Postal Service should not be imposed.

§ 956.8 Suspension.

(a) A Department Head may, where the interests of the Government require, with the concurrence of the General

Counsel, suspend any firm or individual: (1) Suspected, upon adequate evidence, of—

(i) Commission of fraud or a criminal offense as an incident to obtaining, or attempting to obtain, or in the performance of a public contract;

(ii) Violation of the Federal antitrust statutes arising out of the submission of bids and proposals; or

(iii) Commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty, which seriously and directly affects the question of present responsibility as a Government contractor; or

(2) For other cause of such serious and compelling nature, affecting responsibility as a Government contractor, as may be determined by the Department Head to warrant suspension. A pending hearing for debarment may be a cause of such serious and compelling nature as to warrant suspension.

(b) A suspension invoked by another agency of Government may be the basis for the imposition of a concurrent suspension by a Department Head.

(c) Any firm or individual suspended hereunder who believes that his suspension has not been in accordance with these rules, or with applicable laws and regulations, may appeal to the Judicial Officer for a review of the suspension. The Judicial Officer shall, upon the basis of the papers submitted or upon other appropriate opportunity to be heard, expeditiously rule upon the validity of the suspension.

§ 956.9 Notice of suspension.

(a) The Department Head concerned shall cause a notice of the suspension to be served upon the firm or individual to be suspended by certified mail, return receipt requested, within 10 days after its effective date, which notice shall state:

(1) That the suspension is based:

(i) On information that the firm or individual has committed irregularities of a serious nature in business dealings with the Government, or

(ii) On irregularities which seriously reflect upon the propriety of further dealings of the firm or individual with the Government. The irregularities should be described in general terms without disclosing the Government's evidence;

(2) That the suspension is for a temporary period pending the completion of an investigation and such other proceedings as may follow therefrom;

(3) That bids and proposals will not be solicited from the firm or individual and, if received, will not be considered for award, unless it is determined by the Postal Service to be in the best interests of the Government so to do.

(b) Answers to all inquiries concerning the suspension of any firm or individual shall be coordinated by the Department Head concerned with the General Counsel or shall be made by the General Counsel. Where a matter has been referred to the Department of Justice, the Postal Service will not furnish any more information than is contained

in the notice in answer to any inquiries until the Department of Justice has acquiesced in the furnishing of additional information.

(c) No suspension shall exceed 120 days. A suspension while in effect may be extended for an additional period of 120 days upon written determination of the reasons and necessity therefor. Notice of such extension of suspension shall be served upon the firm or individual in the manner hereinbefore set forth. In no event shall extensions of a suspension exceed in the aggregate a period of 1 year unless a debarment proceeding or a prosecutive action is pending, in which case successive additional periods of suspension may be imposed until the proceeding in question has been completed. The termination of a suspension, however, shall not prejudice a debarment proceeding which was pending or which may be brought thereafter for the same reasons that led to the suspension.

§ 956.10 Restrictions on suspended persons and firms.

Firms and individuals suspended under this part shall be subject during the period of suspension to the same restrictions, conditions and penalties set forth in § 956.4.

PART 957—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO DEBARMENT AND SUSPENSION FROM CONTRACTING

Sec.	
957.1	Authority for rules.
957.2	Scope of rules.
957.3	Definitions.
957.4	Initiation of debarment proceedings.
957.5	The request for a hearing.
957.6	Order relative to hearing.
957.7	Reply.
957.8	Service and filing documents for the record.
957.9	Respondent's failure to appear at the hearing.
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957.11	Amendment of pleadings.
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957.14	Appearances.
957.15	Conduct of the hearing.
957.16	Evidence.
957.17	Witness fees.
957.18	Depositions.
957.19	Transcript.
957.20	Proposed findings and conclusions.
957.21	Decision.
957.22	Motion for reconsideration.
957.23	Modification or revocations of orders.
957.24	Computation of time.
957.25	Official record.
957.26	Public information.
957.27	Suspension.

AUTHORITY: The provisions of this Part 957 issued under 39 U.S.C. 204, 401.

§ 957.1 Authority for rules.

The rules in this part are issued by the Judicial Officer of the Postal Service pursuant to authority delegated by the Postmaster General (39 U.S.C. secs. 204, 401; Part 956 of this chapter).

§ 957.2 Scope of rules.

The rules in this part shall be applicable in all formal proceedings before the

Postal Service pertaining to hearings initiated under Part 956 of this chapter.

§ 957.3 Definitions.

(a) The term "Department Head" means the head of any Department of the Postal Service or his representative for the purpose of carrying out the provisions of Part 956 of this chapter.

(b) The term "General Counsel" includes his authorized representative.

(c) The term "Judicial Officer" includes the Acting Judicial Officer.

(d) "Debarment" means, in general, an exclusion from Government contracting and subcontracting for a reasonable, specified period of time commensurate with the seriousness of the offense or failure, or the inadequacy of performance.

(e) "Suspension" means a disqualification from Government contracting and subcontracting for a temporary period of time because a concern or individual is suspected upon adequate evidence of engaging in criminal, fraudulent, or seriously improper conduct.

(f) "Respondent" means any individual, firm or other entity which has been served a written notice of proposed debarment pursuant to Part 956 of this chapter.

(g) "The Docket Clerk" means the Docket Clerk of the Postal Service, whose office is located at 12th and Pennsylvania Avenue NW., Washington, DC 20260.

§ 957.4 Initiation of debarment proceedings.

(a) A Department Head shall initiate a debarment proceeding by serving upon the proposed Respondent a written notice of proposed debarment in the manner hereinafter (§ 957.8(d)) provided for the service of all other papers.

(b) The notice shall state:

(1) That debarment is being considered;

(2) The reasons for the proposed debarment;

(3) The period of debarment and the proposed effective date thereof;

(4) That the debarment will not become effective until after a hearing if such hearing is requested within 20 days following the receipt of the notice; and

(5) That the request for a hearing is to be submitted in the manner prescribed by the rules in this part, a copy of which shall be enclosed with the notice.

(c) If no hearing is requested within 20 days following the receipt of the notice, the action of the Department Head set forth in the notice shall become the final agency determination without further notice to the Respondent.

(d) The party against which a final agency determination has been entered pursuant to paragraph (c) of this section shall, however, at any time have the privilege of reopening a case for the limited purpose of contesting the issue of service. Such party's contentions on that issue shall be addressed to the Judicial Officer in the same manner as a request for a hearing (see § 957.5). The Judicial Officer may require such additional showings or proof as he may deem

necessary on the issue of service and shall reopen any debarment proceeding previously closed pursuant to paragraph (c) of this section if he shall find that service was incomplete or otherwise failed to adequately advise of the pendency of the proposed debarment.

§ 957.5 The request for a hearing.

A respondent may, within 20 days following the receipt of a written notice of proposed debarment, file a request for a hearing before the Judicial Officer. The request shall be addressed to the Judicial Officer through the Department Head who initiated the debarment proceeding and shall be accompanied by a concise statement admitting, denying or explaining each of the allegations set forth in the notice of proposed debarment and stating the relief desired.

§ 957.6 Order relative to hearing.

(a) The Judicial Officer shall issue an order granting the Respondent's request for a hearing, establishing the time and place thereof and advising the Respondent of the consequences of a failure to appear at the hearing (see § 957.9). Whenever practicable, the hearing date shall be within 30 days of the date of the Judicial Officer's order relative to hearing.

(b) The notice of proposed debarment and the request for a hearing together with the reply, if any, shall become the pleadings in any proceeding in which the Judicial Officer orders a hearing to be held.

§ 957.7 Reply.

Not more than 15 days from the service of the request for a hearing, the General Counsel may submit a reply on behalf of the Department Head who initiated the debarment proceeding.

§ 957.8 Service and filing documents for the record.

(a) Each party shall file with the Docket Clerk, pleadings, motions, orders and other documents for the record. The Docket Clerk shall cause copies to be served promptly on other parties to the proceeding and on the Judicial Officer.

(b) The parties shall submit four copies of all documents unless otherwise ordered by the Judicial Officer. One copy shall be signed as the original.

(c) Documents shall be dated and shall state the docket number and title of the proceeding. Any pleading or other document required by order of the Judicial Officer to be filed by a specified date shall be served upon the Docket Clerk on or before such date. The date of such service shall be the filing date and shall be entered thereon by the Docket Clerk.

(d) Service of all papers shall be effected by mailing the same, postage prepaid registered, or certified mail, return receipt requested, or by causing said notice to be personally served on the proposed Respondent by an authorized representative of the Department. In the case of personal service the person making service shall secure from the proposed

Respondent or his agent, a written acknowledgement of receipt of said notice, showing the date and time of such receipt. Said acknowledgement (or the return receipt where service is effectuated by mail) shall be made a part of the record by the Department Head initiating the debarment proceeding. The date of delivery, as shown by the acknowledgment of personal service or the return receipt, shall be the date of service.

§ 957.9 Respondent's failure to appear at the hearing.

If the Respondent shall fail to appear at the hearing, the Judicial Officer shall receive the Department Head's evidence and render a departmental decision without requirement of further notice to the Respondent.

§ 957.10 Respondent already debarred by another Government agency.

(a) When a Department Head proposes to debar a firm or individual already debarred by another Government agency for a term concurrent with such debarment, the debarment proceedings before the Postal Service may be based entirely upon the record of facts obtained from such other agency or upon such facts and additional other facts. In such cases the facts obtained from the other agency shall be considered as established, but the party to be debarred shall have opportunity to present information to the Judicial Officer and to explain why the debarment by the Postal Service should not be imposed.

(b) Where the Department Head initiating the debarment proceeding relies:

(1) Upon the provisions of paragraph (a) of this section, or

(2) Upon all or part of the record of the proposed Respondent's previous debarment by another Government agency, in initiating such proceeding, the notice of proposed debarment shall contain a statement so stating in sufficient detail to apprise the Respondent of the extent of such reliance.

(c) The Department Head's reliance upon provisions of paragraph (a) of this section, stated in conformity with the directions set forth in paragraph (b) of this section does not deprive the Respondent of the right to request the Judicial Officer to grant a hearing pursuant to these rules, nor the Judicial Officer the full discretion to grant or deny such request.

§ 957.11 Amendment of pleadings.

(a) By consent of the parties a pleading may be amended at any time. Also, a party may move to amend a pleading at any time prior to the close of the hearing: *Provided*, That the proposed amendment is reasonably within the scope of the proceeding.

(b) When issues not raised by the pleadings but reasonably within the scope of the proceedings initiated by the notice of proposed debarment are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendments as may be necessary to make the pleadings conform to the

evidence and to raise such issues shall be allowed at any time upon the motion of any party.

(c) If a party objects to the introduction of evidence at the hearing on the ground that it is not within the issues framed by the pleadings, but fails to satisfy the Judicial Officer that an amendment of the pleadings would prejudice him on the merits, the Judicial Officer may allow the pleadings to be amended and may grant a continuance to enable the objecting party to rebut the evidence presented.

(d) The Judicial Officer may, upon reasonable notice and upon such terms as are just, permit service of a supplemental pleading setting forth transactions, occurrences, or events which have transpired since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

§ 957.12 Continuances and extensions.

Continuances and extensions will not be granted by the Judicial Officer except for good cause shown.

§ 957.13 Hearings.

(a) Hearings are held at the headquarters of the Postal Service, Washington, D.C. 20260, or other locations designated by the Judicial Officer.

(b) A party may, not later than 7 days prior to the scheduled date of a hearing, file a request that such hearing be held at a place other than that designated in the Judicial Officer's order relative to hearing. He shall support his request with a statement outlining:

(1) The evidence to be offered in such place;

(2) The names and addresses of the witnesses who will testify;

(3) The reasons why such evidence cannot be produced at Washington, D.C.

The Judicial Officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

§ 957.14 Appearances.

(a) A Respondent may appear and be heard in person or by attorney.

(b) An attorney may practice before the Postal Service in accordance with applicable rules issued by the Judicial Officer (see Part 951 of this chapter).

(c) When a Respondent is represented by an attorney, all pleadings and other papers subsequent to the notice of proposed debarment shall be mailed to the attorney.

(d) All counsel shall promptly file notices of appearance. Changes of Respondent's counsel shall be recorded by notices from retiring and succeeding counsel and from the Respondent.

(e) After a request for a hearing has been filed pursuant to the rules in this part, the Law Department shall represent the Department Head in further proceedings relative to the hearing and shall in its notice of appearance identify the individual member of such office who has been assigned to handle the case on its behalf.

§ 957.15 Conduct of the hearing.

The Judicial Officer shall have authority to:

(a) Administer oaths and affirmations;

(b) Examine witnesses;

(c) Rule upon offers of proof, admissibility of evidence, and matters of procedure;

(d) Order any pleading amended upon motion of a party at any time prior to the close of the hearing;

(e) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;

(f) Require the filing of briefs or memoranda of law on any matter upon which he is required to rule;

(g) Order prehearing conferences for the purpose of the settlement or simplification of issues by the parties;

(h) Order the proceeding reopened at any time prior to his decision for the receipt of additional evidence;

(i) Render a final agency decision;

(j) Take such other further action as may be necessary to properly preside over the debarment proceeding and render decision therein.

§ 957.16 Evidence.

(a) Except as otherwise provided in the rules in this part, the rules of evidence governing civil proceedings in matters not involving trial by jury in the courts of the United States shall govern. However, such rules may be relaxed to the extent that the Judicial Officer deems proper to insure a fair hearing.

(b) Testimony shall be under oath or affirmation and witnesses shall be subject to cross-examination.

(c) Agreed statements of fact may be received in evidence.

(d) Official notice or knowledge may be taken of the types of matters of which judicial notice or knowledge may be taken.

(e) The written statement of a competent witness may be received in evidence: *Provided*, That such statement is relevant to the issues, that the witness shall testify under oath at the hearing that the statement is in all respects true, and, in the case of expert witnesses, that the statement correctly states his opinion or knowledge concerning the matters in question.

§ 957.17 Witness fees.

The Postal Service does not pay fees and expenses for Respondent's witnesses or for depositions requested by Respondent.

§ 957.18 Depositions.

(a) Not later than 7 days prior to the scheduled date of the hearing any party may file application with the Docket Clerk for the taking of testimony by deposition. In support of such application the applicant shall submit under oath or affirmation a statement setting out the reasons why such testimony should be taken by deposition, the time and the place, and the name and address of the witness whose deposition is desired, the subject matter of the testimony of each

witness, its relevancy, and the name and address of the person before whom the deposition is to be taken.

(b) If the application be granted, the order for the taking of the deposition will specify the time and place thereof, the name of the witness, the person before whom the deposition is to be taken and any other necessary information.

(c) Each witness testifying upon deposition shall be duly sworn, and the adverse party shall have the right to cross-examine. The questions and answers together with all objections, shall be reduced to writing and, unless waived by stipulation of the parties, shall be read to and subscribed by the witness in the presence of the deposition officer who shall certify it in the usual form. The deposition officer shall file the testimony taken by deposition as directed in the order. The deposition officer shall put the witness on oath. All objections made at the time of examination shall be noted by the deposition officer and the evidence objected to shall be taken subject to the objections. In lieu of participating in the oral examination, a party may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim. Objections to relevancy or materiality of testimony, or to errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties and errors of any kind which might be obviated, cured or removed if promptly presented, are waived unless timely objection is made at the taking of the deposition.

(d) At the hearing any part or all of the deposition may be offered in evidence by any party who was present or represented at the taking of the deposition or who had notice thereof. If the deposition is not offered and received in evidence, it shall not be considered as a part of the record in the proceeding. The admissibility of depositions or parts thereof shall be governed by the rules of evidence.

(e) The party requesting the deposition shall pay all fees required to be paid to witnesses and the deposition officer, and shall provide an original and one copy of the deposition for the official record, and shall serve one copy upon the opposing party.

(f) Within the United States or within a territory or insular possession, subject to the dominion of the United States, depositions may be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held; within a foreign country, depositions may be taken before a secretary of an embassy or legation, consul general, vice consul or consular agent of the United States, or any other person designated in the order for the taking of a deposition.

(g) Depositions may also be taken and submitted on written interrogatories in substantially the same manner as depositions taken by oral examination. When a deposition is taken upon written interrogatories and cross-interrogatories,

none of the parties shall be present or represented, and no person, other than the witness, a stenographic reporter, and the officer shall be present at the examination of the witness, which fact shall be certified by the officer, who shall propound the interrogatories and cross-interrogatories to the witness in their order and reduce the testimony to writing in the witness' own words.

§ 957.19 Transcript.

(a) Hearings shall be stenographically reported by a contract reporter of the Postal Service under the supervision of the Judicial Officer. Argument upon any matter may be excluded from the transcript by order of the Judicial Officer. A copy of the transcript shall be a part of the record and the sole official transcript of the proceeding. Copies of the transcript may be obtained by the Respondent from the reporter upon the payment to him of a reasonable price therefor. Copies of parts of the official record other than the transcript may be obtained from the librarian of the Postal Service or the Docket Clerk.

(b) Changes in the official transcript may be made only when they involve errors affecting substance and then only in the manner herein provided. No physical changes shall be made in or upon the official transcript, or copies thereof, which have been filed with the record. Within 10 days after the receipt by any party of a copy of the official transcript, or any part thereof, he may file a motion requesting correction of the transcript. Opposing counsel shall, within such time as may be specified by the Judicial Officer, notify the Judicial Officer in writing of his concurrence or disagreement with the requested corrections. Failure to interpose timely objection to a proposed correction shall be considered to be concurrence. Thereafter, the Judicial Officer shall by order specify the corrections to be made in the transcript. The Judicial Officer on his own initiative may order corrections to be made in the transcript with prompt notice to the parties of the proceeding. Any changes ordered by the Judicial Officer other than the agreement of the parties shall be subject to objection and exception.

§ 957.20 Proposed findings and conclusions.

(a) Each party to a proceeding, except one who fails to appear at the hearing may, unless at the discretion of the Judicial Officer such is not appropriate, submit proposed findings of fact, conclusions of law and supporting reasons either in oral or written form in the discretion of the Judicial Officer. The Judicial Officer may also require parties to any proceeding to submit proposed findings of fact and conclusions of law with supporting reasons. Unless given orally the date set for filing of proposed findings of fact and conclusions of law shall be within 15 days after the delivery of the official transcript to the Docket Clerk who shall notify both parties of the date of its receipt. The filing date for proposed findings shall be the same for both parties. If not sub-

mitted by such date, or unless extension of time for the filing thereof is granted, they will not be included in the record or given consideration.

(b) Except when presented orally before the close of the hearing, proposed findings of fact shall be set forth in serially numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits supporting the proposed findings. Each proposed conclusion shall be separately stated.

§ 957.21 Decision.

The Judicial Officer shall issue a final agency decision. Such decision shall include findings and conclusions, with the reasons therefor, upon all the material issues of fact or law presented on the record, and the appropriate order.

§ 957.22 Motion for reconsideration.

Within 10 days from the date thereof, or such longer period as may be fixed by the Judicial Officer, either party may file a motion for reconsideration of the final agency decision. Each motion for reconsideration shall be accompanied by a brief clearly setting forth the points of fact and of law relied upon in support of said motion.

§ 957.23 Modification or revocation of orders.

A party against whom an order of debarment has been issued may file an application for modification or revocation thereof. The Docket Clerk shall transmit a copy of the application to the General Counsel, who shall file a written reply. A copy of the reply shall be sent to the applicant by the Docket Clerk. Thereafter an order granting or denying such application will be issued by the Judicial Officer.

§ 957.24 Computation of time.

A designated period of time under the rules in this part exclude the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or legal holiday, in which event the period runs until the close of business on the next business day.

§ 957.25 Official record.

The transcript of testimony together with all pleadings, orders, exhibits, briefs, and other documents filed in the proceeding shall constitute the official record of the proceeding.

§ 957.26 Public information.

The Law Librarian of the Postal Service shall maintain for public inspection in the Law Library copies of all final decisions. The Docket Clerk maintains the complete official record of every proceeding.

§ 957.27 Suspension.

(a) Any firm or individual suspended under Part 956 of this chapter who believes that his suspension has not been in accordance with the provisions thereof, or with applicable laws or regulations,

may appeal to the Judicial Officer for a review of the suspension.

(b) Any such appeal shall be addressed to the Judicial Officer through the Department Head who ordered the suspension within 20 days of the date upon which the respondent has been notified of his suspension. Such appeal shall concisely and in the manner of a pleading set forth the grounds upon which the suspension is contested and may be supported by a brief and such evidence as the respondent may desire to submit.

(c) Should the respondent desire oral argument or a hearing before the Judicial Officer in connection with his appeal, application therefor shall be included in the appeal. In the event that the Judicial Officer grants the respondent's application for a hearing the notice of suspension and the appeal shall constitute the pleadings defining the issues therein and the hearing shall be regulated in accordance with the rules in this part concerning debarment proceedings.

(d) The decision of the Judicial Officer in any appeal shall constitute the final agency determination of the issues presented thereby. Either party thereto may, however, file a motion for reconsideration thereof, in accordance with the provisions of § 957.22.

DAVID A. NELSON,
General Counsel.

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PART 958—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO THE REFUSAL TO RENT OR RENEW POST OFFICE BOXES AND THE CLOSING OF POST OFFICE BOXES

Effective July 1, 1971, Part 958 is amended to read as follows:

Sec.

- 958.1 Authority for rules.
- 958.2 Scope of rules.
- 958.3 Notice of appeal; notice of hearing; answer.
- 958.4 Hearings.
- 958.5 Election as to hearing.
- 958.6 Default.
- 958.7 Presiding officers.
- 958.8 Proposed findings of fact and conclusions of law.
- 958.9 Initial decision.
- 958.10 Appeal.
- 958.11 Final agency decision.
- 958.12 Compromise and informal disposition.
- 958.13 Petition to revoke, amend or modify.

AUTHORITY: The provisions of this Part 958 issued under 39 U.S.C. 204, 401.

§ 958.1 Authority for rules.

The Judicial Officer promulgates the rules in this part pursuant to authority delegated by the Postmaster General.

§ 958.2 Scope of rules.

The rules in this part shall be applicable only to cases in which the General Counsel has issued a Notice of Intent to Close a Post Office Box, or in which a postmaster has refused to rent or renew the rental of a post office box, pursuant

to § 169.1 of this chapter, and a timely appeal has been filed.

§ 958.3 Notice of appeal; notice of hearing; answer.

(a) *Notice of appeal.* Any person to whom the rental or renewal of rental of a post office box has been refused by a postmaster and any person who has been served by the General Counsel with a Notice of Intent to Close a Post Office Box may make an appeal from such refusal or Intent to Close by filing a written complaint with the Docket Clerk within 20 days from the receipt of notice of such refusal or Notice of Intent to Close. The complaint shall be filed in triplicate and shall state the reasons why the person believes the action taken by the Postmaster or proposed to be taken by the General Counsel is erroneous. The complaint shall also allege facts showing compliance with each provision of law and regulation on which the person's claim to entitlement to box office rental is based. The appellant shall attach to his appeal a copy of the notice of refusal to rent or renew or Notice of Intent to Close the post office box. The appeal shall be sent to the Judicial Officer, United States Postal Service, Washington, D.C. 20260. The appeal shall be signed by the appellant or by his attorney.

(b) *Notice of hearing.* Upon receipt of the appeal the Docket Clerk shall send a copy thereof to the General Counsel and shall set the matter down for hearing not later than 30 days from the date of receipt by the Docket Clerk of the appeal. The notice of hearing shall be sent to the appellant by certified mail with return receipt requested.

(c) *Answer.* The General Counsel shall file answer to the appeal within 10 days after the receipt of the appeal by the Docket Clerk.

§ 958.4 Hearings.

Hearings are held at the Headquarters Office of the United States Postal Service, Washington, D.C., or such other location as may be designated by the presiding officer. Not later than 5 days prior to the date fixed for the hearing, a party may file a request that a hearing be held to receive evidence in his behalf at a place other than that designated for hearing in the notice. He shall support his request with a statement outlining: (a) The evidence to be offered in such place; (b) the names and addresses of the witnesses who will testify; (c) the reasons why such evidence cannot be produced at Washington, D.C. The Judicial Officer shall give consideration to the convenience and necessity of the parties and the relevancy of the evidence to be offered.

§ 958.5 Election as to hearing.

If both parties so elect, they may waive an oral hearing and submit the matter for decision on the basis of the appeal and answer, with the approval of the presiding officer and subject to the right of the presiding officer to require the parties to furnish such further evidence

or such briefs as the presiding officer may deem necessary. The request to waive oral hearing shall be mailed to the presiding officer not later than 10 days prior to the date set for the hearing.

§ 958.6 Default.

If a person who has not waived oral hearing fails, without notice or without adequate cause, satisfactory to the presiding officer, to appear at the hearing, the presiding officer shall issue an order dismissing the appeal. If no protest to such order of dismissal is received within 10 days from the date of issuance of the order, such order shall become final. Any protest to the order of dismissal received within 10 days from the date of its issuance shall be given such consideration as the presiding officer deems to be warranted by the facts and circumstances alleged in the protest. An order of dismissal issued under this section by a Hearing Examiner may be appealed to the Judicial Officer within 10 days from the date of the order.

§ 958.7 Presiding officers.

The presiding officer at any hearing shall be a Hearing Examiner qualified pursuant to the Administrative Procedure Act (5 U.S.C. 3105) or the Judicial Officer (39 U.S.C. 204). The Chief Hearing Examiner shall assign cases to Hearing Examiners by rotation so far as practicable. The Judicial Officer may, for good cause shown, and with his concurrence, preside at the reception of evidence in proceedings where expedited hearings are requested by either party. When the Judicial Officer presides at the hearing, he shall, in his sole discretion, render a tentative or final decision after the conclusion of the hearing. Exceptions may be filed to a tentative decision in accordance with § 958.10.

§ 958.8 Proposed findings of fact and conclusions of law.

Unless otherwise ordered by the presiding officer, proposed findings of fact and conclusions of law and supporting arguments shall be submitted orally or in writing at the conclusion of the hearing.

§ 958.9 Initial decision.

Unless given orally at the conclusion of the hearing, the Hearing Examiner shall render an initial decision as expeditiously as practicable following the conclusion of the hearing, and the receipt of the proposed findings, if any. The initial decision shall become the final agency decision if a timely appeal is not taken.

§ 958.10 Appeal.

Either party may file exceptions in a brief on appeal to the Judicial Officer within 5 days after receipt of the initial or tentative decision unless additional time is granted. A reply brief may be filed within 5 days after the receipt of the appeal brief by the opposing party.

§ 958.11 Final agency decision.

The Judicial Officer shall render a final agency decision or he shall refer the matter to the Postmaster General or the Deputy Postmaster General for such final decision. The decision shall be served upon the parties and upon the postmaster at the office where the box is located.

§ 958.12 Compromise and informal disposition.

Nothing in these rules precludes the compromise, settlement, and informal disposition of proceedings initiated under these rules at any time prior to the issuance of the final agency decision.

§ 958.13 Petition to revoke, amend or modify.

A party against whom an order has been issued may file a petition for the revocation, amendment or modification thereof. The Docket Clerk shall transmit a copy of the petition to the General Counsel, who may file a written reply. A copy of the reply shall be sent to the petitioner by the Docket Clerk. Thereafter an order granting or denying such application will be issued by the Judicial Officer.

DAVID A. NELSON,
General Counsel.

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Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

SUBCHAPTER E—REGULATIONS UNDER THE NATURAL GAS ACT

[Opinion No. 595, Docket No. AR 64-2, etc.]

PART 154—RATE SCHEDULES AND TARIFFS

Just and Reasonable Rates for Natural Gas Produced in the Texas Gulf Coast Area

On May 6, 1971, the Commission issued Opinion No. 595 which, among other things, set up a new § 154.109 in the regulations under the Natural Gas Act, relating to the pricing of natural gas produced in the Texas gulf coast area.

In the opinion, the Commission directed the Secretary to cause prompt publication to be made in the FEDERAL REGISTER of the findings and ordering paragraphs and a notice of the availability of the entire opinion. Pursuant thereto, the findings and order paragraphs are set out below.

Excerpts from Federal Power Commission Opinion No. 595, Area Rate Proceeding et al. (Texas gulf coast area), FPC Docket No. AR64-2, et al., 45 FPC —, issued May 6, 1971:

FURTHER FINDINGS AND ORDER

Upon consideration of the entire record in this proceeding, which includes

public notice, public hearing with opportunity for the submission of oral and documentary evidence, for cross-examination, and for the submission of rebuttal evidence, initial decision by an examiner, exceptions thereto, and oral argument before the Commission, the Commission further finds:

(1) The Texas gulf coast area consists of Texas Railroad Commission Districts Nos. 2, 3, and 4, including the underwater Continental Shelf offshore of those districts.

(2) Each of the respondents² listed in Appendix A to this decision is, and at the time of all past sales with which we are here concerned was, a "natural gas company" within the meaning of the Natural Gas Act and is engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of this Commission.

(3) Past, present, and proposed sales of natural gas to which the order herein applies are subject to the jurisdiction of this Commission.

(4) Rates for all sales of natural gas, subject to the jurisdiction of the Commission by the producers in the Texas gulf coast area that are above the applicable area rates prescribed herein, have not been shown to be just and reasonable or otherwise lawful under the provisions of the Natural Gas Act and should be disallowed, and refunds should be required as hereafter provided.

(5) The just and reasonable rates for past, present, and proposed sales of natural gas to which this order applies are the applicable area rates set forth in ordering paragraph (A) below.

(6) Rates in excess of the applicable just and reasonable rates determined herein are in that respect unjust and unreasonable.

(7) It is necessary and appropriate to carry out the provisions of the Natural Gas Act that the Commission adopt the orders and regulations herein prescribed.

(8) Except as herein granted the exceptions to the initial decision and proposed order should be denied.

Acting pursuant to sections 4, 5, and 16 of the Natural Gas Act (52 Stat. 822, as amended, 823, 830; 15 U.S.C. 717c, 717d, 717o) and sections 553, 556, and 557 of title 5 of the United States Code (the Administrative Procedure Act, 60 Stat. 238, 239, 241, 242, as codified Sept. 6, 1966, by 80 Stat. 383, 384, 386, 387), the Commission orders:

² Where the term "respondents" is used in the finding and ordering paragraphs hereinafter set forth, it is to be regarded as referring to all named respondents in the Commission orders issued in this case, and to all parties on whose behalf such named respondents have filed FPC gas rate schedules for sales of gas produced in the Texas gulf coast area.

(A) Part 154 of the Commission's regulations under the Natural Gas Act, Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations (18 CFR 154) is amended by adding a new § 154.109 reading as follows:

§ 154.109 Area rates; Texas gulf coast area.

(a) From and after August 1, 1971, the effective date of Opinion No. —, Docket No. AR64-2 et al., — FPC —, and prior to January 1, 1976, no rate or charge made, demanded or received under a rate schedule filed pursuant to this Part for gas produced in the Texas gulf coast area shall exceed the applicable area rate prescribed by this section except in compliance with a specific order of the Commission.

(b) Applicable area rate means the base area rate established in paragraph (c) of this section adjusted to the extent required by paragraph (d) of this section.

(c) The base area rates: The following base area rates per Mcf (at 14.65 p.s.i.a.) are hereby established, subject to the adjustments provided in paragraphs (d) and (e) of this section, for gas gathered and delivered by the seller at either a central point in the field, the tailgate of a plant or a point on the buyer's pipeline:

(1) Gas sold under contracts dated prior to January 1, 1961:

(i) 15 cents prior to January 1, 1965.

(ii) 17 cents from January 1, 1965, to September 30, 1968.

(iii) 19 cents from October 1, 1968, to September 30, 1973.

(iv) 20 cents on and after October 1, 1973.

(2) Gas sold under contracts dated on or after January 1, 1961, and prior to October 1, 1968:

(i) 18 cents prior to January 1, 1965.

(ii) 18.5 cents from January 1, 1965, to September 30, 1968.

(iii) 19 cents from October 1, 1968, to September 30, 1973.

(iv) 20 cents on and after October 1, 1973.

(3) Gas sold under contracts dated on or after October 1, 1968:

(i) 24 cents prior to October 1, 1973.

(ii) 25 cents on and after October 1, 1973.

(4) The applicable area rate shall be adjusted downward by 0.4 cent per Mcf for gas delivered closer to the wellhead than a central point in the field, the tailgate of a plant, or a point in the pipeline.

(d) Contingent escalations of area rates: From such time prior to January 1, 1976, as the Commission determines that independent producers shall have dedicated for sale to interstate pipelines natural gas produced in the Texas gulf coast area, in addition to gas already dedicated as of the effective date of this order and also in addition to any dedications used to reduce

refund obligations, in the amounts hereafter specified, the base area rates established in paragraph (c) of this section for gas sold under contracts prior to October 1, 1968, shall be increased as follows:

Total new dedications	Base area rates increase
4 billion cubic feet----	0.5 cent per Mcf.
6 billion cubic feet----	Additional .5 cent per Mcf.
10 billion cubic feet----	Additional 1 cent per Mcf.

New discoveries (as presently defined in § 2.56(f) (2) of the Commission's rules of practice and procedure) made after the date of issuance of this order on acreage committed by a contract for sale to an interstate pipeline shall be considered to be new dedications for the purpose of this provision.

(e) Quality standards and adjustments to the base area rates: The base area rates established in paragraph (c) of this section are subject to adjustment as follows:

(1) B.t.u. adjustment: For gas with more than 1,050 B.t.u.'s per cubic foot, at 60° F. and 14.73 p.s.i.a., upward adjustments shall be made on a proportional basis from a base of 1,050 B.t.u.'s. For gas with less than 1,000 B.t.u.'s per cubic foot, at 60° and 14.73 p.s.i.a., downward adjustments shall be made on a proportional basis from a base of 1,000 B.t.u.'s. Measurement of B.t.u. shall be on a wet basis.

(2) For gas sold under contracts dated on or after August 1, 1971, the following additional quality standards shall apply:

(i) *Water content.* The gas shall not contain in the aggregate more than 7 pounds of water, either in the form of liquid or vapor, per million cubic feet of gas at 60° F. and 14.73 p.s.i.a. (0.007 pound per Mcf).

(ii) *Hydrogen sulphide.* The gas shall not contain more than 1 grain of hydrogen sulphide per 100 cubic feet of gas at 60° F. and 14.73 p.s.i.a. (10 grams per Mcf).

(iii) *Total sulphur.* The gas shall not contain more than 20 grains of total sulphur per 100 cubic feet of gas at 60° F. and 14.73 p.s.i.a. (200 grams per Mcf).

(iv) *Carbon dioxide.* The gas shall not contain more than 3 percent by volume of carbon dioxide.

(v) *Other impurities.* The gas shall contain no oxygen, dust, dirt, gum, or other impurity in sufficient amounts to require the buyer to incur processing costs to eliminate such impurities in order for the gas to meet either customary commercial standards or the customary requirements of any of the interstate pipelines in the area.

(vi) *Delivery pressure.* The gas shall be delivered at a pressure sufficient to enter the buyer's pipeline except that a minimum of 500 p.s.i.g. must be available at the point of delivery.

(3) When a purchaser under contract dated on or after August 1, 1971, buys gas which deviates from the quality standard established in subparagraph

(2) of this paragraph, the base area rate shall be adjusted for any deviations from such standards as follows:

(1) The applicable area rate shall be adjusted downward by the net cost, actually incurred prior to ultimate consumption, of processing the gas to bring it up to standard.

(a) If the processing is performed by the purchaser, a reasonable return upon the net investment should be included as part of the processing cost incurred in bringing the gas up to pipeline quality.

(b) If such processing reduces the volume of the gas, the purchaser shall pay for only the volume remaining after processing.

(ii) In the case of delivery by seller of gas containing carbon dioxide in excess of the standards herein permitted, notwithstanding anything to the contrary in subparagraph (2) (iv) of this paragraph, the producers shall have the alternative of receiving payment for the total volume of gas delivered, including the carbon dioxide, providing that the B.t.u. content of the gas is measured before the removal of the carbon dioxide for the purposes of the B.t.u. adjustments specified in this order, or receiving payment for the volumes exclusive of the carbon dioxide with the B.t.u. measured by the volumes of gas only.

(f) Prior to January 1, 1976, any seller seeking to charge a rate in excess of the applicable area rate or requesting a change in the applicable area rate must file a petition for waiver or amendment of this section pursuant to § 1.7(b) of the Commission's rules of practice and procedure (18 CFR 1.7(b)) fully justifying the relief sought in the light of this opinion and order. Prior to January 1, 1976, the seller may not file any rate increase in excess of the applicable area rate herein prescribed unless and until the Commission grants the petition.

(B) The applicable area rate as defined in ordering paragraph (A) above, shall be effective from and after the effective date of this order and any amounts collected in excess thereof on or after that date shall be subject to refund plus interest at 7 percent. In addition, with respect to the rates involved in section 4(e) proceedings set out in Appendix A, the applicable area rate as defined in paragraph (A) above, shall be effective from the date such section 4(e) rates were collected subject to refund and all amounts collected under those section 4(e) rates prior to the effective date of this opinion in excess of the applicable area rate shall be subject to refund, plus interest at the rate specified in the respective section 4(e) proceeding, in accordance with the provisions of ordering paragraphs (D) and (E) herein: *Provided, however,* That with respect to such 4(e) dockets no refunds are required below the rate allowed in a final, unconditioned permanent certificate previously granted for such sale.

(C) By August 31, 1971, each respondent shall file a supplement to each applicable rate schedule, effective as of August 1, 1971, reflecting any reductions re-

quired to bring any or all of its rates into conformity with the applicable base area rate established by ordering paragraph (A) herein. The timely filing of a completed statement in conformity with Appendix C hereto shall constitute compliance with this paragraph (C).

(D) (1) Each person having on file with this Commission a rate schedule with regard to gas produced or sold within the Texas gulf coast area, or hereafter filing such a rate schedule (including a contract or amendment adding acreage or new reserves) shall, with regard to such rate schedule or amendment, file by August 31, 1971, or within 90 days from the date of first delivery under the rate schedule or amendment, whichever is later, a statement in conformity with Appendix C hereto. All statements herein required shall be signed by both the seller and the purchaser. If the seller and the purchaser are unable to agree upon any or all of the particulars entering into the computation of the applicable area rate, the seller shall file the statements herein required which shall indicate the absence of agreement and supply the information required to compute the applicable area rate as well as the contentions of the parties with respect to the quality and amount of the adjustment for any item in dispute. The purchaser may file a separate statement setting forth its views within the period herein provided.

(2) The statement filed hereunder which reflects full agreement between the seller and purchaser shall be deemed accepted by the Commission unless the Commission, within 120 days after such filing, shall otherwise order. In the event of disagreement between the seller and purchaser or, where the Commission otherwise determines that the statement filed is inconsistent with the provisions of ordering paragraph (A) herein, the Commission will after appropriate proceedings, prescribe the applicable area rate to be applied.

(3) Any respondent will be exempt from filing the statement required by subparagraph (1) hereof for any sales which are "small producer sales" as defined in the Commission's regulations under the Natural Gas Act if a producer seeks to qualify thereunder. If the Commission subsequently finds that such a producer does not qualify as a small producer such applicant shall be required to file the statement required by subparagraph (1) hereof within 90 days after any such Commission finding.

(E) Refund reports: By August 31, 1971, refund reports shall be filed with this Commission in triplicate, and one copy served on the buyer, by each producer involved in one or more of the section 4(e) proceedings set out in appendix A and as to which refunds are required under the terms of this decision. Within 20 days from the filing of the refund report the buyer shall file its written concurrence or disagreement with such report. The report shall set forth the following information (if more than

one rate schedule is involved the respondent shall supply the information for each schedule separately):

(i) The rates collected during the period subject to refund, and the periods during which each rate was collected.

(ii) The volume of gas sold at each such rate.

(iii) The difference between the total amount collected during the period subject to refund and the amount that would have been collected at the applicable area rate as defined herein subject to the proviso of ordering paragraph (B).

(iv) The computation of the applicable area rate and the basis for any difference between it and the base area rate.

(v) The interest, at rates as specified in each section 4(e) proceeding, on the above refundable excess revenues, subject to the limitation by section 105.102 (f) of the Commission's regulations under the Natural Gas Act. The interest shall be calculated to the date of the refund report.

(vi) A statement as to whether the respondent elects to attempt to discharge its refund obligations, including interests, in the manner set forth in ordering paragraph (G).

(F) Treatment of refunds: Each respondent, who does not elect to discharge its refund obligations (including interests) in the manner set forth in ordering paragraph (G), shall retain the amounts shown in the report required under ordering paragraph (E) subject to further order of the Commission directing the disposition of those amounts. If a respondent elects to commingle these retained refunds with its general assets and use them for its corporate purposes, it is authorized so to do after notice to the Commission; and it shall pay interests thereon at the prime rate, in effect as of 12 m. on the date of issuance of this opinion and order for loans made by the Chase Manhattan Bank, on all funds thus available from August 1, 1971, to the date on which they are paid over to the persons ultimately determined to be entitled thereto in a final order of the Commission. If a respondent elects to deposit the retained funds in a special escrow account, the respondent shall make such deposit and shall comply with the escrow agreement requirements of section 250.12 of the regulations under the Natural Gas Act (18 CFR 250). Unless notified to the contrary by the Secretary within 30 days from the date of filing thereof, the escrow agreement shall be deemed to be satisfactory and to have been accepted for filing.

(G) Discharge of refund obligations by additional dedications: Each producer who so elects may discharge its refund obligation under this order through credits for dedication to sale to interstate pipelines, after the date of issuance of this order and prior to January 1, 1976, of gas reserves in the Texas gulf coast area in addition to those already dedicated to interstate commerce on the effective date of this order. New discoveries (as presently defined in § 2.56(f) of the Commission's rules of practice and procedure) made after the date of issuance

of this order on acreage committed by a contract for sale to an interstate pipeline shall be considered to be new dedications for the purpose of this paragraph. The amount of the credit shall be 1 cent for each Mcf so dedicated: *Provided*, That, except in case of a bona fide and rejected offer of new dedications as hereinafter set forth, not more than 50 percent of the refund obligation owed any one buyer may be discharged by new dedications to another buyer or buyers in amounts greater than necessary to discharge seller's existing refund obligation, if any, to such other buyer. New dedications, to the extent greater than necessary to discharge an existing refund obligation to the buyer, shall be used to reduce the producer's remaining refund obligations to all other buyers as to each in proportion that the obligation owed to each bears to the remaining total refund obligation of such producer, except that, if a buyer to whom a refund is owing by a producer rejects a bona fide offer of new dedications from the producer, the producer may, if it dedicates the offered reserves to sale to another interstate pipeline, credit against its obligation to the prospective buyer which first rejected the offer any unused credit over and above that which can be used to reduce the producer's refund obligation to the actual buyer. In no event shall the producer's total refund obligations be reduced by more than 1 cent per Mcf of new dedications.

(H) The procedures for establishing and revising the amount of reserves in new dedications, and the reports required, will be established by later order of the Commission.

(I) These proceedings shall remain open for such further action as may be necessary with respect to individual respondents and such other action as may be necessary in the premises.

(J) Except as herein granted the exceptions to the initial decision and proposed order are hereby denied.

(K) If any provision of this order, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of the order, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(L) Twenty-five copies of any application for rehearing or petitions for reconsideration shall be filed with the Commission in addition to the copies served on the parties to this proceeding.

(M) The Secretary shall cause prompt publication of the findings and ordering paragraphs, together with notice of the availability of this entire Opinion,² to be made in the FEDERAL REGISTER.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8423 Filed 6-15-71;8:47 am]

² Copies of the complete text of Opinion No. 595 may be obtained in person from the Office of Public Information of the Federal Power Commission, or by written request addressed to the Secretary, Federal Power Commission, 441 G Street NW., Washington, DC 20426.

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs,
Department of the Treasury

[T.D. 71-154]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Supplies and Equipment for Aircraft

In accordance with section 309(d), Tariff Act of 1930, as amended (19 U.S.C. 1309(d)), the Department of Commerce has found and under date of April 27, 1971, has advised the Treasury Department that Honduras allows privileges to aircraft registered in the United States and engaged in foreign trade substantially reciprocal to those provided for in sections 309 and 317 of the Tariff Act of 1930, as amended (19 U.S.C. 1309, 1317). The same privileges are therefore hereby extended to aircraft registered in Honduras and engaged in foreign trade effective as of the date of such notification.

Accordingly, paragraph (f) of § 10.59, Customs regulations, is amended by the insertion of "Honduras" in appropriate alphabetical order and the number of this Treasury decision in the opposite column headed "Treasury Decision(s)" in the list of nations in that paragraph.

(Secs. 309, 317, 759, 46 Stat. 690, as amended, 696, as amended, 759; 19 U.S.C. 1309, 1317, 1624)

[SEAL] ROBERT V. McINTYRE,
Acting Commissioner of Customs.

Approved: June 3, 1971.

EUGENE T. ROSSIDES,
*Assistant Secretary
of the Treasury.*

[FR Doc.71-8460 Filed 6-15-71;8:50 am]

Title 32—NATIONAL DEFENSE

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

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

Miscellaneous Amendments

Part 1802 of Chapter XVIII of Title 32 of the Code of Federal Regulations is amended as follows:

1. Paragraph (b) of § 1802.1 is revised to read as follows:

§ 1802.1 Purpose.

(b) The program under the regulations in this part is to assist States and their political subdivisions in attaining and maintaining civil defense operational readiness by the donation of Federal surplus property for civil defense administrative and operational use; to permit such donations to eligible donees within their capacity to acquire, maintain and so utilize such property; and to authorize its collateral use for other governmental purposes so as to encourage acquisition of property needed for civil

defense emergencies, lessen the burden of stockpiling, reduce civil defense costs, and to insure its maintenance and availability for civil defense emergencies.

2. § 1802.2 is amended by addition of a new paragraph at the end thereof. The new paragraph is designated "(k)" and reads as follows:

§ 1802.2 Definitions.

(k) *Surplus property program guidance material.* The written criteria and procedures officially promulgated by OCD over the signature of the Director of Civil Defense or of the Assistant Director of Civil Defense (Plans and Operations) for application in the civil defense donation program conducted pursuant to section 203(j) of the Act and under OCD regulations set forth at 32 CFR Part 1802. Issuances not published in the FEDERAL REGISTER are mailed to the civil defense director of each State.

3. Paragraph (a) of § 1802.3 is revised to read as follows:

§ 1802.3 Allocations.

(a) Lists of Federal supply classification categories of property determined usable and necessary (U&N) for civil defense purposes, including research, are promulgated as an annex to Part F, Chapter 5, Appendix 3 of the Federal Civil Defense Guide, for specific application in the surplus property donation program. Except as otherwise provided in this paragraph (a), the allocations by DHEW of surplus property to each State agency for donation for civil defense purposes and the certification by each State agency of the need and usability of surplus property for civil defense purposes in the State, shall be limited to property of the type classified as U&N on the OCD list current at the time of the allocation. Certain items or groups of items have been classified as U&N, but have been designated on the OCD list as items or groups of items which may be allocated for donation for civil defense purposes only upon the prior written approval of the State civil defense director for each proposed donation, on an individual case basis. Items of a type not classified as U&N on the OCD list are not to be allocated for civil defense donation except to a particular donee upon the prior written approval of the State civil defense director and the appropriate OCD Regional Director as to both the specified items and the designated donee, on an individual case basis.

4. Paragraph (b) (2) of § 1802.5 is revised to read as follows:

§ 1802.5 Acquisition of donable property.

(b) Conditions. * * *

(2) That the property is usable and needed by the donee for its own civil defense purposes and is being acquired therefor, and shall be utilized and maintained in accordance with the provisions

of § 1802.6 and those of OCD surplus property program guidance material.

5. In § 1802.6, the penultimate sentence of paragraph (b) is revised to read as follows:

§ 1802.6 Additional conditions.

(b) *Distribution, maintenance, and utilization.* * * * Although ownership and control must remain in an eligible civil defense organization, consistent with the procedures of the State and, where applicable, political subdivision, possession of donated property may be transferred upon the written approval of the State or local civil defense director, as appropriate, to other agencies of Government having civil defense functions for purposes of maintenance and utilization consistent with the purpose of the program as set forth in § 1802.1(b) and in accordance with specific provisions set forth in OCD surplus property program guidance material. * * *

(Sec. 401, 64 Stat. 1254, 50 U.S.C. App. 2253; 70 Stat. 493, 40 U.S.C. 484(j)(k); Reorg. Plan No. 1 of 1958, as amended, 72 Stat. 1799-1801, 23 F.R. 4991; E.O. 10952, as amended, 26 F.R. 6577; Delegation of Authority Regarding Civil Defense Functions and Establishment of the Office of Civil Defense, pub. Apr. 10, 1964, 29 F.R. 5017)

Dated: June 4, 1971.

JOHN E. DAVIS,
Director of Civil Defense.

[FR Doc.71-8401 Filed 6-15-71;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

PART 3-1—GENERAL

PART 3-30—CONTRACT FINANCING

Miscellaneous Amendments

Chapter 3, Title 41, Code of Federal Regulations is amended as set forth below. A new Subpart 3-1.7 is added to provide procedures for application in carrying out the HEW small business program. Part 3-30 is added to provide policy and procedures for making advance payments in contracts with educational institutions for research work.

1. The table of contents of Part 3-1 is amended by adding a new Subpart 3-1.7 as follows:

Subpart 3-1.7—Small Business Concerns

Sec.	
3-1.704	Agency program direction and operation.
3-1.704-1	HEW headquarters.
3-1.704-2	Other procuring activities.
3-1.704-3	Small business specialists.
3-1.704-4	Principal procurement officer.
3-1.705	Cooperation with the Small Business Administration.

Sec.

3-1.705-1	General.
3-1.706	Procurement set-asides for small business.
3-1.706-2	Review of SBA set-aside proposals.
3-1.706-3	Withdrawal or modification of set-asides.
3-1.706-50	Small business class set-aside for construction, repair, and alteration work.
3-1.708	Certificate of competency program.
3-1.708-2	Applicability and procedure.
3-1.708-3	Conclusiveness of certificate of competency.
3-1.750	Business opportunity conferences.

AUTHORITY: The provisions of this Subpart 3-1 are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

2. Subpart 3-1.7 is added to read as follows:

Subpart 3-1.7—Small Business Concerns

§ 3-1.704 Agency program direction and operation.

§ 3-1.704-1 HEW headquarters.

The Director, Division of Procurement and Materiel Management, OASAMOGS, is responsible for the general supervision of the HEW small business program. Within the Division of Procurement and Materiel Management (DPMM), the Small Business Advisor is responsible for developing and managing the HEW small business program, advising the Director and other HEW officials on small business problems, and representing HEW before other Government agencies on matters primarily affecting small business.

§ 3-1.704-2 Other procuring activities.

The head of the procuring activity (see § 3-75.101) or his designee shall designate a qualified individual as a small business specialist to serve as small business coordinator for the activity to provide a central point of contact to which small business concerns may direct inquiries concerning participation in the procurement program and small business matters. As deemed necessary, additional small business specialists shall be appointed in principal procurement offices. The small business specialist shall also perform such other functions as he is specifically directed to perform by this Subpart 3-1.7 and any additional functions which the head of the procuring activity may prescribe for the purpose of implementing the small business program. A copy of each appointment and termination of appointment of small business specialists shall be forwarded to the Small Business Advisor, DPMM.

§ 3-1.704-3 Small business specialists.

The small business specialist appointed pursuant to § 3-1.704-2 shall perform the following duties as determined appropriate by the head of the procuring activity or his designee:

(a) Maintain a program designed to locate capable small business sources for current and future procurements, through SBA or other methods.

(b) Coordinate inquiries and requests for advice from small business concerns on procurement matters.

(c) Prior to issuance of solicitations (or contract modifications for additional supplies or services) in excess of \$2,500, determine that small business concerns will receive adequate consideration including initiation of set-asides (see § 1-1.706 of this title). This determination may be made jointly with the contracting officer or may be in form of a recommendation to him. Disagreements between the small business specialist and the contracting officer on proposed set-aside actions shall be resolved by the head of the procuring activity or his designee, whose decision shall be final except in those cases where an SBA representative intervenes as an interested party (see § 1-1.706-2 of this title and § 3-1.706-2).

(d) Review procurement programs for possible breakout of items suitable for procurement from small business concerns.

(e) Advise small business concerns with respect to the financial assistance available under existing law and regulations and assist such concerns in applying for financial assistance, assuring that requests by small business concerns for proper assistance are not treated as a handicap in securing the award of contracts.

(f) Participate in determinations concerning responsibility of a prospective contractor (see § 1-1.310 of this title) whenever small business concerns are involved.

(g) Participate in the evaluation of a prime contractor's subcontracting program (see § 1-1.710 of this title).

(h) Assure that participation of small business concerns is accurately reported.

(i) Make available to SBA copies of solicitations when so requested.

(j) Act as liaison between the contracting officer and SBA field offices and representatives in connection with set-asides, certificates of competency, contracting pursuant to section 8(a) of the Small Business Act, and other matters in which the small business program may be involved. Procurements estimated to cost \$100,000, or more, in which certificates of competency are requested, shall be reported to the Small Business Advisor, DPMM. The report shall contain a description of the requirement, a list of the bidders or proposers, and the contract prices specified in the bids or proposals as submitted and the reason for the proposed rejection of an otherwise acceptable small business bid or proposal. Pertinent dates such as the required date for the completion of the procurement, the date of the request for the certificate of competency, etc., shall also be furnished.

(k) In cooperation with the contracting officer and technical personnel, seek and develop information on the technical

competence of small business concerns for research and development contracts. Regularly bring to the attention of the contracting officers and technical personnel descriptive data, brochures, and other information as to small business concerns that are apparently competent to perform research and development in fields in which the operating agency is interested.

§ 3-1.704-4 Principal procurement officer.

The "principal procurement officer" of a procuring activity is that individual who is charged with overall responsibility for procurement including decisions regarding, and interpretations of, policy of the operating agency or other principal Departmental organizations (e.g., Chief, Procurement Branch, OPMM, HSM).

§ 3-1.705 Cooperative With the Small Business Administration.

§ 3-1.705-1 General.

All HEW procurement activities are responsible for consulting and cooperating with the SBA in carrying out the purposes of the Small Business Act.

§ 3-1.706 Procurement set-asides for small business.

§ 3-1.706-2 Review of SBA set-aside proposals.

(a) Upon recommendation of the small business specialist that an individual procurement or class of procurements, or portion thereof, be set aside, the contracting officer shall promptly (1) concur in the recommendation, or (2) disapprove, stating in writing his reasons for disapproval. If the contracting officer disapproves the recommendation of the small business specialist, the case shall be promptly referred to the SBA representative (if one is assigned and available) for his review. The SBA representative will either concur in the decision of the contracting officer or appeal the case to the head of the procuring activity (see § 1-1.706-2(a) of this title). No further appeal action will be taken by the small business specialist. If an SBA representative is not assigned or available, and the contracting officer notifies the small business specialist of his disagreement, the small business specialist may appeal, in writing, to the head of the procuring activity for decision. A memorandum of the decision of the head of the procuring activity shall be placed in the contract file. After receipt of a decision of the head of the procuring activity, which shall be final, and if the decision approves the action of the contracting officer, the small business specialist shall forward for information and management purposes complete documentation of the case to the Small Business Advisor, DPMM. Documentation transmitted shall include as a minimum, (i) a copy of the IFB or RFP, (ii) a list of sources solicited, indicating if the invitee is small or large business by SBA definition, (iii) copies of the reasons for or against set-aside submitted by the small business specialist and the con-

tracting officer, (iv) a copy of the head of the procuring activity's decision, and (v) a complete abstract of bids or proposals received indicating the successful bidder together with any other material considered by the head of the procuring activity in arriving at his decision. The small business specialist's transmittal letter shall contain an affirmative statement that the enclosures constitute the complete file reviewed and considered by the head of the procuring activity in making his decision.

§ 3-1.706-3 Withdrawal or modification of set-asides.

If, prior to award of a contract involving an individual or class set-aside, the contracting officer considers that procurement of the set-aside from a small business concern would be detrimental to the public interest (e.g., because of unreasonable price) he may withdraw a unilateral or joint set-aside determination by giving written notice to the small business specialist or the SBA representative, as appropriate, stating the reasons for the withdrawal. In the same manner, a unilateral or joint class set-aside may be modified to withdraw one or more individual procurements. In the case of a joint set-aside determination, if the SBA representative or the small business specialist, as appropriate, does not agree with the withdrawal or modification, the action may be appealed in accordance with the procedures set forth in § 3-1.706-2(a).

§ 3-1.706-50 Small business class set-aside for construction, repair, and alteration work.

A class set-aside for small business is considered to have been made for each proposed procurement for construction, repair, and alteration work in an estimated amount ranging from \$2,500 to \$500,000. Accordingly, the contracting officer shall set aside for small business each such proposed procurement. If, in his judgment, the particular procurement falling within the dollar limits specified above is unsuitable for a set-aside for exclusive small business participation, the procedure set forth in § 3-1.706-3 shall apply. Proposed procurements for construction, repair, and alteration work in an estimated amount of more than \$500,000 shall be processed on a case by case basis.

§ 3-1.708 Certificate of competency program.

§ 3-1.708-2 Applicability and procedure.

(a) If a bid or proposal of a small business concern is to be rejected solely because the contracting officer has determined the concern to be nonresponsible as to capacity or credit, the matter shall be referred to the appropriate SBA field office having authority to process the referral in the geographical area where the small business concern is located. If required, guidance as to the location of the appropriate SBA field office may be

obtained from the SBA representative assigned to the procurement office or the nearest SBA field office. Under no circumstances will a referral be made to the SBA prior to a determination by the contracting officer that a bid or proposal of the small business concern is responsive. Concurrent referrals of two or more bids or proposals, rejected because of lack of capacity or credit for a proposed award, shall not be made to SBA by the contracting officer. Final processing of a case, including possible issuance of a certificate of competency, must be completed by SBA on each referral before the contracting officer may proceed with an additional referral to SBA on the proposed award. The award shall be withheld pending either SBA issuance of a certificate of competency or the expiration of 15 working days after SBA is so notified, whichever is earlier, subject to the following:

(1) This procedure is not mandatory if the contracting officer certifies in writing that award must be made without delay and such certificate is approved by the principal procurement officer of the procuring activity (see § 3-1.704-4).

(2) A preaward survey shall be made prior to a determination by a contracting officer that a small business concern is not responsible because of a lack of capacity or credit on a proposed award of more than \$10,000.

(3) A determination by the contracting officer that a small business concern is not responsible for reasons other than deficiencies in capacity or credit shall be approved by the principal procurement officer of the procuring activity (see § 3-1.704-4).

(i) Prior to submission of the contracting officer's determination of non-responsibility to the principal procurement officer of the procuring activity for approval, the contracting officer shall transmit a copy of the documentation supporting the determination through the small business specialist to the SBA representative, or the nearest SBA regional office, as appropriate.

(ii) If the contracting officer is not so notified, he may conclude that SBA has no objection to the determination and he may then submit it to the principal procurement officer of the procuring activity, for approval.

(iii) If the contracting officer does not agree with the SBA position, he shall then forward the determination to the principal procurement officer of the procuring activity for resolution with an explicit indication of his views and the contrary SBA position. The decision of the principal procurement officer shall be final.

(iv) The provisions of § 1-1.708-2(a) (1) of this title and § 3-1.708-2(a) (1) apply if the award must be made without delay. In such instances the determination of nonresponsibility for reasons other than deficiencies in capacity or credit shall be submitted immediately to the principal procurement officer of the procuring activity for approval. In all

other instances the provisions of § 1-1.708-2(a) (5) (i) through (v) of this title and § 3-1.708-2(a) (3) (i), (ii), and (iii) shall apply.

(v) The Small Business Advisor, DPMM, shall be informed promptly in writing of all cases where (a) a small business concern elects not to file an application for a certificate of competency, or (b) the SBA declines to issue a certificate of competency, or (c) the procurement office reverses the preaward survey negative finding.

In procurements when the highest competence obtainable or the best scientific approach is needed, as in certain negotiated procurements of research and development, highly complex equipment, or professional services, the certificate of competency procedure is not applicable to the selection of the source offering the highest competence obtainable or best scientific approach. However, if a small business concern has been selected on the basis of the highest competence obtainable or best scientific approach and, prior to award, the contracting officer determines that the concern is not responsible because of lack of capacity or credit, the certificate of competency procedure is applicable.

(b) (1) SBA field offices will notify the contracting officer of each case where they (i) plan to issue a certificate of competency or (ii) are submitting the case to the SBA Central Office, Washington, D.C., for approval prior to issuance of a certificate of competency; and provide the contracting officer or his designated representative with a brief written statement citing the reasons for SBA's proposed affirmative action. Prior to final SBA field office action, the contracting officer will be afforded an opportunity to meet or communicate with SBA field office representatives and furnish to them new or additional information on the case. Copies of significant data developed by SBA that are pertinent to the case will be made available, upon request, to the contracting officer, or his representative, at such meeting or through correspondence. SBA case files may be examined at the meeting and pertinent notes taken by the contracting officer or his representative, but such files will not be released outside SBA.

(2) One of the following courses of action shall be taken subsequent to discussions or a meeting between representatives of the contracting officer and SBA field offices:

(i) If new and additional facts presented by the SBA field office representatives so warrant, the negative determination as to capacity or credit of the apparent low bidder or offeror shall be reversed, the referral to SBA shall be withdrawn, and the contract award shall be made without the necessity for issuance of a certificate of competency.

(ii) If agreement cannot be reached between the SBA field office and the contracting officer and substantial doubt still exists as to the ability of the contractor to perform, the contracting officer shall request the SBA field office to

suspend action to permit referral of the case to the Director, DPMM, for review and possible appeal to SBA Central Office, Washington, D.C. The contracting officer shall forward to the Director, DPMM, through administrative channels on an expedited basis a complete case file with a request that the case be considered for appeal to SBA, Washington, D.C. This file shall include the data specified in § 1-1.708-2(b) of this title, SBA's rationale for proposing affirmative certificate of competency action, and the contracting officer's comments thereon. Procurement action shall be suspended until the contracting officer is informed by the Director, DPMM, of the final decision in the case. If the Director, DPMM, concludes that the request for certificate of competency action should be withdrawn and a contract awarded without benefit of a certificate of competency, the contracting officer will be so informed and provided written instructions to proceed with the procurement. If the Director, DPMM, agrees with the recommended appeal action of the contracting officer, he will request in writing the SBA Associate Administrator for Procurement and Management Assistance, Washington, D.C., to review the proposed affirmative certificate of competency action of the SBA field office. If SBA, Washington, D.C., does not concur with the proposed affirmative certificate of competency action of its field office, it shall so inform the Director, DPMM. If SBA, Washington, D.C., concurs with the affirmative certificate of competency action proposed by the SBA field office, it shall so inform the Director, DPMM, giving reasons for its position. The Director, DPMM, may then request a meeting with SBA, Washington, D.C., to present an appeal on the proposed certificate of competency action. Following an appeal, the determination made by the SBA Associate Administrator relative to certificate of competency action shall be considered final and not subject to further appeal by HEW.

(iii) If agreement cannot be reached between the contracting officer and the SBA field office, the contracting officer may conclude it would not be practicable to appeal the case to the Washington SBA level nor would it be appropriate to withdraw his request for certificate of competency action. In that case, the contracting officer shall inform the SBA field office that it must issue a certificate of competency as prerequisite to contract award. However, such action shall not be taken by the contracting officer without prior approval of the Director, DPMM.

(3) If an SBA field office fails to give a contracting officer an opportunity to refer a proposed affirmative certificate of competency action to the Director, DPMM, for review and possible appeal, appeal action described in subparagraph (2) (i) of this paragraph may be taken by the contracting officer subsequent to the issuance of a certificate of competency if he has substantial doubt as to the ability of the contractor to perform.

§ 3-1.708-3 Conclusiveness of certificate of competency.

As provided in the Small Business Act (15 U.S.C. 637(b)(7)), procurement agencies are required to accept SBA certificates of competency as conclusive of a prospective contractor's responsibility as to capacity and credit. However, if a contracting officer has substantial doubts as to a firm's ability to perform due to lack of capacity or credit, he shall, before award, pursuant to § 3-1.708-2(b) promptly refer the matter through administrative channels to the Director DPMM. In cases referred to the Director, DPMM, the SBA may be requested to withdraw the certificate.

§ 3-1.750 Business opportunity conferences.

The Department of Commerce is responsible for coordinating the participation of Federal civilian agencies in a continuing series of conferences which are generally sponsored by local Chambers of Commerce. The objectives of these conferences are: (a) Location of additional procurement sources to broaden the procurement base of Federal buying agencies; (b) stimulation of local, regional, and national economic growth, national security, and cost reduction; (c) location of underutilized production capacity; (d) prevention or elimination of pockets of underemployment; and (e) assistance of small business concerns. As notified by the Small Business Advisor, HEW procurement activities shall provide appropriate small business specialists or procurement personnel to participate in person-to-person counseling at such conferences. Ordinarily, participation by procurement activities will be restricted to conferences held within the geographical area adjacent to their procurement offices.

3. Part 3-30 is added to read as follows:

Sec.

3-30.000 Scope of part.

Subpart 3-30.4—Advance Payments

3-30.408 Uses of advance payments.

AUTHORITY: The provisions of this Part 3-30 are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

§ 3-30.000 Scope of part.

This part contains general Departmental contract financing policies and procedures applicable to the financing of all types of contracts.

Subpart 3-30.4—Advance Payments

§ 3-30.408 Uses of advance payments.

(a) All contracts for research work with educational institutions located in the United States shall provide for financing by way of advance payments, in reasonable amounts, unless otherwise prohibited by law.

(b) The Treasury Department's letter of credit method of financing advance payments shall be employed, whenever feasible. Department-wide blanket letters of credit, which apply to the financing of

all research contracts and grants between the institution and all agencies of the Department, shall be utilized to the maximum extent practicable. Where a particular educational institution is supported by research contracts and grants with only one operating agency of the Department, a single agency letter of credit, applicable to all research contracts and grants between the institution and that agency, may be employed.

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (6-16-71).

Dated: June 9, 1971.

NORMAN B. HOUSTON,
Deputy Assistant Secretary
for Administration.

[FR Doc.71-8419 Filed 6-15-71;8:46 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 14744; FCC 71-600]

EDUCATIONAL TELEVISION SERVICE

Second report and order. In the matter of amendment of parts 2 and 74 of the Commission's rules and regulations to establish a new class of educational television service for the transmission of instructional and cultural material to multiple receiving locations on channels in the 2500-2690 MHz frequency band; amendment of Parts 81, 87, 89, 91, and 93; Docket No. 14744.

1. On June 17, 1970, the Commission adopted a further notice of proposed rule making in the above-captioned proceeding, which was released on June 23, 1970, and published in the FEDERAL REGISTER on June 26, 1970 (35 F.R. 10462; FCC 70-640). The further notice proposed to afford educators exclusive access to 28 of the 31 television channels in the 2500-2690 MHz band, presently allocated to the Instructional Television Fixed Services (ITFS) on a shared basis with operational fixed and international control stations employing ITFS technical standards. Also proposed was the re-allocation of the remaining three television channels on an exclusive basis for operational fixed television systems of the type currently permitted and, since television transmission is not a function of international control stations, deletion of that class of station from the allocation. Comments were due on or before October 30, 1970, with reply comments, on or before November 20, 1970.

2. Approximately 150 comments were filed in the proceeding. These responses ranged from private citizens to those responsible for education at the public and parochial high school and college levels to industry and user groups representatives. A listing of those filing comments is appended hereto.¹ Although many of

¹Filed as part of the original document.

the comments were expressions of opinion in the form of letters, a number of comments cited applications of ITFS in their particular locales while others were even more substantive. All of the comments have been considered in reaching this decision.

3. As stated, many of the comments reflected the application of ITFS channels in present operations or the planned use of the channels. Further, many of the comments dealt with the economic problems and complicated procedural steps necessary to obtain the funds with which instructional television could be implemented in particular jurisdictions. The Commission is, of course, aware of these difficulties. The crux of the notice, however, was not to underscore those problems, or to substantiate the needs for ITFS, but to determine whether 31 channels derived from the 2500-2690 MHz band were in fact, required for educational purposes exclusively or whether an equitable division of channels between the Instructional Television and Operational Fixed television services could be effected, thereby removing the present uncertainty concerning the future availability of the band in question.

4. None of the individuals or groups presented comments which demonstrate a need for any specific number of channels for either educational or operational fixed television purposes. Many recommended retention of 31 channels for education under fear that, to allocate any channels to industry, would merely open the door to future raids or incursions. The majority of those with educational interests supported the permanent allocation of 28 channels for ITFS as a minimum. Several expressed belief based, in part, on certain pockets of spectrum congestion (a phenomenon common throughout most of the spectrum below 10 GHz.) that even more than 31 channels would be required to handle the future growth of ITFS.

5. Several parties, principally National Education Association Joint Council on Educational Television and National Association of Educational Broadcasters, raised question concerning the possible conflict with proposals for the 2500-2690 MHz band made by the United States in connection with preparations for the forthcoming Space World Administrative Radio Conference. The Department of Health, Education, and Welfare, while supporting the proposal for exclusive allocation of 28 channels for ITFS purposes, urged that reconsideration be given to the proposal for allocating the Group H channels to other than public service users and that a final decision in this proceeding be delayed until the results of the WARC later this summer.

6. The W. J. Kessler Associates raised the question of need demonstrated by the Operational Fixed service for an exclusive allocation in the 2500-2690 MHz band and proposed two alternative allocations for ITFS access to the Group H

frequencies (one coequal with and one secondary to Operational Fixed). Kessler also suggested possible access to the 1990-2110 MHz band for educational ITFS channels, establishment of an ITFS auxiliary relay service, and revision of certain rules to permit more economical operation of ITFS facilities. These latter proposals are beyond the scope of this proceeding and will not be discussed in detail herein.

7. In addition to a number of comments which cited a need for allocation of channels for educational purposes by local government entities (e.g., police, fire departments, public health services and other public safety type services) it should be pointed out that, since adoption of the notice in this proceeding, a study has been undertaken by the Committee on Telecommunications, National Academy of Engineering, concerning the interrelationship between communications and urban development. This study, funded and sponsored jointly by a number of interested Federal Agencies including the Commission, has, in gathering background data, produced evidence to indicate that the need is valid. Problems similar to those of the educators exist with respect to local government educational use also (i.e., social, economic and budgetary cycle, and political); nonetheless, it appears that a demand for such facilities will materialize as those problems are resolved. Additionally, it would appear there is a latent demand for other types of adult educational systems for on-the-job training and community education. In view of each of these demands coupled with the paucity of substantive data regarding overall valid requirements, the Commission must weigh these demands against the available spectrum and apply its best judgment in making a determination.

8. A brief review of the allocation history of the 2500-2690 MHz band may first be in order. Prior to 1963, the band had been allocated since 1949 solely to the Fixed Service for assignment to Operational Fixed and the International Control stations on a shared basis. Because of the apparent need for short-range dissemination of instructional material by educational television interests, the relatively light usage then being made by the operational fixed service, and the desire to provide manufacturers with incentive to develop equipment operating in a specific band, as well as the ability to provide up to 31.6 MHz television channels in the 2500-2690 MHz band, the band was made available for ITFS purposes under sharing conditions presently existing. A review was to have been undertaken 3 years later (1966) to determine the extent to which educational interests had been able to make use of the band. Because the Commission was aware of the problems encountered by the educational interests in preparing, funding and implementing the new "tool" as well as in developing the operational expertise, that review was delayed. Increasing demands for accommodating

new services in the finite radio spectrum were therefore largely responsible for initiating the further notice of proposed rule making.

9. It is possible that, in view of the emphasis being placed on education at all levels, formal and informal, children and adults coupled with the development of new technology and methods of transmission (cable, satellite, etc.), formation of a policy regarding educational communication may be needed. These views are underscored by the comments and studies cited above as well as by other information before the Commission. Issues such as assignment of the channels to State or local governments and municipalities for time sharing by school, public safety and adult education; possible need for additional spectrum; possible need for establishment of educational auxiliary services, etc., could affect the potential interrelationship with the commercial broadcasting system, cable television, or ultimately, the determination of a mass media distribution policy. Since the proceeding was limited in scope, we must confine our considerations at this time to the issues proposed therein. Nonetheless, the Commission will continue to monitor the developing educational communication needs in the light of new techniques and demands and will consider initiating rule making as appropriate.

10. In response to the need for spectrum in which inservice training and instruction in special skills and safety programs can be met by television it should be pointed out that present rules permit such operation by certain government organizations on the frequencies allocated to the ITFS subject to certain eligibility requirements. Although the primary use is by the local school system, college or university, the facilities can also be used to meet many of those training needs. The Commission sees no valid reason at present why those rules should be changed.

11. With respect to the need for video transmission by operational fixed entities, there is no doubt that a need exists. Although only 16 stations have been so licensed to date in the 2500-2690 MHz band, it is believed the uncertainty with respect to the long-term status of operational fixed licensees in that band is largely responsible for the limited usage. In view of the congestion prevalent in other bands allocated to the operational fixed services coupled with the difference in technical standards involved, video would be difficult to accommodate in bands other than 2500-2690 MHz. Thus we are of the opinion that accommodation of video transmission for operational fixed services in at least some portion of the 2500-2690 MHz band is warranted.

12. As stated in paragraph 4, above, the comments did not evoke sufficient data with which a determination could be made regarding the operational fixed services. On balance and, bearing in mind the probable need for a review of the entire educational communications pol-

icy at some time in the near future, the Commission is of the opinion that the immediately foreseeable needs of the educators can be accommodated by allocating 28 channels (Groups A-G, § 74.902 of the rules plus the corresponding response frequencies listed in § 74.939) to the ITFS on an exclusive basis. By providing the exclusivity desired by the educators, planning of the systems as well as usage should be simplified since they will not need to consider the operations of new non-ITFS systems. We would hope that these channels will be used to provide for the full range of permissible services as defined in section 74.931 of the rules, thereby promoting optimum spectrum utilization.

13. With respect to the remaining three two-way channels (Group H, as defined by § 74.902 and their response channels) the Commission believes they should be allocated to the Operational Fixed Services on an exclusive basis. It is further believed that those channels should be suballocated to the Public Safety Services (Part 89 of the rules) on a primary basis and to the other services eligible for using operational fixed frequencies on a secondary basis. Such action will meet the needs of county and municipal governments to provide specialized training for police and fire, etc., departments which cannot afford to contract their training requirements to educational institutions or to establish nonprofit organizations which are eligible to use ITFS frequencies under section 74.932 of the rules. At the same time, other operational fixed users will have broader options in meeting their training and industrial needs, but will have to accept secondary status while doing so. Another alternative for general public use, including industry, was provided by the Commission in a July 30, 1970 (Memorandum Opinion and Order, FCC 70-819) when the band 2150-2160 MHz was made available for omnidirectional relay of television signals by common carriers. Since that time, a number of applications to provide that service have been received. Thus, many of the needs for provision of instructional training can be met in that manner.

14. For those stations presently authorized which are operating out-of-band, the Commission believes continued operation on a coequal "grandfathered" basis will be in the overall public interest, particularly since existing systems have been constructed to accommodate each other and we are unaware that any interference problems have arisen. Accordingly, existing licensees may, upon expiration of their present term of assignment, elect to apply for either renewal/modification of their present assignment or apply for a new assignment in a properly allocated band. No expansion of existing systems on frequencies not allocated to the service will be permitted, however.

15. With respect to the comments concerning the apparent incompatibility with the U.S. proposals for the WARC contained in Docket 18294, the Commission does not believe the decisions

reached herein present any such conflict. First of all, it should be noted the proposals to the WARC are just that, nothing more. There is no assurance that the proposals will be accepted by the international community. Consequently, the Commission is free to make its decisions based upon the present allocation table. Second, assuming the proposals are adopted, it should be pointed out that the proposed use of the 2500-2690 MHz band is as a down-link, viz., from the satellite to the earth and is intended to augment the ITFS. The powers which would be utilized at the satellite would be such as to be compatible with the terrestrial ITFS systems and no interference problems should be experienced. Finally, the location of earth stations will require careful coordination with all other users of the 2500-2690 MHz band. Since the technical parameters of ITFS systems will be the same for operational fixed systems, no particular problems should arise. Further, the directivity of the earth station antenna coupled with whatever shielding may be necessary should afford ample protection.

16. *Accordingly, it is ordered,* That pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, Parts 2, 74, 87, 89, 91, and 93 of the rules are amended as shown below effective July 16, 1971.

17. *It is further ordered,* That, the proceedings in Docket 14744 are hereby terminated.

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

Adopted: June 8, 1971.

Released: June 14, 1971.

FEDERAL COMMUNICATIONS COMMISSION,²

[SEAL] BEN F. WAPLE, Secretary.

Parts 2, 74, 87, 89, 91, and 93 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

A. Part 2 of the rules is amended as follows:

§ 2.106 [Amended]

1. Section 2.106 is amended by deleting the words "International Control" from column 9 of the Table of Frequency Allocations in the band 2500-2690 MHz. Also, footnote NG47 is amended to read as follows:

NG47 In the band 2500-2690 MHz, the television channels 2650-2656 MHz, 2662-2668 MHz, and 2674-2680 MHz and the corresponding response frequencies 2686.9375

²Dissenting opinion of Commissioners Burch, Chairman, Bartley, and Houser filed as part of the original document.

MHz, 2687.9375 MHz, and 2688.9375 MHz may be assigned to operational fixed stations in the Public Safety Services (Part 89 of this chapter) on a primary basis and to operational fixed stations in other services on a secondary basis. Such assignments are subject to the condition that all operational fixed stations must comply with the technical standards applicable to stations in the Instructional Television Fixed Service contained in Subpart I of Part 74 of this chapter. All other frequencies in this band are available for assignment only to stations in the instructional television fixed service. Stations authorized in this band as of July 16, 1971, which do not comply with the above provisions may continue to operate on their presently assigned frequencies on a coequal basis with other stations operating in accordance with the Table of Frequency Allocations. Requests for subsequent license renewals or modifications of existing licenses will be considered; however, expansion of systems comprised of such stations will not be permitted.

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

B. Part 74 of the rules is amended as follows:

1. Section 74.902 is amended by deleting the Group H channels listed in paragraph (a), and by amending paragraph (b) to read as follows:

§ 74.902 Frequency assignments.

(b) Instructional Television Fixed Stations authorized to operate on Channels 2650-2656, 2662-2668, and 2674-2680 MHz as of July 16, 1971, may continue to operate on a co-equal basis with other stations operating in accordance with the Table of Frequency Allocations. Requests for subsequent renewals or modification of existing licenses will be considered; however, expansion of systems comprised of such stations will not be permitted except on frequencies allocated for the service.

C. In § 74.939(d), the table is amended by deleting the Group H response frequencies, the unpaired frequency following, and the note at the end.

PART 87—AVIATION SERVICES

D. Part 87 of the rules is amended as follows:

1. In § 87.463 the list of frequencies in paragraph (b) is amended by deleting the band 2500-2690 MHz and substituting the frequencies listed below, footnote (5) is revised and a new footnote (6) is added to read as follows:

§ 87.463 Frequencies available to fixed stations.

- (b) * * *
- * * *
- 2650-2656 *
- 2662-2668 *
- 2674-2680 *

- 2686.9375 *
- 2687.9375 *
- 2688.9375 *
- * * *

(5) This frequency band is available only for operational fixed stations employing television transmissions. The transmitting equipment for such stations shall meet the technical standards prescribed for instructional television fixed stations contained in Part 74, Subpart I, § 74.901, et seq. of this chapter. Use of these frequencies in the Aviation Services is secondary to stations in the Public Safety Radio Service. Operational fixed stations authorized in the band 2500-2690 MHz prior to July 16, 1971, may continue to be authorized on a coequal basis to other stations operating in accordance with the Table of Frequency Allocations. No expansion of existing systems on frequencies not allocated to this service will be permitted. Additional stations or new assignments may be authorized only in accordance with the provision of this section.

(6) Response frequencies. When authorized they are to be paired respectively with the bands 2650-2656, 2662-2668, and 2674-2680 MHz, and used in accordance with the technical standards prescribed for ITFS response stations in Part 74, Subpart I, of this chapter.

PART 89—PUBLIC SAFETY RADIO SERVICES

E. Part 89 of the rules is amended as follows:

1. In § 89.101, the table in paragraph (h) is amended by deleting the band 2500-2690 MHz and substituting the frequencies listed below, paragraph (i) is amended by revising subparagraph (8) and adding a new subparagraph (19) to read as follows:

§ 89.101 Frequencies.

(h) * * *

Frequency band—MHz	Class of station(s)	Limitations
2500-2690	Operational fixed	8
2650-2656	do	8
2662-2668	do	8
2674-2680	do	8
2686.9375	do	19
2687.9375	do	19
2688.9375	do	19
* * *	* * *	* * *

(i) * * *

(8) This frequency band is available only for operational fixed stations employing television transmissions. The transmitting equipment for such stations shall meet the technical standards contained in Part 74, Subpart I, § 74.901, et seq. of this chapter. Use of these frequencies in the Aviation, Industrial, and Land Transportation Radio Services is secondary to stations in the Public Safety Radio Service. Operational fixed stations authorized in the band 2500-2690 MHz prior to July 16, 1971, may continue to be authorized on a coequal basis to other stations operating in accordance with the Table of Frequency Allocations. No

RULES AND REGULATIONS

expansion of existing systems on frequencies not allocated to this service will be permitted. Additional stations or new assignments may be authorized only in accordance with the provision of this section.

(19) Response frequencies: When authorized they are to be paired respectively with the bands 2650-2656, 2662-2668, and 2674-2680 MHz, and used in accordance with the Technical standards prescribed for ITFS response stations in Part 74, Subpart I, of this chapter.

PART 91—INDUSTRIAL RADIO SERVICES

F. Part 91 of the rules is amended as follows:

1. In § 91.111 the table of frequencies in paragraph (a) is amended by deleting the band 2500-2690 MHz and substituting the frequencies listed below, footnote (6) is revised and a new footnote (9) is added to read as follows:

§ 91.111 Microwave technical standards.

(a) * * *

MICROWAVE TECHNICAL STANDARDS TABLE

Table with 5 columns: Frequency band—MHz, Power (watts), Tolerance (percent), Bandwidth (degrees), Beam width (degrees). Rows include frequency bands like 2650-2656, 2662-2668, 2674-2680, 2690, 9376, 2687, 9376, 2688, 9376.

(6) This frequency band is available only for operational fixed stations employing television transmissions. The transmitting equipment for such stations shall meet the technical standards prescribed for instructional television fixed stations contained in Part 74, Subpart I, § 74.901, et seq. of this chapter. Use of these frequencies in the Industrial Radio Service is secondary to stations in the Public Safety Radio Service. Operational fixed stations authorized in the band 2500-2690 MHz prior to July 16, 1971, may continue to be authorized on a coequal basis to other stations operating in accordance with the Table of Frequency Allocations. No expansion of existing systems on frequencies not allocated to this service will be permitted. Additional stations or new assignments may be authorized only in accordance with the provision of this section.

(9) Response frequencies: When authorized they are to be paired respectively with the bands 2650-2656, 2662-2668, and 2674-2680 MHz, and used in accordance with the technical standards prescribed for ITFS response stations in Part 74, Subpart I, of this chapter.

2. In § 91.254 limitation (16) in paragraph (b) is amended to read as follows:

§ 91.254 Frequencies available.

(b) * * *

(16) Specific channels available for assignment in this frequency band are listed in § 91.111.

3. In § 91.304 limitation (20) in paragraph (b) is amended to read as follows:

§ 91.304 Frequencies available.

(b) * * *

(20) Specific channels available for assignment in this frequency band are listed in § 91.111.

4. In § 91.354 limitation (20) in paragraph (b) is amended to read as follows:

§ 91.354 Frequencies available.

(b) * * *

(20) Specific channels available for assignment in this frequency band are listed in § 91.111.

5. In § 91.404 limitation (11) in paragraph (b) is amended to read as follows:

§ 91.404 Frequencies.

(b) * * *

(11) Specific channels available for assignment in this frequency band are listed in § 91.111.

6. In § 91.454 limitation (9) in paragraph (b) is amended to read as follows:

§ 91.454 Frequencies available.

(b) * * *

(9) Specific channels available for assignment in this frequency band are listed in § 91.111.

7. In § 91.504 limitation (18) in paragraph (b) is amended to read as follows:

§ 91.504 Frequencies available.

(b) * * *

(18) Specific channels available for assignment in this frequency band are listed in § 91.111.

8. In § 91.730 limitation (12) in paragraph (b) is amended to read as follows:

§ 91.730 Frequencies available.

(b) * * *

(12) Specific channels available for assignment in this frequency band are listed in § 91.111.

9. In § 91.754 limitation (9) in paragraph (b) is amended to read as follows:

§ 91.754 Frequencies available.

(b) * * *

(9) Specific channels available for assignment in this frequency band are listed in § 91.111.

PART 93—LAND TRANSPORTATION RADIO SERVICES

G. Part 93 of the rules is amended as follows:

1. In § 93.112 the table of frequencies in paragraph (a) is amended by deleting the band 2500-2690 MHz and substituting the frequencies listed below, limitation (16) is revised and a new limitation (20) is added to read as follows:

§ 93.112 Availability of microwave frequencies.

(a) * * *

Table with 3 columns: Frequency band—MHz, Class of station(s), Limitations. Rows include frequency bands like 2650-2656, 2662-2668, 2674-2680, 2690, 9376, 2687, 9376, 2688, 9376.

(b) * * *

(16) This frequency band is available only for operational fixed stations employing television transmissions. The transmitting equipment for such stations shall meet the technical standards prescribed for instructional television fixed stations contained in Part 74, Subpart I, § 74.901, et seq. of this chapter. Use of these frequencies in the Land Transportation Radio Service is secondary to stations in the Public Safety Radio Service. Operational fixed stations authorized in the band 2500-2690 MHz prior to July 16, 1971, may continue to be authorized on a coequal basis to other stations operating in accordance with the Table of Frequency Allocations. No expansion of existing systems on frequencies not allocated to this service will be permitted. Additional stations or new assignments may be authorized only in accordance with the provision of this section.

(20) Response frequencies: When authorized they are to be paired respectively with the bands 2650-2656, 2662-2668, and 2674-2680 MHz, and used in accordance with the technical standards prescribed for ITFS response stations in Part 74, Subpart I, of this chapter.

[FR Doc.71-8317 Filed 6-15-71;8:45 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

[Docket No. 71-573]

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 Jersey in the introductory portion of paragraph (e) and paragraph (e) (3) relating to the State of New Jersey are deleted, and paragraph (f) is amended by adding thereto the name of the State of New Jersey.

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

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

The amendment excludes portions of Gloucester and Camden Counties in New Jersey from the areas quarantined because of hog cholera. Therefore, the restrictions pertaining to the interstate movement of swine and swine products from or through quarantined areas as contained in 9 CFR Part 76, as amended, will not apply to the excluded areas, but will continue to apply to the quarantined areas described in § 76.2(e). Further, the restrictions pertaining to the interstate movement of swine and swine products from nonquarantined areas contained in said Part 76 will apply to the excluded areas. No areas in New Jersey remain under the quarantine.

The amendment adds New Jersey to 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 applicable to New Jersey.

Insofar as the amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of hog cholera, it must be made effective immediately to be of maximum benefit to affected persons. Insofar as it imposes restrictions it should be

made effective promptly in order to prevent the spread of hog cholera. It does not appear that public participation in this rule making proceeding would make additional relevant information available to this Department. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 10th day of June 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.
[FR Doc. 71-8452 Filed 6-15-71; 8:49 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

Part 1 is revised to read as follows:

Subpart A—Introduction

- Sec. 1.1 Creation and authority.
- 1.2 Sources of additional information.
- 1.3 Location of principal offices.

Subpart B—Headquarters

- 1.10 The Commission.
- OFFICERS AND OFFICES REPORTING TO THE COMMISSION

- 1.11 General Manager.
- 1.12 Director of Regulation.
- 1.13 Office of the Secretary of the Commission.
- 1.14 Office of the General Counsel.
- 1.15 Office of the Controller.
- 1.16 Office of Safeguards and Materials Management.
- 1.17 Division of Inspection.
- 1.18 Office of Hearing Examiners.
- 1.19 Board of Contract Appeals.
- 1.20 Atomic Safety and Licensing Board Panel.
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- 1.22 Committees and boards authorized specifically by the Act.
- 1.23 Other committees, boards, and panels.

OFFICES AND DIVISIONS SUPERVISED BY THE GENERAL MANAGER

- 1.25 Office of Congressional Relations.
- 1.26 Division of Industrial Participation.
- 1.27 Division of Intelligence.
- 1.28 Division of Public Information.
- 1.29 Office of Environmental Affairs.

ASSISTANT GENERAL MANAGERS AND OFFICES SUPERVISED BY THEM

- 1.40 Assistant General Manager for Administration.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR ADMINISTRATION

- 1.41 Division of Personnel.
- 1.42 Division of Classification.
- 1.43 Division of Security.
- 1.44 Division of Headquarters Services.

- Sec. 1.45 Division of Technical Information.
- 1.46 Division of Management Information and Telecommunications Systems.

INTERNATIONAL ACTIVITIES

- 1.50 Assistant General Manager for International Activities.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR INTERNATIONAL ACTIVITIES

- 1.51 Division of International Affairs.

OPERATIONS

- 1.60 Assistant General Manager for Operations.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR OPERATIONS

- 1.61 Division of Contracts.
- 1.62 Division of Operational Safety.
- 1.63 Division of Construction.
- 1.64 Division of Labor Relations.
- 1.65 Division of Waste and Scrap Management.

DEVELOPMENT AND PRODUCTION

- 1.70 Assistant General Manager for Development and Production.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR DEVELOPMENT AND PRODUCTION

- 1.71 Division of Production.
- 1.72 Division of Peaceful Nuclear Explosives.
- 1.73 Division of Isotopes Development.
- 1.74 Division of Raw Materials.

PLANS

- 1.80 Assistant General Manager for Plans.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR PLANS

- 1.81 Division of Operations Analysis and Forecasting.
- 1.82 Division of Plans and Reports.
- 1.83 Division of Program Analysis.

MILITARY APPLICATION

- 1.90 Assistant General Manager for Military Application.

DIVISION SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR MILITARY APPLICATION

- 1.91 Division of Military Application.

RESEARCH AND DEVELOPMENT

- 1.100 Assistant General Manager for Research and Development.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR RESEARCH AND DEVELOPMENT

- 1.101 Division of Biology and Medicine.
- 1.102 Division of Research.
- 1.103 Division of Nuclear Education and Training.

REACTORS

- 1.110 Assistant General Manager for Reactors.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR REACTORS

- 1.111 Division of Reactor Development and Technology.
- 1.112 Division of Space Nuclear Systems.
- 1.113 Division of Naval Reactors.

DIVISIONS SUPERVISED BY THE DIRECTOR OF REGULATION

- 1.120 Division of Reactor Licensing.
- 1.121 Division of Reactor Standards.
- 1.122 Division of Material Licensing.
- 1.123 Division of Radiological and Environmental Protection.

- Sec.
 1.124 Division of Compliance.
 1.125 Division of Nuclear Materials Safeguards.
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Subpart C—Principal Field Offices

- 1.130 General line of authority.
 1.131 Albuquerque Operations Office.
 1.132 Chicago Operations Office.
 1.133 Grand Junction Office.
 1.134 Idaho Operations Office.
 1.135 Nevada Operations Office.
 1.136 New York Operations Office.
 1.137 Oak Ridge Operations Office.
 1.138 Pittsburgh Naval Reactors Office.
 1.139 Richland Operations Office.
 1.140 San Francisco Operations Office.
 1.141 Savannah River Operations Office.
 1.142 Schenectady Naval Reactors Office.

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- 1.150 Description and custody of seal.
 1.151 Use of the seal or replicas.
 1.152 Establishment of the official AEC flag.
 1.153 Use of the AEC flag.
 1.154 Report of violations.

AUTHORITY: The provisions of this Part 1 are issued under the Atomic Energy Act of 1954, as amended, 68 Stat. 919-961, 42 U.S.C. sec. 2011 et seq., and the Administrative Procedure Act, 5 U.S.C. secs. 552 and 553.

Subpart A—Introduction

§ 1.1 Creation and authority.

The Atomic Energy Commission was established by the Atomic Energy Act of 1946 (60 Stat. 755; 42 U.S.C. 1881 et seq.) approved August 1, 1946, as amended by the Atomic Energy Act of 1954 (68 Stat. 919; 42 U.S.C. 2011 et seq.) approved August 30, 1954 (as amended, called in this part the "Act"). The purpose and statutory programs of the Commission are prescribed by chapter 1 of the Act. As used in this part, the term "Commission" means the five members of the Atomic Energy Commission; "AEC" means the Atomic Energy Commission agency.

§ 1.2 Sources of additional information.

The definitive statement of the AEC's organization, policies, procedures, assignments of responsibility and delegations of authority is in the Atomic Energy Commission Manual and other elements of the Management Directives System, including local directives issued by Headquarters and Field Offices of the AEC. Copies of the manual and other elements of the Management Directives System are available for public inspection and copying at the Public Document Room, 1717 H Street NW., Washington, DC, and at each of the Field Offices. Information may also be obtained from the Division of Public Information at Headquarters, or from a public information officer at a Field Office.

§ 1.3 Location of principal offices.

(a) The principal AEC Headquarters building is located in Germantown, Md. As a part of the Headquarters, facilities are maintained within the District of Columbia at 1717 H Street NW., for the service of process and papers and for other functions. As another part of Head-

quarters, facilities of the regulatory staff and certain other divisions are maintained at 7920 Norfolk Avenue, Bethesda, MD. The mail address of Headquarters is Washington, D.C. 20545.

(b) The addresses of the principal field offices (see Part 1, Subpart C) are:

- (1) Albuquerque Operations Office, USAEC, Post Office Box 5400, Albuquerque, NM 87115.
- (2) Chicago Operations Office, USAEC, 9800 South Cass Avenue, Argonne, IL 60439.
- (3) Grand Junction Office, USAEC, Post Office Box 2567, Grand Junction, CO 81501.
- (4) Idaho Operations Office, USAEC, Post Office Box 2108, Idaho Falls, ID 83401.
- (5) Nevada Operations Office, USAEC, Post Office Box 1676, Las Vegas, NV 89101.
- (6) New York Operations Office, USAEC, 376 Hudson Street, New York, NY 10014.
- (7) Oak Ridge Operations Office, USAEC, Post Office Box E, Oak Ridge, TN 37830.
- (8) Pittsburgh Naval Reactors Office, USAEC, Post Office Box 109, West Mifflin, PA 15122.
- (9) Richland Operations Office, USAEC, Post Office Box 550, Richland, WA 99352.
- (10) San Francisco Operations Office, USAEC, 2111 Bancroft Way, Berkeley, CA 94704.
- (11) Savannah River Operations Office, USAEC, Post Office Box A, Aiken, SC 29801.
- (12) Schenectady Naval Reactors Office, USAEC, Post Office Box 1069, Schenectady, NY 12301.

(c) The addresses of the regional offices of the Division of Compliance (see § 1.124) are:

- (1) Region I, Division of Compliance, USAEC, 970 Broad Street, Newark, NJ 07102.
- (2) Region II, Division of Compliance, USAEC, 230 Peachtree Street NW., Atlanta, GA 30303.
- (3) Region III, Division of Compliance, USAEC, 799 Roosevelt Road, Glen Ellyn, IL 60137.
- (4) Region IV, Division of Compliance, USAEC, 10395 West Colfax, Denver, CO 80215.
- (5) Region V, Division of Compliance, USAEC, 2111 Bancroft Way, Berkeley, CA 94704.

(d) The addresses of district offices of the Division of Nuclear Materials Safeguards (see § 1.125) are:

- (1) District I Safeguards Office, USAEC, 970 Broad Street, Newark, NJ 07102.
- (2) District II Safeguards Office, USAEC, Post Office Box E, Oak Ridge, TN 37830.
- (3) District III Safeguards Office, USAEC, 2111 Bancroft Way, Berkeley, CA 94704.

Subpart B—Headquarters

§ 1.10 The Commission.

The Atomic Energy Commission, composed of five members, one of whom is designated by the President as Chairman, is established pursuant to section 21 of the Act. The following officials and staff units report directly to the Commission: the General Manager, the Director of Regulation, the Secretary, General Counsel, Controller, Director of Safeguards and Materials Management, Division of Inspection, Office of Hearing Examiners, Board of Contract Appeals, Atomic Safety and Licensing Board Panel, Atomic Safety and Licensing Appeal Board, and other committees and boards which are authorized or established specifically by the Act (see §§ 1.22 and 1.23.)

OFFICERS AND OFFICES REPORTING TO THE COMMISSION

§ 1.11 General Manager.

The General Manager is the chief executive officer of the AEC. He is authorized to discharge the administrative and executive (as distinguished from the regulatory) functions of the AEC. The Deputy General Manager is authorized to perform the administrative and executive functions of the General Manager except those for which redelegation of authority is prohibited by statute. The Assistant General Manager performs such functions as the General Manager may authorize. The assistant to the General Manager serves as AEC Contract Compliance Officer. Contract Compliance offices are located in New York, Oak Ridge, Chicago, and Albuquerque. Assistant General Managers for various functions are supervised by the General Manager.

§ 1.12 Director of Regulation.

The Director of Regulation discharges the licensing and other regulatory functions of the AEC, except where final decisions rests with a hearing examiner, an atomic safety and licensing board, or the Commission after hearing. He may issue amendments of regulations if the amendments are corrective or are of a minor or nonpolicy nature which do not substantially modify existing regulations affecting the public health and safety, the common defense and security or substantive or procedural rights. The Deputy Director of Regulation is authorized to act in the stead of the Director of Regulation during his absence. The Assistant Director for Administration performs administrative functions assigned by the Director of Regulation.

§ 1.13 Office of the Secretary of the Commission.

The Office of the Secretary of the Commission is under the supervision of the Secretary of the Commission who reports to the Commission but is also responsible for providing advice and services to the General Manager and the Director of Regulation. The Office develops and administers policies and procedures for secretariat services for the Commission's business and implementation of decisions of the Commission; advises and assists the Commission, the General Manager, and the Director of Regulation in the conduct and scheduling of business of the Commission; administers the AEC history program; and provides administrative support and liaison for advisory committees and certain offices which report directly to the Commission.

§ 1.14 Office of the General Counsel.

The Office of the General Counsel is under the supervision of the General Counsel, who is responsible to the Commission for all legal advice and assistance given by the Office, and furnishes to the General Manager and the Director of Regulation legal advice and assistance necessary to their respective responsibilities. The Office provides legal opinions

and counsel on matters concerning the AEC, and administers the patent provisions of the Atomic Energy Act.

§ 1.15 Office of the Controller.

The Office of the Controller is under the supervision of the Controller, who is the chief financial officer of the AEC. The Controller reports administratively to the General Manager, but provides advice and counsel directly to the Commission on financial matters. The Office develops and maintains the AEC's financial management program, administers the financial functions for Headquarters, and certain centralized financial operations; and monitors appraisal systems.

§ 1.16 Office of Safeguards and Materials Management.

The Office of Safeguards and Materials Management is under the supervision of a Director, who reports to the General Manager, but provides advice directly to the Commission on safeguards matters. The Office develops and coordinates the AEC's policies and programs for safeguarding source, special nuclear, and other materials. It develops policies for management and accountability of nuclear materials, and directs the implementation of safeguards and materials management policies affecting field offices and nonlicensed contractors.

§ 1.17 Division of Inspection.

The Division of Inspection is under the supervision of a Director, who makes reports to the General Manager and the Director of Regulation on matters under their respective responsibilities. If in the Director's opinion his recommendations are not followed by the General Manager or the Director of Regulation, he may report to the Commission. The Division gathers information to show whether contractors, licensees, and officers and employees of the AEC are complying with the provisions of the Act and the rules and regulations of the AEC.

§ 1.18 Office of Hearing Examiners.

The Office of Hearing Examiners is under the supervision of the Chief Hearing Examiner. The Office of Hearing Examiners is responsible for conducting hearings and issuing orders and decisions in licensing and other regulatory cases and other adjudicatory proceedings, patent licensing matters under section 153 of the Act, and civil rights matters under the Civil Rights Act of 1964, all as assigned by the Commission.

§ 1.19 Board of Contract Appeals.

The Board of Contract Appeals is under the supervision of a Chairman, who is responsible directly to the Commission. The Board decides appeals from decisions of AEC contracting officers under disputes articles of the contracts, assesses liquidated damages pursuant to section 104(c) of the Contract Work Hours Standards Act, decides proceedings for debarment of contractors, and may perform other functions in contract administration as assigned by the Commission.

§ 1.20 Atomic Safety and Licensing Board Panel.

The Atomic Safety and Licensing Board Panel's activities are supervised and coordinated by a permanent Chairman and Vice Chairman. The Panel is composed of members who serve on individual boards as assigned. Section 191 of the Act authorizes the Commission to establish one or more atomic safety and licensing boards (see § 1.22(d)): The boards conduct such hearings as the Commission may direct and make such intermediate or final decisions as it may authorize in proceedings to grant, suspend, revoke, or amend licenses or authorizations.

§ 1.21 Atomic Safety and Licensing Appeal Board.

The Atomic Safety and Licensing Appeal Board is composed of the Chairman and Vice Chairman of the Atomic Safety and Licensing Board Panel and a third member designated by the Commission. The Appeal Board reviews initial decisions of presiding officers, including atomic safety and licensing boards, in (a) such licensing proceedings as may be referred to it by the Commission, (b) proceedings on applications for authorizations under Part 115 of this chapter, and (c) proceedings on applications for licenses under Part 5 of this chapter, for facilities as to which the Commission has made an arrangement for financial assistance under section 31 of the Act, or has waived charges for use of special nuclear material or source material under section 53c(4) or 63c of the Act.

§ 1.22 Committees and boards authorized specifically by the Act.

(a) The General Advisory Committee is established by section 26 of the Act. The members are appointed by the President to advise the Commission on scientific and technical matters relating to materials, production, and research and development.

(b) The Advisory Committee on Reactor Safeguards is established by section 29 of the Act. The Committee reviews safety studies and facility license applications referred to it and makes reports on them, and advises the Commission with regard to the hazards of proposed or existing production and utilization facilities and the adequacy of proposed facility safety standards.

(c) The Military Liaison Committee is established by section 27 of the Act. It serves as liaison between the Commission and the Department of Defense with regard to all atomic energy matters which relate to military applications of atomic weapons or atomic energy.

(d) The Atomic Safety and Licensing Board Panel (see § 1.20) is established pursuant to section 191 of the Act.

(e) The Patent Compensation Board is established by section 157 of the Act. The Board determines just compensation or reasonable royalties when certain actions specified in the Act are taken with regard to patents.

§ 1.23 Other committees, boards, and panels.

(a) Additional committees, boards and panels have been established by the Commission pursuant to section 161a of the Act, as follows:

- (1) Advisory Committee on Isotopes and Radiation Developments;
- (2) High Energy Physics Advisory Panel;
- (3) Advisory Committee on Medical Uses of Isotopes;
- (4) Flowshare Advisory Committee;
- (5) Advisory Committee for Biology and Medicine;
- (6) Advisory Committee on Reactor Physics;
- (7) Committee of Senior Reviewers;
- (8) Nuclear Cross Sections Advisory Committee;
- (9) Historical Advisory Committee;
- (10) Mathematics and Computer Sciences Research Advisory Committee;
- (11) Personnel Security Review Board;
- (12) Labor-Management Advisory Committee;
- (13) Advisory Committee on Technical Information;
- (14) Personnel Security Boards;
- (15) Technical Information Panel;
- (16) Standing Committee on Controlled Thermonuclear Research;
- (17) Advisory Committee on Nuclear Materials Safeguards.

(b) The Atomic Energy Labor Management Relations Panel supplements regular conciliation and mediation processes in labor-management disputes in the atomic energy program. The Panel was established at the direction of the President on March 24, 1953, and was transferred from the Federal Mediation and Conciliation Service to the AEC, effective July 1, 1956.

OFFICES AND DIVISIONS SUPERVISED BY THE GENERAL MANAGER

§ 1.25 Office of Congressional Relations.

The Office of Congressional Relations is under the supervision of a Director who reports to the General Manager. The Office provides advice and assistance to the Commission, the General Manager, the Director of Regulation, and principal staff on congressional matters; coordinates or supervises all intra-agency congressional relations activities; and maintains liaison with congressional committees and Members of Congress.

§ 1.26 Division of Industrial Participation.

The Division of Industrial Participation is under the supervision of a Director who reports to the General Manager. The Division is a focal point for industry with the objective of encouraging private participation and investment in the development and utilization of atomic energy.

§ 1.27 Division of Intelligence.

The Division of Intelligence directs the intelligence functions of the AEC.

§ 1.28 Division of Public Information.

The Division of Public Information develops and directs programs for informing the public about AEC policies, programs, and activities; conducts the public information program for Headquarters; and coordinates the public information programs of Field Offices.

§ 1.29 Office of Environmental Affairs.

The Office of Environmental Affairs is under the supervision of a Director who reports to the General Manager. The office provides advice and assistance to the General Manager on environmental matters, serves as a focal point for contacts with outside organizations on environmental matters.

ASSISTANT GENERAL MANAGERS AND OFFICES SUPERVISED BY THEM**§ 1.40 Assistant General Manager for Administration.**

The Assistant General Manager for Administration develops policies and assists AEC staff in matters of administration and organization; develops policies covering classification and declassification of information, office management, procurement services, personnel administration, organization and management analysis, personnel and physical security, management information systems, telecommunications, and dissemination of technical information; manages AEC-wide telecommunications switching systems; manages AEC Headquarters automatic data processing, management information, and telecommunications facilities and services.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR ADMINISTRATION**§ 1.41 Division of Personnel.**

The Division of Personnel develops and directs programs for personnel administration, organization and management analysis, management directives, and staff requirements and controls.

§ 1.42 Division of Classification.

The Division of Classification develops, recommends, and administers policies, standards, and procedures for classification and declassification of information.

§ 1.43 Division of Security.

The Division of Security coordinates and administers programs for personnel and physical security involving protection of Restricted Data and other classified information, protection of facilities, equipment and materials of security interest, and determination of eligibility for access to Restricted Data and other classified information.

§ 1.44 Division of Headquarters Services.

The Division of Headquarters Services develops and directs programs for provision of services and facilities for Headquarters, and develops policies and procedures for AEC printing and duplicating.

§ 1.45 Division of Technical Information.

The Division of Technical Information develops and administers policies and programs for the communication of scientific and technical information in nuclear science and engineering to scientists, scholars, and the public. The Division supervises the Division of Technical Information Extension at Oak Ridge.

§ 1.46 Division of Management Information and Telecommunications Systems.

The Division of Management Information and Telecommunications Systems develops and establishes policies, objectives, standards, and procedures for AEC automated management information systems and AEC telecommunications systems; and manages Headquarters automatic data process facilities, AEC-wide telecommunications switching systems, and Headquarters telecommunication facilities.

INTERNATIONAL ACTIVITIES**§ 1.50 Assistant General Manager for International Activities.**

The Assistant General Manager for International Activities develops and directs a program of international cooperation in peaceful uses of atomic energy, and maintains liaison for that purpose with the Department of State, other executive branch agencies and Departments, Congress, international organizations, and foreign governments; and develops, coordinates and executes certain AEC activities in support of the Administration's disarmament program.

DIVISION SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR INTERNATIONAL ACTIVITIES**§ 1.51 Division of International Affairs.**

The Division of International Affairs develops and administers a program of international cooperation in atomic energy, and maintains liaison for that purpose with the Department of State, other Federal agencies, international organizations, and foreign governments. The Division supervises AEC foreign offices at Bombay, Brussels, Buenos Aires, London, Paris, Rio de Janeiro, and Tokyo.

OPERATIONS**§ 1.60 Assistant General Manager for Operations.**

The Assistant General Manager for Operations assists the General Manager in all matters involving supervision of Operations Offices, develops policies regarding and provides AEC-wide services involving contracting, operational safety, engineering and construction, waste and scrap management, labor relations, community affairs, economic impact of AEC program changes in affected geographic areas, and Federal-State cooperation for improvement of workmen's compensation laws related to radiation injuries.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR OPERATIONS**§ 1.61 Division of Contracts.**

The Division of Contracts establishes and maintains policies, standards, and procedures for contracting and procurement and for personal property and supply management, transportation and traffic management, real estate management, and emergency, disaster, and mobilization planning; and provides centralized coordination of Headquarters contract actions and field actions requiring Headquarters approval, and assistance to Headquarters and field offices in obtaining equipment and materials.

§ 1.62 Division of Operational Safety.

The Division of Operational Safety develops and directs programs for the protection of Government and contractor personnel, the public, and property from hazards resulting from operations of AEC not subject to license.

§ 1.63 Division of Construction.

The Division of Construction develops policies, standards, and procedures for, and provides functional direction of, AEC-wide activities related to the design and construction of facilities and the supply of utility services except telecommunications, and review and coordination of related contractual matters; serves as a focal point in Headquarters on maintenance management.

§ 1.64 Division of Labor Relations.

The Division of Labor Relations develops and administers industrial relations policies, standards, and guides applicable to contract operations, and assists in their administration.

§ 1.65 Division of Waste and Scrap Management.

The Division of Waste and Scrap Management is responsible for nuclear waste and scrap management activities, providing for consistent policy determinations and coordinated management of waste disposal and nuclear scrap at AEC facilities.

DEVELOPMENT AND PRODUCTION**§ 1.70 Assistant General Manager for Development and Production.**

The Assistant General Manager for Development and Production develops policies relating to programs for procurement, management and disposition of source materials, the assessment of uranium reserves and resources, and the manufacture of special nuclear and other special materials, and research and development on the production and application of radioisotopes and other byproduct material, uranium geology, exploration techniques, and extraction processes, and the development and use of nuclear explosives for peaceful purposes. In assigned areas, he provides program direction, review and coordination of the multiprogram laboratories.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR DEVELOPMENT AND PRODUCTION

§ 1.71 Division of Production.

The Division of Production develops and directs programs for production and processing of feed, special nuclear and other special materials, and associated process development.

§ 1.72 Division of Peaceful Nuclear Explosives.

The Division of Peaceful Nuclear Explosives develops policies and conducts programs for utilizing nuclear explosives for peaceful purposes (the Plowshare Program).

§ 1.73 Division of Isotopes Development.

The Division of Isotopes Development formulates and directs programs for the development and demonstration of applications of radioisotopes and radiation, and incorporation of these applications into the national economy; radioisotope distribution by the AEC; development of technology for the production, separation, purification, and encapsulation of radioisotopes; and encouragement of private production and distribution of isotopes.

§ 1.74 Division of Raw Materials.

The Division of Raw Materials develops and directs programs for the acquisition of source and other special materials from domestic or foreign sources or both, for the evaluation of uranium resources and production capabilities, for the assessment of the viability of the domestic uranium raw materials industry, for research and development in uranium geology, exploration and extraction; and supervises the Grand Junction Office (see § 1.133).

PLANS

§ 1.80 Assistant General Manager for Plans.

The Assistant General Manager for Plans, directs and coordinates activities involved in program planning, analysis, evaluating and reporting; develops policies relating to functions involving analysis of operating programs and related long-term forecasting of requirements and central staff support and services in program planning, project control, reporting, and cost reduction; develops and implements program analysis systems applicable to operating activities; and conducts and coordinates special analytical studies.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR PLANS

§ 1.81 Division of Operations Analysis and Forecasting.

The Division of Operations Analysis and Forecasting provides engineering and economic analysis of major technical programs and analysis of the impact of technical considerations on policy formulation for the production, use, and distribution of nuclear materials, and

forecasts requirements for and availability of nuclear materials.

§ 1.82 Division of Plans and Reports.

The Division of Plans and Reports supports other divisions in planning, project control, reporting, management improvement, agencywide and cost reduction, and performs certain agencywide functions and coordination in these fields.

§ 1.83 Division of Program Analysis.

The Division of Program Analysis develops and implements policies and systems for the program analysis aspects of AEC's planning—programming—budgeting system, special analytic studies and planning related to AEC's uranium inventory and uranium enrichment activities and facilities.

MILITARY APPLICATION

§ 1.90 Assistant General Manager for Military Application.

The Assistant General Manager for Military Application directs the Division of Military Application.

DIVISION SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR MILITARY APPLICATION

§ 1.91 Division of Military Application.

The Division of Military Application directs programs of research, development, testing, production, and reliability assessment of nuclear weapons; directs the AEC program for prevention of accidental or unauthorized nuclear detonations; maintains liaison between the AEC and the Department of Defense on nuclear weapons matters; and administers AEC activities under international agreements for cooperation involving nuclear weapons. In assigned areas, the Division provides program direction to certain multi-program laboratories.

RESEARCH AND DEVELOPMENT

§ 1.100 Assistant General Manager for Research and Development.

The Assistant General Manager for Research and Development develops policies and programs for research and development in the physical sciences, biology, medicine, and develops policies and programs for nuclear education and training conducted pursuant to section 31 of the Act. In assigned areas, he provides program direction, review, and coordination of the multiprogram laboratories.

DIVISION SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR RESEARCH AND DEVELOPMENT

§ 1.101 Division of Biology and Medicine.

The Division of Biology and Medicine plans, develops and directs programs in biomedical research, with emphasis on the biological effects of radiation, the control of radiation and other industrial hazards associated with AEC activities. The Division provides programmatic supervision and direction of the Health

and Safety Laboratory, which is a research laboratory under the nonprogrammatic administration of the New York Operations Office.

§ 1.102 Division of Research.

The Division of Research develops, coordinates, and supervises programs for research in the physical sciences and represents and supervises AEC efforts in joint and multiagency research program.

§ 1.103 Division of Nuclear Education and Training.

The Division of Nuclear Education and Training develops and administers policies and programs with respect to nuclear education and training conducted pursuant to section 31 of the Act; directs certain organizations conducting educational and training programs under contracts, and coordinates efforts of other Divisions concerned with nuclear education and training.

REACTORS

§ 1.110 Assistant General Manager for Reactors.

The Assistant General Manager for Reactors develops and directs the execution of policies and programs for the development and improvement of nuclear reactors, isotopic power systems, and associated technology, equipment, processes, materials, and facilities. He is responsible for technical direction, review, and coordination of reactor research and development programs of the multiprogram laboratories.

DIVISIONS SUPERVISED BY THE ASSISTANT GENERAL MANAGER FOR REACTORS

§ 1.111 Division of Reactor Development and Technology.

The Division of Reactor Development and Technology develops and directs assigned reactor development and technology programs, exclusive of naval and space applications. Its responsibilities include programs for the development and improvement of nuclear reactors, isotopic systems, and associated equipment for civilian and assigned military applications, nuclear safety of such reactors and systems, and fostering the civilian application of nuclear power.

§ 1.112 Division of Space Nuclear Systems.

The Division of Space Nuclear Systems initiates and directs space nuclear research and development programs through the Space Nuclear Systems Office (SNSO). The Division conducts the joint AEC-NASA program for the development and application of nuclear energy for space missions. SNSO extensions are located at the Nevada Test Site, Nev., at Cleveland, Ohio, and at Albuquerque, N. Mex.

§ 1.113 Division of Naval Reactors.

(a) The Division of Naval Reactors develops and improves naval nuclear propulsion plants, acts as liaison with the Department of Defense in carrying out

naval nuclear propulsion programs, directs assigned civilian power reactor programs, and supervises the Pittsburgh and Schenectady Naval Reactors Offices.

(b) The Schenectady Naval Reactors Office conducts research and development on and design, fabrication, construction, testing, operation, and improvement of assigned naval nuclear propulsion plants (see § 1.142).

(c) The Pittsburgh Naval Reactors Office conducts research and development on and design, fabrication, construction, testing, operation, and improvement of assigned naval nuclear propulsion and civilian power reactor plants; and manages the AEC-Navy zirconium inventory (see § 1.138).

DIVISIONS SUPERVISED BY THE DIRECTOR OF REGULATION

§ 1.120 Division of Reactor Licensing.

The Division of Reactor Licensing administers the licensing of nuclear reactors other than for export, and operators of licensed reactor facilities; provides special assistance as requested in matters involving reactors exempt from licensing; and implements the reactor licensing program.

§ 1.121 Division of Reactor Standards.

The Division of Reactor Standards develops and recommends nuclear safety standards, criteria, guides and codes for the location, design, construction, and operation of nuclear reactors and other production and utilization facilities; provides technical advice and assistance to other divisions and offices, Federal agencies and other organizations on reactor safety; coordinates the participation of the regulatory staff in nuclear safety research and development; and maintains liaison with other divisions and offices, standards associations, Federal agencies and other organizations involved in nuclear standards development.

§ 1.122 Division of Materials Licensing.

The Division of Materials Licensing administers the licensing of the receipt, acquisition, delivery, manufacture, possession, ownership, use, transfer and receipt of source, special nuclear, and byproduct material, other than for export; issuance, renewal, amendment, and denial of materials licenses, licenses for nonreactor production and utilization facilities, including facilities for reprocessing irradiated source and special nuclear material, and licenses for nonreactor facility operators.

§ 1.123 Division of Radiological and Environmental Protection.

The Division of Radiological and Environmental Protection administers regulations governing the implementation of the National Environmental Policy Act of 1969 (NEPA) for all AEC licensed activities, which includes review, evaluation and processing environmental reports submitted in support of applications for licenses for the construction and operation of nuclear facilities and for the possession and use of source, byproduct, and

special nuclear materials, and preparation and processing AEC environmental statements in support of AEC licensing functions; develops and recommends rules and regulations to protect employees of licensees, the public and the environment against effects of AEC licensed activities on matters involving radiological protection and environmental effects.

§ 1.124 Division of Compliance.

The Division of Compliance develops and administers programs and policies for the inspection and investigation of licensees to ascertain compliance with license provisions and regulations relating to health and safety; establishment of bases to issue or deny, suspend, modify, or revoke a license; investigation of accidents or unusual circumstances involving materials or facilities subject to licensing and regulation; and enforcement. The Division supervises regional offices at Newark, N.J.; Atlanta, Ga.; Chicago, Ill.; Denver, Colo.; and San Francisco, Calif. (For addresses of regional offices see § 1.3(c).)

§ 1.125 Division of Nuclear Materials Safeguards.

The Division of Nuclear Materials Safeguards administers safeguards against diversion of nuclear material held by licensees. The Division participates in the development of policies for safeguarding nuclear materials; reviews and approves licensee safeguards programs, conducts inspections of licensee facilities for compliance with safeguards requirements; and takes enforcement action where warranted. District safeguards staffs are located at Newark, N.J., Oak Ridge, Tenn., and Berkeley, Calif. (For addresses of district offices, see § 1.3(d).)

§ 1.126 Division of State and Licensee Relations.

The Division of State and Licensee Relations develops and administers programs and policies for cooperation with States in their assumption of responsibility under section 274 of the Act, indemnification of licensees, export licensing of nuclear facilities and materials, and charging and collecting fees for licensing services.

Subpart C—Principal Field Offices

§ 1.130 General line of authority.

Unless stated otherwise, each principal field office is under the supervision of a Manager of Operations who reports to the General Manager for administrative direction and to appropriate Headquarters Divisions and Offices for functional direction.

§ 1.131 Albuquerque Operations Office.

The Albuquerque Operations Office conducts programs for atomic weapons production and associated functions, including coordination of participation by other field offices in the weapons program; administers contracts with Los Alamos Scientific Laboratory and the Sandia Laboratories for weapons re-

search and development under the technical direction of the Assistant General Manager for Military Application; administers certain assigned programs for nonweapons research and development; administers an exchange program with the United Kingdom on defense; and manages and is responsible for ultimate disposal of the Government-owned community of Los Alamos, N. Mex. The Office supervises the following Area Offices: Amarillo, Tex.; Burlington, Iowa; Dayton (at Miamisburg, Ohio); Kansas City, Mo.; Los Alamos, N. Mex.; Pinellas (at St. Petersburg, Fla.); Rocky Flats (at Golden, Colo.); and Sandia (at Albuquerque, N. Mex.).

§ 1.132 Chicago Operations Office.

The Chicago Operations Office administers research and development programs, including programs in development of nuclear reactors, reactor systems, and related technology; basic and applied biological, medical and physical science research; contracts for operation of the Ames Laboratory and the Argonne National Laboratory; and coordination and supervision of the Area Office, 200 BEV Accelerator Facility.

§ 1.133 Grand Junction Office.

The Grand Junction Office is under the supervision of a Manager, who reports to the Director, Division of Raw Materials. The Office conducts programs for developing reliable information on the availability of uranium and thorium to provide AEC and the nuclear industry data needed in planning nuclear programs; administering a plan and program for lease of mineral lands withdrawn by AEC; managing and disposing of surplus uranium stocks; helping assure a sufficiency of low-cost nuclear fuel to meet long-range requirements for nuclear power evaluating new or improved production methods and research and development in uranium geology, exploration, and production; and acquiring source and other special materials as required.

§ 1.134 Idaho Operations Office.

The Idaho Operations Office conducts assigned programs for design, construction, and operation of nuclear reactors, and manages the National Reactor Testing Station (NRTS), which is the location of reactor and other projects administered by the Office and other Field Offices.

§ 1.135 Nevada Operations Office.

The Nevada Operations Office manages and operates the Nevada Test Site and other designated test locations within and outside of the United States, provides support to users of test sites, performs support and operating functions at other designated locations under interagency agreements pertaining to tests and related functions, coordinates planning and execution of nuclear explosive testing projects, and

supervises the Pacific Area Support Office at Honolulu, Hawaii.

§ 1.136 New York Operations Office.

The New York Operations Office administers assigned research and development programs, including biological, medical, and physical research, isotopes development, reactor development and technology; and contracts for operation of the Brookhaven National Laboratory and other facilities engaged in the activities listed above. The office is responsible for nonprogrammatic administration of the AEC Health and Safety Laboratory and supervises the area office at Brookhaven, N.Y.

§ 1.137 Oak Ridge Operations Office.

The Oak Ridge Operations Office conducts programs for production of special nuclear materials, related process development, uranium enrichment services, and other associated activities. It administers research and development and training, including programs in biology and medicine, isotopes development, physical research, reactor development and technology, space nuclear systems, and nuclear education and training; and contracts for operation of the Oak Ridge National Laboratory and other facilities engaged in those activities. It operates the New Brunswick Laboratory, and participates in weapons development and production programs. The Office administers programs for distribution of special nuclear materials and uranium enrichment. It performs statutory functions of the Commission for the city of Oak Ridge. It supervises the following Area Offices: Cincinnati, Ohio; Paducah, Ky.; Portsmouth (at Piketon, Ohio); and Puerto Rico (at Hato Rey, P.R.).

§ 1.138 Pittsburgh Naval Reactors Office.

The Pittsburgh Naval Reactors Office is under the supervision of a Manager who reports to the Director, Division of Naval Reactors. The Office conducts programs for research and development, design, fabrication, construction, testing, operation, and improvement of naval nuclear propulsion and civilian power reactor plants, and manages the AEC-Navy zirconium inventory.

§ 1.139 Richland Operations Office.

The Richland Operations Office conducts programs for production of special nuclear materials and other special materials, management of waste materials, and related process development. It administers research and development and training programs, industrial diversification assistance to local communities, and programs for distribution of plutonium and recovery of plutonium scrap. It performs statutory functions of the Commission for the city of Richland.

§ 1.140 San Francisco Operations Office.

The San Francisco Operations Office administers research and development programs, including programs in weapons development, reactor development

and technology, physical research, biology and medicine and peaceful uses of nuclear explosives. The Office administers contracts for operation of the Lawrence Radiation Laboratory and the Stanford Linear Accelerator Center, and supervises the Area Office at Palo Alto, Calif.

§ 1.141 Savannah River Operations Office.

The Savannah River Operations Office conducts programs for production of special nuclear and other materials and fabricated items, related process development, storage and reprocessing of fuels from AEC and other reactors, and administration of, sale, lease, loan, and purchase of assigned research and development and training programs, and participates with the Albuquerque Operations Office in weapons development and production programs.

§ 1.142 Schenectady Naval Reactors Office.

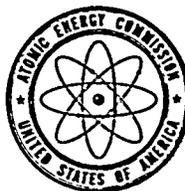
The Schenectady Naval Reactors Office is under the supervision of a Manager who reports to the Director, Division of Naval Reactors. The Office conducts programs for research and development, design, fabrication, construction, testing, operation, and improvement of assigned naval nuclear propulsion plants.

Subpart D—Seal and Flag

§ 1.150 Description and custody of seal.

(a) Pursuant to the Act, the Commission has adopted an official seal, the description of which is as follows: On a dark blue disk, a stylized atomic symbol consisting of the nucleus, in orange red, surrounded by four electrons tracing their orbit in gold. On a light blue annulet edged in gold the inscription "Atomic Energy Commission" in upper portion. In lower portion, "United States of America." A five-pointed gold star appears between the words "Atomic" and "United" and another between the words "Commission" and "America".

(b) The Official Seal is illustrated as follows:



(c) The Secretary of the Commission is responsible for custody of the impression seals and of replica (plaque) seals.

§ 1.151 Use of the seal or replicas.

(a) The use of the seal or replicas is restricted to the following:

- (1) AEC letterhead stationery.
- (2) AEC award certificates and medals.
- (3) Security credentials and employee identification cards.
- (4) AEC documents. These documents include, without limitation, agreements

with States, interagency or intergovernmental agreements, foreign patent applications, certifications, special reports to the President and Congress and, at the discretion of the Secretary of the Commission, other documents as he finds appropriate.

(5) Plaques. The design of the seal may be incorporated in plaques for display in AEC auditoriums, presentation rooms, lobbies, offices of senior officials, on the fronts of buildings occupied by AEC and in other appropriate locations at the discretion of the Secretary.

(6) The AEC flag (which incorporates the design of the seal).

(7) Official films prepared by or for the AEC, which the Director, Division of Public Information or his designee determines warrant such identification.

(8) Official AEC publications which represent the achievements or mission of AEC as a whole or which are sponsored by AEC and other Government departments or agencies.

(9) Such other uses as the Secretary of the Commission or his designee finds appropriate.

(b) Any use of the seal or replicas other than as permitted by this section is prohibited.

(c) Any person who uses the official seal in a manner other than as permitted by this section shall be subject to the provisions of 18 U.S.C. 1017, which provides penalties for the wrongful use of an official seal, and other provisions of law as applicable. (See also § 1.154.)

§ 1.152 Establishment of the official AEC flag.

The official flag is based on the design of the seal and was designed by the Heraldry Branch of the Office of the Quartermaster General in April 1957. The AEC flag is 4 feet 2 inches by 5 feet 6 inches in size with a 38-inch diameter AEC seal incorporated in the center of a white field and with a yellow fringe. (Reference: Army QMG Dwg. 5-1-230, Nov. 28, 1956.)

§ 1.153 Use of the AEC flag.

(a) The use of the flag is restricted to the following:

- (1) On or in front of AEC installation buildings.
- (2) At AEC ceremonies.
- (3) At conferences involving official AEC participation (including permanent display in AEC conference rooms).
- (4) At governmental or public appearances of AEC executives.
- (5) In private offices of senior officials.
- (6) As otherwise authorized by the Secretary of the Commission.

(b) The AEC flag must always be displayed with the U.S. Flag. When the U.S. Flag and the AEC flag are displayed on a speaker's platform in an auditorium, the U.S. Flag must occupy the position of honor and be placed at the AEC representative's right as he faces the audience and the AEC flag must be placed at his left.

§ 1.154 Report of violations.

In order to insure adherence to the authorized uses of the AEC seal and flag as provided herein, a report of each suspected violation of this part or questionable use of the AEC seal or flag should be submitted to the Secretary of the Commission.

Dated at Washington, D.C., this 10th day of June 1971.

For the Atomic Energy Commission,

W. B. McCool,
Secretary of the Commission.

[FR Doc.71-8415 Filed 6-15-71;8:48 am]

Title 12—BANKS AND BANKING**Chapter V—Federal Home Loan Bank Board****SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM**

[71-569]

PART 527—HOUSING OPPORTUNITY ALLOWANCE PROGRAM**Housing Opportunity Allowance Program**

JUNE 10, 1971.

Resolved That the Federal Home Loan Bank Board considers it advisable to amend Part 527 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 527) for the following purposes:

1. To revise the provisions relating to borrower eligibility in the following respects:

a. By relating such requirements only to the time that the borrower makes application for a Housing Opportunity Allowance;

b. By eliminating the requirement that a borrower must be a citizen of the United States; and

c. By restating the "need" requirement for a Housing Opportunity Allowance;

2. To restate the limitation relating to the minimum amount of a qualifying loan;

3. To provide for qualifying loans in Alaska and Hawaii in excess of \$25,000 upon Board approval;

4. To specify the appraisal requirements for loans for the construction of new dwellings; and

5. To clarify certain other provisions of such regulations.

Accordingly, on the basis of such consideration and for such purposes, the Federal Home Loan Bank Board hereby amends said Part 527 as follows, effective June 15, 1971:

1. By revising paragraph (d) and subparagraph (4) of paragraph (k) of § 527.2 to read as follows:

§ 527.2 Definitions.

(d) *Eligible borrower.* The term "eligible borrower" means a borrower who, at the time of making application for an allowance—

(1) Is one of the following:

(i) Either spouse of a married couple living together, or both such spouses; or

(ii) A head of household with one or more dependent children;

(2) Has a current annual gross income (including income of both spouses) not in excess of the Housing Opportunity Allowance Program Regular Family Income Limits published by the Board (as revised from time to time); and

(3) Has need of a Housing Opportunity Allowance to warrant the making of a qualifying loan by a member institution.

(k) *Qualifying loan.* The term "qualifying loan" means a loan which—

(4) Is in a principal amount—

(i) Not less than 70 percent of the lesser of—

(a) An amount equal to the value of the security property; or

(b) The purchase price of the security property.

(ii) Not more than the lesser of—

(a) An amount equal to 100 percent of the value of the security property;

(b) The purchase price of the security property; or

(c) \$25,000; or, in the case of a loan secured by property located in either Alaska or Hawaii, such higher amount as the Board may approve.

2. By revising subparagraph (2) of paragraph (b) of § 527.3 to read as follows:

§ 527.3 Housing opportunity allowance.

(b) *Application—(1) Form.* * * *

(2) *Statement of intention.* In making such application, each applicant shall sign a statement of intention that, if the qualifying loan is made, the borrower:

(i) Will be the title owner of the real estate securing the loan;

(ii) Will occupy the single-family dwelling comprising such real estate as a primary residence; and

(iii) Will not give or execute any secondary lien or charge upon such real estate in connection with the purchase thereof.

3. By revising paragraphs (a) and (b) of § 527.6 to read as follows:

§ 527.6 Closing documents.

(a) *Required certifications.* At the time of closing of a qualifying loan with respect to which an allowance will be credited, the following written certifications, each of which shall contain a reference to the penal provisions of section 1014 of title 18 of the United States Code, shall be required as closing documents:

(1) *By seller and borrower.* A certification jointly executed by the borrower and seller or sellers of the security property stating (i) the purchase price thereof and the items comprising such

price; and (ii) that no lien or charge upon such property, other than the lien of the association or liens or charges which will be discharged from the proceeds of the loan, has been given or executed by the borrower to the seller or sellers or has been contracted or agreed to be so given or executed.

(2) *By appraiser.* A certification by a qualified appraiser that (i) in the case of an existing structure, he has personally inspected both the interior and exterior of such structure; or (ii) in the case of new construction, he has examined the plans and specifications for such structure; and that he has determined the value thereof in accordance with paragraph (m) of § 527.2.

(3) *By member institution.* A certification by the member institution, that—

(i) At the time the borrower's application was approved, such borrower was, in the determination of the member institution based upon the information furnished by the borrower, an eligible borrower and did have need of a Housing Opportunity Allowance to warrant the making of a qualifying loan to such borrower;

(ii) The loan is, in the determination of the member institution, a qualifying loan; and

(iii) All certifications required by this paragraph have been obtained and are in the possession of the member institution.

(b) *Required submission to Bank.* Promptly after the closing of such qualifying loan, the member institution shall transmit to the Bank of which it is a member the Bank's copy of the borrower's application, containing the certification required to be made by the member institution pursuant to subparagraph (3) of paragraph (a) of this section, signed by an officer of the member institution, and containing the borrower's acknowledgment or receipt of the commitment respecting his allowance as required by paragraph (c) of § 527.3.

(Title I, Public Law 91-351, 84 Stat. 450, sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1437. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that, since the above amendments relate to the implementation of a benefits program, notice and public procedure thereon are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and, since such amendments relieve restriction, publication thereof for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof is likewise unnecessary; and the Board hereby provides that such amendments shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL]

JACK CARTER,
Secretary.

[FR Doc.71-8458 Filed 6-15-71;8:50 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-SW-24]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to revoke and alter controlled airspace in the Sherman, Tex., terminal area.

At Sherman, Tex., there exist a control zone based on Perrin AFB and a 700-foot-transition area which includes Perrin AFB and Sherman Municipal Airport. This designated controlled airspace accommodates the instrument approach/departure procedures associated with Perrin AFB and Sherman Municipal Airport. Approaches to Perrin AFB utilize the USAF Perrin TACAN, ILS, VOR, and PAR facilities. The approach procedure to Sherman Municipal Airport utilizes the Perrin VOR navigational aid.

The Federal Aviation Administration has been informed that all military flight operations and the associated military activities and services provided by Perrin AFB will cease not later than June 30, 1971. This will include decommissioning of the Perrin TACAN, ILS, VOR navigational aids, and the radar units. It is anticipated the Perrin VOR will be shut down June 7, 1971.

As there will no longer be a need for a control zone and transition area to serve Perrin AFB, this associated controlled airspace will be revoked.

The 700-foot-transition area which did encompass Perrin AFB will be reduced and altered so as to include only the Sherman Municipal Airport. An alternate approach procedure serving Sherman Municipal Airport can be developed based on utilization of the recently commissioned Blue Ridge VORTAC located approximately 27 statute miles southeast of Sherman Municipal Airport. The 700-foot Sherman, Tex., transition area will provide controlled airspace to accommodate this newly developed instrument approach procedure.

As the extent of controlled airspace in the Sherman, Tex., terminal area will be materially reduced and will therefore substantially lessen the burden on the public, notice and public procedure are considered unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective August 19, 1971, as herein set forth.

(1) In § 71.171 (36 F.R. 2055), the Sherman, Tex., control zone is revoked.

(2) In § 71.181 (36 F.R. 2140), the Sherman, Tex., transition area is amended to read:

SHERMAN, TEX.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Sherman, Tex., Municipal Airport (lat. 33°37'30" N., long. 96°35'09" W.). (Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Fort Worth, Tex., on June 7, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.
[FR Doc. 71-8403 Filed 6-15-71; 8:45 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission [Docket No. C-1911]

PART 13—PROHIBITED TRADE PRACTICES

Daniel Wiener

Subpart—Importing, selling, or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67 Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Daniel Wiener, New York, N.Y., Docket No. C-1911, May 5, 1971]

In the Matter of Daniel Wiener an Individual Trading as Daniel Wiener

Consent order requiring a New York City individual engaged in the sale and distribution of fabrics to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act.

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

It is ordered, That respondent Daniel Wiener, individually and trading as Daniel Wiener, or under any other name or names and respondent's representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce, or selling or delivering after sale or shipment in commerce, any product, fabric, or related material; or selling or offering for sale, any product made of fabric or related material which has been shipped or received in commerce as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which "product," "fabric," or "related material" fails to conform to an applicable standard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondent notify all of his customers who have purchased or to whom have been de-

livered the fabrics which gave rise to the complaint, of the flammable nature of said fabrics, and effect the recall of said fabrics from such customers.

It is further ordered, That the respondent herein either process the fabrics which gave rise to the complaint so as to bring them into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabrics.

It is further ordered, That the respondent herein shall, within ten (10) days after service upon him of this order, file with the Commission a special report in writing setting forth the respondent's intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the fabrics which gave rise to the complaint, (2) the amount of said fabrics in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said fabrics and effect the recall of said fabrics from customers, and of the results thereof, (4) any disposition of said fabrics since August 15, 1969, and (5) any action taken or proposed to be taken to bring said fabrics into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said fabrics and the results of such action. Such report shall further inform the Commission as to whether or not respondent has in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondent shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

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

Issued: May 5, 1971.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 71-8184 Filed 6-15-71; 8:45 am]

[Docket No. 1910]

PART 13—PROHIBITED TRADE PRACTICES

Town Talk Coat Co., Inc., and Gerald Becker

Subpart—Importing, selling or transporting flammable wear: § 13.1060 *Importing, selling, or transporting flammable wear.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 67

Stat. 111, as amended; 15 U.S.C. 45, 1191) [Cease and desist order, Town Talk Coat Co., Inc., et al. New York, N.Y., Docket No. C-1910, May 5, 1971]

In the Matter of Town Talk Coat Co., Inc., a Corporation, and Gerald Becker, Individually and as an Officer of Said Corporation

Consent order requiring a New York City manufacturer and distributor of ladies' coats, to cease violating the Flammable Fabrics Act by importing and selling any fabric which fails to conform to the standards of said Act.

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

It is ordered, That respondents Town Talk Coat Co., Inc., a corporation, and its officers, and Gerald Becker, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, do forthwith cease and desist from manufacturing for sale, selling, offering for sale, in commerce, or importing into the United States, or introducing, delivering for introduction, transporting or causing to be transported in commerce or selling or delivering after sale or shipment in commerce any product, fabric or related material; or manufacturing for sale, selling, or offering for sale any product made of fabric or related material which has been shipped and received in commerce, as "commerce," "product," "fabric," and "related material" are defined in the Flammable Fabrics Act, as amended, which product, fabric or related material fails to conform to any applicable stand-

ard or regulation continued in effect, issued or amended under the provisions of the aforesaid Act.

It is further ordered, That respondents notify all of their customers who have purchased or to whom have been delivered the products which gave rise to this complaint of the flammable nature of such products, and affect recall of such products from said customers.

It is further ordered, That the respondents herein either process the products which gave rise to the complaint so as to bring them within the applicable flammability standards of the Flammable Fabrics Act, as amended, or destroy said products.

It is further ordered, That the respondents herein shall within ten (10) days after service upon them of this order, file with the Commission a special report in writing setting forth the respondents' intentions as to compliance with this order. This special report shall also advise the Commission fully and specifically concerning (1) the identity of the products which gave rise to the complaint, (2) the number of said products in inventory, (3) any action taken and any further actions proposed to be taken to notify customers of the flammability of said products and effect the recall of said products from customers, and of the results thereof, (4) any disposition of said products since January 16, 1970, and (5) any action taken or proposed to be taken to bring said products into conformance with the applicable standard of flammability under the Flammable Fabrics Act, as amended, or destroy said products, and the results of such action.

Such report shall further inform the Commission as to whether or not respondents have in inventory any product, fabric, or related material having a plain surface and made of paper, silk, rayon and acetate, nylon and acetate, rayon, cotton or any other material or combinations thereof in a weight of 2 ounces or less per square yard, or any product, fabric or related material having a raised fiber surface. Respondents shall submit samples of not less than 1 square yard in size of any such product, fabric, or related material with this report.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

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

Issued: May 5, 1971.

By the Commission.

[SEAL]

CHARLES A. TOBIN,
Secretary.

[FR Doc.71-8397 Filed 6-15-71;8:45 am]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[41 CFR Part 3-4]

PROCUREMENTS INVOLVING HUMAN SUBJECTS

Notice of Proposed Rule Making

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the Federal Property and Administrative Services Act of 1949, as amended, the Office of the Secretary is considering an amendment to 41 CFR Chapter 3 by adding a new Subpart 3-4.55 under Part 3-4, Special Types and Methods of Procurement.

The proposed amendment will establish policy and procedures to be followed whenever individuals may be at risk as a consequence of participation as a subject in research, development, demonstration, or other activities being conducted under contract.

Any person who wishes to submit written data, views, or comments pertaining to the proposed amendment may do so by filing them in duplicate with the Director, Division of Procurement and Materiel Management, OASAM-OGS, Room 3340, HEW North Building, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, DC 20201, within 30 days after publication of this notice in the FEDERAL REGISTER.

As proposed, the new Subpart 3-4.55 would read as follows:

Subpart 3-4.55—Procurements Involving Human Subjects

§ 3-4.5500 Scope of subpart.

This subpart provides policies and procedures to be followed whenever individuals may be at risk as a consequence of participation as a subject in research, development, demonstration, or other activities being conducted under contract.

§ 3-4.5501 Policy.

It is the policy of the Department that no contract involving risk to human subjects shall be awarded until acceptable assurance has been given that the project or activity will be subject to initial and continuing review by an appropriate institutional committee(s) as described in Chapter 1-40, DHEW Grants Administration Manual. Except where the prime contractor holds a General Institutional Assurance (See § 3-4.5501(c)) a separate assurance will be required of each sub-contractor or cooperating institution

having immediate responsibility for human subjects involved in performance of the contract.

§ 3-4.5502 Applicability.

(a) The policy set forth in § 3-4.5501 applies to all contracts which support activities in which subjects may be at risk. The identification of such programs requires the application of sound professional judgment; therefore, such determination should involve professional staff within the component agencies of the Department. HEW staff and consultants serving programs shall be responsible for identifying those specific projects or activities which require application of the policy. Since the great majority of contracts subject to this policy fall within the jurisdiction of the National Institutes of Health, the Division of Research Grants, NIH, PHS (DRG-NIH), is responsible for accepting institutional assurances and for maintaining a list of institutions which have filed acceptable assurances.

(b) Contracts involving human subjects at risk will not be awarded to an individual unless he is affiliated with or sponsored by an institution which can and will assume responsibility for safeguarding the human subjects involved.

(c) Contracting officers shall be guided by recommendations of the Division of Research Grants, NIH, regarding non-award or termination of a contract due to inadequate assurance for protection of human subjects. General Institutional Assurances (applicable to all HEW grant and contract activities) previously accepted by the DRG-NIH and listed in its current "Cumulative List of Institutions with Acceptable General Assurances for Protection of Human Subjects" will be considered acceptable for purposes of this policy. Copies of proposals selected for negotiation and requiring an institutional assurance shall be forwarded to Director, Office of Institutional Relations, Division of Research Grants, NIH, DHEW, Westwood Building, Bethesda, Md. 20014, as early as possible in order that timely action may be taken to secure or update such assurances.

§ 3-4.5503 Notice to offerors.

(a) Requests for proposals shall contain the following notice to offerors, whenever contract performance is expected to involve risk to human subjects:

NOTICE TO OFFERORS OF REQUIREMENT FOR ADEQUATE ASSURANCE OF PROTECTION OF HUMAN SUBJECTS

Prospective contractors being considered for award will be required to give acceptable assurance that the project described herein will be subject to initial and continuing review by an appropriate institutional committee. This review shall assure that the rights and welfare of the individuals involved

are adequately protected, that the risks to an individual are outweighed by the potential benefits to him or by the importance of the knowledge to be gained, and that informed consent will be obtained by methods that are adequate and appropriate.

(b) The proposal should be appropriately marked in the space provided on the form, or a statement similar to the following, as appropriate, should be entered on the right hand margin of the page bearing the name of the institutional official authorized to sign or execute proposals for the institution:

(1) "Human Subjects—Reviewed and Approved on _____"
(Date)

NOTE: This date should be no later than 90 days prior to the submission date, and must not be more than 12 months prior to the proposed starting date.

(2) "Human Subjects—Review Pending on _____"
(Date)

NOTE: This date should be at least 1 month earlier than the proposed starting date on the project to avoid possible conflict with the award date.

§ 3-4.5504 Contract clause.

The following clause shall be included in contracts involving human subjects:

PROTECTION OF HUMAN SUBJECTS

(a) The Contractor agrees that the rights and welfare of human subjects involved in performance of this contract will be protected in accordance with procedures specified in its current Institutional Assurance on file with the Division of Research Grants, NIH, DHEW. The Contractor further agrees to provide certification at least annually that an appropriate institutional committee has reviewed and approved the procedures which involve human subjects in accordance with the applicable Institutional Assurance accepted by the Division of Research Grants, NIH, DHEW.

(b) The Contractor shall bear full responsibility for the proper and safe performance of all work and services involving the use of human subjects under this contract. The parties hereto agree that the Contractor retains the right to control and direct the performance of all work under this contract. No provision of this contract shall be deemed to constitute the Contractor or any subcontractor, agent or employee of the Contractor, or any other person, organization, institution, or group of any kind whatsoever, as the agent or employee of the Government. The Contractor agrees that it has entered into this contract and will discharge its obligations, duties, and undertakings and the work pursuant thereto, whether requiring professional judgment or otherwise, as an independent contractor without imputing liability on the part of the Government.

Dated: June 9, 1971.

NORMAN B. HOUSTON,
Deputy Assistant Secretary
for Administration.

[FR Doc.71-8420 Filed 6-15-71;8:46 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-RM-3]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Bismarck, N. Dak., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Boulevard, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Boulevard, Los Angeles, CA 90045.

The airspace requirements for Bismarck Municipal Airport, N. Dak., have been reviewed in accordance with criteria contained in U.S. Standard for Terminal Instrument Procedures. The proposed additional 700 feet and 1,200 feet portions of the transition area are required to provide controlled airspace protection for aircraft executing prescribed instrument procedures.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (36 F.R. 2140) the description of the Bismarck, N. Dak., transition area is amended as follows:

Delete all after " * * * southeast of the OM; * * *" and substitute therefor " * * * and within 4½ miles northeast and 9½ miles southwest of the Bismarck ILS localizer northwest course extending from the 17-mile-radius area to 32 miles northwest of the OM; that airspace extending upward from 1,200 feet above the surface within a 22½-mile radius of the Bismarck VORTAC, extending from 5 miles northwest of and

parallel to the Bismarck VORTAC 204° radial clockwise to the Bismarck VORTAC 082° radial, and within a 33-mile radius of the Bismarck VORTAC, extending from the Bismarck 082° radial clockwise to a line 5 miles northwest of and parallel to the Bismarck VORTAC 204° radial."

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Denver, Colo., on June 7, 1971.

M. M. MARTIN,

Director, Rocky Mountain Region.

[FR Doc.71-8404 Filed 6-15-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-RM-4]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Philip, S. Dak., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Boulevard, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Boulevard, Los Angeles, CA 90045.

The airspace requirements for the Philip Airport, S. Dak., have been reviewed in accordance with the criteria contained in the U.S. Standards for Terminal Instrument Procedures (TERPs). The review has revealed that the transition area requires alteration to provide controlled airspace protection for aircraft executing prescribed instrument procedures while operating at 700 feet or more above the surface.

In consideration of the foregoing, the

FAA proposes the following airspace action.

In § 71.181 (36 F.R. 2140) the description of the Philip, S. Dak. transition area is amended to read as follows:

PHILIP, S. DAK.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Philip Airport (latitude 44°03'45" N., longitude 101°35'45" W.); that airspace bounded by a line 8 miles south of and parallel to the Philip, S. Dak., VORTAC 102° radial, extending from the VORTAC to 3 miles east of the VORTAC, and within 4.5 miles north and 9.5 miles south of the Philip VORTAC 282° radial, extending from the VORTAC to 18.5 miles west of the VORTAC.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Denver, Colo., on June 7, 1971.

M. M. MARTIN,

*Director,
Rocky Mountain Region.*

[FR Doc.71-8405 Filed 6-15-71;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-RM-5]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Grand Forks, N. Dak. (International Airport), control zone and Grand Forks, N. Dak., transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Boulevard, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the

Office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Boulevard, Los Angeles, CA 90045.

The airspace requirements for Grand Forks, N. Dak., have been reviewed in accordance with criteria contained in U.S. Standard for Terminal Instrument Procedures (TERPs). The review revealed that the descriptions of the Grand Forks, N. Dak. (International Airport), control zone and Grand Forks, N. Dak., transition area require alteration.

The control zone extensions to the north and south are required to provide controlled airspace protection for aircraft conducting the VOR Rwy 17 and VOR Rwy 35 instrument approach procedures while operating below 1,000 feet above the surface. The additional 700-foot-transition area is required for the procedure turn area and that portion of the VOR Rwy 35 instrument approach procedure conducted between 1,500 and 1,000 feet above the surface in addition to random departures climbing from 700 feet to floor of overlying controlled airspace.

In consideration of the foregoing, the FAA proposes the following airspace actions.

In § 71.171 (36 F.R. 2055) the description of the Grand Forks, N. Dak. (International Airport), control zone is amended to read as follows:

GRAND FORKS, N. DAK. (INTERNATIONAL AIRPORT)

Within a 5-mile radius of Grand Forks International Airport (latitude 47°57'05" N., longitude 97°10'35" W.), within 2.5 miles each side of the Grand Forks VORTAC 012° radial, extending from the 5-mile-radius zone to 6.5 miles north of the VORTAC and within 3 miles each side of the Grand Forks VORTAC 173° radial, extending from the 5-mile-radius zone to 8 miles south of the VORTAC.

In § 71.181 (36 F.R. 2140) the description of the Grand Forks, N. Dak., transition area is amended to read as follows:

GRAND FORKS, N. DAK.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the Grand Forks International Airport (latitude 47°57'05" N., longitude 97°10'35" W.), within 4.5 miles west and 9.5 miles east of the Grand Forks VORTAC 173° radial, extending from the VORTAC to 18.5 miles south of the VORTAC, and within a 10-mile radius of Grand Forks AFB (latitude 47°57'40" N., longitude 97°24'00" W.); that airspace extending upward from 1,200 feet above the surface within a 35-mile radius of Grand Forks AFB, and within a 29-mile radius of Red River VOR, extending clockwise from a line 5 miles east of and parallel to the Red River VOR 180° radial to a line 5 miles northwest of and parallel to the Red River VOR 209° radial.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Denver, Colo., on June 7, 1971.

M. M. MARTIN,
Director, Rocky Mountain Region.

[FR Doc.71-8406 Filed 6-15-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-108]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Bowling Green, Ky., control zone and transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Bowling Green control zone described in § 71.171 (36 F.R. 2055) would be redesignated as:

Within a 5-mile radius of Bowling Green-Warren County Airport (lat. 36°57'47" N., long. 86°25'07" W.); within 3 miles each side of Bowling Green VORTAC 206° radial, extending from the 5-mile-radius zone to 9.5 miles southwest of the VORTAC.

The Bowling Green transition area described in § 71.181 (36 F.R. 2140) would be redesignated as:

That airspace extending upward from 700 feet above the surface within an 11-mile radius of Bowling Green-Warren County Airport (lat. 36°57'47" N., long. 86°25'07" W.); within 3.5 miles each side of Bowling Green VORTAC 206° radial, extending from the 11-mile-radius area to 10.5 miles southwest of the VORTAC.

The proposed alterations are required to provide required controlled airspace protection for IFR operations in the Bowling Green terminal in conformance with Terminal Instrument Procedures (TERPs) and current airspace criteria.

This amendment is proposed under the authority of section 307(a) of the Federal

Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 7, 1971.

W. B. RUCKER,
Acting Director, Southern Region.

[FR Doc.71-8407 Filed 6-15-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-105]

CONTROL ZONE AND TRANSITION AREAS

Proposed Alteration and Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Lexington, Ky., control zone and transition area and designate the Frankfort, Ky., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Lexington control zone described in § 71.171 (36 F.R. 2055) would be redesignated as:

Within a 5-mile radius of Blue Grass Airport (lat. 38°02'16" N., long. 84°36'16" W.); within 1.5 miles each side of the ILS localizer northeast course, extending from the 5-mile-radius zone to 5 miles northeast of the runway end.

The Lexington transition area described in § 71.181 (36 F.R. 2140) would be redesignated as:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Blue Grass Airport (lat. 38°02'16" N., long. 84°36'16" W.); within 3 miles each side of the ILS localizer northeast course, extending from the 8.5-mile-radius area to 14 miles northeast of the runway end; within 0.5 miles northwest and 4.5 miles southeast of the ILS localizer southwest course, extending from the 8.5-mile-radius area to 18.5 miles southwest of the OML.

The Frankfort transition area would be designated as:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Capital City Airport (lat. 38°10'55" N., long. 84°54'16" W.); within 3 miles each side of the 062° bearing from Jett RBN (lat. 38°12'56" N., long. 84°49'32" W.), extending from the 8.5-mile-radius area to 8.5 miles northeast of the RBN; within 3 miles each side of Frankfort VOR 063° radial, extending from the 8.5-mile-radius area to 8.5 miles northeast of Jett RBN; within 3 miles each side of Frankfort VOR 240° radial, extending from the 8.5-mile-radius area to 8.5 miles southwest of the VOR.

The proposed alterations and designation are required to provide controlled airspace protection for IFR operations in the Lexington and Frankfort terminals in conformance with Terminal Instrument Procedures (TERPs) and current airspace criteria.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 7, 1971.

W. B. RUCKER,

Acting Director, Southern Region.

[FR Doc.71-8408 Filed 6-15-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-107]

CONTROL ZONE AND TRANSITION AREAS

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Owensboro, Ky., control zone and transition area and the Madisonville and Henderson, Ky., transition areas.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Owensboro control zone, described in § 71.171 (36 F.R. 2055), would be redesignated as:

Within a 5-mile radius of Owensboro-Davless County Airport (lat. 37°44'31" N., long. 87°09'57" W.); within 2.5 miles each side of Owensboro VOR 181° radial, extending from the 5-mile-radius zone to the Masonville RBN (lat. 37°39'35" N., long. 87°10'17" W.); within 3 miles each side of Owensboro VOR 222° radial, extending from the 5-mile-radius zone to 8.5 miles southwest of the VOR; within 3 miles each side of Owensboro VOR 352° radial, extending from the 5-mile-radius zone to 8.5 miles north of the VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

The Owensboro, Madisonville, and Henderson transition areas, described in § 71.181 (36 F.R. 2140), would be redesignated as follows:

OWENSBORO, KY.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Owensboro-Davless County Airport (lat. 37°44'31" N., long. 87°09'57" W.); within 3.5 miles each side of Owensboro VOR 181° radial, extending from the 9-mile-radius area to 8.5 miles south of Masonville RBN (lat. 37°39'35" N., long. 87°10'17" W.).

MADISONVILLE, KY.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Madisonville Municipal Airport (lat. 37°21'00" N., long. 87°24'00" W.); within 1.5 miles each side of Central City VOR 256° radial, extending from the 5.5-mile-radius area to the VOR.

HENDERSON, KY.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Henderson Airport (lat. 37°48'27" N., long. 87°41'00" W.); within 1.5 miles each side of Evansville, Ind., VORTAC 152° radial, extending from the 5.5-mile-radius area to the VORTAC; excluding the portion within Evansville, Ind., transition area.

The proposed alterations are required to provide controlled airspace protection for IFR operations in the Owensboro, Madisonville, and Henderson terminals in conformance with Terminal Instrument Procedures (TERPs) and current airspace criteria.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 7, 1971.

W. B. RUCKER,

Acting Director, Southern Region.

[FR Doc.71-8409 Filed 6-15-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SW-26]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot-transition area at Columbus, Tex.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Air Traffic Division. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

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

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

COLUMBUS, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Columbus Airport (latitude 29°43'10" N., longitude 96°33'50" W.).

The proposed transition area will provide controlled airspace for aircraft executing approach/departure procedures proposed at Columbus Airport.

This amendment is proposed under the authority of § 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of § 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on June 7, 1971.

R. V. REYNOLDS,

Acting Director, Southwest Region.

[FR Doc.71-8410 Filed 6-15-71;8:46 am]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 741]

REQUIREMENTS FOR INSURANCE

Minimum Surety Bond Requirements

- Notice is hereby given that the Administrator of the National Credit Union Administration, pursuant to the authority conferred by section 209, 85 Stat. 1015, Public Law 91-468, proposes to revise § 741.1 (12 CFR 741.1) as set forth below.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed revision to the Administrator, National Credit Union Administration, 1325 K Street NW., Washington, DC 20456, to be received not later than July 15, 1971.

HERMAN NICKERSON, Jr.,
Administrator.

JUNE 10, 1971.

§ 741.1 Minimum surety bond requirements.

Any credit union which makes application for insurance of its accounts pur-

suant to title II of the Federal Credit Union Act must possess the minimum surety bond coverage stated in § 701.20 of this chapter in order for its application for such insurance to be approved and for such insurance coverage to continue. A federally insured credit union whose surety bond coverage is terminated shall mail notice of such termination to the Federal Regional Director not less than thirty-five (35) days prior to the effective date of such termination.

[FR Doc. 71-8418 Filed 6-15-71; 8:46 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management OUTER CONTINENTAL SHELF OIL AND GAS LEASING Tentative Schedule

Pursuant to the Outer Continental Shelf Lands Act (67 Stat. 462; 43 U.S.C. 1331 et seq.) and the regulations issued thereunder (43 CFR 3301.2), notice is hereby given that a tentative 5-year Outer Continental Shelf oil and gas lease sale schedule has been prepared by the Department of the Interior.

Attention is directed to a general oil and gas lease sale offshore of eastern Louisiana indicated on the schedule for December 1971. This sale was originally planned for February 1972 and has been advanced to December 1971, in accordance with the President's June 4, 1971, energy message to Congress.

This schedule is intended to give notice to all interested parties of possible leasing actions. All sales included in the schedule are subject to modification or elimination.

The tentative sales schedule is based on further development in the Gulf of Mexico through annual general lease sales. A possible new area of leasing (offshore Alabama, Mississippi, and Florida) is listed for 1973.

In addition, public hearings on the possible opening of two new OCS leasing provinces, the Gulf of Alaska and the Atlantic, are shown.

Copies of the tentative leasing schedule may be obtained from (1) the Director, Bureau of Land Management (Attention: 310), Washington, D.C. 20240; or from (2) the Manager, New Orleans Outer Continental Shelf Office, Bureau of Land Management, Post Office Box 53226, New Orleans, LA 70150.

Interested parties may submit comments concerning the tentative schedule to the Director, Bureau of Land Management, (Attention: 310), Washington, D.C. 20240.

WILLIAM T. PECORA,
*Acting Secretary
of the Interior.*

JUNE 10, 1971.

[FR Doc.71-8400 Filed 6-15-71;8:45 am]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration BUCKEYE POWER, INC.

Draft Environmental Statement

Notice is hereby given that the Rural Electrification Administration has pre-

pared a draft environmental statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with loan applications from the member systems of Buckeye Power, Inc., of Columbus, Ohio. These loan applications, together with funds from other sources, are to finance the construction of a 615,000 kw. electrical generating unit as an addition to the generation station near Brilliant, Ohio.

Additional information may be secured on request submitted to Mr. James N. Myers, Assistant Administrator, Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Statement have been sent to various Federal, State, and local agencies as outlined in the April 23, 1971, Guidelines of the Council on Environmental Quality. The Draft Environmental Statement may be examined during regular business hours at the offices of REA, in the South Agriculture Building, 12th and Independence Avenue SW., Washington, DC, Room 4322, or at the office of Buckeye Power, Inc., Columbus, Ohio.

Comments concerning the environmental effects of the construction proposed under the loan applications should be addressed to Mr. Myers, at the address given above. Comments must be received within 60 days of the date of publication of this notice (30 days in the case of agencies receiving a specific request for comment) to be considered in connection with the loan applications.

Any loans which may be made pursuant to these applications will be subject to, and release of funds thereunder contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and after compliance with environmental statement procedures required by the National Environmental Policy Act.

Dated in Washington, D.C. this 10th day of June 1971.

DAVID A. HAMIL,
Administrator,

Rural Electrification Administration.

[FR Doc.71-8417 Filed 6-15-71;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration), formerly Part 5, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15953, October 30, 1968 as amended by 35 F.R. 12030, July 25, 1970), is hereby amended with regard to section 3-B, formerly 5-B, Organization, as follows:

In lieu of the section *Division of Alcohol Abuse and Alcoholism (3J53)*, insert the following:

National Institute on Alcohol Abuse and Alcoholism (3J53). (1) Develops and establishes national policies and goals regarding the prevention, control, and treatment of alcohol abuse and alcoholism, and serves as a focal point for all DHEW activities in the field of alcoholism; (2) plans and develops programs of research, training, community services, and public education for prevention and control of alcoholism; (3) conducts and supports research on the biological, environmental, and social causes of alcohol abuse and alcoholism; (4) supports the training of professional and paraprofessional personnel (including recovered alcoholics) in alcoholism prevention, treatment, and control; (5) supports the development of community facilities and services for alcoholics and other problem drinkers, and supports State efforts in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism; (6) stimulates the communication of appropriate information and educational material through conferences, committees, and publications, and use of public media; (7) collaborates with, provides assistance to, and encourages other Federal agencies, national, State, and local organizations, hospitals, and voluntary groups to facilitate and extend programs for the prevention of alcoholism and for the care, treatment, and rehabilitation of alcoholics; (8) fosters programs in State and local government and in private industry for the prevention of alcoholism and for the treatment and rehabilitation of employees with drinking problems and assists the Civil Service

Commission in developing and maintaining such programs for Federal civilian employees; and (9) coordinates and stimulates statistical and biometric programs necessary for epidemiologic and longitudinal studies of alcohol usage and alcoholism.

Division of Prevention (3J5303). (1) Plans, develops, and supports programs of training and public education for the prevention and control of alcoholism in such areas as school curricula and community education; (2) collaborates with and assists Federal, State, and local agencies and nonprofit organizations in the development of such prevention and control programs; and (3) stimulates and supports the communications of appropriate information and educational material through conferences, committees, publications, and other means.

Division of State and Community Assistance Programs (3J5305). (1) Plans and administers programs for the support of nationwide services for the prevention of alcoholism and the treatment and rehabilitation of alcoholics, including: (a) The development of community facilities and services for alcoholics and other problem drinkers; (b) State efforts in planning, establishing, maintaining, coordinating, and evaluating projects for the development of more effective prevention, treatment, and rehabilitation programs to deal with alcohol abuse and alcoholism; (2) develops the policy and regulatory framework for comprehensive State plans for the establishment and delivery of alcoholism services, and reviews and approves individual plans; and (3) collaborates with, provides assistance to, and encourages national, State, and local organizations, State and local governments, hospitals, and voluntary groups to facilitate and extend programs for the care, treatment, and rehabilitation of alcoholics.

Division of Special Treatment and Rehabilitation Programs (3J5307). (1) Plans and administers innovative programs directed toward the solution of alcohol abuse and alcoholism problems among special groups, such as Federal, State, and local government employees, employees in private industry, Indians, public intoxicants, and drinking drivers; (2) develops and supports the training of professional and paraprofessional personnel to provide services to special groups afflicted with alcoholism; and (3) coordinates and integrates these programs with other pertinent components of the NIAAA.

Division of Research (3J5309). (1) Plans and develops programs of basic and clinical research on the multiple determinants of alcoholism and on the treatment and rehabilitation of alcoholics and alcohol abusers; (2) stimulates, supports, and conducts biological, pharmacological, behavioral, and sociological research in alcoholism through grants and contracts and an intramural research program in these areas; (3) conducts and supports programs of training to increase the number and improve the utilization of research manpower; (4) coordinates and stimulates statistical

and biometric programs necessary for epidemiologic and longitudinal studies of problems of alcohol usage and alcoholics; (5) supports and conducts conferences, workshops, and symposia, and develops and stimulates publications to disseminate research findings and to interpret implications of these data for broad public information purposes; and (6) conducts periodic evaluation of programs to determine areas requiring change and further development.

Dated: May 11, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-8439 Filed 6-15-71;8:48 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-71-107]

ACTING ASSISTANT REGIONAL ADMINISTRATOR FOR RENEWAL ASSISTANCE REGION II (NEW YORK)

Designation

The officials appointed to the following listed positions in the New York Regional Office are hereby designated to serve as Acting Assistant Regional Administrator for Renewal Assistance, New York Regional Office, during the absence of the Assistant Regional Administrator for Renewal Assistance, with all the powers, functions, and duties redelegated or assigned to the Assistant Regional Administration for Renewal Assistance: *Provided*, That no official is authorized to serve as Acting Assistant Regional Administrator for Renewal Assistance, unless all other officials whose titles precede his in this designation are unable to act by reason of absence:

1. Renewal Management Specialist (Margaret M. Myerson).
2. Renewal Management Specialist (Dominick P. Felitti).
3. Rehabilitation and Codes Specialists.

This designation supersedes designation effective July 27, 1970 (35 F.R. 18009, November 24, 1970).

(Delegation and redelegation of authority to take final action with respect to certain positions and employees effective as of May 4, 1969)

Effective as of March 2, 1971.

S. WILLIAM GREEN,
Regional Administrator, Region II.
[FR Doc.71-8461 Filed 6-15-71;8:50 am]

[Docket No. D-71-108]

CERTAIN HUD EMPLOYEES IN REGION IV (ATLANTA)

Authority To Administer Oaths

Each of the following named employees in the Department of Housing and Urban Development, Region IV (Atlanta), is hereby authorized to administer oaths under section 811(a) of the

Civil Rights Act of 1968, Public Law 90-284, 42 U.S.C. 3611(a), and to verify complaints filed under the Civil Rights Act of 1968:

1. Augustus L. Clay.
2. Grady J. Norris.
3. Donald G. Webster.
4. James D. Yorker.
5. Donald D. Nicholl.
6. Randolph McMillan.
7. Robert S. Friant.
8. Dana E. McDonald.
9. Edwin P. W. Driskell.
10. Robert A. Willis.
11. Charles J. Mayson.
12. Joe L. Tucker.

Each of the following named employees of the Birmingham Area Office, Department of Housing and Urban Development, is hereby authorized to administer oaths under section 811(a) for the purpose of receiving verified complaints filed under the Civil Rights Act of 1968, 42 U.S.C. 3611(a):

1. Heager L. Hill.
2. Leland C. Rushin.
3. Jo Ann Webb.

Revocation. The redelegation of authority to certain HUD employees in Region III (Atlanta), published in 35 F.R. 1023-24, January 24, 1970, is hereby revoked as of the date of publication of this document in the FEDERAL REGISTER.

(Redelegation of authority by Regional Administrator effective June 5, 1970 (35 F.R. 8765, June 5, 1970))

Effective Date. This redelegation shall be effective as of November 1, 1970.

ALBERT L. THOMPSON,
Assistant Regional Administrator for Equal Opportunity,
Region IV (Atlanta).

[FR Doc.71-8462 Filed 6-15-71;8:50 am]

[Docket No. D-71-109]

ACTING DEPUTY REGIONAL ADMINISTRATOR REGION VIII (DENVER)

Designation and Delegation of Authority

Each of the officials appointed to the following positions is designated to serve as Acting Deputy Regional Administrator during the absence of, or vacancy in the position of, the Deputy Regional Administrator, with all the powers, functions, and duties redelegated or assigned to the Deputy Regional Administrator: *Provided*, That no official is authorized to serve as Acting Regional Administrator unless all officials listed before him in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Robert F. Mello, ARA for Administration.
2. Robert J. Matuchek, Special Assistant to Regional Administrator.

(Delegation and redelegation of authority to take final action with respect to certain positions and employees effective as of May 4, 1969)

Effective date: This designation and delegation shall be effective as of March 8, 1971.

ROBERT C. ROSENHEIM,
Regional Administrator.

[FR Doc.71-8463 Filed 6-15-71;8:50 am]

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board
[Docket No. SA-422]

AIRCRAFT ACCIDENT OCCURRING NEAR HUNTINGTON, W. VA.

Notice of Investigation Hearing

In the matter of investigation of accident involving Southern Airways, Inc., DC-9, N97S, at Huntington, W. Va., on November 14, 1970.

Notice is hereby given that the Accident Investigation Hearing on the above matter will reconvene commencing at 9:30 a.m., local time, on June 23, 1971, in Room 2260, Nassif Building, 7th and D Street SW., Washington, D.C.

[SEAL] RICHARD G. RODRIGUEZ,
Senior Hearing Officer.

[FR Doc.71-8449 Filed 6-15-71;8:49 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22397; Order 71-6-64]

EASTERN AIR LINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of June 1971.

By tariff revisions filed May 14, and marked to become effective June 13, 1971, Eastern Air Lines, Inc. (Eastern), proposes to become a participant in Rule No. 56(B)(12).¹ This rule provides that shipments of dogs must be prepaid, or that collect charges for such shipments must be guaranteed in writing by the shipper. This rule is currently in effect for certain other carriers.

Rule No. 56 is involved with other provisions pertaining to c.o.d. shipments. Specifically, Rule 66(B)(1) on c.o.d. shipments provides that any shipment requiring prepayment or the guarantee in writing of transportation charges pursuant to Rule No. 56 (as now proposed by Eastern) will not be accorded c.o.d. service.

No complaints have been received against Eastern's proposal.

In support of its filing Eastern asserts that its airport offices have experienced numerous incidents where dogs shipped collect are not claimed at destination. Eastern maintains that the proposed provisions will prevent future such inci-

dents. Eastern offers no reasons why c.o.d. service should be denied to dog shippers, which would be the direct result of the tariff filing.

By the adoption of this rule, operating in conjunction with Rule No. 66(B)(1), Eastern would preclude c.o.d. service for shipments of dogs. The use of c.o.d. service has become an essential method of merchandising for certain shippers and the discontinuance of such service may have a detrimental effect upon the shippers affected.

The requirement of prepayment or guarantee of payment for certain classes of shipments as set forth in Rule No. 56 may not be unreasonable per se, when considered alone; however, it is not apparent why the denial of c.o.d. service should be tied to the prepayment requirement. The Board notes that the carriers' c.o.d. tariff rules contain various provisions to protect them when providing c.o.d. service.² In these circumstances, and recognizing that Eastern is not first carrier to propose Rule No. 56(B)(12), the Board will suspend Eastern's proposal.

Upon consideration of the foregoing and all other relevant factors, the Board finds that the proposed provisions requiring prepayment or guarantee of transportation charges for shipments of dogs in Rule No. 56(B)(12), may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. In view of the effect of Rule No. 56(B)(12), when considered in conjunction with Rule No. 66(B)(1), the Board will suspend Eastern's proposed adoption of Rule No. 56(B)(12) pending investigation. Rule 66(B)(1) as well as Rule 56(B)(12) in effect for other carriers is currently under investigation in Docket 22397 and the investigation of Eastern's proposed adoption of Rule 56(B)(12) will be consolidated therein.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. Pending hearing and decision by the Board, the provision reading "EA" in Rule No. 56(B)(12) on 18th Revised Page 22-B of Tariff CAB No. 96 issued by Airline Tariff Publishers, Inc., Agent, is suspended and its use deferred to and including September 10, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

2. Eastern's proposed rule be added to the investigation instituted in Docket 22397; and

² Rule No. 66, regarding c.o.d. shipments, contains additional provisions to the effect that credit will not be extended on the amount of c.o.d.; that the amount of c.o.d. is payable in cash; that no privilege of examination will be given prior to the collection thereof; that no partial collection will be made; and that no partial delivery of c.o.d. shipments will be made unless the full amount of the c.o.d. has been collected.

3. Copies of this order shall be served upon Eastern Air Lines, Inc. and upon all other parties of record in Docket 22397.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8454 Filed 6-15-71;8:50 am]

[Docket No. 23331; Order 71-6-44]

EXECUTIVE AIRLINES, INC.

Order To Show Cause Regarding Service Mail Rates

Issued under delegated authority
June 8, 1971.

The Postmaster General filed a notice of intent April 27, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above captioned air taxi operator, a final service mail rate of \$1.48 per great circle aircraft mile for the transportation of mail by aircraft between Newark, N.J. and Pittsburgh, Pa., based on five round trips per week.

No protest or objection was filed against the proposed services during the time for filing such objections. The Postmaster General states that the Department and the carrier agree that the above rate is a fair and reasonable rate of compensation for the proposed services. The Postmaster General believes these services will meet postal needs in the market. He states the air taxi plans to initiate mail service with Hansa Jet aircraft.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order¹ to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Executive Airlines, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be \$1.48 per great circle aircraft mile between Newark, N.J. and Pittsburgh, Pa., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16 (f),

¹ As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

¹ Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 96.

It is ordered, That:

1. Executive Airlines, Inc., the Postmaster General, Allegheny Airlines, Inc., Transworld Airlines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Executive Airlines, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served on Executive Airlines, Inc., the Postmaster General, Allegheny Airlines, Inc., Trans World Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8455 Filed 6-15-71;8:50 am]

[Dockets Nos. 19917, 21810; Order 71-6-55]

**SEDALIA, MARSHALL, BOONVILLE
STAGE LINE, INC.**

**Order Amending Final Service Mail
Rate**

Issued under delegated authority
June 9, 1971.

A final service mail rate of 49.5 cents per great circle aircraft mile established by Order 71-3-187, March 30, 1971, in Dockets 19917 and 21810 is currently in effect for Sedalia, Marshall, Boonville Stage Line, Inc., operating under 14 CFR Part 298. This rate is based on five round trips per week between Independence and Wichita, via Fort Scott, Kans.

By petition filed April 29, 1971, and amended on May 7, 1971, the Postmaster

General stated that the current rate of 49.5 cents per great circle mile is based on round trip miles of 396 which is in error. The correct round trip mileage is 434 miles which produces a rate of 45.17 cents that the Postmaster General states is the proper final service mail rate.

Upon consideration of the petition and other matters officially noticed, Order 71-3-187 will be amended to establish the correct rate.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, the Board's regulations, 14 CFR Part 302, 14 CFR Part 298, and the authority duly delegated by the Board in its Organization Regulations, 14 CFR 385.16(g),

It is ordered, That:

1. The fair and reasonable final service mail rate to be paid on and after March 1, 1971, to Sedalia, Marshall, Boonville Stage Line, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 45.17 cents per great circle aircraft mile between Independence and Wichita, via Fort Scott, Kans., based on five round trips per week flown with Piper PA-23 aircraft;

2. The final service mail rate here fixed and determined is to be paid in its entirety by the Postmaster General;

3. The service mail rate here fixed and determined is in lieu of that set forth in Order 71-3-187, March 30, 1971;

4. This order shall be served on Sedalia, Marshall, Boonville Stage Line, Inc., and the Postmaster General.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed, or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8456 Filed 6-15-71;8:50 am]

[Docket No. 22628; Order 71-6-56]

**INTERNATIONAL AIR TRANSPORT
ASSOCIATION**

Order Regarding Fare Matters

Issued under delegated authority
June 9, 1971.

An agreement has been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conferences 1-2 and 1-2-3 of the International Air Transport Association (IATA) and adopted by mail vote. The

agreement has been assigned the above-designated CAB agreement number.

The agreement amends IATA resolutions recently approved by the Board¹ as agreed upon at the 1970 Worldwide Passenger Fare Conference held in Honolulu, in that it would permit the combinability of normal fares in conjunction with excursion fares and that the stopover points covered by such normal fares shall not be counted for the purposes of determining the number of permissible stopovers under the excursion fares' rules. As presently exists, stopovers resulting from the combination of normal fares with excursion fares are included in the number of permissible stopovers under the excursion fares' rules.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that agreement CAB 22472, JT12(Mail 769)070d, JT123(Mail 769)071d, and JT123(Mail 667)071d is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That:

Action on agreement CAB 22285 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8457 Filed 6-15-71;8:50 am]

**COMMISSION ON RAILROAD
RETIREMENT**

**STUDY OF RAILROAD RETIREMENT
SYSTEM**

Invitation To Submit Public Views

The Commission on Railroad Retirement was established by Public Law 91-377 to "conduct a study of the railroad retirement system and its financing for the purpose of recommending to the Congress on or before July 1, 1971, changes in such system to provide adequate levels of benefits thereunder on an actuarially sound basis." (Legislation to extend the reporting date is pending in the Congress.)

In carrying out its assigned task the Commission desires the views of all interested persons and organizations. The Commission therefore invites interested persons to submit statements of position in writing. It would be particularly helpful if written statements would follow the outline set forth below which covers five main topics: (1) The

¹ Order 71-3-87, Mar. 16, 1971.

basic concepts of the railroad retirement system; (2) benefits and costs; (3) present and future relationships between railroad retirement and social security; (4) government financial management of the system; and (5) system complexity.

The Commission will consider all written comments received by July 20, 1971. Further information may be obtained by writing or calling the Commission's Executive Director. Address: Commission on Railroad Retirement, 1111 20th Street NW., Washington, DC 20036. Phone: 202/382-2051.

MICHAEL S. MARCH,
Executive Director.

DESIRED OUTLINE FOR RESPONSES

Organizations or persons interested in providing views to the Commission, should if possible, use the following framework for organizing comments. A suggested list of topics and questions follows, but comments are not limited to these points if others seem relevant. It would be appreciated if comments or answers were grouped under the appropriate categories and points, ideally identified by number. This will assist the Commission in analyzing diverse views covering a wide range of topics. Comment in any detail which seems appropriate. Wherever possible, explain the reasoning underlying each comment or answer. Substantive analyses, historical documentation, and statistical data to support positions are especially welcomed.

I. BASIC CONCEPTS OF THE RAILROAD RETIREMENT SYSTEM

At the present time, the railroad retirement system coexists with many similar systems—social security as the basic system, private pension plans, etc.—many of which have developed since its origin. Given this situation:

A. Which of the following concepts should characterize the railroad retirement system:

1. Primarily a retirement system with benefits based chiefly on years of service and level of earnings—and largely for the workers?

2. Essentially a social insurance system emphasizing basic benefits weighted to recognize presumed social need—and covering a broad range of dependents?

3. Some other principles—or a combination of the staff retirement and social insurance concepts?

In describing your preferred option please be specific on (a) how the benefit levels for railroad workers and their dependents should compare with those under OASDI; (b) how coverage and benefits for railroad workers should be coordinated with social security; and (c) if you propose a combination, which benefits should be social insurance and which staff retirement.

B. To what extent should railroad retirement benefits correspond to the tax contributions of the worker? To worker-plus-employer contributions?

1. Should a worker or his estate be entitled to benefits at least equal to his own contributions plus interest?

2. What proportion of wages should be covered under the tax and benefit provisions of the system?

C. To what extent should benefits be vested? According to what length of service or other criteria?

D. Should the railroad retirement system rely on or leave room for company supplementary plans or for self-provision by the

individual through insurance, etc., to a greater or lesser extent than at present? How and to what extent?

II. BENEFITS AND COSTS

At present, under the provisions of Public Law 92-5 and Public Law 91-377, railroad employees pay 9.95 percent of all monthly compensation up to \$650 as a railroad retirement tax (including 0.60 percent for Medicare). This compares with 5.2 percent of covered earnings (up to \$7,800 per year) for those under social security. By 1987, railroad tax rates will rise to 10.8 percent and those for social security to 6.05 percent on a base of \$750 per month (\$9,000 annually for social security) as statutory increases in the social security tax base and rate take effect. The employers make matching contributions, and employers under the railroad retirement system pay the full cost of the supplemental annuities. Because of the financial interchange arrangement with social security, the 4.75 percent difference in tax rates represents approximately the net retained by railroad retirement. (The foregoing figures do not reflect the effects of pending legislation to increase social security tax rates or covered earnings).

As an example of the returns from both systems, the enclosed Table 1 compares, for different classes of beneficiaries, railroad retirement (or combined railroad retirement and social security) benefits with the benefits social security would have paid if the railroad employment had all been covered under it. The examples all assume that the worker began work at age 20, received maximum earnings creditable under railroad retirement, and terminated employment December 31, 1970. The table presents seven alternative patterns for the worker, his family, his work history, and causes of retirement (Item I. Railroad retirement benefits for the worker, his dependents, and any dual social security benefits are calculated, then combined into total family benefits (Item II). Total family benefits are also presented assuming that all his employment was under social security (Item III). Finally the two sets of benefits are compared by showing the ratio of railroad retirement to social security benefits (Item IV).

A. Do you consider the present level of railroad retirement benefits appropriate, given current costs of living, contribution levels and the composition of railroad retirees' families? If not, by how much should they be increased?

B. Have recent benefit increases taken account of changes in cost of living, living standards, and wage levels?

1. Is the present system of raising benefits satisfactory, or should others—e.g., automatic escalation—be explored? If so, describe the kind of escalation formula you would use, including the index or indicator to which you would gear it.

C. Are present eligibility requirements satisfactory? If not, are there any groups for which it is particularly important that eligibility requirements be adjusted, and what adjustments should be made?

D. Do you favor a joint-and-survivor option, in which a worker may elect to have his retirement benefit actuarially reduced to provide a larger benefit for his widow?

E. Do you regard the present relationship in the railroad retirement system between retirement and survivorship benefit satisfactory? What priority should these two groups receive for future changes?

F. If railroad retirement benefits should be raised, should taxes be raised also? If so, why, and by how much?

1. How should any future tax changes be accomplished: By changes in the tax rate, by raising the covered wage base, or some combination of these?

2. Would you continue the present 50/50 employer/employee cost sharing to pay for any increases in benefits?

3. Is there some limit beyond which railroad retirement taxes on workers and/or employers should not be raised? What is it?

G. Do present railroad retirement benefits bear an appropriate relationship to social security benefits?

H. Are there inequities among groups of beneficiaries within the railroad retirement system with regard to the benefit levels provided? With respect to entitlement requirements?

I. Are there inequities between railroad retirement and other similar systems regarding entitlement requirements? With respect to benefits provided?

J. Are there other anomalies or inequities regarding the railroad retirement system which ought to be considered by the Commission?

K. Do you believe that any benefit levels should be reduced or eligibility requirements tightened to offset higher priority improvements? To cover an actuarial deficit?

III. PRESENT AND FUTURE RELATIONSHIP BETWEEN RAILROAD RETIREMENT AND SOCIAL SECURITY

At present the railroad retirement system is intertwined with the social security system with respect to benefits and financing, but the provisions of the two systems are not fully coordinated. For example, because of the existence of a separate railroad system, some persons receiving dual benefits obtain higher combined payments than are possible from a full career in either system, the extra costs of which are borne largely by the railroad retirement system through the financial interchange provisions. On a broader plane, Public Law 91-377 directs the Commission to consider restructuring benefits of persons now covered by railroad retirement, and to explore " * * * the relationship between social security and railroad retirement in the areas of benefits, tax rates, and tax base including, without limitation, the desirability and feasibility of a merger of the two systems * * *." Among the many possible options would be (1) restructuring of OASDI and railroad retirement, with the latter converted to a supplementary payment system or (2) more complete integration of railroad retirement with OASDI to eliminate dual benefits and other anomalies.

A. Do you support the present arrangement which produces dual benefits? If not, what alternatives do you favor?

B. Is your organization satisfied with the present structural and financial arrangements between railroad retirement and social security?

C. If you believe major changes in structure or a merger are desirable, what options do you believe the Commission should consider? Please outline your preferred option in as much detail as you can, both with respect to the structure and levels of benefits and their financing.

D. If you do not support a full restructuring or merger, are there any specific lesser changes which are now desirable?

IV. GOVERNMENT FINANCIAL MANAGEMENT OF THE SYSTEM

Through the years the railroad retirement system followed the principle of self-support on an actuarial basis through contributions shared equally by employees and employers,

except for the recent supplemental annuity which is funded entirely by the employers. The system now has accrued reserves of approximately \$5.4 billion; however, given present tax sources, the Chairman of the Railroad Retirement Board has estimated that if the recent 15 percent and proposed 10 percent benefit increases were to be made permanent, this sum would be completely depleted in about 20 years. The reserves are, by law, invested in Treasury obligations; there has been much debate over the rate of interest which they should earn.

A. What principles or criteria, actuarial or other, should guide the financing of railroad retirement system?

1. With regard to the actuarial status of the system, please describe explicitly what funding basis you deem adequate to produce actuarial soundness.

B. Do you consider the present investment policies satisfactory? If not, how should they be changed?

1. With respect to the media in which the reserves are invested?

2. With respect to the basis for determining the interest rate?

3. Otherwise?

C. What financial responsibility for this system is appropriate for the Federal Government? If you believe there are valid grounds for a special Federal contribution, please state and document them as fully as possible.

D. What are your views on the present financial relationship between the railroad retirement fund and that of OASDI? Is there at present an unjustifiable subsidy flowing in either direction?

E. Are the arrangements for military service credits and contributions by the Federal Government to the railroad retirement account sound?

F. Is the present Federal income tax treatment of the workers' contributions (included in taxable income) and benefits paid to the worker or his dependents (excluded from taxable income) satisfactory?

V. SYSTEM COMPLEXITY

The railroad system seems to be one of the most complex pension systems in the United States. Benefit computations, wage records, and eligibility determinations are very complicated, as are the financial interchange computations.

A. Do you feel that this imposes undue burdens on employers or recipients in time, effort, and possibly foregone benefits?

B. Are there steps possible which could reduce administrative costs without seriously affecting the workers and beneficiaries?

C. Would you favor an effort to simplify the system and reduce administrative costs by eliminating alternative computations—even if some future beneficiaries would receive somewhat reduced benefits as a result?

D. How well do you believe the present system has served its constituents? If improvements are in order, what steps are desirable?

VI. COMMENTS ON TOPICS NOT COVERED IN I-V, ABOVE

Please group under appropriate subject headings.

VII. ADDITIONAL INFORMATION

Please provide the name, address, and telephone number of a respondent or expert who can provide additional information on your answers to the above questions.

TABLE 1

Illustrative amounts of benefits payable to railroad employees under the railroad retirement and social security systems and a comparison of what would have been paid under social security if that program had covered railroad employment¹

Item	Case No:						
	1	2	3	4	5	6	7
I. Basic characteristics of employee and his family:							
A. Cause of retirement.....	Age	Age	P&T dis.	P&T dis.	P&T dis.	* Occ. dis.	* Occ. dis.
B. Age of employee at retirement.....	65	65	70	70	35	75	65
C. Age of wife at time of employee's retirement.....	63	63	48	48	32	63	63
D. Two children present at time of retirement.....	No	No	Yes	Yes	Yes	Yes	Yes
II. Computations relating to railroad employee under present program:							
A. Years of railroad service.....	*34	29	29	29	15	20	20
1. Before social security.....	No	Yes	No	Yes	No	No	No
B. Years of social security employment.....		14	10	10		4	14
C. Average compensation for RR annuity.....	\$375.00	\$334.00	\$423.00	\$320.00	\$405.00	\$335.00	\$428.00
D. Average wage for SS benefit.....		425.00	65.00	323.00			52.00
E. Employee benefits:							
1. Railroad retirement annuity:							
a. Payable until youngest child reaches age 18.....			433.29	178.85	479.69	354.35	255.75
b. Payable until employee reaches age 62 after youngest child reaches age 18.....			555.75	178.85	218.20	354.35	255.75
c. Payable between ages 62 and 65.....			214.15	178.85	218.20	354.35	219.85
d. Payable after age 65.....	*423.65	219.15	214.15	178.85	218.20	*462.75	219.85
2. Family dual social security benefit:							
a. Payable until youngest child reaches age 18.....				206.00			
b. Payable until employee reaches age 62 after youngest child reaches age 18.....				173.29			
c. Payable between ages 62 and 65.....			71.29	173.29			
d. Payable after age 65.....		294.79	71.29	173.29			82.29
F. Spouse annuity for SS and RR combined payable after employee reaches age 65:							
1. Spouse has no dual social security benefit on own wages.....	*149.85	155.75	159.85	159.25	134.65	*149.85	143.65
2. Spouse has dual social security benefit of \$109.....	*219.85	263.75	155.35	176.65	177.75	*232.65	155.35
G. Total employee and spouse benefits from RR and SS combined:							
1. Payable until youngest child reaches age 18.....			433.29	474.85	479.69	354.35	255.75
2. Payable until employee reaches age 62 after youngest child reaches age 18.....			555.75	322.65	218.20	354.35	255.75
3. Payable between ages 62 and 65.....			315.25	322.65	218.20	354.35	219.85
4. Payable after age 65:							
a. Spouse has no SSA benefit on own earnings.....	*577.69	651.00	455.29	592.39	335.29	*543.69	408.70
b. Spouse has SSA benefit of \$109.....	*677.69	663.89	519.79	529.00	335.29	*634.89	518.49
II. Aged widow's benefit payable under RR and SS combined:							
1. Payable assuming widow has no SSA benefit on own earnings.....	192.29	174.70	192.29	174.70	213.69	159.89	159.89
2. Payable assuming widow has an SSA benefit of \$109 a month on own earnings.....	219.85	174.70	223.85	174.70	223.25	232.65	221.15
III. Benefits which would have been payable by SS if railroad employment had been covered:							
A. Employee and spouse combined (includes children):							
1. Payable until youngest child reaches age 18.....			313.89	313.89	423.89	(9)	(9)
2. Payable until employee reaches age 62 after youngest child reaches age 18.....			211.70	211.70	234.70	(9)	(9)
3. Payable between ages 62 and 65.....			211.70	211.70	234.70	149.89	149.89
4. Payable after age 65:							
a. Spouse has no SSA benefit on own earnings.....	309.00	309.00	309.00	309.00	322.89	214.29	214.29
b. Spouse has SSA benefit of \$109.....	311.70	311.70	311.70	311.70	334.70	219.89	219.89
B. Aged widows—total benefits:							
1. Payable assuming widow is not insured on own earnings.....	174.70	174.70	174.70	174.70	193.70	145.29	145.29
2. Payable assuming widow has an SSA benefit of \$109 a month on own earnings.....	174.70	174.70	174.70	174.70	193.70	145.29	145.29

See footnotes at end of table.

Item	Case No.:						
	1	2	3	4	5	6	7
IV. Ratio IIG to IIIA: ¹							
A. Employee and spouse combined:							
1. Payable until youngest child reaches age 18.....			1.10	1.21	1.10	(9)	(9)
2. Payable until employee reaches age 62 after youngest child reaches age 18.....			1.26	1.66	1.10	(9)	(9)
3. Payable between ages 62 and 65.....			1.49	1.66	1.10	2.52	1.71
4. Payable after age 65:							
a. Spouse has no SSA benefit on own earnings.....	01.93	2.17	1.52	1.67	1.10	02.54	2.18
b. Spouse has SSA benefit of \$100.....	02.17	2.13	1.64	1.70	1.19	02.64	2.15

SOURCE: Railroad Retirement Board in response to Commission request.

Abbreviations used in the table:

"P & T dis." (cases 3, 4, 5): permanently and totally disabled.

"Occ. dis." (cases 6, 7): occupationally disabled.

RR: railroad retirement.

SS: social security.

SSA: Social Security Administration.

¹ All cases assume that an employee started work at age 20 and has always earned the maximum credited under the railroad program whether this was earned under social security or railroad retirement. All calculations assume employment terminates on Dec. 31, 1970, and that ages are age on birthday in 1971. Benefit rates for social security include the 10-percent increase of Public Law 92-5; for railroad retirement, they assume that the 15-percent increase of Public Law 91-377 and the 10-percent increase of H.R. 6444 will be permanent. Compensation and benefit amounts are monthly rates.

² Assumed not to meet the definition of disability contained in the Social Security Act. For purposes of the widow's benefit, employee assumed to die after attaining age 65.

³ Rate payable Jan. 1, 1974, when spouse maximum of \$162.50 is effective.

⁴ Under the Social Security Act, the spouse would be eligible when she attains age 62. In the examples, it is assumed that the spouse does not apply for benefit until the employee attains age 65.

⁵ No benefit payable under social security.

⁶ Includes supplemental annuity.

⁷ Similar ratios can be developed for aged widows' benefits by dividing IIG by IIIB.

⁸ Wife's dual benefit based on the employee's earnings is included in section F below.

⁹ Maximum number of years creditable in 1970.

May 25, 1971.

[FR Doc.71-8438 Filed 6-15-71;8:48 am]

FEDERAL POWER COMMISSION

[Docket No. E-7632]

ILLINOIS POWER CO.

Notice of Proposed Change in Rate and Charge

JUNE 9, 1971.

Take notice that on May 20, 1971, Illinois Power Co. filed a change in its Rates Schedule No. 11. The change is dated June 15, 1971, and is in the form of an amendment to the Interconnection Agreement between Illinois Power Co. and Commonwealth Edison Co. The amendment (designated as No. 5) provides for an increase in the Demand Charge for Short Term Power of \$0.10 per kilowatt per week (from \$0.30 to \$0.40 per kilowatt per week). It also provides that the Demand Charge shall be the greater of (1) \$0.40 per kilowatt per week or (2) the cost per kilowatt to the supplying party of capacity purchased from other sources to the extent that such capacity is purchased in order to permit the reservation of such short-term power. In addition, it provides for a change in the reduction of weekly demand charges should the supplying party be unable to fulfill any part of its commitment from \$0.06 per kilowatt per day to one-sixth of the weekly demand charge states in (1) above per kilowatt of reduction for each day that such reduction is in effect, or, in the event that such reduction is occasioned by the reduction in the availability of the capacity purchased by the supplying party from other

systems in order to supply the short-term power, by the amount by which the charges to the supplying party are reduced under its agreement with such other systems.

The company stated that the changes were arrived at through negotiations and are mutually beneficial and reasonable in the light of current economic conditions.

Any person desiring to be heard or to make protest with respect to such change should on or before June 18, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The tender is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8424 Filed 6-15-71;8:47 am]

[Docket No. RP71-125]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Proposed Changes in FPC Gas Tariff

JUNE 10, 1971.

Take notice that on May 28, 1971, Natural Gas Pipeline Company of America (Natural) filed changes in its FPC

Gas Tariff to be effective as of July 1, 1971. The proposed tariff revisions would increase charges for jurisdictional sales and services by approximately \$58.8 million per annum based on operations for the 12-month period ended February 28, 1971, as adjusted.

Natural mentions certain principal reasons for the proposed changes in its tariff: (1) Need for an overall rate of return of 9 percent; (2) a proposed advance payment adjustment provision beyond that approved in the settlement agreement in Docket No. RP70-35; (3) the cost of new storage and gas supply pipeline facilities not yet certificated but necessary for the sales volumes the proposed rate increase filing was based; (4) additional charges by Michigan Wisconsin Pipe Line Co. for storage service to the company; (5) increases in transportation services performed to the company by Lonestar Gathering Co.; (6) increased book depreciation to 3.5 percent; (7) a decrease in sales volumes from that used in the settlement agreement in Docket No. RP70-35 due to curtailment of deliveries.

Natural proposes major revisions in its tariff form to establish a new service procedure and a related new rate structure, which involves a three-part rate for its major Rate Schedule DMQ-1. Natural has also proposed major revisions of its storage service under Rate Schedule S-1, and proposes other changes in its tariff sheets to supersede all of the presently effective Second Revised Volume No. 1.

Natural requests that the Commission waive the provisions of its regulations to the extent necessary for the purposes of accepting for filing, proposed tariff sheets incorporating the above-mentioned proposed advance payment adjustment provisions. If such waiver is not granted, Natural requests that the filing be considered as made without the subject provision, that the Commission accept for filing the tendered tariff sheets with the exception of those containing the proposed provision, and that the proposed advance payment adjustment provision be made the subject of an evidentiary proceeding.

Any person desiring to be heard or to make any protest with reference to this filing should on or before June 28, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The proposed changes are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8425 Filed 6-15-71;8:47 am]

[Docket No. RP71-124]

**TRANSCONTINENTAL GAS PIPE LINE
CORP.****Notice of Proposed Changes in Rates
and Charges**

JUNE 9, 1971.

Take notice that on May 14, 1971, Transcontinental Gas Pipe Line Corp. (Transco) tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1,¹ to become effective July 1, 1971. The proposed rate changes would increase charges for jurisdictional sales and services by approximately \$1.3 million annually.

Transco states that the revised tariff sheets relate solely to Transco's Rate Schedule GSS for underground storage service and provide only for a tracking of the rate increase to Transco from Consolidated Gas Supply Corp. (Con-Gas) of an identical storage service under the latter's Rate Schedule GSS. Con-Gas on December 17, 1970, filed with the Commission in Docket No. RP71-77 increases in its rates, including its Rate Schedule GSS. The Commission by its order issued January 29, 1971, suspended Con-Gas' rate increase until July 1, 1971. Transco requests that the proposed rate changes become effective, without suspension, on July 1, 1971, the same day as Con-Gas' rate increase is to be made effective.

Copies of the filing were served on Transco's 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 June 21, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make 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,
Acting Secretary.

[FR Doc.71-3426 Filed 6-15-71;8:47 am]

[Docket No. RP71-123]

**TRANSCONTINENTAL GAS PIPE LINE
CORP.****Notice of Proposed Changes in Rates
and Charges**

JUNE 9, 1971

Take notice that on May 14, 1971, Transcontinental Gas Pipe Line Corp.

¹ Sixth Revised Sheet No. 17H and Fourth Revised Sheet No. 17M.

(Transco) tendered for filing proposed changes in its FPC Gas Tariff Original Volume No. 1,¹ to become effective July 1, 1971. The proposed rate changes would decrease charges for jurisdictional sales and services by approximately \$829,883 annually.

Transco states that the revised tariff sheets contain a reduction in rate under Transco's Rate Schedule S-2 to reflect the rate reduction in Rate Schedule X-28 of Texas Eastern Transmission Corp. resulting from the Commission's approval on March 24, 1971, of the latter's rate settlement in Docket No. RP70-29 et al. Transco further states that it will flow through to its customers under Rate Schedule S-2 any refunds applicable to purchases under Texas Eastern's Rate Schedule X-28.

Copies of the filing were served on Transco's 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 June 21, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make 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,
Acting Secretary.

[FR Doc.71-3427 Filed 6-15-71;8:47 am]

[Dockets Nos. CP71-68 etc.]

COLUMBIA LNG CORP., ET AL.**Order Consolidating Applications and
Setting Date for Prehearing Confer-
ence**

JUNE 10, 1971.

Columbia LNG Corp., Docket No. CP71-68; Consolidated Gas Supply Corp., Docket No. CP71-153; Southern Energy Co., Dockets Nos. CP71-151, CP71-264; Southern Natural Gas Co., Docket No. CP71-276; Columbia LNG Corp., Consolidated System LNG Co., Docket No. CP71-289; Consolidated System LNG Co., CP71-290.

Southern Energy Co. (Southern Energy) filed on November 25, 1970, an application in Docket No. CP71-151 pursuant to section 3 of the Natural Gas Act for an order authorizing the importation of 500,000 MM B.t.u. per day of liquefied natural gas (LNG) from Algeria at

¹ Ninth Revised Sheet No. 280; 18th Revised Sheet No. 28R and 28th Revised Sheet No. 28P.

Savannah, Ga. The Commission, by order dated March 11, 1971, consolidated Southern Energy's section 3 application with similar applications of Columbia LNG Corp. (Columbia) in Docket No. CP71-68 and Consolidated Gas Supply Corp. (Consolidated) in Docket No. CP71-153 for hearing and decision. The Commission's order indicated that applications pursuant to section 7 of the Act would be forthcoming from the import applicants, and that such applications would be further consolidated with these proceedings when filed.

Southern Energy's section 7 application was filed in Docket No. CP71-264 on May 4, 1971, and Southern Natural Gas Co. filed a related section 7 application in Docket No. CP71-276 on May 19, 1971. The Commission, by order dated May 23, 1971, consolidated the proceedings in Dockets Nos. CP71-68 et al., to include the applications in Dockets Nos. CP71-264 and CP71-276.

Columbia LNG Corp. and Consolidated System LNG Co. filed a joint section 7 application in Docket No. CP71-289 on June 4, 1971. Consolidated System LNG Co. filed a related section 7 application in Docket No. CP71-290 on the same date. The due date for protests or petitions to intervene in both dockets is June 18, 1971.

As required by our prior orders of March 11, 1971, and May 23, 1971, the proceedings in Dockets Nos. CP71-68 et al., will be further consolidated to include the applications in Dockets Nos. CP71-289 and CP71-290 and all parties permitted to intervene in Dockets Nos. CP71-68 et al., will be deemed intervenors in the two applications consolidated herein. However, it is necessary and appropriate that a procedure be established to avoid undue delay and eliminate unnecessarily duplicative hearings on section 7 issues.

A prehearing conference will be convened on June 21, 1971, to determine (1) what new matters, if any, are raised by the filing of the applications in Dockets Nos. CP71-289 and CP71-290 which require further hearings, and (2) to what extent new petitioners to intervene should be afforded an opportunity to explore matters previously covered in Phase II of the proceedings. Any new petitioner who requests the reexploration of Phase II matters must demonstrate by reference to the record that its request would not be unnecessarily duplicative.

The Commission finds:

It is necessary and appropriate that the proceedings in the two above-named section 7 applications be consolidated with the proceedings in Columbia LNG Corp. et al., Dockets Nos. CP71-68 et al., for hearing and decision.

The Commission orders:

(A) The joint application of Columbia LNG Corp. and Consolidated System LNG Co. in Docket No. CP71-289 and the application of Consolidated System LNG Co. in Docket No. CP71-290 are consolidated with the proceedings in Columbia LNG Corp. et al., Docket Nos. CP71-68 et al., for hearing and disposition.

(B) All intervenors in the consolidated proceeding in Dockets Nos. CP71-68 et al., will be deemed intervenors in the applications filed in Dockets Nos. CP71-289 and CP71-290 which are consolidated herein pursuant to ordering paragraph (A) above.

(C) A prehearing conference to determine the matters of which further Phase II hearings may be required in Dockets Nos. CP71-289 and CP71-290 be convened in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC, on June 21, 1971, at 10 a.m., e.d.s.t. The Chief Examiner will designate an Examiner to preside at the prehearing conference on these matters, pursuant to the Commission's rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8428 Filed 6-15-71;8:47 am]

[Docket No. CI71-612]

GULF OIL CORP.

Order Setting Date for Formal Hearing, Prescribing Procedures and Permitting Interventions

JUNE 9, 1971.

On February 25, 1971, Gulf Oil Corp. (Gulf) filed an application pursuant to section 7(b) of the Natural Gas Act for the authority to abandon a percentage type sale of casinghead gas to Sid Richardson Gas Co., a division of Sid Richardson Carbon and Gasoline Co. (Sid Richardson), from certain Gulf leases in the Keystone Field Area, Winkler County, Tex. Notice of the application was issued on March 2, 1971, and published in the FEDERAL REGISTER on April 8, 1971, 36 F.R. 2579.

Gulf's casinghead gas, sold pursuant to a contract dated February 1, 1970, is presently processed at Keystone Plant, jointly owned by Sid Richardson, Kermit Oil Co. (Kermit), and Phillips Petroleum Co. (Phillips). Sid Richardson and Kermit sell their share (90.5514 percent) of the residue gas to Transwestern Pipeline Co. (Transwestern) under Perry R. Bass (Operator) et al., FPC Gas Rate Schedule No. 6, at a rate of 27.3190 cents per Mcf subject to refund in Docket No. RI70-1763. Phillips sells its portion (9.4486 percent) of the residue gas to El Paso Natural Gas Co. (El Paso) under Phillips Petroleum Co. FPC Gas Rate Schedule No. 10, at a rate of 19.8105 cents per Mcf subject to refund in Docket No. RI71-293. On October 30, 1970, pursuant to the contractual provision for a right of termination, Gulf gave notice of its termination of the contract effective June 1, 1971.

On February 15, 1971, Gulf entered into a percentage type contract covering the sale of casinghead gas to Cabot Corp. (Cabot) from the same Gulf leases in the Keystone area for which Gulf is requesting approval to abandon the sale of casinghead gas to Sid Richardson.

Gulf's contract with Cabot provides for an effective date of June 1, 1971, and provides also that Gulf shall not be obligated to deliver gas to Cabot until the effective date of an order issued by the Commission granting permission and approval for Gulf to abandon the sale of casinghead gas to Sid Richardson from these leases. All of the casinghead gas covered by the contract between Gulf and Cabot is to be processed at a plant owned by Cabot.

Gulf contends that the residue gas from processing the casinghead gas at Cabot's plant will also be sold for resale in interstate commerce to Transwestern pursuant to Cabot's (Operator) FPC Gas Rate Schedule No. 49, for which the current rate is 27.2 cents per Mcf subject to refund in Docket No. RI71-334. Gulf also asserts that since the contracts for the sale of gas to Transwestern from both Keystone plant and Cabot's plant contain the same pricing provisions, a change in the sale of casinghead gas by Gulf from Keystone plant to the Cabot plant would not reduce the volume of gas available nor increase the price that Transwestern is presently obligated to pay for the gas. Gulf further contends that the additional volume of gas to be made available at Cabot's plant would materially extend its economic life, while the decrease in gas processed at Keystone plant would have little effect on its economic life. Gulf concludes that the public convenience and necessity would be benefited as a result of the requested abandonment by the extension of the life of Cabot's plant and that greater volumes of gas, as a consequence, would be ultimately available to the interstate market.

On March 16, 1971, Cabot Corp. filed a petition for leave to intervene and requested to be admitted as a party to formal hearings, if held. On March 22, 1971, Perry R. Bass (Operator) et al., and Sid Richardson filed petitions to intervene and requested alternatively an order dismissing or denying Gulf's application without the necessity for a formal hearing or, should its first request be denied, an order requiring a formal hearing and allowing Bass and Sid Richardson to participate as parties. Sid Richardson opposes Gulf's application on the grounds (1) that a reduction of the volumetric throughput of Keystone plant would increase the unit cost of supplying each Mcf of gas delivered by the plant to residue purchasers; (2) that the residue gas to be sold under Gulf's contract with Cabot would be subject to a higher ceiling because it would be "new gas" rather than "old gas;" (3) that Gulf's stated reasons for abandoning its sales to Sid Richardson do not satisfy the public interest test; (4) that the alleged benefits from switching from a larger plant to a smaller plant are criteria impossible to apply; (5) that permitting Gulf to switch its sales from one plant to another would encourage many other producers to request similar authorizations; and (6) that any diminution in the total volume of residue available for sale from Key-

stone plant would affect both Transwestern and El Paso.

Phillips also filed a petition for leave to intervene on March 22, 1971, opposing Gulf's application for abandonment on the grounds (1) that discontinuing sales of casinghead gas by Gulf to Keystone plant would make it impossible for Phillips to continue to deliver the residue from processing to El Paso and (2) that Gulf has not suggested a way for an equivalent volume of gas to be made available to El Paso. On March 29, 1971, El Paso filed a petition for leave to intervene, opposing Gulf's application for abandonment on the ground that reduction of the quantity of gas available to Keystone plant for processing would cause a reduction in the quantity of gas available to El Paso through its purchases of residue gas.

The Commission finds:

(1) It is desirable and in the public interest to allow the companies which have filed petitions to intervene to become intervenors in this proceeding, in order that they may establish the facts and law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(2) The expeditious disposition of these proceedings will be effectuated by the submission by applicant of its direct testimony and exhibits on or before July 13, 1971.

The Commission orders:

(A) The companies referred to above which have filed petitions to intervene in these proceedings are hereby permitted to intervene subject to the Rules and Regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their petitions for leave to intervene; *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in these proceedings.

(B) The applicant shall serve copies of its filings upon each of the intervenors, unless such service has already been effected pursuant to Part 157 of the Commission's regulations under the Natural Gas Act.

(C) A formal hearing shall be convened in this proceeding entitled Gulf Oil Corp., Docket No. CI71-612, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, on August 3, 1971, at 10 a.m., e.d.s.t. The Chief Examiner shall designate an appropriate officer of the Commission to preside at this hearing pursuant to the Commission's rules of practice and procedure.

(D) Applicant and any supporting intervenor(s) shall file with the Commission and serve on all other parties and the Commission staff their proposed evidence comprising their case in chief,

including any prepared testimony and exhibits, on or before July 13, 1971.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8429 Filed 6-15-71;8:47 am]

[Dockets Nos. RP71-13, RP71-14]

EL PASO NATURAL GAS CO.

Notice of Motion for Modification of Order Permitting Tracking of Purchased Gas Increases

JUNE 8, 1971.

Take notice that El Paso Natural Gas Co. (El Paso), on June 2, 1971, filed in Docket No. RP71-13 a motion for modification of the Commission's order, issued October 30, 1970, insofar as it gives El Paso authority to file rate increases and decreases to reflect increases or decreases in the cost of purchased gas for its Southern Division System, computed in accordance with the provisions of that order and subject to the conditions contained therein.

The proposed modification would extend the expiration date of El Paso's tracking authority from December 31, 1971, to December 31, 1972, and would eliminate the 0.67 cents per Mcf limitation on aggregate net increases which El Paso may file to track increased purchased gas costs on its Southern Division System. El Paso states that subsequent to issuance of the Commission's order of October 30, 1970, several unforeseen events leading to potential future supplier rate increases, as fully described in its motion, have exposed El Paso to substantial increases in the cost of purchased gas for its Southern Division System. El Paso asserts that although the total amount of these increases cannot be accurately computed at the present time, as several of the supplier increases are contingent upon future occurrences, the amount of the increase in each instance is measureable. El Paso states that it cannot file to track these increases, as they may occur, under its current tracking authority because either the supplier increases involved represent amounts over and above the 0.67 cents per Mcf, which it is authorized to track, and/or the supplier increases will not become effective until after December 31, 1971.

Copies of the motion were served on all parties in Docket No. RP71-13, El Paso's Southern Division System distributor customers and interested State commissions.

Answers or comments relating to the petition may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before June 24, 1971.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8430 Filed 6-15-71;8:47 am]

[Docket No. CP71-234]

EL PASO NATURAL GAS CO.

Order Granting Alternative Request in Motion, Fixing Date of Hearing, and Permitting Intervention

JUNE 9, 1971.

On June 4, 1971, Arizona Public Service Co., El Paso Natural Gas Co., Pacific Gas and Electric Co., San Diego Gas & Electric Co., Southwest Gas Corp., Public Utilities Commission of the State of California, and Tucson Gas & Electric Co. (Movants) filed a joint motion for expeditious disposition of the application¹ of El Paso Natural Gas Co. (El Paso) filed March 29, 1971, in the above-entitled proceeding. El Paso's application seeks, pursuant to section 7(c) of the Natural Gas Act (Act), a certificate of public convenience and necessity authorizing the construction and operation of 14 miles of 30-inch loop pipeline and 11,800 horsepower of additional compression on its Southern Division System, plus permission to acquire and operate about 3.2 miles of 8 $\frac{3}{8}$ -inch field pipeline, at an estimated cost of \$5,481,413, in order to transport for Arizona Public Service Co. (APS) from the West Gomez Field in Pecos County, Tex., to the vicinity of Phoenix, Ariz., up to 32,000 Mcf per day of the 50 million Mcf of gas which APS has contracted to purchase from Forest Oil Corp. (Forest).

APS has agreed to pay within 2 years time the full purchase price of approximately \$14,513,830,² although the gas will be produced by Forest and transported by El Paso over an 8-year period. Of the \$14,513,830 (or 29.03 cents per Mcf), APS would pay Forest \$9,190,310 (or 18.38 cents per Mcf) and would pay the remaining sum of \$5,323,520 (or 10.65 cents per Mcf) to Coastal States Gas Producing Co. for releasing the gas from prior intrastate commitment.

As grounds for their motion for expedition Movants state that the contract between Forest and APS provides for cancellation unless the Commission has approved the proposal by June 30, 1971. In view of the contractual deadline and the important issues involved, Movants have already met informally and have agreed upon a stipulation of facts which they ask the Commission to accept as the record in this proceeding. They aver that they have waived the right to an oral hearing and ask that the Commission decide the proceeding on the basis

¹Notice of application was issued Apr. 6, 1971, and published in the FEDERAL REGISTER on Apr. 10, 1971, 36 FR. 6921.

²The price is subject to adjustments involving the prime bank rate on the date the first payment is due. The above figure is calculated on the assumption that the applicable prime rate is 5.5 percent.

of (1) the stipulation; (2) the submission of briefs under a 2-week briefing schedule to which they have also agreed; and (3) oral argument before the Commission. Alternatively, they ask that the matter be set for an immediate hearing before a Presiding Examiner so that they may offer the stipulation, waive oral hearing, and move for omission of the intermediate decision procedure.

The joint motion states that it is filed pursuant to § 1.32 of the Commission's rules of practice and procedure. However, that section pertains to waivers of hearings in situations where no party opposes the grant of the applications. Since in the instant proceeding some of the parties are apparently opposed to the grant of El Paso's application, § 1.32 does not apply. Moreover, El Paso's application was filed pursuant to section 7(c) of the Act which provides with respect to such applications that " * * * the Commission shall set the matter for hearing". Consequently, the Commission will hereinafter grant Movants' alternative prayer for an immediate hearing at which time the parties may make such motions and adopt such procedural devices as may be consistent with the Commission's rules of practice and procedure.

Timely petitions for leave to intervene were filed by Arizona Public Service Co. and Tucson Gas & Electric Co. Untimely petitions for leave to intervene were filed by Pacific Gas and Electric Co., San Diego Gas & Electric Co., and Southwest Gas Corp. The Public Utilities Commission of the State of California filed an untimely notice of intervention. The California Commission and those who filed late petitions ask that the filings be accepted despite their lateness because the petitioners did not fully recognize the adverse impact which the proposals in Docket No. CP71-234 might have upon their operations until the date for filing timely petitions had elapsed.

The Commission finds:

(1) It is appropriate in the administration of the Natural Gas Act to grant the alternative prayer in Movants' motion filed June 4, 1971, by providing for the immediate hearing requested therein.

(2) Good cause has been shown for accepting the late filing of the California Commission's notice of intervention and the late petitions to intervene filed by Pacific Gas and Electric Co., San Diego Gas & Electric Co., and Southwest Gas Corp.

(3) It is desirable to allow the companies which have filed petitions to intervene to become interveners in this proceeding in order that they may establish the facts and law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in

the administration of the Natural Gas Act.

(4) Based on the circumstances alleged in the motion for expedition, it is in the public interest to shorten the notice period provided for in § 1.19(b) of the Commission's rules of practice and procedure.

The Commission orders:

(A) The motion filed by Movants on June 4, 1971, in Docket No. CP71-234, is granted to the extent of providing for the immediate hearing alternatively requested therein.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held commencing June 17, 1971, at 10 a.m., e.d.s.t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D.C. 20426, concerning the issues raised by El Paso's application filed in this proceeding.

(C) The above-named petitioners are hereby permitted to become interveners in this proceeding subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; *And Provided, further*, That the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) A Presiding Examiner to be designated by the Chief Examiner for that purpose (see Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8431 Filed 6-15-71;8:47 am]

[Docket No. DA-147-Arizona U.S. Geological Survey]

LANDS WITHDRAWN IN POWER SITE RESERVES

Finding and Order

APRIL 27, 1971.

Lands withdrawn in Power Site Reserves Nos. 96, 188, and 590, Water Power Designation No. 4 and Projects Nos. 306 and 1062.

Application has been filed by the U.S. Geological Survey for revocation of Power Site Reserves Nos. 96, 188, and 590, and Water Power Designation No. 4 insofar as they pertain to certain lands in the Gila River Basin, Ariz., thereby requiring Commission consideration under section 24 of the Federal Power Act.

The Geological Survey recommended revocation of:

(1) Power Site Reserve No. 96, dated July 2, 1910, insofar as it pertains to

certain lands, aggregating about 277.17 acres, lying above the contemplated flow line of the proposed Walnut Grove reservoir on the Hassayampa River, a tributary of the Gila River.

(2) Power Site Reserve No. 188, dated June 16, 1911, insofar as it pertains to certain lands, aggregating about 7806.13 acres which were withdrawn for possible conduit location in connection with the proposed Walnut Grove and Box Canyon reservoirs on the Hassayampa River. Discharge records for the Hassayampa River at the Box Canyon dam site (located downstream from the Walnut Grove site) have been maintained since 1946. The average discharge for 22 years (1946-68) is 13.2 cfs. Power development at the Walnut Grove and Box Canyon sites is considered economically infeasible because of the small amount of water available, consequently, the lands withdrawn for conduit purposes should be released from power withdrawal.

The Geological Survey and Bureau of Reclamation reported that the Walnut Grove and Box Canyon reservoir sites should be retained in withdrawal status because the sites have potential water storage value.

(3) Power Site Reserve No. 590, dated March 21, 1917, insofar as it pertains to certain lands, aggregating about 280 acres, lying above the contemplated flow line of the proposed Christmas reservoir on the Gila River. According to the Geological Survey, the Corps of Engineers has proposed development of the Christmas site to a flow line elevation of 2,320 feet above mean sea level. Such a reservoir would extend upstream to the existing Coolidge Dam.

(4) Water Power Designation No. 4, dated February 1, 1917, insofar as it pertains to certain lands, including unsurveyed lands of undetermined acreage, lying beyond the limits of the existing San Carlos Reservoir and the proposed Christmas reservoir on the Gila River.

Many of the aforesaid lands along the Hassayampa River are also withdrawn pursuant to the filing of applications for preliminary permit for Projects Nos. 306 and 1062 which applications were withdrawn at the request of the applicants.

A notice of land withdrawal for Project No. 306 was given to the General Land Office (now Bureau of Land Management) by Commission letter dated December 15, 1924, which was amended by Commission letters dated January 15, 1925 (correction), December 4, 1925 (addition), and September 17, 1931 (interpretation). A notice of land withdrawal was not given for Project No. 1062 because it was identical to Project No. 306.

Projects Nos. 306 and 1062 proposed development of the Walnut Grove, and Box Canyon reservoir sites in conjunction with long conduits (totaling about 27 miles) to powerhouses. The withdrawals for Projects Nos. 306 and 1062 should be vacated insofar as they pertain to lands beyond the limits of the Walnut Grove and Box Canyon reservoir sites for the reasons cited in item 2 above.

All of the lands to be released from

power withdrawal lie beyond the limits of existing or potential hydroelectric projects.

The Commission finds:

The subject lands have no significant power value and it has no objection to:

(1) The revocation of Power Site Reserve No. 96 insofar as it pertains to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 10 N., R. 3 W.,
Sec. 2, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 10, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 13, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 15, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 22, lot 5.

(2) The revocation of Power Site Reserve No. 188 except that part pertaining to lands in sec. 23, T. 10 N., R. 3 W., and secs. 12 and 13, T. 8 N., R. 5 W., Gila and Salt River Meridian, Arizona.

(3) The revocation of Power Site Reserve No. 590 insofar as it pertains to the following described lands:

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 3 S., R. 17 E.,
Sec. 23, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 24, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 27, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 35, NW $\frac{1}{4}$ NW $\frac{1}{4}$.

(4) The revocation of Water Power Designation No. 4 insofar as it pertains to (a) the lands listed in the finding (3) above, and (b) lands in T. 4 S., R. 22 E., Gila and Salt River Meridian, Arizona.

The Commission orders:

The withdrawals pursuant to applications for Projects Nos. 306 and 1062 are hereby vacated insofar as they pertain to lands, aggregating about 5,740 acres, described in the attached land list.

By the Commission

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

Partial vacation of land withdrawals
Projects Nos. 306 and 1062.

LAND LIST

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 9 N., R. 3 W.,
Sec. 2, lot 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 11, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 14, NW $\frac{1}{4}$;
Sec. 15, S $\frac{1}{2}$ N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 16, S $\frac{1}{2}$ N $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 17, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 18, lot 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 10 N., R. 3 W.,
Sec. 2, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 16, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 21, E $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 22, lots 2, 3, 4, 5, 6, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 26, lots 2, 3, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 35, E $\frac{1}{2}$.
T. 6 N., R. 4 W.,
Sec. 4, lots 2, 3, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$;
Sec. 9, E $\frac{1}{2}$ E $\frac{1}{2}$;
Sec. 15, lots 1, 2, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 16, lot 2, E $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 7 N., R. 4 W.,
Sec. 19, lot 1, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 29, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;
 Sec. 30, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 33, W $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 9 N., R. 4 W.,
 Sec. 13, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 24, W $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 25, E $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 26, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 35, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 8 N., R. 5 W.,
 Sec. 11, SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 14, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 23, W $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 26, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 35, W $\frac{1}{2}$ W $\frac{1}{2}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$.

[FR Doc.71-8432 Filed 6-15-71;8:48 am]

[Docket No. DA-190-Utah U.S. Geological Survey]

LANDS WITHDRAWN IN POWER SITE RESERVE

Finding and Order

JUNE 9, 1971.

Lands withdrawn in Power Site Reserve Nos. 40, 122, and 191, Power Site Classification Nos. 294, 302, 323 and 430, Projects Nos. 59, 111, 230, 231, 238, 265, 391, 392, 647, 660, 668, 770, 808, 875, 1124, 1281, and 1633, Arizona, California, Nevada, and Utah.

Application has been filed by the U.S. Geological Survey (applicant), for outright revocation of Power Site Reserve No. 191, and Power Site Classifications Nos. 294 and 430, and partial revocation of Power Site Reserves Nos. 40 and 122, and Power Site Classifications Nos. 302 and 323 thereby requiring Commission consideration under section 24 of the Federal Power Act.

The lands in Power Site Reserve No. 191 (about 2,120 acres) lie adjacent to the Fremont River, a tributary of the Dirty Devil River which flows into Lake Powell, near the towns of Fruita and Torrey, Utah. There is no known plan to use these lands for hydroelectric development purposes and such use is considered unlikely because of the small amount of water available. The only hydroelectric plant on the Fremont River is the Garkane Power Association's 300 kw. Torrey plant for which an application for license (Project No. 2654) was filed on July 25, 1967. However, in a letter dated February 25, 1970, the Association stated that the Torrey plant was permanently shut down on January 23, 1970, and requested that the application for license be set aside. The Association also stated that there was no longer a need for Power Site Reserve No. 191. The withdrawal created under section 24 of the Federal Power Act pursuant to the filing of the application for the Torrey Project is not under consideration herein.

The subject lands in Power Site Reserves Nos. 40 and 122, and Power Site Classifications Nos. 294, 302, 323, and 430 (about 236,108 acres) were withdrawn to protect the Glen Canyon reservoir site which has been developed by the Bureau of Reclamation. The res-

ervoir (Lake Powell) is now protected by a reclamation withdrawal which is more extensive than the power withdrawals.

There are numerous possible pumped storage sites which would use Lake Powell as the lower pool. However, all of the power withdrawals recommended for revocation herein were made for conventional rather than pumped storage hydroelectric sites. Consequently, the upper pool sites are not covered by the power withdrawals. These pumped storage sites are being studied by the Bureau of Reclamation and are covered by the reclamation withdrawal. By memorandum dated February 12, 1969, the Bureau of Reclamation reported that it concurs with the Geological Survey recommendations.

Under the circumstances, Power Site Reserves Nos. 40, 122, and 191, and Power Site Classifications Nos. 294, 302, 323, and 430 no longer serve a useful purpose insofar as they pertain to the subject lands.

The lands in the Glen Canyon reservoir site are also withdrawn pursuant to the filings of applications under the Federal Power Act. These lands are among numerous lands along the Colorado River between Parker Dam and the backwater limit of Lake Powell (in the States of Arizona, California, Nevada, and Utah) variously withdrawn pursuant to the filings of applications for Projects Nos. 59, 111, 121, 230, 231, 238, 265, 391, 392, 647, 660, 661, 668, 770, 808, 875, 1124, 1281, 1503, 1633, 2234, 2248, and 2272 which applications have been withdrawn, rejected, or dismissed. A notice of land withdrawal was sent to the General Land Office (now Bureau of Land Management) for Project No. 121, however, withdrawal notices have not been given for the other projects cited. Most of the lands withdrawn for these projects are also included in reclamation and power withdrawals initiated by the Department of the Interior. Inasmuch as the Bureau of Reclamation has constructed four large multipurpose projects in this reach of the river (Parker, Davis, Hoover, and Glen Canyon) which are protected by reclamation withdrawals, the only project withdrawals still of value are those which cover the undeveloped reach of the river between Lake Mead and Glen Canyon Dam. This undeveloped reach of the river is adequately covered by the withdrawals for Projects Nos. 121, 661, 1503, 2234, 2248, and 2272, that part of the withdrawal for Project No. 111 pertaining to the proposed Marble Canyon development (one of several units proposed in the application for Project No. 111), and several power withdrawals initiated by the Department of the Interior. The withdrawals for Projects Nos. 59, 230, 231, 238, 265, 391, 392, 647, 660, 668, 770, 808, 875, 1124, 1281, and 1633, and that part of the withdrawal for Project No. 111 not pertaining to the Marble Canyon development, no longer serve a useful purpose.

The Commission finds:

The subject withdrawals no longer serve a useful purpose and it has no objection to:

(1) The revocation of Power Site Reserve No. 40 except that part pertaining to Tps. 30 and 31 S., R., 18 E., Salt Lake Meridian, Utah.

(2) The revocation of Power Site Reserve No. 122 insofar as it pertains to Ranges 10, 11, 12, 13, 14, and 15 E., Salt Lake Meridian, Utah.

(3) The revocation of Power Site Reserve No. 191 in its entirety.

(4) The revocation of Power Site Classification No. 294 in its entirety.

(5) The revocation of Power Site Classification No. 302 except that part pertaining to Tps. 30 and 31 S., R. 18 E., Salt Lake Meridian, Utah.

(6) The revocation of Power Site Classification No. 323 insofar as it pertains to Ranges 5, 6, 6 $\frac{1}{2}$, 9, 10, 11, 13, and 16 E., and Tps. 31, 32, and 33 S., R. 17 E., Salt Lake Meridian, Utah.

(7) The revocation of Power Site Classification No. 430 in its entirety.

Aggregating about 236,223 acres.

The Commissions orders:

(A) The withdrawals pursuant to applications for Projects Nos. 59, 230, 231, 238, 265, 391, 392, 647, 660, 668, 770, 808, 875, 1124, 1281, and 1633 are hereby vacated in their entirety (acreage undeterminable from the maps submitted with the applications).

(B) The withdrawal for Project No. 111 except that part pertaining to the proposed Marble Canyon development is hereby vacated (acreage undeterminable from the maps submitted with the application).

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8433 Filed 6-15-71;8:48 am]

[Docket No. DA-1035-California U.S. Geological Survey]

LANDS WITHDRAWN IN POWER SITE CLASSIFICATION

Finding and Order

APRIL 21, 1971.

Lands withdrawn in Power Site Classification No. 79 Projects Nos. 125, 966, and 1209.

Application has been filed by the U.S. Geological Survey for revocation of the above-designated power site classification and project withdrawals in their entirety, thereby requiring Commission consideration under section 24 of the Federal Power Act.

The subject withdrawals pertain to certain lands, in the San Gabriel River Basin, lying upstream from the city of Pasadena's Azusa powerhouse (licensed Project No. 1250) which receives water from the San Gabriel Reservoir (operated by the Los Angeles County Flood Control District) through a 6-mile conduit. The Azusa powerplant has an installed capacity of 3,400 horsepower and is the only existing hydroelectric plant

in the San Gabriel River Basin. All of the subject lands lie within the Angeles National Forest.

Power Site Classification No. 79, totaling about 322 acres, affects lands in T. 2 N., R. 8 W., and Tps. 1, 2, and 3 N., Rs. 9 and 10 W., San Bernardino Meridian, California. This withdrawal consists of right-of-way strips which duplicate the withdrawal for Project No. 1250 in part, and right-of-way strips for conduit facilities that were never constructed and are no longer feasible because of the construction of the San Gabriel flood control reservoir (not licensed by the Commission) and other factors discussed below. The San Gabriel Reservoir is protected by Reservoir Site Reserve No. 17 and Department of the Interior right-of-way LA-049901.

Project No. 125 was to consist of a diversion-conduit type development involving lands (described in the attached Land List) lying upstream from the San Gabriel Reservoir. The application for this project was withdrawn March 9, 1921, at the request of the applicant after an investigation showed such development was not warranted. According to a 1968 Geological Survey report, hydroelectric development (conventional and pumped storage) above San Gabriel Reservoir is infeasible because the water supply is meager, erratic in occurrence, and fully committed to existing uses, excessive amounts of storage would be required to firm streamflow, there is a lack of good reservoir sites, and present downstream water uses do not require additional storage.

Projects Nos. 966 and 1209 consisted of 16-kv. and 33-kv. transmission lines which crossed Federal lands described in the attached Land List. The license for Project No. 1209 expired November 28, 1935, and the 16-kv. line formerly covered by that license was then included in the license for Project No. 966. The Commission accepted the surrender of the license for Project No. 966 by order dated October 5, 1943, after finding that the transmission lines which constituted the project were not primary lines as set forth in section 3(11) of the Federal Power Act. Some of the lines have been dismantled or relocated and the Federal lands involved restored to a condition satisfactory to the Forest Service. Other lines have continued in operation under a Forest Service special use permit which provides appropriate protection for the lines as they now exist on Federal lands.

Under the circumstances, Power Site Classification No. 79 and the withdrawals for Projects Nos. 125, 966, and 1209 no longer serve a useful purpose.

The action taken herein will not in any way affect the withdrawal for Project No. 1250.

The Commission finds: The withdrawals no longer serve a useful purpose, and it has no objection to the cancellation of Power Site Classification No. 79 in its entirety.

The Commission orders: The withdrawals of the subject lands pursuant to the applications for Projects Nos. 125,

966, and 1209 are hereby vacated in their entirety.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Acting Secretary.

Vacation of land withdrawals Projects Nos. 125, 966, and 1209.

LAND LIST

SAN BERNARDINO MERIDIAN, CALIFORNIA

1. The following described lands (totaling about 3,921 acres) were withdrawn pursuant to the filing on December 13, 1920, of an application for preliminary permit for Project No. 125 for which the Commission gave notice of land withdrawal to the General Land Office (now Bureau of Land Management) by letters dated January 26, 1921, and February 9, 1921.

T. 2 N., R. 8 W.,
Sec. 5, lots 3, 4, 5, 6, 11, 12, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 6, lots 9, 10, 13, 14, E $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 7, lots 1, 2, 3, 4, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 18, lots 1, 2, E $\frac{1}{2}$ NW $\frac{1}{4}$.
T. 3 N., R. 8 W.,
Sec. 32, lots 1, 2, 3, 4, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$;
Sec. 33, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$.

T. 2 N., R. 9 W.,
Sec. 12, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 13, N $\frac{1}{2}$, SW $\frac{1}{4}$;
Sec. 14, all;
Sec. 15, SE $\frac{1}{4}$;
Sec. 21, N $\frac{1}{2}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 22, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$.
2. Portions (totaling about 146 acres) of the following described sections were withdrawn pursuant to the filing on March 5, 1929, of an application for license and on May 25, 1931, June 12, 1933, October 19, 1935, October 15, 1936, May 12, 1937, November 10, 1938, and May 3, 1939, of applications for amendment of license for Project No. 966 for which the Commission gave notices of land withdrawal to the General Land Office by letters dated March 27, 1929, June 25, 1931, June 21, 1933, November 4, 1935, February 6, 1936, December 12, 1936, May 29, 1937, December 23, 1938, and August 3, 1939.

T. 1 N., R. 9 W.,
Secs. 6, 7.
T. 2 N., R. 9 W.,
Secs. 4, 5, 8, 17, 18, 19, 29, 30, 31, 32.
T. 3 N., R. 9 W.,
Secs. 29, 32, 33.
T. 1 N., R. 10 W.,
Secs. 12, 14.
T. 2 N., R. 10 W.,
Secs. 19, 20, 21, 22, 23, 24.

3. Portions (totaling about 58 acres) of the following described sections were withdrawn pursuant to the filing on May 17, 1932, of an application for license and on February 16, 1933, of an application for amendment of license for Project No. 1209 for which the Commission gave notices of land withdrawal to the General Land Office by letters dated June 6, 1932, and February 24, 1933.

T. 2 N., R. 9 W.,
Sec. 19.
T. 2 N., R. 10 W.,
Secs. 18, 19, 20, 21, 22, 23, 24.

[FR Doc.71-8434 Filed 6-15-71;8:48 am]

[Docket No. CP71-282]

WESTERN TRANSMISSION CORP.

Notice of Application

JUNE 10, 1971.

Take notice that on May 28, 1971, Western Transmission Corp. (applicant),

250 Park Avenue, New York, NY 10017, filed in Docket No. CP71-282, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas gathering and transportation facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant specifically requests authorization to construct and operate 11.1 miles of 6 $\frac{3}{8}$ -inch pipeline to extend from the Sugar Creek Unit of Tenneco Oil Co. to applicant's existing 12 $\frac{3}{4}$ -inch pipeline both of which are located in Carbon County, Wyo. Applicant states that the estimated cost of the facilities proposed herein is \$205,692, which will be financed from working capital. The application explains that the aforementioned facilities will be used to transport to its customer, Colorado Interstate Gas Co., additional gas reserves which have been developed within the Washakie Basin of Carbon and Sweetwater Counties, Wyo.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 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). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8435 Filed 6-15-71;8:48 am]

FEDERAL RESERVE SYSTEM AMERICAN BANCSHARES OF MICHIGAN, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a) (1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by the American Bancshares of Michigan, Inc., Kalamazoo, Mich., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to the American National Bank and Trust Company of Michigan, Kalamazoo, Mich.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

By order of the Board of Governors,
June 9, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8398 Filed 6-15-71;8:45 am]

HERITAGE BANCORPORATION

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)

(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by Heritage Bancorporation, Cherry Hill, N.J., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to South Jersey National Bank, Camden, N.J., and the successor by merger to the First National Iron Bank of New Jersey, Morristown, N.J.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Philadelphia.

By order of the Board of Governors,
June 9, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8399 Filed 6-15-71;8:45 am]

TARIFF COMMISSION

[TEA-I-22]

DINNERWARE

Notice of Investigation and Hearing

Investigation instituted. Following receipt of a petition filed by the American Dinnerware Emergency Committee on June 1, 1971, the U.S. Tariff Commission, on June 10, 1971, instituted an investigation under section 301(b) of the Trade Expansion Act of 1962 to determine whether, as a result in major part of con-

cessions granted under trade agreements—articles of fine-grained earthenware, of fine-grained stoneware, and of nonbone chinaware or of subporcelain, all the foregoing available in specified sets and provided for in items 533.14, 533.16, 533.23, 533.25, 533.26, 533.28, 533.63, 533.65, 533.66, and 533.68 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to the domestic industry or industries producing articles which are like or directly competitive with the imported articles.

For the purposes of this investigation, the term "available in specified sets", as applied to items 533.14 and 533.16, has the same meaning as is provided for the other items in heading 2 to part 2C of schedule 5 of the TSUS.

Public hearing ordered. A public hearing in connection with this investigation will be held beginning at 10 a.m., e.d.s.t., on September 21, 1971, in the Hearing Room, Tariff Commission Building, Eighth and E Streets NW., Washington, DC. Appearances at the hearing should be entered in accordance with § 201.13 of the Tariff Commission's rules of practice and procedure.

Requests to appear must contain a careful estimate of the aggregate time desired for presentation of oral testimony by all witnesses for whose appearances the request is filed.

Inspection of petition. The petition filed in this case is available for inspection by persons concerned at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: June 11, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71-8450 Filed 6-15-71;8:49 am]

DEPARTMENT OF LABOR

Office of the Secretary

ADVANCE ROSS ELECTRONICS CORP.

Notice of Investigation Regarding Certification of Eligibility of Workers To Apply for Adjustment Assistance

After reviewing the Tariff Commission's report on its investigation of the petition for adjustment assistance filed on behalf of workers formerly employed by Advance Ross Electronics Corp. of Washington, Iowa (Report No. TEA-W-80) under section 301(c)(2) of the Trade Expansion Act of 1962, and in which report the Commission being equally divided, made no finding, the President decided, under the authority of section 330(d)(1) of the Tariff Act of 1930, as amended, to consider the findings of those Commissioners who found in the

affirmative as the finding of the Commission. Accordingly, he has advised the Secretary of Labor that he may certify this group of workers as eligible to apply for adjustment assistance.

In view of the Tariff Commission's report, the President's authorization, and the responsibilities delegated to the Secretary of Labor under section 8 of Executive Order No. 11075 (28 F.R. 473), the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under title III, chapter 3, of the Trade Expansion Act of 1962, including the determination of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart B of 29 CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of investigations to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. 20210, on or before June 21, 1971.

Signed at Washington, D.C. this 4th day of June 1971.

EDGAR I. EATON,
Director, Office of
Foreign Economic Policy.

[FR Doc.71-8459 Filed 6-15-71;8:50 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

JUNE 11, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42225—*Chlorine to St. Marys, Ga.* Filed by Southwestern Freight Bureau, agent (No. B-234), for interested rail carriers. Rates on chlorine, in tank carloads, as described in the application, from specified points in Louisiana and Texas, to St. Marys, Ga.

Grounds for relief—Market competition.

Tariffs—Supplements 268 and 159 to Southwestern Freight Bureau, agent, tariffs ICC 4668 and 4773, respectively. Rates are published to become effective on July 13, 1971.

FSA No. 42226—*Chlorine from Taft, La.* Filed by Southwestern Freight Bureau, agent (No. B-241), for interested

rail carriers. Rates on chlorine, in tank carloads, as described in the application, from Taft, La., to Jacksonville and South Jacksonville, Fla.

Grounds for relief—Market competition.

Tariff—Supplement 268 to Southwestern Freight Bureau, agent, tariff ICC 4668. Rates are published to become effective on July 13, 1971.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8441 Filed 6-15-71;8:49 am]

DIAMOND TRANSPORTATION SYSTEM, INC., ET AL.

Assignment of Hearings

JUNE 11, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-123048 Sub 182, Diamond Transportation System, Inc., assigned July 12, 1971, Chicago, postponed indefinitely.

MC-42487 Sub 705, Consolidated Freightways Corp. of Delaware, now assigned September 13, 1971, at Washington, D.C., at the Offices of the Interstate Commerce Commission.

MC-79658 Sub 12, Atlas Van Lines, Inc., assigned June 23, 1971, Chicago, Ill., postponed indefinitely.

MC-61592 Sub 194, Jenkins Truck Line, Inc., assigned July 30, 1971, in Room 1086-A, Everett McKinley Dirksen Building, Chicago, Ill.

MC-108119 Sub 25, E. L. Murphy Trucking Co., assigned July 26, 1971, in Room 1806-A, Everett McKinley Dirksen Building, Chicago, Ill.

MC-114045 Sub 341, Trans-Cold Express, Inc., MC-114045 Sub 342, Trans-Cold Express, Inc., assigned July 28, 1971, in Room 1086-A, Everett McKinley Dirksen Building, 219 South Dearborn St., Chicago, Ill.

MC-F-11030, Central Transport, Inc.—Control—Michigan Express, Inc., assigned July 19, 1971, at the Pick-Fort Shelby Hotel, Lafayette and First Street, Detroit, MI.

MC-128981, Subs 5 and 6, Land-Air Delivery, Inc., assigned July 13, 1971, in Court of Appeals, Courtroom No. 2, U.S. Courthouse and Customhouse, 1114 Market Street, St. Louis, MO.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8442 Filed 6-15-71;8:49 am]

[Notice 20]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JUNE 11, 1971.

The following letter-notices of proposals to operate over deviation routes

for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests. If any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-48963 (Deviation No. 2), RE-PUBLIC TRUCK LINES, INC., Post Office Box 807, Springfield, MO 65801, filed June 2, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Dallas, Tex., over Interstate Highway 35E to Denton, Tex., thence over Interstate Highway 35 to junction U.S. Highway 82, thence over U.S. Highway 82 to Wichita Falls, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: From Dallas, Tex., over the Dallas-Fort Worth Turnpike to Fort Worth, Tex., thence over U.S. Highway 80 to junction U.S. Highway 281, thence over U.S. Highway 281 to Wichita Falls, Tex., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8443 Filed 6-15-71;8:49 am]

[Notice 48]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JUNE 11, 1971.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING
MOTOR CARRIERS OF PROPERTY

No. MC 73165 (Sub-No. 292), filed April 23, 1971, published in the FEDERAL REGISTER of May 20, 1971, and republished this issue to reflect hearing information. Applicant: EAGLE MOTOR LINES, INC., 830 North 33d Street, Post Office Box 11086, Birmingham, AL 35202. Applicant's representative: Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mining machinery and related machinery tools, parts and supplies*, from Columbus, Ohio, to points in New Mexico, Colorado, Nevada, Utah, Wyoming, California, and Arizona. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

HEARING: June 28, 1971, in the Moot Courtroom, The College of Law, The Ohio State University, 1659 North High Street, Columbus, OH.

No. MC 64112 (Sub-No. 45) (Republication), filed September 29, 1970, published in the FEDERAL REGISTER issue of October 22, 1970, and republished this issue. Applicant: NORTHEASTERN TRUCKING COMPANY, a corporation, 2508 Starita Road, Post Office Box 26276, Charlotte, NC 28213. Applicant's representative: John M. Dunn, Jr., Post Office Box 26276, Charlotte, NC 28213. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated April 28, 1971, and served June 2, 1971, finds: that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of paper from Riegelwood and Roanoke Rapids, N.C., to points in Connecticut, Massachusetts, Rhode Island, New Jersey, those points in Pennsylvania north of U.S. Highway 22 from the New Jersey-Pennsylvania State line to Harrisburg, Pa., and west of Interstate Highway 83 from Harrisburg to the Pennsylvania-Maryland State line, Concord, N.H., Portland, Maine, and points in New York (except those points on Long Island east of the New York, N.Y., commercial zone as defined by the Commission), restricted to the transportation of traffic originating at Roanoke Rapids or Riegelwood, N.C. Because it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without the requested limitation in our findings herein, a notice the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceed-

ing setting forth in detail the precise manner in which it has been prejudiced.

No. MC 113024 (Sub-No. 104) (Republication), filed November 23, 1970, published in the FEDERAL REGISTER issue of December 17, 1970, and republished this issue. Applicant: ARLINGTON J. WILLIAMS, INC., Rural Delivery No. 2, South Dupont Highway, Smyrna, DE 19977. Applicant's representative: Samuel W. Earnshaw, 833 Washington Building, Washington, D.C. 20005. The modified procedure has been followed in this proceeding on order of the Commission, Operating Rights Board, dated April 29, 1971, and served June 1, 1971, finds: (1) that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *rubber hose*, from Wilmington, Del., to points in Cook and Lake Counties, Ill.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder and that an appropriate certificate should be issued. (2) That the holding by applicant of the certificate authorized to be issued in this proceeding and the permit issued in No. MC-113024 and various sub numbers thereunder will be consistent with the public interest and the national transportation policy, subject to the right of the Commission which is hereby expressly reserved, to impose such terms, conditions, or limitations in the future as it may find necessary to insure that applicant's operations shall conform to section 210 of the Act. Because it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without the requested limitation in our findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

No. MC 128837 (Sub-No. 1) (Republication), filed July 17, 1970, published in the FEDERAL REGISTER issues of August 5, 1970, and October 1, 1970, and republished this issue. Applicant: HOWARD K. SMITH, an individual, Rural Route No. 2, Greenville, IL 62246. Applicant's representative: Robert T. Lawley, 308 Reisch Building, Springfield, IL 62701. The modified procedure has been followed in this proceeding and an order of the Commission, Operation Rights Board, dated April 29, 1971, and served June 2, 1971, finds: that the present and future public convenience and necessity require operation by applicant in interstate or for-

ign commerce, as a *common carrier* by motor vehicle, over irregular routes: (1) Of *lumnite cement*, in containers, from Buffington, Ind., (2) of *pounded silica sand*, in containers, from Ottawa, Ill., and (3) of *crude fire clay*, in containers, from Mayfield, Ky., and Clover, S.C., to Fulton and Owensville, Mo. Because it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without the requested limitation in our findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

No. MC 134786 (Sub-No. 2) (Republication), filed November 9, 1970, published in the FEDERAL REGISTER issue of December 17, 1970, and republished this issue. Applicant: ARCHIE ALFRED McCORMICK, Post Office Box 14, Orms-town, PQ Canada. The modified procedure has been followed in this proceeding and an order of the Commission, Operating Rights Board, dated April 30, 1971, and served June 2, 1971, finds; that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of rough lumber, between those ports of entry on the international boundary line between the United States and Canada in New York, Vermont, and New Hampshire, on the one hand, and, on the other, points in New York, Vermont, and New Hampshire, and restricted to the transportation of rough lumber originating at or destined to points in the Province of Quebec, under a continuing contract with Trudeau Lumber, Inc., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE OF FILING OF PETITIONS

No. MC 15097 (Notice of Filing of Petition for Waiver of Rule 1.101(e); for Reconsideration, Modification and Correction of Grandfather Authority), filed May 21, 1971. Petitioner: WILLIAM B. MEYER RIGGING, INC., Stratford, Conn. Petitioner's representative: PAUL J. GOLDSTEIN, 109 Church Street, New Haven, CT. Petitioner states that it holds a certificate in No. MC 15097 which, insofar as it relates to heavy hauling service, reads as follows: "Heavy machinery, structural steel and equipment and supplies used in the installation of telephone and cable lines, between points in Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, and Connecticut, within 200 miles of Bridgeport, Conn." By the instant petition, petitioner requests that the Commission reconsider for clarification and modification the certificate heretofore issued, and that an appropriate order be entered modifying and clarifying that portion of said certificate now reading "heavy machinery" to read: "Commodities, the transportation of which because of size or weight requires the use of special equipment, and of related machinery parts and related contractor's materials and supplies when their transportation is incidental to the transportation of commodities which by reason of size or weight, require the use of special equipment." Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 87966 (Sub-No. 14), (Notice of Filing of Petition to Substitute the Origin Point of Peshtigo, Wis., in Place of Oconto, Wis.), filed May 24, 1971. Petitioner: ELEVELD CHICAGO FURNITURE SERVICE, INC., Chicago, Ill. Petitioner's representative: George S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. Petitioner states that a report and order, recommended by Charles Murphy, Hearing Examiner, dated December 11, 1970, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle; of (1) Store and office fixtures, as defined in Appendix III to Ex Parte MC-45 (as amended) and parts thereof; and (2) supplies and materials used in the installation of said store and office fixtures (except commodities in bulk), between the plantsite and facilities of Packerland Woodworking Corp., a subsidiary of Capital Fixtures & Construction Corp., at or near Oconto, Wis., on the one hand, and, on the other, points in Illinois (except Rockford, St. Charles, Elgin, Naperville, Kankakee, and those in the Chicago commercial zone), Indiana (except Michigan City), Michigan, Ohio, Pittsburgh, Pa., and St. Louis, Mo., over irregular routes. By the instant petition, petitioner desires to substitute the origin point of Peshtigo, Wis., in place of Oconto, Wis.

Petitioner also states that their supporting shipper, is proposing to close the present plant of their subsidiary, Packerland Woodworking Corp., and transfer all operations to a new plant at Peshtigo, Wis., which is approximately 12 miles north of Oconto, located on U.S. Highway 41. Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 84719 (Sub-No. 6), filed May 19, 1971. Applicant: BEKINS MOVING & STORAGE CO., a corporation, 940 Aurora Avenue, North at 95th, Post Office Box 1428, Greenwood Station, Seattle, WA 98103. Applicant's representative: Russell S. Bernhard, 1625 K Street NW., Washington, DC 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, between points in Washington, Oregon, and Idaho. Note: Applicant states it proposes to cancel authority presently held and which will be acquired in the pending application under section 5, if the authority requested is granted. (2) Applicant further states that it and its two affiliates Bekins Moving & Storage Co. of Oregon and Bekins Moving & Storage Co. of Idaho, presently hold authority to perform and are jointly performing, operations between points in Washington, Oregon, and Idaho, through the Portland, Oreg., and Spokane, Wash., gateways. (3) The purpose of this and the related section 5 application is to consolidate the authorities and to eliminate the gateways. (4) The instant application is a matter directly related to No. MC-F-11181, published in the FEDERAL REGISTER issue of June 2, 1971. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11159. (Correction) (SOUTHERN KANSAS GREYHOUND LINES, INC.—Purchase (Portion)—ARKOMO COACH LINES, INC.), published in the May 19, 1971, issue of the FEDERAL REGISTER, on page 9097. Prior notice should be modified to include the route between Pryor and Chouteau, Okla.,

and Rogers, Ark., should be included as a point for chartered service.

No. MC-F-11181. (Correction) (BEKINS MOVING & STORAGE CO., (A Washington corporation)—Purchase—BEKINS MOVING & STORAGE CO., (Oregon corporation) and BEKINS MOVING & STORAGE CO., (Idaho corporation)), published in the June 3, 1971, issue of the FEDERAL REGISTER, on page 10829. Prior notice should be modified to include between points in Oregon.

No. MC-F-11196. Authority sought for purchase by DRAKE MOTOR LINES, INC., 20 Olney Avenue, Cherry Hill, NJ 08034, of the operating rights of GARY TRUCKING CO., INC., 260 Glenwood Road, Melrose Park, PA 19128, and for acquisition by SHULMAN TRANSPORT ENTERPRISES, INC., also of Cherry Hill, N.J. 08034, of control of such rights through the purchase. Applicants' attorneys and representative: Alan Kahn, 1920, Two Penn Center Plaza, John F. Kennedy Boulevard, at 15th Street, Philadelphia, PA 19102; Herbert Burstein, 30 Church Street, New York, NY 10007; and Leonard C. Zucker, 20 Olney Avenue, Cherry Hill, NJ 08034. Operating rights sought to be transferred: *General commodities*, excepting among others, classes A and B explosives, household goods, and commodities in bulk, as a *common carrier*, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, points in the New York, N.Y., commercial zone, as defined by the Commission; *grocery store supplies*, from Philadelphia, Pa., to points in New Jersey. Vendee is authorized to operate as a *common carrier* in Pennsylvania, New York, New Jersey, Delaware, District of Columbia, Maryland, Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, Ohio, Missouri, Kansas, Arkansas, Texas, Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Tennessee, Kentucky, West Virginia, Virginia, Indiana, and Michigan. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11197. Authority sought for purchase by ROGERS TRANSFER, INC., Route 46, Post Office Box 175, Great Meadows, NJ 07838, of a portion of the operating rights of STEVENS TRUCK LINES, INC. (Internal Revenue Service, Successor in Interest), 893 Ridge Road, East Webster, NY 14580, and for acquisition by JOHN E. ROGERS, RICHARD ROGERS and THOMAS ROGERS, all of Great Meadows, N.J. 07838, of control of such rights through the purchase. Applicants' attorney: Bert Collins, 140 Cedar Street, New York, NY 10006. Operating rights sought to be transferred: *Frozen foods*, as a *common carrier*, over irregular routes, from points in Erie, Niagara, Monroe, and Wayne Counties, N.Y., to New York, N.Y., Maryland, Pennsylvania, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in Massachusetts, Pennsylvania, New York, and New

Jersey. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11199. Authority sought for purchase by MERCURY MOTOR EXPRESS, INC., 704 West John F. Kennedy Boulevard, Tampa, FL 33606, of a portion of the operating rights of STEVENS TRUCK LINES, INC. (Internal Revenue Service, Successor in Interest), 893 Ridge Road, East Webster, NY 14580, and for acquisition by M.M.X. CORPORATION, 308 Tampa Street, Tampa FL 33602, of control of such rights through the purchase. Applicants' attorney: David C. Venable, 711 Washington Building, 15th and New York Avenue NW., Washington, DC 20005. Operating rights sought to be transferred: *General commodities*, except explosives, as a *common carrier*, over irregular routes, between points in Erie and Genesee Counties, N.Y., on the one hand, and, on the other, points in Potter, McKean, Warren, Crawford, Venango, Forest, Elk, and Cameron Counties, Pa. Vendee is authorized to operate as a *common carrier* in Connecticut, Florida, North Carolina, South Carolina, Georgia, New York, New Jersey, Maryland, Virginia, Pennsylvania, West Virginia, District of Columbia, Delaware, Tennessee, Rhode Island, and Massachusetts. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11198. Authority sought for control by NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, CO 80223, of the operating rights of GARRETT FREIGHT LINES, INC., Post Office Box 4048, Pocatello, ID 83201, and for acquisition by UNITED TRANSPORTATION INVESTMENT COMPANY, and in turn by DAVID H. RATNER, both of 310 South Michigan Avenue, Chicago, IL 60604, of control of GARRETT FREIGHT LINES, INC., through the acquisition by NAVAJO FREIGHT LINES, INC. Applicants' attorney: Jack Goodman, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be controlled: *General commodities*, with certain specified exceptions, and numerous other specified commodities, as a *common carrier*, over regular and irregular routes, from, to, and between specified points in the States of Idaho, Montana, California, Utah, Oregon, Colorado, New Mexico, Nevada, Wyoming, Washington, North Dakota, South Dakota, Minnesota, Wisconsin, Michigan, and Indiana, with certain restrictions, serving various intermediate and off-route points, over numerous alternate routes for operating convenience only, as more specifically described in Docket No. MC-263 and subnumbers thereunder. This notice does not purport to be a complete description of all of the operating rights of the carrier involved. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of this carrier's operating rights, without stating, in full, the entirety, thereof. NAVAJO FREIGHT LINES, INC., is authorized to operate as a *com-*

mon carrier in New Mexico, California, Arizona, Texas, Colorado, Illinois, Missouri, Nebraska, Nevada, Indiana, Oklahoma, Iowa, Kansas, Utah, Louisiana, Maryland, Arkansas, Florida, New York, Tennessee, Wyoming, Connecticut, New Jersey, and Massachusetts. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11200. Authority sought for purchase by THE MASON AND DIXON LINES, INCORPORATED, Post Office Box 969, Eastman Road, Kingsport, Tenn. 37662, of the operating rights of ECON, INC., 1854 North Kedvale Avenue, Chicago, IL 60639, and for acquisition by E. WILLIAM KING, also of Kingsport, Tenn. 37662, of control of such rights through the purchase. Applicants' representatives: Carl W. Eilers, Post Office Box 3740, Kingsport, TN 37664. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-121399 Sub-1, covering the transportation of general commodities, as a *common carrier*, in interstate commerce, within the State of Illinois, Vendee is authorized to operate as a *common carrier* in Tennessee, North Carolina, Georgia, Virginia, South Carolina, New York, New Jersey, Maryland, Delaware, District of Columbia, Pennsylvania, Illinois, Kentucky, Ohio, Indiana, Alabama, and West Virginia. Application has been filed for temporary authority under section 210a(b).

MOTOR CARRIER PASSENGER

No. MC-F-11195. Authority sought for purchase by SAN JUAN TOURS, INC., doing business as GLENWOOD-ASPEN STAGES, INC., 10 Lake Circle Broadmoor (Mailing address: Post Office Box 2378, 80901), Colorado Springs, Colo. 80906, of the operating rights and property of ROCKY MOUNTAIN MOTOR COMPANY, INC., doing business as COLORADO TRANSPORTATION COMPANY, 3455 Ringsby Court, Denver, CO 80216, and for acquisition by THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY, 1531 Stout Street, Denver, CO 80202, of control of such rights and property through the purchase. Applicants' representative: Gunnar Alenius, Post Office Box 2378, Colorado Springs, CO 80901. Operating rights sought to be transferred: Passengers and their baggage, and express, mail, and newspapers, in the same vehicle with passengers, in seasonal operations from May 31 to October 1, inclusive, as a *common carrier* over regular routes, between Denver, Colo., and Estes Park, Colo., between Estes Park, Colo., and Grand Lake, Colo., from Grand Lake, Colo., to Denver, Colo., between Greeley, Colo., and Loveland, Colo., serving all intermediate points; passengers and their baggage, and express, mail and newspapers, in the same vehicle with passengers, in year-round operations, between Longmont, Colo., and Estes Park, Colo., between Denver, Colo., and Denver Mountain Parks, in a circular route beginning and ending at Denver, Colo., serving all intermediate points. Vendee

is authorized to operate as a *common carrier* in Colorado. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8444 Filed 6-15-71;8:49 am]

[Notice 312]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 11, 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 103051 (Sub-No. 240 TA), filed June 2, 1971. Applicant: FLEET TRANSPORT COMPANY, INC., Post Office Box 7645, 934 44th Avenue North, Nashville, TN 37209. Applicant's representative: R. J. Reynolds, Jr., 604 Healey Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Hilton, Early County, Ga., to points in Alabama and Florida, for 150 days. Supporting shipper: Tenneco Oil Co., Post Office Box 2511, Houston, Tex. Send protests to: Joe J. Tate, District Supervisor, Interstate Commerce Commission, 803 1808 West End Building, Nashville, TN 37203.

No. MC 110270 (Sub-No. 7 TA), filed June 3, 1971. Applicant: BEVERAGE TRANSPORT, INC., Post Office Box 88, Route 5 and 20, East Bloomfield, NY 14443. Applicant's representative: Raymond A. Richards, Post Office Box 25, 23 West Main Street, Webster, NY 14580. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Malt beverages*, from Merrimack, N.H., to Rochester and Lakeville, N.Y., for 180

days. Supporting shippers: Lake Beverage Corp. 23 Linden Park, Rochester, NY; Samuel F. West, Distributor, Stone Road, Lakeville, N.Y. Send protests to: District Supervisor Morris H. Gross, Interstate Commerce Commission, Bureau of Operations, Room 104, O'Donnell Building, 301 Erie Boulevard West, Syracuse, NY 13202.

No. MC 110525 (Sub-No. 1005 TA), filed May 30, 1971. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representative: Thomas J. O'Brien (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adipic acid*, dry, in bulk, in tank vehicles, from Hopewell, Va., to Philadelphia, Pa., for 180 days. Supporting shipper: Allied Chemical Corp., Post Office Box 2365R, Morristown, NJ 07960. Send protests to: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 111170 (Sub-No. 163 TA), filed June 3, 1971. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, 2811 North West Avenue, El Dorado, AR 71730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Defluorinated phosphate feed supplements*, in bulk and in bags, from North Little Rock, Ark., to points in Louisiana, Mississippi, Missouri, Kansas, Kentucky, Illinois, Oklahoma, Tennessee, and Texas, for 180 days. Supporting shipper: Olin, Agricultural Division, Post Office Box 991, Little Rock, AR 72203. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 112822 (Sub-No. 202 TA), filed May 31, 1971. Applicant: BRAY LINES INCORPORATED, 1401 North Little Street, Post Office Box 1191, Cushing, OK 74023. Applicant's representative: Joe W. Ballard (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal litter and pet supplies, bleaching, cleaning, laundry and scouring compounds, materials and supplies* (except commodities in bulk), from the plantsite and distribution facilities of the Clorox Co., Oakland, Calif., to points in Oregon and Washington, for 180 days. Supporting shipper: R. W. Ernst, Division Traffic Manager, the Clorox Co., Post Office Box 24305, Oakland, CA 94623. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 114097 (Sub-No. 2 TA), filed May 31, 1971. Applicant: NIEDFELDT TRUCKING SERVICE, INC., 821 South

Front Street, La Crosse, WI 54601. Applicant's representative: Fred C. Niedfeldt (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New, empty glass bottles*, in cartons or boxes, 1 gallon or less in capacity, from the plantsite of Midland Glass Co., Inc., Shakopee, Minn., to the G. Heileman Brewing Co., Inc., La Crosse, Wis., for 180 days. Supporting shipper: G. Heileman Brewing Co., Inc., 925 South Third Street, La Crosse, WI 54601. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 West Wilson Street, Room 206, Madison, WI 53703.

No. MC 116816 (Sub-No. 11 TA), filed May 30, 1971. Applicant: MERIT TRUCKING CORP., 849 Harrison Avenue, Kearny, NJ 07032. Applicant's representative: Edward M. Alfano, 2 West 45th Street, New York, NY 10036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household appliances*, between Carle Place, N.Y., on the one hand, and, on the other, points in New Jersey, for 180 days. Supporting shipper: Abraham & Straus, Brooklyn, N.Y. 11201. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 117119 (Sub-No. 437 TA), filed June 3, 1971. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, AR 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* from Shawnee, Okla., to points in Arkansas, Missouri, Tennessee, Kentucky, Louisiana, Mississippi, Alabama, Georgia, Virginia, West Virginia, North Carolina, Florida, Maryland, and the District of Columbia, for 180 days. Supporting shipper: Buhler Mills, Inc., Post Office Box 4819, 1835 Union Avenue, Suite 325, Memphis, TN 38104. Send protests to: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 119557 (Sub-No. 5 TA), filed May 30, 1971. Applicant: HOWARD KAYLOR AND KENNETH L. STUART, a partnership, doing business as K & S TANKLINE, Drawer R, Copperhill, TN 37317. Applicant's representative: K. Edward Wolcott, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphur dioxide*, in bulk, in tank vehicles, from Copperhill, Tenn., to LeMoyné, Ala., and McIntyre, Ga., for 180 days. Supporting shipper: Mr. J. D. Lemming, Manager, Transportation Pricing, Cities Service Co., Cities Service Building, 3445 Peachtree Road NE., Atlanta, GA. Send protests to: Joe J. Tate,

District Supervisor, Bureau of Operations, Interstate Commerce Commission, 706 U.S. Courthouse, Nashville, TN 37203.

No. MC 124211 (Sub-No. 186 TA), filed June 2, 1971. Applicant: HILT TRUCK LINE, INC., Post Office Box 988, DTS, Omaha, NE 68101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plumbing fixtures, equipment, materials and supplies, and accessories* (except liquid commodities in bulk and except commodities which because of their size or weight require the use of special equipment), from Louisville, Ky., to points in the United States on and west of U.S. Highway 83 (except points in Alaska, Hawaii, and South Dakota), for 180 days. Supporting shipper: American Standard, Inc., Post Office Box 2003, New Brunswick, NJ 08903. Send protests to: Carroll Russell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 705 Federal Office Building, Omaha, NE 68102.

No. MC 126276 (Sub-No. 49 TA), filed June 3, 1971. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, IL 60463. 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: *Foodstuffs* (except in bulk), from the plant and warehouse sites of Kraftco Corp., and its Division Kraft Foods, at or near Champaign, Ill., to Cleveland, Akron, Ashtabula, Canton, Dennison, Massillon, Youngstown, Cincinnati, Belle Fontaine, Lima, Columbus, Dayton, Xenia, Maple Heights, Solon, Warrensville Heights, Bedford Heights, Evendale, Woodlawn, and West Carrollton, Ohio, and Covington, Ky., for 150 days. Supporting shipper: Kraft Foods, Division of Kraftco Corp., 505 North Sacramento Boulevard, Chicago, IL 60612. Send protests to: District Supervisor Robert G. Anderson, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 210 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 126528 (Sub-No. 4 TA), filed June 3, 1971. Applicant: BULK HAULERS, INC., Airport Road, Post Office Box 407, Nashua, NH 03060. Applicant's representative: Thomas J. O'Loughlin, Jr. (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malleable iron scrap castings, and hard iron spruce*, loose, in dump vehicles, from New Haven, Conn., to Easton, Mass., for 180 days. Supporting shipper: Belcher Malleable Division, The Dayton Malleable Iron Co., 558 Foundry Street, Easton, MA 02334. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, Concord, N.H. 03301.

No. MC 128939 (Sub-No. 8 TA), filed June 3, 1971. Applicant: AYRCO CORPORATION, 3921 Imlay Street, Toledo, OH 43612. Applicant's representative:

James H. Ayers (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages*, from plantsites of Hamms Brewing Co., located at St. Paul, Minn., and the Carling Brewing Co., located at Frankenmuth, Mich., to Toledo, Ohio (for the account of Maumee Valley Distributing Co.); with return of empty containers, rejected or damaged merchandise, for 150 days. Supporting shipper: Maumee Valley Distributing Co., Toledo, Ohio 43613. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5234 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 129643 (Sub-No. 6 TA), filed May 31, 1971. Applicant: GEORGE SMITH, doing business as GEORGE SMITH TRUCKING CO., 433 Mountain Avenue, 4 Winnipeg, MB Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen edible meats*, from port of entry at or near Eastport, Idaho, to points in Oregon and Washington, restricted to single line traffic originating in Winnipeg, Manitoba, Canada, for 180 days. Supporting shippers: Canada Packers, Ltd., St. Boniface, Manitoba, Canada; Burns Foods, Ltd., Post Office Box 70, Winnipeg 1, MB Canada; Swift Canadian Co., Ltd., St. Boniface, Manitoba, Canada; Jack Forgan Wholesale Meats, Ltd., 500 Dawson Road, St. Boniface, 6, MB Canada; East-West Packers Ltd., 346 Dupuy Avenue, St. Boniface 6, MB Canada; O. K. Packers, Ltd., 505 Dawson Road, St. Boniface 6, MB Canada. Send protests to: J. H. Amb, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 129662 (Sub-No. 1 TA), filed June 3, 1971. Applicant: ALPHONSE LOISELLE, doing business as LOISELLE TRANSPORT, 426 Deschambault Street, St. Boniface 6, MB Canada. Applicant's representative: Alphonse Loiseau (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, as produced by Building Products of Canada, Ltd., from Noyes, Baudette, and Lancaster, Minn., and Pembina, N. Dak., to points in Michigan and Kansas; and *rock asphalt* from Augusta, Kans., to Noyes and Lancaster, Minn., and Pembina, N. Dak., limited to foreign commerce destined for delivery at Winnipeg, Canada, for 180 days. Supporting shipper: Building Products of Canada, Ltd., Post Office Box 99, Winnipeg 1, MB Canada. Send protests to: J. H. Amb, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 135283 (Sub-No. 4 TA), filed June 3, 1971. Applicant: GRAND IS-

LAND MOVING & STORAGE CO., INC., East Highway 30, Box 1665, Grand Island, NE 68801. Applicant's representative: James D. Pirnie (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dehydrated or dried eggs and products thereof; dehydrated, powdered, and rendered poultry and beef products*, cooked and uncooked, from David City, Norfolk, Omaha, and Ravenna, Nebr.; Malvern, Iowa, and Springfield, Mo., to points in Delaware, Maryland, Massachusetts, New Jersey, New York, and Pennsylvania, for 180 days. Supporting shipper: Henningsen Foods, Inc., 700 West Center Road, Omaha, NE 68106. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and Courthouse, Lincoln, Nebr. 68508.

No. MC 135636 (Sub-No. 1 TA), filed May 31, 1971. Applicant: HARRY E. CLARK, Rural Route 1, McLeansboro, Ill. 62859. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rough green lumber, pallets, boxes, blocking, nails, strapping, and steel dip tanks*, between McLeansboro, Ill., and Poplar Bluff, Mo., for 180 days. Supporting shipper: Florence Baldwin, Vice President, Joseph G. Baldwin Co., Post Office Box 276, McLeansboro, Ill. 62859. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 135640 (Sub-No. 1 TA), filed May 31, 1971. Applicant: STALEY EXPRESS, INC., 765 East Pythian, Decatur, IL 62526. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated steel and materials, equipment and supplies* used in the installation and erection thereof, from Decatur, Ill., to Janesville and Kewaunee, Wis., for 180 days. Supporting shipper: Harry D. Penwell, General Traffic Manager, Mississippi Valley Structural Steel, Inc., 2060 East Eldorado Street, Decatur, IL 62525. 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 135650 TA, filed May 30, 1971. Applicant: ROYAL DELITE FOODS, INC., 4817 Governor Printz Boulevard, Edgemoor, DE 19809. Applicant's representative: Morris Chudnofsky (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in insulated and mechanical refrigerated vehicles, from Washington Court House, Ohio, to points

in Pennsylvania, New York, Maryland, Delaware, and New Jersey, for 180 days. Supporting shipper: D. S. Metcalf, Traffic Manager, 80 Grand Avenue, Oakland, CA 94612. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 227 Old Post Office Building, Salisbury, MD 21801.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8445 Filed 6-15-71;8:49 am]

[Notice 701]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 16, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72915. By order of June 10, 1971, the Motor Carrier Board approved the transfer to Ralph L. Buzzell, Inc., of certificate No. MC-115548 (Sub-No. 2), issued January 7, 1957, to Ralph L. Buzzell, authorizing the transportation of: Bituminous asphalt paving mix, in bulk, in dump vehicles, in seasonal operations, from Haverhill and Groveland, Mass., to points in Strafford, Rockingham, and Hillsboro Counties, N.H., within 35 miles of Haverhill, Manuel Katz, 89 State Street, Boston, MA 02109, attorney for applicants.

No. MC-FC-72932. By order of June 10, 1971, the Motor Carrier Board approved the transfer to B & D Transport, Inc., Deming, N. Mex., of the operating rights in permit No. MC-134069 (Sub-No. 2) issued June 12, 1970 to Bill E. Dupree, doing business as Bill Dupree Transport, Deming, N. Mex., authorizing the transportation of dairy products, fruit juices, fruit concentrates, and animal fats, in vehicles equipped with mechanical refrigeration, from El Paso, Tex., to points in New Mexico. V. Lee Vesely, 111 West Broadway, Post Office Box 1056, Silver City, NM 88061, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8446 Filed 6-15-71;8:49 am]

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